

REGULAR MEETING
DARLINGTON COUNTY COUNCIL
DARLINGTON, SC

May 17, 2010

A regular meeting of the County Council of Darlington County was held this 17th day of May 2010, at 6 p.m., at the Darlington County Courthouse Annex/EMS Building, 1625 Harry Byrd Highway, Darlington, South Carolina.

NOTICE OF MEETING

In compliance with the Freedom of Information Act, a copy of the agenda, giving the date, time, and place of the meeting was mailed in advance to the local newspapers (the News and Press, the Messenger, and the Morning News), persons requesting notification, and posted on the bulletin board at the entrance to the County Administrator's Office.

COUNCIL MEMBERS PRESENT

Chairman Billy Baldwin, Vice Chairman Anne C. Warr, Chaplain Dannie Douglas, Jr., Mr. Wesley Blackwell, Mr. Marvin Le Flowers (arrived around 6:40 p.m.), Mrs. Wilhelmina P. Johnson, Ms. Mozella "Pennie" Nicholson, and Mr. Alex "Buz" Shaw.

ALSO PRESENT

County Administrator Phyllis Griffiths, County Attorney James C. Cox, Jr., Clerk to Council J. JaNet Bishop, Environmental Services Director Mike Dorriety, Codes Enforcement Director Randy Evans, Planning Director Doug Reimold, Finance Director John Williams, Sheriff Wayne Byrd, Chief Deputy Sheriff Jerry Thompson, Emergency Services Director Allen Haynes, Fire Chief David Williamson, Captain Andy Locklair, Mr. and Mrs. Clarence Johnson, and others.

REPORTERS PRESENT

Mr. Jim Faile of the Messenger and Ms. Samantha Lyles of the News and Press.

Call To Order / Invocation / Pledge Of Allegiance

Chairman Baldwin called the meeting to order at 6 p.m. Mr. Douglas presented the invocation and Mrs. Johnson led the pledge of allegiance.

Citizens' Comments

Mr. Clarence Johnson compared factory farms with family farms. He said factory farms were not for the people and spoil the land. Mr. Johnson said the people should take care of the Animal Shelter and not the government.

Mrs. Nancy Nickles commended the Darlington County Humane Society. She presented a petition containing the names of about 250 people in favor of County Council transferring \$42,000 to the Humane Society.

Ms. Kathy McDonald, Humane Society Chairman, requested the results from County Council's Worksession that was held on Monday, May 10th. She also requested that

Councilman Blackwell make another motion to use contingency or carry over monies to fund Darlington County Humane Society's partial budget request of \$42,000, and that the motion be made before the final vote on the General Fund Budget. Ms. McDonald reported that all the requested funds would be used to pay salaries and water/sewer for the shelter. She said they do not pay their volunteers.

Chairman Baldwin commended the efforts of the volunteers and the Humane Society. He requested clarification regarding the worksheet he was given. The worksheet indicated that the Humane Society began the budget cycle (FY09/10) with \$89,401.

Ms. McDonald stated that she did not understand. She only knew what was budgeted at the beginning of the year and Council had given them a \$25,000 one-time appropriation.

Chairman Baldwin said the Humane Society's FY09/10 budget was in the amount of \$57,270, plus a \$25,000 one-time appropriation, which equates to \$82,270. However, according to the worksheet, the Humane Society began this year with \$89,401. The worksheet also showed that the Humane Society had raised \$319,513. Chairman Baldwin stated that if the government portion for the sewer system were subtracted, the amount raised would be \$250,753. He was trying to clarify that the Humane Society began the year with \$89,401 plus the \$82,270 from the county's budget.

Ms. McDonald stated that she was not sure.

Mrs. Johnson asked Ms. McDonald whether she was familiar with the Animal Shelter Contract. She said the term of the contract was from budget year to budget year. It also indicated that the Darlington County Humane Society was an independent contractor, and no employees of the Humane Society would be considered an employee of Darlington County.

Ms. McDonald confirmed that the Humane Society's employees did not have county benefits.

Mrs. Johnson was looking at Darlington County Humane Society as being a separate entity as stated in the contract. She pointed out that the contract also stated that the Humane Society would develop a job description for all employees and volunteers. Mrs. Johnson commended the efforts of the volunteers. However, the creation of the Animal Shelter went back before 1997 before Council signed the contract. Mrs. Johnson stated that the contract also indicated that certain types of records must be kept during the year for the benefit of the Humane Society and the County.

Ms. McDonald responded that the Humane Society pays a person to keep their records.

Mrs. Johnson added that at certain times, these records should be submitted to the County Rabies Director and submitted quarterly to the County Administrator, which had not been done.

