

MINUTES

County Council Meeting

March 16, 2009

Spartanburg County Council met on Monday, March 16, 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. Mr. Don Bramblett led in reciting the Pledge of Allegiance.

II.

- A. Motion made by Mr. Britt to adopt a Resolution proclaiming April 12-18, 2009 as Community Development Block Grant Week in Spartanburg County. Motion seconded by Mr. Foster and carried. Ms. Hall presented the Resolution to Ms. Kathy Rivers, Director of Community & Economic Development Department.
- B. Motion made by Mr. Foster to adopt a Resolution proclaiming April as Fair Housing Month in Spartanburg County. Motion seconded by Mr. Culbreth and carried. Mr. Brown presented the Resolution to Ms. Kathy Rivers, Director of Community & Economic Development Department.
- C. Chairman Horton recognized the Graduates of the Project Civics Class at Broome High School.

III.

- A. Chairman Horton declared open a public hearing to consider an Ordinance to amend the Storm Water Management Ordinance. Mr. Freeman Wills of 240 Archibald Road, Chesnee, appeared.

Mr. Wills stated a comprehensive map that reveals all hazards to the respective buyer or builder needs to be in place to protect citizens that are not aware of the danger they might place themselves in and do not have the ability to defend themselves. Mr. Don Miles of 9 Forest Oaks Way, Spartanburg, appeared on behalf of the League of Women Voters of Spartanburg County. A handout containing Mr. Miles' comments is included in backup. Mr. Miles addressed Council about the importance of adopting a comprehensive and strong Storm Water Management Ordinance. Ms. Mary Walter of 1237 Farragut Drive, Spartanburg, appeared. Ms. Walter is the Director of SPACE (The Spartanburg Area Conservancy Citizens Preserving Greenspace). The main point Ms. Walter wanted to talk about was the riparian buffer. They would like to see the buffer increased to a minimum of 50 feet. Handout is included in backup. Ms. Angela Viney of 309 West Hampton Avenue, Director of Upstate Forever, appeared to urge Council to pass a strong and effective Storm Water Ordinance that protects the citizens of Spartanburg County. Handout is included in backup. Mr. Roger Nutt of 514 Shady Tree Court, Moore, appeared to thank County Council and Staff for their work on this Ordinance. Mr. Nutt stated a balance has been reached from economic, environmental, and regulatory concerns. Mr. Don Bramblett, 360 Rock Bottom Circle, Clifton, appeared. Mr. Bramblett owns frontage along the Pacolet River and appreciates everyone working on this Ordinance. He was taken aback by the two extremes on this issue, but felt Mr. Sadler brought forth helpful information at the January meeting.

- B. Chairman Horton declared open a public hearing to consider the proposed lease of certain property located at 280 North Craft Street, Wellford, to the Town of Wellford for recreation purposes. No one appeared, and the matter was closed.
- C. Chairman Horton declared open a public hearing to consider an Ordinance to provide for certain amendments to industrial and business park agreements between Spartanburg County and Union County in connection with the distribution of fee in lieu of tax revenues within Spartanburg County, and 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 provide for the Order of Distribution of fee in lieu of tax revenues generated from Spartanburg County parcels located in certain joint county industrial and business parks, and other matters related thereto in support of the Economic Futures Group. No one appeared, and the matter was closed.
- E. Chairman Horton declared open a public hearing to consider an Ordinance authorizing the execution and delivery of a fee in lieu of tax agreement by and between Spartanburg County, South Carolina and Rochling Automotive Duncan, LLP with respect to certain economic development property, whereby such property will be subject to certain payments in lieu of taxes; and other matters related 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 adopt a Resolution authorizing the execution and delivery of an Inducement Agreement by and between Spartanburg County, South Carolina and Wal-Mart Stores East, LP, whereby, under certain conditions, Spartanburg County will execute a fee in lieu of tax agreement for a project involving not less than thirteen million five hundred thousand dollars (\$13,500,000) investment subject to the exception of our standard indemnification language that is normally in our contracts. Our County Attorney and Wal-Mart's Attorney have worked out this

language to the satisfaction of both parties. Motion seconded by Mr. Foster and carried. Report by County Attorney's Office: Company has requested the following exception to limit the scope of indemnification of the County for any claims that may arise from the project: "Notwithstanding anything to the contrary contained herein, nothing in this agreement between the County and the Company will be intended to obligate the Company to indemnify the County from claims, liabilities or losses for which it is not liable pursuant to Section 15-78-200 of the South Carolina Torts Claim Act. The indemnity obligations of the Company shall be secondary to any coverage provided to the County through the South Carolina Insurance Reserve Fund, or successor insurer, and the Company shall have no obligation to reimburse the Insurance Reserve Fund for its primary coverage."

- B. Motion made by Mr. Britt to render first reading by title to an Ordinance authorizing the execution and delivery of a fee agreement by and between Spartanburg County, South Carolina and Wal-Mart Stores East, LP, whereby, under certain conditions, Spartanburg County will execute a fee in lieu of tax agreement for a project involving not less than thirteen million five hundred thousand dollars (\$13,500,000) investment and a special source revenue credit subject to the exception of our standard indemnification language that is normally in our contracts. Our County Attorney and Wal-Mart's Attorney have worked out this language to the satisfaction of both parties. Motion seconded by Mr. Foster and carried.

