



Minutes
Sumter County Council
Budget Workshop-Special Meeting
Tuesday, June 23, 2020 - Held at 4:30 p.m.
Sumter County Courthouse, Third Floor
County Council's Chambers -- 308
141 North Main Street, Sumter, SC
Virtual And Face-To-Face

**Sumter County Government Offices are currently closed to the public.
Please use the following method to attend County Council's Meeting.**

<https://www.youtube.com/channel/UCAHjiqzPaonQ9LFS2kO37tA>

COUNCIL MEMBERS PRESENT:

FACE-TO-FACE

Chairman James T. McCain, Jr., Councilman Eugene R. Baten, and Councilman Vivian Fleming McGhaney

VIRTUAL

Vice Chairman James R. Byrd, Councilman Artie Baker, Councilman Charles T. Edens, and Councilman Chris Sumpter

COUNCIL MEMBERS ABSENT: None

STAFF MEMBERS PRESENT:

VIRTUAL

Gary Mixon

FACE-TO-FACE

Johnathan Bryan, Mary W. Blanding, Lorraine Dennis, Keysa Rogers, The Honorable Ernest Finney, Kelsey Andrews, Allen Dailey, Joe Perry, and one Sheriff Deputy.

MEDIA: Bruce Mills and Shelbie Goulding

PUBLIC: No members of the public attended this meeting due to the County being closed to the public.

CALL TO ORDER - The Honorable James T. McCain, Jr., Chairman of Sumter County Council called the meeting to order.

INVOCATION: Mrs. Mary W. Blanding, Clerk to County Council, gave the invocation.

PLEDGE OF ALLEGIANCE: Everyone in attendance virtually and face-to-face repeated the Pledge of Allegiance to the American Flag.

ACTION ON AGENDA: Chairman McCain stated that he would entertain a motion to approve the agenda for the Budget Workshop/Special Meeting.

ACTION: MOTION was made by Councilman Baker, seconded by Councilman Sumpter, and unanimously carried by Council to grant approval of the agenda as presented.

NEW BUSINESS:

1. **EXECUTIVE SESSION: It Is Necessary To Discuss An Item In Executive Session Pertaining To A Economic Development Property Matter And Take Actions Thereafter If Necessary.**

Chairman McCain stated that he would entertain a motion to enter Executive Session to discuss an Economic Development property matter.

ACTION: MOTION was made by Councilman Edens, seconded by Councilman McGhaney, and unanimously carried by Council to enter executive session to discuss the Economic Development property matter.

After the executive session, the Chairman asked for a motion to enter open session.

ACTION: MOTION was made by Councilman Baker, seconded by Councilman Sumpter, and unanimously carried by Council to enter executive session to re-enter open session.

Chairman McCain stated that Council discussed the property matter and he would entertain a motion from executive session.

ACTION: MOTION was made by Councilman Baker, seconded by Councilman Sumpter, and unanimously carried by Council to authorize the County Administrator to negotiate with the property owner concerning the potential purchase of property for Economic Development and to secure funds up to \$10,000 from the County's Infrastructure account to use for this negotiation process.

2. **DISCUSSION AND POSSIBLE ACTION AS NECESSARY: Ordinance #20-930 – Sale Of Beer And Wine For Off Premises Consumption On Sundays In The County Of Sumter.**

Mr. Johnathan Bryan, the County Attorney, introduced this ordinance to Council for explanation only. He stated that the ordinance is on the agenda for first reading consideration. The County Administrator wanted Mr. Bryan to explain the process for this ordinance being considered by Council to be added on the Ballot for the General Election in November. Mr. Bryan stated that the process for having this item listed on the ballot is required by State Law *S.C. Code Ann. 61-6-2010(C)(4) (2009)*. See ordinance listed below.

ACTION: Received as information.

