



Minutes
Sumter County Council Regular Meeting
Tuesday, December 12, 2023 -- 6:00 p.m.
Sumter County Administration Building
Third Floor, County Council Chambers
13 E. Canal Street, Sumter, SC

Social Distancing Is Encouraged At All County Council's Meetings, And Seating Is On A First Come First Serve Basis.

<https://www.youtube.com/channel/UCAHjiqzPaonQ9LFS2kO37tA>

COUNCIL MEMBERS PRESENT: James T. McCain, Jr., Chairman, James R. Byrd, Jr., Vice Chairman; Artie Baker, Eugene R. Baten, Charles T. Edens, and Carlton B. Washington.

COUNCIL MEMBERS ABSENT: Vivian Fleming McGhaney

STAFF PRESENT: Gary Mixon, Mary W. Blanding, Helen Roodman, Greg Hawkins, and two Sheriff Deputies.

MEDIA PRESENT: Bryn Eddy, The Item Newspaper

PUBLIC PRESENT: There were approximately 19 members of the public in attendance at this meeting.

CALL TO ORDER: Chairman James T. McCain, Jr. called County Council's November 28, 2023, to order.

INVOCATION: Clerk To Council, Mary W. Blanding gave the invocation.

PLEDGE OF ALLEGIANCE: The Pledge of Allegiance was led by Chairman McCain.

APPROVAL OF AGENDA: Chairman McCain called for a motion on the approval of the agenda for Tuesday, December 12, 2023.

ACTION: MOTION was made by Councilman Baker, seconded by Vice Chairman Byrd, and unanimously carried by Council to approve the agenda of December 12, 2023, as presented.

APPROVAL OF MINUTES: Regular Meeting -- Tuesday, November 28, 2023, And Special Meeting On December 7, 2023.

November 28, 2023 - Minutes

Chairman McCain called for a motion concerning action on the November 28, 2023, minutes of County Council's regular meeting.

ACTION: MOTION was made by Councilman Baten, seconded by Councilman Edens, and unanimously carried by Council to approve the minutes of Sumter County Council's meeting of November 28, 2023, as presented.

December 7, 2023 - Minutes

Chairman McCain called for a motion concerning action on the December 7, 2023, Special Meeting minutes of County Council's.

ACTION: MOTION was made by Councilman Baten, seconded by Councilman Edens, and unanimously carried by Council to approve the minutes of Sumter County Council's Special meeting of December 7, 2023, as presented.

Note: Council Will Act On Ordinance #23-992 Public Hearing And Third Reading Immediately After Action On Council's Minutes.)

OTHER PUBLIC HEARINGS:

- (1) **Ordinance #23-992 - An Ordinance Authorizing The Execution And Delivery Of A Fee-In-Lieu Of Ad Valorem Taxes And Incentive Agreement By And Between Sumter County, South Carolina And Project Black Nickel To Provide For Payment Of A Fee-In-Lieu Of Taxes; Authorizing Certain Infrastructure Credits; Authorizing The Benefits Of A Multi-County Industrial Or Business Park To Be Made Available To The Project; And Other Related Matters. (County Council May Take Action On Third Reading For This Ordinance Immediately After The Public Hearing Or During Old Business). Note: Council Will Act On This Public Hearing And Third Reading Immediately After Action On Council's Minutes.)**

The County Administrator, Gary Mixon, introduced this proposed ordinance to Council for public hearing and third reading. Then he asked Jay Schwedler, the Economic Development Director, to present this matter to Sumter County Council and the public. *(Mr. Johnathan Bryan, the County Attorney was out due to a medical issue.)*

Mr. Schwedler stated that the project that will be announced tonight has not changed in scope; the Fee In Lieu of Taxes is still the same as negotiated. He also said that this project is a greenfield project in the Pocatigo Industrial Park, located on Highway 521 South. There will be a public announcement on December 13, 2023, at the Opera House at 3:00 p.m. and Council and staff are asked to attend.

Then Chairman McCain opened the public hearing:

- **Lewis Watson** stated that he is not totally against this project, but since Mr. Schwedler said that the announcement would be tomorrow, Mr. Watson said he is against it because he does not have enough information about the project.
- **Jackie Hughes** spoke in opposition to this proposed ordinance because she does not know enough about the proposed project. Ms. Hughes was concerned about whether or not the project was from China.

