

HENDERSON COUNTY FISCAL COURT—MINUTE & ORDER BOOK

Records of Minutes of Special Called Meeting 07/30 20 21

Court convened for a Special Called Meeting at the Courthouse, Henderson, KY, on Friday July 30, 2021 at 9:00 a.m., County Judge/Executive Brad Schneider presiding.

**Call To Order**

County Judge/Executive Brad Schneider called the meeting to order.

**Roll Call**

Magistrate Berry	Absent
Magistrate McCollom	Present
Magistrate Moran	Present
Magistrate Puttman	Present
Magistrate Southard	Present

**Resolution – Memorandum Of Understanding With Henderson Economic Development, City Of Henderson, Henderson Water Utility, And Pratt Industries For Economic Development Incentives**

**Henderson Fiscal Court  
Resolution Number 21-33**

**RESOLUTION MEMORANDUM OF UNDERSTANDING WITH  
HENDERSON ECONOMIC DEVELOPMENT, CITY OF  
HENDERSON, HENDERSON WATER UTILITY, AND PRATT  
PAPER (3.0) LLC FOR ECONOMIC DEVEPOMENT INCENTIVES**

Whereas, Pratt Paper (3.0) LLC is contemplating locating a large industrial facility in Henderson County, Kentucky that will create approximately 320 jobs by July 2026; and

Whereas, Henderson County, Henderson Economic Development (“HEDC”), City of Henderson (“City”), Henderson Water Utility (“HWU”), agree to offer incentives to induce Pratt Paper (3.0) LLC to locate in Henderson County, Kentucky; and

Whereas, all parties hereto recognize that Pratt Paper (3.0) LLC has also been approved for incentives outside this agreement from Commonwealth of Kentucky, by and through the Kentucky Economic Development Finance Authority (KEDFA), and the Kentucky Transportation Cabinet; and

Whereas, the Henderson County Fiscal Court deems it in the best interest of the county to participate in Industrial Revenue Bonds (IRBs) that will assist in the financing of the project that will include an ad valorem tax abatement for a period not to exceed 20 years; and

Whereas, the Henderson County Fiscal Court deems it in the best interest of the county to provide to City for the benefit of the project a Road Fund Grant of up to \$1,000,000, to be used toward the cost of constructing the access roads to the project site; and

Whereas, the Henderson Fiscal Court deems the total incentive package to Pratt Paper (3.0) LLC to be reasonable and appropriate given the large capital investment and high-paying jobs to be created by the project.

NOW, THEREFORE, BE IT RESOLVED by the Henderson County Fiscal Court hereby approves the attached Memorandum of Understanding between HEDC, City, HWU, and Pratt Paper (3.0) LLC; and the County Judge / Executive is hereby directed to execute same behalf of Henderson County.

On reading of the foregoing Resolution, it was moved by Magistrate Puttman, seconded by Magistrate Southard, that the above Resolution be adopted.


WHEREUPON, the vote was called.

Upon roll call the vote stood:

Magistrate Berry	<u>ABSENT</u>	Magistrate Moran	<u>AYE</u>
Magistrate Southard	<u>AYE</u>	Magistrate Puttman	<u>AYE</u>
Magistrate McCollom	<u>AYE</u>		

APPROVED by the Henderson Fiscal Court at a special called meeting on July 30, 2021.

ATTEST:  
  
Kurt Wiesen  
Fiscal Court Clerk

  
Brad Schneider  
County Judge-Executive

## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is executed this \_\_\_\_ the day of July 2021, by and between HENDERSON COUNTY ECONOMIC DEVELOPMENT CORPORATION, a Kentucky corporation, 207 N. Elm Street, Henderson, KY 42420 ("HCEDC"); CITY OF HENDERSON, 222 First St., Henderson, KY 42420 ("City"); HENDERSON COUNTY FISCAL COURT, 20 N. Main Street, Henderson, KY 42420 ("HCFC"); HENDERSON WATER UTILITY, 111Fifth St., Henderson, KY 42420 ("HWU"); and PRATT PAPER (3.0) , LLC , being an industrial prospect of HCEDC, City, County and HWU.

