

MINUTES

County Council Meeting

November 15, 2010

Spartanburg County Council met on Monday, November 15, 2010, in the County Council Chambers, 366 N. Church Street, Spartanburg, SC, at 5:30 p.m. The following attended: Honorable Jeff Horton, Chairman; Honorables Michael Brown, O'Neal Mintz, David Britt, Jane Hall, Dale Culbreth, and Tom Foster, Council Members; along with Glenn Breed, County Administrator; Jim Hipp, Deputy County Administrator; Edwin Haskell, County Attorney; and William McBee Smith, Assistant County Attorney.

In compliance with the Freedom of Information Act, notice of this meeting was provided in advance to the local news media and other interested parties.

I.

Chairman Horton called the meeting to order.

Invocation was rendered by Chaplain Jerry Clevenger. Mr. Jerry Kiehl, Veterans Affairs, and Hutchins Caldwell Marine Corps League led in reciting the Pledge of Allegiance.

II.

- A. Motion made by Ms. Hall to adopt a Resolution designating the month of November 2010 as Pulmonary Hypertension Awareness Month. Motion seconded by Mr. Britt and carried. Ms. Penney Cline received the Resolution.
- B. Motion made by Mr. Foster to adopt a Resolution expressing recognition and appreciation for the pride and honor bestowed upon Spartanburg County by the Veterans who courageously served in the United States Armed Forces and recognizing the organizations providing services to Veterans. Motion seconded by Mr. Mintz and carried.
- C. Chairman Horton recognized the Graduates of Spartanburg County Fall 2010 Citizens' Academy. The graduates were Cecily Baker, Michael Blackwell, Roxanne Bradley, Frederick Ellis, Dalemonica Fernandors, Jennifer Foster, Darryl Grady, Allison Jordan, Audrey Lindsey, Lisa Moe, Joan Moore, Joe Parrish, Ashley Porter, Caveril Pryce, Patty Simmons, Mary Smith, Theresa Springer, Judy Troup, Stephanie Wade, and Nikki Wood.

III.

- A. Chairman Horton declared open a public hearing to consider a Resolution in support of the issuance by the South Carolina Jobs-Economic Development Authority of its Recovery Zone Facility Revenue Bonds (**The Retreat at River Falls Project**), Series 2010, pursuant to the provisions of Title 41, Chapter 43, of the Code of Laws of South Carolina, 1976, as

amended, in the aggregate principal amount of not exceeding \$15,000,000. No one appeared, and the matter was closed.

- B. Chairman Horton declared open a public hearing to consider a Resolution in support of the issuance by the South Carolina Jobs-Economic Development Authority of its variable rate Economic Development Revenue Bond (**Young Men's Christian Association of Greater Spartanburg Project**) Series 2010, pursuant to the provisions of Title 41, Chapter 43, of the Code of Laws of South Carolina 1976, as amended, in the aggregate principal amount of not exceeding \$10,000,000. Mr. Rick Calebs, CEO, Young Men's Christian Association (YMCA) appeared. The YMCA is preparing to build a new facility located at the same location as the current facility. The matter was closed.
- C. Chairman Horton declared open a public hearing to consider an Ordinance authorizing the execution and delivery of (1) an amended and restated fee in lieu of tax agreement by and among Spartanburg County, South Carolina, **Rochling Automotive Duncan, LLP** and certain other sponsor affiliates with respect to certain economic development property in the county, whereby such property will be subject to certain payments in lieu of taxes; (II) an infrastructure finance agreement by and between Spartanburg County, South Carolina and Rochling Automotive Duncan, LLP with respect to certain economic development property in the county, whereby such property will receive certain infrastructure credits in respect of its investment in related infrastructure; and (III) other matters related thereto. No one appeared, and the matter was closed.
- D. Chairman Horton declared open a public hearing to consider an Ordinance to amend that certain agreement for the development of a joint industrial and business park between Spartanburg County and Cherokee County dated March 19, 2007. (**Rhe-Tech in Cherokee County**) No one appeared, and the matter was closed.
- E. Chairman Horton declared open a public hearing to consider an Ordinance finding that the **Arkwright Area Fire District**, South Carolina may issue a not exceeding \$175,000 General Obligation Bond and to provide for the publication of notice of the said finding and authorization. Attorney Lawrence Flynn, Pope Zeigler, stated that one of the authorized purposes for issuing the bonds was changed after the publication of the public hearing notice. The one change made to the other authorizations was to allow Croft Fire District to go and repave the Arkwright Fire Area parking lot. The matter was closed.
- F. Chairman Horton declared open a public hearing to consider an Ordinance approving a plan and agreement of consolidation of **Arkwright Area Fire District into Croft Fire District and Roebuck Fire District**, and other matters relating thereto. No one appeared, and the matter was closed.

