



MINUTES
OCONEE COUNTY COUNCIL MEETING
Regular Meeting
August 16, 2011

MEMBERS, OCONEE COUNTY COUNCIL

Mr. Joel Thrift, District IV, Council Chairman
Mr. Paul Corbeil, District I, Vice Chairman
Mr. Wayne McCall, District II, Chairman Pro Tem
Mr. Archie Barron, District III
Mr. Reg Dexter, District V

Oconee County Council met on Tuesday, August 16, 2011 at 6:00 PM in Council Chambers, 415 South Pine Street, Walhalla, SC with all Council Members, Thomas L. Martin County Attorney, County Administrator Scott Moulder and Clerk to Council, Elizabeth G. Hulse present.

Press: Pursuant to the Freedom of Information Act, notice of the meeting, date, time, place of meeting and agenda were posted on the bulletin board at the County Administrative Offices, 415 South Pine Street, Walhalla, SC, and the County Council website [www.oconeese.com/council]. In addition it was made available [*upon request*] to the newspapers, radio stations, television stations and concerned citizens.

Member of the press present: Dick Mangrum – WGOG Radio, Ray Chandler – Anderson Independent, Ashton Hester – Keowee Courier & Carlos Galarza - Daily Journal.

Call to Order:

Mr. Thrift called the meeting to order at 6:00 p.m.

Extended Public Comment Session:

Sanctuary Pointe Project / Mr. Doug Young

Mr. Young addressed Council utilizing a PowerPoint presentation and handouts [copies filed with these minutes] in opposition to the Sanctuary Pointe project on Lake Hartwell.

Mr. Thrift held Mr. Young to his allotted time noting that his handouts would be included in the record.

Whitestone Academy / Ms. Sharon Stricker

Ms. Stricker addressed Council regarding the Whitestone Academy development in Mountain Rest, SC. She noted that the day/boarding school is designed for up to forty 10-15 year old boys with a therapeutic program in a Montessori environment. Ms. Stricker provided brochures for the school for each member [copy filed with these minutes] and left copies for distribution to interested public.

Public Comment Session [related to specific agenda items]:

No citizens signed up to address Council regarding specific agenda items.

Public Comment Session [related to non-agenda items]:

Mr. James Sloan addressed Council reading from a prepared statement [copy filed with these minutes] in opposition to his property being included in the Stamp Creek/Keowee Key zoning petition.

Ms. Alice Wald addressed Council in support for an Oconee County Conservation Bank; outlining how she placed her property into a conservation easement, costs associated and provided Council with a handout [copy filed with these minutes] related to eco-services.

Mr. Jim Codner addressed Council regarding the Stamp Creek/Keowee Key zoning ordinance noting that all communities to be included in the petition were listed on the petition when signed [copy of blank petition filed with these minutes].

Mr. Bryant Metler addressed Council reading from a prepared statement [copy filed with these minutes] in opposition to his property being included in the Stamp Creek/Keowee Key zoning petition.

Ms. Jean Jennings addressed Council asking the administrator and/or Council to approve the release of the client privilege emails withheld that are associated with her FOIA request.

Ms. Roberta Barton, attorney for Ms. Jennings and David & Michelle McMahan, addressed Council requesting Council repeal Ordinance 2010-16. Ms. Barton outlined her interpretation of federal and state law as it applies to Oconee County zoning. Mr. Thrift held Ms. Barton to the allotted time noting that her comments would be included in the record. Ms. Barton stated that if she could not finish that she would proceed with litigation.

Mr. David McMahan addressed Mr. McCall, District II representative directly, requesting that he as a Council member release the withheld client privilege email attachments related to the above referenced FOIA request.

Mr. B. J. Littleton addressed Council [1] requesting release of the email attachments, [2] noting that the pond at the current jail is not sufficient for a new jail, [3] his opposition to zoning, and [4] his support for the past Montelogo development.

County Council Response to Public Comment:

Mr. McCall address Council and the Administrator noting that the does not have email and as the District II representative he wished to view the excluded client privilege emails. Mr. Moulder noted that as a single council member that he is not entitled to any additional information than any other citizen of the County; noting that only Council as the government body for the county a.k.a. the client could as a group vote to release the documents and waive privilege. Discussion followed. No action was taken by Council on this matter.

Meeting Recess:

Mr. Thrift announced a recess noting that Council will reconvene at 7:00 p.m.

Meeting Reconvene:

Mr. Thrift reconvened the meeting to 7:00 p.m.

Pledge of Allegiance:

Mr. McCall led the Pledge of Allegiance to the United States of America.

Minutes:

Mr. McCall made a motion, seconded by Mr. Dexter, approved 4 – 0 – 1 [Mr. Barron abstained – form filed with these minutes] that the minutes from the July 19, 2011 meeting be adopted as printed.

