

MINUTES

County Council Meeting

October 15, 2007

Spartanburg County Council met on Monday, October 15, 2007, 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, O'Neal Mintz, David Britt, Rock Adams, Dale Culbreth, and Tom Foster, Council Members; along with Glenn Breed, County Administrator; Chris Story, Assistant County Administrator; Tom Gates, 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. Jerry Armstrong, New Horizon Church of the Brethren. Boy Scout Troop 5 led in reciting the Pledge of Allegiance.

II.

- A. Motion made by Mr. Britt to adopt a Resolution recognizing and commending Charles Means and Scott Sapounas for their good deed of returning money to the rightful owner. Motion seconded by Mr. Mintz and carried.
- B. Motion made by Mr. Foster to adopt a Resolution designating the month of November 2007 as Pulmonary Hypertension Awareness Month. Motion seconded by Mr. Culbreth and carried. Ms. Brandy Lindsey, Co-Chair of Pulmonary Hypertension Walk, received Resolution.

III.

- A. 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 among Spartanburg County, South Carolina and

Adidas Sales, Inc., OBP Spartanburg, LLC and their assignees and one or more sponsors; and other matters relating thereto including, without limitation, payment of a fee in lieu of taxes. No one appeared, and the matter was closed.

- B. Chairman Horton declared open a public hearing to consider an Ordinance authorizing the execution and delivery of an agreement between Spartanburg County, South Carolina and Adidas Sales, Inc., OBP Spartanburg, LLC, their assignees and one or more sponsors granting certain Special Source Credits. No one appeared, and the matter was closed.
- C. Chairman Horton declared open a public hearing to consider an Ordinance authorizing the amendment of the fee in lieu of tax agreement between Spartanburg County, South Carolina (The "County") and Echostar DBS Corporation (The "Company") to confirm the inclusion of the Landlord's Capital Investment within the project, to correct the commencement date of the annual FILOT payments and to make certain other technical corrections; and other matters relating to the foregoing. No one appeared, and the matter was closed.
- D. Chairman Horton declared open a public hearing to consider the proposed enactment of an ordinance authorizing the execution and delivery of a fee in lieu of tax agreement by and between Spartanburg County, South Carolina and Richard Fritz, 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. 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 Greer Dragway for November 17, 2007, from 9:00 a.m. until 11:30 p.m. for a Drag Race at 1792 Dragway Road, Greer. Ms. Shirley Balmer, 508 American Legion Road, appeared against granting this Noise Ordinance exclusion. Mr. Mike Greer, Greer Dragway, stated this is the last race of the season, and they hope to finish the races by 8:00 p.m. or 9:00 p.m.

IV.

Mr. Rick Fowler appeared to speak against the Hospitality Tax. Mr. Fowler lives in Greenville County, but his business, Hogback Mountain Bar-B-Q, is in Spartanburg County. Mr. Fowler does not feel it is fair for the restaurant owners to be singled out to collect this tax.

V.

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

- 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 by and among Spartanburg County, South Carolina and Adidas Sales, Inc., OBP Spartanburg, LLC and their assignees and one or more sponsors; 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 authorizing the execution and delivery of an agreement between Spartanburg County, South Carolina and Adidas Sales, Inc., OBP Spartanburg, LLC, their assignees and one or more sponsors granting certain Special Source Credits. Motion seconded by Mr. Culbreth and carried.
- C. Motion made by Mr. Britt to adopt a Resolution authorizing the County's execution and delivery of an amendment to an existing lease agreement dated as of December 1, 1988 between Spartanburg County, South Carolina and Michelin North America, Inc. 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 an amendment to an existing fee in lieu of tax agreement by and between Spartanburg County, South Carolina and Michelin North America, Inc. dated as of December 20, 2004; and other matters relating thereto. Motion seconded by Mr. Foster and carried.

