

COLUMBIA COUNTY BOARD OF COUNTY COMMISSIONERS

COLUMBIA COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY

COLUMBIA COUNTY SCHOOL BOARD ADMINISTRATION COMPLEX

**372 WEST DUVAL STREET
LAKE CITY, FLORIDA 32055**

JOINT WORKSHOP

AGENDA

OCTOBER 5, 2010

6:00 P.M.

Invocation

Pledge to U.S. Flag

Honorable Ronald W. Williams, Chairman, Board of County Commissioners

- (1) Introductions**
- (2) Purpose of Workshop**
- (3) Review/Discussion - Tax Abatement Questions/Answers**
- (4) Staff Recommendations**
- (5) Adjournment**

District No. 1 - Ronald Williams
District No. 2 - Dewey Weaver
District No. 3 - Jody DuPree
District No. 4 - Stephen E. Bailey
District No. 5 - Scarlet P. Frisina



BOARD OF COUNTY COMMISSIONERS • COLUMBIA COUNTY

MEMORANDUM

TO: Columbia County Board of County Commissioners
Columbia County Industrial Development Authority

FROM: Dale Williams, County Manager *Dale Williams by HR*

DATE: September 30, 2010

SUBJECT: Economic Tax Abatement Workshop

Various questions produced by the Columbia County Industrial Development Authority and the Board of County Commissioners pertaining to tax abatement were forwarded to Greg Stewart, Attorney, Nabors, Giblin and Nickerson and Richard Powell, CPA for answers. The questions and answers are attached for your review. In order to facilitate the review of questions and answers, both sets of answers have been posted below the question. This is for your benefit.

Based on the answers provided above, recommendations for future tax abatement /economic development projects have also been included.

BOARD MEETS FIRST THURSDAY AT 7:00 P.M.
AND THIRD THURSDAY AT 7:00 P.M.

Questions and Answers - Tax Abatement Workshop

1. How is the base land value set for a tax abatement project? For example, Hunter Panel was built on property provided by the county. The property was generating zero tax revenue prior to the construction. Do we handle tax abatement like a Tax Incremental Financing project where the present value is frozen and all future value is available for rebate or does the property receive a value based on purchase price or value given as an incentive and then rise or fall with the valuations applied by the Tax Appraiser?

RP ANSWER: In accordance with the provisions of Section 196.1995 *Florida Statutes*, ad valorem tax exemption for economic development projects only applies to improvements to real property and to tangible personal property. Tax exemption for associated land is not provided by this section of law.

GTS ANSWER: Under the provisions of section 196.1995, *Florida Statutes*, counties and municipalities are authorized to grant an economic development ad valorem tax exemption to new business and existing businesses. Authority to grant the tax exemption must be approved by the voters in the entire jurisdiction of that entity. If approved by the voters, then the Board of County Commissioners may adopt an ordinance which grants the exemption from ad valorem taxation up to 100% of the assessed value of all improvements to that real property made by or for the use of a new business and of all tangible personal property of such new business. The statutory authorization exempts only the taxes which are attributable to the improved property. Therefore, the base land value established for the tax abatement project would be the value attributable to the unimproved real property. Subsequent appreciation of that property as a result of the improvements would be subject to the tax exemption.

2. The four projects receiving tax abatement have varied with job impact from 15 to 180. Do we need to have a sliding scale based on job creation and capital investment to determine the length of time that tax abatement will be provided? Personal property is capped at 5 years max by Statute.

RP ANSWER: As provided in Section 196.1995(5), the Board of County Commissioners may grant a company exemption from taxation up to 100 percent of the assessed value of qualified improvements and tangible personal property for up

to 10 years. On a case by case basis, the Board could approve either a varying percentage of the taxable values to be exempted, or varying periods for exemption up to 10 years.

GTS ANSWER: It is important to recognize that in developing a program for economic development, the degree of benefit which is being provided to the community as a whole is paramount. Therefore, a sliding scale, if it can be established, would be beneficial in negotiating agreements for tax exemptions. This type of approach would make certain that the amount of benefits being given to a new established business are consistent with the degree of benefits derived by the community as a whole.

3. How will we handle the impact of an event like our present recession that impacts the company meeting their job creation agreement but they have met the capital improvement part? Will the company be given consideration for efforts to keep the business operating in Columbia County during an event that neither the company nor the county may control?