WHEREAS, certain businesses located in the County of Sumter (the "County") desire to sell beer and wine on Sundays so as to maintain competitiveness with other businesses in adjoining counties and municipalities that allow the sale of beer and wine on Sundays;

WHEREAS, pursuant to S.C. Code Ann. 61-6-2010(C)(4) (2009), counties are authorized by ordinance to call for a referendum to be conducted at the next general election on the issue of allowing the sale of beer and wine on Sundays; and

WHEREAS, County Council desires to place the following referendum on the ballot at the next general election to be held on November 3, 2020.

NOW, THEREFORE BE IT ORDAINED BY COUNTY COUNCIL, that the Sumter County Election Commission is hereby directed to place the following question on the ballot at the next general election to be held on November 3, 2020, and to cause a notice to be published in the newspaper of general circulation at least seven (7) days before the referendum.

The form of the question on the ballot shall be as follows:

"Shall the Department of Revenue be authorized to issue temporary permits in this county for a period not to exceed twenty-four hours to allow the sale of beer and wine at permitted off-premises locations without regard to the days or hours of sales?"

AND IT IS SO ORDAINED by Sumter County Council this 28th day of July, 2020 in meeting duly assembled at Sumter, South Carolina.

3. FISCAL YEAR 2020-2021 FISCAL YEAR BUDGET PREPARATION:

A. Budget Presentation by Third Judicial Circuit Solicitor Finney.

The Honorable Ernest Finney presented his budget request before County Council. He reminded Council that he has been before them before; however, Council has not given the Solicitor's Office any additional funding from the request that he has presented for the past ten years. The request he made last year was for administrative staff; however, this year he needs additional attorneys and one additional investigator. Solicitor Finney also provided Council with a Detailed Revenue Stream of all Judicial Circuits in South Carolina showing the type of revenue each area is receiving from the Counties in that particular Circuit. Solicitor Finney indicated that several of the Counties comparable to Sumter County receive much more funds than the Sumter County Solicitor's Office.

Councilman McGhaney stated that it is only right for the Solicitor to be able to make a presentation before Council as an elected official; however, the County has tried its best to not add additional mills to balance the budget. Therefore, the Administrator and his staff would need to review the budget more closely to come up with the funds to provide the Solicitor's budget request, which equates to 1.4 mills. (See attached document).

Councilman Baten stated that he spoke to the Solicitor about the lack of staff that is in his office and the need for retaining his experienced staff. Council Baten further stated that the Solicitor's Office plays a key role in the Criminal Justice System in Sumter County. If the Solicitor's Office is unable to operate as efficiently as it needs to be because of a lack of staff or retention of staff, it reflects on the entire Criminal Justice system. Councilman Baten also stated that when we talk about people at the Detention Center it goes back to the fact that the Solicitor does not have the staff to process the cases as fast as they want

to. Unfortunately, this will have a rippling effect and we will still have to pay on the back end if the inmates are still housed in the County's Detention Center. Councilman Baten ended his statements by saying that he is in support of the Solicitor receiving additional funding to help Sumter County with needs in our Criminal Justice System.

This matter was also considered during the budget Recap/Update listed below.

Budget Request from Third Circuit Solicitor's Office

We are requesting a budget increase in the amount of 450,000.00. We have lost the ability to hire contract personnel due to rules of the IRS. This change costs us thousands of dollars on our line item for salaries. We have lost several attorneys and staff to better paying jobs. We have not offered substantial pay raises to attorneys and staff in the past five years; 50,000.00 of our request would be used for this purpose.

We have experienced an increase in the number of cases coming into our office over the past three years. These cases are more violent, take longer to prepare and usually must be tried before a jury.

The requested funds would be used to hire 2 full-time Attorneys, 1 Victim Advocate and 1 Investigator.