IV.

No appearances scheduled.

V.

Economic Recruitment and Development Committee – (Honorable David Britt, Chairman)

- A. Motion made by Mr. Britt to render first reading to an Ordinance to amend Ordinance No. O-99-014, as previously amended by Ordinances No. O-00-016, No. O-01-18, No. O-03-03, No. O-03-13, No. O-08-29, No. O-09-32, and No. O-10-07 relating to the joint county industrial and business park (Park No. 2) of Cherokee and Spartanburg Counties so as to enlarge the park. (**Timken**) Motion seconded by Mr. Foster and carried.
- B. Motion made by Mr. Britt to adopt a Resolution consenting to an extension in the investment period for **Kohler Co.** under its fee agreement with Spartanburg County pursuant to Section

12-44-30(13), Code of Laws of South Carolina, 1976, as amended (the "Code"), and an extension of the term of the fee agreement pursuant to Section 12-44-30(20) of the Code; and other matters related thereto. Motion seconded by Mr. Foster and carried.

- C. Motion made by Mr. Britt to adopt a Resolution authorizing the execution and delivery of an Inducement Agreement by and among Spartanburg County, South Carolina, **Frigoglass North America Ltd. Co. and Buffington Road LLC**, whereby, under certain conditions, Spartanburg County will execute a fee in lieu of tax agreement with Frigoglass North America Ltd. Co. and Buffington Road LLC with respect to an industrial project in the county, whereby the project would be subject to payment of certain fees in lieu of taxes, locate the project in a multi-county industrial and business park; and providing for related matters. Motion seconded by Mr. Foster and carried.
- D. Motion made by Mr. Britt to render first reading to an Ordinance authorizing the execution and delivery of a fee in lieu of tax agreement by and among Spartanburg County, South Carolina, **Frigoglass North America Ltd. Co. and Buffington Road LLC** with respect to certain economic development property in the county, whereby such property will be subject to certain payments in lieu of taxes; and other matters related thereto. Motion seconded by Mr. Foster and carried.
- E. Motion made by Mr. Britt to render first reading to an Ordinance to amend Ordinance No. O-99-014, as previously amended by Ordinances No. O-00-016, O-01-18, No. O-03-03, No. O-03-13, No. O-08-29, No. O-09-32 and No. O-10-07 relating to the joint county industrial and business park (Park No. 2) of Cherokee and Spartanburg Counties so as to enlarge the park. **(Frigoglass North America Ltd. Co. and Buffington Road LLC)** Motion seconded by Mr. Foster and carried.
- F. Motion made by Mr. Britt to render second reading to an Ordinance authorizing the execution and delivery of a fee agreement by and between Spartanburg County, South Carolina and **Project SE**; and other matters relating thereto. Motion seconded by Mr. Foster and carried.

Public Health and Human Services Committee (Honorable Jeff Horton, Chairman)

No items scheduled.

