

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 Main Conference Room, at the Pickens County Administration Facility, on Monday, November 16, 2020. All members of the committee were in attendance, with Chairman Roy Costner presiding. Councilman Ensley Feemster led the Invocation and Pledge of Allegiance.

WELCOME AND CALL TO ORDER:

Chairman Roy Costner called the Committee of the Whole meeting to order. Chairman Roy Costner made a motion for a short recess to move this meeting to Council Chambers, due to the large crowd. Motion was seconded by Councilman Carl Hudson and carried unanimously (6-0).

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Chairman Roy Costner called the meeting back to order. Chairman Costner stated the meeting will begin with *Log No. 161 – COUNCIL RULES*.

COUNCIL RULES – Log No. 161

- Councilman Carl Hudson asked that this topic be put on the Consent Agenda at the previous Council Meeting. He stated Council Rules are updated every time a new Council comes on. He stated there was a question come up regarding public forum at the last council meeting. He stated Committee of the Whole meetings are more or less a work session, rather than a council meeting. He stated at a Council Meeting, citizens are given three minutes during public forum to address Council. Councilman Hudson stated he understands that citizens want to get their point across. He stated there is a set of Council Rules on the table if anyone would like to look at it, and he hopes citizens understand that when the new Council takes over, it could be different rules.
- Mr. Roper stated Rule 4.4 allows for public input above and beyond any requirements of state law. He stated this Council in the past and present want to encourage public comment more than any other local governments have done. He stated in this Councils rules, you all allow a monthly public forum at the Council meeting.
- After more discussion, Vice Chairman Bowers asked if these set of rules are on the Council's website.
- Mr. Roper stated he does not believe so, but he will check on it and get it posted on the website for the public to view.

❖ **No Action taken by the Committee.**

2ND AMENDMENT SANCTUARY PROPOSAL – Log No. 159

- Chairman Costner stated Councilman Hudson has been working very hard on making sure the wording of the Ordinance is right.
- Councilman Hudson stated he wanted an amendment that is true to what the people in Pickens County believe, and that is strongly in the second amendment. He stated if you put the second amendment

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sanctuary county ordinance on a referendum, it would pass 80-90%. He stated he looks at this more as coming back on us, because we are the representatives at the local level. He stated as a citizen, he expects his County Council to look out for his rights. Councilman Hudson stated he has been looking at a couple of ordinances throughout the state. Councilman Hudson presented a few changes he would like to see made to the ordinance.

- Councilman Carl Hudson quoted a part of the ordinance, stating,
“Whereas, the Pickens County Council wishes to express its intent to stand as a Sanctuary County for Second Amendment rights and to oppose, within the limits of the Constitution of the United States and South Carolina, any efforts to unconstitutionally restrict such rights, and to use such legal means at its disposal to protect the rights of the citizens of Pickens County to keep and bear arms, including through legal action, the power appropriate public funds and the right to petition for redress of grievances.

Now therefore, by the power and authority granted to the Pickens County Council by the Constitution of the State of South Carolina and the powers granted to the County by the General Assembly of the State, the following is ordained and enacted:

That the Pickens County Council hereby declares Pickens County, South Carolina, as a “Second Amendment Sanctuary,” and

That the Pickens County Council hereby expresses its intent to uphold the Second Amendment rights of the citizens of Pickens County, South Carolina; and

That the Pickens County Council hereby expresses its intent that public funds of the county not be used to restrict the Second Amendment rights of the citizens of Pickens County, or to aid federal or state agencies in the restriction of said rights; and

That the Pickens County Council hereby declares its intent to oppose any infringement on the rights of law-abiding citizens to keep and bear arms using such legal means as may be expedient, including, without limitation, court action.”

