

MINUTES

County Council Meeting

September 28, 2009

Spartanburg County Council met on Monday, September 28, 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 Mr. Britt to adopt a Resolution expressing recognition and appreciation for the pride and honor bestowed upon Spartanburg County by the achievements of Robert E. Brown, III (Trey) for winning second place in firefighting at the national SkillsUSA Championship. Motion seconded by Mr. Foster and carried.
- B. Motion made by Mr. Culbreth to adopt a Resolution recognizing the founding of Mabry's Temple Bibleway Church of Campobello, South Carolina and its Pastor, Bishop S. Derrall Beason, D.D., for his faithful and dedicated service. Motion seconded by Mr. Foster and carried.
- C. Motion made by Ms. Hall to adopt a Resolution expressing recognition and appreciation for the pride and honor bestowed upon Spartanburg County by the dedicated services of Kenneth DeYoung, Fire Chief of Reidville Fire Department. Motion seconded by Mr. Britt and carried.

III.

- A. Chairman Horton recognized and expressed his appreciation to the members of the Commercial Design Standards Ad Hoc Committee which included Dean Anderson, Roebuck Buildings; Ned

Barrett, Upstate Forever; David Burnett, Burnett Real Estate, County Planning Commission; Foster Chapman, Johnson Development Co.; Lewis Harrison, Walnut Grove Farms; Ben Hines, Spencer-Hines Properties; Whit Kennedy, County Planning Commission Chairman; Jim Mayo, J.B. Mayo Company; Scott Montgomery, Southern Mulch; Thad Strickland, TN Construction; and Donna Williams, Waterstone Retail Co., County Planning Commission. Chairman Horton also recognized and expressed his appreciation to Mr. Story, and the Planning Department Staff for their hard work and dedication on the amendment to the Unified Land Management Ordinance. A joint public hearing was held with Planning Commission to consider an Ordinance amending the Spartanburg County Unified Land Management Ordinance, Ordinance Number O-99-015, as amended, to provide certain design standards for commercial and industrial uses and to provide for the amendment of certain definitions and for certain new definitions. Prior to Chairman Horton declaring this public hearing open, Whit Kennedy, Planning Commission Chairman, declared Planning Commission public hearing open. Mr. Kennedy presented four administrative changes discussed during the Planning Commission meeting held earlier in the afternoon. Chairman Horton declared public hearing open. Angela Viney, 309 West Hampton Avenue, Director of Upstate Forever, spoke on behalf of Ned Barrett, Upstate Forever. Upstate Forever supports the document as presented to Council, but feels we have not gone far enough. Whit Kennedy closed Planning Commission public hearing. Mr. Kennedy stated State Legislation requires the Planning Commission to make a vote to provide to Council on this Ordinance. Motion made by Mr. Brackett, Planning Commission, to approve Ordinance as amended. Motion seconded by Ms. Williams and carried. Chairman Horton closed public hearing.

- B. Chairman Horton declared open a public hearing to consider 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. No one appeared, and the matter was closed.
- C. Chairman Horton declared open a public hearing to consider an Application for special Public Event Exclusion from the Noise Ordinance requested by Greer Dragway from 11:00 a.m. on Saturday, November 21, 2009 until midnight for a drag race at 1792 Dragway Road, Greer. No one appeared, and the matter was closed.
- D. Chairman Horton declared open a public hearing to consider an Application for special Public Event Exclusion from the Noise Ordinance requested by First Baptist North Spartanburg from 5:00 p.m. on Thursday, October 22, 2009 until 11:00 p.m. for a Fall Festival at 8740 Asheville Highway, Spartanburg. No one appeared, and the matter was closed.
- E. Chairman Horton declared open a public hearing to consider an Application for special Public Event Exclusion from the Noise Ordinance requested by Lao Association of Spartanburg from 10:00 a.m. on Saturday, October 3, 2009 until 2:00 a.m. and from 10:00 a.m. on Sunday, October 4, 2009 until 12:00 p.m. for a 20th Anniversary Celebration at 470 Fox Drive, Spartanburg. No one appeared, and the matter was closed.
- F. Chairman Horton declared open a public hearing to consider an Application for special Public Event Exclusion from the Noise Ordinance requested by Polk County Red Cross from 7:00 p.m. until 1:00 a.m. every Friday and Saturday night in October for a Haunted Trail Fundraiser at 875 Christopher Road, Campobello. No one appeared, and the matter was closed.
- G. Chairman Horton declared open a public hearing to consider an Application for special Public Event Exclusion from the Noise Ordinance requested by Timothy Jones from 6:00 p.m. until 2:00 a.m. on October 2, 2009 through October 31, 2009, for Wompus Woods Haunted Trail at 231 Parris Road, Cowpens. No one appeared, and the matter was closed.
- H. Chairman Horton declared open a public hearing to consider an Application for special Public Event Exclusion from the Noise Ordinance requested by John M. Brown from 7:30 p.m. until 10:30 p.m. on weekdays and 7:30 p.m. until 1:00 a.m. on Friday and Saturday from October 2, 2009 through

