

**NEWTON COUNTY BOARD OF COMMISSIONERS  
REGULAR MEETING  
August 21, 2007  
MINUTES**

**Present:** Chairman Aaron Varner, Commissioners Mort Ewing, Earnest Simmons, Ester Fleming, Jr., J.C. Henderson, and Monty Laster, Administrative Officer John Middleton, Attorney Jenny Carter, Attorney Scott Cole and County Clerk Jackie Smith

**Newspaper:** Covington News – Rachel Osborn

Newton Citizen – Crystal Tatum

Small group of citizens

Chairman Varner called the meeting to order, extended a welcome and read the thought for the day. Commissioner Ewing gave the invocation, followed by the Pledge of Allegiance to our great Flag.

**APPROVAL OF BOC MINUTES DATED AUGUST 7, 2007**

Motion: To approve the minutes as printed.

Proposed by: Commissioner Monty Laster, District Five

Second by: Commissioner Mort Ewing, District One

Motion Carried

**JOHNSON CONTROLS SECURITY SYSTEM AGREEMENT**

Administrative Officer John Middleton presented this agreement to the board for their consideration and noted the following:

- Johnson Controls already handles our security system. (Covers Judicial Center & Historic Courthouse)
- This agreement will include the new Administrative Building
- When new parking deck is constructed agreement will probably be updated to include it as well.

Motion: To approve Johnson Controls Security System Agreement for \$23,275.00 for first year to cover Historic Courthouse, Judicial Center, and Administrative Building, and other pricing for year two through five as outlined on page 47 in agenda packet.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried

**RESOLUTION R082107 ANNEXATION CITY OF PORTERDALE**

Attorney Scott Cole presented this resolution to the board for approval.

- There is a deadline for county to raise an objection (if county has one).
- Resolution is a formality to allow the county to have more time to review request for annexation.

Motion: To approve Resolution R082107 as outlined and clearly defined in the last paragraph that reads:

(c) If the City provides detailed plans, studies, maps, and engineering reports which demonstrate how timely, significant, and properly funded improvements to the local infrastructure, in particular, roads and public services such as police, fire, water, sewer, and waste collection, will support adequately the intensity proposed for the land to be annexed.

Proposed by: Commissioner Monty Laster, District Five  
Second by: Commissioner J.C. Henderson, District Four  
Motion Carried

**Note: The original resolution is contained in file number R082107, incorporated herein by reference and expressly made a part of these minutes.**

### **CABLE TELEVISION FRANCHISE RENEWAL – CITY OF COVINGTON**

Attorney Scott Cole presented the renewal franchise to the board for their approval.

- Originally passed on June 19, 2007
- City came back with two additions because of sale of Cable Company.
- Board questioned possible numbers this would generate and Mr. Middleton indicated an additional \$70M - \$80M by going from 3% to 5%.

Motion: To approve the renewal of the Cable Television Franchise with the City of Covington as outlined by Attorney Scott Cole and printed on pages 51-53 in the BOC Agenda Packet.

Proposed by: Commissioner Mort Ewing, District One  
Second by: Commissioner Ester Fleming, Jr., District Three  
Motion Carried

### **NCFS SUPPLY STORAGE BUILDING**

Fire Chief Mike Satterfield appeared before the board to present this request.

- 2008 budget proposed construction of a storage unit for supplies & equipment that is used on a daily basis.
- Storage building will eliminate having to reorder stock so often.
- Regarding inventory – would like to bring in house with a person designated as supply clerk to help us with this.
- Will use on duty personnel to construct the building.
- Presently have a recruit school about to graduate and a couple of those guys would be happy to work on this.

- We have certified electricians, and other certified personnel who want to participate with this. It has become a source of “pride” for Fire Services Personnel.
- Building will be 1800 sq ft.
- Building will be located at Station One
- Board members expressed their appreciation to the Chief for all he has done since coming on board.

