

**NEWTON COUNTY BOARD OF COMMISSIONERS
MINUTES
May 2, 2000**

**Newton County Judicial Center
Chairman Davis C. Morgan, Presiding**

Present: Chairman Davis Morgan, Commissioners Tommy Ballard, Ronnie Dimsdale, J.C. Henderson, Hubert White; Zoning Director John Byce; Attorney Tommy Craig, Attorney Scott Cole; Clerk Jackie Smith Note: District Three Commissioner Danny Stone was out of town on business.

Also present: Cindy Tumlin-Covington News; Benjamin Bush-Newton Citizen; large group of citizens

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

Invocation: Associate Pastor Marie Davie, St. Paul AME Church

Pledge of Allegiance: Led by Chairman Morgan

APPROVAL OF MINUTES OF DATED APRIL 4, 2000

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

APPROVAL OF MINUTES DATED MARCH 8, 2000

Motion: To approve minutes as submitted.
Proposed by: Commissioner Tommy Ballard, District One
Second: Commissioner Hubert White, District Five
Motion Carried

NEWTON COUNTY PUBLIC DEFENDER PROGRAM

Chairman stated that Commissioner Dimsdale would address the board regarding this program. Commissioner Dimsdale gave a brief recap of the program and requested board approval. This newly created office will replace what we now know as Indigent Defense. Commissioner Ballard commented that each year the budget has grown for indigent defense cases and agrees that if the department is created it will give the commissioners more control over the money. Commissioner White stated that he had served on the Tripartite Committee for four years and expressed appreciation to all the attorneys who have served so faithfully. He stated that he feels it is time for the county to move on to a Public Defenders Office, however he would like to see it looked at annually and compare the numbers. Commissioner Henderson asked for clarification that the Public Defender would be appointed on a yearly basis. Commissioner Dimsdale confirmed that the written guidelines state the appointment is made on a yearly basis.

Motion: To adopt the Public Defender Program and begin the process to secure and set up office.
Proposed by: Commissioner Ronnie Dimsdale, District Two
Second: Commissioner Tommy Ballard, District One
Motion Carried

Resolution Number R-05-02-00 SCRAP TIRE PROGRAM

Chairman Morgan stated this resolution is a housekeeping item required by the Department of Community Affairs. This resolution re-confirms that we will maintain our local environmental compliance.

Motion: To adopt Resolution R-05-02-00 Scrap Tire Program.

Proposed by: Commissioner Tommy Ballard, District One

Second: Commissioner J.C. Henderson, District Four

Motion Carried

Note: The original resolution is contained in file number R050200, incorporated herein by reference and expressly made a part of these minutes.

RESOLUTION R-05-02A-00 DEFERRED COMPENSATION PROGRAM

Chairman Morgan stated this, too, is a housekeeping item. We have been under a program for our deferred payment administration that is currently being taken over by the Association of County Commissioners of Georgia. The reason ACCG is taking over this program is because the company providing this service will no longer provide personnel to meet with county employees. All transactions would have to be completed via phone. They will no longer provide personal service. Some of the employees have chosen to leave this company and come to work for ACCG because of their belief that "personal service" is needed and deserved by the employees. All benefits will stay the same and we will continue receiving the personal service our county employees are accustomed to.

Motion: To adopt Resolution R-05-02A-00 Deferred Compensation Program for Newton County employees.

Proposed by: Commissioner Ronnie Dimsdale, District Two

Second: Commissioner Hubert White, District Five

Motion Carried

Note: The original resolution is contained in file number R0502A00, incorporated herein by reference and expressly made a part of these minutes.

PROJECT NUMBER 96970 (300) LETTING OF TWENTY-TWO (22) COUNTY ROADS

Chairman Morgan advised the board this letting had been advertised and the county received three bids with Pittman Construction Company being the low bidder. Billy Williams, MAAI recommended that the bid be awarded to the low bidder, Pittman Construction Company.

Motion: To award the bid of \$623,719.80 to the low bidder, Pittman Construction Company.

Proposed by: Commissioner Tommy Ballard, District One

Second: Commissioner Hubert White, District Five

Motion Carried

COMPACTOR FOR NEWTON COUNTY LANDFILL

Chairman Morgan gave the background regarding this request. He stated that we just had some work done on it with an approximate cost of \$21,000. We are presently having problems with the transmission now. The Landfill is opened seven days per week and this machine runs seven days a week. This is not a budgeted item in this year's budget and had planned to include it in next years budget, but in lieu of the transmission problems the chairman recommended board approval to purchase a compactor this year, get it on board and trade the 816F for \$67,492 making the purchase price \$307,889 for the upgraded, heavier machine. They also have a guaranteed buyback of \$139,000 after 3 years/7500 hours (full warranty). Commissioner White commented that since the road department was cut so this year that we (the board) knew there would be some items we would need to consider.

