

BARNWELL COUNTY COUNCIL
September 13, 2016
Council Meeting Minutes

Pursuant to the Freedom of Information Act, the news media was notified & notice was posted 24 hours prior to the meeting.

Barnwell County Council met on September 13, 2016 at 6 pm. Attending were Chairman David Kenner, Vice Chairman Keith Sloan, Councilman Harold Buckmon, Councilman Jerry Creech, Councilman Freddie Houston Sr., Councilman Joe Smith, Administrator Pickens Williams Jr., County Attorney JD Mosteller, and Clerk to Council Kim Futrell. Also in attendance were P.F. Beck, Don Harper, Ben Kinlaw and Laura McKenzie with the People Sentinel. Councilman Lowell Jowers was unable to attend.

The meeting was called to order, the invocation given, and a quorum was declared. Motions were made to approve the agenda and the August 9th Council meeting minutes. These motions were seconded and they passed. Chairman Kenner welcomed everyone to the meeting and asked for public comments. PF Beck said for many years the Airport had an enterprise fund which worked well and that all monies received by the Airport were accounted for in the QuickBooks system. He said monthly the County's Financial Director downloaded the Airport's financial transactions and received a copy of the bank statement/reconciliation report and added that the records were also audited by the auditing firm chosen by the County. He closed by saying there were several Councilmen trying to fix a problem that didn't exist. Don Harper said he wanted to go on record as Councilman elect that he was opposed to the Monetary Ordinance adding that letters from Mr. Hodge, a private attorney, as well as Rusty Neelis with the FAA stated that the Ordinance was unlawful. Rusty Neelis had advised if the Ordinance were approved, it would subject the County to lawsuit and Federal funding being cut off. Mr. Harper said at little to no cost to the County, improvements now belonging to the County, were made to the Airport using Federal funding. Mr. Harper asked if the security of monies due to what happened with the EDC was what was prompting consideration of the Ordinance, why Council had waited 3 years. Ben Kinlaw said he had given some of the reasons he was opposed to the Ordinance at the August 9th Council meeting. After reading Section 9 of Ordinance 1997-97 regarding records and audits, Mr Kinlaw said the Airport was exceeding the requirements. Mr. Kinlaw said it was the Council's intent to centralize monies of the Airport and other County agencies to maintain control and that he felt it would have a negative impact on the Airport and that it would open the County up to a lawsuit.

Updates

Administrator's Update

Administrator Williams said that he and Debbie Fickling had spoken with another bank regarding managing the Hospital Retiree Trust Account as the current bank was no longer handling small accounts. Administrator Williams requested a Special Called Council meeting for Council to review documents as the prospective bank would need the documents in the next few weeks. In Emergency Management, Roger Riley was working with MedShore on a grant to purchase several AED defibrillators. Administrator Williams said he appreciated Emergency Management, the Fire Departments, Public Works, the Sheriff's Department and all other personnel that worked during the September 2nd storm to minimize the hazards. He said he had spoken with Roger regarding an alternate hurricane evacuation route on Hwy 125 should Hwys 78 and 278 get shut down. Chairman Kenner also expressed his appreciation for all those that worked during the storm.

Committee Reports

Financial Update

Administrator Williams reviewed the financial report.

Boards and Commissions

Councilman Houston moved to appoint John Trottie to the EDC Board for District 29. Vice Chairman Sloan seconded the motion and it passed. Chairman Kenner advised Council that Derek Youngblood on the Axis I Board had resigned.

Recommendation for Appointments to the Regional Aging Advisory Committee

Councilman Creech moved to recommend Marsha "Wren" Sandifer for appointment to the Regional Aging Advisory Committee. Councilman Buckmon seconded the motion and it passed.

Finance, Government, Economic Development, Housing, Science, Technology & Regulatory Matters, SCRDA, Services

There were no reports for the above Committees.

Health Care

Councilman Creech said a University Hospital doctor urged him to have Barnwell County schedule a meeting with the Hospital's CEO regarding purchasing the hospital from Southern Palmetto. The doctor said he would attend the meeting to vouch for the need for emergency care in the County. Chairman Kenner and Vice Chairman Sloan said Council had previously spoken with University who had expressed interest but had been unable to pursue due to laws which prohibited crossing of state lines. Vice Chairman Sloan suggested the Administrator contact Universities CEO to see if the laws had changed. Councilman Houston said if a licensed entity such as Aiken Regional, retained responsibility it could operate an offsite facility and that Low Country Health Care had indicated they were interested in leasing the emergency room.

Judicial

Councilman Buckmon said the expected completion date for the construction of the new jail was November 1st. The Public Defender's Office had requested use of the Ag Building for office space but there were concerns from both the Veteran Affairs and the Clemson Extension Offices.