- Councilman Carl Hudson stated, after everything he has looked at and researched, this wording will probably line up with most people’s expectations on what Council should do in a case that we feel something is unconstitutional.
- Mr. Hendricks stated the county authorizing litigation would be in the circuit court, since it is an ordinance. He stated it is a federal question so it would be in federal court. He stated the whole thing we have here is the second amendment, which is the law of the land. He stated when passing an ordinance that states you have to uphold the second amendment, so anyone who brings an action regarding the second amendment to enforce it, is going to do it in federal court.
- Vice Chairman Bowers stated the concern is if we have changes to the federal and state constitution, where does that lead this ordinance.
- Mr. Hendricks stated this ordinance gives no more authority to anybody to bring a lawsuit than we already have. He stated we have a constitution of the United States, which allows us to bring an action, and the SC Constitution, which was passed over 100 years after the US Constitution, and we would have our Ordinance. He stated if he was an attorney bringing a lawsuit over the second amendment, he would bring it to Federal Court.
- Councilman Whitehurst stated Mr. Hendricks gave a presentation on the law at one of the last Committee meetings and he indicated we really do not have much jurisdiction here. He asked if that was still true.
- Mr. Hendricks stated the real question is standard, other than jurisdiction. He stated the original ordinance that was provided for Council, is the exact same language as the second amendment and the South Carolina constitution.
- Councilman Whitehurst stated in South Carolina, it is in our constitution. He stated we have resolutions that we support the second amendment. He stated it is a federal issue, not a county issue.
- After much more detailed discussion, Councilman Whitehurst made a motion to propose an amendment,

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that we amend this ordinance to stop any infringement of anyone's right to carry any weapon legally in any building of Pickens County. There was no second and motion failed.

- Mr. Les Hendricks gave more detailed discussion to Council on the state and US Constitutions.
 - Councilman Whitehurst stated whatever we do, is superseded by state law anyways and this is more of a statement. Councilman Whitehurst stated he feels the resolution makes that statement already. After more discussion, Councilman Whitehurst asked Mr. Hendricks if we put in the ordinance that we are not going to use County funds to restrict someone's second amendment rights, there is at least an action that has a consequence to it.
 - Mr. Hendricks stated Councilman Whitehurst is correct, that would be an ordinance rather than a resolution. He stated whatever Council comes up with in third reading needs to be Council's words.
 - Councilman Carl Hudson stated the one thing he would like to see in the ordinance, because he feels it supports the second amendment, is the 4th amendment, the 10th amendment, the 9th amendment and the 14th amendment. He stated there are a lot of issues that are tied to the second amendment.
 - Vice Chairman Chris Bowers stated he feels it was not clear that when you read the ordinance, it reads like a resolution. He stated without an action item, you do not have anything but a resolution.
 - Vice Chairman asked if there was a way to reference the resolution in the Ordinance.
 - Mr. Hendricks stated yes, and read the Resolution passed by Council in 2019. He stated he can reiterate the language from the resolution in the ordinance if Council would like.
 - After much more discussion between Council and staff, Vice Chairman Chris Bowers made a motion to move this out of Committee for third reading, with the amendments as described. Motion was seconded by Councilman Trey Whitehurst and carried unanimously (6-0).
- ❖ **Vice Chairman Chris Bowers made a motion to move this out of Committee for third reading, with the amendments as described. Motion was seconded by Councilman Trey Whitehurst and carried unanimously (6-0).**

WASTEWATER DISPOSAL MANAGEMENT – Log No. 160

- Councilman Ensley Feemster stated there are concerns with a wastewater system that wants to change ownership.
- Attorney Hendricks stated he has been working on this a little bit, and he understands where he is coming from, that it is a complicated issue, and he started by saying there was a comprehensive ordinance passed in 2010 about sewer collection systems. He stated part of the concerns from County Council was that the operators stopped operating the sewer systems and left the county to operate. He presented Council with part of the Ordinance, and stated he has been in touch with Jeffrey Nelson, Chief Legal Officer of the Office of Regulatory Staff. He stated looking at the ordinance, it states whoever is going to operate a system, has to deposit 25% of the cost of the sewer system in escrow with the County. He stated the state Public Service Commission also regulates rates of utilities and says what you can include in your rates. He stated our ordinance requires the operator to enter into an agreement with us. After much more discussion on the situation, he stated he has asked if there are other counties with an ordinance like this around us, and he has been told no but he is going to continue his research. He stated he is not certain the Public Service Commission would approve it. He stated this is something Council needs to be made aware of, because if we cannot have a private operator of a sewer system and we are preventing them from building in Pickens County, that could be a significant problem in the future.
- After much more discussion, Vice Chairman Chris Bowers asked for clarification, we have someone wanting to forfeit a sewer system and they do not have 25%, but they want us to go ahead and take it over.
- Mr. Roper stated they would love for the county to take it over, but we do not provide any sewer service near them. He stated a company nearby, called Condor Environmental would be willing to do it, but they are stating our ordinance is too expensive for them to do it.
- Vice Chairman Bowers stated he feels we need a lot more information and this is a bigger discussion.
- After much more discussion, Mr. Hendricks stated he felt at this point they need to let them know they are

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looking into it and exploring different options.

