

MINUTES

County Council Meeting

October 19, 2009

Spartanburg County Council met on Monday, October 19, 2009, 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; Chris Story, Assistant County Administrator; and Edwin Haskell, 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. Chief Larry Brady, North Spartanburg Fire Department, led in reciting the Pledge of Allegiance.

II.

A. Motion made by Ms. Hall to adopt a Resolution designating the month of November 2009 as Pulmonary Hypertension Awareness Month. Motion seconded by Mr. Britt and carried. Ms. Penney Cline received Resolution and thanked County Council for adopting Resolution and for their leadership.

III.

- A. Chairman Horton declared open a public hearing to consider an Ordinance authorizing the assignment and transfer to Henkel Corporation ("Henkel") of the remaining interest of Indopco, Inc. D/B/A National Starch & Chemical Company ("Indopco") in that certain lease agreement between Spartanburg County, South Carolina, and Indopco, dated as of December 1, 1997, and certain agreements, property, other rights, and other matters related thereto (collectively, the "assigned project"); and other matters related thereto, including the release of Indopco from its obligations under the lease agreement as to the assigned project, the assumption of those obligations by Henkel, and the continuation of a fee in lieu of tax pertaining to such lease agreement for the benefit of Henkel. No one appeared, and the matter was closed.
- B. Chairman Horton declared open a public hearing to consider an Ordinance authorizing the issuance

and sale of not exceeding \$800,000,000 principal amount Spartanburg County, South Carolina Industrial Development Revenue Bonds (BMW Project) Series 2009; the application of the proceeds of said bonds to defray the costs of the acquisition of certain industrial facilities and certain machinery, equipment and other personal property for use in conjunction therewith; the provision of an infrastructure credit in connection with such costs; the execution and delivery of a revised and restated lease between the County, BMW Manufacturing Co., LLC and SB Acquisitions, Inc. and of certain other documents relating to the foregoing; and other matters relating thereto. No one appeared, and the matter was closed.

- C. Chairman Horton declared open a public hearing to consider an Ordinance authorizing the execution and delivery of a Special Source Revenue Credit Agreement by and between Spartanburg County, South Carolina, and Merit Leasing, LLC, its affiliates and assigns, to provide for a fee in lieu of taxes incentive, including the grant of an infrastructure credit; to provide for the inclusion of the project in a multi-county business or industrial park; and other matters thereto related. No one appeared, and the matter was closed.
- D. Chairman Horton declared open a public hearing to consider an Ordinance consenting to an extension of the investment period for NURRC, LLC under its fee in lieu of tax agreement with Spartanburg County dated December 4, 2007, the provision of an additional infrastructure credit, and other matters related thereto. No one appeared, and the matter was closed.
- E. Chairman Horton declared open a public hearing to consider an Ordinance to provide for the issuance and sale of not exceeding one million seven hundred fifty thousand dollars (\$1,750,000) Spartanburg County, South Carolina, General Obligation Bonds (Woodruff Community Fire Service Area Project), Series 2009; to prescribe the purposes for which the proceeds shall be expended; to provide for the payment thereof; and other matters relating thereto. No one appeared, and the matter was closed.

IV.

No appearances were scheduled.

V.

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

- A. Motion made by Mr. Britt to approve a Revised and Restated FILOT Lease Agreement (the “Revised Lease”), as authorized by the Ordinance, between Spartanburg County (the “County”), BMW Manufacturing Co., LLC, and SB Acquisitions, Inc. (collectively, “BMW”). Pursuant to the commitments earlier made by Spartanburg County in connection with BMW’s present \$750 million expansion project (the “Expansion”), the Revised Lease provides for a \$10 million Infrastructure Credit to be provided to BMW by the County and for certain other matters. Motion seconded by Mr. Foster and carried.
- B. Motion made by Mr. Britt to render first reading to an Ordinance authorizing the issuance and sale of not exceeding \$800,000,000 principal amount Spartanburg County, South Carolina Industrial Development Revenue Bonds (BMW Project) Series 2009; the application of the proceeds of said bonds to defray the costs of the acquisition of certain industrial facilities and certain machinery, equipment and other personal property for use in conjunction therewith; the provision of an infrastructure credit in connection with such costs; the execution and delivery of a revised and restated lease between the County, BMW Manufacturing Co., LLC and SB Acquisitions, Inc. and of certain other documents relating to the foregoing; and other matters relating thereto. Motion seconded by Mr. Foster and carried.
- C. Motion made by Mr. Britt to adopt a Resolution authorizing a petition to the South Carolina Budget

and Control Board for approval of the bond issuance related to the Ordinance and Revised Lease. The total amount of bonds authorized in connection with the Project will be increased by \$800 million by BMW to match the estimated costs of the Expansion. No funding from the County will be required in connection with this bond authorization. Motion seconded by Mr. Foster and carried.

