



**MINUTES
REGULAR MEETING
FAIRFIELD COUNTY COUNCIL
NOVEMBER 14, 2022**

Present: Moses Bell, Shirley Greene, Tim Roseborough, Clarence Gilbert, Doug Pauley, (Council Members); Malik Whitaker (County Administrator), Kenneth Davis (County Attorney); Dr. Kimberly Roberts (Clerk to Council)

Absent: Cornelius Robinson, Mikel Trapp

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

2. APPROVAL OF THE AGENDA

Motion made by Councilwoman Greene, seconded by Councilman Roseborough. Mr. Bell said he needed to add an amendment to executive session regarding a bridge settlement located at 158 Blue Granite Parkway. Vice Chair Greene made a motion to amend the agenda to include the bridge settlement under executive session, seconded by Councilman Roseborough. ***The motion carried 5-0.*** Motion made by Councilman Pauley to approve the agenda as amended, seconded by Councilman Roseborough. ***The motion carried 5-0.***

3. INVOCATION

Councilman Gilbert led the invocation.

4. APPROVAL OF MINUTES

Motion made by Councilman Pauley, seconded by Councilwoman Greene to approve the minutes from the Regular Meeting October 10, 2022 and the Special Called Meeting October 26, 2022. ***The motion carried 5-0.***

5. PUBLIC PRESENTATIONS

None

6. 1ST PUBLIC COMMENT (3 MINUTES): INPUT MUST PERTAIN TO ITEMS ON THE AGENDA, FOR WHICH NO PUBLIC HEARING IS REQUIRED OR

HAS BEEN SCHEDULED. EACH SPEAKER IS ALLOTTED (3) MINUTES FOR COMMENTS. THE TOTAL TIME ALLOCATED TO THIS PUBLIC COMMENT SEGMENT IS 30 MINUTES. THOSE WISHING TO MAKE PUBLIC COMMENTS 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 (15) FIFTEEN MINUTES PRIOR TO THE SCHEDULED START TIME OF THE MEETING.

Dr. Roberts read the following statement:

Fairfield County Government welcomes public input during appropriate times at County Council meetings. Such input will be allowed in the time, place and manner determined by the Chair of the County Council as the presiding officer. Persons wishing to speak must conduct themselves in the following manner:

Sign up at the appropriate time to speak, refrain from engaging in conduct or speech that seeks to disrupt or disturb the meeting, respect the time limit for the public comment, and refrain from personal attacks or personal statements about any individual(s). Such statements are disruptive because this part of our meeting is not conducive for such exchanges between individuals.

As stated, speakers were expected to express themselves within the time, place and manner previously described. Any violation will result in a warning from the Chair of County Council or the presiding officer. Any failure to heed the warning of the Chair or presiding officer will result in the violating speaker forfeiting their opportunity to finish speaking or to speak during the remainder of the meeting. Council welcomes the comments from members of the public and ask for the cooperation of everyone to allow for the orderly conduct of the people's business.

- Randy Bright – Appraisals

7. PUBLIC HEARINGS

None

8. ORDINANCES, RESOLUTIONS AND ORDERS

- A.** Third and Final Reading Ordinance No. 803: An Ordinance to Consider the Request to Amend the Fairfield County Land Management Ordinance No. 599 and the Related Zoning Map, to Provide for the Zoning Reclassification from RC (Rural Community District) to B2 (General Business District) for 4.44 Acre Parcel Described as TMS#: 077-00-00-023-000, Owned by Buckeye LLC. Motion made by Councilwoman Greene, seconded by

Councilwoman Roseborough. Mr. Pauley asked if someone could give some information on the request. Mr. Whitaker said it was a request to consider the amendment to the Fairfield County map for the approximately 4.44 acre parcel zoned Rural Community District to B2 General Business District. It was the opinion of staff that the proposed request was compliant with the comprehensive plan. Adopted plans for the area noted that the rural community district was compatible with the land management ordinance 599 and did not delineate from existing conformities of the sites current use. Staff recommended approval of the rezone request for approximately 4.44 acres from rural community district to general business district. The Fairfield County Planning Commission unanimously approved the rezoning request as presented on September 22nd at the Planning Commission hearing – the vote was 6-0. He said Mr. Stines (Planning Director) was present if there were any questions. There were no questions. ***The motion carried 5-0.***