Ms. McDonald explained that in February 2009, County Finance Director John Williams told her that the county did not want quarterly reports anymore. He said the Humane Society should submit annual reports. Therefore, they stopped submitting the quarterly reports and when they realized that they had not submitted an annual report, Carol Stackhouse and Jackie Kirven went to the Administrator's Office and talked with Mr. Williams to find out what type of reports the county wanted. Mr. Williams indicated that he wanted the Humane Society's tax form (Form 990) which was submitted on May 15th when it was due to the State.

Ms. Betsy Stanton said the Humane Society was very deserving of the money and asked Council to consider this matter.

Ms. Michelle Hoffman, a volunteer at the Animal Shelter, talked about the amount of time she volunteers at the Animal Shelter. She was asking for money to fund the salary of the people the Humane Society had employed. The volunteers would remain. Ms. Hoffman said the Humane Society was a picture of Darlington County. She talked about budgets she had written and about answering to variances in those budgets. Ms. Hoffman said she knew were Council could find the money and mentioned certain areas where Council could look at such as travel expenses, training, etc. She said the 13-year-old contract should be revisited and a cost performance indicator added. She commented about the \$42,000 being a worthwhile investment.

Approval Of Minutes - Public Hearing And Regular Meeting of May 3, 2010

MOTION was made by Mrs. Johnson and seconded by Mrs. Warr to approve the minutes of the public hearing and regular meeting of May 3, 2010.

The motion carried unanimously.

Ordinances

Ordinance No. Ordinance No. 10-3, An Ordinance To Provide For The Levy Of Taxes For Corporate Purposes Of Darlington County For The Fiscal Year Beginning July 1, 2010, And Ending June 30, 2011; To Make Appropriations From The General Fund Of Said County For Such Purposes For The Fiscal Year Beginning July 1, 2010, And Ending June 30, 2011; To Provide For Budget Control Of Said Appropriations By The County Council; And To Make Provisions For The Fiscal Affairs Of Said County For Said Fiscal Year

MOTION was made by Mr. Blackwell and seconded by Mr. Shaw to amend Ordinance No. 10-3, the General Fund Budget, to add \$42,000 to the Humane Society from the Capital Fund Balance.

Mrs. Warr commended the volunteers and talked about the county having a cap this year and the Capital Fund Balance being in place for the purpose of operating the county in poor economic times. Also, the county was required, by law, to keep this fund to operate the county for at least six months if there were no revenue coming in. Mrs. Warr said the county has no control over this. She proposed a referendum during the next election to see how the citizens felt about a tax increase. Mrs. Warr stated that she had received telephone calls for and against giving the Animal Shelter additional funds. This was also a hard thing to work with this late in the budget. She said that if Council had received this request earlier, Council could have considered taking it from travel expenses, Council's salary, conference fees, etc. However, she was not willing to take the funds from the Capital Fund Balance because she knew the consequences and what was going on with it.

Mrs. Johnson commended the efforts of the volunteers and talked about the county and the Humane Society not following the contract. She emphasized that the Humane Society was an independent contractor and not a part of Darlington County government. According to the contract, it will renew itself annually during budget time unless someone wanted to negotiate the agreement. If so, this should have been done at least 45 days prior to budget time. The contract also states that certain types of records should be kept, which the county had not received. Mrs. Johnson commented that County Council was over the

shelter. She then pointed out that the Humane Society's Annual Report (Form 990-EZ) did not display the beginning and ending dates. She questioned whether the Humane Society owns land that was shown as depreciation on the report. Mrs. Johnson stated that according to the report, the Humane Society took in over \$300,000, which could be used to increase the salaries or for anything else. She said the Humane Society has the freedom to do whatever it wants to with the \$300,000 they raised. However, the county did not have any record of how the funds were used. Mrs. Johnson asked the County Administrator whether the Humane Society has a 501(c) (3) federal income tax status.

Ms. Nicholson said Council needed to prioritize the needs of the county. She was concerned that the Community Action Agency provides various assistance and services to poor people and the county was suppose to fund this agency according to statute, but had not. She questioned the amount of private funds the Humane Society had raised last year and this year. Ms. Nicholson also presented her concerns for animals and the county providing funds to a 501(c) (3) organization. She questioned could how Council, in good conscience, not provide any funding to the Darlington County Community Action Agency and the Mental Health Agency. She said most of the people who called her indicated that if Council could find \$40,000 for the Humane Society, Council could find funds for the Darlington County Community Action Agency that provides services to everyone and has run out of money. She questioned how fair it would be to do this. Ms. Nicholson talked about Rubicon Counseling Center needing funds, the problem with drugs on the streets, and grandmothers trying to feed their grandchildren whose parents are in jail and are told that the energy assistance money had run out; but Council could find \$42,000 for the dogs and cats. She commended the efforts of the Humane Society and requested that they present a budget to the county every year just like all the other county departments. Ms. Nicholson emphasized that Council has to prioritize human needs versus some of the subsidiary needs. Again, she questioned how much money the Humane Society had raised and pointed out that it was not a Darlington County government agency, but a 501(c) (3) organization. She talked about people needing a place to stay versus animals needing a place to stay.