Motion: To approve the request from the Newton County Fire Services for a Supply Storage Building for a not to exceed cost of \$51,975.00

Proposed by: Commissioner Ester Fleming, Jr., District Three

Second by: Commissioner Monty Laster, District Five

Motion Carried

**7:30 P.M.**  
**ZONINGS:**

Chairman Varner noted that each side would have ten minutes to present their issues that would not include board discussion.

Planning Director Marian Eisenberg addressed the Board and sounded the following zonings:

**REZ07-010**

Existing Land Use Map: DN (Development Node)

Existing Zoning: AR (Agricultural Residential)

Proposed Zoning: CG (General Commercial)

Watershed: Alcovy

Location: Georgia Highway 212 (East Side)

315.17 Feet of Frontage

Parcel Size: 3.35 Acres

Tax Parcel: 72A-041

Applicant’s Intent: To develop 3.5 acre tract to operate a business selling and delivering mulch, sand, gravel and similar products.

Planning Commission Recommendation: Approval with changed conditions (May 22, 2007)

BOC: Deferred to July 17, 2007 (June 19<sup>th</sup>)

BOC: Deferred to August 21, 2007 (July 17<sup>th</sup>)

District One

Petitioner Representative: Attorney Jimmy Alexander

- Property is part of Dale Miller’s farm on GA Hwy. 212
- Landscaping supply business
- Met after Planning Commission and the Miller’s worked out a set of conditions to be outlined in zoning motion.
- Mr. Alexander highlighted conditions.

Opposition: None

Commissioner Ewing

- Noted that there has not been any conditions deleted since the Planning Commission approval, only added some conditions.

Motion: To approve zoning request REZ07-010 changing the zoning from AR to CG (General Commercial) with the following conditions as read by Commissioner Ewing. Where these conditions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Board of Commissioners.

1. To the owner's agreement to restrict the use of the subject property as follows:
  - a. Retail sales, storage and delivery of mulch, gravel, sand and similar materials unless additional uses are approved in advance by the Newton County Board of Commissioners.
2. To the owner's agreement to abide by the following:
  - a. To the legal description received by the Department of Planning and Development on April 6, 2007 and the revised site plan received June 29, 2007. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
3. To the owner's agreement to abide by the following development standards:
  - a. Maintain a 50-foot setback from new right-of-way of Georgia Highway 212 after any dedication required to meet GDOT driveway permit requirements.
  - b. Install 6-foot dark (green) chain link fencing equipped with vertical slat system to screen activities on the property from view of Highway 212. Fencing will be installed at the 50-foot setback line from highway right-of-way.
  - c. Install a commercial driveway entrance in approximately the center of the frontage in accordance with the requirements of the required GDOT permit for the entrance, including deceleration lanes, curbing, utility relocation and other matters as required by GDOT.
  - d. Grass and maintain the 50-foot setback area between the right-of-way on Highway 212 and the required fencing (condition 3.b.).

- e. Natural undisturbed buffers on the north and east sides of the property (required by ordinance) shall not be used for the storage of materials or other activities (including parking for vehicular access of any nature) associated with the commercial operation on the premises. However, such buffers may continue to be used in conjunction with the adjacent property for grazing of livestock, maintenance of pastures thereon and other purely agricultural activities.
- f. Mulch, sand, gravel and other materials stored on the site for sale shall be stored in concrete bins, which will be located so as to not allow access by vehicles over the buffer areas.
- g. Provide a trip generation study, prepared by a Registered Engineer, as required by GDOT subject to approval by the County Engineer.
- h. All lighting on site shall be downcast lighting.
- i. Stormwater plan to be reviewed and approved by Planning and Development Engineer.