Motion: To approve purchase and accept bid of \$307,889 for a new Caterpillar 826G compactor. This money will be included in next year's budget for this purchase.

Proposed by: Commissioner Tommy Ballard, District One
Second: Commissioner Hubert White, District Five
Motion Carried

AMEND AGENDA

Commissioner Henderson requested that the agenda be amended to include the SPLOST report from Joe Lay; add to zonings; and to allow Minister Shirley Smith (Repairer's of the Breach) and Tammy Bailey to speak regarding the homeless in Newton County.

Motion: To amend the agenda to include items stated above.
Proposed by: Commissioner J.C. Henderson, District Four
Second: Commissioner Tommy Ballard, District One
Motion Carried:

IMS GROUP, INCORPORATED WAIVER OF PENALTY & INTEREST REQUEST

Motion: To uphold recommendation of the Tax Commissioner's Office and waive the penalty and interest of \$621.35.
Proposed by: Commissioner Tommy Ballard, District One
Second: Commissioner J.C. Henderson, District Four
Motion Carried

CO81-27E WAIVER OF PENALTY & INTEREST REQUEST

Motion: To table this request for further discussion with the Tax Commissioner.
Proposed by: Commissioner Tommy Ballard, District One
Second: Commissioner J.C. Henderson, District Four
Motion Carried

BURGER KING WAIVER OF PENALTY & INTEREST REQUEST

Motion: To accept and uphold the recommendation from the Tax Commissioner's Office and deny the request to waive the penalty and interest.
Proposed by: Commissioner Hubert White, District Five
Second: Commissioner J.C. Henderson, District Four
Motion Carried

AMENDED AGENDA ITEMS

Commissioner Henderson asked Rev. Smith and Rev. Bailey to address the board regarding a homeless shelter for Newton County. He stated we would not be taking action tonight and this basically is for information only. Rev. Smith addressed the board and discussed the need for a shelter here in Newton County. She expressed that her ministry, Repairer's of the Breach, continues to do what they can, but the need has become so financially burdensome that cannot continue on as they have in the past. Rev. Bailey said there was a lot of homeless people in Newton County and both ministers confirmed they have had some success in rehabilitating these people into productive citizens, and stressed the point that the needs of these people are great to help get them back on their feet. Commissioner Henderson stated that he personally has taken people into his home as well and believes there is a need for a shelter in our community and would like for the board to look into this. Handouts were also submitted to the board for information purposes. Rev. Bailey and Rev. Smith expressed their appreciation to the board for allowing them to share the need of a shelter with them.

Chairman Morgan recognized Dave Sheffield and Boy Scout Troop 740 and welcomed them to the meeting.

ZONINGS:

Chairman Morgan advised the audience that ten minutes would be allotted for the petitioner and ten minutes for those in opposition to the zonings to address the board.

Rezoning and Conditional use
Melinda Marshall on behalf of SBA Towers, Inc.
3768 Hwy. 81 North
Oxford, Georgia 30054

Mr. Byce stated the Planning Commission heard the request and recommended denial. The petitioner requested a 30-day deferral and will look for other land. After discussion it was decided by the board to table this request for thirty days.

Motion: To table request for 30 days.
Proposed by: Commissioner J.C. Henderson, District Four
Second: Commissioner Ronnie Dimsdale, District Two
Motion Carried

FRED STRAUB

Location of Property: 5228 GA Hwy. 20 South which is on the East Side of Hwy. 20, approximately 600' north of the Kroger Shopping Center

Property: 0.72 acres

Current Zoning: R-40 (Residential)

Proposed Zoning: C-N (Neighborhood Commercial)

Staff Recommendation: The staff would recommend approval of the zone change from R-40 to C-N on the subject property. We would also recommend that cross access easements be a condition of rezoning and that future uses which might increase the demands on the existing septic system be granted approval by the Newton County Environmental Health Office before the issuance of a Business License.

Planning Commission Recommendation: Recommended C-N zoning subject to staff recommendation.

Petitioner: Fred Straub presented drawing for board's review.

Opposition: None

Motion: To approve petition to rezone to C-N zoning with Staff recommendations.
Proposed by: Commissioner Ronnie Dimsdale, District Two
Second: Commissioner J.C. Henderson, District Four
Motion Carried

ROB MARKS/BRAD MARKS

Location of Property: North side of Elks Club Road approximately 2,700 feet east of its intersection with Mt. Mariah Road.

