



**MINUTES
REGULAR MEETING
FAIRFIELD COUNTY COUNCIL
JULY 13, 2020**

Present: Moses Bell, Jimmy Ray Douglas, Doug Pauley, Cornelius Robinson, Clarence Gilbert, Council Members; Jason Taylor, County Administrator; Laura Johnson, Assistant County Administrator; Tommy Morgan, County Attorney; Patti L. Davis, Clerk to Council.

By Phone: Mikel Trapp, Bertha Goins

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 one 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 Robinson called the Regular Meeting to order at 6:00 p.m. Vice Chair Goins, Council Member Trapp and C.D. Rhodes joined by phone via WebEx meeting.

2. APPROVAL OF AGENDA

It was moved by Council Member Bell, seconded by Council Member Gilbert, to approve the agenda. ***The motion carried unanimously 7-0.***

3. INVOCATION

Council Member Bell led the invocation.

4. APPROVAL OF MINUTES

It was moved by Council Member Douglas, seconded by Council Member Gilbert, to approve the minutes from the Regular Meeting of June 22, 2020. ***The motion carried unanimously 7-0.***

5. PUBLIC PRESENTATIONS

- A.** Posthumous Proclamation – In Remembrance of Mr. Taft Henry. Chairman Robinson read a summarized version of the Proclamation. Council Member Gilbert stated when he remembers Mr. Henry, he remembers a big smiling face. He was a man with many

accomplishments in life, but he was never heard bragging or boasting. He looked up to Mr. Henry. He was a rare person and will truly be missed. Council Member Gilbert then read a statement from Mr. Henry's daughter, Jannette Henry, on behalf of the family wherein she thanked Council for recognizing her father.

6. PUBLIC HEARINGS

- A.** An Ordinance Enacted pursuant to the Capital Project Sales Tax Act, Title 4, Chapter 10, Article 3 of the Code of Laws of South Carolina 1976, as Amended, Providing for the Imposition of a One Percent Sales and Use Tax and the Authorization of General Obligation Bonds Upon Referendum Approval, the Form of the Ballot to be Used in Connection Therewith, and Other Matters Relating Thereto. Chairman Robinson opened the public hearing at 6:09 p.m. Mr. Randy Bright submitted a statement for the public hearing, and the Clerk read this into the record. Chairman Robinson then closed the public hearing at 6:12 p.m. Council Member Pauley had a question, and Chairman Robinson suggested holding questions for Mr. Rhodes.

7. ORDINANCES, RESOLUTIONS AND ORDERS

- A.** Second Reading Ordinance No. 750: An Ordinance Enacted Pursuant to the Capital Project Sales Tax Act, Title 4, Chapter 10, Article 3 of the Code of Laws of South Carolina 1976, as Amended, Providing for the Imposition of a One Percent Sales and Use Tax and the Authorization of General Obligation Bonds Upon Referendum Approval, the Form of the Ballot to be Used in Connection Therewith, and Other Matters Relating Thereto. Motion made by Council Member Douglas, seconded by Council Member Gilbert, to approve Second Reading of Ordinance No. 750. Chairman Robinson then requested Mr. Rhodes to give further information concerning this matter. Mr. Rhodes thanked Council for allowing him to speak tonight. Back in March, the Council created the Capital Project Sales Tax Commission. The Commission's sole job was to consider the various capital needs in the County and to formulate a list of capital projects to be funded by the proceeds of the tax. Then, using this list and other considerations, the Commission would then formulate the ballot question to go on the general election ballot this coming November. On June 11, the Commission completed their work and executed a Resolution, which was included in Council's packet for tonight's meeting. This Resolution approved the form of the ballot question. Mr. Rhodes stated he will now go through the Ordinance and then entertain any

questions from Council. This ordinance is a 1% sales and use tax imposed on most of the same items the normal South Carolina sales tax is imposed upon with a few minor differences. These differences were discussed with Council back in March. The term of the tax is to be eight years. If approved, it would go into effect on May 1, 2021. Unless it is extended by a subsequent referendum, it will expire on April 30, 2029. The primary purpose of this tax is to fund the construction of a wastewater treatment plant in addition to possibly funding sewer lines and other related sewer infrastructure. The Commission is authorized by the Act to impose certain conditions on the expenditure of the Capital Project Sales Tax funds. This is intended to give a little flexibility down the road. The Act is a long term planning tool to allow counties to fund capital projects over an eight year time period. It is difficult to look into the future, so the conditions imposed by the Commission will give some flexibility to declare a project to be impossible. For instance, if a large manufacturer signs onto the Mega Site tomorrow and the funding for this project is provided by the State, in this instance, the County would not need to waste \$11.5M on the cost of the plant. Therefore, there needs to be a rip cord, so to speak, to allow the County, in very specific circumstances, to declare the use of the proceeds for that project to be impossible and to move down the list to spend the money on other sewer infrastructure. There is not an enormous amount of flexibility, but there is some. Once the ballot question is received from the Commission, the Council has to take it as it is delivered. The one exception to that is to add in an authorization to issue bonds. This would be Council's responsibility, and the bonds would be paid from the Capital Project Sales Tax revenue. About half of counties that use this process will opt for bonds, but it depends on the types of projects to be funded from the tax. In this case, bonds would be essential for the purpose to build this plant. The ballot question will include an authorization to issue bonds up to the amount of \$9,350,000. These are technically general obligation bonds. Since they are authorized through the referendum, they will not count against the debt limit. They are also sized so that taxes will not have to be levied to pay them. They are repaid exclusively from the sales tax revenues. There are two items on the ballot itself, the first being the wastewater treatment plant project and the second being the sewer lines and infrastructure project. They both include anticipated proceeds of the tax to go toward these projects. The Ordinance and the Commission's Resolution contemplates the \$11.5M proceeds will not come close to funding the entirety of the cost of the plant. The total cost of the expenditures is higher than the amount expected to result from the tax. If there is extra revenue after the projects, then this would fall to County

Council to determine how the remainder is spent. In this case, given the importance of this project, the Commission set these numbers higher, essentially to serve as assurance that unless the sales tax goes through the roof, that these revenues will be spent on sewer infrastructure. The last portion of the ballot lists the conditions that are cited in the Ordinance. Second reading is tonight, and then third reading will be held at the next meeting. The next step would be to forward the ballot to the Election Commission, and they will take the necessary steps to get this on the November 2020 ballot. Mr. Rhodes then asked if Council had questions. Council Member Pauley had an inquiry concerning the public hearing. He questioned if the public hearing was properly noticed in the paper. The Clerk stated it was properly noticed in the paper. Council Member Bell inquired if the project becomes impossible thereby going down the line to other projects, the only projects he sees are wastewater projects. Per Mr. Rhodes, if there is other funding available after the plant and the sewer infrastructure is completed, the remainder would need to be spent in some other means. The Act provides a 2-step process. If the tax is reimposed with another referendum and another list of projects, any proceeds from the first tax should be spent on the projects from the second referendum, which would presumably happen in seven or eight years. If the tax is not reimposed, the responsibility would fall to County Council to decide how the proceeds are to be spent. They can be spent on any project that would have otherwise been approved under the Act. The one technicality is not knowing if the tax is reimposed until it approaches the end of its term. The process is convoluted, but this is the procedure set forth in the Act. Council Member Bell inquired again for his clarity, if the County received money for the project, would it be Council's decision on how to spend the \$14M collected. Per Mr. Rhodes, this is correct if Council waits until the end of the tax to spend it. It would be Council's decision which route to take. Council Member Douglas inquired concerning the bonds. Per Mr. Rhodes, the bond authorization is a good bit less than the anticipated tax collection, although these collections are conservative. Assumption is that there will be no increase over the eight year period. The assumption is the County would collect the taxes at least the first year before purchasing any bonds. The longer the County waits, the less it will have to borrow. The intent is to never levy taxes in order to repay the bonds. Council Member Bell inquired why is this being called a 1% tax. Per Mr. Rhodes, this is according to the Act. Vice Chair Goins thanked Mr. Rhodes for his explanations. She also stated bonds should not even be considered at this point. First, this matter must get on the ballot and ensure the citizens understand the value of this tax and what will be reaped long

