

**CITY OF COLUMBIA CITY COUNCIL
WORK SESSION MINUTES
SEPTEMBER 20, 2011 – 3:00 P.M.
CITY HALL - 1737 MAIN STREET**



The Columbia City Council conducted a Work Session on Wednesday, September 20, 2011 at City Hall, 1737 Main Street, Columbia, South Carolina. The meeting was called to order at 3:05 p.m. and the following members of Council were present: The Honorable Tameika Isaac Devine, The Honorable Daniel J. Rickenmann, The Honorable Belinda F. Gergel and The Honorable Brian DeQuincey Newman were present. The Honorable Mayor Stephen K. Benjamin, The Honorable Sam Davis and The Honorable Leona K. Plaugh were absent. Also present were Mr. Steven A. Gantt, City Manager and Ms. Erika D. Salley, City Clerk.

**Upon a motion made by Dr. Gergel and seconded by Ms. Devine, Council voted unanimously to elect Ms. Devine as the presiding member of Council and Mr. Rickenmann as the presiding member pro-tempore.

CITY COUNCIL DISCUSSION / ACTION

1. Central Midlands Regional Transit Authority (CMRTA) Temporary Intergovernmental Agreement (IGA)

Mr. Ken E. Gaines, City Attorney explained that Forest Acres was added to the agreement.

Councilor Devine explained that Forest Acres was added, because they have the next highest level of riders.

Councilor Rickenmann said that the Authority is supposed to be a four-county area according to the statute. The statute also calls for the membership to be done by population and not by a formula.

Mr. Ken E. Gaines, City Attorney outlined the following changes to the CMRTA Intergovernmental Agreement:

- I. The term of the agreement is from October 1, 2011 through June 30, 2013
- II. The commitments are subject to an annual appropriation. When you approve the agreement you are ratifying the payment of funds from July 1, 2011 to September 30, 2011, which you release to the CMRTA.
- III. Richland County's contribution for July through September 2011 is \$417,498 and their total contribution was \$1,670,000. They will give one-fourth of the amount in October 2011. Subject to its appropriation they are agreeing to pay \$1.67 million through fiscal years 2012/2013.
- IV. The City of Columbia paid the CMRTA \$950,000 for July 2011 to September 2011 and the document acknowledges that, which is one-fourth of the amount. For fiscal years 2012/2013, the City is agreeing to pay \$3.8 million subject to the annual appropriation.

Councilor Rickenmann said that the document states that the City will increase its franchise fee on service provided within the City limits or any other legally available sources to pay the amount of \$3.8 million. Council passed a 2% franchise fee. By including "any other legal sources" ties us to \$3.8 million. That is not what was passed in the public eye. We need to clarify that. It may end up being more, but we can't afford to pay that out of the General Fund, if it becomes less.

Councilor Newman said that he doesn't disagree, but he read it as if it would be the same thing

***Amendment to the Agenda*

whether it was 2% or 3.8 million. I assumed that there wouldn't be much fluctuation.

Mr. Steven A. Gantt, City Manager said there will be annual fluctuations depending upon the economy, rates and other factors.

Mr. Ken E. Gaines, City Attorney agreed to change the language. He added that it is subject to the right of non-appropriations, but you still have the obligation of \$1 million under the 2002 agreement. This does give you credit for the \$1 million. We should modify this to say that the \$1 million is included in whatever the 2% amount may be.

Councilor Rickenmann stated that the reality is that the \$1.6 million generated from the County includes 35,000 cars from the City. Last year we paid \$650,000. Technically, we are paying for it twice.

Mr. Ken E. Gaines, City Attorney said that the fees for the Certified Public Accounting Firm should come from the 2%.

Councilor Rickenmann requested that they add a stipulation for the Authority to follow S.C. Code Section 58-7-70.

Mr. Steven A. Gantt, City Manger said that the study being conducted by Wilbur Smith Associates should also be paid out of the 2%.

Mr. Ken E. Gaines, City Attorney reported that the amount of funding coming from Lexington County is unknown. It does limit their funding to be used for the services utilized in Lexington County only. The IGA acknowledges the \$8,400 has been paid by Lexington County for the month of July 2011. Again, Lexington County is subject to non-appropriation.

Councilor Rickenmann said that all of this should have numbers attached to it. He asked why Forest Acres isn't participating in the funding. Are they included in the County's funding?

Councilor Newman said that once the board is restructured there will be changes to the routes. We are trying to encourage participation from our neighboring jurisdictions. The level of funding provided by each municipality will be reflected in their routes.

Councilor Rickenmann stated that Lexington County is only paying for its direct costs or its routes. It's not paying for overhead expenses. We are absorbing that. Who ends up paying the overhead? Are we having fewer routes in the City, because we're covering all of the overhead? It doesn't seem like an equitable partnership.

Councilor Newman replied that there is some ambiguity once you try to determine the exact costs related to each particular route in each area of service. The reality is that there are some people here that need to get to Lexington and Forest Acres for certain things.

Mr. Bill Ellis, Finance Director said that the agreement with Derrick, Stubbs and Stith has not been signed with Lexington County and all reference to Lexington has been removed from that document. They are not eligible for the work papers; they are not included in any way. They are not considered a funding partner.

Mr. Ken E. Gaines, City Attorney suggested that they provide that it only goes to the City and the

County; not Forest Acres. He continued to explain the modifications. He said that the CMRTA will negotiate the contract extension of the current contract with Veolia through December 31, 2012 and has a termination clause with 90-days written notice. Veolia shall, at the option of the CMRTA, provide services of an Executive Director at no additional cost.