Property: 100.57 acres

Current Zoning: A (Agricultural)

Proposed Zoning: RE-2 (Residential Estate)

Staff Recommendation: The staff would recommend approval of the zone change from A to RE-2.

Planning Commission Recommendation: To approve subject to staff recommendation.

Petitioner: Mr. Marks stated he did not know of anyone who was opposed to this change.

Opposition: None

Motion: To uphold Planning Commission's recommendation to approve the petition.
Proposed by: Commissioner Tommy Ballard, District One
Second: Commissioner Hubert White, District Five
Motion Carried

Director John Byce discussed the following:

MCDONALD'S CORPORATION

Location of Property: 4174 Salem Road, which is in the northeast corner of the Salem Road and Brown Bridge Road intersection across from Ellington's Grocery Store.

Property: 2.01 acres (approximate)

Current Zoning: R-40 (Residential)

Proposed Zoning: C-H (Highway Commercial)

Staff Recommendation: The staff recommends approval of a zone change for the property to Commercial neighborhood (C-N), but not to C-H. This recommendation would include an assurance by Newton County that said zoning would permit a drive through window. We would also recommend that this approval be contingent on the developer be it McDonald's or someone else agreeing to build sidewalks along Salem road, landscaping along the front of the site, and preserving the existing hardwood trees on site. We also recommend that the developer be required to submit signage and building design plans to the planning commission at the same time a site development plan is submitted and receive their approval prior to the issuance of a development permit. In regard to the wrap around drive and parking concern, the staff believes that the Board of Commissioners will have to make this decision. It certainly will determine to a great extent whether our goal of creating a pedestrian oriented mixed-use residential neighborhood will be realized.

Planning Commission Recommendation: Recommended to grant zoning subject to the following:

1. Staff's recommendations
2. Tree Protection Plan
3. C-N Zoning
4. Design to fit Salem town Plan
5. No parking in front of building facing Salem Road.

Bruce Reed (Petitioner) commented that there was one point he needed clarification on. He stated he thought the intent of the Planning Commission was to compromise and he would like to see us move forward with this tonight with no misunderstandings. One thing he wanted to offer that is a little bit different from what the Planning Commission had suggested and that is the elimination of one and half to two parking spaces in front. One of the things he stated he wanted to submit and see if it would be acceptable to this board would be to add a tile walk way running from the road through to the side by the elimination of one to one and half parking spaces, accommodating what he feels everyone is trying to do. He stated it was still their intention to do everything they can to save the trees. He stated he had two caveats subject to this theme as a final plan. 1) One is success with permitting with the DOT. 2) Subject to this plan as presented tonight would be pretty much what he would like to see this board endorse and feels if this board endorses this tonight feels it is a reason to move forward and go to the next step with the planning department. He stated what he is presenting tonight that was different previously is he is showing sidewalks and locating hardwood trees he thinks he can save, significant hardwood trees (48 inch oak) and several other significant trees. It also shows a pedestrian walk way concept. As opposed to eliminating all the parking out front it does show a way to facilitate the pedestrian from the road to the site.

Mr. Byce asked if they were going to get two curb cuts and Mr. Reed replied one and half.

Commissioner White asked Mr. Reed if he did a lot of these and he replied that he did. Commissioner White commented that he (Mr. Reed) would know how many spaces of parking generally needed for the volume of projected business today and ten years in the future. He asked if it would be fair to say that he has some with more parking and some with less and Mr. Reed confirmed that was correct. He stated that additional parking feels more users friendly to him than eliminating them in particular with the sidewalks and the one and half curb cuts. He stated he sees it as a better plan than to eliminate the parking spaces.

Commissioner Dimsdale asked Mr. Reed if they had contacted the DOT regarding the proposed DOT road improvements and he commented they have and will continue to be in touch with DOT regarding project.

Opposition: None

Commissioner Dimsdale asked about adding parking spaces to the rear. The petitioner stated it could be done, but expressed it would be more desirable to have the spaces in the front. Commissioner White asked Mr. Reed what was the advantage of having the spaces spread out on the front instead of in the back because 30 parking spaces was still 30 spaces whether they were in the front or the back. Mr. Reed stated to a certain degree it was to remain economically feasible. Commissioner White asked him if it was land use or economics and he replied a little of both. The architectural design was mentioned and the petitioner did not feel the design should be discussed at this time.

Motion: To accept petition to rezone to Neighborhood Commercial with Staff and Planning Commission recommendations.

Proposed by: Commissioner Ronnie Dimsdale, District Two

Second: Commissioner Tommy Ballard, District One

Motion Carried

ROBERT L. HOWELL

Location of Property: The northeast corner of the Salem/Brown Bridge Road intersection.