The Chairman asked if anyone else wished to speak in opposition to the proposed ordinance. No one spoke in opposition; therefore, the Chairman called for a motion on third reading which is listed under Old Business. Then Chairman McCain asked the representatives from Black Nickel to introduce themselves and inform Council and the public about the company.

Mr. Schwedler introduced Dr. Erik Eschen, CEO of the Company, and asked him to speak on behalf of the Company. Dr. Eschen stated that there is nothing that the Company wants to hide or keep a secret, the company is a very open company and excited about this new venture. The company is 100 years old; and they are from Germany. This company will produce earth permanent magnets for the automotive industry and for the U. S. Defense. Also, the project is expected to bring more than half a billion-dollar investment and create 300 highly skilled new jobs for Sumter County. Dr. Eschen stated that the company will construct, own, and operate a new facility on 85 acres in the Pocatigo Industrial Park; and the work will be important for the environment and national security.

LAND USE MATTERS AND REZONING REQUESTS:

Planned Development/Rezoning Requests:

*NOTE: RZ = Rezoning Of Property As Applicable In Sumter County Zoning and Development Standards.
AC = Agricultural Conservation As Applicable In Sumter County Zoning and Development Standards.
NC = Neighborhood Commercial As Applicable In Sumter County Zoning and Development Standards.
LI-W = Light Industrial-Warehouse As Applicable in Sumter County Zoning and Development Standards.*

- (1) **OA-23-01 -- Solar Projects -- (County) - Third Reading** --Request To Amend The Sumter County Zoning And Development Standards Ordinance, Specifically, Article 3, Exhibit 5, To Add Primary - Solar Electric Power Generation (Photovoltaic Solar Energy System) With NAICS 221114, As A Special Exception In The Light Industrial (LI-W), Heavy Industrial (HI), Agricultural Conservation (AC), And Conservation Preservation (CP) Zoning Districts; Add Accessory - Solar Electric Power Generation (Photovoltaic Solar Energy Systems) NAICS 221114 As A Conditional Use In LI-W, HI, AC, And CP Zoning Districts; Amend Article 5.B.1.M To Establish Conditional Use Review Criteria For Accessory Photovoltaic Energy Systems (NAICS 221114), Amend Article 5.B.2 To Add Primary Photovoltaic Solar Energy Systems (NAICS 221114) To The Listing Of Certain Hazardous And/Or Potentially Disruptive Land Development Activities; Amend Article 5.B.3 To Add Specific Special Exception Use Review Criteria For Primary Photovoltaic Solar Energy Systems (NAICS 221114); And Amend Article 10.B.1 To Revise The Definition Of A Primary Photovoltaic Solar Energy System.

Mrs. Helen Roodman presented this ordinance to County Council for third reading consideration. She stated that on December 4, 2023, she met with the community members that have voiced their concern about this proposed ordinance amendment. Mrs. Roodman also said that the changes that were recommended by the community are shown in green.

- ❖ Established in 2016 (OA-16-08).
- ❖ Conditional Use requiring staff level approval in The Agricultural Conservation (AC), Conservation Preservation (CP), Light Industrial-Warehouse (LI-W) and Heavy Industrial (HI) Districts.
- ❖ Only subject to use specific review criteria if within 5 nautical miles of Shaw AFB, Poinsett ECR, and Sumter County Airport.

Proposed Ordinance Amendments/Changes to Review Criteria:

- ❖ Make accessory photovoltaic energy systems (NAICS 221114) a staff level conditional use in AC, CP, LI-W, and HI districts.
- ❖ Make primary photovoltaic energy systems (NAICS 221114) a special exception use in AC, CP, LI-W, and HI districts.
 - ❖ Special Exception Use *requires* a public hearing with the Board of Zoning Appeals.
- ❖ Modify established conditional use review criteria specific to accessory photovoltaic energy systems.
- ❖ Establish special exception use criteria and expand the language.
 - ✓ Modify setback to 200 ft. from roadways and all other property lines.
 - ✓ Require 50 ft. wide evergreen buffers along road rights of way and between development site and abutting residential uses.
 - ✓ Require the planting of native vegetation and grasses in AC and CP districts.
 - ✓ More rigorous decommissioning requirements with financial surety for primary systems.

