



**County Council of
Beaufort County**
**Special Called Meeting
of County Council**

Chairman

Joseph F. Passiment, JR.

Vice Chairman

D. Paul Sommerville

Council Members

Michael E. Covert

Gerald Dawson

Brian E. Flewelling

York Glover, SR.

Chris Hervochon

Alice G. Howard

Mark Lawson

Lawrence P. McElynn

Stu Rodman

Interim County Administrator

Eric Greenway

Clerk to Council

Sarah W. Brock

Administration Building

Robert Smalls Complex

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County Council Agenda

County Council of Beaufort County

Monday, October 19, 2020 at 4:00 PM

OR IMMEDIATELY FOLLOWING THE PUBLIC FACILITIES MEETING.

[This meeting is being held virtually in accordance with Beaufort County Resolution 2020-05]

THIS MEETING WILL CLOSED TO THE PUBLIC. CITIZEN COMMENTS AND PUBLIC HEARING COMMENTS WILL BE ACCEPTED IN WRITING VIA EMAIL TO THE CLERK TO COUNCIL AT SBROCK@BCGOV.NET OR PO DRAWER 1228, BEAUFORT SC 29901. CITIZENS MAY ALSO COMMENT DURING THE MEETING THROUGH FACEBOOK LIVE

PRESENT

Chairman Passiment

Vice Chairman Sommerville

Council Member Hervochon

Council Member Flewelling

Council Member Covert

Council Member Dawson

Council Member Rodman

Council Member Glover

Council Member Howard

Council Member McElynn

Council Member Lawson

CALL TO ORDER

Chairman Passiment called the meeting to order at 4:30 PM.

PLEDGE OF ALLEGIANCE

Chairman Passiment led the Pledge of Allegiance.

FOIA

Chairman Passiment 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 to Amend: It was moved by Council Member Rodman, seconded by Council Member Flewelling to amend agenda to go into executive session prior to citizen comments to discuss investigative proceedings regarding allegations of criminal conduct, to discuss matters related to an employee regulated by council and for receipt of legal advise where legal advice relates to a pending, threatened, or potential claim for other matters covered by an attorney client privilege. The motion to amend was approved without objection.

Motion to Amend: It was moved by Council Member Flewelling, seconded by Council Member Howard to amend agenda to add county purchased property project 2020A to add \$12,500 to budget to a previously approved purchase in partnership with the department of defense to be added as a action item. The motion to amend was approved without objection.

Motion to Amend: It was moved by Council Member Hervochon, seconded by Council Member Covert to amend agenda to move items item# 9. Under SC code section 30-4-70(a)(1) discussion of matters related to an employee regulated by county council and item# 10. Matters Arising Out of the Executive Session to a socially distanced in person special meeting of County Council with both in-person public comment and dialog Voting Yea: Council Member Covert, Council Member Glover, Council Member Hervochon, Council Member Flewelling. Voting Nay: Chairman Passiment, Vice Chairman Sommerville, Council Member Rodman, Council Member Howard, Council Member Lawson, Council Member McElynn, Council Member Dawson. The Vote 4: 7. The motion to amend was defeated.

Motion: It was moved by Council Member Covert, seconded by Council Member Hervochon to appeal the decision made by the chair to have item #6 Motion to Renew Emergency Ordinance 2020/3 on the agenda. Motion is withdrawn.

Motion: It was moved by Council Member Rodman, seconded by McElynn to approve agenda as amended. The motion is approved without objection.

Motion: It was moved by Vice-Chair Sommerville, seconded by Council Member Rodman to go into Executive Session. The motion is approved without objection.

Matters arising out of Executive Session

Motion: It was moved by Council Member Howard, seconded by Council Member McElynn to accept the resignation of County Administrator Ashley Jacobs effective immediately. Voting Yea: Chairman Passiment, Vice Chairman Sommerville, Council Member Rodman, Council Member Howard, Council Member Lawson, Council Member McElynn, Council Member Dawson, Council Member Flewelling. Voting Nay: Council Member Glover. Voting Abstaining: Council Member Covert, Council Member Hervochon. The vote 8:1:2. The motion was approved.

CITIZEN COMMENTS

(EVERY MEMBER OF THE PUBLIC WHO IS RECOGNIZED TO SPEAK SHALL LIMIT COMMENTS TO THREE MINUTES) CITIZEN COMMENTS AND PUBLIC HEARING COMMENTS WILL BE ACCEPTED IN WRITING AT PO DRAWER 1228, BEAUFORT SC 29901 OR BY WAY OF OUR PUBLIC COMMENT FORM AVAILABLE ONLINE AT BEAUFORTCOUNTYSC.GOV.

Dr. Frank Brown: commented regarding the mask ordinance.