Proposed by: Commissioner Mort Ewing, District One  
Second by: Commissioner Monty Laster, District Five  
Motion Carried

**REZ 07-017**

Existing Land Use Map: DN (Development Node)

Existing Zoning: R2 (Single-Family Residential)

Proposed Zoning: CN (Neighborhood Commercial)

Watershed: Yellow River

Location: 4006 Salem Road (East Side)

771 Feet of Frontage

Parcel Size: 5.47 Acres

Tax Parcel: 13-51

Applicant's Intent: To develop a 15,000 square feet of retail space and a 11,230 square foot day care center for 235 students at a density of 4,795.24 square feet per acre.

Planning Commission Recommendation: Approval w/revised staff conditions  
(June 26, 2007)

BOC: Deferred to August 21, 2007 (July 17<sup>th</sup>)

District Three

Petitioner Representative: Carol Hall

- Met with county engineer
- No objections to conditions
- Will not have a negative affect on natural resources, the environment or the citizens.

- GDOT permits - slight modification to daycare and the developer had not problems with that.

Commissioner Ewing

- Questioned if condition 3j addresses the concerns of the Salem Camp Grounds regarding fencing.

Commissioner Fleming

- Noted the fencing concerns have been addressed with the maximum as noted in condition 3j.

Motion: To approve REZ07-017 and change the zoning from R2 to CN (Neighborhood Commercial). Tax Parcel #13-51 to develop 15,000 square feet of retail space and 11,230 square foot day care center with the following conditions as read by Commissioner Fleming.

Where these conditions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Board of Commissioners.

1. To the owner's agreement to restrict the use of the subject property as follows:
  - a. Retail, service commercial and/or office and accessory uses, including all exterior food and beverage service areas, at a maximum overall density of 4,795.24 gross square feet per acre zoned or a total of 26,230 square feet, whichever is less (square-footage to be distributed as a 15,000 square-foot retail center on the north side and a 11,230 square-foot day care center on the south side, regardless of which is developed first).
  - b. A day care facility with maximum of 235 students.
  - c. Limit the height of the building(s) to no more than 1 story.
  - d. The following uses shall not be allowed:
    1. Amphitheaters, Stadiums
    2. Animal Hospitals, Vet Clinics
    3. Major Auto Repair, Auto Sales
    4. Bar, Night Club
    5. Auto Service Station (not excluding fuel centers associated with convenience store)
    6. Campground, RV Park
    7. Private Club, Order, Lodge
    8. Electric Station; Gas Pumps not related to Anchor Store
    9. Flea Market
    10. Funeral Home
    11. Group Home
    12. Hospital
    13. Manufactured Home Sales, Rental, Repair

14. Kennel
15. Manufactured Home Display
16. Personal Care Home
17. Produce Stand
18. Farm Equipment Sales
19. Dry Cleaning, Institutional (Neighborhood Dry Cleaners that do on-site cleaning shall be allowed if they meet environmental regulations.)
20. Light Manufacturing
21. Commercial Outdoor Recreational Facilities
22. Place of Worship
23. Private Recreation Center or Club
24. Sawmill, Planing Mill
25. Mini-Warehouses
26. Tattoo Parlors
27. Adult Book Store/Entertainment
28. Establishments selling alcoholic beverages

2. To the owner's agreement to abide by the following:
  - a. To the legal description received by the Department of Planning and Development on May 4, 2007 and to the revised site plan received on August 3, 2007. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
3. To the owner's agreement to abide by the following development standards:
  - a. Provide a left-turn lane and a deceleration lane on Salem Road, subject to approval of the County Engineer and GDOT. No direct access on Salem Road to be allowed.
  - b. Dedicate, at no cost to Newton County, right-of-way as may be required by the County Engineer or GDOT. Additional right-of-way may be necessary from back-of-curb of the road improvements to provide for placement of utilities.
  - c. Stormwater plan to be reviewed and approved by County Engineer.
  - d. Provide downcast lighting.
  - e. Provide interparcel access at time of future development of adjacent property to north.

- f. Number and location of access (proposed Redfield Parkway) and improvements on Salem Road shall comply with Salem Road Plan per EarthTech, as approved by GDOT and County Engineer.
- g. Architectural style and building materials/colors shall be substantially compatible with either the Covington Marketplace development or the Salem Campground. Prior to issuance of a building permit, renderings shall be submitted to the Department of Planning & Development for approval by the Director.
- h. Buildings shall be three-sided brick (north, south and west sides). No metal siding on east side of buildings.
- i. Transitional buffers along east and north property lines shall be 50 feet in width with no fencing (no transitional buffer along north property line shall be required if adjacent property is rezoned to a non-residential district). No variance to buffer width shall be allowed.
- j. Transitional buffer along south property line shall be 50 feet in width with a six-foot high wrought-iron, or wrought-iron style fence, subject to review by the Director. Buffer shall be planted, as approved by County Arborist. No variance to buffer shall be allowed.
- k. Provide a 20-foot landscaping strip along Salem Road. Said strip to be measured from edge of right-of-way after dedication referenced in condition 3.b.
- l. Within landscaping strip referenced in condition 3.k., provide a three-foot high landscaped berm, planted with one tree per 30 feet of road frontage and additional plantings as approved by the County Arborist.
- m. Number of parking spaces shall be limited to no more 45 for the retail and 24 for the day care facility.
- n. No loudspeakers shall be allowed in association with the day care building or operation.
- o. The minimum required play area for the day care shall be 100 square-feet times one-third (1/3) of the center's licensed capacity for children.

Proposed by: Commissioner Ester Fleming, Jr., District Three  
Second by: Commissioner J.C. Henderson, District Four  
Motion Carried

## **REZ 07-021**

Existing Land Use Map: DN (Development Node)

Existing Zoning: AR (Agricultural Residential)

Proposed Zoning: R3 (High-Density Single-Family Residential)

Watershed: Yellow River

Location: Mt. Tabor Road (West Side)

1,772 Feet of Frontage

Mt. Tabor Road (East Side)

1,977 Feet of Frontage

Sockwell Road (South Side)

1,560 Feet of Frontage

Parcel Size: 59.641 Acres

Tax Parcel: 24-70

Applicant's Intent: To develop a 63-lot residential open space conservation subdivision on 59.641 acres for a density of 1.056 lots per acre. As such, 36.476 acres of open space will be dedicated to the homeowners association.

Planning Commission Recommendation Approval w/revised staff conditions (July 24<sup>th</sup>)  
District Four

Petitioner Representative: Attorney Jimmy Alexander

- Standard conservation use subdivision
- Concentration is away from the river
- Area already set for development
- Within Almond Development Node
- High density use
- No public opposition at the Planning Commission meeting.
- Condition 3c – Change Preliminary Plat to Land Disturbance Permit
- Lots in flood map cannot be developed
- Developer must go to FEMA to request maps changed – long term process

Commissioner Mort Ewing

- Questioned if petitioner was saying FEMA would allow them to build in 100-year flood plain?
- Has a problem with approving a subdivision without FEMA approval.
- Has worked for many years with FEMA and never had them change a map for insurance purposes.

Attorney Jimmy Alexander

- BOC is not approving lots tonight. This request is simply to change the zoning.
- Request is to allow engineering to move forward.
- Before any land disturbance can be done FEMA MUST APPROVE.

Commissioner Laster

- Paragraph 3c addresses issue with changing to Land Disturbance Permit. Yes
- Without FEMA approval you cannot get into the flood plain.

Commissioner Fleming

- Questioned what actually is going to be done?

Attorney Jimmy Alexander

- The only thing that can be done is planning and engineering.
- If we are not successful with FEMA we will come back to this board.
- The risk is on the developer and not Newton County.

Commissioner Fleming

- Reiterated that no dirt could be turned until FEMA approves.

Commissioner Henderson

- Ask for Attorney Carter's opinion?

Attorney Jenny Carter

- As long as conditions are spelled out and it can be worded clearly. Critical that petitioners plat be FLAGGED. Ms. Carter will review the language.

Chairman Varner

- Questioned if there were plans for this to be on sewer?