❖ **No Action Taken by the Committee.**

2020 RECREATION FUNDING – Log No. 146

- Chairman Costner stated he will be skipping over this Log item, due to Council Rules on the new Council coming into place. He stated this item was with the City of Liberty. He stated he would like to postpone this to the January meeting.
- Mr. Roper stated Chairman Costner is referencing a resolution passed by Council a couple of years ago, which states after the general election, you can allocate funds.

❖ **No Action Taken by the Committee.**

SOLAR FARM ORDINANCE – Log No. 132

- Mr. Roper stated that Council has a copy of the proposed language in front of them this evening. He stated this is what the ordinance would look like if passed. He stated Council has studied this on and off for a while, and the feedback that he gave came from the members of the industry stating you cannot put a solar farm on a property that is smaller than 5 acres. Mr. Roper stated it needs to be within two miles of existing electrical transmission line and then there are standards for buffers and setbacks. He stated this has passed first reading, and came to this committee to discuss further. He stated the feedback from the industry is basically that they want regulation because otherwise they can't invest in the property without fear of it changing.
- Councilman Hendricks asked if this was the same language Council saw in the past, and if staff has heard from the owners recently.
- Mr. Roper stated yes, it is the same language, and no, he has not heard from the owners.
- After much more discussion between Council and staff, Councilman Whitehurst asked how Chris Brink, Community Development Director, came up with the language.
- Mr. Roper stated he studied ordinances from counties in Georgia and the low country of South Carolina. He stated they looked at how they set the ordinance up, then looked at expanding some of the buffer requirements.
- After more discussion between Council, Mr. Roper stated he would like to take Council's feedback back to Chris Brink and report back to Council with Mr. Brink at a later Committee of the Whole meeting.

❖ **No Action Taken by the Committee.**

CONSIDERATION OF REMOVAL OF ITEMS FROM LOG

Mr. Roper stated per Council Rules, anything that is not voted to retain on the log at the end of this 2 year term, which is December 31, 2020, is removed from the log. He stated Council will need a positive vote, at the last Council meeting in December, to retain something on the Committee Log.

❖ **Chairman Costner made a motion to retain the following items below on the Committee of the Whole Log. Motion was seconded by Councilman Ensley Feemster and carried unanimously (6-0).**

- **Log No. 80** – County Radio System
- **Log No. 95** – Request to Accept Roads in the Minimum Maintenance System
- **Log No. 105** – E911
- **Log No. 109** – Fort Prince George
- **Log No. 123** - AN ORDINANCE No. 572 AMENDING ARTICLE I OF CHAPTER 34 OF THE PICKENS

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COUNTY CODE OF ORDINANCES SO AS TO PROVIDE REMEDIES AND PENALTIES FOR ILLEGAL LITTER AND DUMPING IN THE UNINCORPORATED AREAS OF PICKENS COUNTY, AND MATTERS RELATED THERETO.

- **Log No. 131** – Opportunity Zones
- **Log No. 132** – Solar Farm Ordinances
- **Log No. 133** – Solid Waste Needs
- **Log No. 134** – Mental Health
- **Log No. 135** – Discuss Policy behind reserving County Property
- **Log No. 139** – Discussion on County Road User Fee and Alternatives
- **Log No. 140** – Discussion on Insurance Options
- **Log No. 142** – Discussion on Old Jail
- **Log No. 149** – Discussion on Potential Citizen Award
- **Log No. 150** – Sewer Use Ordinance
- **Log No. 152** – Procurement Process
- **Log No. 157** – Scenic Highway Overlay
- **Log No. 160** – Wastewater Disposal Management
- **Log No. 161** – Council Rules

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 Trey Whitehurst and carried unanimously (6-0).