

PUBLIC HEARING & REGULAR MEETING
DARLINGTON COUNTY COUNCIL
DARLINGTON, SC

November 7, 2016

A public hearing and regular meeting of the County Council of Darlington County was held this 7th day of November 2016, at 6 p.m., at the Courthouse Annex/EMS Building, 1625 Harry Byrd Highway (Highway 151), Darlington, South Carolina.

NOTICE OF MEETING

In compliance with the Freedom of Information Act, a copy of the agenda, giving the date, time, and place of the meeting was emailed to the local newspapers, persons requesting notification, and posted on the county's website and on the bulletin board in the lobby of the courthouse.

A Notice of Public Hearing for Ordinance No. 16-18 was published in the Hartsville Messenger and the News and Press on September 28, 2016. A Notice of Public Hearing for Ordinance No. 16-19 and Ordinance No. 16-20 was published in the Hartsville Messenger and the News and Press on October 12, 2016.

COUNCIL MEMBERS PRESENT

Chairman Bobby Hudson, Vice Chairman Robbin Brock, Chaplain Dannie Douglas, Jr., Mr. David Coker, Mr. Marvin Le Flowers, Mrs. Wilhelmina P. Johnson, Mr. Robert L. Kilgo, Jr., and Ms. Mozella Nicholson.

ALSO PRESENT

Interim County Administrator Marion Charles Stewart, III, County Attorney James C. Cox, Jr., Clerk to Council J. JaNet Bishop, Human Resources Manager Ginger Winburn, Development Services Director Terri Cribb, Tax Assessor Kyle Johnson, Emergency Management Director Mac McDonald, Emergency Management Coordinator Molloy Odom, Fire Chief Ricky Flowers, Emergency Medical Services Director Michelle Moore, Finance Director Sherman Dibble, Roads and Bridges Director Bobby Richardson, Library Director Jimmie Epling, Senior Planner Paula Newton, Corrections Director Waddell Coe, Recreation Director Lee Andrews, Environmental Services Director Renee Howle, Council Member Elect Lewis Brown, Council Member Elect Joyce Thomas, and others.

REPORTERS PRESENT

Ms. Samantha Lyles of the News and Press, Mr. Jim Faile of the Messenger, and Mr. Matt Parrish of WBTW News 13.

RECOGNITION OF EMPLOYEES

Chairman Hudson presented a Certificate of Appreciation to Ms. Sherry Humphries of Lamar library, Mr. Joe Granger of Environmental Services, and Mrs. Ida Swinton of the

Detention Center. These individuals were not present at the meeting to receive their certificate.

Chairman Hudson then presented a plaque to Ms. Kay Williamson in appreciation for seventeen years of service with Darlington County Historical Commission.

Chairman Hudson presented a plaque to Mr. Bobby Cook in appreciation for 22 years of service with Darlington County Parks, Recreation, and Tourism Department. Recreation Director Lee Andrews accepted the plaque in the absence of Mr. Cook who was on bed rest.

Chairman Hudson also presented a plaque to Ms. Marjorie Reason in appreciation for 41 years of service with Darlington County Library System. Library Director Jimmie Epling accepted the plaque in her absence.

PUBLIC HEARINGS

Ordinance No. 16-18, An Ordinance To Amend Darlington County Code Of Ordinance, Chapter 26 (Fire Prevention And Protection), Article II. (Darlington County Fire Prevention District), Division 1 (Generally) And Division 2 (Board Of Fire Control) To Replace The Fee Schedule With Mitigation Rates, To Update Verbiage, And To Establish The Effective Date Of This Ordinance - SECOND READING - CARRY OVER REQUESTED

Chairman Hudson declared the public hearing open at 6:04 p.m. to receive public comments on Ordinance No. 16-18.

There being no comments, the public hearing for Ordinance No. 16-18 was closed.

Ordinance No. 16-19, An Ordinance To Amend Darlington County Code Of Ordinance, Appendix A (Development Standards Ordinance), Article Nineteen (Renewable Energy Systems) To Update The Verbiage, To Clarify The Process And Regulations, And To Establish The Effective Date Of This Ordinance - SECOND READING

Chairman Hudson declared the public hearing open to receive public comments on Ordinance No. 16-19.

Mr. John Davis, a solar developer from Raleigh, North Carolina, stated that he had looked at the county's ordinance to determine whether it would be feasible to do work in Darlington County in the future. He commended the original ordinance, except for berms which would be extremely expensive. He expressed concern about being limited to 500 acres.

