

MINUTES

County Council Meeting

August 21, 2006

Spartanburg County Council met on Monday, August 21, 2006, 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; 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. Sam Davis, Associate Pastor, First Baptist Church. Chief Larry Brady, North Spartanburg Fire and Emergency Services, 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 change the assessment of Aircraft subject to ad valorem taxation in Spartanburg County from a 10.5% assessment ratio to a 4% assessment ratio. No one appeared, and the matter was closed.
- B. Chairman Horton declared open a public hearing to consider a proposed Ordinance to regulate the sale and possession of copper; copper products and equipment containing copper; to establish reporting and recordation requirements when copper related products are purchased and/or transferred; to prohibit the burning of copper wiring; and to establish criminal penalties for violation. Ms. Lynn Sellers, caretaker at the Saxon Mill Phillips Fiber Plant, appeared to speak in favor of this Ordinance. Ms. Sellers stated a tremendous amount of copper has been stolen from Saxon Mill. The matter was closed.
- C. Chairman Horton declared open a public hearing to consider a proposed Ordinance to develop a

jointly owned and operated Industrial/Business Park in conjunction with Union County, such Industrial/Business Park to be geographically located in Union County and established pursuant to Sec. 4-1-170 of the Code of Laws of South Carolina 1976, as amended; to provide for a written agreement with Union County to provide for the expenses of the park, the percentage of revenue application, and the distribution of fees in lieu of ad valorem taxation; and other matters related thereto. (LSP Automotive Systems, LLC) No one appeared, and the matter was closed.

- D. Chairman Horton declared open a public hearing to consider a proposed Resolution in support of the issuance by the South Carolina Jobs-Economic Development Authority of its Economic Development Revenue Bonds (Goodwill Industries of Upper South Carolina, Inc. Project) Series 2006, pursuant to the provisions of Title 41, Chapter 43, of the Code of Laws of South Carolina 1976, as amended, in the aggregate principal amount of not exceeding \$14,000,000. 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 September 9 from 12:00 noon until 11:30 p.m. for a Drag Race at 1792 Dragway Road. No one appeared, and the matter was closed.

IV.

No appearances scheduled.

V.

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

- A. Mr. Jimmy Greene, Director of EMS, Transportation and Regional One, presented an update on Spartanburg County's Transportation Services Bureau for information. No action was taken. Presentation is enclosed in backup.

Personnel and Finance Committee (Honorable Ken Huckaby)

- A. Motion made by Mr. Huckaby to approve the Accommodations Tax Advisory Committee Recommendations for total disbursements of \$290,000. Motion seconded by Mr. Britt and carried.
- B. Motion made by Mr. Huckaby to adopt a Resolution to enhance procurement efficiencies and authorize corporate purchasing cards. Motion seconded by Mr. Britt and carried. This will help reduce the cost in preparing and issuing purchase orders and checks. These cards will be used for small purchases under \$1500.
- C. Updated financial and personnel vacancy reports were received.

Recreation Committee – (Honorable Jeff Horton, Chairman)

No items scheduled.

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

- A. Item in reference to Project Form Fill was removed from the agenda and carried over to a future date if it is necessary.
- B. Motion made by Mr. Britt to adopt a Resolution in support of the issuance by the South Carolina Jobs-

Economic Development Authority of its Economic Development Revenue Bonds (Goodwill Industries of Upper South Carolina, Inc. Project) Series 2006, pursuant to the provisions of Title 41, Chapter 43, of the Code of Laws of South Carolina 1976, as amended, in the aggregate principal amount of not exceeding \$14,000,000. Motion seconded by Mr. Adams and carried.

- C. Motion made by Mr. Britt to adopt a Resolution to endorse the 2006 Annual Progress Report to the Comprehensive Economic Development Strategy Plan from the South Carolina Appalachian Council of Governments and to request that the Economic Development Administration continue its designation of the South Carolina Appalachian Region as an Economic Development District. Motion seconded by Mr. Huckaby 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 for reauthorization to maintain current millage levy at 22 mills. Motion seconded by Mr. Huckaby and carried.
- B. Motion made by Mr. Adams to render second reading to an Ordinance to regulate the sale and possession of copper, copper products and equipment containing copper; to establish reporting and recordation requirements when copper related products are purchased and/or transferred; to prohibit the burning of copper wiring; and to establish criminal penalties for violation. Motion seconded by Mr. Britt and carried. Mr. Haskell stated that the only difference between the fifth and the sixth draft of this Ordinance is that the sixth draft references in Section 1 an identification card containing a photograph and requires that the identification card be issued by the State of South Carolina.
- C. Information received regarding activities of the Building Codes Department.

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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 authorize Staff to take title of the property in Woodruff purchased by EMS for an EMS substation in the name of the County. Motion seconded by Mr. Adams and carried.
- B. Information received regarding activities of the Public Works Department.

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VI.

- A. Motion made by Mr. Britt to render third reading to an Ordinance to develop a jointly owned and operated Industrial/Business Park in conjunction with Union County, such Industrial/Business Park to be geographically located in Union County and established pursuant to Sec. 4-1-170 of the Code of Laws of South Carolina 1976, as amended; to provide for a written agreement with Union County to provide for the expenses of the park, the percentage of revenue application, and the distribution of fees in lieu of ad valorem taxation; and other matters related thereto. (LSP Automotive Systems, LLC) Motion seconded by Mr. Adams and carried.
- B. Motion made by Mr. Britt to render second reading to an Ordinance to change the assessment of Aircraft subject to ad valorem taxation in Spartanburg County from a 10.5% assessment ratio to a 4% assessment ratio. Motion seconded by Mr. Adams and carried.

VII.

