



**County Council of
Beaufort County
Executive Committee
Meeting**

Chairman
PAUL SOMMERVILLE

Committee Members
ALICE HOWARD
LAWRENCE P. MCELYNN
CHRIS HERVOCHON
BRIAN FLEWELLING
MICHAEL COVERT

County Administrator
ASHLEY M. JACOBS

Clerk to Council
SARAH W. BROCK

Administration Building
Beaufort County Government
Robert Smalls Complex
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Executive Committee Minutes

Monday, October 12, 2020 at 4:00 PM
Virtual Meeting

CALL TO ORDER

Committee Chairman Sommerville called the meeting to order at 4:00 PM.

PRESENT

Committee Chairman Sommerville
Council Member Passiment
Council Member Hervochon
Council Member Covert
Council Member Dawson
Council Member Rodman
Council Member Glover
Council Member Howard
Council Member McElynn
Council Member Lawson
Council Member Flewelling

PLEDGE OF ALLEGIANCE

Committee Chairman Sommerville led the Pledge of Allegiance

FOIA

Committee Chairman Sommerville noted that the Public Notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

APPROVAL OF AGENDA

Motion: It was moved by Council Member Dawson, seconded by Council Member Passiment to approve the agenda. The vote: Unanimous without objection. The motion passed. 11:0

APPROVAL OF MINUTES: SEPTEMBER 14, 2020

Motion: It was moved by Council Member Howard, seconded by Council Member Dawson to approve the minutes from September 14, 2020. The vote: Unanimous without objection. The motion passed. 11:0

DISCUSSION ITEMS

Discussion Regarding Public Comment Current Practices and Options.

Discussion: Council Member Passiment stated that there is a new process that has been put in place for comments online at Beaufortcountysc.gov. This is for individuals who would like to address council.

Council Member Passiment asked if there was an option for individuals to come in and comment.

Clerk to Council, Sarah Brock, stated that at this moment, this online form is the only option and staff is working on a call-in feature.

Discussion Regarding Council Communications Manager Position

Discussion: Committee Chairman Sommerville stated that despite the recent publicity of hiring a public information officer, it does not halt the fact that Council still needs one and asked if anyone had any suggestions or input for the position. Committee Chairman Sommerville mentioned Joe Crowley who owns Inside Track as an option.

Council Member Rodman stated that there are a lot of people out there at reasonable prices and the application process could involve some type of contracting but would like to see the position open to the public.

Council Member Passiment mentioned that the job description was developed and sent to all members of Council.

Council Member McElynn asked if it could be advertised to current Beaufort County Employees.

Council Member Hervochon stated that he has not seen the job description and that it seems premature to move forward without that job description being vetted by all of Council. He also asked how many other counties have their own communications manager or PIO for Council.

Committee Chairman Sommerville stated that he has spoken with SCAC and there are quite a few counties but was not able to give an exact number but would get those numbers

Council Member Hervochon stated that he would like to see those numbers and the job description and how this person would interact with Council.

Council Member Covert wanted to know if there was an actual vote on this item, if Council needs a PIO or not, and what kind of salary would be offered, and where the money would come from in the budget.

Committee Chairman Sommerville stated there wasn't an issue of money previously because the person being considered was already employed. Committee will have to take a look at the job description and see what the money would look like and share it with Council.

Review Open Items with All Committee Chairs

Discussion: Committee Chairman Sommerville stated that he has put a list together of all the outstanding items for Council as a whole and broke it down by individual committees. He asked if all committee chairs and administration had the list or had any questions regarding prioritizing those.

Natural Resources- 9

Public Facilities- 21

Finance- 12

Community Services- 5

Communication and Transparency- 4

Administration- 10

Executive Committee-0

When you prioritize check-in with Council Chair.

Council Member Rodman believes that this list needs to be maintained by the Committees Chair and reviewed from time to time.

Millage Discussion

Discussion: Committee Chairman Sommerville stated that when Council passed the budget Ordinance it was passed with a set of numbers and the Auditor took it upon himself to change the numbers for the purchase of real property i.e. rural and critical lands from 4.8 to 5.8 and it is very confusing and the citizens are concerned that the County is raising their taxes when the intentions were to keep them level.

County Administrator Jacobs stated that when the budget was created, the school district borrowed \$75 Million and they worked with their bond counsel and their financial advisor in which stated that it was 36.6 for their debt and that is what Council passed. For the County, the millage was kept flat so staff set the millage for purchase for real property and debt where it needed to be so that taxes weren't increased and did that with cooperation with the bond counsel and the County financial advisor. It was set it so that at 4.8 it would utilize some fund balance. After that, at some point, the Auditor changed the purchase of real property and increased it from 4.8 to 5.8 and then decreased the school district's debt from 36.6 to 36.3. What this means is that he has taken unilateral action and increased taxes without the governing body's authority and approval. He has decreased the revenue for the school district by \$600,000.00. What staff presented to council before was an amendment in the body of the Ordinance to correct what was 65.22 to 64.2. Unless you want to raise taxes and have the school district bring in \$600,000.00 less than what was intended you would need to take action against the auditor to make him change the tax bill to reflect what you approved in the budget Ordinance.

County Attorney Kurt Taylor stated that there is a statute Section 4-15-150 that mentions that it shall be levied annually by the county auditor an amount that is sufficient to pay the principal and interest on the bond. It is an amount sufficient not a discretionary amount. An amount that is fixed when the bonds are sold. You have debt service tables and a sinking fund, it is mathematical, it is based on the life of the bond, terms of the bond, and the interest rate. There is a South Carolina supreme court case that specifically says the act gives no such discretionary power to the auditor but rather compels him to audit annually a tax sufficiently to pay the principal and interest. It's a job for the auditor to do but it is not discretionary or mandatory but rather a ministerial duty.