WHEREAS, Pratt Paper (3.0) , LLC is contemplating locating a large industrial facility in Henderson County, Kentucky that will create approximately 320 jobs by July 2026; and

WHEREAS, HCEDC, City, HCFC and HWU agree to offer incentives to induce Pratt Paper (3.0), LLC to locate in Henderson County, Kentucky; and

WHEREAS, all parties hereto recognize Pratt Paper (3.0), LLC is also working with Big Rivers Electric Cooperative, CSX Railroad, and the Commonwealth of Kentucky, by and through the Kentucky Economic Development Finance Authority (KEDFA), and the Kentucky Transportation Cabinet to seek incentives outside of this agreement; and

WHEREAS, the parties desire to memorialize the incentives offered to Pratt Paper (3.0), LLC; NOW, THEREFORE, the understanding of the parties is as follows:

1. Should Pratt Paper (3.0) , LLC elect to locate its proposed facility near the Highway 425 bypass in Henderson County, Kentucky, then City will purchase for the benefit of Pratt Paper (3.0), LLC , and transfer at no cost to Pratt Paper (3.0), LLC , (pursuant to the terms of the Industrial Revenue Bonds referred to in this MOU) certain real property consisting of up to 200 acres of previously designated land being a portion of the property described in Deed Book 619, page 84; and Deed Book 619, page 90, Henderson County Clerk's Office. City will pay for costs and fees associated with the land annexation and transfer to Pratt Paper (3.0), LLC.
2. City will waive the construction permit fee in the approximate amount of \$108,012, as well as any local permit fees that are payable to City, COH or their political subdivisions. For clarity, there will likely be state electrical, heating air and ventilation and plumbing permits and inspection fees not covered by this MOU.
3. City and HCFC will participate in the issuance of Industrial Revenue Bond (IRB) bonds ("Bonds") by City or another appropriate issuer in an amount currently estimated at \$ 400 million (being the estimated cost of construction and financing of the project plus other financeable costs including architectural, engineering, design and advisor fees, capitalized interest on the Bonds and costs of issuance of the Bonds) to provide (a) financing of the costs of the Project for a term of the financing of not more than [30/40] years and (b) providing a City and County ad valorem tax

# HENDERSON COUNTY FISCAL COURT—MINUTE & ORDER BOOK

Records of Minutes of Special Called Meeting 07/30 20 21

abatement for a period not to exceed twenty (20) years. Pratt Paper (3.0), LLC will make annual payments in lieu of taxes to the City and County beginning on and including the twenty-first year after the Bonds are issued and continuing until the first year that no Bonds remain outstanding. Each such payment shall equal the amount of property taxes that would otherwise be due and payable by Pratt Paper (3.0), LLC to the City and County if the Bonds were not outstanding on the property tax assessment date for such tax year. The City and HCFC will cooperate in obtaining a applying for one or more volume cap allocations from the Commonwealth for the issuance of tax-exempt Bonds and the approval by the Kentucky Economic Development Finance Authority of the property tax abatements contemplated hereby. Payment in lieu of taxes (PILOT) to other Henderson County taxing entities including the Henderson County Schools will be covered as part of the Industrial Revenue Bond.

4. HCFC will provide to City for the benefit of Pratt Paper (3.0), LLC a Road Fund Grant of up to \$1,000,000, to be used toward the cost of constructing the access roads to the real property described above. While site plan development has yet to be determined, it is understood that Pratt Paper (3.0), LLC 's proposed plans includes the following: Right of Way allocation of 60 feet in width, 24 foot asphalt pavement, 3-foot stone shoulders, and drainage ways. Pratt Paper (3.0), LLC will provide all surveying, grade and drainage, final seeding, and a minimum of a 4-inch Dense Grade Aggregate (DGA) base graded to final plan elevations. The pavement and stone base to be provided on these roads shall meet the following specifications: 4-inch DGA stone topping, 6-inch asphalt KYTC base, 3-inch asphalt binder base and 2-1/2 asphalt surface course or alternatively, an upgraded concrete roadway. Pratt Paper (3.0) , LLC is to construct roadways on behalf of the City. The final surface course will be placed upon mutual agreement by both parties.