October 31, 2009 for a Haunted Trail at 3411 Reidville Road, Spartanburg. 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 render first 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. Culbreth 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 render first 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. Foster and carried.
- D. Motion made by Mr. Britt to adopt a Resolution approving an inducement Agreement for a five-year partial exemption to an unrelated purchaser who preserves the existing facilities and the existing number of jobs. (StarChem, LLC) Motion seconded by Mr. Brown and carried.
- E. Motion made by Mr. Britt to render first 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.

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 approve the addition of three grant funded Attorney positions in the Circuit Solicitor's Office. Motion seconded by Mr. Foster and carried. These positions will be completely funded by grants for one year.
- B. Motion made by Mr. Culbreth to render first 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. Mr. Mintz stated that he is not opposed to fire departments and supports them. However, he cannot vote for this due to three Special Purpose Districts from County Council District Two being sent to referendum. Mr. Mintz recommended staying consistent. Ms. Hall stated that all fire departments are not equal. Some of them are Special Purpose Districts and others are Fire Service Areas appointed by County Council, and they all should be taken on their own merit. Woodruff City has agreed to partner with Spartanburg County on the cost burden of this item. Chairman Horton stated the big difference is that Council does not appoint the members to Special Purpose Districts, but Fire Service Areas are appointed by Council. Woodruff Community Fire Service has a ten year plan and with the change in the ISO rating some homeowners will receive a significant reduction in insurance premiums.
- C. Updated financial and personnel vacancy reports were received.

Livability Committee – (Honorable Tom Foster, Chairman)

- A. Ms. Lisa Bollinger, SPATS MPO Intermodal Transportation Planner, presented information in reference to Bike Pedestrian Master Plan. Presentation is included in backup. No action was taken.

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

- A. Captain Neal Urch, Sheriff's Office, presented information in reference to Sheriff's Office Mobile Data Terminal Project. Presentation included in backup. No action was taken. Additional budgetary items need to be put in place prior to approval.
- B. Motion made by Mr. Brown to authorize the Commission of Environmental Enforcement Officer Paul Berry as a Spartanburg County Law Enforcement Officer. Motion seconded by Mr. Culbreth and carried.
- C. Information received regarding activities of the Building Codes Department.

Land Use Committee (Honorable Jeff Horton, Chairman)

- A. Motion made by Mr. Britt to render third reading to an Ordinance amending the Spartanburg County Unified Land Management Ordinance, Ordinance Number O-99-015, as amended, to provide certain design standards for commercial and industrial uses and to provide for the amendment of certain definitions and for certain new definitions as amended by the Planning Commission. Motion seconded by Mr. Mintz and carried.
- B. Updated Planning Department Reports on Development Activity were received.

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

- A. Motion made by Mr. Mintz to authorize County Administrator to execute an agreement with Lockhart Power Company for a waste-to-energy project at the county's Wellford Landfill subject to approval by the County Attorney. Motion seconded by Mr. Britt and carried.
- B. Information received regarding activities of the Public Works Department.