- E. Motion made by Mr. Britt to render first reading to an Ordinance to develop a jointly owned and operated Business Park in conjunction with Union County and to authorize a written agreement with Union County to provide for the manner by which expenses and revenues from such park will be allocated, and to authorize a negotiated user fee in lieu of ad valorem taxation. (Michelin) Motion seconded by Mr. Foster and carried.
- F. Motion made by Mr. Britt to render first reading to an Ordinance authorizing the assignment of an Inducement Agreement and the execution and delivery of a fee agreement between Spartanburg County, South Carolina and NURRC, LLC providing for a payment of a fee in lieu of taxes. Motion seconded by Mr. Foster and carried.
- G. Motion made by Mr. Britt to render first reading to an Ordinance to amend that certain agreement for the development of a joint County Industrial and Business Park between Spartanburg County and Union County dated August 21, 2006. (NURRC, LLC) Motion seconded by Mr. Foster and carried.
- H. Motion made by Mr. Britt to render first reading to an Ordinance authorizing the execution and delivery of an amended Fee Agreement by and between Spartanburg County and Project 701, its affiliates and assigns, to provide for an amendment to the existing fee in lieu of ad valorem taxes incentive, to include the grant of certain infrastructure credits as part of the fee-in-lieu of taxes arrangement, and other matters thereto related. Motion seconded by Mr. Foster and carried.

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

- A. Mr. Tom Gates presented an update on Victor Mill Status. An Executive Summary of the Phase 1 Environmental Assessment of the Victor Mill site was presented. Phase 1 conditions on site lead to believe Phase II should be conducted. Work is being done with Environmental Protection Agency (EPA) to locate a grant for Phase II. This report was received as information.

Personnel and Finance Committee (Honorable Dale Culbreth, Chairman)

- A. Mr. Chris Bever presented an update on the Capital Program.
- B. Motion made by Mr. Culbreth to adopt a Resolution to authorize a project scope change, Courthouse Chiller Replacement Project (CB0004), part of the FY 2007-08 adopted Capital Budget. Motion seconded by Mr. Britt and carried.
- C. Mr. Tom Gates presented information on County Bond Rating Status. The County has a AA rating.
- D. Motion made by Mr. Culbreth to grant a request from R. D. Anderson Vocational for a School Resource Officer and to authorize the County Administrator to execute the agreement. Motion seconded by Mr. Adams and carried.
- E. No action was taken in reference to the Resolution calling for a public hearing to be held upon the question of the issuance of a not exceeding \$2,000,000 General Obligation Bond of Boiling Springs Fire District and to provide for the publication of the notice of such hearing.
- F. Motion made by Mr. Culbreth to render first reading to an Ordinance finding that Boiling Springs Fire District may issue a not exceeding \$2,000,000 General Obligation Bond; to authorize the Fire Control Board of the Boiling Springs Fire District to issue such bond and to provide for the publication of notice of the said finding and authorization subject to the outcome of special public referendum. Motion seconded by Mr. Mintz and carried.
- G. Updated financial and personnel vacancy reports were received.

Livability Committee – (Honorable Tom Foster, Chairman)

- A. Ms. Kathy Rivers presented information in reference to the First Spartanburg County Citizens' Academy. This will be an eight week course offering information on services provided by the County.

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

- A. Motion made by Mr. Adams to authorize the Commission of Christopher Massey, the new Assistant Director of the Spartanburg County Emergency Services Academy (ESA), as a County Enforcement Officer of Spartanburg County. Motion seconded by Mr. Mintz and carried.
- B. Information received regarding activities of the Building Codes Department.

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Land Use Committee (Honorable Jeff Horton, Chairman)

- A. Motion made by Chairman Horton to render first reading to an Ordinance amending the Spartanburg County Unified Land Management Ordinance, Ordinance No. O-99-015, as amended, to allow for mixed use projects and traditional neighborhood design based developments. Motion seconded by Mr. Adams and carried.
- 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.

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VI.

