

**CITY OF COLUMBIA
SPECIAL CALLED MEETING MINUTES
NOVEMBER 12, 2007 – 2:00 PM
CITY HALL – COUNCIL CHAMBERS
1737 MAIN STREET – 3RD FLOOR**



The Columbia City Council held a Special Called Meeting on Monday, November 12, 2007 in the City Hall Council Chambers located at 1737 Main Street, Columbia, South Carolina. Mayor Robert D. Coble called the meeting to order at 2:07 p.m. The following members of Council were present: The Honorable E.W. Cromartie, II, The Honorable Anne M. Sinclair, The Honorable Sam Davis, The Honorable Tameika Isaac Devine, The Honorable Daniel J. Rickenmann and The Honorable Kirkman Finlay III. Also present were Mr. Charles P. Austin, Sr., City Manager and Ms. Erika D. Salley, City Clerk.

EXECUTIVE SESSION

Upon motion by Mayor Coble, seconded by Ms. Sinclair, Council voted six (6) to one (1) to go into Executive Session at 2:08 p.m. for the discussion of **Items 1.** and **2.** as outlined. Voting aye were Mr. Rickenmann, Ms. Devine, Mr. Davis, Ms. Sinclair, Mr. Cromartie and Mayor Coble. Mr. Finlay voted nay.

Councilor Finlay stated for the record that with the degree of issues that are around this he is very uncomfortable with discussing this in executive session. We ought to be discussing this fully in front of the citizens, because that's who is impacted.

1. Receipt of legal advice, which relates to a matter covered by attorney-client privilege - *This item was discussed in Executive Session. No action was taken.*
 2. Discussion of negotiations incident to settlement of legal claims - *This item was discussed in Executive Session. No action was taken.*
- **Council adjourned the Executive Session at 2:53 p.m. to reconvene the meeting.**

CITY COUNCIL DISCUSSION / ACTION

3. Tax Increment Financing / Arbitration with Richland County

Mr. Jim Meggs, City Attorney explained that the settlement agreement before Council is in connection with the arbitration mediation for the Tax Increment Financing (TIF) dispute with Richland County. This agreement embodies the settlement points agreed to by the delegation from both City Council and County Council with former Chief Justice David Harwell serving as the mediator in lieu of formal arbitration, which will occur during the second week in December if this agreement is not accepted by both sides in the dispute. The agreement is fairly straightforward. There are three (3) salient points involved. The City of Columbia will go forward and defease bonds that remain outstanding from the 2001 initial \$25 million Tax Increment Financing Bond Issue. The last of those payments are due in December 2008. Pursuant to this agreement, the City would go forward to defease those bonds, which means to escrow sufficient cash in an investment that will yield enough money to pay the bonds off in December 2008. That figure is about \$3.17 million on the Serial Bond Issue and \$590,000 is due on the Super Sinker Bond in December 2008. Those two (2) sums will be aggregated and invested with an escrow agent and paid to the bondholders in December 2008.

The effect of defeasing the bonds early would be to eliminate the Congaree Vista Tax Increment District and the special tax allocation fund; therefore, all of the taxing authorities will commence to enjoy the benefits of the increased assessed value of the Congaree Vista Tax Increment District in January and February when the 2007 tax payments start coming into the Richland County Treasurer's Office. In addition, there are bonds outstanding from the 1999 Urban Core Redevelopment District Tax Increment Financing District, which was originally \$2.335 million with approximately \$1.6 million outstanding on that bond issue. We will defease those bonds under this agreement and free up the Carolina First block, principally the Carolina First Building will come on line as a fully taxable general revenue type asset for all of the taxing authorities. Those are the three (3) payoff provisions. There is a little bit of money left in the escrow and we were able to get the release of sufficient funds from escrow to make the December 1, 2007 payments on the Super Sinker and Serial Bonds. We were on schedule to make complete payments by December 1, 2008. This agreement ends the matter a year earlier than anticipated.

Councilor Finlay asked for the total amount to be defeased.

Mr. Jim Meggs, City Attorney, explained that it was roughly \$5.5 million including defeasing the 2001 Serial Bond in the amount of \$3.17 million, \$590,000 for the Super Sinker Bond and \$1.5 million for the 1999 Urban Core Redevelopment Bond Issue. He explained that there is an agreement and an additional document that County Council approved earlier this afternoon. This provision should be incorporated into City Council's motion. It will be included in the final execution copy of the agreement.

Councilor Finlay thanked Councilors Sinclair, Devine and Rickenmann for doing a good job getting us to the best settlement in a bad situation. This will allow us to move forward with the County and provide clarity in our financial statements in a way we have not had in the past. A contingent liability will be removed from our balance sheet and that is going to be important. This money should not come from water and sewer. It should come from our rainy day fund or our contingent reserves to help us pay for this. It is important that we understand how we got here. We negotiated a deal and did not live up to the obligations. We need to take this as a learning experience and make the best out of this by moving forward with a forensic audit to help us understand how we spend our money. We need to audit our legal and other contingent liabilities and understand those correctly. We need to check all liabilities and make sure they are accurate. Finally, we need to appoint a citizens committee of experts in the financial field to help us move forward and provide clarity in our financial statements and develop a policy that will keep us from being here ever again.

