



**MINUTES
REGULAR MEETING
FAIRFIELD COUNTY COUNCIL
JUNE 26, 2023**

Present: Dan Ruff, Tim Roseborough, Cornelius Robinson, Doug Pauley, Peggy Swearingen, (Council Members); Laura Johnson (Interim County Administrator); Synithia Williams (Deputy County Administrator); Tommy Morgan (County Attorney); Dr. Kimberly Roberts (Clerk to Council)

Absent: Shirley Greene, Clarence Gilbert

In accordance with the South Carolina Code of Laws, 1976, Section 30-4-80 (e), as amended, the following persons and/or organizations have been notified of the time, date and location of this meeting: The Independent Voice of Blythewood and Fairfield, The Country Chronicle and one hundred forty two other individuals.

Due to COVID-19 (Coronavirus), the meeting is being live-streamed through the County's YouTube page in order to keep citizens informed.

1. CALL TO ORDER

Chairman Pauley called the Regular Meeting to order at 6:00pm.

2. PLEDGE OF ALLEGIANCE

Chairman Pauley called for the recitation of the Pledge of Allegiance.

3. APPROVAL OF THE AGENDA

Motion made by Councilman Ruff, seconded by Councilman Robinson to approve the agenda. ***The motion carried 5-0.***

Mr. Pauley announced that Vice Chair Gilbert was absent due to illness and Mrs. Greene was on vacation.

4. INVOCATION

Pastor Jeffrey Williams (Jesus Christ Church) led the invocation.

5. APPROVAL OF MINUTES

Motion made by Councilman Ruff, seconded by Councilman Robinson to approve the minutes from Regular Meeting June 12, 2023, Special Call Meeting June 14, 2023 & Special Call Meeting June 15, 2023. ***The motion carried 5-0.***

6. PUBLIC PRESENTATIONS

A. Proclamation Honoring the Memory of Tommy Scott Young

Dr. Roberts read the proclamation, it was presented to the family and pictures were taken.

- 7. 1st PUBLIC COMMENT SESSION:** All public comments made during this session must pertain to items on the agenda for which no Public Hearing is scheduled. Each speaker is allocated three (3) minutes for comment. The total time allocated for the public comment portion of the meeting is thirty (30) minutes. Those wishing to make public comment must sign to do so prior to the Council Chair calling the meeting to order. The Clerk to Council will make a public comment sign-up sheet available at least fifteen (15) minutes prior to the scheduled start time of the meeting.

- John Jones
- Jeff Schaffer
- Wanda Bright
- Randy Bright

8. PUBLIC HEARINGS

None.

9. ORDINANCES, RESOLUTIONS AND ORDERS

None.

10. BOARD AND COMMISSION MINUTES (For information only)

None.

11. BOARD AND COMMISSION APPOINTMENTS

None.

12. OLD BUSINESS

None.

13. NEW BUSINESS

None.

14. COUNTY ADMINISTRATOR'S REPORT

- A.** Road Fee Presentation – Mrs. Williams referred to a briefing document given to Council that covered the history of the county's road maintenance fee. She said the Council approved the road maintenance fee in the FY 2015-2016 budget. The purpose of the road maintenance fee was to provide maintenance funds for County improved roads. Though County Council approved the road maintenance fee and, although there were discussions during the budget process about the definition of what counted as maintenance and how the fee was to be expended, it was never formalized with an ordinance. Developing an ordinance avoided confusion, allowed clear implementation of the use of road maintenance fee funds, and provided a

guideline for staff and citizens. The new ordinance also addressed issues raised by the South Carolina Supreme Court in the *Burns v. Greenville County Council* decision that invalidated Greenville County's road fee as well as the South Carolina General Assembly's response to *Burns* that amended S.C. Code Ann. 6-1-300(6) and 6-1-330 dealing with a county's ability to implement service or user fees. Finally, the ordinance would specify the designated funding source for future County road maintenance.

Mrs. Williams addressed a question raised at the last Council meeting regarding the amount of monies collected since the approval. She said the County collected \$808,359.00 in road maintenance fees since 2016 and expended \$533,277.00. The County also received funds for road improvements from the State through the National Forestry Fund and the C Fund Program. The C Fund Program was a partnership between the South Carolina Department of Transportation and counties to fund local transportation projects and improvements to state and county roads. The County Transportation Committee oversaw the use of C funds and had a focus on paving dirt roads within the County.