Mr. Douglas commended the Humane Society. He said Council did not have the money, county employees could not receive a raise, taxes could not be raised, and other county departments needed money, too. Therefore, he could not see where the money would come from and suggested a referendum or some other means to raise the money.

Mr. Blackwell stood to address several of the items that had been raised. He clarified that the Humane Society was not a county department, but the county has an agreement with them. He said the county agreed to help the Humane Society run the animal shelter. Therefore, he felt that in signing the agreement, Council was saying that it would support the Humane Society. Mr. Blackwell pointed out that the Humane Society had submitted a budget, on time, in the amount of \$169,770 and the Administrator's Request was \$57,270. Therefore, the Humane Society had submitted a budget just like the other county departments. He also stated that the Humane Society's Form 990 was for calendar year January 1st through December 2009 and showed that they had raised \$267,208 and their total revenue was \$319,000. Therefore, the Humane Society had raised \$4 to the county's \$1. He also indicated that the Humane Society was a 501(c) (3) corporation.

~ Councilman Flowers arrived at 6:40 p.m. ~

Mr. Blackwell said Council needed to look at the county's responsibility for the animals, and \$42,000 was a small amount for Council to give to help the Humane Society. He stated that he understood what was said about the Darlington County Community Action Agency, but if Council saw the numbers for this agency, Council would see that it receives many federal dollars, stimulus money, etc. Mr. Blackwell said there were people in the county who need funds. However, Council's part would be to fund the additional \$42,000 for the Humane Society. Therefore, he was recommending that the General Fund Budget be amended by this amount of money. He pointed out that there was \$24 million in the Capital Fund and \$42,000 was a small amount of the \$24 million.

Mr. Flowers said he did not think that the county could use Capital Funds for operations. With that said, Chairman Baldwin asked whether the amendment would be out of order.

County Attorney Jim Cox said County Council could do whatever it wants to. This was the first time he was asked this question. However, Council could not take the Capital Fund to fund this. Council needed to maintain a certain balance. It was his understanding that if the \$42,000 were used, the county would fall below the minimum amount required for the Capital Fund Balance. Mr. Cox also pointed out that Council could not have a referendum to raise tax because South Carolina could not raise tax during this coming year for any reason. Therefore, what was being asked of Council was to do something that was not available under the existing state laws.

Chairman Baldwin asked about using contingency money or additional revenues left at the end of the year.

Mr. Cox said Darlington County could not use Capital Funds and could not raise tax for the coming tax year according to state laws. He also mentioned that the staff would not know the amount of appropriated unused funds until the end of the year.

Chairman Baldwin stated that according to the information presented by Ms. McDonald, the Humane Society began with \$89,401 and the county gave \$82,207 for a total of \$171,671. He said this would not be enough funds to get the Humane Society through this year. Therefore, Council needed to know how much funds the Humane Society had raised this year (from July 1, 2009 through June 30, 2010).

Someone from the audience stated that the Humane Society does not operate on a fiscal year and did not have a report with such information for that time period.

Mr. Blackwell questioned whether Council could not use money from the Capital Fund Balance. He pointed out that Council had used money from the Capital Fund Balance in the budget.

Mr. Cox said the county has a level that must be maintained and Council was already threatening that. From the information he was provided, if Council takes the money from the Capital Fund, the county would be below the required level. Mr. Cox said Council was not supposed to use Capital Funds for general operations.

Mr. Blackwell asked whether any Capital Funds were used for general operations in the budget.

Mr. Cox stated that not to his attention. He said the Capital Fund Balance was set up for specific things.

Mr. Blackwell said he thought that funds from the Capital Fund Balance were used for operations in the budget. He questioned the statewide management computer system being budgeted with Capital Funds.

Mrs. Griffiths indicated that the computers for the statewide case management system were a capital purchase (to purchase equipment) and not operations. She explained that the \$13,000 for maintenance of the system was budgeted under operations.

Mr. Blackwell questioned whether the amount for the Sheriff's grants was budgeted under the Capital Fund.

