

**NEWTON COUNTY BOARD OF COMMISSIONERS
MINUTES**

July 11, 2000

**Newton County Executive Office Board Room
Chairman Davis C. Morgan presiding**

Present: Chairman Davis Morgan, Commissioners Tommy Ballard, Ronnie Dimsdale, Danny Stone, J.C. Henderson, Hubert White; Zoning Director John Byce; Attorney Jenny Carter; Clerk Jackie Smith.

Also Present Cindy Tomlin-Covington News; Karen Addy-Newton Citizen; small group of citizens.

Call To Order: Chairman Morgan extended welcome and read thought for the day.

Invocation: County Clerk Jackie B. Smith

Pledge of Allegiance: Led by Chairman Morgan.

APPROVAL OF MINUTES DATED June 20, 2000

Motion: To approve minutes as submitted for June 20, 2000.

Proposed by: Tommy Ballard, Commissioner District One

Second: Danny Stone, Commissioner District Three

Motion Carried

Note: There was a caveat from the June 20, 2000 meeting allowing the Environmental Health resolutions to be reviewed and discussed further by the board.

ENVIRONMENTAL HEALTH DEPARTMENT:

Commissioner White previously requested this be discussed further because the document was so thick he felt more time was needed to review it. Remarks/discussion centered around the 25,500 square foot minimum (this is an average) on residential septic tanks (this is actual usable permeable soil). He stated he was in concurrence with the 25,500 and appreciated consistency; however he felt that it should be up to the Board of Commissioners and the Planning and Zoning Department to decide the dimensions of the lot. Larry Martin stated that was fine, but you still had to abide by the state court. The 25,500-sq. feet are the rule of thumb to go by. He said the only thing that resolution did that the board passed at the last meeting was to allow them to go directly to the Magistrate Court without first having to work through the Attorney's Office. Mr. White questioned him about state law. Mr. Martin provided a brochure that explained what Newton County falls in. Commissioner Dimsdale asked about the state requirements vs. county requirements and it was stated that the county has to be at least as strict as the state and can be stricter should they so desire. Chairman Morgan suggested that a committee be appointed (Randy Vinson, John Byce and Larry Martin) to discuss these areas of concerns and see if this could be made user-friendlier. He stated it might or may not be, passing judgement, but would like for the committee to come back and report their findings to the Board of Commissioners.

STARRSVILLE LANDSCAPE PLAN

Chairman extended welcome to the Starrsville Committee. Holly Jansen from Roy Ashley and Associates gave presentation. (Copy is attached and made part of these minutes.) They requested approval to move forward with project. Commissioner Dimsdale asked if they were aware of the Land Trust and Ms. Jansen stated they were and were planning a meeting to discuss this further in the community.

Motion: To grant permission to begin overlay process and identify open green space as requested.

Proposed by: Commissioner Tommy Ballard, District One

Second: Commissioner J.C. Henderson, District Four

Motion Carried

STEWART VOLUNTEER FIRE DEPARTMENT

Commissioner Ballard commented remodeling this station was discussed during the budget review. Since that time Mr. Digby has discovered that the building is structurally unsound (with the load-bearing joist). Chairman Morgan stated that we had a structural engineer take a look at it. Some of the board members talked about building a new station. Commissioner Stone said Stewart Volunteer Fire Dept. came to us about using their portion of the fire tax to pay for this renovation over and an extended period of time. He expressed concern if they could or would want to pay for a new structure. (cost over \$300,000) He stated

he felt we need to address the situation with a remodeling project. Commissioner Henderson questioned remodeling this building and then building a new one right down the road. Chairman Morgan stated that there would be a station built in a non-coverage area (Jackson Lake). Chairman Morgan stated he had asked the finance director to work with the local lending institutions to try and come up with a good financing agreement. Commissioner Ballard suggested that we authorize the chairman to move forward with this. Commissioner Dimsdale commented that it makes economic sense to him in the long run to construct a new building instead of using nearly 50% of the cost to remodel a building. He stated it is unclear as to how long the remodeled building could adequately serve the community. He questioned if the Stewart Volunteer Fire Dept. was fiscally able to repay a loan and would like that investigated. Chairman Morgan commented the finance director was getting that information and he would make it available to the board. Commissioner Stone stated that he would make his usual comment...where is the money coming from? Chairman Morgan will get a financial report regarding this project for board review. Commissioner Ballard asked that this be placed on the July 18 agenda.

7:30 PM – ZONINGS

CONDITIONAL USE REQUESTS

SBA TOWERS, INC.

To place 250' telecommunications tower at 3768 Highway 81 North.

Zoning Director John Byce stated this was first presented at May meeting, tabled to June 7, 2000 and then July 11 meeting. Tabled to look at other sites, community input and to review large package of material presented by petitioner.

Petitioner Representative: Attorney Bill Mathieu

- Responded to previous concerns in a June 23 letter to commissioners.
- Tower meets all requirements.
- Encourages co location- county code encourages co-location. Sprint & Nextel signed on to use.
- Closes gap in coverage area – safety concern.
- Health issue – US Congress took notice in the 1996 Telecommunication Act and stated that cell towers are not environmentally damaging. FCC has researched this and this is not a health problem, the law is clear.
- Not a valid point to deny petition.

- Homes are radomly scattered south to southeast; more in the west.
- Homes are not visible...trees 400 feet at base of tower.

OPPOSITION:

Anna Silver

- Owns homes next to proposed tower
- Presented petition in opposition of 30 signatures in area
- Concerned about health risks...feels they do exist.
- Devalue of property
- Zoning commission recommended denial.

Lawrence Craig

- Lived there 17 years.
- Concerned about health issues
- Devalue of property

Motion: To approve request.

Proposed by: Hubert White, Commissioner District Five

Second: Danny Stone, Commissioner District Three

Motion Carried 4 to 1 with Commissioner Ballard in opposition.

TOWER COM ATLANTA, L.L.C.

Highway 162 South, South of Pickett Bridge Road

To place a 250' self-supporting telecommunications tower on West Side of Hwy. 162 South, south of Pickett Bridge Road.

- **Planning Commission: Approved 4 – 0**
- **No coverage in area at present time.**
- **Closest structure is a salvage yard on Hwy. 162**

Petitioner: Randy Mill

- **Have two tenants already, if approved (Air Touch – Virizon; BG Net)**
- **Strategic location – well off the road**
- **Feel they meet all requirements.**
- **No opposition at Planning Commission Meeting**

OPPOSITION: None

Motion: To uphold Planning Commission's recommendation and approve request.

Proposed by: Tommy Ballard, Commissioner District One

Second: Danny Stone, Commissioner District Three

Motion Carried

ZONINGS:

Note: Director John Byce stated Lance Unlimited had requested their petition to be withdrawn.

JOE W. SELLARS

HIGHWAY 81 SOUTH

R-30 TO C-H

Proposed Zoning: C-H (Highway Commercial) for the purpose of assembling three parcels to be used for a Used Car Lot or possible new Convenience Store.

Area: 4.021 acres

Current Zoning: R-30 Residential

Planning Commission recommended approval subject to:

- a. conceptual plan being approved
- b. repair (def. Being clarified)
- c. site plan be submitted before work.
- d. Good architectural plan to blend into neighborhood
- e. Good landscape plan and approved
- f. Restrict to specific use of car lot or convenience store.
- g. No major repair work to be performed and all must be in enclosed area.

Staff Recommendations: Denial

Petitioner: Joe Sellars (owner)

- Used car seller
- Big demand in county for used cars
- Business is expanding
- They are not closing present location.
- No opposition at Planning Commission Meeting.

Commissioner Dimsdale questioned Mr. Byce as how this would effect the integrity of our new Land Use Plan. The Land Use Plan does not call for more commercial in this area. Mr. Byce said because we were focusing on the development nodes, we didn't see the demand for additional commercial in areas like that. Commercial does surround area. Commissioner White commented that there will be needs for Convenience Stores, etc. and we need to be aware that we were trying to direct and steer the growth. He stated the Land Use Plan is a guide. Commierical Dimsdale voiced concern regarding not following the Land Use Plan. He stated that if we didn't follow it then we might as well not have one. Commissioner Ballard stated he felt it should fall on the responsibility of the petitioner to do a study and show why it is the highest and best use of the property. That if we do not stick to the plan it will be harder the next time something in question comes up to stick by the plan. Commissioner White voiced concern regarding the highest and best use of the property. Commissioner Dimsdale stated that he didn't feel you look at it as an isolated case, but you need to look at the area, neighbors, etc. Commissioner Stone said that this falls in his district and understands Commissioner Dimsdale's concern; however as he looks at the map of the area this property is surrounded by commercial property and with that he feet justified in making motion to approve.

Motion: To uphold Planning Commission's recommendation to approve rezoning.

Proposed by: Danny Stone, Commissioner District Three

Second: Hubert White, Commissioner District Five

For: Stone, Henderson, and White

Against: Ballard, Dimsdale

Motion Carried

KYLE MCDONALD
526 McDonald ROAD
COVINGTON, GEORGIA
A TO RE-2

PROPOSED ZONING: RE-2 (Residential Estate) for the purpose of dividing 2.01 acres and an existing home out of 148.0 acres currently zoned Agricultural (A).

AREA: 2.01 acres

CURRENT ZONING: A (Agricultural)

PLANNING COMMISSION RECOMMENDATION: Approval

STAFF RECOMMENDATION: Approval

PETITIONER: Kyle McDonald

- Father in bad health.
- Selling basically house and yard to take care of father's needs.
- Remainder of property will stay agricultural.

OPPOSITION: None

Motion: To approve request.

Proposed by: Tommy Ballard, Commissioner District One

Second: Hubert White, Commissioner District Five

Motion Carried

FRED STRAUB

SOUTHWEST CORNER OF OAK HILL ROAD INTERSECTION WITH GA. HWY. 81 S

R-40 to C-N

PROPOSED ZONING: C-N (Neighborhood Commercial)

AREA: 2.0 acres

CURRENT ZONING: R-40 (Residential)

PLANNING COMMISSION RECOMMENDATION: Approval subject to:

- a) Site plan being done as proposed.
- b) Building with masonry siding.
- c) Architectural plans
- d) Relocation of road but subject to county approval
- e) Preliminary plan must be submitted back to Planning Commission for approval.

STAFF RECOMMENDATION: Denial – Based on Comprehensive Land Use Plan.

PETITIONER: Fred Straub

- Presented map showing property in question and what other surrounding property is i.e. across the road/county recycling center 37B across Hwy. 81 is C-H use for the lodge, an abandoned service station whose zoning has expired (grandfathered in), but is not large enough for what they are proposing.
- No objections at Planning Commission, but adjoining property owner (Ronnie Huggins) called John Byce with some questions.
- Since that time met with Mr. Huggins and worked out concerns.
- As we agreed at the Planning Commission, we will be bricking three sides of the Convenience Store to make it look more "home like" as opposed to a metal building.
- We also agree to landscape the distance between the parking lot and the right-of-way line on Oak Hill Road to blend with his planned entrance of his subdivision.
- 2-acre site has been here for 30 years...we're not cutting up land.

OPPOSITION: None

- Ronnie Huggins who owns the property across the street said he does not have any objections as long as building is bricked and landscaped. He stated if anyone should have an objection it would be him and as long as it doesn't kill his subdivision he has no objections. He felt it falls into the "highest and best use" because that's all you can do with it.
- Commissioner Dimsdale asked how it will effect the integrity of the Future Land Use Plan?
- Mr. Byce said he thought it could set a precedent for intersections to do the same. He felt that the plan discourages such a use at this location. Greatest fear is that this will open the door for more requests for the opposite end of Oak Hill Road, Bethany Road on down the line.
- Sandra Born, in audience, stated she had heard the board was trying to keep commercial out of that end of the county and this is disappointing to her. She feels it is nice for the area.