Lynn Allen: commented regarding the mask ordinance.

Aaron Hall: commented regarding the mask ordinance.

Heather Bragg: commented regarding Administrator Ashley Jacobs.

Cusack: commented regarding the mask ordinance.

Chad Nobles: commented regarding the mask ordinance.

Melissa Cooney: commented regarding the mask ordinance.

Chris Bruckner: commented regarding the mask ordinance.

ACTION ITEMS

Motion to renew Emergency Ordinance 2020/03

Council Member Rodman asked how long will the emergency ordinance last.

Chairman Passiment stated that it will last for 60 days and will expire on the 61st day per the rules and procedures.

Council Member Flewelling stated that the council can make it shorter than 60 days, just not longer than 61 days.

Kurt Taylor stated that he agreed the ordinance can not be longer than 60 days but can be shorter than that timeframe.

Motion to Amend: It was moved by Council Member Dawson, seconded by Council Member Rodman to amend ordinance Item#3 remove All such businesses must provide face coverings or materials for the making of such face coverings for their employees. Such coverings or materials may be made available staff-wide or individually upon employee request so long as the result is the organization-wide use of face coverings, remove item#9 Child care facilities, schools, persons receiving medical treatment, persons actively swimming in an indoor swimming pool. Voting Yea: Chairman Passiment, Vice Chairman Sommerville, Council Member Rodman, Council Member Howard, Council Member Lawson, Council Member McElynn, Council Member Dawson. Voting Nay: Council Member Covert, Council Member Glover, Council Member Hervochon, Council Member Flewelling. The vote 7:4. The motion to amend is approved.

Council Member Flewelling spoke regarding the amendments to the ordinances and that they are to have super a majority vote. In the Rules and Procedures; chapter 2 #5 voting, it states that A majority of council members will decide to select its nominee unless a greater number of affirmative votes is necessary under the temple and ordinance that's regarding nominations for commission assignments. This is in Roberts Rules of Order.

Council Member Covert stated that the Emergency Ordinances is listed under state code 4-9-1-30.

Chairman Passiment replied that an Emergency Ordinance requires a 2/3 vote however that does not apply to amendments.

Council Member Hervochon recommended that Council go into recess to discuss further.

Vice Chairman Sommerville stated that the chairman has a right to agree with the recommendation by the Parliamentarian and if council does not like the Chairman's call that would require a 2/3 vote.

Council Member Flewelling stated that he agrees with that statement.

Chairman Passiment stated that he believes the motion to amend was correct by majority vote. If someone wishes to challenge.

Motion to Amend: It was moved by Council Member Flewelling, seconded by Council Member Covert to overrule the chair. Voting Yea: Council Member Covert, Council Member Glover, Council Member Hervochon, Council Member Flewelling. Voting Nay: Chairman Passiment, Vice Chairman Sommerville, Council Member Rodman, Council Member Howard, Council Member Lawson, Council Member McElynn, Council Member Dawson. The vote is 4:7. The motion was defeated.

Main Motion: It was moved by Council Member Dawson, seconded by Vice Chairman Sommerville to approve renew Emergency Ordinance. Voting Yea: Chairman Passiment, Vice Chairman Sommerville, Council Member Glover, Council Member Rodman, Council Member Howard, Council Member Lawson, Council Member McElynn, Council Member Dawson. Voting Nay: Council Member Covert, Council Member Hervochon, Council Member Flewelling. The vote is 8:3. The motion is approved .

AN ORDINANCE TO REQUIRE INDIVIDUALS TO WEAR FACE COVERINGS IN CERTAIN CIRCUMSTANCES AND LOCATIONS IN THE LIMITS OF THE COUNTY OF BEAUFORT, SOUTH CAROLINA, AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

Council Member Covert asked if the ordinance had an end date.

Chairman Passiment stated there is no end date however, this allows the council to take action or modify for future usage.

Council Member Covert asked if that can this be used anytime.

Chairman Passiment replied that if another pandemic comes and there is an emergency this would be able to be used.

Council Member Rodman mentioned that there is a better way to do things instead of continuously extending the mask ordinance.

Council Member Hervochon read a statement concerning the mask ordinance.

Council Member Dawson stated that he agrees with the ordinance.

Council Member Hervochon read from the New England Journal of Medicine, The Lancet, The CDC, SCDHEC, and a citizen's comment concerning the wearing of masks and the ordinance.

Motion: It was moved by Council Member McElynn, seconded by Council Member Glover to approve first reading of ordinance to require individuals to wear face covering in certain circumstances and locations in the limits of the county of Beaufort, South Carolina, and providing for severability and an effective date. Voting Yea: Chairman Passiment, Vice Chairman Sommerville, Council Member Glover, Council Member Rodman, Council Member Howard, Council Member Lawson, Council Member McElynn. Voting Nay: Council Member Covert, Council Member Hervochon, Council Member Flewelling. The vote is 7:3. The motion passed.