Consideration of the Following Resolutions:

Resolution 2011-10

Mr. McCall made a motion, seconded by Mr. Corbeil, approved 5 – 0 to approve **Resolution R2011-10** “RELATING TO THE DECLARATION OF INTENT BY OCONEE COUNTY, SOUTH CAROLINA, TO REIMBURSE CERTAIN EXPENDITURES PRIOR TO THE EXECUTION AND DELIVERY OF A FEDERALLY TAX-EXEMPT LEASE PURCHASE AGREEMENT BY THE COUNTY.” on first and final reading.

Consideration of the Following Ordinances:

Ordinance 2011-16

Mr. Corbeil made a motion, seconded by Mr. McCall, approved 5 – 0 to approve **Ordinance 2011-16** “AN ORDINANCE ESTABLISHING AN OCONEE COUNTY CONSERVATION BANK FOR THE PROTECTION OF LANDS WITH SIGNIFICANT NATURAL, CULTURAL AND/OR HISTORIC RESOURCES IN OCONEE COUNTY.” on second reading.

Ordinance 2011-17

Mr. Corbeil made a motion, seconded by Mr. McCall, approved 5 – 0 to approve **Ordinance 2011-17** “AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN EQUIPMENT LEASE-PURCHASE AGREEMENT IN THE AMOUNT OF NOT EXCEEDING \$1,700,000 TO DEFRAID THE COST OF ACQUIRING VARIOUS EQUIPMENT AND IMPROVEMENTS; AND OTHER MATTERS RELATING THERETO.” on second reading.

Ordinance 2011-27

Mr. Dexter made a motion, seconded by Mr. McCall, approved 5 – 0 to approve **Ordinance 2011-27** “AN ORDINANCE AUTHORIZING THE CREATION AND ORGANIZATION OF THE SOUTH CAROLINA WORKLINK WORKFORCE INVESTMENT CORPORATION AS A SOUTH CAROLINA NONPROFIT CORPORATION TO SERVE AS THE LOCAL WORKFORCE INVESTMENT BOARD FOR THE WORKFORCE INVESTMENT AREA COMPRISED OF ANDERSON COUNTY, OCONEE COUNTY, AND PICKENS COUNTY, SOUTH CAROLINA THROUGH EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN SAID COUNTIES AND OTHER MATTERS RELATING THERETO” in title only on first reading.

Discussion & Possible Action Items:

Sheriff Department / \$185,440 / Eight 2011 Crown Victoria Sedans / State Contract

Mr. Moulder and Ms. Robyn Courtright, Procurement Director, addressed Council regarding this vehicle request. Discussion followed

Mr. McCall made a motion, seconded by Mr. Corbeil, approved 5 – 0 to approve the purchase of eight 2011 Ford Crown Victoria sedans with pursuit packages for the Oconee County Sheriff’s Department, in the amount of \$185,400, to Vic Bailey Ford of Spartanburg, SC., per State Contract #4400002965.

ITB 11001 / Officer Uniforms for Sheriff/Animal Control/Detention / estimated \$60,989.08

Mr. Moulder and Ms. Courtright addressed Council regarding this item.

Mr. Barron made a motion, seconded by Mr. Dexter, approved 5 – 0 to [1] award ITB 11-01, Term Contract for Officer Uniforms for Sheriff, Animal Control and Detention, to Designlab, Inc of Greenville, SC; in the estimated amount of \$60,989.08, and [2] authorize the County Administrator to approve up to four [4] additional one-year renewals and an allowable contract price increase/decrease based on the Consumer Price Index; provided the work is satisfactory and that the required funding is approved in each fiscal year's budget.

Local ATAX / up to \$2,910 / Advertising with Upcountry Brochure Service

Mr. Moulder and Mr. Phil Shirley, PRT Director, addressed Council regarding this item.

Mr. McCall made a motion, seconded by Mr. Corbeil, approved 5 – 0 to approve the expenditure of up to \$2,910.00 to display the "Waterfalls of Upstate South Carolina" brochure through Upcountry Brochure Service to all their South Carolina and Georgia locations.

ITB 09-29 / Renewal #1 / Printing & Mailing of All Types of Tax Notices / \$179,434.88

Mr. Moulder and Ms. Courtright addressed Council regarding this item noting that the addition of several department to this renewal.

Mr. Corbeil made a motion, seconded by Mr. McCall, approved 5 – 0 to [1] approve Renewal #1 for ITB 09-29 for Printing & Mailing of All Type Tax Notices to Laser Print Plus of Columbia, SC in the amount of \$179,434.88 and [2] authorize the County Administrator to approve the next three yearly renewals of this bid, provided that the required funding is approved in each fiscal year's budget.

