

Planning Your County's Infrastructure

**A Continuing Education Webcast Sponsored by the
South Carolina Association of Counties**

Thursday, May 12, 2016

AGENDA

- | | |
|--------------------------------|--|
| 9:00 – 9:30 A.M. | Planning and Zoning Boards and Commissions:
Roles, Responsibilities, and Challenges
<i>Kristopher L. Kurjiaka, Zoning Administrator
Greenville County</i> |
| 9:30 – 10:15 A.M. | The Ethics, Government Accountability, and Campaign Reform Act of 1991:
What Board and Commission Members Need to Know
<i>Michael R. Burchstead, General Counsel
S.C. State Ethics Commission</i> |
| 10:15 – 10:25 A.M. | Break |
| 10:25 – 10:45 A.M. | Overview of the Fixing America's Surface Transportation Act
<i>J. Mike Sullivan, Chief of Statewide Planning
S.C. Department of Transportation</i> |
| 10:45 A.M. – 12:30 P.M. | Floodplain Management: Lessons from the 2015 Floods
<i>Tracy L. Hegler, AICP, Planning Director
Richland County</i>
<i>George K. McGregor, AICP, Planning Director
Sumter County</i>
<i>Norman S. Levine, Ph.D., Associate Professor
College of Charleston</i> |

**Planning and Zoning
Boards and Commissions:
Roles, Responsibilities,
and Challenges**

*Kristopher Kurjiaka
Zoning Administrator
Greenville County*



**Roles & Responsibilities :
Planning Commission**

It is the function and duty of the local planning commission...to undertake a continuing planning program for the physical, social, and economic growth, development, and redevelopment of the area within its jurisdiction. The plans and programs must be designed to promote public health, safety, morals, convenience, prosperity, or the general welfare as well as the efficiency and economy of its area of jurisdiction. (§ 6-29-340)

- Primarily advisory board to Council
- Final decision-making body on development requests

2

**Roles & Responsibilities :
Planning Commission**

- Prepare and revise a Comprehensive Plan
- Prepare and recommend plans and programs for implementation of goals [outlined in the Comprehensive Plan]
 - Zoning Ordinance, including zoning map and revisions
 - Land Development and Subdivision Regulations
 - Official Maps
 - Landscaping / Tree Protection Ordinances
 - Capital Improvement Program (CIP)
 - Other implementation policies and procedures

3

Roles & Responsibilities : Planning Commission

- Final review and decision on development plans
 - Subdivision Plats
 - Group Developments
 - Developments of Regional Significance
 - Planned Development Site Plans
 - Variances related to subdivision regulations

4

Roles & Responsibilities : Board of Zoning Appeals

As a part of the administrative mechanism designed to enforce the zoning ordinance, the zoning ordinance may provide for the creation of a board to be known as the board of zoning appeals. (§ 6-29-780)

- Quasi-judicial board tasked with enforcement of the Zoning Ordinance

5

Roles & Responsibilities : Board of Zoning Appeals

- Variances
 - Extraordinary and exceptional conditions
 - Does not generally apply to other properties
 - Unreasonably restrict utilization of property
 - Not be of substantial detriment
- Appeals
 - To administrative actions dealing with the Zoning Ordinance
- Special Exceptions
 - Ensure conformance to standards and conditions of a use within a specified district
- Interpretations
 - Clarification of any vague or contradictory portions of the Zoning Ordinance or Map

6

Roles & Responsibilities: Architectural Review Board

A local government which enacts a zoning ordinance which makes specific provision for the preservation and protection of historic and architecturally valuable districts and neighborhoods or significant or natural scenic areas, or protects or provides, or both, for the unique, special, or desired character of a defined district, corridor, or development area or any combination of it, by means of restriction and conditions governing the right to erect, demolish, remove in whole or in part, or alter the exterior appearance of all buildings or structures within the areas, may provide for appointment of a board of architectural review or similar body. (§ 6-29-870)

7

Roles & Responsibilities: Architectural Review Board

- Final review and decision for projects, usually within an overlay district
 - Erection (of new buildings)
 - Demolition (in whole or part)
 - Alteration of exterior appearance
 - Appeals

8

Challenges: Boards and Commissions

Making sound decisions

- Supported by the Ordinances
 - Meets or exceeds minimum requirements
 - Consistent with the intent
 - Follows the correct process/procedures
- Beneficial to the Community
 - Projects or confirms a common vision
 - Creates long term assets

