

COMMITTEE OF COUNCIL AS A WHOLE REPORT

Council Members:

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

Staff in Attendance:

Ken Roper, County Administrator
Meagan Nations, Clerk to Council
Les Hendricks, Contract Attorney

The Committee of the Whole met in the Main Conference Room, at the Pickens County Administration Facility, on Monday, October 19, 2020, immediately following the special-called meeting. All members of the committee were in attendance, with Chairman Roy Costner presiding.

WELCOME AND CALL TO ORDER:

Chairman Roy Costner called the Committee of the Whole meeting to order.

COMMITTEE OF THE WHOLE:

Chairman Roy Costner stated the meeting will begin with *Log No. 151 – AN ORDINANCE NO. 590 AMENDING THE UNIFORM ORDINANCE FOR FIRE PROTECTION DISTRICTS (AS PREVIOUSLY ENACTED BY ORDINANCE NO. 404, AS AMENDED BY ORDINANCE NO. 405 AND ORDINANCE NO. 571) TO CONSOLIDATE CERTAIN EXISTING FEE PAYOR FIRE PROTECTION DISTRICTS THROUGH THE CREATION OF A NEW UNIFIED FIRE PROTECTION DISTRICT; AND OTHER MATTERS RELATING THERETO.*

AN ORDINANCE NO. 590 AMENDING THE UNIFORM ORDINANCE FOR FIRE PROTECTION DISTRICTS (AS PREVIOUSLY ENACTED BY ORDINANCE NO. 404, AS AMENDED BY ORDINANCE NO. 405 AND ORDINANCE NO. 571) TO CONSOLIDATE CERTAIN EXISTING FEE PAYOR FIRE PROTECTION DISTRICTS THROUGH THE CREATION OF A NEW UNIFIED FIRE PROTECTION DISTRICT; AND OTHER MATTERS RELATING THERETO. – Log No. 151

- Mr. Roper stated first reading of this Ordinance was on September 14, 2020, second reading was on October 5, 2020 and the public hearing/third reading is scheduled for November 2, 2020. He stated these are the legal requirements for passing this ordinance. Mr. Roper stated discussion on this issue took place during the Committee of the Whole meetings on September 21st and this evening, October 19th. He stated the Emergency Services Board has also discussed this at their meeting on October 15, 2020. He stated we have had some newspaper coverage, Facebook live video, set up the FREE room, fire fee survey online and in paper form in the FREE room. He stated Billy Gibson spoke of this issue at the Conservative of the Upstate meeting on October 8th, and there were three public fire fee meetings at three different fire stations in October. Mr. Roper advised that Staff has communicated more on this proposal than anything else he can think of in memory. Mr. Roper discussed the survey results to Council, stating 75 citizens took the survey.
- Councilman Carl Hudson stated when will we know the exact fee schedule for the new fire fees based on the square footage of these homes.
- Mr. Roper stated we will not know the fee at this point, because that is determined in the annual budget. He stated this ordinance, as it exists now, does not address this. He stated in the spring, the way we have proposed this, Council will look at expenses that they deem appropriate and they will set the fee. He stated the way that would break down is something Council will decide.
- Councilman Carl Hudson stated that could have a big input on the public's support for this.

COMMITTEE OF COUNCIL AS A WHOLE REPORT

- Vice Chairman Chris Bowers stated if we go by the Berkeley County model that staff presented a couple of months ago, we do have an idea of what the fire fee schedule would be like.
 - Councilman Whitehurst stated he likes the idea of having the fee schedule in the ordinance as a base. He stated we can put a base in there of a neutral number.
 - Chairman Costner states all the ordinance does is change the structure, and when we get to the budgeting process, we will look at the numbers based on the square footage.
 - Councilman Carl Hudson stated before moving forward on third reading and public hearing, he would like to know some numbers. He stated if we do not inform the public without them not knowing a ballpark of what the fee will be, we will not get support for it.
 - After much more discussion between Council and the Administrator, Vice Chairman Chris Bowers made a motion that we move this out of Committee, taking in the amendments that are noted in red, addressing the city issues for Liberty, Six Mile, Central and Easley, as it is stated in this amended ordinance, and to also add the amendment titled “Fee Schedule”, making note that this would be a sample of what this current year levied fees would be. Chairman Costner seconded the motion and carried unanimously (6-0).
- ❖ **Vice Chairman Chris Bowers made a motion that we move this out of Committee for third reading, taking in the amendments that are noted in red in the ordinance, addressing the city issues for Liberty, Six Mile, Central and Easley, as it is stated in this amended ordinance, and to also add the amendment titled “Fee Schedule”, making note that this would be a sample of what this current year levied fees would be. Chairman Costner seconded the motion and carried unanimously (6-0).**