- B. Millage Discussion** – Mrs. Johnson said of the proposed recommended eight mil increase, five mils would be used for the lease/purchase of capital equipment (about \$3.5 million) and the remaining three mils would be used for general operations (annual lease of the new Administration building, which was \$600,000, retirement and insurance). She said the Association of Counties published a millage by county report. Fairfield's mil value was about \$143,000. She pointed out that the mil rate for some counties was lower but the value of their mil was much higher. Charleston's millage rate was 55.6 but one mil brought in about \$4.5 million – Fairfield brought in about \$143,000.00. Horry County's rate was 53.2 but brought in about \$2.6 million. Richland County's rate was 126.2 but brought in about \$1.7 million. Those counties had a much higher assessed value so they brought in more money. She said the report could be found on the SC Association of Counties website.
- C. Common Drives Presentation** – Mr. Morgan said they had a previously proposed road maintenance ordinance brought before them, which failed. They continued to modernize and update some of the county's ordinances – in particular Ordinance 674, which was the current road maintenance ordinance. One of the issues within the ordinance dealt with common drives. He read – a common drive was defined as a section of roadway that was private property not deemed a county road utilized by two or more occupied residences for providing access to a county road, highway or street. There was additional information in the ordinance regarding the maintenance – what counties can do with common drives. There were questions about who had access to them, who was responsible for maintenance, e-911 and

naming them. Administration asked him and the Director of Public Works, Jonathan Burroughs, to look at the concerns pertaining to the common drives because they were by definition private property. The concern was that a county would spend public funds on private property, which was prohibited by the South Carolina Constitution. They were trying to navigate that legal issue as well as other issues like the quality, width and drainage of the road, etc. They were working on a revised ordinance to address some of the concerns from Council, the citizens and Public Works and planned to present it to Council within the next few meetings. Mrs. Swearingen said there were a lot of people that lived on dirt roads and for as long as she remembered, the County maintained them. They scraped them and put gravel on them. She asked where that would leave those citizens if that stopped. Mr. Morgan said the problem was that they were private roadways and although the County may have been performing some type of maintenance, it could not be considered a prescriptive easement because by legal definition it was private property. In order for the County to be able to make a claim that the common drive belonged to them, there would have to be some type of condemnation action – whether inverse or straight. The act of putting rock down did not convert the common drive into a public roadway. The property still belonged to the citizen(s) – it was private property. All had duties and responsibilities relating to the maintenance of their property – it was one of the things they were trying to modernize in the ordinance. He said if he was pressed to give a yes or no answer, it would be his opinion that the County could not continue to expend public funds on private property in order to maintain those roadways. Mrs. Swearingen asked about those who could not afford to have their roads maintained and he said unfortunately, it left them in a bad position. He said it was an issue in other jurisdictions across the State. For example, another county wanted to provide services to their citizens and they created a policy within their ordinance that stated they would provide services (rocks) once. The provision was to address the possibility of emergency services, transit, etc., having access to the residence(s). The ordinance was challenged and brought before a court. The court ruled it invalid. That decision was a part of the push to upgrade the current ordinance in order to avoid potential legal issues. Mrs. Swearingen asked what those people would do. He said he could not speak to each individual and realized that some people did not have the resources. He was providing a legal response. She asked why it was being considered then since they had been doing it for 100 years. He said he could not speak to why it was done in the past. Ordinance 674 was passed in 2017 and he was sure the maintenance was being done before that, however, in other instances where challenges were made (as he referenced earlier) the County and the Council members were brought