Proposed Special Exception Language (Edits based on 12-4-23 Meeting in green)

- c. Primary Photovoltaic Solar Energy Systems (NAICS 221114). Applies to all Primary Photovoltaic Solar Energy Systems as defined in Article 10.b.1.
 1. All ground-mounted photovoltaic solar energy systems shall be setback 200 ft. from all property lines. This shall be interpreted to apply to all improved areas associated with the project(s). **This provision excludes any security fencing, however; the 200 ft. setback shall apply to all arrays, storage areas, permanent stormwater management facilities, battery storage, inverters, and transformers. The poles and aerial lines necessary to deliver electricity to the power grid may be located in the setbacks so long as all necessary buffering is maintained as required in section 5.b.3.c.10.**
 2. All access roads and storage areas shall be established on a 30-foot minimum easement to a public right-of-way.
 3. All ground-mounted photovoltaic solar energy systems shall be enclosed by perimeter security fence **that is wildlife friendly and of a height that meets the National Electric Code (NEC) without the use of barbed wire. Said fencing shall be installed behind required buffers and not be visible from public rights of way.**
 4. All ground-mounted photovoltaic solar collectors shall be limited to a maximum height of **15 feet** when oriented at maximum tilt. The provision shall not include the interconnection poles, substation equipment, or other devices necessary for the electricity to be delivered to the public utility station.
 5. On-site electrical interconnections and power lines shall be installed underground wherever reasonably practical.
10. All Landscape Buffering: a minimum 50 ft. wide landscape buffer containing evergreen vegetation screening is required to obscure solar energy system from public rights of way and residential uses on adjacent parcels. Buffers shall meet the following minimum criteria:
 - a) **Existing Vegetation:** Existing mature **trees and shrubs shall be retained** in the required 200 ft. setback area. Dead trees and shrubs may be removed in the setback area. Said vegetation shall be supplemented to ensure a year-round evergreen vegetative visual screen of at least 6 ft. in height over three growing seasons and not less than 20 ft. in height at maturity.
 - b) **Additional Plantings:** Where existing vegetation is insufficient for required screening, a planting plan shall be developed and submitted that creates a year-round **evergreen vegetative** visual screen of at least 6 ft. in height over three growing seasons and not less than 20 ft, in height at maturity. **The planting plan shall utilize a variety of evergreen species to avoid the creation of a monoculture vegetative buffer.**
 - c) **Maintenance:** **All new plantings must include an irrigation system that shall be maintained until all plant materials are fully established and thriving, dead or diseased plant materials shall be replaced within 60 days of notification by the County.** It shall be the developer's responsibility to ensure all buffer plants remain healthy and thriving. Failure to replace dying, diseased or plants failing to thrive constitutes a violation of the Ordinance and may result in enforcement action in accordance with Article 1 of the Ordinance.
11. For primary photovoltaic energy systems developed in the Agricultural Conservation (AC) and Conservation (CP) zoning districts – sites **shall** be designed and developed using native ground cover/vegetation and other best practices as outlined in the Technical Guidance for the Development of Wildlife & Pollinator Habitat at Solar Farms (South Carolina Solar Habitat Act – March 2021) document or similar best practices document.

12. Decommissioning Plan:

- a. Satisfactory completion of a Decommissioning Plan, per Appendix D. The Decommissioning Plan shall be recorded at the Sumter County Register of Deeds and be included with any leasing documents/agreements with the property owner.
13. Decommissioning Surety:
- a. A form of surety equal to 125% of the entire cost to decommission the primary photovoltaic solar energy facility, as approved, is required. Decommissioning costs shall be estimated by an engineer licensed to practice in the State of South Carolina and approved by the Sumter County Administrator and Sumter County Attorney.
- Note: salvage/recycling value of system elements may be taken into account in cost estimates.*
- a. The surety is required to cover the costs of decommissioning the primary photovoltaic solar energy facility. Decommissioning costs shall include all work as described **in the recorded Decommissioning Plan.**
 - b. The surety can be in the form of cash, cashier's check, certified check, certificate of deposit, negotiable U.S. Treasury securities, performance bond, irrevocable letter of credit, or other instrument readily convertible into cash at face value. **If utilizing a bond to cover the required surety, the bond shall have a rating of AAA.**
 - c. The surety may be made directly to Sumter County or be placed in escrow within a financial institution designated as an official depository of Sumter County.