VI.

- A. Motion made by Mr. Britt to render third reading to an Ordinance authorizing the execution and delivery of a fee-in-lieu of tax agreement between Spartanburg County and Iljin America Corp. and other matters relating thereto including without limitation payment of a fee-in-lieu of taxes. Motion seconded by Mr. Foster and carried.
- B. Motion made by Mr. Britt to render third 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. (Iljin America Corp.) Motion seconded by Mr. Brown and carried.
- C. Motion made by Mr. Britt to render third reading to an Ordinance to provide for the issuance and sale of not exceeding thirteen million dollars (\$13,000,000) General Obligation Refunding and Improvement Bonds, Series 2009, in one or more series, of Spartanburg County, South Carolina; 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. Brown and carried. Mr. Mintz opposed. Mr. Mintz stated that he agreed with the majority of the \$13 million, but there was \$2.4 million included that he did not agree with in this issuance.
- D. Motion made by Mr. Culbreth to render second 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. Foster and carried.
- E. Motion made by Mr. Culbreth to render second 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. Foster and carried.

VII.

- A. Motion made by Mr. Culbreth to approve an Application for special Public Event Exclusion from the Noise Ordinance requested by Greer Dragway from 11:00 a.m. on Saturday, November 21, 2009 until midnight for a drag race at 1792 Dragway Road, Greer. Motion seconded by Mr. Mintz and carried.
- B. Motion made by Mr. Culbreth to approve an Application for special Public Event Exclusion from the Noise Ordinance requested by First Baptist North Spartanburg from 5:00 p.m. on Thursday, October 22, 2009 until 11:00 p.m. for a Fall Festival at 8740 Asheville Highway, Spartanburg. Motion seconded by Mr. Foster and carried.
- C. Motion made by Mr. Mintz to approve an Application for special Public Event Exclusion from the Noise Ordinance requested by Lao Association of Spartanburg from 10:00 a.m. on Saturday, October 3, 2009 until 2:00 a.m. and from 10:00 a.m. on Sunday, October 4, 2009 until 12:00 p.m. for a 20th Anniversary Celebration at 470 Fox Drive, Spartanburg with an amendment changing the ending time to midnight on October 3. Motion seconded by Mr. Britt and carried.
- D. Motion made by Ms. Hall to approve an Application for special Public Event Exclusion from the Noise Ordinance requested by Polk County Red Cross from 7:00 p.m. until 1:00 a.m. every Friday and Saturday night in October for a Haunted Trail Fundraiser at 875 Christopher Road, Campobello with an amendment on the ending time of the event to midnight. Motion seconded by Mr. Brown and carried.
- E. Motion made by Mr. Britt to approve an Application for special Public Event Exclusion from the Noise Ordinance requested by Timothy Jones from 6:00 p.m. until 2:00 a.m. on October 2, 2009 through

October 31, 2009, for Wompus Woods Haunted Trail at 231 Parris Road, Cowpens with an amendment to the ending time of the event to midnight. Motion seconded by Mr. Foster and carried.

F. Motion made by Mr. Foster to approve an Application for special Public Event Exclusion from the Noise Ordinance requested by John M. Brown from 7:30 p.m. until 10:30 p.m. on weekdays and 7:30 p.m. until 1:00 a.m. on Friday and Saturday from October 2, 2009 through October 31, 2009 for a Haunted Trail at 3411 Reidville Road, Spartanburg with an amendment to the ending time of the event to 10:00 p.m. on weekdays and midnight on Friday and Saturday. Motion seconded by Ms. Hall and carried.

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.

Motion made by Mr. Mintz to change the November 2009 Council meeting to the fourth Monday, November 23, 2009. Motion seconded by Mr. Culbreth and carried.

X.

Motion made by Mr. Culbreth to approve minutes of August 17, 2009 (Regular Meeting; August 25, 2009 (Public Safety Committee Meeting); and August 31, 2009 (Commercial design Standards Ad Hoc Committee 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