before court. They were in a "rule to show cause" status and had to demonstrate why they should not be held in contempt for approving the expenditure of public funds on private roadways. He was trying to protect the legal interests of the County and the Council members. Mr. Douglas said it was his understanding that they were being made aware that something the County did for years was illegal. If they continued after being made aware, it could be detrimental to Fairfield County, its taxpayers and to themselves. Mr. Morgan said he believed it could expose the County if a legal challenge was brought forth. He said regarding the county he previously mentioned, he and his firm were brought in and they were able to resolve it to the court's satisfaction by bringing the ordinance into compliance. The same thing was happening with Fairfield County's ordinance and they were trying to address it. Mr. Ruff asked if it was an option to look at partial properties deeded to the county so it would not be an issue or if there were other options. Mr. Morgan said that was one of the things they were looking into – it would go on a case-by-case basis as much as there were private property and multiple property owners. Hypothetically, if two of the property owners granted permission or conveyed their interest in the property and the third one did not, it could cause some issues. Mrs. Swearingen said she did not like it because she knew how many dirt roads were in District 3. Mr. Morgan said he understood but he was just trying to provide the best legal advice he could. She asked what would happen if someone needed emergency services and the vehicles could not get access to them. There had to be something they could do – he was the lawyer so he could figure it out. Mr. Pauley asked if Mr. Burroughs was going to give his presentation. Mr. Morgan said it was not intended to be a true presentation but more of an update – more information was forthcoming. Mr. Pauley asked Mr. Burroughs if he had anything he wanted to add. He said they were willing to do whatever was needed based on the decision of Council. His main concern was drainage because there were water lines and utilities that they could not locate or mark. If they were to do drainage work and hit the line, who would be responsible for the repair? He was onboard to get whatever they could get accomplished. Mrs. Swearingen asked if they fixed the holes in the roads and he said yes, on county roads but not SCDOT roads. She asked the difference and he said SCDOT was state funded and controlled by the Department of Transportation. She asked how would one know it was a county road and he said it was on the road list online. She said 100 years ago, they would fix the holes (per her description) but currently it was done differently and she asked why. Mr. Burroughs said the County never had the equipment to do asphalt work – that would have been contracted work. He said a part of his capital request presentation involved the need to transition to acquiring asphalt equipment if they were going to

start making repairs. Currently, they only had spray machines or magnets to fix potholes on County paved roads. She asked if they included the asphalt equipment in their budget and he said yes, if that was the way they wanted to go – to transition into repairing asphalt. Would they acquire the equipment or continue to contract it out? Mr. Pauley asked how many common drives were in the county and he said about 68 that had names and about 50 that may be off of a highway with three or four houses. He asked about how much time was spent on the common drives and Mr. Burroughs said it varied. They had to cut back a lot because in his first year, the road maintenance fee with the rocks was cut by 50% - they went from \$450,000 to \$225,000. They had to cut back on common drives to focus on county roads. Mr. Pauley asked if it was fair to say that with the reduction in his budget was maintaining county roads was a higher priority than common drives and he said yes.

D. Audit Update – Mrs. Johnson reminded Council of the audit presentation the next day (6/27) at 3:00pm.

Mrs. Swearingen asked how she communicated with the employees – how did she know what they thought was good or bad? Did they have ideas? How did she know what they wanted? Mrs. Johnson said they relied on the department heads. They had monthly department head meetings where information such as Council questions, things happening in Administration, etc. was dispersed - it was an open forum where they had the opportunity to ask questions and relay ideas. If they did not feel comfortable during the meeting, they could and have set up meetings to further discuss their ideas. Some of them have had excellent ideas on policy changes in their departments and instituted them. They have been told to share the information given in the meetings with their staff. Some, if not all, have meetings with their staff after the department head meeting to share information. Mrs. Swearingen asked if she was saying that the employees could interact with her, bring her ideas and that some of the ideas were usable and she said yes, for department heads and employees because they had an open door policy. Mrs. Swearingen asked what percentage did the insurance and retirement increase and she said she did not have any budget information with her. She remembered the retirement increased one percent and had been going up about one percent yearly. With insurance, she believed it was estimated at about 5%. Mrs. Swearingen asked what the percentage increase was from 2019 to the current and she said they went up every year and they had to comply. Mrs. Swearingen said it was brought up in the comment section that Administration, finance, and HR went up and asked if insurance and retirement was included in that and she said yes ma'am – it went into each department's budget. Regarding insurance, they had no control over what type of insurance an employee chose.

15. CLERK TO COUNCIL'S REPORT

None.

- 16. 2nd PUBLIC COMMENT SESSION:** All public comments made during this session must pertain to items not on the agenda or under Council's consideration. Each speaker is allocated three (3) minutes for comment. The total time allocated for the public comment portion of the meeting is thirty (30) minutes. Those wishing to make public comment must sign to do so prior to the Council Chair calling the meeting to order. The Clerk to Council will make a public comment sign-up sheet available at least fifteen (15) minutes prior to the scheduled start time of the meeting.

- Jeff Schaffer
- Randy Bright

17. COUNTY COUNCIL TIME

Mr. Ruff said it was a long time coming but they would have an audit report tomorrow afternoon. It was shameful because they should have had it done by the end of last year but, hopefully, it would be over soon. He asked about the status of the permanent Administrator position and the status of the lawsuit with the Town of Winnsboro regarding the trash. He said it was not a good look for either party and it needed to be resolved. He said he also thought the issues surrounding the Farmer's Market needed to be resolved. The only way to move forward was to work together.

