

COUNTY COUNCIL OF BEAUFORT COUNTY  
ADMINISTRATION BUILDING  
BEAUFORT COUNTY GOVERNMENT ROBERT SMALLS COMPLEX  
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BEAUFORT, SOUTH CAROLINA 29901-1228

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COUNTY ATTORNEY

SUZANNE M. RAINEY  
CLERK TO COUNCIL

AGENDA  
GOVERNMENTAL COMMITTEE

(Includes Public Safety Division)

Monday, January 11, 2016

2:00 p.m.

Executive Conference Room, Administration Building  
Beaufort County Government Robert Smalls Complex  
100 Ribaut Road, Beaufort

Governmental Committee Members:

Stu Rodman, Chairman  
Rick Caporale, Vice Chairman  
Cynthia Bensch  
Gerald Dawson  
Brian Flewelling  
Alice Howard  
Jerry Stewart

Staff Liaison:

Phil Foot, Assistant County Administrator  
Public Safety

1. CALL TO ORDER – 2:00 P.M.
2. RESOLUTION / APPOINTMENT OF ANIMAL SERVICE OFFICER STEPHANIE BRUMLEY TO ENFORCE ANIMAL ORDINANCES ([backup](#))
3. MULTI-COUNTY INDUSTRIAL PARK (MCIP) PRESENTATION AND DISCUSSION ([backup](#))
4. CONTINUING DISCUSSION / ECONOMIC DEVELOPMENT
5. CONSIDERATION OF REAPPOINTMENTS AND APPOINTMENTS
  - A. Bluffton Township Fire District Board
  - B. Burton Fire District Commission
  - C. Lowcountry Council of Governments
  - D. Parks and Leisure Services Board
  - E. Sheldon Fire District Board
6. ADJOURNMENT

2015 Strategic Plan Committee Assignments

County Economic Development Policy Framework, Strategy and Action Plan  
Heritage / Historic Tourism Plan: Development, Action Plan



**RESOLUTION 2016 /**

**A RESOLUTION TO COMMISSION ANIMAL SERVICE OFFICER TO ENFORCE BEAUFORT COUNTY ANIMAL ORDINANCES FOR BEAUFORT COUNTY PURSUANT TO THE AUTHORITY GRANTED IN SECTION 4-9-145 OF THE *CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED*.**

**WHEREAS**, Beaufort County Council may appoint and commission as many animal service officers as may be necessary for proper security, general welfare and convenience of the County; and

**WHEREAS**, each candidate for appointment as a Beaufort County Animal Service Officer has completed training and whatever certification may be necessary.

**NOW, THEREFORE, BE IT RESOLVED** by the County Council of Beaufort County, South Carolina that:

1. County Council hereby appoints and commissions the following individual as Animal Service Officer for Beaufort County:

Stephanie Brumley, Beaufort County Animal Services Officer

2. Each Animal Service Officer shall present the appropriate certificate to the Beaufort County Magistrate's office prior to any official action as an Animal Service Officer.

Adopted this \_\_\_\_ day of\_\_\_\_\_, 2016.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: \_\_\_\_\_  
D. Paul Sommerville, Chairman

APPROVED AS TO FORM:

\_\_\_\_\_  
Thomas J. Keaveny, Staff Attorney

ATTEST:

\_\_\_\_\_  
Suzanne M. Rainey, Clerk to Council

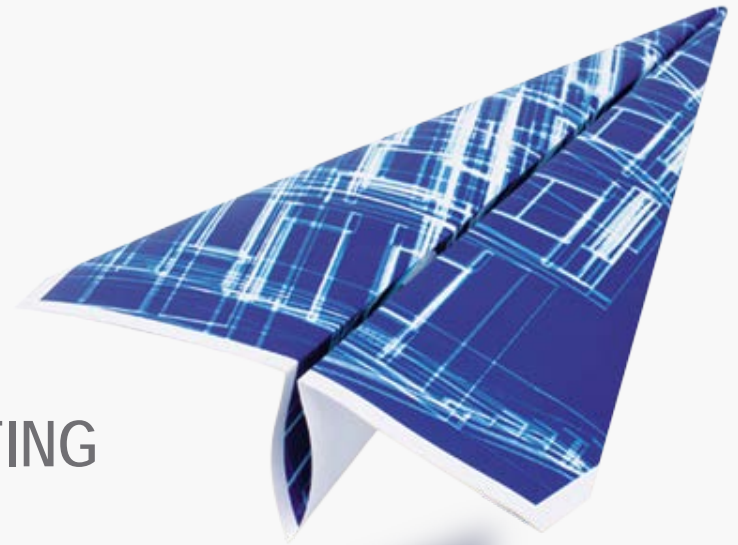
NEXT CHALLENGE. NEXT LEVEL.