The salaries for the new hires would be as follows:

POSITION	SALARY	BENEFITS	TOTAL
Attorney 1	70,000.00	31,297.16	101,297.16
Attorney 2	70,000.00	31,297.16	101,297.16
Victim Advocate	32,000.00	20,995.36	52,995.36
Investigator	55,000.00	27,230.66	82,230.66
TOTAL	227,000.00	110,820.34	337,820.34

Our current staff of attorneys;		What our staff of attorneys should total	
Sumter	8	Sumter	10
Lee	2	Lee	2
Clarendon	1	Clarendon	2
Williamsburg	1	Williamsburg	2
TOTAL	12	TOTAL	16

Our Circuit currently has a total of 4,747 pending cases.

$4,747 \div 400$ (cases per attorney) = 11.87 (attorneys)

$4,747 \div 300$ (cases per attorney) = 15.82 (attorneys)

The American Bar Association recommends no more than 300 cases per attorney.

B. Recap/Update On Budget: Discussions Concerning Sumter County's Fiscal Year 2020-2021 Expenditures Projections, Revenue Projections, COLA, And Other Budgetary Matters; Take Actions If Necessary.

Prior to discussing the details for the budget, Mr. Mixon asked Council to review the changes to the Substance Abuse Policy, which is a part of the Employee Handbook and will be included in the Budget Ordinance.

After review of the Policy, the Chairman stated that he would entertain a motion concerning the approval of the Substance Abuse Policy to be included as part of the budget and the County's Employee Handbook.

ACTION: MOTION was made by Councilman Artie Baker, seconded by Councilman Chris Sumpter and unanimously approved by Council to approve the Substance Abuse Policy and the County's Budget.

Mr. Mixon then gave the following report on the budget for Fiscal Year 2020-2021

Budget Recap:

	May 26 Version (1 st Reading)	June 9 Version (2 nd Reading)	June 23 Version (3 rd Reading)
Revenues			
	\$50,581,084	\$51,059,854	\$51,163,769
Expenditures			
	\$50,742,592	\$51,059,854	\$51,163,769
(Deficit)	(\$161,508)	-0-	-0-

The Chairman asked the County Administrator when would Council discuss the request from the Solicitor's Office. Mr. Mixon stated that it could be discussed at this point. Therefore, the Chairman asked for comments from Council concerning the Solicitor's request as presented by the Honorable Ernest Finney, II.

Councilman McGhaney stated that she was in favor of the request; however, she was not in favor of a tax increase. Her suggestion was to look at some of the Infrastructure Funds or reduce the funding for the Other Agencies.

Councilman Edens stated that he wished the Solicitor had come before Council two months ago and not at the last minute. Council members Baten and McGhaney stated that the Solicitor has been before Council last year and did not receive additional funding. However, the County Administrator stated that as soon as the budget process began, COVID-19 hit and it was decided that the budget would be worked on using last year's figures and moving from that point. Then the Administrator also presented information concerning the following:

Major Expense Components:

Employee COLA (2%) Adjustment	\$517,489
Wage Study Salary Adjustments	\$626,368 (+ \$103,915)
Re-Assessment Cost	\$41,250
Treasurer Deed Prep Cost	\$100,000
Voter Registration Funding	\$132,200
Property & Liability Insurance	\$308,410
Capital Bond	\$3,500,000
Fund Balance (Reserves)	\$250,000

Major Revenue Components:

Tax Revenue Growth (1.5%)	\$428,109
Fee-in-Lieu	\$200,000
Redirecting Infrastructure Fund	\$216,057

Local Government Fund	\$217,755
Voter Registration Funding	\$132,200
Deed Prep Fees	\$100,000
Detention Center Fees	\$165,000
Millage Increase (1.9 mills)	\$548,189 (+ \$115,408)
GF Fund Balance	\$275,000
Change in LOST Factor	.001475 - .00141
Fire District Millage **	\$46,092
Solid Waste Tipping Fee **	\$44.51 - \$46.62

NOTE: Council decided to address the Solicitor's request during the regular agenda.

C. Recap and Discussion Concerning Budget Presentation Made By Sumter School District On June 9, 2020, and Take Appropriate Actions If Necessary.

Mr. Mixon presented the following information concerning the request from Sumter School District.