Committee Chairman Sommerville asked who computed the 4.8 originally if the auditor changed it to 5.8 someone must have computed it incorrectly.

Ashley Jacobs replied that staff established the 4.8 in coordination with the County's bond counsel and the financial advisor.

Committee Chairman Sommerville stated as far as staff is concerned the 4.8 is the correct number to generate the 4 quarters of debt payments.

Ashley Jacobs replied, yes.

Committee Chairman asked legal if the Ordinance can be amended route mandamus.

Kurt Taylor, Yes

Committee Chairman Sommerville mentioned that the SCAC suggested that Council pass a resolution that the Ordinance was passed at 4.8 and 36.6 and that is the way it is expected to read on the tax bill. A reaffirmation of what was said in the Ordinance but might not have any legal authority but based on what legal stated the Auditor has the authority to set a debt millage to meet the bond obligation.

Council Member Passiment asked if everyone was aware of an email that was distributed from the Auditor in August that outlined how he came up with his figures which stated that the millage needed to be levied based on the calculations and information provided. It read, Beaufort County debt millage changes to 6.0 for the 20/21 and the budget ordinance lists 5.5, and increase in .5. The County debt sinking fund is over \$21 million based on the 2019 CAFR and 2 years of payment at this level could more than cover the additional .5 mills estimated to be \$135,684.50. That 2020 bond added to the County debt millage. Based upon the debt sinking fund balance and the debt millage, the debt millage will remain at 5.5 in an effort to keep the millage rates as low as possible. Rural and Critical lands increased to 5.8 from the budget ordinance that lists 4.8 mills an increase in 1.5 mills. The debt sinking fund for rural and critical is

significantly less and would be difficult to meet the PNI debt for fiscal year 20/21 and that is why he made those changes. At no time did he say anything about the school district change in this email just the County.

Committee Chairman Sommerville stated that this does speak to what Mr. Taylor stated that his responsibility is purely mathematical and he has a mathematical responsibility.

Council Member Flewelling stated that the auditor mentioned that the rural and critical should have been 6.0 but left it at 5.5 because there was enough in the rural and critical sinking funds to carry the discrepancy and sounds like he was taking care of his responsibility and he was doing his ministerial duties and it falls within our mistake that it was calculated incorrectly. We shouldn't really have an ordinance regarding debt millage at all and it shouldn't be something council should be involved in.

Committee Chairman Sommerville stated for whatever reason, it did flow through our Ordinance and he wanted to know whose decision was it ultimately to decide where the reserve funds are used.

Council Member Flewelling asked Mr. Taylor to repeat the statute.

Mr. Taylor picked up where he left off previously stating that code section 4-15-150 states that it shall be levied annually by the County Auditor and collected by the County Treasurer in the same manner as other county taxes are levied and collected. A tax without limit on all taxable property in the County sufficient enough to pay the principal and interest of such bonds as they respectfully mature and to create such a sinking fund as may be necessary, therefore.

Council Member Flewelling stated that it sounded like it was within his discretion to calculate.

Ms. Jacobs mentioned that there are two different issues. There was an error in the body of the budget ordinance where the total millage needed to be corrected because the 100th decimal needed to be dropped which changed the total. That amount is not what goes on the tax bill the millage rate goes on the tax bill. The concern was the budget ordinance isn't going to match the tax bill. Instead of 65.22 it should be 64.2 in the body of the ordinance what we collect is what is spelled out in the body of the ordinance.

Committee Chairman Sommerville asked if we can attribute that to scrivener's error instead of doing a major change in an ordinance that requires three readings and a public hearing.

Ashley Jacobs stated it is a scrivener error and it should reflect correctly in the body of the ordinance. We also have the fact the auditor has changed the millage.

Committee Chairman Sommerville asked legal if the Ordinance could be cleaned up by saying it was just an error and then deal with the other matter separately.

Mr. Taylor suggested that it is better to err on the side of caution and amend the Ordinance.

Council Member Passiment stated that this will be taken up at a Council Meeting and clear it up then.

Council Member Glover asked to hear from the County Treasurer.

Maria Walls, County Treasurer, stated that her only interest is that the citizens understand where the numbers on the bill are coming from, and if it's not from Council then it should be clearly explained. The concern was that the Ordinance did not match the tax bill and there was nothing to direct the customer too since the Treasurers' office receives the calls questioning why their tax bill is the way it is and would like to equip her team with the correct response. When information was sought out it became unclear and came as a surprise. If Council's intent for the Ordinance to not match the tax bill regardless of the reason that is Council's decision to make. What was uncomfortable was that this was unexpected and that was not ok.

Council Member McElynn asked if the 65 number in the Ordinance a raise in taxes and the 64 number neutral in revenue.

Committee Chairman Sommerville responded yes.

Council Member Hervochoon posed this question for legal and stated that at the bottom of Mr. Beckert's email it stated that based on state law and the AG opinions there is no action needed on the part of County Council for the debt millage to be levied by the Auditor. Do we know what AG opinions those are and get brought up to speed on those?

Mr. Taylor stated that he is assuming the auditor is referring to the statute that was brought up and that he did not have the AG opinion only the opinion from the South Carolina Supreme Court.

EXECUTIVE SESSION

Pursuant to S.C. Code Section 30-4-70(A)(2) Discussion of Negotiations Incident to Proposed Contractual Arrangements.

Motion: It was moved by Council Member Flewelling, seconded by Council Member Rodman to go into Executive Session. The vote: Unanimous without objection. The motion passed. 11:0

Ratified by Committee: October 26, 2020