Board & Commission Appointments:

Capital Project Advisory Committee

Council deferred appointment for the existing open seat until the second meeting in November 2011.

PRT Commission

Mr. Martin noted receipt of the Attorney General opinion which addressed the question of dual office holding as it relates to Ms. Bailes as she is also member of the Oconee County School District Board. He stated that the opinion stated Ms. Bailes appointment to the PRT Commission would not constitute dual office holding.

Mr. Dexter made a motion, seconded by Mr. Corbeil, approved 5 – 0 to appoint Ms. Rosemary Bailes as the Walhalla Chamber of Commerce representative to the PRT Commission.

Anderson-Oconee Behavioral Health Services Commission

Mr. Corbeil made a motion, seconded by Mr. Dexter, approved 5 – 0 to appoint Ms. Priscilla H. Taylor to the commission for a three year term.

Commission & Board Reports to Council:

Planning Commission

Mr. Thrift noted that the Commission submitted a written report [copy filed with these minutes] outlining their activities for the previous year.

Council Committee Reports:

None scheduled for this meeting.

Administrator's Report:

Mr. Moulder provided Council with a written report for review and discussion [copy filed with these minutes].

In addition, he reported on the following issues orally:

- Old Courthouse RFP: Mr. Moulder requested input from Council regarding a draft RFP relating to potential uses of the old courthouse. Discussion followed. Council concurred and directed the Administrator to release the RFP relating to potential uses of the old courthouse
- New Detention Center: Mr. Moulder stated that an appeal has been filed with the Court in order to not waive the county's ability to appeal the Walhalla zoning decision. He noted that he is continuing to work with the city and architects to identify potential solutions.
- Stonepond Subdivision Road Issue: Mr. Moulder stated that the county is assisting the citizens with information as they move forward with their plans to petition Council to create a special tax district for their road improvements.
- Golden Corner Commerce Park Sewer: Mr. Moulder stated that a workshop meeting will be scheduled with the Sewer Authority. Clerk to Council stated that she had spoken with the Authority and they wish to discuss/review the Sewer South plan at their September 12, 2011 meeting and wish the workshop with Council to be scheduled after that date. Mr. Barron agreed to cancel the Real Estate, Facilities & Land Management Committee meeting scheduled for September 12th so that Mr. Dexter and Mr. Moulder could attend the Sewer Authority meeting that evening.

Council Member Request to Administrator for Release of Client/Privilege Emails:

Mr. McCall made a formal request of Mr. Moulder asking him to supply to him copies of the redacted emails related to Ms. Jennings/McMahan's FOIA request. Mr. Moulder stated that based on case law specifically relating to a similar situation where an individual council member requested information that he as the Administrator was not authorized to waive the attorney/client privilege; noting that only Council as the governing body had the authority to waive privilege. Mr. Moulder stated that as an individual Council member, Mr. McCall was not entitled to access to documents beyond what any citizen was entitled to review.

Mr. McCall stated that as he does not have email that he is being excluded from information. Mr. Moulder stated that the redacted email attachments in question were specific between the county attorney and a council member; noting that as the council member did not forward the email the privilege remains intact.

Mr. Martin stated that Mr. Moulder's outline of attorney/client privilege was correct; noting that communication between the attorney and a council member or staff regarding a legal matter is exempt from disclosure and that the only way to disclose the email would be for the governing body to vote to release privilege. Mr. Martin stated that the attorney can not release privilege; it is only releasable by the client, a.k.a. the County, through its governing body.

Mr. Martin went on to state that he does not represent any individual council member or the administrator; his client is Oconee County, a legal entity recognized by law.

Mr. Thrift asked Mr. Martin to explain the procedure to have an ordinance recalled or reconsidered. Mr. Martin noted that he was prepared to address this issue having been requested to be prepared prior to the meeting by the Council chair. Mr. Martin referenced the Model Rules of

Parliamentary Procedure for South Carolina Counties [Model Rule 17, 1]; adopted by Council as their governing rules; noting that a Motion to Reconsider may only be brought up *“at the meeting that is in progress or at the immediately preceding meeting; provided however that third reading to an ordinance may be considered only at the same meeting in which the third reading was adopted.”*

Mr. McCall stated that when Ordinance 2010-16 was passed the agriculture residential zoning classification was not final; that it was being reviewed by the Planning Commission. Mr. Dexter stated that this was not accurate and outlined the passage of three Ordinances: 2010-15, 2010-16 [both citizen rezoning request] and 2010-21 [AN ORDINANCE TO AMEND THE OCONEE COUNTY ZONING ENABLING ORDINANCE, ORDINANCE 2007-18, IN CERTAIN LIMITED REGARDS AND PARTICULARS, ONLY, TO ESTABLISH THE AGRICULTURAL RESIDENTIAL DISTRICT AND THE PUBLIC AND RECREATIONAL LANDS DISTRICT, AND ALL RELATED USES, STANDARDS AND REQUIREMENTS; AND TO RATIFY AND AFFIRM ALL OTHER PROVISIONS OF ORDINANCE 2007-18 NOT AMENDED OR MODIFIED HEREBY; AND OTHER MATTERS RELATING THERETO]. Mr. Dexter utilized the chart below in reviewing the ordinances readings and public hearings.