~ Councilwoman Mozella Nicholson arrived at 6:07 p.m. ~

Mr. Davis also presented concerns regarding the 500-foot setback from the nearest structure. He stated that if there are structures on both sides of the property, then 1,000 feet of property would be wasted. Normally, the setbacks and rights-of-way are 50 feet. Mr. Davis talked about the most appropriate placement of screen buffers; establishing a common denominator for each site because every piece of property would be different; and notification.

Mr. Flowers asked Attorney Cox whether the 500-foot setback would be measured from the front door of the structure/resident or from the residential property line. He also asked whether this needed to be more specific in the ordinance.

Attorney Cox stated that in a commercial environment, the measurement would be from door to door. Therefore, Mr. Flower's point was very valid.

Mr. Flowers questioned whether the developer was measuring from the chain link fence to the front door while the resident was thinking that the distance was from the mailbox to the fence. Therefore, this needed to be addressed in the ordinance so that there is no confusion.

Attorney Cox explained that normally, and especially for ABC Liquor Licenses, the distance is measured from door to door. But in the rural country, it is not interpreted like this. Therefore, the county (Council) could word it as they want to.

There being no further comments, the public hearing was closed.

Ordinance No. 16-20, An Ordinance To Amend Ordinance No. 16-14 (Darlington County FY16/17 Budget Ordinance) For A Supplemental Appropriation To The Library Fund To Receive And Expend Additional State Aid Funds For Darlington County Library System And Establish The Effective Date Of This Ordinance - SECOND READING

Chairman Hudson declared the public hearing open to receive public comment on Ordinance No. 16-20.

There being no comments, the public hearing was closed.

REGULAR MEETING

Call To Order / Invocation / Pledge Of Allegiance

Chairman Hudson called the meeting to order at 6:13 p.m. Mr. Douglas presented the invocation and Ms. Nicholson led the Pledge of Allegiance.

Citizens' Comments

Mr. Howle Johnson, of Hartsville, thanked Council for sponsoring the Solar Farm Worksession on last week. He commented that the worksession was based on the pros of solar farms and everything was specific to North Carolina. Mr. Johnson felt that the rules, regulations, and laws were different for South Carolina. He presented his opposition to increasing the size of solar farms to the suggested 600 acres and the proposed 14-foot panels with 10-foot buffers as opposed to 7.5 to 8-foot panels with 10-foot buffers. He also stated that the proposed ordinance requires a decommissioning bond which would serve as insurance to ensure that at the end of the lease, someone would bear the cost for getting rid of the solar panels, etc. This would be similar to the \$25,000 bond required for communication towers. Mr. Johnson felt that \$50,000 or 125 percent of the decommissioning cost would not be too absorbent for a 200 to 600-acre solar farm, and a 500-foot setback was not too much to ask, whether the distance is measured from the residence's door or property line. Mr. Johnson asked Council to consider the proposed changes made by the Planning staff.

Mr. Billy Jack Johnson, of Bethlehem Road, commended Council's worksession. He stated that the worksession was on the pro side for solar panels. However, he found information on the internet indicating that drinking the water would be bad. Therefore, he asked Council to conduct another worksession based upon the negatives of solar panels.

Personal Appearance - Mr. Keith Evans & Mr. Gary Finklea - Turn Lane On Hoffmeyer Road For Summerville Subdivision

Attorney Gary Finklea reported that Council had approved a Memorandum of Understanding allowing Mr. Evans to begin construction on homes in Summerville Subdivision located off Hoffmeyer Road prior to installing a turn lane. Tonight, he was asking Council to consider amending or agreeing to a Supplemental Memorandum since Mr. Evans had reached the benchmark for the first memorandum. Attorney Finklea explained that when Mr. Evans purchased the subdivision, all the infrastructure was complete with the exception of installing a turn lane off Hoffmeyer Road. Mr. Evans negotiated with South Carolina Department of Transportation (SCDOT) to delay installing the turn lane so that he could sell enough lots (25 lots) to generate the money to pay the expense associated with installing the turn lane, which was estimated to cost over \$200,000.

In reference to SCDOT's repaving/resurfacing plans for Hoffmeyer Road, Attorney Finklea said the plan was to work with SCDOT so that the turn lane would be installed during the resurfacing process, even though Mr. Evans would be responsible for the cost of the installation. However, communication among the various parties did not materialize, resulting in Hoffmeyer Road being resurfaced without reference to Mr. Evans' request. Therefore, Mr. Evans now has to add the turn lane from scratch. Attorney Finklea reported that SCDOT has agreed to allow Mr. Evans to proceed with the sale of addition homes and submit a performance bond or letter of credit for the work. Upon submission of the letter of credit/performance bond, SCDOT reissued an encroachment permit to Mr. Evans on October 6, 2016. Therefore, SCDOT was giving Mr. Evans an additional one year to install the turn lane or pay \$305,000. He pointed out that it would be cheaper for Mr. Evans to install the turn lane than not perform. Attorney Finklea emphasized that Mr. Evans could not pull anymore building permits according to the initial agreement. Mr. Evans had reached 25 lots and was now asking the county to consider some language to amend the Memorandum of Understanding to allow him to continue selling lots for another year while working under the letter of credit/performance bond to SCDOT.

Ms. Nicholson expressed concern as to why SCDOT was requiring additional work – the installation of a turn lane.

Attorney Finklea explained that when a subdivision is developed, the county must ensure that the developer obtains an encroachment permit from SCDOT. When Mr. Evans' original plan was developed, SCDOT required a turn lane because the subdivision was going to have 200 plus lots. However, Mr. Evans only bought the front portion of the subdivision which is currently platted as 80 lots. Attorney Finklea stated that because of the manner in which SCDOT was involved, Darlington County could step away and let this be an issue between SCDOT and the developer since SCDOT was now the beneficiary of the letter of

credit/performance bond. No matter how this progresses, Mr. Evans was asking to be able to continue selling lots.

Chairman Hudson stated that Mr. Evans had appeared before Council about six to eight months ago requesting the same thing, and SCDOT said no. In the information Attorney Finklea handed out, Chairman Hudson said he did not see any correspondence from SCDOT stating that they would accept Mr. Evans' proposal.

~ Councilman Robert L. Kilgo, Jr. arrived at 6:27 p.m. ~

Mr. Evans stated that when he appeared before Council previously, he was asked to obtain something from SCDOT, and they indicated that they would send a letter. Later, he was reissued an encroachment permit.

Ms. Nicholson asked the cost for the turn lane.

Mr. Evans stated that, currently, the turn lane would cost about \$204,000. Later, it could cost up to \$300,000. He also mentioned that people were wanting to buy lots in this subdivision.

MOTION was made by Mr. Kilgo and seconded by Mrs. Johnson to receive this as information, place it on Council's December agenda, and ask the County Administrator to provide Council with a proposal.

Mr. Coker requested Attorney Cox's opinion.

Attorney Cox stated that, legally, he saw nothing wrong with allowing their (Mr. Finklea and Mr. Evans) request. However, Council may want to take this under advisement and let the staff look at it.

Chairman Hudson stated that he recently spoke with SCDOT regarding this matter and they said no.

Mr. Douglas asked and Mr. Evans provided information about the number of houses in the subdivision and the retention pond(s).

Attorney Finklea pointed out that 25 homes had been built, and Mr. Evans could not build another house at this point.

Attorney Cox said the agreement was among three parties - the developer, the county, and SCDOT. He stated that he would have to verify the encroachment permit, etc. which could be done by the December meeting.

The motion carried unanimously.

Personal Appearance - Pastor Christopher Frazier, Paving Of Commanchee Street

Pastor Fraizer, of Centerville Action Group, reported that when he last appeared before Council in June requesting the status of paving Commanchee Road, he provided Council with information regarding parcels in the "bowl" belonging to Ms. Joanne Farmer and JB Properties.

It was the understanding of Roads and Bridges Director Bobby Richardson that the CTC wanted to meet with County Council to discuss this matter.

Pastor Fraizer stated that it had been 120 days since he last appeared before Council in order to give the county a chance to do its research. He mentioned that Council has jurisdiction over the County Transportation Committee (CTC).

Mr. Flowers clarified that the county does not have jurisdiction over CTC.

Pastor Fraizer pointed out that he was told, by a reliable source, that Council has to approve what CTC does; that Senator Malloy told him that money was allocated to pave Commanchee Road; that on June 18, 2003, an encroachment permit was approved for paving 3,200 feet of Commanchee Road; that after CTC's survey, it was determined that the first piece of property designated was not suitable; and that Ms. Farmer and JB Properties each owns five parcels in the "bowl." Pastor Fraizer referred to a letter from the Planning Staff to the Roads and Bridges Director recommending changes and construction easements. He talked about everyone signing except JB Properties, although he could not find the ordinance requiring 100 percent signatures.

MOTION was made by Mr. Kilgo to receive this as information and for Attorney Cox to review the encroachment permit and report back to Council at the next meeting.

Mr. Flowers asked Attorney Cox whether the CTC could purchase the land, install the retention pond, and pave the road.

