

COMMITTEE OF COUNCIL AS A WHOLE REPORT

Council Members:

Roy Costner, Chairman
Chris Bowers, Vice Chairman
Wes Hendricks, Vice Chairman Pro-Tem
Trey Whitehurst
Ensley Feemster
Carl Hudson

Staff in Attendance:

Gerald Wilson, County Administrator
Ken Roper, County Attorney
Crystal A. Alexander, Clerk to Council
Ralph Guarino, Finance Director
Chris Brink
Creed Hashe
Michael Hayes
Jay Pitts

Guests:

Shirley Hughes, City of Liberty
Phillip Mishoe, Town of Central
Mack Martin, Town of Central
Roy Stoddard, Town of Six Mile
Steve Haynie
Kasie Strickland

The Committee of the Whole met in the Main Conference Room on Monday, April 17, 2017 at 6:00 p.m. All members of the committee were in attendance with Chairman Roy Costner presiding.

Tri-County Technical College Project(s) – Log Item No. 60:

- Gerald Wilson advised the Committee that the decision needed to be made whether to fund the Tri-County Technical College Student Success Center project. If Council chooses to fund the project, Ralph Guarino has provided funding options in a memo included in the COW agenda packet. Mr. Wilson called on Mr. Guarino to outline the two options covered in the referenced [memo](#) dated March 2, 2017.
- Ralph Guarino discussed the below referenced options available to Council:

Option 1: Council could use the amount of money in fund balance to pay the debt service payment each year to T.C.T.C. I've attached an analysis to this memo to show the drawdown of funds from fund balance each year. As you will see from the analysis, in FY 2026 fund balance will drop down to \$330,009 and thereafter revenues will exceed expenditure in the FY 2027 by \$14,948. This analysis assumes a 2% growth in the millage rate and expenditures remaining the same. The debt payment will remain the same throughout the life of the bond at \$441,600 but Physical Plant Operations and Capital Renovation could change over time.

Option 2: Council could issue bonds for the County portion of the project however this would limit the amount of debt Council could issue in the future for possible other projects. At June 30th 2016 the County debt margin (amount the County can issue debt without a voter referendum) was \$34,924,110. If Council issued debt for \$6.8 million this would lower our debt margin to \$28,124,110. With the potential of issuing a bond for the jail for up to \$25 million this would further lower our debt margin to \$4,124,110.

- Ralph Guarino referenced in the memo that his recommendation, if Council chooses to fund the project, would be option 1. This would have no tax increase on the citizens of Pickens County based on his analysis. If the County went with option 2, then the County would have to increase taxes to pay the debt payment each year.
- Councilman Wes Hendricks stated he was in favor of supporting the project and was in favor of Option 1 to fund it. Councilman Hendricks also stated the importance of education and the impact that education would have on future economic development.
- Councilman Trey Whitehurst stated he was not in favor of supporting the project, as this is the State's responsibility. Councilman Whitehurst also stated the cost of the project is too high in comparison to other projects, such as the jail.

- Councilman Ensley Feemster stated the Student Success Center would be more convenient for students going through the registration process.
 - Vice Chairman Chris Bowers asked for clarification whether or not the physical plant was the County’s responsibility.
 - Ken Roper responded that the County is responsible for operations and maintenance.
 - Vice Chairman Chris Bowers asked if Tri-County could argue that the physical plant, approximately \$3.1 million, is the County’s responsibility.
 - Ken Roper responded yes.
 - Vice Chairman Chris Bowers stated that student success and education at Clemson University and at Tri-County impacts economic development. Additionally he mentioned the proposed fee that would be imposed on Pickens County students if Pickens County did not fund the referenced project. Vice Chairman Bowers stated that Oconee County and Anderson County are funding their portion of the project.
 - Chairman Roy Costner stated he agreed with Councilman Trey Whitehurst that this project is the State’s responsibility; however, the State will not fund the project and the responsibility falls on the County to ensure economic development growth through providing a work-ready workforce for the industries that choose to operate in Pickens County.
 - Councilman Carl Hudson stated that Tri-County does a great job, but the funding of the project is the State’s responsibility. He stated it is his understanding that two counties cannot obligate the third county and Tri-County Tech has already issued a bond for this project before receiving approval from the County Council.
- Chairman Roy Costner moved to recommend funding the Tri-County Technical College Student Success Center. Motion was seconded by Councilman Wes Hendricks and passed (4-2), with Councilman Carl Hudson and Councilman Trey Whitehurst opposed.
 - Chairman Roy Costner moved to recommend funding the Tri-County Technical College with option 1 (referenced on page 1). Motion was seconded Vice Chairman Chris Bowers and passed (5-1), with Councilman Trey Whitehurst opposed.
- ❖ Committee recommends funding the Tri-County Technical College Student Success Center project by using the fund balance to pay the debt service payment each year (Option 1).