Personnel and Finance Committee (Honorable Dale Culbreth, Chairman)

- A. Motion made by Mr. Culbreth to adopt a Resolution in support of the issuance by the South Carolina Jobs-Economic Development Authority of its Recovery Zone Facility Revenue Bonds **(The Retreat at River Falls Project)**, Series 2010, pursuant to the provisions of Title 41, Chapter 43, of the Code of Laws of South Carolina, 1976, as amended, in the aggregate principal amount of not exceeding \$15,000,000. Motion seconded by Ms. Hall and carried.
- B. Motion made by Mr. Culbreth to adopt a Resolution in support of the issuance by the South Carolina Jobs-Economic Development Authority of its variable rate Economic Development Revenue Bond **(Young Men's Christian Association of Greater Spartanburg Project)** Series 2010, pursuant to the provisions of Title 41, Chapter 43, of the Code of Laws of South Carolina 1976, as amended, in the aggregate principal amount of not exceeding \$10,000,000. Motion seconded by Mr. Brown and carried.
- C. Motion made by Mr. Culbreth to adopt a Resolution to declare the results of a referendum held in the Whitney Area Fire District, South Carolina, on November 2, 2010. Motion seconded by Mr. Britt and carried.
- D. Motion made by Mr. Culbreth to render third reading to an Ordinance finding that **Whitney Area Fire District**, South Carolina may issue not exceeding \$2,000,000 General Obligation Bonds; to authorize the Board of Fire Control of the Whitney Area Fire District, South Carolina to issue such bonds and to provide for the publication of notice of the said finding and authorization. Motion seconded by Mr. Britt and carried.

- E. Motion made by Mr. Culbreth to adopt a Resolution declaring the results of a referendum held on November 2, 2010, on the question of the issuance of not exceeding \$800,000 General Obligation Bonds of **Hilltop Area Fire District** of Spartanburg County, South Carolina. Motion seconded by Ms. Hall and carried.
- F. Motion made by Mr. Culbreth to render first reading to an Ordinance authorizing the Board of Fire Control of the **Hilltop Area Fire District** in Spartanburg County to issue General Obligation Bonds in the principal amount of not exceeding \$800,000 to be issued by the Hilltop Area Fire District; and other matters relating thereto. Motion seconded by Mr. Britt and carried.
- G. Updated financial data and personnel vacancy reports received.

Livability Committee – (Honorable Tom Foster, Chairman)

- A. Mr. Tommy Young, Board Chair, and Mr. Perry Mixter, President & Chief Operating Officer, The Arts Partnership, presented an update on the Chapman Cultural Center.

Public Safety and Judiciary Committee – (Honorable Jeff Horton, Chairman)

- A. Motion made by Mr. Brown to authorize the Commission of Michael Shaw, Property Maintenance Inspector, as a Spartanburg County Law Enforcement Officer. Motion seconded by Mr. Culbreth and carried. Mr. Mintz opposed.
- B. Motion made by Mr. Brown to render first reading to an Ordinance repealing Spartanburg County Ordinance Number O-06-07 regulating the sale and possession of copper, copper products and equipment containing copper; to establish reporting and recordation requirements when copper related products are purchased and/or transferred, prohibiting the burning of copper wiring; and establishing criminal penalties for violations. Motion seconded by Mr. Britt and carried. Mr. Mintz abstained. The General Assembly enacted similar legislation (SC Code of Laws, Title 16, Section 16-17-680) which essentially trumps the Spartanburg County Ordinance Number O-06-07.
- C. Updated information received regarding activities of Building Codes Department.

Land Use Committee (Honorable Jeff Horton, Chairman)

- A. Motion made by Mr. Horton to render first reading to an Ordinance amending the Spartanburg County Unified Land Management Ordinance, Ordinance Number O-99-015, as amended, to provide requirements for Flea Markets, Yard Sales and related uses and to provide for certain new definitions and inclusion in Table 3, dimensional requirements. Motion seconded by Mr. Mintz and carried. This proposed Ordinance will go to the Planning Commission. They will hold a public hearing on December 7, 2010. After the Planning Commission recommendations are ready, changes will be made to the proposed Ordinance. It will then be brought back for further review.
- B. Updated Planning Department Reports on Development Activity were received.