AMENDMENT TO THE 2020-2021 BEAUFORT COUNTY BUDGET ORDINANCE

Council Member Flewelling stated that the lawsuit pending is to proceed with the lawsuit against the Auditor and the only change that should be done is to add 1 millage to collect for taxes. The rural and critical lands county purchase property should be changed to 5.2 and make the correct changes next year.

Chairman Passiment recommends changing the millage to 5.8 and mentioned that when the council proposed the budget there should have been a neutral quote but that was not done.

Council Member Flewelling stated that if there is an increase to the Rural and Critical Lands Purchase property this would make it correct.

Chairman Passiment mentioned that the Auditor determines the millage rate for the year and should that be a part of the overall budget that Council is approving or should it be the amount for operations.

Council Member Flewelling stated that the changes that is attempting to be approved is for the County to continue to sue the Auditor.

Chairman Passiment stated that Council Member Flewelling had a valid point on the amount of calculations that was approved in June.

Council Member Rodman stated that he was in favor of making sure that the paperwork matches what the bill state and that was approved by the voters.

Vice Chairman Sommerville mentioned that this amount had to come from the finance department and that it was split into quarterly payments. After which it is sent it to the Auditor's office and is confused about what happened after the Auditor received those calculations.

Council Member Flewelling stated that the Auditor was not advised of a premium that was due to the county. In which he changed the millage to 5.8 so that the balance was above zero. By him doing this it equaled to the total of that Council had authorized.

Vice Chairman Sommerville stated the Auditor does not have the authority to make that call in which determines if the millage debt had enough money.

Council Member Flewelling stated that the Auditor looked at the premium and realized there would be a negative balance in the reserve.

Council Member McElynn asked if the Council has the authority to overrule the order from the Auditor.

Kurt Taylor replied that the Auditor sets the millage however it is not a discretionary act pursuant to Supreme Court case.

Council Member McElynn asked if Council assuming that the Auditor did the mathematical calculations incorrectly and now Council is attempting to fix this mistake.

Kurt Taylor replied that the Auditor heard from Administrator Jacobs about the short fall in Revenue and that is why the calculations changed.

Administrator Jacobs stated that there was not an estimate based on 5.8 mills or 20% revenue loss. Since the Auditor changed the Millage rate based on a hypothetical does not follow the law.

Vice Chairman Sommerville stated the Auditor made the change and the Auditor has the right to set a sufficient millage.

Motion to Amend: It was moved by Council Member Flewelling, seconded by Council Member Rodman to change the total of mills to 65.2 and to change the Rural and Critical Land millage to 5.8. Voting Yea: Council Member Rodman, Council Member Flewelling. Voting Nay: Chairman Passiment, Vice Chairman Sommerville, Council Member Covert, Council Member Glover, Council Member Hervochon, Council Member Howard, Council Member Lawson, Council Member McElynn. The motion was defeated.

Motion: It was moved by Council Member Hervochon, seconded by Council Member Glover to amend the Beaufort County 2020-2021 Budget. The motion was approved without objection.

EXECUTIVE SESSION

ADD COUNTY PURCHASED PROPERTY PROJECT 2020A TO ADD \$12,500 TO BUDGET TO A PREVIOUSLY APPROVED PURCHASE IN PARTNERSHIP WITH THE DEPARTMENT OF DEFENSE TO BE ADDED AS AN ACTION ITEM.

Motion: It was moved by Council Member Flewelling, seconded by Council Member Howard to have first reading to add \$12,500 to budget to a previously approved purchase property project 2020A in partnership with the department of defense. The motion was approved without objection.

UNDER SC CODE SECTION 30-4-70(a)(1) DISCUSSION OF MATTERS RELATED TO AN EMPLOYEE REGULATED BY COUNTY COUNCIL.

Motion: It was moved by Council Member Rodman, seconded by Council Member McElynn to go into executive session. The motion was approved without objection.

MATTERS ARISING OUT OF EXECUTIVE SESSION

Motion: It was moved by Council Member Flewelling, seconded by Council Member McElynn to appoint Eric Greenway as the Acting County Administrator at the limits that was discussed in Executive Session. The motion was approved without objection.

CITIZENS COMMENTS

Lisa Laking provided a comment about the mask ordinance.

Jeff Laking provided a comment about the mask ordinance.

ADJOURNMENT

The meeting was adjourned 7:08 PM

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____

Joseph F. Passiment, Jr., Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

Ratified: