



Minutes
Sumter County Council
Special Meeting
September 14, 2009 - Held at 6:00 p.m.
County Administration Building County Council Chambers
13 E. Canal Street, Sumter, SC]

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COUNCIL MEMBERS PRESENT:

1. Chairman Vivian Fleming McGhaney, Council District #5
2. Vice Chairman Eugene Baten, Council District #7
3. Councilman Artie Baker, Council District #2
4. Councilman Larry Blanding, Council District #6
5. Councilman Jimmy Byrd , Council District #3
6. Councilman Charles T. Edens, Council District #4
7. Councilwoman Naomi D. Sanders, Council District #1

COUNCIL MEMBERS ABSENT: None

STAFF MEMBERS PRESENT:

William T. Noonan, County Administrator
Mary W. Blanding, Clerk To County Council
Johnathan W. Bryan, County Attorney

Lorraine Dennis, Deputy Administrator/HR
Gary Mixon, Deputy Administrator

MEDIA PRESENT:

The Item Newspaper

THE PUBLIC PRESENT:

No member from the public was present.

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CALL TO ORDER: Chairwoman Vivian Fleming McGhaney called Sumter County Council's meeting of September 14, 2009, to order.

INVOCATION: Chairman Vivian Fleming McGhaney gave the invocation.

PLEDGE OF ALLEGIANCE: All in attendance repeated the Pledge of Allegiance.

APPROVAL OF AGENDA: Chairwoman McGhaney stated that she would entertain a motion to approve the September 14, 2009, agenda with any additions, deletions, or as printed.

ACTION: MOTION was made by Councilman Baker, seconded by Councilwoman Sanders, and unanimously carried by Council to approve the September 14, 2009, agenda as presented.

ACTION ON REGULAR MEETING: N/A

LAND USE MATTERS AND REZONING REQUESTS - None
Planned Development/Rezoning Request -

Street Name Change - None

Grant Awards - None

OTHER PUBLIC HEARINGS -- None

NEW BUSINESS:

- (1) Executive Session: It Will Be Necessary To Hold An Executive Session To Discuss A Contractual Matter Pertaining To Property And To Take Action After The Executive Session As Necessary.

The Chairwoman stated that she would entertain a motion to enter executive session to discuss a contractual matter pertaining to property.

ACTION: MOTION was made by Councilman Byrd, seconded by Councilman Edens, and unanimously carried by Council to enter executive session to discuss a contractual matter. After the conclusion of executive session, Council re-entered open session upon receiving a motion, second, and unanimously carried to re-enter open session.

The Chairwoman reported that while in executive session, Council members discussed a contractual matter. (See MOU listed below).

ACTION: MOTION was made by Councilman Edens, seconded by Councilman Baker, and carried by Council to approve the Memorandum of Understanding as presented at this meeting dated September 14, 2009, with all amendments included. Councilman Blanding voted nay; Vice Chairman Baten abstained.

OLD BUSINESS: None

COMMITTEE REPORTS: None

MONTHLY REPORTS: None

ADMINISTRATOR'S REPORT:

No report was given.

PUBLIC COMMENT:

The Chairwoman asked if anyone wished to speak to Council during public comment. No one spoke to Council.

ADJOURNMENT:

There being no further business and no additional comments from the public, the meeting was adjourned at 5:50 p.m. after a motion, a second, and unanimously carried by Council.

Respectfully submitted,

Vivian Fleming McPhaney
Chairman or Vice Chairman
Sumter County Council

Mary W. Blanding
Clerk to County Council
Sumter County Council

Approved September 22, 2009

I certify that public and media notification of the above-mentioned meeting was given prior thereto as follows:

Public Notified: Yes

Manner Notified: Agendas posted on bulletin board on third floor of the Administration Building.

Date Posted: September 10, 2009

Media Notified: Yes

Manner Notified: Agendas were sent to most radio stations, television stations, and newspapers in the Sumter, Columbia, Manning, and Florence communities. Also, E-Mail notification was sent to Sumter County's Home Page, WIBZ, The Item, The Chamber, and Time Warner Cable.

Date Notified: September 10, 2009

Respectfully submitted,

Mary W. Blanding
Mary W. Blanding

THIS MEMORANDUM OF UNDERSTANDING is made as of _____, 2009, between **SUMTER COUNTY, SOUTH CAROLINA** (the “County”), and **CITY OF SUMTER, SOUTH CAROLINA** (the “City”).

In consideration of the mutual covenants contained herein, the parties agree as follows:

1. **Factual Recitals.** The County and the City hereby acknowledge and agree as follows:
 - (a) The parties have determined, by appropriate legislative action and after due investigation, that both the County and the City have a critical interest in protecting Shaw Air Force Base (Shaw AFB”) against further encroachment by residential development.
 - (b) In an effort to prevent such encroachment, the City determined to attempt to purchase a certain parcel of land, together with any improvements thereon, consisting of approximately 920± acres, located on the west side of Stamey Livestock Road and on the east side of Shaw AFB in the City (the “Property”), together with all easements, contract rights, permits, licenses and other rights benefiting the Property.
 - (c) In order to raise the funds necessary to purchase the Property, the City requested that the County include the purchase price of the Property in a referendum on the question of the imposition of a capital project sales tax within the County. The County, by appropriate action, included an item in the referendum to be held on November 4, 2008, that would allocate the amount of \$6 million to the purchase of a passive park on the east side of Shaw AFB in the City.
 - (d) The referendum resulted in an affirmative vote to impose the capital project sales tax within the County.
 - (e) The City has determined to purchase the Property for a price of \$6 million. Following the purchase of the Property, the City will expend its own funds in order to establish the Property as a passive nature park.
 - (f) The City and the County each acknowledge the contribution that the other has made to this critical project, which will not only provide an additional passive nature park within the City and the County but will also protect Shaw AFB against significant additional encroachment. Accordingly, the County and the City now desire to agree to the terms upon which any net proceeds from any future sale of the Property will be allocated.
2. **Allocation of Net Proceeds.** If at any time after the purchase of the Property the City determines to sell the property, the Net Proceeds of the Sale shall be equally divided between the parties, such that the County receives 50% and the City receives

50% of such Net Proceeds of the Sale. The "Net Proceeds of the Sale" shall be defined as the actual sales price received for the property, modified by the following:

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(a) Any out-of-pocket costs and expenses incurred by either the County or the City in connection with the sale of the property, including without limitation the costs of any required appraisal, legal fees and expenses, the costs of any environmental studies required to be performed, closing costs to be paid by the Seller, title insurance, etc., which out-of-pocket costs shall be directly reimbursed to the payor from the actual sales price before the allocation is made; and also

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(b) The closing and related costs the City incurred in purchasing the Property in excess of \$6 million, which costs will be established by actual invoices and paid receipts promptly following the closing of the purchase of the Property, and which amount is currently expected to not be in excess of \$100,000; and also

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(c) Costs (including both operation and maintenance costs and capital costs) incurred and reliably documented by the City in converting the Property to, and operating the Property as, a passive park. The City will maintain an accounting of costs for operation and maintenance and capital improvements and will give the County a report on same quarterly. Any capital improvements costing \$10,000 or more will require prior consent by both Councils.

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(d) Revenues collected from all sources related to the ownership of the land, to include farm and house leases. The City will maintain an accounting of this revenue and will give the County a report on same quarterly.

The Net Proceeds of the Sale shall be distributed to the City and the County as promptly as is reasonable practicable following their receipt and the completion of the calculation described above.

An annual financial report shall be made by the City setting forth the annual and cumulative totals of costs and revenues regarding this property.

If only a portion of the Property is sold, then the sales price paid for such portion shall FIRST be applied to the items described in paragraphs (a), (b), and (c) above, in that order, and any remaining net proceeds shall then be divided equally between the City and the County; *provided, further*, that the items described in paragraphs (a), (b), and (c) above shall be discharged as paid, and when the items described in paragraphs (a), (b), and (c) above have been fully discharged, any proceeds received in the future from the

sale of any remaining portion of the Property shall be equally divided between the County and the City.

3. **Determination to sell: Determination of Sales Price; Right of County to Object.**

The City as the owner of the property shall have the sole discretion as to transfer the ownership rights of the property to the United States Government, the United State Air Force, the United States Army, or any other related agency as may be necessary for protection of the military base currently known as Shaw Air Force Base. The City's discretion will extend to the terms of the transfer, including any consideration to be paid, if any at all. In the event the City decides to transfer the property to any agency of the United States Government for less than the fair market value, the City shall seek to negotiate to retain a right of reversion so that in the event the United States Government ceases to use the property for Federal Government purposes the property will revert to the City of Sumter and in the event the property reverts to the City of Sumter the terms of this Memorandum of Understanding shall be effective as if the property had never been transferred to the agency of the United States Government. The City may abandon the request for a right of reversion (1) if such right cannot be obtained without endangering the continued existence of Shaw Air Force Base, or (2) if the City has good faith reason to believe that insistence upon such a right of reversion would endanger the continued existence of Shaw Air Force Base. However, in case the City decides to transfer this property to any other transferee, the County shall be entitled (a) to written notice of any sale, to include the sales price, of all or any part of the property at least thirty (30) calendar days prior to the execution of a contract of sale on this property; and (b) to object to such transfer so long as such objection is delivered in writing to the City within twenty-one calendar days of the County's receipt of the notice. Barring receipt of such written objection of sale, the City shall be free to proceed with the transfer of the property under terms that it sees fit. Should an objection be received from the county as stated, than the City shall nevertheless be free to proceed with the transfer under such terms as it sees fit so long as the county receives compensation in the amount of fifty (50%) percent of the appraised value, minus fifty (50%) percent of costs as listed and defined herein above in this agreement, or, the City may proceed with sale for less than the appraised value, but only with the agreement of the County.

4. **Utilization of Property.**

Should this property be developed by the City for utilization by members of the public for a park, all residents of Sumter County all residents of the County of Sumter will be entitled to equal access to the park, city residents and those outside the city alike, and County Council and City Council will be entitled to equal access for governmental functions such as drop-ins, receptions, etc

IN WITNESS THEREOF, the parties hereto have caused these presents to be executed on the date this Agreement has been signed by all parties written below.

Witnesses:

SUMTER COUNTY

VIVIAN F. McGHANEY,
COUNTY COUNCIL CHAIR

Witnesses

CITY OF SUMTER

JOSEPH T. MCELVEEN, JR.
MAYOR