The road will contain the necessary MUTCD standards for signing and striping. County of Henderson will require proportional claw backs from Pratt Paper (3.0) , LLC that will apply if promised full-time equivalent employment benchmarks are not met by Pratt Paper (3.0) , LLC within the time period indicated herein

5. City will provide up to \$7,000,000 of in-kind infrastructure improvements for natural gas access to Pratt Paper (3.0), LLC by Q2 2023 or earlier. Any funds needed to complete said infrastructure in excess of \$7,000,000 will require approval by the City of Henderson Board of Commissioners. Such approval will not be unreasonably withheld. The in-kind infrastructure improvements to which this incentive applies are:
  - (a) Henderson Municipal Gas ("HMG") Meter Station 1 (adjacent to 1921 Madison Street, Henderson, KY) upgrade.

(b) Up to 3.5 miles of HMG gas line construction from HMG Meter Station 1 to Pratt Paper (3.0), LLC's regulator station, or to a mutually-agreed connection point on Pratt Paper (3.0), LLC's site.

(c) Texas Gas interconnect upgrade at HMG Meter Station 1;

(d) HMG will complete the Upgrade and Installation of the Gas meter station on the Pratt Paper (3.0), LLC Property to provide a minimum Gas Flow of 1000 MMBTU / Month by December 1, 2022; and

(e) HMG will complete the remainder of the gas line and gas substation upgrade by June 1, 2023

6. HWU will provide up to \$1,800,000 of in-kind infrastructure water and wastewater improvements and services to Pratt Paper (3.0), LLC by Q2 2023 or sooner, with a capacity of handling two million (2,000,000) gallons of water and wastewater daily, and more specifically including:

(a) A twelve (12) inch water main;

(b) A sewer pump station;

(c) An eight (8) inch sewer force main;

(d) Connection points for water and sewer lines will be a mutually-agreed location on Pratt Paper (3.0), LLC's site.

Any funds needed to complete said infrastructure in excess of \$1,800,000 will require approval by the Henderson Water Utility Board of Commissioners. Such approval will not be unreasonably withheld. HWU will waive water and sewer tap fees related to Pratt Paper (3.0), LLC.

A copy of a pro forma contract between Pratt Paper (3.0), LLC and HWU is attached hereto as Exhibit A.

7. HCEDC will pay the \$1,000.00 Kentucky Economic Development Fund Authority Incentive Application Fee for the benefit of Pratt Paper (3.0), LLC

8. HCEDC will provide in-kind services by its staff as well as temporary office space for hiring assistance including application review and participation in regional job fairs, including a dedicated private space (approximately 2,000 square feet at the Soaper Building) for the company to begin initial on-boarding commencing in July 2021 and continuing throughout the construction of the Pratt Paper (3.0), LLC manufacturing facility.

9. Attached hereto for reference are the separate Memoranda of Understanding of the Kentucky Cabinet for Economic Development (Exhibit B), Big Rivers Electric Corporation (Exhibit C) and CSX Corporation (Exhibit

# HENDERSON COUNTY FISCAL COURT—MINUTE & ORDER BOOK

Records of Minutes of Special Called Meeting 07/30 20 21

D), and Henderson Riverport (Exhibit D) and the parties anticipate the final separate memoranda will be in substantially the same form as those attached.