- B. First Reading (By Title Only) Ordinance No. 804: An Ordinance to Appropriate \$1,027,000 to the Economic Development Department to Use as Additional Funds for the Construction of a Speculative Building on Parcel 9 of the Fairfield Commerce Center (TMS#: 184-00-00-096-000) for Future Economic Development Needs, Derived from a Portion of the Proceeds Received from the Sale of the Fairfield County Property to Oldcastle APG South, Inc. in 2021, Which was Approved by the Fairfield County Council in Ordinance 754 as Part of the Project Windsor Agreement, and from a Portion of the Proceeds Received from the Sale of Fairfield County Property to Eau Claire Cooperative Health Center in 2022, Which was Approved by the Fairfield County Council in Ordinance 775. Motion made by Vice Chair Greene, seconded by Councilman Roseborough. ***The motion carried 5-0.***
- C. Resolution No. 2022-09: A Resolution to Approve a Variance of the Declaration of Covenants, Conditions and Restrictions for the Fairfield Commerce Center (TMS# 184-00-00-096-000) as to Parcel 9 on the Master Development Plan, so that the North Wall of the Speculative Building Being Constructed by the County on that Parcel May Be Constructed With Architectural Steel. Motion made by Vice Chair Greene, seconded by Councilman Pauley. Mr. Bell said it was discussed in the Economic Development Committee meeting. There was no discussion. ***The motion carried 5-0.***

9. BOARD AND COMMISSION MINUTES (For information only)

Planning Commission – September 22, 2022

Disabilities & Special Needs – September 23, 2022

10. BOARD AND COMMISSION APPOINTMENTS

None.

11. OLD BUSINESS

None.

12. NEW BUSINESS

None.

13. COUNTY ADMINISTRATOR'S REPORT

- A. Opioid Settlement Grant Application (ACTION ITEM)** – Mr. Whitaker said it was a request for program funding from the South Carolina Opioid Recovery Fund. They were asking Council to approve an application for funding from the South Carolina Opioid Recovery Fund on behalf of Fairfield Behavioral Health Services in partnership with the Fairfield Opioid Response Team. He said Mr. Vernon Kennedy (Director of Fairfield Behavioral Health Services) was present if there were any questions. Mr. Whitaker read the following statement to give context to the request: The South Carolina Opioid Recovery Fund Board was created by the South Carolina Opioid Recovery Act to administer and disperse the South Carolina Opioid Recovery Funds in accordance with the terms of the litigation settlement agreement. Money from the Opioid Recovery Fund would be distributed by the Board to help address and remediate the impacts of the opioid epidemic in South Carolina. The South Carolina Opioid Recovery Fund Board was accepting applications for South Carolina Opioid Recovery funds. The first deadline to submit applications for the funds from the guaranteed political subdivision fund was December 2nd. Fairfield County received a request for opioid recovery funding from Fairfield Behavioral Health Services in partnership with the Fairfield Opioid Response Team. The requested amount was \$62,169.61. He referred to the application and budget placed in front of them. The two strategies they were requesting to implement were the medication assisted treatment distribution and other opioid related treatment and prevention programs. Motion made by Vice Chair Greene, seconded by Councilman Roseborough. ***The motion carried 5-0.***
- B. Parcel 9 Mass Grading Update** – Mr. Whitaker asked Ms. Ann Broadwater (Economic Development Director) to give the update. She presented the following PowerPoint presentation:

Parcel 9 Mass Grading

- LCI-Lineberger began rough grading Parcel 9 on October 3rd
- Expected to be substantially complete as of April 1, 2023
(She referenced a slide of what the property looked like as of that day).

Variance for FCC Codes & Covenants

- Our speculative building is designed to initially be approximately 100,000 sf with the ability to expand to 250,000+ sf in the future.
- As a cost-saving measure, our engineers and contractor have suggested that the expansion wall be constructed with architectural steel instead of pre-cast concrete panels.
- Currently, the codes, covenants and restrictions (CCR's) prohibit any metal siding.
- The County Council may grant a variance when considered necessary.
- Fairfield County granted this variance to BOMAG Americas for their expansion walls.
- The metal wall will not be seen from the front of the building and will have a shadowline profile.
- By using a metal wall, the county can save money on material cost and will provide an easier process for expansion for the future user.
(She referenced a slide of what it would look like).