Councilman Baten recused himself from the meeting based on a conflict of interest. The recusal was received by the Clerk and the Chairman on March 12, 2020, at 2:40 p.m. See document below.

Eugene R. Baten, MS/LMSW
Sumter County Council, District 7
Post Office Box 3193, Sumter, SC 29151



March 12, 2020

Mr. James T. McCain
Chairman, Sumter County Council
13 East Canal Street
Sumter, SC 29150

Chairman McCain:

Effective immediately, I am hereby recusing myself from involvement and discussion on all matters concerning Sumter School District and Sumter County Sheriff's Office/Sumter-Lee Regional Detention Center. My daughter, Dr. Alexandra T. Baten, is presently involved (as the Plaintiff) in litigation with both organizations.

Sincerely,

Eugene R. Baten, MS/LMSW
Sumter County Council
District 7

cc: Mary Blanding, Clerk to Council
Gary Mixon, Sumter County Administrator
Johnathan Bryan, Esq., Sumter County Attorney
Jimmy Byrd, Vice Chairman Sumter County Council
Artie Baker, Sumter County Council
Vivian Fleming McGhaney, Sumter County Council
Charles Edens, Sumter County Council
Christopher Sumpter, Sumter County Council

County Administrator Gary Mixon, presented the following information concerning the Budget request from the School District as presented below:

Positions Needed

Position	Quantity	Dollar
Teachers	4.5	\$360,263
Special Services Teachers	4	\$320,234
Special Services - Paraprofessionals	4	\$146,046
Nurses	8	\$418,774
Guidance Counselors	2	\$160,117
Mental Health Professionals	10	\$615,840
Interventionist	13	\$823,025
Custodians	41	\$1,713,390
Media Specialist	1	<u>\$80,058</u>
Total	87.5	\$4,637,747



Positions Requested Each Year



	Net Tax	Res Ex	Total
Current Collections	19,922,318	19,333,669	39,255,987
Current Mill Value	245,196.67		
1.5% growth mill value	248,874.62		
Collections with 1.5% growth	Revenue Increase		
39,844,826.96	588,839.81		
Total mill value			
Real property	248,875		
Vehicles	<u>40,000</u>		
	288,875		

These numbers are based off of current collections from the Treasurer's Office and the residential exemption which are paid by the State.

School District Request:

Year One of Three Year Plan - \$1,537,851 for 29 Positions

\$1,537,851 = 5.3 mills*

\$1,537,851 = \$ 588,840 1.5% Growth* and 3.3 mills*

* estimated

After the discussion of the School District's Budget, Councilman Baten reentered Council's Budget Meeting and then Chairman adjourned the meeting.

ADDITIONAL AGENDA ITEM: There were no additional items.

OLD BUSINESS

1. None

ADJOURNMENT

Meeting adjourned at 5:48 p.m. upon **MOTION** by Councilman Baker, seconded by Councilman Sumpter, and unanimously carried by Council.

Respectfully submitted,

Mary W. Blanding

Mary W. Blanding, Clerk
Sumter County Council

Approved: July 14, 2020

The State of South Carolina



SOLICITOR

Ernest A. Finney, III
Solicitor

Third Judicial Circuit
Sumter County Judicial Center
215 North Harvin Street
Sumter, South Carolina 29150

Phone: (803) 436-2185
Fax: (803) 436-2189

June 19, 2020

Honorable James T. McCain, Jr.
Chairman of Sumter County Council
107 Canal Street
Sumter, South Carolina 29150

Honorable Gary Mixon
Sumter County Administrator
107 Canal Street
Sumter, South Carolina 29150

Re: 2020-2021 Budget Request for Office of the Solicitor

Gentleman:

For the past ten years I have been honored to serve the citizens of the Third Judicial Circuit as the elected Solicitor. Over those years I have seen many positive changes in the preparation and prosecution of our cases. The State of South Carolina through our legislature has appropriated hundreds of thousands of dollars to improve the efficiency of our operation. We receive state funds for our Drug Court, the staffing of domestic violence lawyers and to help with caseload equalization. Over the past ten years, Sumter County Council has not increased the allocation to our office to raise salaries for the professional staff to aid in retention of our lawyers, or to create new FTE positions so that we can keep up with crime in our community. I have lost two lawyers to higher pay at other agencies. I am seeking to hire lawyers at a starting pay level of \$ 45,000.00. In Conway, South Carolina starting pay is \$65,957.00. We have gone from nine lawyers in the Sumter office to seven, one of whom is part-time. Most of the lawyers serving now have not seen a substantial raise in pay in the past four years.

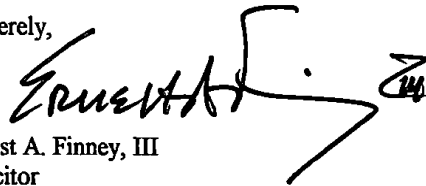
Over the past year the Chief Justice of the South Carolina Supreme Court has implemented tougher standards on the solicitors across this state. A benchmark has been established which requires us to move cases faster and more efficiently. In my four-county circuit, two of the county offices, Lee and Williamsburg, are on track to meet the benchmark this year. Sumter and Clarendon need serious help. For years I believed that we needed more lawyers to get the cases moved. However, an audit of my office compared to other circuits of similar size in population shows that we have a serious shortage of support staff. The graph submitted in support of my request is attached to this letter.

Compared to the First, Second and Twelfth circuits the Third circuit is seriously understaffed not in terms of lawyers but support staff. We need to hire and train more staff to support and carry on the work of case management, case investigation and victim advocacy. While each of the other circuits employs 43 or more people, we only employ 34. I am looking to add 10 new full- time employees in our four counties. Sumter needs 4 FTE positions immediately. I will campaign diligently in the three other counties for two additional FTE positions in each of those offices.

This year our court system has been severely affected by the COVID-19 virus. The Court has been shut down for months. On top of this inability to move cases violent crime is up. In 2018 we saw seven (7) murders in our County. In 2019 we saw 15 murders. From January thru May of 2020 we have already had 13 murders and we still have six months until the year ends. I am requesting an increase of Three Hundred Eighty- Eight Thousand (\$ 388,000.00) Dollars to add four new FTE positions to the office in Sumter County and give \$50,000.00 in salary increases to deserving employees.

I am confident that an increase in our office staff will improve our ability to prepare and prosecute cases in a more efficient manner. It will help my lawyers spend more time on getting cases moved through the courts and less time on case management. This will help reduce the time suspects spend in the detention center. It will reduce the monies needed to pay for jury members to be summoned for jury service. It will assist law enforcement and citizen victims to have cases moved faster. Please consider this request as a priority for this new budget year. Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read "Ernest A. Finney, III", followed by a stylized flourish or checkmark.

Ernest A. Finney, III
Solicitor

CIRCUIT COMPARISON

	1st Circuit (3 counties)	2nd Circuit (3 counties)	3rd Circuit (4 counties)	12th Circuit (2 counties)
Attorneys	16	16	16	13
Investigators	4	6	1	3
Victim Advocates	8	6	4	3
Staff	17	19	13	24
TOTAL	45	47	34	43

dence submitted at trial. Nor is an attorney required to present the law impartially to a judge. However, a trial attorney must disclose directly adverse controlling law when the other lawyer fails to do so. SCACR 407, § 3.3(2). The same goes for misleading statements of facts or evidence she knows are false. *Id.* at comment [2].