Procedures for the Allocation of Recreation Funds (Ordinance No. 535) – Log Item No. 59: (Item moved ahead of County Finances per Chairman Roy Costner)

- Gerald Wilson announced there were representatives present from municipalities that would like to speak to the proposed recreation fund ordinance.
- Roy Stoddard, the Mayor of Six Mile, stated his concerns with the allocations as Councilman Trey Whitehurst has three municipalities to consider. He stated that Six Mile depends on the County’s funds as part of their budget for recreation.
- Chairman Roy Costner clarified the amount of the allocation will not change.
- Mack Martin, the Mayor of Central, questioned the six member board in that the representative for Councilman Trey Whitehurst’s district would need to represent three municipalities. He further stated he has already selected the representative to work with on this matter, the councilman for his district.
- Shirley Hughes, the City Administrator of Liberty, stated it has been years since the City of Liberty has received recreation funds from the County. She recommended that someone from City Hall needs to be involved in the proposed recreation process.
- Phillip Mishoe, the Administrator for the Town of Central, suggested the recreation funds should not be allowed to use for salaries, but instead capital items (uniforms, supplies, etc.).
- Mr. Wilson stated that the intent of this procedure is to create a level of accountability of Council as a whole in that no one council member has individual authority.
- Councilman Carl Hudson responded that not every district has funds from a municipality like other districts. He stated volunteerism is going away and the district has to have someone to coordinate recreation efforts.
- Chairman Roy Costner stated that he is not familiar with everyone’s district, but he is fearful that recreation fund allocations may be used as reward or punishment under the current process, rather than based on true recreational needs.
- Councilman Trey Whitehurst stated that he wanted to streamline government; and while he is in favor of the Council voting on allocations, he is not in favor of a board to manage the process.
- Vice Chairman Chris Bowers stated that this process and board would be managed like the ATAX Committee. He further stated during discussion that he was in favor of this level of authority.
- After much discussion, Chairman Roy Costner called for a vote.

- Councilman Trey Whitehurst moved to recommend an amendment to the third reading of Ordinance No. 535 that the county council will act as the board. Motion was seconded by Councilman Ensley Feemster and failed (3-3) with Chairman Roy Costner, Councilman Carl Hudson and Vice Chairman Chris Bowers opposed.
 - Vice Chairman Chris Bowers moved to recommend an amendment to the third reading of Ordinance No. 535 as follows: amend section 28-17 to include that emergency requests can be submitted by the board past the deadline; amend section 28-18, per the Administrator's request, to change the deadline to March 1st; and amend section 28-19 to include that the board or organization can submit to carry unused funds forward to prevent the funds from automatically reverting back to the general fund. Motion was seconded by Councilman Carl Hudson and unanimously passed.
 - Chairman Roy Costner moved to recommend third reading of Ordinance No. 535, as amended, to full council. Motion was seconded by Vice Chairman Chris Bowers and carried (5-1) with Councilman Trey Whitehurst opposed.
- ❖ Committee recommends third reading of [Ordinance No. 535](#) with the following amendments: amend section 28-17 to include that emergency requests can be submitted by the board past the deadline; amend section 28-18, per the Administrator's request, to change the deadline to March 1st; and amend section 28-19 to include that the board or organization can submit to carry unused funds forward to prevent the funds from automatically reverting back to the general fund.

County Finances – Log Item No. 54:

- Gerald Wilson stated he would like to discuss the county finances and the jail project. He mentioned in the near future a decision would need to be made on how to fund the jail project. Mr. Wilson stated that Staff recommended bonding the entire amount of the jail in a [memo](#) included in the packet.
 - Councilman Carl Hudson stated he was in favor of having a healthy fund balance.
 - Chairman Roy Costner clarified that the financial policy states that major capital projects, which benefit future residents, will be financed with other financing sources (e.g. debt financing).
 - Chairman Roy Costner moved to recommend bonding the entire amount of the jail project. Motion was seconded by Councilman Ensley Feemster.
 - Councilman Wes Hendricks stated he was in favor of keeping the funds accessible for unanticipated needs and recommended bonding the entire amount of the jail.
 - Councilman Trey Whitehurst asked Ralph Guarino the balance needed in unrestricted reserve funds.
 - Mr. Guarino responded that the recommended amount is 20% of expenditures, which is approximately \$8 million.
 - Councilman Whitehurst recommends bonding \$10 million of the jail project cost.
 - After much discussion, the motion carried (5-1) with Councilman Trey Whitehurst opposed.
- ❖ Committee recommends bonding the entire amount of the jail project.

Jail Project – Log Item No. 47:

-Item discussed along with County Finances.