Speculative Building Funding Request

- Currently, Fairfield County has no existing industrial buildings available.
 - We have engaged engineers Davis & Floyd and THS Constructors to build an approximately 100,000 square foot speculative building in the Fairfield Commerce Center.
 - Because of the fluctuating cost of construction materials, the County has elected to develop our new speculative building using the Construction Manager at Risk (CMAR) method.
 - Our building contractor must provide the County with a Guaranteed Maximum Price (GMP) for the project. Using the CMAR method, the County can avoid change orders on construction costs.
 - As of 11/10/22, we have received our GMP for the project and the total cost to build the spec building will be \$5,995,000.
 - When we developed our budget in late 2021, we expected to be able to build our speculative building for \$5,000,000.
 - But due to rising cost of building materials and the time associated with completing the design, more than that estimated budget is required.
 - Because of that, Fairfield County Economic Development recommends that we allocate the remaining \$695,000 in proceeds from the sale of speculative building in Walter B. Brown Industrial Park and \$322,000 in funds from the sale of the Fairfield Memorial Hospital towards the construction of a new speculative building.
- C. Recreation Economy for Rural Community Planning Grant Update –**
Mrs. Williams reminded Council that the announcement was made a few months ago that they received the grant from EPA and other national partners. The steering committee met to plan two workshops and

they were inviting the public to participate in the workshops. They would be held December 5th at 5:30pm in the Fairfield County Government Complex and December 6th would be an all-day event held at the Winnsboro Old Armory. Fairfield County was one of 25 small and rural communities to receive planning assistance through the Federal Recreation Economy for Rural Communities Program, which was sponsored by the U.S. Environmental Protection Agency, the USDA Forest Service, the Appalachian Regional Commission and Northern Border Regional Commission. Through the program, Fairfield County stakeholders would work with a team of consultants and federal and state agency partners to develop an action plan to strengthen their outdoor recreation sector and revitalize their downtown areas. The public meeting would be held at the Fairfield County Government Complex on December 5th and would continue with an all-day work session at the Old Armory on December 6th. Participants would collaborate to identify a vision, goals, and specific actions to strengthen Fairfield's recreation economy and reinvest in the Towns of Winnsboro, Ridgeway and Jenkinsville. All community members were invited to attend both events. There was registration but it was not required to attend but it would help to plan for both events. The registration link was on the County's Facebook page and it would be posted on the County's website. She said they could contact her or Shelley Fentress (Grants Coordinator) for more information about the workshops. The first workshop would be general information about the grant program – the planning process. The next day would be technical workshop sessions. From the workshops, they would create an action plan from EPA and the other partners on ways to further strengthen the recreation economy in Fairfield County. Mr. Bell said he hoped Council would be able attend.

- D. Resolution to Improve the Dominion Settlement –** Mr. Whitaker said Fairfield County approved a negotiated settlement agreement with Dominion Energy which provided budgeted funding for a number of listed projects and among them was the Ridgeway Community Center. It identified with a funding amount allocated to each project, including the Ridgeway Community Center project (he referred to Attachment H that was in the settlement agreement). Attachment H provided \$2.5 million for the project and stated that the money would be deposited into an escrow account established by the County and the use of the funds and escrow should be restricted for the purposes set forth in the attachment. Section 4 of Resolution No. 2021-09 (dated July 12, 2021 with a 6-0 vote because Mr. Pauley was not present), provided that the forms, terms and provisions of the agreement that was before that meeting were approved and that all agreement terms and conditions were incorporated in the resolution by reference. The Chair was authorized and directed to execute the agreement as well as final versions of the attachments (Attachment H) thereto in the name of on behalf of the County subject to the approval of any revisions or changes was not materially adverse to the County by the County Administrator and Council to the County and Clerk of Council was thereby authorized and directed to attest the agreement and deliver the agreement. Section 5 of the same resolution approving the Dominion settlement agreement provides that County Council authorizes the Chair, the Administrator and their designee as