Mrs. Roodman also gave Council members information about the proposed Modified Definition for Primary Photovoltaic Solar Energy System with changes as listed below.

- **Primary:** a ground-mounted photovoltaic solar facility with components and subsystems that generate electricity from sunlight. To be sold to a wholesale electricity market through a regional transmission organization and an interconnection with the local utility power grid, **to include battery storage facilities and/or other accessory power storage features.** The area of the facility includes all the land inside the perimeter of the system, which extends to any fencing, land area required for setbacks, landscaping and signage.

After Mrs. Roodman's comments the following motion was presented.

ACTION: MOTION was made by Councilman Edens and seconded by Vice Chairman Byrd to grant third reading to this ordinance amendment as presented at this meeting including the changes.

Councilman Washington stated that he appreciated the work that Mrs. Roodman has completed on this rezoning request and thanked Council for their work on this ordinance amendment as well to allow for things to be a little better for rural citizens and quality of life. Councilman Washington further stated that he is not sold on solar, and he is not sold on the invasion of the natural habitat, nor what solar will do to the environment, wildlife, and water. He also stated that he felt that Council was being a bit premature, and he would like Council to be a little more protective of the citizens; it is about people first. Lastly, he said that he will be voting in opposition of this ordinance amendment as presented by Mrs. Roodman.

Councilman Baten then made comments; he said that Duke Energy is a large company, and they have a net worth of over \$73 billion dollars, and they support solar farms as well as serve over 830,000 citizens in South Carolina. Then he explained that Black River Electric Cooperative also has solar panels in Sumter and the users are benefitting from the solar system. Councilman Baten ended his comments by

stating that the solar panels will help reduce the cost of the electrical bills for those that have them and he is in support of the ordinance.

Then Councilman Washington said that when cellphones became available to everyone stating that the workload would decrease, because of the technology. He then said that he could guarantee that 99% of the people sitting in the audience would say that the workload has not changed. Councilman Washington said that he does not want council to be *trick bagged* by being told that it is good, but we do not have all the information. He also said that Council does not know what it is going to do to wildlife, the ground soil, the water, or what will happen when these companies walk away from the solar farm. Also, Councilman Washington stated that if anyone can show him a study about the solar farms and how they affect the community, he would be glad to review it.

Then Councilman Baten said that the solar farms are here to help people and the one that is operated by Black River Electric Cooperative is helping people.

Then the chairman restated the motion as listed below.

ACTION: MOTION was made by Councilman Edens and seconded by Vice Chairman Byrd to grant third reading to this ordinance amendment as presented at this meeting including the changes.

Chairman McCain asked if anyone had any further comments.

Councilman Baker said that he agrees with both Council members, Baten and Washington; however, it is important for Sumter County Council to have some type of regulations before companies come to Sumter County to try to operate a business.

The Chairman restated the motion again and Council acted on the motion.

ACTION: MOTION was made by Councilman Edens and seconded by Vice Chairman Byrd to grant third reading to this ordinance amendment as presented at this meeting including all changes that were presented by the Planning Director. Councilman Washington voted in opposition. The motion passed with five in favor and one in opposition. Councilman McGhaney was absent.

NEW BUSINESS:

- (1) It May Be Necessary To Hold An Executive Session To Discuss An Employment Matter, An Economic Development Matter, A Legal Briefing, Or Other Matters Pertaining To An Executive Session, And Take Appropriate Actions, If Necessary, Thereafter In Open Session.

No executive session was held.

OLD BUSINESS

- (1) Ordinance #23-991 -Second Reading -- An Ordinance Authorizing An Amendment To That Certain Fee In Lieu Of Tax Agreement By And Between Sumter County, South Carolina And A Company Currently Identified As Project Mole To Extend The Investment Period Thereunder, To Provide For

Additional Special Source Revenue Credits, And To Address Other Matters Related To A Proposed Expansion.