**NEXSEN | PRUET**

## BEAUFORT COUNTY COUNCIL BRIEFING

PROPERTY TAX BASICS AND INCENTIVES

JANUARY 11, 2016



Burnet R. Maybank, III

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# PROPERTY TAX BASICS AND INCENTIVES

- I. Basic Property Taxes
- II. Fee in Lieu of Tax ("FILOT")
- III. Multi-County Industrial or Business Park ("MCP")  
/Special Source Revenue Credit ("SSRC")

# I. BASIC PROPERTY TAXES

## Property Subject to Tax:

- Real Property – land and all structures and other things contained in the land or annexed or attached to the land (e.g., buildings and other improvements)
- Personal Property – all things, other than real estate, which have any pecuniary value (e.g., M&E)
- Intangible personal property and inventories not subject to tax.
- See S.C. Code § 12-37-10 & 12-37-210 and S.C. Code of Regulations 117-1700.1
- Example – Air Conditioning
  - Building air conditioning, incl. refrigeration equipment – Real Property
  - Air condition window units & package units – Personal property

# I. BASIC PROPERTY TAXES

Equation to calculate your property tax bill

FMV \* Assessment Ratio \* Millage =



# I. BASIC PROPERTY TAXES

- FMV – Real Property (other than agricultural real property and FILOT real property) – appraised to determine FMV
  - Generally, reappraised every 5 years, though county can delay reassessment by 1 year
  - Maximum increase in FMV due to countywide reassessment is 15% in 5 year period
  - FMV of improvements added to FMV of land upon completion – not subject to 15% cap
  - Can also be reassessed for assessable transfer of interest – not subject to 15% cap
  - See S.C. Code §§ 12-37-3120 – 12-37-3170; § 12-43-217

# I. BASIC PROPERTY TAXES

- FMV – Personal Property

- Manufacturers – from cost, fixed annual statutory depreciation down to residual value – S.C. Code §12-37-930

Examples: Default – 11%, Aerospace – 15%, Life Sciences and Renewable Energy – 20%

- Merchants and other businesses – from cost, income tax depreciation down to residual value



# I. BASIC PROPERTY TAXES

Assessment ratios are found in the State Constitution:

- Manufacturing and Utility: 10.5%
- Commercial Personal Property: 10.5%
- Warehouse & Distribution: 6%
- Commercial Real Property: 6%
- Primary Residences: 4%
- Farm: 4%
- Personal Motor Vehicles: 6%

# I. BASIC PROPERTY TAXES

## Manufacturer's Assessment Ratio:

- Generally, 10.5% on real and personal property
- Exceptions for real property owned by, or leased to, a manufacturer and used primarily for:
  - R&D;
  - Office building – if not located on premises of, or contiguous to, plant site; or
  - Warehouse and wholesale distribution – if property not physically attached to plant unless area is separated by a permanent wall

# I. BASIC PROPERTY TAXES

- Millage includes the combined millage for all taxing entities within jurisdiction
  - Always includes county and school district; sometimes includes municipalities or special purpose districts
  - Determined by each taxing jurisdiction by dividing cost of its annual budget by the total assessed value within taxing jurisdiction
  - Restrictions in millage increases