Mrs. Swearingen said there were people that did not like the millage increase and they did not like it either. As Mr. Schaffer said, they had to get their EMS and fire departments what they needed. She knew it was an eight-mil request but in 2007, it went up 31 mils. The eight-mil increase was equal to a \$32 increase on a \$100,000 house and those 65+ could receive assistance thru the Homestead Exemption Act that would decrease it to \$16. She asked if one could put a price tag on a life. She gave a hypothetical example of a loved one having a medical emergency and the emergency vehicle breaking down in route and that person not surviving or property being destroyed. What were they willing to pay for a little bit of security? Currently, there was no one in Jenkinsville, Blair, Feasterville or Woodard and she was told the same was true for Lebanon. They needed more people and equipment and the only way to fix that was to have an increase. They were in a black hole and they were trying to climb out. Perhaps if previous Council reconsidered how they spent the \$99 million and set aside \$2-\$3 million, they might not be asking for the increase. They would only get \$1.2 million out of the proposed increase but it would help them with the lease agreement, get much needed fire trucks, EMS equipment,

and staff. She said the people who gave them the \$99 million – there was no one out there to attend to them if they needed an ambulance or a fire truck. Mr. Pauley said in response to Mr. Ruff's concerns regarding the issues with the Town of Winnsboro, he talked to Mr. Morgan about scheduling a meeting to try to come to an agreement. Mr. Morgan said they were in contact with the Town and their attorney. In order to get the collective parties to work together, particularly in light of the joint water and sewer, they put a time-out somewhat on the litigation. They were not pushing the matter forward very hard at that time because they wanted to save those costs and focus on the joint water and sewer. It appeared that that process was working and they were getting close to the time where they could bring all of the issues together at once. There was open communication between the two parties. Mr. Roseborough asked if the Town was suing the County or vice versa and Mr. Morgan said the Town initiated the lawsuit against the County. Mr. Pauley said in regards to the County Administrator search, he, Mrs. Greene and Vice Chair Gilbert served on the committee and would meet soon to review the RFQ's to choose a firm for the search. He said a comment was made by a citizen that night regarding Mrs. Johnson's salary. He said her salary was in the range of previous Administrators. Mrs. Johnson was in retirement and chose to come out of retirement to work for Fairfield County. He thought Mrs. Johnson, Mrs. Williams, along with Administrative staff worked their tails off in the past six months to work on the audit. They worked late nights during the week and the weekends. He wanted to personally say to them job well done, he appreciated them and he appreciated them being there. He thought they were well deserving of the income they were receiving.

Mr. Ruff echoed Mr. Pauley's sentiments. He said Mrs. Johnson called him sometimes at 11:00pm and he knew she was working. He knew that a lot of the work she did was partly due to work that was not completed previously. He said they did an outstanding job and he was extremely proud.

18. EXECUTIVE SESSION: (The following statement is provided in compliance with the South Carolina Freedom of Information Act: Subsequent to Executive Session, Council may take action on matters discussed in Executive Session.)

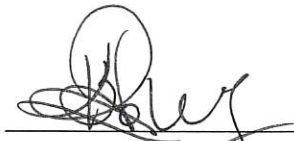
- A.** Receipt of legal advice relating to proposed contractual arrangements with the Fairfield Joint Water and Sewer System Pursuant to S.C. Code Ann. § 30-4-70(a)(2).

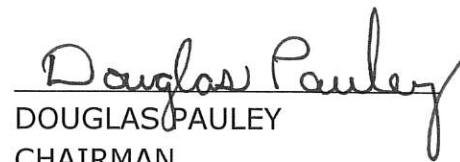
~~At 7:08pm, Motion made by Councilman Ruff, seconded by Councilman Robinson to go into executive session. **The motion carried 5-0.**~~

At 7:47pm, motion made by Councilman Ruff, seconded by Councilman Roseborough to come out of executive session. ***The motion carried 5-0.*** Chairman Pauley stated there was no action taken in executive session.

19. ADJOURN

At 7:47pm, motion made by Councilman Robinson, seconded by Councilman Ruff to adjourn. ***The motion carried 5-0.***



KIM W. ROBERTS, Ed. D.
CLERK TO COUNCIL

DOUGLAS PAULEY
CHAIRMAN