9

Challenges: Boards and Commissions

Making sound decisions

- Preparation for meetings
- Asking the right questions
- Weighing public input vs. public good
- Due process
- Making motions
- Consistency

10

Challenges: Boards and Commissions

- Preparation for meetings
 - Know your ordinances
 - Understand the requests/material
 - Have questions ready
 - Visit sites (involved with applications)

11

Challenges: Boards and Commissions

- Asking the right questions
 - Prior to meetings
 - Clarification on the request
 - Request for information to be available that would not otherwise be at the meeting
 - During meetings
 - Keep questions relevant to the request
 - Avoid asking leading questions
 - Don't ask questions you don't want to know the answer to

12

Challenges:
Boards and Commissions

- Making motions
 - All actions on zoning or development requests must be accompanied by grounds for approval or disapproval and any conditions attached to the action
 - Motions should clearly address these items
 - Assume that you are going to be the one making the motion for every case
 - Take notes during the meeting!

13

Challenges:
Boards and Commissions

- Sample motions

I move to recommend approval of zoning map amendment request 16-0001 to rezone 52 Main Street from R-6, Single Family Residential to CB, Central Business based on the request being compatible with the Comprehensive Plan, specifically the Future Land Use Map.

14

Challenges:
Boards and Commissions

- Sample motions

I move to approve the variance request for 29 1st Street from the rear setback requirements, allowing a 10 foot variance from the 20 foot required setback, with the condition that an 8 foot tall evergreen screen be planted between the building and adjacent rear property line. This is based upon the satisfaction of the four required criteria for a zoning variance as follows:

 - Extraordinary and exceptional conditions exist with the property in that it is a corner lot subject to two front setbacks with a power line easement running along the left side of the property practically eliminating any building envelope;
 - Other properties in the vicinity are not subject to these same conditions;
 - Adhering to the setback requirements would make it unfeasible to put any structure on the property and the applicant has request the minimum amount of relief necessary to utilize the property; and
 - This would not cause any harm to the character of the district and the provision of screening will reduce the impact of the structure on the adjacent commercial property.

15

Questions?

- Sources for more information on SC Planning:
 - 2014 Comprehensive Planning Guide for Local Governments (by MASC) - <http://www.masc.sc/SiteCollectionDocuments/Land%20Use%20Planning/Comp%20Planning%20Guide.pdf>
 - American Planning Association (APA) - <https://www.planning.org/>
 - South Carolina APA Chapter - <http://scapa.org/>

16

State Ethics Commission: Ethics Act Issues for Public Officials

Michael R. Burchstead
General Counsel, S.C. State Ethics Commission
May 12, 2016

The Ethics Act

The Ethics Act of 1991

- The Ethics, Government Accountability, and Campaign Reform Act of 1991.
 - Passed in 1991 in the wake of Operation Lost Trust.
 - Amended in 1995, 2003, 2008, and 2011.
 - Regulations went into effect in 1997.
 - Pending legislation in the General Assembly.

Ethics Commission jurisdiction

- Four subject areas of Ethics Act
 - **Rules of Conduct (§ 8-13-700 through 8-13-795)**
 - **Financial Disclosure (§ 8-13-1110 through 8-13-1180)**
 - Campaign practices (§ 8-13-1300 through 8-13-1374)
 - Lobbyist/Lobbyist's Principals (§ 2-17-5 through 2-17-150)

Recent Legislation

SC Senate passes ethics reform after 4-year push

JEFFREY COLLINS
Associated Press

Published: Wednesday, April 27, 2016 at 3:15 a.m.
Last Modified: Thursday, April 28, 2016 at 7:23 a.m.

COLUMBIA (AP) — After four years of fighting, the South Carolina Senate approved a bill allowing independent ethics investigations of lawmakers.

The bill was one of two passed Wednesday. The other proposal requires lawmakers to disclose almost all sources of private income — but not how much they are paid.

Gov. Nikki Haley and the House have pushed for ethics reform since 2012, only to see their attempts stop at the Senate door.

Sen. Larry Martin has been at the front of the four-year fight in his chamber. Last year, he ended up voting against his own ethics bill that he sponsored after an amendment watered it down so much he couldn't support it any more.

He said Wednesday's vote was a big step forward.

