

Commission Letter #: 320-09
Commission Meeting: 11/16/2009
RE: Public Hearing - Act 328 Exemption for Saab at 4327 Delemere Ct.

November 12, 2009

THE HONORABLE MAYOR
AND
MEMBERS OF THE CITY COMMISSION

At its regular meeting of October 19, 2009, the City Commission scheduled a public hearing to hear comments for and against an application to exempt new personal property from taxation for Saab at 4327 Delemere Court. Attached for your review and consideration is the application and a description of their business operations filed by Saab under P.A. 328 of 1998. A copy of Act 328 is also attached.

Act 328 of 1998 allows a community to abate all new personal property taxes within an industrial development district in order to spur economic development. Abatements under Act 328 include all millage levies, state and local. All new personal property installed by an eligible business after local approval becomes 100% exempt from personal property taxes for a specified period determined by the local unit of government.

Only new personal property that was not previously subject to property taxes in Michigan is eligible for an Act 328 exemption after it is placed within an eligible district and after the local unit passes the resolution. The local community and the business negotiate the length of abatement via adoption of the resolution. There is no maximum or minimum number of years, and the abatement includes both the local millage levied and the state education tax.

Saab is considering relocating their North American headquarters to this site as detailed within the description of their business operations. Saab would be investing approximately \$2.2 million in this location and is requesting that new personal property that is eligible be exempted from taxation for 5 years.

Prior to acting upon the application, the City Commission must allow the applicant, the City Assessor, and representatives of each taxing unit that levies ad valorem property taxes within the city an opportunity for a hearing according to Section 9f(1) of Act 328. Notice of the hearing has been provided by the City Clerk to the City Assessor and each taxing unit pursuant to that same section of the Act.

If the exemption is approved, the City Clerk will need to forward the application to the State Tax Commission, the State Treasurer, and the Michigan Economic Development Corporation. If disapproved, the reasons should be set forth in writing in the resolution and the City Clerk will should return the application to the applicant.

Unlike abatements issued under Act 198, a written agreement is not required between the city and Saab for an Act 328 exemption. However, a local government may, as part of their policy, require a written agreement as a condition of granting an Act 328 exemption. Such an

agreement would only be a private matter between Saab and the city. Neither the State Tax Commission nor the Department of Treasury would have oversight of such an agreement.

A draft agreement is also attached and is recommended should the City Commission agree to grant Saab's requested abatement, pending any final revisions by the City Attorney:

The following resolution was prepared based upon ones previously prepared by the City Attorney for other property tax abatement applications and is recommended should the City Commission agree with the petitioner's request, and would approve the exemption of all new personal property at this site for 5 years:

Whereas, pursuant to Public Act 198 of 1974, as amended, after a duly noticed public hearing held on October 19, 2009, the Royal Oak City Commission (City) by resolution established an Industrial Development District upon property to be occupied by Saab Automobile USA (Saab), at 4327 Delemere Court, legally described as T1N, R11E, Section 5, Lot 12 of Judson Bradway's Industrial Park (parcel no. 25-05-180-011), and commonly known as the Saab Industrial Development District (SIDD); and

Whereas, Saab has filed an application for the exemption of new personal property under Public Act 328 of 1998, as amended, with respect to personal property improvements to be acquired, installed and used within the SIDD; and

Whereas, pursuant to Section 9f(1) of Act 328, the Royal Oak City Commission held a hearing on November 16, 2009, of which hearing Saab, the City Assessor, and a representative of the affected taxing units were given written notice and were afforded an opportunity to be heard on said application, and the City having heard and considered such statements as were made available at that hearing.

Now, Therefore, Be It Resolved, by the City Commission of the City of Royal Oak that:

1. Saab represents and the City finds and determines that the granting of this exemption considered together with the aggregate amount of abatements previously granted and currently in force under Public Acts 198 of 1974 and 328 of 1998, both as amended, shall not have the effect of substantially impeding the operation of the City, or impairing the financial soundness of a taxing unit which levies ad valorem property taxes in the City.
2. Saab represents and the City finds and determines that at the time this exemption is issued it will have the reasonable likelihood to create employment, retain employment, and prevent the loss of employment within the City.
3. Saab represents and the City finds and determines that the completion of the personal property improvements will primarily have the effect of restoration of a vacant industrial property.

4. Saab represents and the City finds and determines that the personal property improvements were previously not subject to property taxes within the State of Michigan.

5. The application of Saab for an exemption with respect to the installation of the personal property improvements situated within the IDD and located at 4327 Delemere Court, legally described as T1N, R11E, Section 5, Lot 12 of Judson Bradway's Industrial Park, be and the same is hereby approved for a period not to exceed five (5) years based upon Saab's representations as set out herein as being truthful and subject to the terms and conditions of the relevant statutes of the State of Michigan, and of the accompanying written agreement (Agreement) with the City, which Agreement is attached hereto and incorporated herein by reference.

Be It Further Resolved, that the Mayor and City Clerk are authorized to execute said agreement and application when prepared.

The application will be forwarded to the State Tax Commission should it be approved by the City Commission. The State Tax Commission has the final authority on whether to grant or deny the exemption.

Respectfully submitted,

Approved,



Timothy E. Thwing
Director of Planning



Donald E. Johnson
City Manager

Attachments

cc: Mike Colleran, Pres. & COO, Saab Automobiles USA
Nicole Jankowski, Sales Promotion Analyst, Saab Automobiles USA
Irene Spanos, Oakland Co. Planning & Econ. Dev.
David Gillam, City Attorney
Melanie Halas, City Clerk
James Geiermann, City Assessor
John Kravitz, City Treasurer