

MINUTES

County Council Meeting

August 22, 2005

Spartanburg County Council met on Monday, August 22, 2005, in the County Council Chambers, 366 N. Church Street, Spartanburg, SC, at 5:30 p.m. The following attended: Honorable Jeff Horton, Chairman; Honorables Johnnye Code-Stewart, Steve Parker, David Britt, Rock Adams, Ken Huckaby and Frank Nutt, 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 Rev. Cathaye Jones, Community New Life Church in Una. Participants in the South Carolina Youth Leadership Program from Whitlock Junior High School led in reciting the Pledge of Allegiance.

II.

No presentations were scheduled.

III.

- A. Chairman Horton declared open a public hearing to consider a proposed Ordinance to provide for the submission of Digital Land Record Plats. No one appeared, and the matter was closed.
- B. Chairman Horton declared open a public hearing to consider an Application for special Public Event Exclusion from Noise Ordinance requested by Laotian Association of Spartanburg for September 3, 4 and 5, from 5:00 p.m. until 2:00 a.m. for a Labor Day Party at 470 Fox Drive, Spartanburg, SC. 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 Noise Ordinance requested by Greer Dragway for August 27, 2005, from 12:00 p.m. until 11:30 p.m. and September 17, 2005, from 12:00 p.m. until 11:30 p.m. for a Drag Race at 1792 Dragway Road, Greer, SC. No one appeared, and the matter was closed.

IV.

Mr. Dewey Tullis appeared to congratulate Council on what they did with Regenesiis.

V.

Public Health and Human Services Committee (Honorable Johnnye Code Stewart, Chairman)

- A. Motion made by Ms. Stewart to approve the Lease Agreement between Upstate Homeless Coalition of SC and Spartanburg County. Motion seconded by Mr. Huckaby and carried.

Personnel and Finance Committee (Honorable Ken Huckaby)

- A. Sheriff Wright discussed various personnel related topics. This item was carried over to next month. No action was taken.
- B. Motion made by Mr. Huckaby to authorize issuance of a contract for records storage and management services with *TRIM* and adopt related policies and procedures. Motion seconded by Mr. Britt and carried.
- C. Updated financial and personnel vacancy reports were received.

Recreation Committee – (Honorable Jeff Horton, Chairman)

- A. Mr. Chris Story presented information in reference to having a committee of Spartanburg County citizens in relation to a Commission help determine how our citizens would like to see their Parks and Recreation program run. This was taken under advisement.

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

- A. Motion made by Mr. Britt to adopt a Resolution which provides Schwan's Bakery Operations, LLC with certain incentives if it elects to expand its operation in Spartanburg and places the property in a multi-county park subject to approval of County Attorney's Office. Motion seconded by Mr. Nutt and carried. This is for a 6% fee-in-lieu up to \$15 million should Schwan's Bakery Operations, LLC decide to do an expansion.
- B. Celanese is taking over a portion of Indopco, the old National Starch and Chemical Company. They have requested a transfer of a fee-in-lieu. Motion made by Mr. Britt to render first reading to an Ordinance authorizing the assignment and transfer to Celanese Americas Corporation ("Celanese") of a portion of the 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 Celanese, and the continuation of a fee in lieu of tax pertaining to such lease agreement for the benefit of Indopco and Celanese, respectively subject to approval of County Attorney's Office. Motion seconded by Mr. Nutt and carried.
- C. Mr. Carter Smith, Spartanburg County Economic Development Corporation, and Mr. Frank Davis, Haynsworth Sinkler Boyd, were present in reference to a request from 101 Properties, LLC. This is for a 6% fee-in-lieu. Motion made by Mr. Britt to adopt a Resolution authorizing the execution and delivery of an Inducement and Millage Rate Agreement by and between Spartanburg County, South Carolina, and 101 Properties, LLC, whereby, under certain conditions, Spartanburg County will execute a fee in lieu of tax agreement with 101 Properties, LLC with respect to an industrial project of Plastic Omnium Auto Exteriors, LLC in the county, whereby the project would be subject to certain fees in lieu of taxes; and providing for related matters. Motion seconded by Mr. Nutt and carried. Motion seconded by Mr. Nutt 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 between Spartanburg County, South Carolina and 101 Properties,

LLC 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. Nutt and carried.