- Commissioner White stated Convenience Stores serve a purpose in keeping people from traveling. Spacing convenience stores near developments is very appropriate and allows people to trade within a mile/mile/half) of their homes.
- This intersection has no higher and best use, there is not any opposition and people will be served by multi-subdivision in that area.
- Commissioner Ballard stated he had spoken with someone today and expressed he did not feel it would be a problem with this, but he didn't know, at the time, this property does not fall under Future Land Use Map. We need to get in place the mechanism that puts the burden of proof on the developer to change the Future Land Use Map. Situations like this will continue in the future. He agrees that the two acres is not suitable for a house, but is uncomfortable with property not falling under the plan.
- Commissioner Stone stated the law says you must allow the person the "highest and best use".
- Commissioner Ballard stated he agreed, but when you simply say we're doing the highest and best use, but when we go and do an area, and I've been part of doing, we've all been part of doing it, going back fifteen to twenty years, and I don't think we've done the highest and best use for the western end of the county.
- Commissioner White asked Commissioner Ballard if he was referring to the zoning regarding the apartments that he voted for, which was very controversial in the western end of the county. Commissioner White said that Commissioner Stone was against this zoning and that Commissioners Ballard, Henderson and himself (White) voted for this zoning. Commissioner Dimsdale said that he would like it noted that he, too, was against this zoning. Commissioner Ballard said he looked at the Future Land Use Map when voting for this zoning. Commissioner White said this was very controversial, but he didn't look at the highest and best use, he looked at what were around it...apartments.
- Commissioner Dimsdale said there were a lot of residences around there who were hurt by this.
- Commissioner Henderson commented that a group just visited I'on Village in South Carolina where it was convenient to walk, to cut down on driving. How can we stop people from driving so much was a big topic? He stated he felt allowing this convenience store would be a mechanism to do this.
- Commissioner Stone said there is nothing in place now to amend the Land Use Plan.
- Commissioner Ballard said he was asking to do this.... put the burden and proof on the developer.
- Commissioner White said the signs have been posted and there is no opposition. The developer adjacent to the property does not even object.
- Commissioner Dimsdale said he had received written opposition that stated this would be spot zoning and why do we have a Land Use Map. What are we doing with it?
- Commissioner Dimsdale stated this was his concern why don't we live by the Future Land Use Map and guide our behavior.
- Commissioner White said we need to let it guide us, but not rule us.
- Commissioner Dimsdale said he appreciated the points that have been made and the way it is being proposed it looks like a quality project in that area, but in good conscience he could not vote to violate the Land Use Plan in one place and approve in another.
- Commissioner Dimsdale asked to look at a way to make this a living document where it can be changed and amended.

Motion: To deny request

Proposed by: Ronnie Dimsdale, Commissioner District Two

Second: Tommy Ballard, Commissioner District One

Motion Failed

Motion: To approve request.

Proposed by: Hubert White, Commissioner District Five

Second: Danny Stone, Commissioner District Three

Motion Carried 3 to 2

For: Commissioners' White, Stone, and Henderson

Against: Commissioner's' Dimsdale & Ballard

WILLIAM G. MCCART
3339 OLD SALEM ROAD (Newton/Rockdale border)
R-35 to O.I.

PROPOSED ZONING: O-I (Office Institutional)
AREA: 2.0 acres
CURRENT ZONING: R-35 (Residential)
PLANNING COMMISSION RECOMMENDATION: Approval
STAFF RECOMMENDATION: Approval

PETITIONER: Billy McCart

- Future Land Use calls for commercial in area.
- Located next to his real estate office.
- Location will probably serve as office space.
- Does not feel it will increase traffic in area.
- Will access property through existing cut.
- Property has been rental property for many years.

OPPOSITION: None

John Byce advised the Board that he had tried to contact Rockdale County Zoning Department regarding this request. He reached an automated phone system and did not receive a call back at the time of the meeting. He will call them again as a professional courtesy regarding this petition.

Motion: To approve petition as requested.
Proposed by: Ronnie Dimsdale, Commissioner District Two
Second: Hubert White, Commissioner District Five
Motion Carried

STREET LIGHTS: None

ALCOHOL LICENSE:

Final Reading:

B.P. FOOD MART
10260 Hwy. 36
Covington, Georgia 30014
New Owner
Licensee: Sufi Haider

Note: Sheriff Department investigation indicated no record.

Motion: To approve request for license.
Proposed by: J.C. Henderson, Commissioner District Four
Second: Tommy Ballard, Commissioner District One
Motion Carried

APPROVAL OF COUNTY CHECKS

Motion: To approve checks as submitted.
Proposed by: J.C. Henderson, District Four
Second: Tommy Ballard, District One
Motion Carried

ADJOURN

Motion: To adjourn – 9:20 PM

Proposed by: Danny Stone, Commissioner Three

Second: J.C. Henderson, Commissioner Four

Motion Carried

Note: No Executive Session

Respectfully Submitted,

Jackie B. Smith, Clerk

Davis C. Morgan, Chairman