RP ANSWER: This issue is not addressed in the Statute. There is a reference to such a circumstance in Section 8(a) (page 6) of the Hunter Panels agreement. There is no such provision in the other three economic development agreements.

GTS ANSWER: To the extent that outside influences impact on the ability of the company to meet their requirements under the economic development agreements, these factors can be addressed in the contract and would be dependent on the negotiations between the County and the parties. Though certainly economic downturns can impact on the ability of a business to create jobs, the extent that they will be given a variance from those requirements should be weighed in relation to the extent of benefits that they are receiving, regardless of the economic downturn.

4. The Memorandum of Agreement or Job Creation Agreement between Columbia County and a company contains average wage requirements. Do the pay scales increase each year based on the EFI chart for wages required to receive state benefits or does the company just have to maintain the wage agreement in the original agreement and resolution passed by the Board of Commissioners and submitted to the State?

RP ANSWER: The “average wage” requirements are not contained in the Statute, but are provisions of the economic development agreements. For our study we utilized the Florida Research and Economic Database (FRED) report for 2009, which listed the average wage for Columbia County at \$31,980. Due to the fact that our study only covered 2009 and there was no specific definition in any of the agreements, I believe that it is reasonable to adjust the wage annually for yearly

compliance purposes. I also do not believe that utilizing the beginning year average wage would materially change the results of our study.

GTS ANSWER: The indexing of wage scale benefits included in these agreements can be negotiated as a condition of the Agreement between the County and the business. The majority of the Agreements I have seen do not contain an escalator clause for the wages, but establishes a generalized standard which will be met for these jobs which are being provided under the agreement. However, there is no prohibition of including such an index.

5. The Florida Statute require that a company make application to the Board of County Commissioners for tax abatement. We have included tax abatement as part of the negotiation between the county and company and then included in the MOA. How will we handle this in the future?

RP ANSWER: Section 196.1995(8), (9) and (10), *Florida Statutes* requires a specific process for economic tax exemption including application to the Board of County Commissioners by the Company, a report on taxation impact by the Property Appraiser, and passage of an ordinance by the Board. It is likely that preliminary negotiations for economic incentives including tax exemptions would be carried out prior to the application process covered by the Statute. The statutory process would finalize the tax exemption.

GTS ANSWER: It would be my recommendation that the procedures being utilized for economic development tax exemption follow the provisions of section 196.1995, *Florida Statutes*. Those provisions call for an application for tax exemption by setting forth those requirements contained in section 196.1995(8), *Florida Statutes*. The County will then follow the procedures for validating that application.

6. The MOA's require that the company submit proof of payment of taxes to the IDA. The IDA then confirms the number of jobs and capital improvements and submits to the Commission for payment back to the company. The Statute provides for tax exemption on the taxes abated by the MOA. Moving forward, will the company make application to the IDA, Commission or Tax Appraiser to have the tax exempt from their tax bill for the year? What would be the deadline and procedure to follow in this case?

RP ANSWER: Employment related conditions beyond those described in Section 196.012, *Florida Statutes*, are conditions of the economic development agreements with each company. Once exempted from ad valorem taxes by the Property Appraiser, the covered property would remain exempt unless the Property Appraiser is notified of ineligibility by the Board, based upon an annual review of compliance with the conditions of the agreements.

GTS ANSWER: A certain amount of flexibility is granted to the County under the statutes. A tax exemption can be given for a number of years or it can be structured so that it requires information showing entitlement on an annual basis. This would then allow the County to validate whether the necessary job creation goals have been met

Who would make the determination that the terms of the MOA are met prior to approving the exemption on the tax bill?

RP ANSWER: This is the responsibility of the Board of County Commissioners based upon the terms of the individual agreements. The Board may certainly delegate this to another entity or person.

GTS ANSWER: The determination as to whether the terms of the MOA are met prior to the exemption should be by the County.

7. Does the county have any flexibility for utilizing the tax abatement for small existing business wishing to expand in Columbia County? What companies would be eligible for this? Do they have to be on the state target list or possibly the county target list?

RP ANSWER: Section 196.012, *Florida Statutes*, provides tax exemption for expansion of existing businesses. This includes manufacturing businesses that establishes 10 or more jobs and other businesses that establish 25 or more jobs and meet certain sales factors.