Attorney Cox responded that this was correct.

Mr. Flowers confirmed that Council does not control what the CTC does. County Council only accepts what the CTC wants to do.

Attorney Cox talked about the CTC having a priority list and Senator Malloy doing everything to get as much money as possible for the CTC.

Pastor Fraizer reported that this project began in 1999. He also stated that the CTC has indicated that they do not have the power to buy land – they just pave roads. The county would have to purchase the land.

Attorney Cox asked where the funds would come from to purchase the land.

Ms. Nicholson questioned the last time funds were allocated and how much.

Pastor Fraizer said he did not ask how much funds were allocated. However, Senator Malloy told him that funds had been allocated to pave Commanchee Road.

Ms. Nicholson questioned the amount of CTC funds allocated during the current fiscal year and last fiscal year.

Mr. Richardson responded that the amount of CTC fund allocated depends upon the amount of gasoline tax revenue, which varies. These funds are non-recurring to be used strictly for resurfacing and state projects. He mentioned the percentage of CTC funds that are required to be used on state road projects and on local road projects.

Pastor Fraizer said funds were allocated in 1999.

Mr. Richardson clarified that the encroachment permit was for paving one end of Commanchee Road (3,200 feet). Then there was the issue with the rights-of-way and the residents wanting all or none of the road paved.

Pastor Fraizer said one person would not sign unless the entire road was going to be paved. However, the residents met with staff and obtained all the signatures.

Mr. Charles Stewart indicated that the staff would gather the information for review to determine what is correct or incorrect.

Mrs. Johnson talked about a letter from South Carolina Association of Counties regarding CTC's authority.

Chairman Hudson requested that Mr. Stewart obtain the status of this matter.

Mr. Stewart indicated that he would have to request information from CTC under the Freedom of Information Act and CTC would have a certain number of days to respond.

It was the **CONSENSUS** of Council to receive this as information and the staff gather the necessary information and report at Council's next meeting.

Consent Agenda

Included in the Consent Agenda were the following:

- 6.A. Historical Commission Minutes, Stats, & Information (June - September)
- 6.B. Animal Shelter Report, September 2016
- 6.C. SC Department Of Transportation's Notification Soliciting Public Review/Comments Regarding Interstate Pavement Projects In Spartanburg, Lee, And Darlington Counties
- 6.D. Darlington County Parks, Recreation and Tourism - Monthly Report October 2016

MOTION was made by Mr. Flowers and seconded by Mr. Kilgo to receive the Consent Agenda items as information.

The motion carried with Ms. Nicholson opposing.

Approval Of Minutes - Public Hearing And Regular Meeting, October 3, 2016

MOTION was made by Mr. Brock and seconded by Mrs. Johnson to approve the minutes of the public hearing and regular meeting of October 3, 2016.

The motion carried unanimously.

Ordinances

Ordinance No. 16-18, An Ordinance To Amend Darlington County Code Of Ordinance, Chapter 26 (Fire Prevention And Protection), Article II. (Darlington County Fire Prevention District), Division 1 (Generally) And Division 2 (Board Of Fire Control) To Replace The Fee Schedule With Mitigation Rates, To Update Verbiage, And To Establish The Effective Date Of This Ordinance - SECOND READING - CARRY OVER REQUESTED

MOTION was made by Mr. Kilgo and seconded by Mr. Flowers to carry over second reading of Ordinance No. 16-18 as requested by the staff.

The motion carried unanimously.

Ordinance No. 16-19, An Ordinance To Amend Darlington County Code Of Ordinance, Appendix A (Development Standards Ordinance), Article Nineteen (Renewable Energy

Systems) To Update The Verbiage, To Clarify The Process And Regulations, And To Establish The Effective Date Of This Ordinance - SECOND READING

MOTION was made by Mr. Flowers and seconded by Mr. Brock to carry over second reading and refer the ordinance back to Planning Commission due to new information received during the public hearing.

The motion carried unanimously.

Ordinance No. 16-20, An Ordinance To Amend Ordinance No. 16-14 (Darlington County FY16/17 Budget Ordinance) For A Supplemental Appropriation To The Library Fund To Receive And Expend Additional State Aid Funds For Darlington County Library System And Establish The Effective Date Of This Ordinance - SECOND READING

MOTION was made by Mrs. Johnson and seconded by Mr. Kilgo to approve second reading of Ordinance No. 16-20.

The motion carried unanimously.