Mrs. Griffiths explained that the amount for the Sheriff's grants represented the county's five percent match, which some may be for capital equipment and some for payroll.

Mr. Blackwell said Council could not say clearly whether all of the Capital Fund money in the budget would be used for capital.

Mrs. Johnson said eight to ten years ago, the county phased out all non-departmental groups. She said Council would be "opening up a can of worms tonight due to pressure." She also stated that Council would have to revisit the phase out of the Community Action Agency, Mental Health Agency, etc. Mrs. Johnson emphasized that the Humane Society was an independent contractor - the same as a 501(c) (3) agency.

Mr. Blackwell called for the question.

Chairman Baldwin asked whether the amendment was out of order or whether Council should vote on it.

Mr. Cox said the amendment was before Council and Council could vote on it and deal with it later.

Mr. Flowers clarified that Mr. Shaw did not want to second a motion that was out of order.

Mr. Shaw stated that it was late and people were just standing around. It was his understanding that Council could pass the budget and then in July, Council may be able to come up with some money for the Humane Society. However, Council would not be sure where the funds would be taken from. He said Council needed to make a decision. Mr. Shaw talked about requesting a budget transfer from where there are extra funds at the end of the year.

Mr. Shaw **withdrew his second to the motion** and requested that Council pass the General Fund Budget; then in July, come up with some money for the Humane Society.

Mr. Blackwell stressed that the county had used Capital Fund money in the budget. Therefore, Council could use some more.

The motion (to amend Ordinance No. 10-3, the General Fund Budget, to add \$42,000 to the Humane Society from the Capital Fund Balance) **failed for lack of a second.**

Then a **MOTION** was made by Mrs. Johnson and seconded by Mr. Douglas to approve third reading of Ordinance No. 10-3, the General Fund Budget.

The motion carried unanimously.

Resolutions

Resolution No. 595, Inducement Resolution Providing For A Fee In Lieu Of Tax Agreement Between Darlington County And PolyQuest, Inc.

MOTION was made by Mrs. Warr and seconded by Ms. Nicholson to approve Resolution No. 595.

The motion carried unanimously.

Committee Reports

There were no committee reports.

Other Items

Budget Transfer Requests (Detention Center, Prison Farm, & Sheriff's Dept.)

MOTION was made by Mrs. Warr and seconded by Mr. Douglas to approve the budget transfer requests.

The budget transfer requests were as follows:

(1) Detention Center - \$23,000 **from** salary (1-021-42320-11100) transferred as follows: \$12,500 to Overtime (1-021-42320-13000); \$8,500 to Medical (1-021-42320-34400); and \$2,000 to Bldg. Construction SVCS (1-021-42320-45000) to correct budget shortfall for overtime due to vacant positions. Building expenses for support standby generator and keyless entry protection for jail system. Medical cost for inmate waiting for evaluation (diabetic) and another inmate requiring dialysis. These are unusual medical cost.

(2) Prison Farm - \$16,000 **from** salary (1-027-42350-11100) and \$2,500 **from** Health Insurance (1-027-42350-21200) to the following: \$4,000 to Overtime (1-027-42350-13000) and \$14,500 to Medical (1-027-42350-34400) to correct budget shortfall due to vacancy in personnel. The medical to cover emergency appendectomy not covered by SCDC.

(3) Sheriff's Department - \$7,500 **from** salary (1-035-42100-11100) to Overtime (1-035-42100-13000) to correct budget shortfall due to May race (Southern 500) and recent windstorms in Darlington County.

The motion carried unanimously.

Consent Agenda

Included in the Consent Agenda were the following:

<u>ITEMS</u>	<u>ACTION</u>
A. 2010 Census Complete Count Committee Minutes, April 1, 2010	Receive As Information
B. Pee Dee Workforce Investment Board, Quarterly Report, July 1, 2009 Through March 31, 2010	Receive As Information
C. Letter From Time Warner Cable RE: Programming	Receive As Information

MOTION was made by Mrs. Warr and seconded by Mrs. Johnson to receive the Consent Agenda items as information.

Mrs. Warr reported that the census was very successful in Darlington County thus far and better than in any of the surrounding counties.

The motion carried unanimously.

Personal Appearances

There were no personal appearances.

Administrative Update -Mrs. Phyllis Griffiths, County Administrator - Update

Mrs. Griffiths indicated that an announcement, *Disaster News*, from the U.S. Department of Small Business Administration was placed at Council's desk. The Small Business Administration would be offering disaster assistance to South Carolina residents affected by the tornadoes that occurred on April 25th in Darlington County. The Disaster Loan Outreach Center will be at Mayo High School for Math, Science, & Technology beginning Thursday, May 20th and close on Thursday, May 27th.