appropriate following the receipt of advice from legal counsel (and he always sought advice from legal counsel) to take such further acts and negotiate, approve, and execute whatever further instruments on behalf of the County as deemed necessary, desirable or appropriate to affect the intent of the resolution. In that regard, the Chair and Administrator were authorized to perform the ministerial duties relating to fulfilling the County's agreement with Dominion, including execution of agreements relating to the funding of the projects. As the funds were approved by the Council in specific amounts for specific projects and settlements of the contested claim, the County was required to execute items approved by the Dominion in good faith. The Fairfield County Procurement manual was approved by the Council July 14, 2014 in a one-time vote by motion of a Council member. There was no resolution or ordinance presented. The version of the manual currently on the County website and use indicated that it was last amended on August 1, 2019 but there was no record of Council approval. Thus, the August 1, 2019 manual appeared to be a staff document that was never approved by Council, therefore not binding on the Council. Under the Equal Dignity Rule, a one-reading resolution or motion may be superseded by a one-reading resolution and a three reading ordinance may only be superseded by a three reading ordinance. Thus the one reading Dominion settlement resolution adopted by Council was sufficient authority to override any conflicting version of the manual adopted either by one motion of the Council or by staff action. Fairfield County initiated a competitive sealed bidding process which SD Clifton Construction was identified as lowest responsible bidder. Following the review, proposed contract by legal counsel, he executed the contract on behalf of the County pursuant to the authority conferred on him as the Administrator and the Dominion settlement resolution. Because of concerns they have had about conflicting and ambiguous provisions of the procurement manual as well as past issues in the approval process, they initiated a redrafting process a few month ago that was nearing completion for consideration and approval by Council.

Mr. Gilbert asked where in all that he just read did it state that moving forward with the project without Council being kept abreast was okay. Council never saw the plans and there was never a meeting. Since he had been on Council, if there was a project of that magnitude, Council gave the Chair and Administrator the authority to go forward. Mr. Whitaker asked the process for the other Dominion projects. Mr. Gilbert said they were talking about this project. He was not saying that the other ones were done correctly. His concern was that he did not think the proper steps were taken. He did not see how he could award a bidder a contract and Council not have a say so in it – he just did not see it. He said if he (Whitaker) wanted to take on the responsibility of a project that large and something went wrong, he was sure it would be on his (Whitaker) shoulder and not the Council. Attorney Davis said the only point they would have was that if there were Council members who believed that there was some type of conflicting interpretation of the manual versus what the resolution and execution said, they could

perhaps submit to the Attorney General for an opinion. Mr. Gilbert said he may just do that. Mr. Bell said they came before Council regarding the Ridgeway Community Center to request an additional \$400,000 for the Center and it was passed by that Council. Mr. Whitaker said in that briefing document, they stated who was the lowest responsible bidder. Mr. Bell said that was the point he was going to make. He said they repurposed the building they were in (250 North Walnut Street) and none of them had seen the plans prior to Mr. Whitaker being there. Mr. Gilbert said none of them were on the board when those plans came forward. Mr. Bell asked Mr. Gilbert when he thought the work began. Mr. Gilbert said the building was approved before they (Bell and Gilbert) came on Council – was it not. Mr. Bell said it was not. Mr. Gilbert asked Mr. Pauley if what he said was true. Mr. Bell said Mr. Pauley would not say that because Mr. Ruff (who was in the audience) was on Council when they made the first approval of the building. There were flaws in the contract and they came back in 2019 when they (Bell and Gilbert) were on Council to get the building approved. Mr. Pauley could tell him because they (Bell and Pauley) voted against it. Mr. Gilbert asked him what he just said – did he just say they approved it. He thought he said they did not know anything about it. Mr. Bell asked Mr. Pauley if he was right and he agreed. Mr. Gilbert said he thought he said they did not know anything about the plans. Mr. Bell said he was talking about the plans – they had seen no plans for the building. Mr. Pauley said when the \$400,000 was moved towards the community center, he thought they were advised by the attorneys involved in the Dominion settlement to send a letter to Dominion telling them their plans on what they were going to do and move \$400,000 to the recreation center. He thought they were also advised to send Parker Poe a letter as well. He asked if that was done. Mr. Bell said yes they did. He said Dominion had certain requirements. Prior to them moving money from any project, they had to have an agreement with them to do so. They wrote them a letter explaining what they wanted to do and waited for an answer. That was a requirement of all projects within the Dominion settlement. Mr. Pauley said one of the things that Mr. Gilbert and other Council members might be concerned about was that when that project first came about it was laid out exactly what the community center would have in it. He thought with inflation costs and things had changed, Council members had not be updated on the exact plans for the building. The recreation center director had only been involved in one meeting and he was the director of recreation to the point that they were about to build a \$3 million gymnasium. The last thing he heard was that there would be no spectator seating for basketball games. He thought the director had not been involved in the meetings. Mr. Whitaker asked if that was what he (the director) told him and Mr. Bell asked the same question. Mr. Pauley said he was saying he (the director) had been involved in one meeting and they needed to make sure Council members were aware of the current plans for the

community center. If they were all involved in the building of the community center, they would like to be made aware of the community center. Mr. Bell said Mr. Whitaker offered to show the plans and Mr. Whitaker said yes, it would not be a problem. They would put it on the agenda.