	Ordinance		
	2010-15	2010-16	2010-21
1st Reading	4/13/2010	4/13/2010	5/18/2010
2nd Reading	12/7/2010	12/7/2010	8/3/2010
Public Hearing	1/18/2011	1/18/2011	8/17/2010
3rd & Final Reading	1/18/2011	1/18/2011	8/17/2010

Mr. Dexter noted that 5 months passed between third and final reading of Ordinance 2010-21 and third and final reading of Ordinance 2010-15 and 2010-16. In addition, Mr. Martin noted that Ordinances 2010-15 and 2010-16 had first reading in title only and that Council did not consider/review any specific parcels; only forwarded the Ordinances to the Planning Commission for their review/recommendation.

Mr. Dexter also noted that the timeline for these ordinances needs to be reiterated. Ordinances 2010-15 and 2010-16 were both sent to the Planning Commission in April 2010. The Planning Commission returned the ordinances to Council for action; however, prior to Council taking action the Planning Commission Chair [Mr. Tommy Abbott] requested that the two be sent back to the Commission for further review/discussion. Council concurred. After review by the Planning Commission only Ordinance 2010-16 was forwarded back to Council for action. Mr. Dexter stated that as he was chair of Council at that time that he directed that no action be taken on Ordinance 2010-16 until such time as Ordinance 2010-15 was returned from the Planning Commission as there were overlapping parcels. He also noted that Council’s procedures for review of any zoning request includes two maps prepared by Planning staff to include one showing the requested parcels and the requested zoning classification, and the parcels shown on the Future Land Use Map [FLUM] identifying the location within the county to be reviewed. Lastly, he stated that members are to review the request for consistency with the Oconee County Comprehensive Plan.

The process that took place as it relates specifically to Ordinances 2010-15 and 2010-16 also had the planning staff creating two additional maps showing the staff zoning classification recommendation utilizing the traditional rural and the agriculture residential districts. Mr. Dexter noted that approximately 95% of the properties fell within the lake overlay district; however, staff did not recommend lake residential instead recommending agriculture residential.

Mr. Dexter noted that the perception is that one request received what they requested and that the other did not. He stated clearly that this is not accurate - - neither side got what they wanted.

Ordinance 2010-15 requested lake residential and received agriculture residential.

Ordinance 2010-16 requested traditional rural and received agriculture residential.

Mr. McCall stated that the Jennings/McMahan rezoning issue is tearing the county apart and stated that the Council should revisit this rezoning request. Mr. McCall stated that he feels that special interest groups are influencing zoning decisions and that with the threat of potential litigation regarding this matter that the cost for that litigation will be born by the taxpayers.

Mr. Corbeil stated that in 2009 when Districts II, IV and V were seated the Zoning Enabling Ordinance had been passed and was to be implemented in May. During this period Mr. Martin met with several citizens to address some of their concerns / questions relating to zoning in the county. Mr. Corbeil stated clearly that once the ordinance was passed it is the responsibility of the Council to enforce the law. He noted that information has been provided to any interested citizens when requested to assist them with the zoning process. Mr. Corbeil stated that there are a lot of citizens who support zoning and a lot who do not; however, he is willing now and has offered in the past to help citizens find a compromise.

Old Business:

No Old Business was discussed at this meeting.

New Business:

2011 Justice Assistance Grant Notification

Mr. Moulder reviewed with Council an allocation of \$25,210 from the US Department of Justice received by the Oconee County Sheriff's Office. He stated that the grant program requires that the grant application be made available for the County Council and the public to review and comment on the proposed use of the funds. The Sheriff's Office plans to use the funds from this program to purchase three in-car video systems and eight LED Blue Light Bars for vehicles. Mr Moulder stated that comments should be directed to Captain Jenkins at 864-638-4117 or in writing to the Oconee County Sheriff's Office, 415 S. Pine Street Walhalla, SC 29691.

Adjourn:

Mr. McCall made a motion, seconded by Mr. Corbeil, approved 5 – 0 to adjourn at 8:08 p.m.

Respectfully Submitted:

Elizabeth G. Hulse
Clerk to Council