Personnel

Councilman Houston said the Personnel Committee met to discuss necessary changes to the Budget Ordinance due the Fair Labor Standards Act changing the salary threshold for exempt employees and that that there would be a 1st reading to amend the budget ordinance. The Personnel Committee was also recommending that the County Administrator be authorized to use his discretion in determining employees allowed to take County vehicles home. This stemmed from certain supervisory employees having to either use their own vehicle or return to the County building for a vehicle when called out after hours resulting in delayed response time and unreimbursed mileage to the employee. Councilman Houston moved to approve this recommendation. Vice Chairman Sloan seconded the motion and it passed.

Transportation

Councilman Creech said everything was on schedule. Bid requests for paving Kimberwick had been published and Public Works director Curtis Hogg said they would be beginning work on Battlecreek soon.

Safety

Councilman Creech praised Public Works, the Fire Coordinator, Emergency Management and MedShore for their work during the tropical storm Hermine.

Old Business3rd Reading of an Ordinance Related to County Monetary Accounts

Vice Chairman Sloan said the Monetary Ordinance was in the packet for 3rd reading and he understood that Councilman Houston had an alternate Ordinance with some revisions. Vice Chairman Sloan said he believed some revisions were warranted in order to satisfy everyone's needs and moved to approve the 3rd reading of the Ordinance to allow discussion. Councilman Smith seconded the motion. Councilman Creech moved to table the matter until he could talk with the State attorney, the FAA attorney and the private attorney to confirm the Ordinance would not get the County into trouble. Councilman Houston said because his version of the Ordinance was not completely worded the way he wanted it to be and because the Airport Board had not had a chance to see his version of the Ordinance he seconded Councilman Creech's motion to table the 3rd reading. Councilman Houston said he did not see anything from the attorneys indicating that what the Ordinance was truly intended for was wrong, but rather what they had been inaccurately told about the intent of the Ordinance. Vice Chairman Sloan said he had no objection to tabling the matter so that Councilman Houston's version of the Ordinance could be finalized and that he felt it was a shame the County's attorney was bypassed by the Airport Commission and instead County resources were expended with an attorney in Columbia. Vice Chairman Sloan said that there was nothing in Airport Regulation 6109.6b that disputed the Airport being the property of Barnwell County or Barnwell County being the sponsor of the Airport, nor did it designate what type of account needed to be maintained or who needed to maintain them and added that the purpose of the Ordinance was to exercise control over funds to maximize security. Vice Chairman Sloan recommended that the County Attorney, who is also the Airport Commission's Attorney review the FAA regulations, the SC Aeronautic Commission regulations, and speak with the FAA Attorney and come back to Council with an opinion as to whether the Ordinance was in compliance if not then Council would not pursue it. Councilman Buckmon said years ago, a previous Council disbanded the Airport Board and began running it themselves and within 30 days the FAA intervened because the funds were not being used in compliance. Councilman Buckmon said he agreed with tabling the motion but did not foresee his future approval of the Ordinance. Councilman Buckmon asked County Attorney JD Mosteller if he had reviewed the Ordinance and what his opinion was. County Attorney Mosteller said the complaint by Attorney Hodge discussed a diversion of funds from the Airport to other purposes. County Attorney Mosteller said section code 55-9-210 states that a diversion of revenue away from Airport facilities accounts for non aeronautical purposes is unlawful but he added that the Ordinance in the packet says the money shall be segregated for the exclusive use of the depositing agency and he did not see how it was in violation of SC Code nor 5190.6b but he would be happy to speak with Attorney Hodge. Councilman Creech said the portion of the Ordinance regarding petty cash "funds in excess of the approved limit shall be turned over to the Treasurer quarterly" sounded like the monies would be going into the General Fund. County Attorney Mosteller explained they would be going into the General Fund but the funds were being maintained for the exclusive use of the depositing entity and added that schedule A was blank because as the drafter, he had no idea what cash on hand each of the entities needed. Councilman Creech asked about Attorney Hodge coming to speak with Council. Chairman Kenner said that County funds, probably designated for the Airport, had been spent on Attorney Hodge and to have him come before Council would be additional monies expended. He recommended action on the motion to table, having the Ordinance revised and acted on for its original intent, which was to place monies in the Treasurer's Office in a segregated fund for its specific use by that body. Vice Chairman Sloan withdrew his motion on the 3rd reading pending research by the County Attorney. Vice Chairman Sloan said the Ordinance was not just intended for the Airport but for all present and future County entities which held significant amounts of monies. For those monies to be placed in the Treasurer's Office for the exclusive use of those entities. Vice

Chairman Sloan added that there were issues with the Airport in that that there was no Elected or Administrative Official within the County who was listed on either of the Airports bank accounts and that as of June 30th, the Airport owed Barnwell County over \$135,000 in monies which the County had expended on the Airports behalf for Airport employees salaries and fringe benefits. Vice Chairman Sloan said he did not know of any other County agency that decided among themselves when, how much, and if they were going to reimburse the County for monies the County had already expended on their behalf.