- E. HR Policy/Survey Process – Mr. Whitaker said they were very excited and very close to launching the new website. One of the items included in the new website was the publication of all Freedom of Information Act requests. They thought it was important information for the public sphere. Currently, their attorney's office was responding to two Freedom of Information Act requests from the media – the human resource functional audit and the Talent Keepers talent watch report. They would release the reports to Council at the same time. Unfortunately, some of the respondents did not follow instructions and named staff members in the "free response" section of the survey – that was a "no-no". Their County Attorney was redacting the names so the information could be shared. He said his name was not called and he expected that with baseline information it would not be perfect. The whole point of doing a survey was to learn about current conditions. He knew things would be said about him. What was more important for the future of the County was what the County staff did with the baseline information. Regarding the HR audit, they were working on bringing together a team that would act on the excellent recommendations outlined in the report. They were talking to their vendor to move forward with the development of an employee handbook (the County never had an employee handbook). It had a policy and procedure manual but not an employee handbook. They would also work on a new employee application. These were two major recommendations from the HR audit. The audit tool was broken down into several functional areas – hiring recruitment practices, workplace practices, discrimination and diversity, documentation and record keeping, compensation and payment practices, health and other benefits, termination practices and post-employment practices. Last but not least, working environment via the Talent Watch Engagement survey. The survey was designed to help the Administrator understand the following: factors that influence employee engagement, factors that influence employees to stay and consider leaving your organization, and current employee satisfaction and satisfaction change. The survey included that its results presented a rare opportunity to learn exactly how the team members felt about the organization, their jobs, co-workers and their leader. He knew it was a discussion about leadership and not just across the 11 months that he had been there but across the last several years. The information would enable them to improve the ability to engage, retain and get the best performance from the team. It was valuable data designed to be used by leadership (County Administrator and the team) to help improve the County. There were five things that should be done with the results: 1. look for surprises (analyze the information) and the most valuable information was to learn something new. 2. Set action

planning goals. In the body of the tool, there were action planning items to incorporate into daily practices. 3. Meet with leadership – meet with Council to look at factors that influence current goals, how to set current goals, and actions to take to meet current goals – using the data collected to set performance improvement goals in the areas that the survey covered. Then meet with the department heads to discuss the survey results, talk about areas of improvement and take action. The survey was a tool to be used by County leadership to do better. When the County Attorney released the information, he hoped they would in earnest begin the process of using the information to work to make the County a better place.

Mr. Bell asked for questions and there were none. He thanked Mr. Whitaker for bringing light to the survey and its purpose.

14.COUNTY COUNCIL TIME

15.2nd 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.

Dr. Roberts read the same statement that was read at the 1st public comment session.

- Norma Branham – Survey
- Wanda Bright – Podium & Allocation of Funds
- Jeff Schaffer – Various
- Randy Bright - Various

16.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.)

At 6:58pm, motion made by Councilman Roseborough, seconded by Councilwoman Greene, to go into executive session concerning the below listed items. ***The motion carried unanimously 5-0.***

A. Personnel Matter – Discussion of Personnel Evaluation of Clerk to Council Pursuant to S.C. Code Ann. §30-4-70(a)(1).

- B.** Personnel Matter – Discussion of Personnel Evaluation of County Administrator Pursuant to S.C. Code Ann. §30-4-70(a)(1).
- C.** Legal Advice – Discussion of Bridge Settlement Pursuant to S.C. Code Ann. §30-4-70(a)(2).

At 7:51pm, motion made by Councilman Pauley, seconded by Councilman Roseborough to come out of executive session and return to regular session. Chairman Bell said there was no action taken in executive session. ***The motion carried unanimously 5-0.***

ADJOURN

At 7:51pm, motion made by Councilman Pauley, seconded by Councilwoman Greene, to adjourn. ***The motion carried 5-0.***



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



MOSES BELL
CHAIRMAN