Witness behavior during breaks in trial or depositions

This rule starts out simple. You're not supposed to talk to your witness about his testimony during a break in trial or a deposition. Thus, if the judge gives the jurors a smoke break, you cannot speak to your witness about problems in his testimony or about things you intend to "clarify" on re-direct. (During a lunch break, there's no prohibition against having lunch with your client, though some lawyers decline to do so because of the appearance of impropriety.) The same goes for deposition testimony, except to decide issues of privilege or to make a motion for a protec-

tive order, or regarding documents not provided (or identified) at least three days before the deposition (two days in the state courts). Local Civil Rule 30.04(H); S.C. R. Civ. P. 30(j)(8). (The rules don't specifically say whether providing and identifying documents in response to interrogatories and requests to produce satisfy this requirement.) Probably the best course is for a lawyer also to advise his client not to consult documents (e.g., a deposition transcript or statement), or to talk to the client's friends present in the courtroom, during breaks in trial testimony or a deposition.

OK, that's the easy part. Now for criminal prosecutions. The accused also may be barred from consulting with his lawyer on a break between direct and cross. *Perry v. Leake*, 832 F.2d 837 (4th Cir. 1987). However, the accused's constitutional rights might be violated if prohibited from consulting with the attorney overnight. Nonetheless, a defense attorney is still not allowed to coach a client on a break about the client's testimony, even if the completion of the testimony is delayed overnight.

A friendly conversation with the jurors

Everyone knows that you're not supposed to contact jurors during trial. But how about before or after trial?

Before trial, direct contact by lawyers or litigants with jurors who will be in the venire is barred. Even indirect contact, such as hiring an investigator to interview jurors is the stuff of which disbarments are made.

The problems usually arise with members of the jurors' families. See *United States v. Warlick*, 742 F.2d 113 (4th Cir., 1984); S.C. Bar Ethics Advisory Opinion 93-27. In the state courts, members of the juror's family may not be contacted if within the "sixth degree" of kinship. In federal district court, the bar extends to "members of the family" as described in Local Civil Rule 47.03. How about after trial? Generally, contact between trial lawyers and jurors is allowed, unless barred by

the judge or applicable rules. Many years ago, some of the older judges frowned upon any post-trial juror contact. In federal courts, lawyers "do so at their own peril," at least in civil trials. Local Civil Rule at 47.05(B). Since I've been practicing law, I've had no judge prohibit lawyers from contacting jurors after a civil trial. To educate lawyers, one former circuit judge encouraged respectful, proper juror contact. There is an ethics opinion, however, indicating that lawyers should not write a letter to all jurors thanking them for their service. S.C. Bar Ethics Advisory Op. 77-04.

If there's no prohibition by the judge, and you want to speak to a juror after trial, I'd suggest that at the outset you inform the juror who you are, that she need not speak to you at all if she desires not to, that post-trial contact with consenting jurors is not prohibited by law, and then ask her if she'd mind speaking to you for a few minutes. Be extremely solicitous of the juror's feelings and end the call immediately (but politely) if you believe the juror is unappreciative of your contact. Your comments shouldn't have the effect of embarrassing or harassing the juror or trying to influence her actions in future jury service. Local Civil Rule 47.05(B).

And finally . . .

Here are three final suggestions I believe might help in making some gray-area type decisions about what's right or wrong. Use 'em as you see fit.

- If you told the other lawyer you'd do something, abide by your word, *even if it's not in writing*.
- Being rude, haughty or arrogant doesn't mean you're a good litigator. It doesn't mean you're a "legend." It just means you're a jerk. The best lawyers I've known are polite and respectful. Remember the *Lawyer's Oath*.
- Give the other lawyer a break on procedure when he or she needs it. I don't mean that you should let a slack attorney shift the burden to you. Just remember that no one's perfect, and what goes around comes around.

15TH CIRCUIT SOLICITOR'S OFFICE, HORRY & GEORGETOWN COUNTIES, SC, SEEKING 3 ATTORNEYS

Minimum qualifications:
a Juris Doctorate degree of law from an accredited college and five to 11 months of general office experience and courtroom observation. Must be a member of the SC Bar. Starting salary: \$65,957.08.

Send resumes to Cathy Floyd, Office Manager, P.O. Box 1276, Conway SC 29526.