Legislative Update

- **H.3184 – Additional income disclosure**
 - Current bill requires disclosure of the sources of income over \$500, but not the amounts .
 - Excludes sources of income from
 - (i) a court order;
 - (ii) a savings, checking, or brokerage account with a bank, savings and loan, or other licensed financial institution which offers savings, checking, or brokerage accounts in the ordinary course of its business and on terms and interest rates generally available to a member of the general public without regard to status as a public official, public member, or public employee;
 - (iii) a mutual fund or similar fund in which an investment company invests its shareholders' money in a diversified selection of securities;
- **H3186 – Independent investigations of General Assembly**

Financial Disclosure

Statements of Economic Interests

- Section 8-13-1110
 - Statement of Economic Interests to be filed upon entering official responsibilities and then on or before March 30th by noon of each year of service.
- Section 8-13-1120
 - In general, income received from the government is required – not income received from private sources.
 - (2) “the source, type, and amount of value of income, not to include tax refunds, of substantial monetary value received from a governmental entity by the filer or a member of the filer’s immediate family....”
 - (7) Any associations with lobbyists
 - (8) “if a public official...receives compensation from an individual or business which contracts with the governmental entity with which the public official...serves..., the public official must report the name and address of that individual or business and the amount of compensation paid to the public official...by that individual or business.”
 - (9) source and description of any gifts received during the previous calendar year (Note conflict with 710)

Rules of Conduct

Definitions

- **“Economic interest”** (Section 8-13-100(11))
 - Interest distinct from that of the general public.
 - Large class exception. If the only economic interest realized is that which would be realized as a member of a “profession, occupation, or large class,” then the public official, public member, or public employee may participate in the decision.
- **“Family member”** (Section 8-13-100(15))
 - Includes a member of the person’s immediate family, also: spouse, parent, brother, sister, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild.
 - Amended in 2011 to include in-laws.
- **“Individual with whom he is associated.”** (Section 8-13-100(21))
 - “Individual with whom the person or a member of his immediate family mutually has an interest in any business of which the person or a member of his immediate family is a director, officer, owner, employee, compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.”
- **“Business with which he is associated.”** Section 8-13-100(4)
 - “Business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.”
 - If you or your spouse is employed by a company, that is a business with which you are associated.
 - “Governmental entity” not a business.

700 violations

- Section 8-13-700(A)
 - “No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a family member, an individual with whom he is associated, or a business with which he is associated.”
 - Exception for incidental use not resulting in additional public expense.
- Section 8-13-700(B)
 - “No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a family member, an individual with whom he is associated, or a business with which he is associated has an economic interest.”

Recusal provision of 700(B)

- Section 8-13-700(B)(continued)
 - "A public official, public member, or public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a family member, an individual with whom he is associated, or a business with which he is associated shall:
 - (1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;
 - ...
 - (3) if he is a public employee, he shall furnish a copy of the statement to his superior, if any, who shall assign the matter to another employee who does not have a potential conflict of interest. If he has no immediate superior, he shall take the action prescribed by the State Ethics Commission;
 - (4) if he is a public official, other than a member of the General Assembly, he shall furnish a copy of the statement to the presiding officer of the governing body of an agency, commission, board, or of a county, municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and the reasons for it to be noted in the minutes;

Prohibition on representation

- Section 8-13-740 states in part:
 - (4) A public official, public member, or public employee of a county may not knowingly represent a person before an agency, unit, or subunit of that county for which the public official, public member, or public employee has official responsibility except:
 - (a) as required by law; or
 - (b) before a court under the unified judicial system.
 - (7) The restrictions set forth in items (1) through (6) of this subsection do not apply to:
 - (a) purely ministerial matters which do not require discretion on the part of the governmental entity before which the public official, public member, or public employee is appearing;
 - (b) representation by a public official, public member, or public employee in the course of the public official's, public member's, or public employee's official duties;
 - (c) representation by the public official, public member, or public employee in matters relating to the public official's, public member's or public employee's personal affairs or the personal affairs of the public official's, public member's, or public employee's immediate family.