Councilor Devine stated that while this has not been the ideal situation, being able to settle this says a lot about the leadership of this Council and County Council. We can't continue to argue and pursue legal remedies against another governing body. Ultimately the citizens are the ones being hurt from that. The money will go back to the citizens of Richland County who are also citizens of the City of Columbia. She commended her former and present colleagues for putting together the TIF District, because we have benefited from their visions. Ultimately, the money that was invested in this area has impacted our citizens and has become a destination for tourists. She agreed with Mr. Finlay's statements on moving forward. She suggested a forensic audit a year ago to the City Manager, but he wanted to wait until this audit was done. Now that this is done we can move forward and fully understand our finances. The only way we can give our citizens the reassurance that we have not mismanaged or misappropriated money is to have a forensic audit. We should pursue opportunities to work with the County on more things. This settlement is a new beginning for our relationship with the County.

Councilor Sinclair recognizes the financial challenges we've been under. We went into the mediation wanting to resolve this matter on Friday. She explained that when the City and the County approved the TIF we literally joined hands and moved forward to make a difference in this downtown Vista area. Through the TIF, we now have a Convention Center, EdVenture, the Art Museum, Carolina First, Boyd Plaza, the Greenway and other projects. We have a huge public investment that has paid off. Without that public investment, the University would not be putting up a ball field on our Greenway nor would the InnoVista be happening. The two (2) TIF Districts have been a huge success for our community. It was a successful venture.

Councilor Cromartie said that this settlement was needed. He was present when the TIFs were developed some years ago and he recalled the votes on the matters. It is important for everyone to realize that all the money went toward public infrastructure development. We are paying it off in advance and bringing it to an end so that the taxing districts will now receive all of the tax revenue. He supports it and the cooperative relationship between the City and the County because we are now in a position to move forward and work together for the benefit of all citizens.

Councilor Davis thanked his colleagues for going into the meetings on behalf of the City. The results represent a savings to the County as well as our taxpayers in the City. The TIF predates Mr. Davis, but he is in favor of supporting the agreement, but also feels that it's time to move forward. The TIF has served its purpose in that area and we have an opportunity now to focus on other areas of this City. A TIF may not be the right approach, but the experiences have taught us that there are ways to be creative with working in other parts of the City whose time is due. We can work with the County on other projects in the spirit of cooperation and the purpose in mind that everybody's going to benefit from that. He favors a forensic audit, because our current financial situation is sad.

Councilor Rickenmann thanked the county representatives that worked with us on Friday. They left with the understanding that we are going to work together in the future. He hopes that we will take steps in the future to ensure that we don't run into this kind of situation again, because this culminated over a period of time through different Council members, City Managers and staff. He hopes that we can take all the negatives of this situation and build on it so that future Councilors, constituents, citizens do not have to be placed in this situation.

Mayor Coble stated that the City and County relations have always been subject to a lot of discussion. He started on Richland County Council in 1985 and that was when the first TIF was started. In addition to the legal and financial issues that result in this settlement, there is also the issue of our relationship with the County and to be honest I think I bear more of the responsibility than anyone for our relationship not being what it should be on a variety of issues. We made a lot of progress this year with the Animal Control and Fire Contracts. He stated that joint planning is a great opportunity for us. He meets every two (2) weeks with Mr. Joe McEachern and it is clear that the County wanted to end a year early on their obligation and that was their bottom line. This settlement will allow us to move forward with a relationship with the County that will always have some tension with it, but we'll continue to make progress. Our fiscal year 05/06 audit will be at the printer this week. How we move forward together should be at the top of the Retreat Agenda.

Upon motion by Mayor Coble, seconded by Ms. Sinclair, Council voted unanimously to approve a Settlement Agreement with Richland County wherein the City of Columbia agreed to defease the 2001 Tax Increment Financing Bonds which remain unpaid as of December 31, 2007 in order to immediately relieve the County and other taxing authorities of any further financial responsibility under the 1999 Agreement; to defease or prepay the 1999 Tax Increment Financing Bonds and terminate the Urban Core Tax Increment Financing upon the effective date; and both parties hereby agree that the County Treasurer shall continue to escrow all ad valorem tax revenues received from properties in the Vista Tax Increment Financing District through to the effective date and, thereafter, direct that all funds being held in escrow (including interest earnings) pursuant to the 2007 Agreement by the Richland County Treasurer shall, as soon as reasonably possible after the effective date, be released to the County.

- **Council adjourned the meeting at 3:16 p.m.**

Respectfully submitted by:

Erika D. Salley
City Clerk