Public Works, Buildings and Grounds Committee (Honorable O'Neal Mintz, Chairman)

- A. Information received regarding activities of the Public Works Department.

VI.

- A. Motion made by Ms. Hall to render third reading to an Ordinance to amend Ordinance No. O-10-06 which established the Capital Project Budgets for the FY 2010/11 Budget Year of the Five-

Year Capital Improvement Plan by appropriating Hospitality Tax proceeds to create sponsorship funded improvements at Tyger River Regional Park Project and provide matching funds for road improvements at Tyger River Regional Park. Motion seconded by Mr. Britt and carried.

- B. Motion made by Mr. Mintz to render third reading to an Ordinance to amend Ordinance No. O-10-12 which related to the fiscal affairs of Spartanburg County making appropriations therefore, levying taxes for the fiscal year 2010/11 and to provide for budget control, of said appropriation by the Spartanburg County Council by appropriating Hospitality Tax Fund Balance proceeds to fund expenditure transfers in support of Hospitality Tax Funded Capital Projects. Motion seconded by Ms. Hall and carried.
- C. Motion made by Mr. Foster to render third reading to an Ordinance amending Flood Damage Prevention Ordinance O-04-01 to make revisions to Ordinance and maps as required by Federal Emergency Management Agency (FEMA). Motion seconded by Mr. Britt and carried.
- D. Motion made by Mr. Britt to render second reading to an Ordinance authorizing the execution and delivery of (1) an amended and restated fee in lieu of tax agreement by and among Spartanburg County, South Carolina, **Rochling Automotive Duncan, LLP** and certain other sponsor affiliates with respect to certain economic development property in the county, whereby such property will be subject to certain payments in lieu of taxes; (II) an infrastructure finance agreement by and between Spartanburg County, South Carolina and Rochling Automotive Duncan, LLP with respect to certain economic development property in the county, whereby such property will receive certain infrastructure credits in respect of its investment in related infrastructure; and (III) other matters related thereto. Motion seconded by Mr. Foster and carried.
- E. Motion made by Mr. Britt to render second reading to an Ordinance to amend that certain agreement for the development of a joint industrial and business park between Spartanburg County and Cherokee County dated March 19, 2007. **(Rhe-Tech in Cherokee County)** Motion seconded by Mr. Foster and carried.
- F. Motion made by Mr. Britt to render second reading to an Ordinance authorizing the execution and delivery of an amendment to the fee agreement by and between Spartanburg County, South Carolina, and **(Project MCIP)**, its affiliates and assigns, to provide for an extension of the investment period and the term; and other related matters. Motion seconded by Mr. Brown and carried.
- G. Motion made by Mr. Britt to render second reading to an Ordinance finding that the Arkwright Area Fire District, South Carolina may issue a not exceeding \$175,000 General Obligation Bond and to provide for the publication of notice of the said finding and authorization. Motion seconded by Mr. Brown and carried.
- H. Motion made by Mr. Britt to render second reading to an Ordinance approving a plan and agreement of consolidation of Arkwright Area Fire District into Croft Fire District and Roebuck Fire District, and other matters relating thereto. Motion seconded by Mr. Foster and carried.

VII.

No items scheduled.

VIII.

All resolutions, ordinances, agreements, petitions and related documents which were read and approved by Council at this meeting for the financing of certain industrial or similar revenue bonds or notes, are incorporated in these minutes by reference as if fully set forth herein. The reference is to all such documents showing execution by the county on the date of this meeting included in the office of the Clerk of Court for Spartanburg County.

IX.

No items scheduled.

X.

Motion made by Mr. Britt to approve minutes of October 18, 2010 (Regular Meeting). Motion seconded by Mr. Foster and carried.

XI.

Motion made by Mr. Culbreth to adjourn. Motion seconded by Mr. Britt and carried.

SPARTANBURG COUNTY COUNCIL

By: _____
Jeffrey A. Horton, Chairman

Attest:

Deborah C. Ziegler
Clerk to Council