10. Based on the foregoing, Pratt Paper (3.0), LLC agrees:
- a. Subject to receipt of all applicable inducements (whether expressly covered in this MOU or otherwise) and the satisfactory completion of title, environmental and other due diligence, to locate its prospective industrial development at the location in Henderson County, Kentucky, described in paragraph one (1) above.
  - b. To convey or release to the City any rights in the real estate should the project not proceed; and
  - c. To supply to HCEDC, City, HCFC and HWU the necessary information to allow HCEDC, City, HCFC and HWU to apply for all federal and state grants in a timely manner but in no event later than twenty (20) days prior to such deadline.
  - d. Execute a lease, at the time of closing between City and current landowners, leasing the property from the City until such time as the IRB's are in place, and the lease for said bonds is in effect. Said lease shall contain sufficient indemnifications and protections to guard City from liabilities arising from construction prior to the IRB lease being executed. Said lease shall be for the property as shown in the exhibit attached hereto as  
Exhibit E.
11. Parties hereby agree that the City of Henderson is making significant investment as inducements to get Pratt Paper (3.0), LLC to locate at the location stated. Therefore, in addition to any and all rights of reimbursement, indemnification, subrogation or any rights pursuant to this Agreement or under law or in equity, Pratt Paper (3.0), LLC agrees that it will pay and protect, indemnify and hold harmless the City of Henderson from and against any and all losses from real estate acquisitions, and any and all other costs or other expenses to which City of Henderson may become subject arising out of or relating to the entity known as Pratt Paper (3.0), LLC's failure to locate its manufacturing facility in Henderson County, Kentucky. Notwithstanding the foregoing, Pratt Paper (3.0), LLC will not be liable for costs or expenses incurred during the time that Pratt Paper (3.0), LLC is negotiating inducements and completing due diligence except to the extent that expenses in anticipation of project approval, or to expedite the project, are

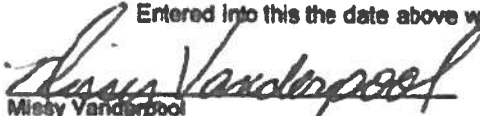
specifically approved in writing by Pratt Paper (3.0) , LLC . With respect to costs relating to the acquisition of the real estate, costs to be reimbursed do not include the cost of the land itself or other costs that are reasonably recoverable upon resale of the land or that would be paid by the City when offering similar incentives for another development on the real estate. Costs recoverable by the City do not include consequential damages such as lost revenues or other local benefits but are limited to direct, actual costs incurred in connection with this proposed transaction.

12. It is the intent of the parties to memorialize the terms recited above into more formal agreement and/or development agreements based on this Memorandum of Understanding.
13. As part of this MOU, the parties herein all agree to adopt the timelines as set forth in the Pratt Paper (3.0), LLC MOU / Implementation Plan as set forth in Exhibit F attached hereto, subject to mutually agreed updates and changes to those timelines. To the extent allowable by law, Pratt Paper (3.0), LLC shall be indemnified against loss or damage due to the failure of the City or other applicable to provider to meet the agreed timelines (except to the extent the failure to do so is due to force majeure or other causes beyond its reasonable control).
14. The parties hereto agree, preliminarily, to the Preliminary Site Road Plan, which will be presented to Henderson Planning Commission for approval, as shown in Exhibit G hereto.
15. Once the Kentucky Economic Development Finance Authority (KEDFA) and Pratt Paper (3.0), LLC make the public announcement of the site selection, all parties to this Agreement agree to execute an amendment to this MOU wherein Pratt Paper (3.0) , LLC 's actual legal entity's information will be included and substituted for "Pratt Paper (3.0) , LLC " in this MOU.
16. This MOU shall be construed and enforced in accordance with the laws of the Commonwealth of Kentucky, even though Pratt Paper (3.0), LLC may have its principal place of business in another state or commonwealth. All parties further agree to submit to exclusive jurisdiction before any state or federal court in Henderson County, Kentucky, and waive any right to raise any questions of personal jurisdiction or venue in any action brought in connection with this MOU.
17. The signors below, herein state they have the full authority of their respective boards, commissions, and/or stake holders to execute this document and bind their respective entities.

HENDERSON COUNTY FISCAL COURT—MINUTE & ORDER BOOK

Records of Minutes of Special Called Meeting 07/30 20 21

Entered into this the date above written.

  
Missy Vanderpool  
Henderson Kentucky Economic  
Development Corporation


  
Brad Schneider  
Henderson County Judge Executive

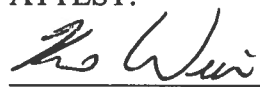
Pratt Paper (3.0), LLC

  
Steve Austin  
Mayor, City of Henderson

  
Paul Bird  
Chair of Henderson Water Utility

There being no further business to come before the court, Magistrate Puttman made a motion to adjourn. Seconded by Magistrate Southard.

  
Brad Schneider  
County Judge Executive

ATTEST:  
  
Kurt Wiesen  
Fiscal Court Clerk