GTS ANSWER: Under the provisions of section 196.1995, *Florida Statutes*, an exemption can be made for existing businesses. Section 196.012(16), *Florida Statutes*, sets forth the definition of an expansion of an existing business which would meet the exemption criteria of *Florida Statutes*. Some limitation would exist as to the extent of tax exemption that they would be granted.

8. May the county make any changes or exemptions to provide tax abatement that may differ from the Florida Statute?

RP ANSWER: This is a legal question beyond my expertise.

GTS ANSWER: Under Florida law, no exemption from ad valorem taxation can be granted unless authorized by the Constitution of the State of Florida. The various

statutory exemptions implement these constitutionally granted exemptions. The provisions of Article VII, Section 3 of the Florida Constitution sets forth the exemption for economic development. That provision has been incorporated within the provisions of section 196.1995, Florida Statutes.

Though the County has some flexibility in terms of the extent of benefits which are to be derived from the businesses which were granted the exemptions, the monitoring of those businesses and the term that the exemptions would apply, it is my opinion that the County has no ability to grant ad valorem exemptions unless specifically authorized by the Constitution. However, there are other benefits which can be granted for economic development purposes unrelated to ad valorem tax exemption.

9. How does the Florida Statute on economic incentives compliment or hinder the tax abatement process?

RP ANSWER: This is a legal and legislative question.

GTS ANSWER: Florida Statutes contain a variety of provisions which authorize the granting of incentives for economic development. The provisions of section 196.1995, Florida Statutes, deals with granting exemptions from ad valorem taxation for economic development purposes. The provisions of that statute set forth the criteria to be applied in granting that exemption.

An additional provision for economic development is contained in section 125.045, Florida Statutes. Generally, under the Constitution of the State of Florida, public monies cannot be pledged for private benefit unless they provide a paramount public purpose. Section 125.045, Florida Statutes, makes it clear that the expenditure of public funds for economic development activities, including developing local infrastructure, issuing bonds to finance or refinance the cost of capital projects, leasing or conveying real property and making grants to private enterprises for the expansion of businesses existing in the community, or the attraction of new business to the community, all provide a public purpose for the use of public funds.

Finally, there are provisions in Florida Statutes addressing qualified targeted industries. These programs are monitored through the State of Florida and provides tax refunds for such qualified targeted industries.

Generally speaking, any provision that deals with the granting of an ad valorem taxation exemption would be strictly construed and is limited by the provisions of Florida Statutes. However, there are a wide variety of other incentives which can be

utilized alone or with other incentive programs to entice businesses to the area for economic development purposes.

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BOARD OF COUNTY COMMISSIONERS • COLUMBIA COUNTY

October 1, 2010

M E M O

TO: Columbia County Board of County Commissioners
Columbia County Industrial Development Authority

FR: Dale Williams, County Manager *Dale Williams by AR*

RE: Tax Abatement Recommendations

- Future tax abatements shall be administered in accordance with F.S. 196.1995 (10). Applications for tax abatement shall be made to the Board of County Commissioners. The Property Appraiser will assist in the review of the application and provide specific information in accordance with Florida Statutes. Approved request for abatement will be formalized in ordinance form complying with F.S. 196.1995 (10). Abated taxes will show as an adjustment on the tax bill.
- All economic development agreements (other than tax abatement) negotiated with a new (or expanding) business would be formalized in a separate contract (s).

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- The minimum capital investment for a qualified business to apply for tax abatement shall be \$250,000. The minimum number of new jobs created to apply for tax abatement shall be 10.
- The goal of the county should be for 100% of all new jobs created to be local (employee resides within Columbia County); however, this goal is not realistic for all situations. The total number of jobs that shall be offered to Columbia County residents shall be a factor to be considered by the Board of County Commissioners in determining whether to approve tax abatement or not.
- The base number of years that tax abatement shall be approved for is 5. Additional years (up to the maximum of 10) shall be approved on a case by case basis upon request. Factors to be considered in granting tax abatement shall include but is not limited to the total amount of capital investment, the total number of jobs created and the percentage of new jobs to be filled with Columbia County residents.

DW/pds

XC: Tax Abatement File
Outgoing Correspondence