The County Administrator presented this proposed ordinance to Council for second reading consideration. He stated that the ordinance would allow for an amendment to an existing Fee In Lieu Of Tax Agreement between Sumter County and a company currently identified as Project Mole. The company agrees to a \$17,000,000 investment and to create 15 to 20 new jobs. Also Mr. Mixon mentioned that there will be a public hearing and third reading for this ordinance in January 2024. After all comments by Mr. Mixon, the Chairman called for a motion on second reading for this ordinance.

ACTION: MOTION was made by Vice Chairman Byrd, seconded by Councilman Edens, and unanimously carried by Council to grant second reading approval as presented.

- (1) Ordinance #23-992 - An Ordinance Authorizing The Execution And Delivery Of A Fee-In-Lieu Of Ad Valorem Taxes And Incentive Agreement By And Between Sumter County, South Carolina And Project Black Nickel To Provide For Payment Of A Fee-In-Lieu Of Taxes; Authorizing Certain Infrastructure Credits; Authorizing The Benefits Of A Multi-County Industrial Or Business Park To Be Made Available To The Project; And Other Related Matters. (County Council May Take Action On Third Reading For This Ordinance Immediately After The Public Hearing Or During Old Business). Note: Council Will Act On This Public Hearing And Third Reading Immediately After Action On Council's Minutes.)

After a presentation by Mr. Jay Schwedler, Chairman McCain convened a public hearing on this matter. Mr. Louis Watson and Ms. Jacqueline spoke in opposition to this ordinance stating that they had a lack of information about the project and did not know what this company would be producing as well as where the company is originally from. (See above information under public hearing.)

Immediately after the public hearing, as listed above, the Chairman called for a motion on third reading for this ordinance.

ACTION: MOTION was made by Vice Chairman Byrd, seconded by Councilman Baker, and unanimously carried by Council to grant third reading and adoption to this proposed ordinance as presented.

- (3) Ordinance #23-994 - Second Reading -- An Ordinance Amending The Sumter County Code Of Ordinances; Chapter 26 Article II, Licenses, Permits And Miscellaneous Business Regulations, By Amending The Business License Class Schedule To Make Conforming Changes As Required By Act 176 Of 2020.

Mr. Mixon, the County Administrator, also presented this ordinance to Council for second reading consideration. He stated that the Business License Class schedule will be changed as required by the State of South Carolina as required by Act 176 of 2020. Council members had a Fiscal, Tax, and Property Committee meeting earlier today to discuss this matter in detail. After the presentation by Mr. Mixon, the Chairman, called for a motion on this matter.

ACTION: MOTION was made by Vice Chairman Byrd, seconded by Councilman Baker, and unanimously carried by Council to grant second reading to this ordinance as presented.

NOTE: Prior to the motion being carried, Councilman Washington voiced his decision to vote in opposition because his constituents are concerned about some of the language in the ordinance which could prohibit someone with a previous criminal record from acquiring a business license. The ordinance has a ten year-look-back. The ordinance has nothing to do with denial or retribution of a Business License. The amendment is about updating the ordinance concerning *“Business License Class Schedule as required by Act 176 of 2020.”*

COMMITTEE REPORTS:

- (1) Land Use Committee Meeting Scheduled For Tuesday, December 12, 2023, At 5:00 p.m. In The County Administration Conference Room, Third Floor, 13 Canal Street, Sumter, SC. (Edens, Baker, and Baten)

Councilman Edens, Chairman of the Land Use Committee, stated that the Committee meeting was held today at 5:30 p.m. and all Committee members were present. He also stated that the information that was discussed in the Committee meeting was presented by Mrs. Roodman during the Land Use Matter section of the agenda. No additional information.

- (2) Fiscal, Tax, And Property Committee Meeting Scheduled For Tuesday, December 12, 2023, At 5:30 p.m. In The County Administration Conference Room, Third Floor, 13 E. Canal Street, Sumter, SC (McCain, Edens, and McGhaney)

Chairman McCain reported that the Fiscal, Tax, and Property Committee Meeting was held; however, Councilman McGhaney was not present at the meeting. He also stated that the Business License Ordinance was discussed, and the Chairman said that there are concerns about certain language in the ordinance pertaining to previous criminal charges; however, the ordinance that is before Council has nothing to do with restrictions on those that apply for a Business License and have a previous criminal record. This ordinance is only to change the Business License Class Schedule Classification.