Attorney Alexander

- Anticipate probably tying into what is now a non-existent line.

Chairman Varner

- 43 lots would be sewer. Yes
- Running sewer under Interstate 20 to get sewer. This project will be several years down the road. Mr. Alexander said hopefully two or three years.

Commissioner Fleming

- A lot of hope out there for sewer.
- In development node some people may be waiting a long time for sewer.
- Don't see sewer going that far.

Commissioner Ewing

- Mr. Alexander stated he would like to see approved to start engineering and then he mentioned two to three years till sewer.
- Concerned about approving a request for sewer where there is no sewer in area.

Commissioner Fleming

- Reiterated that by approving this zoning request it does not guarantee that board is promising sewer.

Motion: To approve REZ07-021 request to change the zoning from AR to R3 (High-Density Single-Family Residential) with the following conditions as read by Director Marian Eisenberg.

Where these conditions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Board of Commissioners.

1. To the owner's agreement to restrict the use of the subject property as follows:
  - a. Single family detached dwellings and accessory uses and structures.
  - b. Development shall meet all requirements of the Open Space Conservation Residential Overlay.

- c. The minimum lot size shall be 11,000 square feet.
  - d. No more than 63 total dwelling units, at a maximum density of 1.056 dwelling units per acre, whichever is less based on the total acreage zoned.
  - e. The minimum heated floor area per dwelling unit shall be 1,800 square feet.
2. To the owner's agreement to abide by the following:
- a. To the site plan and legal description received by the Department of Planning and Development on June 1, 2007. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.
4. To the owner's agreement to abide by the following development standards:
- p. Buffers and open space located outside of lots shall be dedicated to the Homeowner's Association. Provide a copy of the recorded Homeowner's Association documents prior to approval of Final Plat.
  - q. Stormwater plan and water quality ponds are to be reviewed and approved by County Engineer.
  - c. Prior to the approval of a Land Disturbance Permit, an approved Letter of Map Revision (LOMR) from FEMA and an approved Pre-Construction Notification (PCN) from the Army Corps of Engineers will be submitted to the Department of Planning & Development. Any revision to site plan necessitated by approval of LOMR and/or PCN shall meet all requirements of the Open Space Conservation Residential Overlay.
  - d. An agreement regarding the waiver of vested rights by the developer in reference to preliminary plat approval shall be reviewed and approved by the Planning Director and County Attorney.

Proposed by: Commissioner J.C. Henderson, District Four

Second by: Commissioner Earnest Simmons, District Two

Motion Carried with Commissioners' Ewing and Laster voting in opposition to the motion.

## **APP07-004**

Original Case Number: VAR07-016

Name of Applicant: Virginia Worley

Address of Property: Flat Rock Road

Tax Parcel: 95-11E

Request: Appeal to Board of Zoning Appeals decision (Denied) at June 28, 2007 meeting.

Original Request: Variance Request to allow encroachment inside the 40-foot rear setback as required by the Zoning Ordinance and the Lake Varner Reservoir Management Plan, as depicted on applicant's site plan.

District Five

Petitioner: Virginia Worley

- Property is a point lot – set back at all edges.
- Received a letter from John Byce and we thought everything was fine.
- If we knew water view would not be available we would not have purchased the property.
- Spoke with Donnie Cowan who worked at Cornish Creek at that time.
- After due diligence we purchased the property.
- Now the 150 ft buffer doesn't exist, it is 190 ft buffer.
- Received letter from Mark Walton (Patrick & Associates) stating it will not harm the reservoir to allow me to build where water can be viewed.
- Letter attached and made part of minutes.
- Did not build when first purchased property because husband became ill and passed away.

Commissioner Simmons

- Questioned if encroachment might affect quality of water.
- Ask Mr. Kelley about this particular property.

Commissioner Fleming

- Expressed sympathy about Mr. Worley's passing.
- Questioned 3-year time laps stating it seems like a long time.