term. If this is done and done right, once the plant and lines are in place and the County begins to get an influx of businesses and people, it may not even have to worry about bonds. It will be growing what it has invested in. She encouraged everyone to push this project because it is so necessary. Chairman Robinson inquired concerning the current capacity. Per Mr. Taylor, this depends on the location, but for the most part, there are roughly 32,000 gallons left. Companies have been looking in the County recently, which would essentially wipe out this capacity. Then there would be no capacity for the industrial parks, the Commerce Center or the Mega Site. Town of Winnsboro has additional capacity available in town; however, the lines serving the Commerce Center are undersized. A line alone would be over \$8M to upgrade. Chairman Robinson also inquired concerning a moratorium. Per Mr. Taylor, once a certain point is reached with capacity, DHEC will step in and issue a moratorium. This would mean no further building permits, etc. could be issued. Once a moratorium situation is entered, DHEC would then require that a plan be in place for a new sewer plant. Council Member Pauley inquired if there would be two questions on the ballot in November, the capital project sales tax and issuing bonds if necessary. Per Mr. Rhodes, these are combined into one question, which is required by the Act. It is a two part question, but results in a single question. In this circumstance, the bond authorization is elemental to using the proceeds as intended. Vice Chair Goins inquired if it would be possible to get a copy of the referendum so this can be circulated to the citizens so they will have a better understanding of this issue. Council Member Bell inquired how the information can be put out into the community. Mr. Rhodes stated this is an important point. A question is being put on the ballot and; therefore, the Ethics Act is being implicated. One provision prohibits the use of public officers and employees from using government personnel, equipment, materials and other public resources to influence the outcome. The other provision prohibits the use of public funds or public property. The ballot can be printed out and circulated for informational purposes, and Mr. Rhodes and Mr. Morgan will be available to advise on this going forward. In 2018, the Ethics Commission handed down an opinion concerning whether Council Members in a public meeting could speak out in favor of a result in a bond referendum. The answer was no in that this would be using the auspices of a public meeting, thereby using public funds, to advocate for the result in an election. Mr. Rhodes does not agree with this opinion; however, the opinion is now out there. Therefore, a Council member can speak out in the public in favor of this referendum, can go to rotary meetings, speak to congregations at churches to promote the referendum, etc. At the point in time when third

reading has passed, caution must then be used to not speak in either advocacy for or opposition against at a Council meeting. Vice Chair Goins stated she wants a flyer with the actual verbiage that will be on the ballot in order to circulate, and she also asked if questions could be answered at this time. Per Mr. Rhodes, this can be done, and response can be given to news media and citizen questions. Chairman Robinson stated every Council Member should have received a copy of the referendum in their packet. ***The motion carried 5-2 with Council Members Bell and Trapp voting nay.***

- B.** First Reading (By Title Only) Ordinance No. 751: An Ordinance Approving the Agreement to Share Costs and a First Supplement Thereto by and Between Fairfield County, The Fairfield Joint Water and Sewer System and the Town of Winnsboro, and other Matters Related Thereto. Motion made by Council Member Douglas, seconded by Council Member Gilbert and Vice Chair Goins, to approve First Reading (By Title Only) of Ordinance No. 751. ***The motion carried 6-1 with Council Member Trapp voting nay.***

- C.** First Reading (By Title Only) Ordinance No. 752: An Ordinance to Amend the Fairfield County Land Management Ordinance (No. 599) to provide for the Zoning Reclassification from I-1 (Industrial District) to B-2 (General Business District) of Six (6) Acres Owned by Healthcare US Co. Ltd, Portion of Tax Map No. 164-00-00002-000. Property is Located at State Highway 269, Winnsboro, SC 29180. Motion made by Council Member Douglas, seconded by Council Member Gilbert and Vice Chair Goins, to approve First Reading (By Title Only) of Ordinance No. 752. ***The motion carried unanimously 7-0.***

- D.** Resolution No. 2020-09: Authorizing the Execution and Delivery of a Partial Assignment and Assumption of Agreement Among Fairfield County, Element Real Estate Holdings, LLC and Winnsboro Real Estate Holdings, LLC Pertaining to a Purchase Option Under a Lease Agreement Between Fairfield County and Element Real Estate Holdings, LLC and a Special Source Revenue Credit Agreement Between Fairfield County and Element Real Estate Holdings, LLC; the Execution and Delivery of a Second Amendment to Performance Agreement Among Fairfield County, the South Carolina Coordinating Council for Economic Development and Element Television Company, LLC, and Such Other Documents as may be Necessary to Effect the Intent of this Ordinance; and Other Matters Related Thereto. Motion made by Council Member Douglas, seconded by Council Member Gilbert and Vice Chair Goins, to approve Resolution No.

2020-09. Per Mr. Taylor, this has been an ongoing situation since 2013 when Element first located in the County. In 2013, they were brought here under an incentive agreement with the County retaining ownership of the building. Element is looking to modify this, and the County wishes to encourage them to continue investing in the County. They are wanting to invest another \$1.5M in the facility, and in order to do this, they will need to own the building. The intent was always for the building to be transferred. In order for them to make this investment, they need to have the building under their ownership. Council Member Bell inquired if this would change the tax base for them. Per Mr. Morgan, the property will still be under a fee-in-lieu of tax agreement and special source revenue credit agreement. The intent has always been for them to get the building at a certain point in time. They have met and continue to meet certain economic development and investment requirements along with job requirements. This is not only allowing for the conveyance of the property to go forward, but further that Element will establish the Winnsboro Real Estate Holdings, LLC, which was not originally part of the process. It is still an Element owned entity, but just a different holding company Element will have. Chairman Robinson inquired if the Town of Winnsboro has the water capacity for this. Per Mr. Taylor, the Town has a higher capacity with 100,000 gallons available in town. It is when you get out of town that the lines were undersized and problems would be encountered. ***The motion carried unanimously 7-0.***