2ND AMENDMENT SANCTUARY PROPOSAL – Log No. 159

- Mr. Hendricks presented an attorney client interoffice memorandum to Council. He stated one of the things that was clear to himself was that this Council fully supports the Second Amendment. Mr. Hendricks stated we have all sworn an oath to the Constitution of the United States and that is the law of the land. He stated the U.S. Constitution does not mention local governments, instead, the 10th amendment reserves authority-giving powers to the states. He stated the states then provide authority to locals. Mr. Hendricks stated that South Carolina is a “home-rule state.” He explained that home-rule limits the degree of state interference in local affairs and delegates power from the state to local government. He stated that power is limited to specific fields, and subject to constant judicial interpretation. He advised regardless of whether a state is a home-rule state or another form, state law supersedes local governing authority. Mr. Hendricks advised that the Home-Rule act quotes, “all counties of the state have authority to enact regulations, resolutions and ordinances, not inconsistent with the Constitution and general law of the State..” He stated that South Carolina expressed exclusive jurisdiction over gun rights, which is Section 23-31-510, “Regulation of ownership, transfer, or possession of firearm or ammunition. No governing body of any county, municipality, or other political subdivision in the State may enact or promulgate any regulation or ordinance that regulates or attempts to regulate: (1) the transfer, ownership, possession, carrying, or transportation of firearms, ammunition, components of firearms, or any combination of these things;” Mr. Hendricks stated the state has taking the regulations of firearms in South Carolina as its own jurisdiction. He stated there are counties that have passed resolutions and ordinances. He stated the ordinances do different things, for example, Anderson County delegates some responsibility to individuals in Anderson County to determine whether or not the Second Amendment is applicable in certain laws. He stated one of the problems is that creates a potential liability for the County. He stated a county ordinance providing the Sheriff discretion to interpret state and federal laws and regulations potentially places liability on the Sheriff and the county, both those aggrieved by enforcing the laws and by those wherein laws were not enforced. After more discussion, Mr. Hendricks stated one means Pickens County Council can do to support the Second Amendment for localities is to pass resolutions. He stated resolutions are non-binding, but offer a means to provide a viewpoint of the current county council. With new county council members beginning in January 2021, the council may want to update their resolution that the new council either supports or does not

COMMITTEE OF COUNCIL AS A WHOLE REPORT

support the second amendment.

- Councilman Carl Hudson stated Pickens County Council has no control over the Sheriff of Pickens County. He stated the Sheriff of Pickens County can enforce laws at his discretion. He stated we cannot tell the Sheriff to enforce this law, or not enforce this law. He stated by passing an ordinance of the Second Amendment, at least it lets the Sheriff know where we stand as a county government. He stated local people can have an impact because when the Brady Bill was passed many years ago, Federal Government came out with very strict rules about telling local law enforcement what they had to do. After more discussion, Councilman Hudson stated Pickens County Council cannot tell the Sheriff of Pickens County how to do his job. He stated he does not know how much liability we would have if we aren't able to tell the Sheriff what to do. He stated we are letting our Sheriff know if something comes along and it is not right, and you stand up against it, that this is how we feel and where we stand on the Second Amendment.
 - Chairman Costner stated there is a lot of fear in the country right now and he understands the passion. He stated his concern is that he is not voting on anything that is illegal. He stated the attorney stated it is not illegal. Chairman Costner stated the law already exists, we are just voting on a law that already exists. He stated if it is going to make people feel better, he is all for it.
 - Councilman Whitehurst stated he does not believe in doing stuff just for political show. He stated if we pass this ordinance, it does not do anything for the Sheriff. He stated this ordinance does not carry any authority. He stated the role of government is to do what government needs to do, not just to make someone feel good. He stated the state has the authority over gun control in South Carolina, not the counties. He stated we passed a resolution on support of the Second Amendment, which he strongly agreed with, but he does not agree on passing something that we have no authority on.
 - After much more discussion, Councilman Carl Hudson made a motion to move out of Committee for second reading, then recommit back to the Committee for further discussion. Motion was seconded by Vice Chairman Chris Bowers and carried 5-1, with Councilman Trey Whitehurst opposed.
- ❖ **Councilman Carl Hudson made a motion to move out of Committee for second reading, then recommit back to the Committee for further discussion. Motion was seconded by Vice Chairman Chris Bowers and carried 5-1, with Councilman Trey Whitehurst opposed.**

SOLAR FARM ORDINANCE – Log No. 132

- ❖ **No Action Taken by the 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 carried unanimously (6-0).