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

- A. Ms. Kathy Rivers, Director of Spartanburg County Community Development, presented information in reference to the Community Development Block Grant Program, Home Investment Partnerships Program, and American Dream Down Payment Initiative Funding Recommendations. Motion made by Ms. Hall to approve the FY 2009 Annual Action Plan. Motion seconded by Mr. Mintz and carried.
- B. Motion made by Ms. Hall to authorize the County Administrator to execute the Memorandum of Understanding to facilitate the redevelopment of Victor Mill. Motion seconded by Mr. Foster and carried.

Personnel and Finance Committee (Honorable Dale Culbreth, Chairman)

- A. Mr. Cole Alverson, Program Evaluation Manager, presented the FY 2008/09 Capital Improvement Plan Status Report. The presentation and the FY 2008-2009 Capital Projects Status Report through February 28, 2009, are included in backup.
- B. Motion made by Mr. Culbreth to adopt a Resolution to express the intention of the County Council of Spartanburg County, South Carolina, to cause Spartanburg County, South Carolina to be reimbursed for certain costs for certain public improvements with the proceeds of tax-exempt obligations. Motion seconded by Mr. Foster and carried.
- C. Updated financial and personnel vacancy reports were received.

Livability Committee – (Honorable Tom Foster, Chairman)

- A. Ms. Lauren Ponder, Spartanburg Convention & Visitors Bureau, presented the Convention and Visitors Bureau Plan of Action for 2009 and distributed copies of the new Spartanburg County Visitor's Guide. Handouts, Presentation and Visitor's Guide are included in backup.

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

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

Land Use Committee (Honorable Jeff Horton, Chairman)

-
-

- A. Mr. Chris Story presented information in reference to an Ordinance amending the Storm Water Management Ordinance. Motion made by Mr. Horton to render third reading to the Storm Water Management Ordinance as is with a change on page 33 to amend the last sentence to say, "this project has not been studied for flood risk," in the wording. Motion seconded by Mr. Mintz and carried. Mr. Brown requested making the language to be reflective in terms of the direction of our County Attorney to include specifically, "this project has not been studied by FEMA for flood risk nor has this project been studied by the preparer of this plat to determine whether or not it is subject to flooding." Mr. Horton amended his motion to reflect the recommended language. Amended motion seconded by Mr. Mintz and carried. Mr. Story offered one item for clarification. The versions for the record are the ones published this week. They are Ordinance Draft Number 8 dated March 12, 2009, and Design Manual Draft 7 also dated March 12, 2009.
- 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 Mr. Britt to render second reading to an Ordinance to provide for certain amendments to industrial and business park agreements between Spartanburg County and Union County in connection with the distribution of fee in lieu of tax revenues within Spartanburg County, and other matters related thereto. Motion seconded by Mr. Brown and carried.
- B. Motion made by Mr. Britt to render second reading to an Ordinance to provide for the Order of Distribution of fee in lieu of tax revenues generated from Spartanburg County parcels located in certain joint county industrial and business parks, and other matters related thereto in support of the Economic Futures Group. Motion seconded by Mr. Brown and carried.
- C. Motion made by Mr. Britt to render second reading to an Ordinance authorizing the execution and delivery of a fee in lieu of tax agreement by and between Spartanburg County, South Carolina and Rochling Automotive Duncan, LLP with respect to certain economic development property, whereby such property will be subject to certain payments in lieu of taxes; and other matters related thereto. Motion seconded by Mr. Brown and carried.
- D. Motion made by Mr. Britt to render second reading to an Ordinance to develop a jointly owned and operated Industrial/Business Park in conjunction with Cherokee County, such Industrial/Business Park to be geographically located in Spartanburg County and established pursuant to South Carolina Code of Laws for 1976, Section 4-1-170 et sequitur, as amended; to provide for a written agreement with Cherokee County providing for the expenses of the park, the percentage of revenue application, and the distribution of fees in lieu of ad valorem tax to the counties and relevant taxing entities. (Wal-Mart Stores East, LP (Project Mizzou), O.P. Carolinas, LLC, and Tasty Blend Foods, Inc.) Motion seconded by Mr. Brown and carried.
- E. Motion made by Mr. Britt to render second reading to an Ordinance authorizing the execution and delivery of a fee in lieu of tax agreement between Spartanburg County, South Carolina, and Gas Turbine Efficiency, LLC (Project Thermal); and other matters relating thereto including, without limitation, payment of a fee in lieu of taxes. Motion seconded by Mr. Brown and carried.

VII.

- A. Motion made by Mr. Culbreth to add an item to the agenda. Motion seconded by Mr. Mintz and carried. Motion made by Mr. Culbreth to render first reading to an Ordinance amending Section 30.27

of the Code of the County of Spartanburg, South Carolina to change the time during which certain motorized racing of vehicles is exempt from the provisions of Spartanburg County Noise Restrictions from 10:00 p.m. to 11:00 p.m. and to amend Section 30-33 of the Code of the County of Spartanburg, South Carolina to change the time for publishing the first notice of the public hearing for the special event exclusions from 21 days to 15 days. Motion seconded by Mr. Mintz 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.

A. Mr. Breed stated a Budget Work Session will be scheduled during the week of April 6, 2009.

X.

Motion made by Mr. Foster to approve minutes of February 23, 2009 (Regular Meeting). Motion seconded by Mr. Britt and carried.

XI.

Motion made by Mr. Foster to adjourn.

SPARTANBURG COUNTY COUNCIL

By: _____
Jeffrey A. Horton, Chairman

Attest:

Deborah C. Ziegler
Clerk to Council