Councilor Rickenmann requested that the word expenses be added. It doesn't talk about any expenses. We should not incur any additional expenses.

Councilor Devine asked if they have identified who that will be.

Councilor Newman said not yet.

Mr. Ken E. Gaines, City Attorney added that the CMRTA agreed to restructure the bylaws and the agreement. The voting membership will consist of Richland County (3), the City of Columbia (3), Lexington County (1) and the City of Forest Acres (1). The non-member jurisdictions could continue as non-voting members.

Councilor Newman said that some of Mr. Rickenmann's revisions should be included so that this is not misleading. The biggest part of this is getting everybody on the same page and allowing for a new start. When we discussed funding at the beginning of this year, no one wanted to provide money for the same system, allowing them to keep wasting money. There needs to be a huge restructuring. I will be Chair and that naturally changes the direction and focus. There needs to be something that clearly establishes everybody's role and responsibility in this. He urged his peers to move forward with the agreement as recommended.

Councilor Devine asked if everyone is okay with approving the agreement with the changes as outlined. This will help us move forward. She suggested that staff convey the changes to Richland County and the CMRTA as soon as possible.

Councilor Rickenmann said that these things must be clearly spelled out in the agreement in order to achieve what you are trying to do. We are adding 20 months of life support and we still don't have a solution or an answer. We need a clear path. We need timelines and requirements from all of the entities involved.

Mr. Ken E. Gaines, City Attorney provided a final synopsis of the revisions being made. In Section 5.01 we intend to provide funding in the approximate amount of \$3.8 million and we will strike the language referring to funding from any other legally available source. In Section 5.02 we are adding the word approximate and that they will pay Derrick Stubbs & Stith out of the City's contribution. The Executive Director comes out of the funding as well. In Section 5.03 we want to change that language so that we get credit for the \$1 million. We will add S.C. Code 58-7-70. As it relates to Sections 6.01 and 6.02, we can vote on the agreement subject to Lexington County providing us with the number and us coming back and ratifying the vote. In Section 7.04 we will add "or expense" to the CMRTA.

Councilor Rickenmann inquired about Section 7.02 – Reduction in Service. How does that work. What happens if Richland County decides not to reduce service in Forest Acres? There is no majority that makes a decision on that.

Councilor Gergel said that any reductions in the City must have City Council approval.

Mr. Ken E. Gaines, City Attorney cited the following: "In the event reductions in service become

necessary for financial reasons, each of the Counties and the City will cooperate with the CMRTA to make such reductions in service in the most effective and least disruptive manner possible. It does not provide what happens if we don't agree.

Councilor Newman said that if we are going to cut a route, the impacted jurisdiction should have some say in what their constituents want and which routes are necessary. It is a less abrasive way of saying that we will cut routes if we don't have funding for your area. My intentions were not to tamper with this too much.

Mr. David Knoche, General Services Director explained that changes in routes must be approved by the federal government in keeping with CMRTA guidelines.

There was a consensus of Council to add that language to the agreement.

Councilor Newman suggested swapping "will" for "must".

Mr. Ken E. Gaines, City Attorney agreed to make those revisions and the final revision would be to add at no additional cost or "expense" to Section 7.04.

Councilor Gergel stated that someone wanted the Board to consider allowing flexibility to designate appointees, because it has been difficult for a number of representatives to attend.

Councilor Devine said that they may want to submit the names of those that want to serve to our delegation for consideration.

EXECUTIVE SESSION

Upon a motion made by Dr. Gergel and seconded by Mr. Newman, Council voted unanimously to go into Executive Session for the discussion of **Items 2** through **5** as amended.

- **Ms. Devine left the meeting at 3:43 p.m. and Mr. Rickenmann is now presiding.**
- **Ms. Devine returned at 4:30 p.m.**
- 2. Discussion of negotiations incident to proposed contractual arrangements – *This item was discussed in Executive Session. No action was taken.*
- 3. Receipt of legal advice which relates to pending, threatened or potential claim – *This item was discussed in Executive Session. No action was taken.*
- 4. Discussion of negotiations incident to the proposed sale of property – *This item was discussed in Executive Session. Please refer to **Item 6**.*
- 5. ****Receipt of legal advice which relates to matters covered by attorney-client privilege– This item was discussed in Executive Session. No action was taken.**
- **Council closed the Executive Session and reconvened the Work Session at 5:26 p.m.**

ORDINANCE – FIRST READING

***Amendment to the Agenda*

6. ** Ordinance No.: 2011-075 – Authorizing the City Manager to execute an Agreement of Sale between the City of Columbia and Bright-Myers, LLC for the sale of 5.97 +/- acres (Capital City Stadium), Richland County TMS# 11204-02-02 – *Approved on first reading.*

Upon a motion made by Mr. Rickenmann and seconded by Mr. Newman, Council voted unanimously to give first reading approval to Ordinance No.:2011-075 – Authorizing the City Manager to execute an Agreement of Sale between the City of Columbia and Bright-Myers, LLC for the sale of 5.97 +/- acres (Capital City Stadium), Richland County TMS# 11204-02-02.

- **Council recessed at 5:28 p.m.**
- **Council reconvened the Work Session at 5:42 p.m.**

7. Central Midlands Regional Transit Authority Temporary Intergovernmental Agreement – *Continued*

Mr. Ken E. Gaines, City Attorney recapped the revisions that were recommended by City Council.

Upon a motion made by Mr. Newman and seconded by Dr. Gergel, Council voted unanimously to approve the Central Midlands Regional Transit Authority as modified.

- **Council adjourned the Work Session at 5:50 p.m.**

Respectfully submitted by:

Erika D. Salley
Clerk