Road right of way usage and encroachment permits in regards to utilities and infrastructure expansion in Pickens County – Log Item No. 58:

- Gerald Wilson advised of the following:
 - Presently staff only approves encroachment permits on roads that the county has deeded right of ways. All permit request for roads without a deeded right of way are denied due to the fact that we can't give away something we do not own.
 - Utilities are asking that the county consider granting permits on all roads with or without deeded right of ways.
 - A copy of the law suit *Shanley verses Six Mile Water* has been provided in the agenda packet. In this case, the County denied a permit for Bonnie Brae Drive due to the fact we did not have a deeded right of way. Shanley sued the water company and Six Mile Water settled case.
 - According to the attorney the definition of a prescriptive right of way is: The ability to maintain the right of way for the use of public roads and control drainage off road.
- Councilman Wes Hendricks asked what the standard right of way footage is.
 - Gerald Wilson responded that there was no standard right of way that was deeded in the past. He mentioned that some right of way easements are 25 feet from the center of the road, whereas others are 10

feet and so on. Mr. Wilson stated that currently, with any new road accepted into the system, the process is a 25 foot easement from the center line of the road to allow for utilities, etc. He stated with new accepted roads there is a 12.5 foot easement off of the pavement for drainage, utilities, etc.

– Vice Chairman Chris Bowers stated that he was aware that the delegation assisted a couple of years ago by adding language, etc. to try to help with this matter. He asked how the action the delegation took improved the County’s process.

-Ken Roper responded that the delegation requested the Attorney General’s opinion. The Attorney General went through the history of dedicated public streets and stated that if a street is dedicated for public use, that all of the normal items that would accompany a street (utilities, water, electricity, cable, etc.) would be included. Mr. Roper clarified that the referenced opinion is specific to a dedicated street and he questioned prescriptive use, which is slightly different than a dedicated street. He stated some of the utility companies have read this opinion; and specifically, one water utility company has proposed adding language in their encroachment permit where they ask the County for the right to work on the county road. This language states that the utility company would assume the burden of all of the referenced issues. Mr. Roper further stated that the County staff does not have the authority to act on this request due to a policy previously implemented by county council. He further read the proposed provision requested to be included in the county general encroachment permit as follows: *“Permission of abutting property owners, it is distinctly understood that this permit does not in any way grant or release any rights lawfully possessed by the abutting property owner. Pickens County in no way warrants herein the extent or scope of its right of way or easement for the applicants intended use. Any such rights necessary shall be secured from the abutting property owners by the utility.”* Mr. Roper stated that this would shift a great deal of the burden on the utility company, but the language does not protect the County entirely. He stated if a property owner is offended by the work being done on the road, they will sue the utility and possibly the person/entity that issued the permit. Mr. Roper advised that this provision would not solve all of the County’s issues. However, Staff cannot move forward due to a specific policy that the Council voted on that restricts such authority.

– Mr. Wilson stated that a copy of the lawsuit was provided and that this was the first encroachment permit that Pickens County did not sign. He clarified that if Council approves encroachment permits be issued under the proposed provision, when the County does not have a deeded right of way, the County will be open to some liability.

– Councilman Trey Whitehurst clarified that the Attorney General’s opinion is only an opinion, that it is not a court case which carries weight of law. He stated that these utility companies can go to the land owner directly and obtain a right of way.

– Chairman Roy Costner stated he would like the referenced parties from the utility companies to attend a COW meeting to discuss this in more detail before a decision is made.

– Councilman Wes Hendricks asked what the standard is across the state.

-Ken Roper and Gerald Wilson stated most that counties are signing off on these permits without having a deeded right of way. Mr. Roper stated the majority of the cases are prescriptive use roads. He further mentioned that Newberry County issues a disclaimer when a permit is approved. However, he is uncertain if Newberry County has been sued.

❖ After much discussion, no action was taken by Committee. This item will remain on the log.

Building Codes – Log Item No. 44:

- No Action Taken by Committee

Request to Accept Cribbs Way into the County Minimum Maintenance System – Log Item No. 62:

- No Action Taken by Committee

Personnel-Compensation Study (Library) – Log Item No. 61:

- No Action Taken by Committee

Teen Canteen Conveyance to the City of Pickens - Ordinance No. 518 – Log Item No. 64:

- No Action Taken by Committee

Liberty Civic Auditorium Branding and 501c3 – Log Item No. 50:

- No Action Taken by Committee

Pickens County Museum 501c3 – Log Item No. 51:

- No Action Taken by Committee

Hagood Mill 501c3 and Grant for Pole Shed – Log Item No. 52:

- No Action Taken by Committee

Tourism Board – Log Item No. 63:

- No Action Taken by Committee

Holly Springs Community Center – Log Item No. 49:

- No Action Taken by Committee

Outdoor Special Events Ordinance No. 524 – Log Item No. 57:

- No Action Taken by Committee

Proposed Sewer Plan and Availability Fee – Log Item No. 43:

- No Action Taken by Committee

Hwy. 153 Extension Proposal – Log Item No. 56:

- No Action Taken by Committee

Review of Fire Board and Districts (countywide) – Log Item No. 55:

- No Action Taken by Committee

ADJOURN:

Hearing no further Committee business, Chairman Roy Costner called for a motion to adjourn. Motion was made by Vice Chairman Chris Bowers, seconded by Councilman Wes Hendricks and unanimously passed. The Committee of the Whole stood adjourned at 8:09 p.m.