Other Rules of Conduct provisions

- **Section 8-13-705**
 - May not receive or give anything of value with intent to influence.
 - Section 8-13-100(1) defines what is and what isn't "anything of value."
- **Section 8-13-715**
 - May not accept an honorarium for speaking engagements in one's official capacity. May accept payment for actual expenses.
- **Section 8-13-720**
 - May not accept additional money for assistance given while performing one's duty.
- **Section 8-13-725**
 - May not use confidential information gained through employment for personal gain.
- **Section 8-13-750**
 - May not cause the employment, promotion, or transfer of a family member to a position in which one supervises. Prohibits discipline of one's family member.
- **Section 8-13-755 and 760**
 - Post employment restrictions

Campaign Practices

Public Resources and Elections

- Public employees or officials may not engage in any activity on public time or using public resources to promote or oppose a certain vote.
- Section 8-13-1346
 - (A) A person may not use or authorize the use of public funds, property, or time to influence the outcome of an election.
 - (B) This section does not prohibit the incidental use of time and materials for preparation of a newsletter reporting activities of the body of which a public official is a member.
 - (C) This section does not prohibit the expenditure of public resources by a governmental entity to prepare informational materials, conduct public meetings, or respond to news media or citizens' inquiries concerning a ballot measure affecting that governmental entity; however, a governmental entity may not use public funds, property, or time in an attempt to influence the outcome of a ballot measure.
- See also: Section 8-13-765
 - (A) No person may use government personnel, equipment, materials, or an office building in an election campaign. The provisions of this subsection do not apply to a public official's use of an official residence.

Confidentiality

Confidentiality

- S.C. Code Ann. 8-13-320(10)(g):
 - All investigations, inquiries, hearings, and accompanying documents must remain confidential until a finding of probable cause or dismissal unless the respondent waives the right to confidentiality. The wilful release of confidential information is a misdemeanor, and any person releasing confidential information, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year.
- S.C. Code Ann. Regs. 52-718
 - (A) No person associated with a complaint...shall mention the existence of the proceedings or disclose any information pertaining thereto except to persons directly involved including witness and potential witnesses, and then only to the extent necessary for investigation and disposition of the complaint. Witnesses and potential witnesses shall be bound by these confidentiality provisions.
 - (B) The Respondent may waive the confidentiality of the proceeding in writing filed with the Commission.

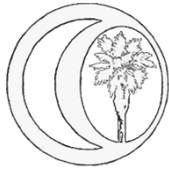
Penalties

Penalties for Violation of Ethics Act

- Late filing penalties for Statements of Economic Interests and Campaign Disclosure forms set by statute. Section 8-13-1510
 - Penalties are per late form – penalties can build up quickly
 - \$100 if not filed within five days.
 - If compliance not met, after the Ethics Commission provides notice by certified mail:
 - \$10 a day for 10 days
 - \$100 a day after that until compliance met or maximum penalty of \$5,000 reached.
 - Previously there was no maximum
- Penalty set at \$2,000 for violations that are not categorized as non-compliance.
- In addition to penalties set by statute, the Commission may levy fines and administrative fees, and may issue a public reprimand.

Conclusion

- If you have any doubt as to whether a course of conduct will be a problem, you may seek an advisory opinion from the Commission.
- Anyone subject to the Act may request the opinion
- Email: mburchstead@ethics.sc.gov
- Direct line: (803) 929-2503



**South Carolina
Association of Counties**

**Fixing America's Surface
Transportation (FAST) Act**

**Webcast Training
May 12, 2016 • Columbia, SC**

"Building Stronger Counties for Tomorrow"

FAST Act

- Signed by President Obama on December 4, 2015
- First long-term authorization act in a decade
- Result of bipartisan cooperation and compromise
- Provides 5 years of funding certainty for infrastructure planning and investment
- Authorizes \$305 B (all modes) over FY 2016-2020
- \$70 B in transfers to keep the Highway Trust Fund solvent; fully "paid for" (offset) by unrelated savings