- D. Motion made by Mr. Britt to adopt an Inducement Resolution for a new FILOT transaction between the County and BMW. The FILOT transaction authorized pursuant to the Inducement Resolution would have terms similar to the existing FILOT transaction between the County and BMW. The Investment Period for the new FILOT transaction would begin in 2011, after the 2010 expiration of the Investment Period under the existing FILOT transaction between the County and BMW as set forth in the Revised Lease. 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, and No. O-08-29 relating to the joint county industrial and business park (Park No. 2) of Cherokee and Spartanburg Counties so as to enlarge the park. (Project Astrology) 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. Ms. Jane Hall stated that in regards to the Victor Mill Project that she was very pleased to have Ms. Linda Batson, a representative from the Victor Mill Community Association, present at the Council meeting. Ms. Hall stated that she has been so pleased to have community support on the Victor Mill Project from the residents. Motion made by Mr. Culbreth to render first reading to an Ordinance to authorize the execution and delivery of various documents in order to fund a portion of the costs associated with the environmental cleanup of property known as the Victor Mill project; to authorize the execution and delivery of those documents in connection therewith; and other matters relating thereto. Motion seconded by Ms. Hall and carried.
- B. Motion made by Mr. Culbreth to adopt a Resolution authorizing the Master Lease Agreement (Information Technology Equipment) between Spartanburg County, South Carolina and SunTrust Equipment Finance and Leasing Corporation in the principle amount of not exceeding \$612,101 relating to the financing of equipment for public purposes; authorizing the execution and delivery of various documents including the Master Lease Agreement; and other matters related thereto. Motion seconded by Mr. Foster and carried.
- C. Mr. Cole Alverson, Program Evaluation Manager, presented the FY 2009/10 Capital Improvement Plan Status Report. Presentation and Status Report are included in backup. Mr. Ron Kirby, County Engineer, presented information on several of the Engineering Department's projects.
- D. Updated financial and personnel vacancy reports were received.

Livability Committee – (Honorable Tom Foster, Chairman)

- A. Ms. Erika Walker, SAGE WAVE Consulting, presented information in reference to the Encore Project. Presentation and Business Plan are included in backup. This is development of new aging services in Spartanburg County. The Encore Mission is Keeping Seniors and Baby Boomers Independent, Healthy, Active, Learning and Engaged in the Community.

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

- A. Information received regarding activities of the Building Codes Department.

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Land Use Committee (Honorable Jeff Horton, Chairman)

- A. Updated Planning Department Reports on Development Activity were received.

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

- A. Mr. Glen McManus, Director of Operations, Renewable Water Resources, presented Information in reference to the 2009 Upstate Roundtable Report (20-year strategic plan). Presentation and Report are included in backup. No action was taken.
- B. Information received regarding activities of the Public Works Department.

VI.

- A. Motion made by Mr. Culbreth to render third reading to an Ordinance amending Article IV of the Spartanburg County Code relating to the Spartanburg County Fire Prevention and Protection Advisory Committee and to provide for certain other editorial revisions. Motion seconded Mr. Mintz and carried.
- B. Motion made by Mr. Culbreth to render third reading to an Ordinance to amend the International Property Maintenance Code previously adopted by Ordinance Number O-00-014, as amended by Ordinance Number O-04-15, to further amend Section 302.1 relating to the responsibility to keep exterior property clean and sanitary and to amend Section 302.4 to provide that weeds and plant growth shall not exceed a height of eighteen (18) inches on premises and exterior property. Motion seconded by Mr. Mintz and carried.
- C. Motion made by Mr. Britt to render second reading to an Ordinance authorizing the assignment and transfer to Henkel Corporation ("Henkel") of the remaining interest of Indopco, Inc. D/B/A National Starch & Chemical Company ("Indopco") in that certain lease agreement between Spartanburg County, South Carolina, and Indopco, dated as of December 1, 1997, and certain agreements, property, other rights, and other matters related thereto (collectively, the "assigned project"); and other matters related thereto, including the release of Indopco from its obligations under the lease agreement as to the assigned project, the assumption of those obligations by Henkel, and the continuation of a fee in lieu of tax pertaining to such lease agreement for the benefit of Henkel. Motion seconded by Mr. Foster and carried.
- D. Motion made by Mr. Britt to render second reading to an Ordinance authorizing the execution and delivery of a Special Source Revenue Credit Agreement by and between Spartanburg County, South Carolina, and Merit Leasing, LLC, its affiliates and assigns, to provide for a fee in lieu of taxes incentive, including the grant of an infrastructure credit; to provide for the inclusion of the project in a multi-county business or industrial park; and other matters thereto related. Motion seconded by Mr. Brown and carried.
- E. Motion made by Mr. Britt to render second reading to an Ordinance consenting to an extension of the investment period for NURRC, LLC under its fee in lieu of tax agreement with Spartanburg County dated December 4, 2007, the provision of an additional infrastructure credit, and other matters related thereto. Motion seconded by Mr. Brown and carried.
- F. Motion made by Ms. Hall to render second reading to an Ordinance to provide for the issuance and sale of not exceeding one million seven hundred fifty thousand dollars (\$1,750,000) Spartanburg County, South Carolina, General Obligation Bonds (Woodruff Community Fire Service Area Project), Series 2009; to prescribe the purposes for which the proceeds shall be expended; to provide for the payment thereof; and other matters relating thereto. Motion seconded by Mr. Foster and carried. Mr. Mintz and Mr. Culbreth opposed.

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 September 28, 2009 (Tourism Board Meeting) and September 28, 2009 (Regular Meeting). Motion seconded by Mr. Foster and carried.

XI.

Meeting adjourned.

SPARTANBURG COUNTY COUNCIL

By: _____
Jeffrey A. Horton, Chairman

Attest:

Deborah C. Ziegler
Clerk to Council