- E. Resolution No. 2020-10: A Resolution by Fairfield County Council Encouraging Individuals to Wear Face Coverings in Certain Circumstances, and Matters Related Thereto. Motion made by Council Member Bell, seconded by Council Member Gilbert and Vice Chair Goins, to approve Resolution No. 2020-10. Per Mr. Taylor, the COVID numbers continue to rise in South Carolina. The County is also seeing rising cases, which is currently at 377. The Town of Winnsboro has passed a mandatory mask ordinance, and the County wishes to support this. Per Mr. Morgan, this Resolution encourages the wearing of face coverings as opposed to an Ordinance mandating this. After research, there are entities across the state that are handling this issue differently. For example, Spartanburg County has a similar ordinance encouraging the use and Richland County has an ordinance mandating the use. The Attorney General's opinion given on March 29, 2020, spoke to the extraordinary powers and differentiation under Home Rule Act and that the Governor has certain powers and the counties and cities do as well. Since then, the Attorney General has given a statement on June 24. This is not the same as an opinion, but it was a statement specifically stating

that the cities or municipalities, which act under Title 5 of the S.C. Laws, can pass these types of ordinances; however, it was not stated that counties could. There is a question about whether the counties can actually do this. The Richland ordinance specifically cites two code sections of 4-9-25 which speaks to the general powers of the County, and then 4-9-130 which speaks to the emergency powers. This is the provision that this Council has previously used to declare the emergency ordinance allowing for digital attendance, etc. There are multiple questions that then arise. If this is looked at from an ability to be applied to everyone, the Richland ordinance treats certain establishments and certain businesses in a different fashion. Given the fact that this is a face covering and would be something that basically impacts a person individually, that would probably lead a court to give a strict scrutiny to those types of ordinances. In Mr. Morgan's opinion, ordinances that state one class or one certain type of business has different restrictions than others could be constitutionally challenged. Second, some issues relating to the exceptions to the rule must be looked at, one exception being children and others being health conditions. One would then get into the situation of whether or not giving the information about health conditions is violating the HIPAA rules. A big concern is also the enforcement mechanism. Other counties are using this as a civil fine instead of a criminal fine, and this makes a huge distinction. First, with criminal, there are many due process protections that must come into play depending on whether there is a fine or jail time associated with it. If it is looked at from a civil standpoint, then the enforcement from a county is problematic as well. The county cannot direct law enforcement to enforce a civil fine. The Sheriff is a constitutionally elected officer, and the deputies serve at his pleasure and discretion. Also, their class I license would prohibit this. With a civil fine, the concerns remain of who will enforce it on behalf of the County. Code Enforcement is class III certified, and they are limited to what they can do. The City of Columbia is using meter maids, and the County does not have this. The County could find itself with an inability to enforce. There are other considerations which must be made concerning the mechanism of writing a citation and how to properly do this. Fines would also have to be worked through with the budget. Looking at it as a whole of whether it can be done and what means and methods would be followed, Mr. Morgan's office is of the opinion that a county-wide ordinance requiring it cannot be done, and instead the resolution has been prepared. Council Member Douglas stated since citizens are just being asked to wear the face coverings, and if it does not go beyond this body here, there is no reason to talk about it. If it is not advertised, the Council is wasting its

time. Chairman Robinson asked administration to get signage to the businesses and the unincorporated areas of the County. Per Mr. Taylor, the County has some signage, but this can be expanded. He agrees that much of this, if it cannot be enforced, is largely symbolic. It can be put on the County Facebook page. Council Member Pauley agreed with Council Member Douglas, and this is advertised everyday on the news. If individuals in the County are not encouraged by now to wear face coverings, he does not know what more to say. Chairman Robinson stated the main thing is for Council to do its part as elected officials to promote safety. Vice Chair Goins also agrees and the wording says encouraging. Sometimes it takes a little encouraging, and we must keep encouraging. She has several family members that have been affected by the virus, and it can have short term and long term effects. She feels we have to do our part. ***The motion carried unanimously 7-0.***

8. BOARD AND COMMISSION MINUTES - Received as Information

A. Disabilities and Special Needs

9. BOARD AND COMMISSION APPOINTMENTS

None.