- A. Motion made by Mr. Culbreth to amend the Ordinance to establish and collect a local Hospitality Tax in Spartanburg County, South Carolina, to exclude people 65 years and older. Motion seconded by Mr. Foster. Mr. Haskell stated that his first impression is that you could not exclude people 65 years and older. You would have to treat all people similarly, unless we could come up with some rationale basis for the exclusion. Mr. Culbreth stated that he was told previously that you could make exclusions to taxes. Mr. Haskell stated that if Council wants a legal opinion, he would have to take it under advisement and look at it further to make sure he advises correctly. Mr. Culbreth suggested tabling this motion. Motion made by Mr. Culbreth to table third reading of the Ordinance. Motion seconded by Mr. Foster. Mr. Britt asked if there is any time period we are under to pass the Ordinance. Mr. Gates stated the materials are being processed to start the Hospitality Tax on January 1, 2008. A delay in adopting the Ordinance would likely delay our ability administratively to implement it on January 1, 2008. Mr. Haskell stated the motion to amend the Ordinance would need to be voted on or withdrawn before we could look at a motion to table the third reading. Mr. Culbreth stated the proper procedure would be to vote on the amendment to exclude those 65 years and older. Mr. Britt recommended voting on the Ordinance as it is, and at a later time Council could put an amendment to it. Chairman Horton stated that it is not that he does not want Senior Citizens to not pay the tax, but Mr. Fowler alluded to the fact that it is already complicated enough. Council voted on the motion to amend the proposed Ordinance to exclude persons 65 and over. Motion failed four to three. Mr. Culbreth, Mr. Foster, and Mr. Mintz voted in favor. Chairman Horton, Ms. Stewart, Mr. Britt, and Mr. Adams opposed. Motion made by Mr. Britt to render third reading to an Ordinance to establish and collect a local Hospitality Tax in Spartanburg County, South Carolina. Motion seconded by Mr. Adams. Motion made by Mr. Mintz to amend the Hospitality Tax Ordinance language regarding the use of the hospitality tax funds for allocations to community based organizations be struck from the Eligible Operating Cost section of Exhibit A of the Ordinance. The amended Ordinance would read as follows: "Those costs and expenditures permitted by and subject to provisions of Article 7 of Chapter 1 of Title 6 of the Code of Laws of South Carolina 1976, as amended which may include appropriated allocations to the Spartanburg County Parks and Recreation Commission, public safety operations, hospitality tax administration, and operational costs related to the capital projects." Motion made by Mr. Britt to amend his motion to include Mr. Mintz's amendment.

Amended motion seconded by Mr. Adams. Motion carried unanimously.

- B. Motion made by Mr. Britt to render third reading to an Ordinance authorizing a fee-in-lieu of tax arrangement on behalf of Mack Molding Company, Inc. (The "Corporation") pursuant to a fee agreement between Spartanburg County, South Carolina (The "County") and the Corporation; and other matters relating to the foregoing. Motion seconded by Mr. Foster and carried.
- C. Motion made by Mr. Foster to render third reading to an Ordinance to provide for the issuance and sale of not exceeding four million dollars (\$4,000,000) General Obligation Bonds, Series 2007, 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. (USC Upstate) Motion seconded by Mr. Adams and carried.
- D. Motion made by Mr. Britt to render second reading to an Ordinance authorizing the amendment of the fee in lieu of tax agreement between Spartanburg County, South Carolina (The "County") and Echostar DBS Corporation (The "Company") to confirm the inclusion of the Landlord's Capital Investment within the project, to correct the commencement date of the annual FILOT payments and to make certain other technical corrections; and other matters relating to the foregoing. Motion seconded by Mr. Foster 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 by and between Spartanburg County, South Carolina and Richard Fritz, 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. 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 for November 17, 2007, from 9:00 a.m. until 11:30 p.m. for a Drag Race at 1792 Dragway Road, Greer. Motion seconded by Mr. Foster 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.

No items scheduled.

X.

Motion made by Mr. Britt to approve minutes of September 17, 2007 (Regular Meeting). Motion seconded by Mr. Foster and carried.

XI.

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

SPARTANBURG COUNTY COUNCIL

By: _____
Jeffrey A. Horton, Chairman

Attest:

Deborah C. Ziegler
Clerk to Council