Councilman Houston moved to have Administrator Williams notify agencies holding County funds that their financial records need to be available for the upcoming County audit. Councilman Smith seconded the motion and it passed.

New Business

EDC Bylaws

Councilman Smith moved to approve the EDC Bylaws submitted by the EDC. Vice Chairman Sloan seconded the motion. Councilman Buckmon said he did not want to discourage business but that he disagreed with the portion of the bylaws dealing with unsecured loans in that he believed it set the County up for predatory borrowers. Councilman Creech questioned the portion of the bylaws which allowed borrowing without limit and asked if there was not a \$10,000 limit. County Attorney Mosteller said it was all limited by Section 6 which stated it would abide by the rules, regulations and policies of Barnwell County Council and take no action contrary to the will of County Council. He added that there was also a \$10,000 limit on writing checks. Councilman Smith said it stated that County Council must give its approval in writing before any action is fully effected. Vice Chairman Sloan said issues existed when negotiating with an industry in which you would need to be in a position to lend on an unsecured basis and that it would not be wise for Council to limit an agency responsible for bringing in industry. He added that Council had final authority over most of the activities of the EDC. Councilman Creech said he did not want to put the County monies in jeopardy as had been done previously. A roll call vote was requested.

Chairman Kenner-Yes	Councilman Creech-No	Councilman Jowers-Absent	Councilman Smith-Yes
Councilman Buckmon-No	Councilman Houston-Yes	Councilman Sloan-Yes	

The motion passed.

Approval to Convey 1.5 Acre Lot

Councilman Smith moved to convey the 1.5 acre lot. Vice Chairman Sloan seconded the motion. Councilman Smith clarified that the Barnwell County Hospital had owned a portion of 1.5 acres in Columbia and that property needed to be transferred to Southern Palmetto who purchased the Hospital. Councilman Creech asked why the County would give Southern Palmetto Hospital any more money. Councilman Smith said Southern Palmetto bought all of the interests of the Hospital and that this was just a portion that did not get transferred. Councilman Creech said he would like for the County Attorney to look into it to see if it could benefit the County taxpayers. Attorney Mosteller said under the Asset Purchase Agreement it was supposed to be transferred. Councilman Buckmon asked if there would be any legal ramifications and Attorney Mosteller said Southern Palmetto could sue the County for Breach of its obligation to transfer the money. Councilman Buckmon said Southern Palmetto breached their contract with the County. In response to Vice Chairman Sloan, Attorney Mosteller said that there was no breach of contract under the Asset Purchase Agreement on the part of Southern Palmetto Hospital and that the Asset Purchase Agreement. Councilman Creech said he would like the County to sell the property and put it in the Hospital Retirement Account.

Chairman Kenner-Yes	Councilman Creech-No	Councilman Jowers-Absent	Councilman Smith-Yes
Councilman Buckmon-No	Councilman Houston-Yes	Councilman Sloan-Yes	

The motion passed.

2016 DOE PILT Resolution and Intergovernmental Agreement

Councilman Smith moved to approve this Resolution with the corrected amount of \$745,000. Vice Chairman Sloan seconded the motion. A roll call vote was requested.

Chairman Kenner-Yes	Councilman Creech-Yes	Councilman Jowers-Absent	Councilman Smith-Yes
Councilman Buckmon-Yes	Councilman Houston-Yes	Councilman Sloan-Yes	

The motion passed.

Authorization to Drive County Vehicles Home

This agenda item was approved during the Personnel Committee update.

1st Reading of an Ordinance to Amend the '16-'17 Budget

This Ordinance was read in name only.

2016 Millage Resolution

Councilman Houston moved to approve this Resolution. Vice Chairman Sloan seconded the motion and it passed.

1st Reading of an Ordinance to Amend the Zoning Maps

This Ordinance was read in name only.

Resolution in Support of Transportation Options for the State of SC

Councilman Buckmon moved to approve this Resolution. Vice Chairman Sloan seconded the motion and it passed.

A motion was made to enter into Executive Session to discuss a pre-contractual matter related to an industrial project. The motion was seconded and it passed.

Councilman Houston moved to allow a letter of request for monetary support in the amount of \$180,000 be sent to SCANA for an industrial project. The motion was seconded and approved.

A motion was made to adjourn. The motion was seconded and it passed.

The meeting adjourned at 8 pm.

Respectfully submitted,



Kim Futrell, Clerk of Council



David Kenner, Council Chairman