- A. Motion made by Mr. Huckaby to approve an Application for special Public Event Exclusion from the Noise Ordinance requested by Greer Dragway for September 9 from 12:00 noon until 11:30 p.m. for a Drag Race at 1792 Dragway Road. 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. Nutt stated that several phone calls have been received from the people in Abner Creek regarding the situation with the City of Greer, the City of Reidville, and all those things that are coming into play out there. He stated that it is his understanding now that the City of Greer and the Commission of Public Works have proceeded to initiate condemnation on some of those properties. They had previously stated that they had never done that and had no intentions of doing it. Mr. Nutt recommended giving the people out there another option on the sewer. He stated that he thinks Council needs to go back and correct what they did two years ago when they passed a Resolution authorizing that area to be served by Greer Commission of Public Works for sewer rather than the Sewer District of Spartanburg. No mention of anything related to annexation was mentioned at that time. Mr. Nutt recommended starting procedure today to correct it. Motion was made by Mr. Nutt that County Administration be directed to contact the Spartanburg Sanitary Sewer District and advise it that County Council plans to annex the area into the Sewer District and that Administration be directed to coordinate the preparation of the legal documents required to effect the annexation with the Spartanburg Sanitary Sewer District for presentation to County Council at its next regularly scheduled meeting. The area to be annexed is generally described as bounded on the west by Enoree River, on the south by Reidville Road or Highway 296, on the east by Highway 101, and on the north by generally that area that is not now served by sewer. A legal description of what needs to be annexed will need to be developed using the Sewer Department's personnel and legal department and our legal department. Motion seconded by Mr. Britt. Mr. Britt stated that last month he thought there was an understanding from Greer Commission of Public Works, Greer, Reidville, and the POAGA Group that Council would try to back off and have some time to study this and try to come to some resolution. The movement last week of Greer sending the letters out with the condemnation word is the reason he is supporting this motion. Mr. Britt stated the School District does not have a preference on who provides the sewer service. Mr. Huckaby stated that the people have a recourse to appeal the condemnation in Court. Mr. Huckaby asked who will pay the City of Greer if the County is sued for the amount Greer has spent. Mr. Haskell stated there are two steps in condemnation. The first step is the condemnation for a proper legal purpose. At that stage, you can allege any legal objections as to whether the condemnation is proper. If the condemning authority gets past that step, then the only issue is the amount of compensation to be paid for the property. Mr. Nutt stated that there is another cure. The Greer representatives told Council a month or so ago that they were doing this as a matter of policy. All they have to do is change their policy. They have told us they are not going to change their policy. He feels it is a matter of private property rights and feels Council needs to give them the tools they need and let them make the choice. Mr. Nutt restated his motion and stated the procedure to be followed is: (1) Adopt motion to rescind the part of the previous resolution adopting the findings and recommendations of the Sewer Advisory Committee which assigns the proposed annexed area to Greer; (2) Adopt resolution calling for a public hearing on the proposed annexation (written resolution and legal description would need to be coordinated with the Sewer District and placed on agenda); (3) At the

meeting following step 2, conduct public hearing on proposed annexation; (4) After public hearing, adopt resolution effecting the annexation; and (5) Notice of council action would need to be published once a week for two consecutive weeks in paper of general circulation in the county. Chairman Horton stated that Greer has told Council that they have spent significant money in engineering this site, and they will want compensation. Chairman Horton asked Mr. Haskell if the County is sued by Greer for monies they have spent, would he be able to defend it, when, and where would the money come from to fund this. Mr. Haskell stated the theory would be that they relied on that previous Resolution when the area was assigned to them, and they spent money to try to develop plans to provide service in that area. If Council later took action to prevent them from serving the area, they would claim whatever damages they have sustained as a result of relying on the initial assignment by Council. Mr. Haskell stated that he cannot predict what would happen, but they could make out a claim on the basis described. Mr. Haskell does not think it would be covered by tort liability insurance. If there is no coverage, the County would have to budget to pay it at some point in the future. Mr. Nutt stated that our defense would be that it was approved on the basis of one thing, and they did something else. Chairman Horton stated if the boundaries are changed is there any guarantee that Spartanburg Sanitary Sewer District wants it. Mr. Nutt stated that they will come forward and say yes or no. Chairman Horton stated that Greer is going to look to someone to reimburse them for the money they have spent. If Spartanburg Sanitary Sewer District does not reimburse them, it will be back on Council to find whatever money it may be to reimburse Greer for the monies spent based on the action in 2004. Mr. Steve Evatt stated that he would like to clarify some of the questions raised. Mr. Evatt stated the issue is that a municipality has the authority to serve inside or outside of their city limits. This municipality has served gas and water at least outside of the city limits, sewer not likely, because no one wants to serve sewer unless they have a good reason. Sewer is never a profit maker. For this reason, we have special purpose districts in municipalities that provide sewer. Treatment from Western Carolina is a separate and a neutral item. Western Carolina Regional Sewer Authority treating the sewer can receive the sewer from whoever is collecting the sewer and makes the negotiation to sell it to them. The major question is whether or not you are going to Spartanburg Sanitary Sewer District. Spartanburg Sanitary Sewer District charges about eight to twelve mills. If they are brought into the City of Greer, every property owner will be a member of the City of Greer. They will be charged at the current levy of approximately 98 mills. This was not on the table two years ago and was not a question. Mr. Evatt stated that it was not his intention in 2004 for Greer to use this as an annexation tool. He did not have any idea any annexation whatsoever was going to take place. Chairman Horton and Mr. Haskell cautioned Council about the possibility of being sued by the City of Greer if this motion passes. Motion carried four to three. Chairman Horton, Mr. Parker, and Mr. Huckaby opposed.

X.

Motion made by Mr. Britt to approve minutes of July 17, 2006 (Regular Meeting) and July 19, 2006 (Special Meeting). 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