Overview

A Multimodal Program Platform

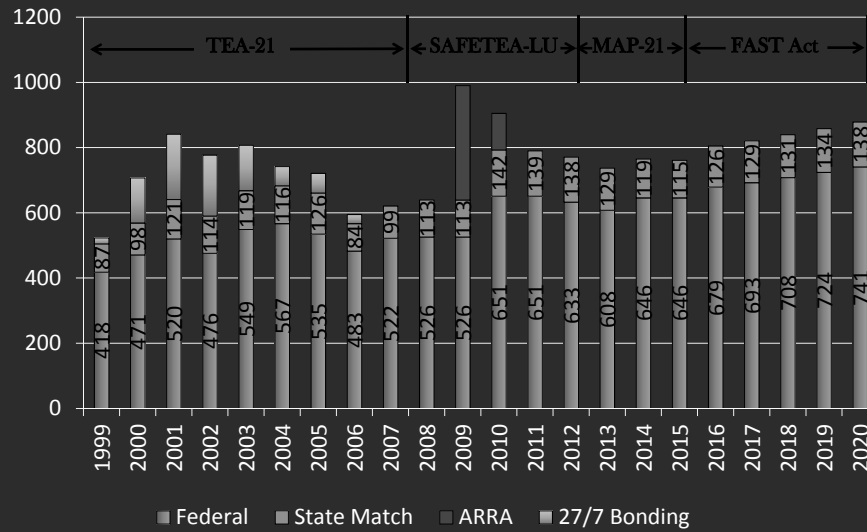


Overview

FAST Act's Policy Priorities



Federal-Aid Funding Trends FFY 1999-2020



SC STIP FAST ACT APPORTMENT NUMBERS WITH MATCH

	2016	2017	2018	2019	2020	2021	2022
NHPP/IM	\$483.6	\$494.0	\$505.0	\$516.8	\$529.5	\$529.5	\$529.5
STBGP	\$229.2	\$234.3	\$239.8	\$245.7	\$252.0	\$252.0	\$252.0
HSIP	\$41.4	\$42.2	\$43.1	\$44.1	\$45.2	\$45.2	\$45.2
RR Crossings	\$6.7	\$6.8	\$7.0	\$7.1	\$7.3	\$7.3	\$7.3
CMAQ	\$16.3	\$16.6	\$17.0	\$17.4	\$17.8	\$17.8	\$17.8
Metro PL	\$3.9	\$4.0	\$4.1	\$4.2	\$4.3	\$4.3	\$4.3
NHFP	\$24.5	\$25.0	\$25.5	\$26.1	\$26.7	\$26.7	\$26.7
TOTAL	\$805.6	\$822.9	\$841.5	\$861.4	\$882.8	\$882.8	\$882.8

Program Structure



Revenue and Financing

- \$70 billion of General Funds transferred to HTF under FAST.
- After 2020, average annual shortfall in HTF will reach about \$20 billion.

Freight



Freight



Program and Project Delivery



Program and Project Delivery



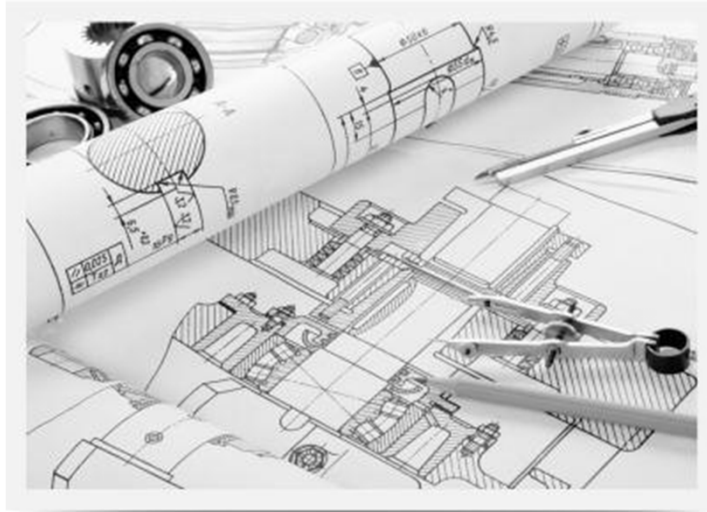
Planning



Performance Management/Asset Management



Design Standards



Public Transportation



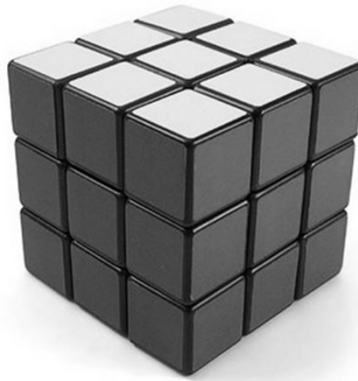
Rail Transportation



Challenges



Challenges



Questions?

Mike Sullivan, P.E.
Chief of Statewide Planning
SCDOT

(803) 737-4662
sullivanjm@scdot.org