# I. BASIC PROPERTY TAXES

## Manufacturer's Abatement:

- All new manufacturing establishments as well as all additions of at least \$50,000
- Abates (exempts) the county portion of the millage for five years for manufacturers – Automatic (county consent NOT required)
- Typically between 20% (in a city) and 40% (not in a city) of the millage
- Cities (by ordinance) may also abate their portion of the millage
- Not available if benefiting from a negotiated FILOT
- Similar abatements available for corporate headquarters, distribution facilities, and R&D facilities
  - Corporate HQ and distribution facilities also required to create 75 or more new full-time jobs (or 150 substantially equivalent) in State

# I. BASIC PROPERTY TAXES

Extension of Abatement to Unrelated Purchasers – S.C. Code § 12-37-220(C) and SC Revenue Ruling # 04-14

- Facility must be acquired in arms-length transaction
- Existing facility and # of jobs must be preserved (possibly zero jobs)
- County council must approve
- If transferee makes \$50,000 or more of additional investment, 5-year period may re-start
- Timing – need to approach county and, perhaps, conduct any layoffs prior to closing

# I. BASIC PROPERTY TAXES

## Pollution Control Exemption:

- Complete exemption for facilities or equipment which are designed for the elimination, mitigation, prevention, treatment, abatement or control of internal or external water, air, or noise pollution requirement by the state or federal government
  - Upon request of DOR, DHEC can investigate property and provide DOR with listing of pollution control property
  - Dual purpose equipment – production and pollution control – value eligible for exemption is difference between cost of equipment with vs. without pollution control ability
  - See S.C. Code § 12-37-220(A)(8)

# I. BASIC PROPERTY TAXES

## Change in Use – Rollback Taxes:

- Agriculture use valuation generally based on 1991 values
- Change in use of agriculture real property results in additional taxes
- Equals sum of difference between taxes based on FMV for agricultural purposes and taxes that would have been paid if real property had been valued, assessed, and taxes as other real property in taxing district
- Current tax year (year of change in use) and 5 preceding tax years
- See S.C. Code § 12-43-220(d)

## II. FILOT

Equation to calculate your property tax bill:

FMV \* Assessment Ratio \* Millage =



- FILOTs affect all 3 variables in property tax formula – (1) FMV; (2) AR; and (3) Millage



## II. FILOT

- 3 FILOT Statutes/Acts – Most commonly used today – Title 12, Ch. 44 of S.C. Code (Simplified FILOT)
- Minimum “Project” Requirements
  - Standard FILOT
    - \$2.5 MM (\$1 M for certain counties or in Brownfields Voluntary Cleanup Scenarios)
  - Super Fee/Enhanced Investment FILOT
  - \$150 MM and 125 new full-time jobs or \$400 MM
  - Very broad definition of “project”

## II. FILOT

- Investment Period
  - Standard FILOT – 5<sup>th</sup> anniversary of end of property tax year in which FILOT property initially placed in service
  - Super Fee/Enhanced Investment FILOT – 8<sup>th</sup> anniversary of end of property tax year in which FILOT property initially placed in service
  - Extensions – up to 5 more years (but NOT to reach statutory minimums)
  - 15 year investment available for very large investors in SC
- FILOT Term
  - Up to 30-year rolling payment period for Standard FILOTs (40-year period for Enhanced Investment FILOTs)
  - Possible extension of 10 years
- FILOT affects all 3 variables in property tax calculation

## II. FILOT

### Fair Market Value (FMV):

#### Real Property

- Outside of FILOT: Based on assessment by DOR or county assessor
- Inside of FILOT: Traditionally, original cost over the life of the FILOT (but statute now allows for value to be based on appraisal by DOR)

#### Machinery & Equipment (M&E)

- Generally, same outside and inside FILOT, but if in FILOT not entitled to extraordinary obsolescence

## II. FILOT

### Assessment Ratio:

- Outside of FILOT
  - Manufacturing – 10.5% on both real and personal property (chiefly M&E)
  - Commercial – 10.5% on personal property and 6% on real property
- Inside of FILOT
  - Down to 6% on both real and personal property
  - 4% for Super Fees/Enhanced Investment FILOTs