- (3) Report From Council Members On Other Meetings, Trainings, And/Or Conferences.

➤ **Councilman Washington** participated in the Pinewood Christmas Parade and informed Council that Vice Chairman Byrd was also there. The Parade had approximately 40 participants. Also, he reported that he attended the Catchall Shaw Community Center annual Christmas dinner where he was the keynote speaker.

MONTHLY REPORTS

1. Public Works Department
2. Sumter VA Clinic Art Exhibit and Reception – December 14, 2023
3. Christmas Drop-In –Sumter School District – Thursday, December 14, 2023
4. Upcoming Meetings of Sumter County Council – December 20, 2023

COUNTY ADMINISTRATOR’S REPORT

Mr. Mixon reported that Mr. Mike McCoy, the County’s Litter Officer, was a special guest on WLTX to discuss the County’s Litter Program. The television clip should air around 7:00 p.m. or 11:00 p.m.

PUBLIC COMMENT:

Citizens Desiring To Speak During Public Comment Are Limited To Up To Three Minutes. Comments Are To Be Made Through The Chairman Of Sumter County Council. If There Are Any Questions, They Will Be Answered After The Meeting.

Chairman McCain asked if anyone wished to speak during public comment. The following persons spoke to Council.

- Louis Watkins spoke concerning a Litter Clean-up sponsored by the Winn Community Resource Center in Sumter. The Litter Clean-up is scheduled for Saturday, December 16, 2023; from 9:00 a.m.-2:00 p.m. The City of Sumter is sponsoring litter pick-ups on December 15, 2023, and they will provide bags, gloves, and other aids to pick-up the litter. Mr. Watkins provided a flyer to Council members.

He also mentioned that the City of Sumter is having a junk removal campaign which will be held on January 22-26, 2024.

Lastly, Mr. Washington stated that the City of Sumter has a “complaint phone number” where citizens can call in to voice their concerns. He asked County Council to consider doing the same thing.

- Dr. Elayne Brunson talked to Council about the proposed Business License ordinance that is being considered by Sumter County Council. She mentioned that the ordinance would prohibit a person that has been incarcerated from being denied a business license. Dr. Brunson also mentioned that the fastest growing business population is the minority population. She cited laws that relate to this review this situation so that those that have already served their time in prison can have an opportunity to start a new life.
- George Bates said that he has been following the Solor Farm discussions, and he is concerned about changing the height from 25 feet to 15 feet. He added that he is concerned about this action by Council. He also asked Council to hire some more Sheriff’s Deputies.
- Dr. Alexandria Baten stated that there are thousands of researches that have been done on Solar Farms. She encouraged Council members to review some of the research.

Vice Chairman Byrd asked Council to please close the meeting in remembrance of Sr. Deputy William Mosier who was a Sumter County Sheriff’s deputy and a K-9 handler. Vice Chairman Byrd stated that he was a very good employee and friend.

ADJOURNMENT

There being no further business for Sumter County Council, and no additional comments from the public, the meeting was adjourned at 7:31 p.m. after a motion by Councilman Baker, seconded by Vice Chairman Byrd, and unanimously carried by Council to adjourn this meeting in **In Loving and Respectful Memory of Sr. Deputy William Mosier** former K-9 handler.

Respectfully submitted,

James T. McCain, Jr.
Chairman or Vice Chairman
Sumter County Council

Mary W. Blanding
Clerk to County Council
Sumter County Council

Approved: January 23, 2024

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

Public Notified: Yes

Manner Notified: Agendas are posted on Sumter County's Website and as a message on the Television Located on the first floor of the County Administration Building.

Date Posted: December 8, 2023

Media Notified: Yes

Manner Notified: Agenda Information is listed on Sumter County's Webpage, and E-mailed to The Item, The Chamber, WIS-TV, WBTW, Spectrum Cable, and others that have requested to receive County Council's agenda.

Date Notified: December 8, 2023

Respectfully submitted,

Mary W. Blanding
Clerk to County Council