Ms. Worley

- Trying to run family business since husband passed away.
- Diagnosed with cancer.
- Mother and father both passed away
- Gone through a lot over the past years.

Commissioner Ewing

- Questioned Director Eisenberg about Zoning & Appeals Board voting to deny request. Yes, they did.

Engineer Karl Kelley

- Has met with Mrs. Worley and Mr. Charlie Tuller.
- I stated there would be minimum damage to lake.

Commissioner Ewing

- Deepest sympathy for Mrs. Worley; however first responsibility is to protect the water in Newton County.
- May 18<sup>th</sup> BOC adopted the Reservoir Plan and very proud of what we have done for the protection of the citizens of this county.

Commissioner Fleming

- Minimum encroachment? What does that mean? What type of damage?
- Can anything be in place to help eliminate minimum detriment?

Engineer Karl Kelley

- Problem with detriment to water supply comes from runoff from hard surfaces (driveway, etc.) Closer you get to the water the less filtering is there.
- Arborist could answer the question about what could be planted to help eliminate minimum detriment.

Commissioner Fleming

- Asked county attorney for a response on approving case-by-case basis.
- If approved, next person around the reservoir would give this as an example.  
Right

Attorney Carter

- Hardship is due to shape of property. If approved, it would say there is some wiggle room if not completely unbuildable.

Commissioner Ewing

- Commented that he has a great deal of sympathy for Mrs. Worley, but thinks this board has to protect our water supply and he must speak in opposition to approval and uphold Planning Appeals Board decision.
- This board has been working very hard to protect Lake Varner and ask board to deny the variance.

Commissioner Laster

- Several weeks ago visited with Mrs. Worley.
- She has a large lot and understands wanting a better view, however protecting our water is of the most importance to this board.

Commissioner Henderson

- Let's look at hardship case by case.
- We could approve this. They lady has been through so much and I don't think it would be a detriment to approve this. What about the cattle who graze around the lake...where does all that go?

Motion: To uphold the decision of the Board of Zoning Appeals and deny APP07-004, VAR07-016 for Virginia Worley on Flat Rock Road located in the fifth district.

Proposed by: Commissioner Monty Laster, District Five

Second by: Commissioner Mort Ewing, District One

Motion Carried with Commissioner Henderson voting in opposition to the motion.

**ALCOHOL LICENSE:**

**Final Reading**

McDonald Grocery Store  
1820 Hwy. 11  
Covington, Georgia 30014  
Owner: Tommy McDonald (100%)  
District One

Motion: To approve the Alcohol License request for McDonald Grocery Store located at 1820 Highway 11, Covington, Georgia as requested.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried

BP Magnet  
5343 Hwy. 20 South  
Covington, Georgia 30016  
Owner: Mehrunisa Hussain (100%)  
District One

Motion: To approve the Alcohol License request for BP Magnet located at 5343 Hwy. 20 South, Covington, Georgia as requested.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Ester Fleming, Jr., District Three

Motion Carried

Southfork Chevron  
10571 Flat Shoals Road  
Covington, Georgia  
Owner: Barkath Barde (100%)  
District Five

Motion: To approve the Alcohol License request for Southfork Chevron located at 10571 Flat Shoals Road, Covington, Georgia as requested.

Proposed by: Commissioner Monty Laster, District Five

Second by: Commissioner Ester Fleming, Jr., District Three

Motion Carried

**COUNTY CHECKS:**

Motion: To approve the county checks as read by the chairman.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner J.C. Henderson, District Four

Motion Carried

**STREETLIGHTS:**

Bear Creek Preserve  
District One

Motion: To approve the streetlight request for Bear Creek Preserve located in the first district.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Ester Fleming, Jr., District Three

Motion Carried

**ADJOURN**

Time: 8:45 p.m.

Motion: To adjourn the meeting.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Ester Fleming, Jr., District Three

Motion Carried

Respectfully submitted,

Jackie B. Smith  
County Clerk