Ordinance No. 16-22, An Ordinance To Amend The Agreement For The Development Of A Multi-County Industrial And Business Park By And Between Darlington County And Marlboro County, South Carolina, Providing For The Development Of A Jointly Owned And Operated Industrial/Business Park So As To Include Additional Property In Darlington County As Part Of The Joint County Industrial Park, And Other Matters Relating Thereto - FIRST READING

The title of Ordinance No. 16-22 was read for first reading. No action required.

Ordinance No. 16-23, An Ordinance To Amend Ordinance No. 16-14 (Darlington County FY16/17 Budget Ordinance) For A Supplemental Appropriation To The Library Fund To Receive And Expend Additional Library Lottery Funds (\$36,956.52) For Darlington County Library System And Establish The Effective Date Of This Ordinance - FIRST READING

The title of Ordinance No. 16-23 was read for first reading. No action required.

Resolutions

Resolution No. 671, A Resolution Authorizing The Addition Of Hartsville Corrugating, LLC As A Sponsor Affiliate To Incentive Agreements Between Darlington County, South Carolina, Sonoco Products Company, And Affiliates Of Sonoco Products Company, So As To Include The Investments Of The Sponsor Affiliate Thereunder

MOTION was made by Mr. Kilgo and seconded by Mr. Flowers to approve Resolution No. 671.

The motion carried unanimously.

Committee Reports

There were no committee reports.

Other Items

Appointments To Boards/Commissions (Alcohol & Drug Citizen Advisory Committee - Coker), Airport Commission- Flowers), (Construction Board of Adjustment & Appeals - Douglas & Flowers), (Library Board - Flowers), (Planning Commission - Johnson)

Mr. Flowers, Mr. Coker, and Mr. Douglas carried over their appointment(s). Mrs. Johnson nominated Mr. William Hudson for appointment to the Planning Commission.

MOTION was made by Mr. Kilgo and seconded by Mr. Flowers to appoint Mr. William Hudson to the Planning Commission.

The motion carried unanimously.

Administrative Update

There was no Administrative Update.

Requests / Comments - Members Of Council

Mr. Coker asked the Tax Assessor about the assessed value of solar farms.

Tax Assessor Kyle Johnson explained the difference in the tax rate and value change from agriculture to commercial or six percent residential. He also talked about the solar panels, wiring, lights, etc. being taxed by the Department of Revenue under utility. He concluded by pointing out that the county would not gain much on the land.

Mr. Douglas thanked everyone for attending the meeting.

Mrs. Johnson requested that a trash bin be placed in the community near Marshall Street. After some discussion regarding the purpose of this request, Mr. Stewart indicated that the Environmental Services Director would talk with Mrs. Johnson after the meeting.

Mr. Flowers reminded everyone about upcoming Veterans Day Programs and encouraged everyone to attend one of these events.

Mr. Kilgo thanked everyone who assisted in getting the information out and making sure that people understood the county's position regarding the school bond issue. It was Mr. Kilgo's personal request for people to vote against the school bond.

Chairman Hudson thanked everyone for attending the meeting.

Vote For Executive Session - (1) Receipt Of Legal Advice Regarding A Potential Claim and (2) Discussion Of Negotiations Incident To Proposed Contractual Arrangements Regarding The Proposed Purchase Of Property

Mr. Stewart stated that an executive session for the receipt of legal advice regarding a potential claim was not needed.

MOTION was made by Mr. Flowers and seconded by Mr. Kilgo to vote for executive session for discussion of negotiations incident to proposed contractual arrangements regarding the proposed purchase of property.

The motion carried unanimously.

Executive Session - Discussion Of Negotiations Incident To Proposed Contractual Arrangements Regarding The Proposed Purchase Of Property

MOTION was made by Mr. Flowers and seconded by Mr. Kilgo for Council, the County Attorney, and the County Administrator to go into executive session for discussion of negotiations incident to proposed contractual arrangements regarding the proposed purchase of property after a five-minute recess.

The motion carried unanimously.

Recess

Council recessed at 7:01 p.m. prior to going into executive session and reconvened at 7:16 p.m.

Upon reconvening, Mr. Kilgo stated that based upon matters discussed in executive session, he would make the **MOTION** to approve the proposed contract with Coldwell Bankers to purchase property in the City of Darlington for \$85,000. The motion was seconded by Mr. Douglas.

The motion carried unanimously.

Adjournment

There being no further discussion, the meeting was adjourned at 7:17 p.m.

Respectfully submitted,

J. JaNet Bishop
Clerk to Council

Bobby Hudson, Chairman
Darlington County Council

Approved at meeting of December 5, 2016.