Requests / Comments – Members Of Council

Mr. Shaw stated that he had no further comments. He left the meeting at 6:57 p.m.

Mr. Flowers apologized for arriving late to the meeting.

Mrs. Johnson stated that Council may need to have workshops to talk about issues that may come up. For example, Council should have scheduled a workshop to discuss the Animal Shelter Contract. She also stated that Council may want to revisit the phase out of non-departmental agencies. Mrs. Johnson asked that one parking space at the courthouse be reserved for Council members. She went to the courthouse on today and could not find a place to park due to the number of people in town to attend court.

Mrs. Warr asked the County Administrator to contact the Highway Department about cleaning the ditch at the intersection of Highway 401 and Highway 403. The storeowner at the location indicated that the water runs into her store when there is a hard rain.

Mr. Douglas thanked everyone for attending the meeting. However, there were things that Council could do and things that Council could not do.

Ms. Nicholson indicated that many of the Animal Shelter supporters and Councilman Shaw had left the meeting. However, she wanted to clarify what Mr. Shaw had said. It was Ms. Nicholson's understanding that Mr. Shaw stated that Council would wait until July 1st to find out whether the county could accommodate a part of the Humane Society's request.

Chairman Baldwin responded that Council could make a motion that any additional revenue or contingency monies left at the end of the budget year be given to the Animal Shelter.

Mr. Cox said this would be premature because the county would not have its audit by July 1st. The county does not receive the audit until about January.

Ms. Nicholson wanted to give priority for use of any funds left over. She hopes that the Humane Society would have enough money to operate until January.

Mr. Cox said Council could do this. However, there would be no way to know in January when the county receives the audit that certain finances would not be needed somewhere else. He said this would be a "feel good" motion. Mr. Cox said Council did not want the people to leave thinking that they would receive money in January.

Mr. Flowers stated that when he spoke with Mr. Shaw, Mr. Shaw wanted to know whether it would be possible to move money to the Humane Society/Animal Shelter through a budget transfer. Mr. Flowers said he told Mr. Shaw that it would work the same way as when Council approved the \$25,000 for the Humane Society earlier in the year. He stated that the Humane Society's budget would carry them six to seven months at their current rate of spending. Also, Council would not know until January whether there would be funds left over in this budget year. Mr. Flowers stated that there would be opportunities later in the year to do budget transfers if funds were not being spent. He said Mr. Shaw had indicated that he did not want to hold up third reading of the General Fund Budget because there was other county business to address.

Mr. Blackwell expressed his disappointment that Council did not do anything for the Animal Shelter tonight. He understood what Council was talking about regarding the completion of the audit. Mr. Blackwell stated that there may and there may not be a possibility to provide additional funding to the Humane Society.

Mrs. Warr asked whether the county could pass an ordinance requiring helmets for motorcycle riders or would the county be overriding state statute.

Mr. Cox responded that Myrtle Beach had done this and it was being challenged in court. Sheriff Byrd indicated that Myrtle Beach's law was currently before the Supreme Court. He suggested that Council not act on this until the outcome of the Myrtle Beach case is known.

Chairman Baldwin thanked everyone for attending the meeting. He said Ms. Hoffman had mentioned various places in the budget that Council could cut. However, Council had deleted its discretionary account in the amount of \$100,000 and deleted the incentive money for economic development in the amount of \$125,000. Chairman Baldwin said the budget had been cut everywhere it could be cut. Council would like to help the Humane Society, but at this point, Council was at the "bottom of the bucket."

Mrs. Johnson asked Mrs. Griffiths to request that the Humane Society provide Council with an analysis of their expenditures, funds raised, and what the funds were used for on a quarterly basis.

Mrs. Warr asked whether all the dogs were from Darlington County.

Mrs. Johnson added that the shelter has a limitation of 75 adult dogs and 25 adult cats. Therefore, if Council received the figures, Council would know the status. She asked Mrs. Griffiths to follow through with the things that Council suppose to have as stated in the contract. From that, Council could form an opinion.

Vote For Executive Session

There was not a vote for executive session.

Adjournment

MOTION was made by Mrs. Johnson and seconded by Mr. Blackwell to adjourn the meeting. There being no further business, the meeting was adjourned at 7:08 p.m.

Respectfully submitted,

Mrs. J. JaNet Bishop, Clerk to Council

Mr. Billy Baldwin, Chairman
Darlington County Council

Approved at meeting of June 7, 2010.