10. OLD BUSINESS

None.

11. NEW BUSINESS

None.

12. COUNTY ADMINISTRATOR'S REPORT

A. Food Distribution Update – Per Mr. Taylor, the County continues to get support for the food distributions. At this point, four sites will be operating to distribute 800 boxes, 200 at each site. Mrs. Johnson has been spearheading this effort. Per Mrs. Johnson, this will be the 5th food distribution this year. The upcoming one is July 16, which is this Thursday. It will begin at 5 p.m. There are four separate locations: McCrorey Liston School of Technology in Blair, Fairfield County Airport on Runway Road, Fairfield County Commerce Center on Blue Granite Parkway and Mitford Fire Station in Great Falls. The boxes will consist of fresh fruits and vegetables that will go to the first 200 households. With the other food distributions, only one box per car was allowed. This time, two boxes per car are allowed but one per household. Two

people can receive a box, but they have to live in different households. Council Member Douglas inquired concerning proof of residence. Per Mrs. Johnson, licenses will be checked to be sure they are Fairfield County residents. The County has had four successful distributions, and Mrs. Johnson expects nothing less for this upcoming date. Chairman Robinson inquired who has been paying for the food. Per Mrs. Johnson, the first three food distributions, Harvest Hope Food Bank supplied the food. The fourth was supplied by Fairfield Forward. This upcoming distribution is being supplied by Senn Brothers. They received a USDA grant to assist with this. Mrs. Johnson also thanked all the volunteers who assist with these distributions.

13. CLERK TO COUNCIL'S REPORT

None.

14. COUNTY COUNCIL TIME

Douglas: Council Member Douglas stated, as everyone knows, during the pollen times of the year his sinuses give him a lot of trouble. This year it got worse, and this fell on the time he was supposed to be getting signatures. He tried to find another county that made council members get signatures to run for a council seat. The others require a fee to run for a council seat, and he feels this should be the same for Fairfield County.

Bell: Council Member Bell stated Friday or Saturday night he got a vague question concerning Coronavirus. Then, on Sunday night, he received another call with more details and the caller was hysterical. In order to try to get them some answers, Council Member Bell contacted Mr. Taylor. Mr. Taylor tried to make sure he had the correct answer to be able to share with this person. Council Member Bell wanted to acknowledge this publicly and thank Mr. Taylor for being there as the person was very frantic. Also, through Senator Fanning's office and others, there will be testing in Ridgeway on Thursday, July 23rd, at Geiger School from 9 to 1. We were asked to provide meals because the people will be there all day. This will be done by the Medical University of South Carolina. They can handle many vehicles, and Council Member Bell encouraged everyone to come to the site on this day. He reiterated what Vice Chair Goins stated earlier that this virus is no joke. It is very serious and a lot of people really do not know what to do. He encouraged everyone to practice safe habits, wear masks, do social distancing and wash your hands. He, again, thanked Mr. Taylor for providing the information this past

weekend. Council Member Gilbert stated he would like for the organizers of the testing to take into consideration that there is a work force that cannot get off to attend something that is held from 9 to 1. An event was held from 5 to 8 in the recent past, and there was a great turnout. Council Member Bell suggested for the County to try to set up a testing site at different time slots. Vice Chair Goins also requested getting a testing site set up in the County, and she would be happy to help with this.

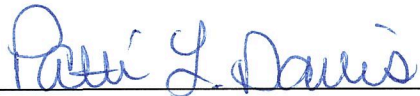
Robinson: Chairman Robinson requested for Mr. Taylor to look into the signatures as Council Member Douglas mentioned. Per Mr. Taylor, this was briefly looked into, and it has something to do with party affiliation or nonpartisan. Per Mr. Morgan, this is correct. If one is running for a political party, they would be certified through the state party itself. He will, however, look into this further.

15. EXECUTIVE SESSION (SUBSEQUENT TO EXECUTIVE SESSION, COUNCIL MAY TAKE ACTION ON MATTERS DISCUSSED IN EXECUTIVE SESSION).

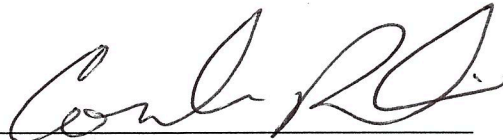
None.

16. ADJOURN

At 7:20 p.m., it was moved by Council Member Douglas, seconded by Council Member Bell, to adjourn. ***The motion carried unanimously 7-0.***



PATTI L. DAVIS
CLERK TO COUNCIL



CORNELIUS ROBINSON
CHAIRMAN