Public Safety and Judiciary Committee – (Honorable Rock Adams, Chairman)

- A. Motion made by Mr. Adams to approve a request from North Spartanburg Fire and Emergency Services District to approve and set their millage levy at 22 mills for the tax year 2005. Motion seconded by Mr. Britt and carried.
- B. Mr. Mitch Shook, Chairman of the Board of Commissioners for Fire Control of the Drayton Area Fire District, presented information in reference to a request from Drayton Area Fire District to increase their millage from 20 to 24 mills for the tax year 2005. Income of \$48,000 has been lost over the past two years. All of this is a result of the lawsuit brought by Cowpens School District over the Charter Communications. The DOR made a ruling on the Charter Communications. In the past, Drayton received about \$24,000 a year from Charter. DOR ruled it would have to be divided up equally among all the county departments. They now receive about \$2,800 from Charter Communications. After two years with the expansions at Mary Black, they feel they will not need a general tax increase or referendum. Motion made by Mr. Adams to approve a request from Drayton Area Fire District to increase their millage from 20 to 24 mils for the tax year 2005. Motion seconded by Mr. Britt and carried.
- C. Information received regarding activities of the Building Codes Department.

Land Use Committee (Honorable David Britt, Chairman)

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

Public Works, Buildings and Grounds Committee (Honorable Frank Nutt, Chairman)

- A. Motion made by Mr. Nutt to approve a request for a proposed general utility right of way to the Greer Commission of Public Works for the installation of certain public utilities on Spartanburg County property located at the intersection of Brockman-McClimon Road and I-85 subject to approval by the County Attorney's Office. Motion seconded by Mr. Britt and carried.
- B. Motion made by Mr. Nutt to approve endorsement of utilization of a portion of the Appalachian Council of Governments rural transportation funds on SC 9 widening. Motion seconded by Mr. Parker and carried.
- C. Information received regarding activities of the Public Works Department.

VI.

- A. Motion made by Mr. Huckaby to render third reading to an Ordinance authorizing certain economic incentives, including payment of a fee in lieu of property taxes and other related matters, pursuant to a fee agreement between Spartanburg County, South Carolina, and MPI International, Inc., a corporation organized and existing under the laws of the State of Michigan, pursuant to Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended, for a project involving an investment of not less than \$8,000,000. Motion seconded by Mr. Adams and carried.
- B. 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 by and between Spartanburg County, South Carolina and Spartanburg Automotive, Inc. 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. Huckaby and carried.
- C. Motion made by Mr. Huckaby to render second reading to an Ordinance to provide for the issuance and sale of not exceeding fifteen million dollars (\$15,000,000) General Obligation Refunding Bonds, Series 2005, 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 Ms. Stewart and carried.

- D. Motion made by Mr. Nutt to render second reading to an Ordinance to provide for the submission of Digital Land Record Plats. Motion seconded by Mr. Britt and carried.

VII.

- A. Motion made by Mr. Huckaby to render first reading of Ordinance to readopt the Ordinance establishing a Uniform Road Maintenance Fee for Spartanburg County Transportation Infrastructure. Motion seconded by Mr. Adams and carried. Three opposed. A letter from Edwin Haskell, County Attorney, is included in backup which recommends re-adoption of the Road Maintenance Fee Ordinance. While our County Attorney believes that the original road fee ordinance was properly adopted in accordance with South Carolina law and that Judge Hayes' ruling to that effect will be upheld on appeal, it is his opinion that it would be prudent for County Council to re-adopt the ordinance in order to render moot all issues presented by the plaintiffs' appeal from the date of re-adoption of the ordinance forward and thereby limit the scope and effect of the appeal.
- B. Motion made by Mr. Huckaby to approve an Application for special Public Event Exclusion from Noise Ordinance requested by Laotian Association of Spartanburg for September 3, 4 and 5, from 5:00 p.m. until 2:00 a.m. for a Labor Day Party at 470 Fox Drive, Spartanburg, SC. Motion seconded by Mr. Adams and carried.
- C. Motion made by Mr. Huckaby to approve an Application for special Public Event Exclusion from Noise Ordinance requested by Greer Dragway for August 27, 2005, from 12:00 p.m. until 11:30 p.m. and September 17, 2005, from 12:00 p.m. until 11:30 p.m. for a Drag Race at 1792 Dragway Road, Greer, SC. Motion seconded by Mr. Adams 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.

Mr. Britt asked if we need to do anything concerning the letter received from DHEC as far as moving ahead with the Court request. Mr. Breed has not received a response back from the letter he sent to Mr. Art Braswell. Mr. Story stated that both DHEC and the County view it as an interpretation question. Motion made by Mr. Britt to authorize the County Attorney's Office to proceed with a Declaratory Judgment Action and a Temporary Injunction to hold the status quo. Motion seconded by Ms. Stewart and carried.

X.

Motion made by Ms. Stewart to approve minutes of July 18, 2005 (Regular Meeting) and August 10, 2005

(Executive Session). Motion seconded by Ms. Stewart and carried.

XI.

Meeting adjourned.

SPARTANBURG COUNTY COUNCIL

By: _____
Jeffrey A. Horton, Chairman

Attest:

Deborah C. Ziegler
Clerk to Council