## II. FILOT

### Millage:

- Outside of FILOT
  - Millage is set annually – can actually go down in reassessment years but tends to increase
- Inside of FILOT
  - Millage is fixed for the life of the FILOT or subject to 5-year rate reset

## II. FILOT

### Advantages of FILOT to Taxpayers:

- ✓ Reduction of assessment ratio
- ✓ Elimination of agricultural rollback taxes (if real estate is AG use)
- ✓ Freezing of millage rate
- ✓ Greater predictability in forecasting FILOT payments

### Advantages of FILOT to County:

- ✓ Eliminates 5-year abatements (manufacturing, corporate HQ, R&D)
  - County does not lose first 5 years of property taxes

## II. FILOT

### Disadvantages of FILOT to Taxpayers:

- ✓ Possible clawback (although clawback is negligible if no SSRC)
- ✓ Normally, freezes the FMV of the real property
- ✓ Lose extraordinary obsolescence
- ✓ Generally, can't include property previously subject to tax
  - Limited exceptions
  - May be addressed through special source revenue credit

## II. FILOT

### Additional Notes:

- Transfers of FILOT agreements or property under a FILOT
  - Allowed if pre-approved or subsequently ratified by county
  - Transferee assumes basis of transferor – IMPORTANT
- Affiliates, lessors, and other investors may be able to also benefit
- Amendment of FILOT Agreements – Can NOT lower the millage rate or AR
- Transitions to Simplified Fee from other 2 FILOT statutes is allowed



## II. FILOT

- Why wouldn't a purchaser want to assume an existing FILOT arrangement?
  - Primary consideration – prospective FILOT payment schedule vs. prospective standard property tax payment schedule
    - Upon FILOT transfer, purchaser assumes basis (value) that seller had in real and personal property for purposes of calculating FILOT payments
      - can create issues, especially for real property
    - If FILOT Agreement allows, purchaser could assume FILOT and then remove real property from FILOT
    - See case study spreadsheets

## II. FILOT

- FILOT/Tax payments aren't only consideration
  - Initial investment or job creation requirements
  - Investment or job maintenance requirements
  - Clawback payments or prospective termination of benefits
  - NPV FILOT – could trigger true-up payments even if all other requirements are met

### III. MCP/SSRC

- Established pursuant to Article VIII, Section 13(D) of the State Constitution and Title 4, Ch. 1 of the S.C. Code
- Counties may jointly development MCP within the geographical boundaries of one or more of the member counties
- Written agreement to share expenses and revenues of the park
- If the MCP encompasses property in a municipality, the municipality must consent prior to creation of the MCP
- All MCPs must consist of contiguous counties – enacted in 1995

### III. MCP/SSRC

- “Industrial” or “Business” parks are NOT always MCPs
- Area comprising the parks and all property located therein is exempt from ad valorem taxes
- Owners or lessees of park MCP property pay an amount equal to property taxes or FILOT that would have been due and payable except for exemption
- Why bother with a MCP?

### III. MCP/SSRC

- MCPs facilitate taxpayer benefitting from SSRCs
- County may use SSRCs to equalize (or lower) its property tax rate with any other county or state
- FILOT NOT a requirement for SSRCs
- Typically, presented as a % of FILOT payment or a flat \$ amount for a defined period of time
- Both real and personal property expenditures may be reimbursed
- Examples:
  - ✓ 25% SSRC for 10 years
  - ✓ \$50,000 SSRC per year for 20 years
  - ✓ 33% SSRC per year until SSRC cap of \$250,000

# III. MCP/SSRC

## Advantages of SSRCS

- Additional decrease of FILOT or tax payments – especially helpful for cash flow in early years
- Hard dollar incentive
- Allows high millage counties flexibility to be competitive

## Disadvantage of SSRCS

- Clawbacks can be severe
  - Retroactive or prospective?
  - Complete or partial? Pro-rata?
- Can be difficult to track and calculate

# PROPERTY TAX BASICS AND INCENTIVES

Example Spreadsheet:

Standard Property Taxes vs. FILOT plus SSRC

# NESA PLANNING RETREAT

## PROPERTY TAX BASICS AND INCENTIVES



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