Property: 3.82 acres (approximate)

Current Zoning: R-40 (Residential)

Proposed Zoning: C-H (Highway Commercial)

Staff Recommendation: The staff recommends approval of a zone change for the property to Commercial Neighborhood (C-N), but not to C-H. We would also recommend that this approval be contingent on the developer agreeing to build sidewalks along Salem and Brown Bridge Roads, landscaping in front of both building sites on Salem and Brown Bridge Roads, and preserving any existing hardwood trees on site. We also recommend that the developer be required to submit signage and building design plans to the planning commission at the same time a site development plan is submitted and receive their approval prior to the issuance of a development permit. In regard to the wrap around drive and parking concern, the staff believes that the Board of Commissioners will have to make this decision. It certainly will determine to a great extent whether our goal of creating a pedestrian oriented mixed-use residential neighborhood will be realized.

Planning Commission Recommendation: Recommended C-N zoning subject to the following:

1. Staff's recommendation.
2. Tree Protection Plan
3. No parking in front
4. Design should fit Salem Town Plan
5. C-N Zoning but allow drive-through access window

Opposition: None

Commissioner Henderson commented that he was in favor of petition, but it was hard for him to vote for this with Danny being their representative. He said he knew that Danny and Commissioner Dimsdale had talked, but it still was hard to do. Commissioner Dimsdale commented that he and Commissioner Stone had spent a lot of time together regarding these zonings. Chairman Morgan explained that due to Commissioner Stone's job he was called out of town on business and regrettably could not be here.

Motion: To accept petition with Staff recommendations and subject to Planning Commission recommendations.

Proposed by: Commissioner Ronnie Dimsdale, District Two

Second: Commissioner Tommy Ballard, District One

Motion Carried

JAMES C. ROBERTS/FRANK B. OLIVER

Location of Property: The East Side of Fairview Road at it's intersection with I-20 Access Road.

Property: 42.0 acres

Current Zoning: Conditional RMF

Proposed Zoning: Petitioner is asking for removal of zoning conditions applied by the Board of Commissioners in 1981 to approximately 42 acres that were zoned for Residential Multi Family (RMF) uses. At that time Multi Family was given the zoning classification of R-2, which allowed a density of 8.4 units per acre. However, the Board of Commissioners granted this zoning with a maximum density of 4.95 dwelling units per acre, "due to the unfavorable terrain and topography. Petitioner is now asking that he be allowed to develop the site at a maximum density of 8 units per acre because of the availability of public sewerage. He states that original conditions ere imposed because at that time sewerage was not available and would have required some kind of "on site" disposal system. Of the three conditions imposed, this is the only one for which removal is requested. The remaining two deal with sewage treatment facilities and buffer requirements.

Staff Recommendation: Under a positive infrastructure scenario, the staff could see no reason not to recommend approval of the petitioner's request. However, the Water and Sewerage Authority indicates that they have just permitted what remaining sewerage capacity they have and are now holding this in reserve until that project comes on line. Therefore, their concern is that the county not over commit to uses that we do not have the present capacity to handle. The Authority is presently evaluating several options at their disposal for remedying their capacity problem. Any decision will probably not be made until mid to late April. This is a difficult decision for the staff to make in light of fairness considerations. An acknowledgement by the petitioner of the current situation should precede any decision to grant approval.

Planning Commission Recommendation: Recommended denial.

Mr. Dan Greer represented petitioner. He stated this is not a zoning case that the property has been zoned for multi-family use since 1981. They have not been able to dispose of the property because of the density restrictions. He stated that he had spoken with Mark Patrick, Chairman of the W&S Authority who stated the plant does have capacity now. Their concern is if every project came to fruition at one time. Mr. Patrick also testified at the Planning Commission that water is a "first come, first serve" program. Therefore, the people who are there first and have their ducks in a row will be allotted. We acknowledge that if the capacity is not available we cannot get it. They do not reserve capacity. He stated all they were asking the board to do was to allow them to try to get water and sewer for the property.... just allow them to get in line for the water and sewer. He stated the Future Land Use Plan shows by legend the development node West of Covington is at the Almon Road and I-20 Interchange. The Future Land Use Plan states these development nodes were chosen because they are already developing rapidly or expected to grow in near future. They are generally centered at the intersection of major streets, which allow for suitable environment for commercial development with residential land uses radiating outward. Because the West portion of the county is most populated and expected to continue to grow rapidly, this area will be devoted to medium to high-density development. Mr. Greer continued to read from the Future Land Use Map. He stated they would be happy to have it imposed, if you should grant this, to impose a condition that we not develop it without public water and sewer. The petitioner stated that they understood the expense to construct the sewer line and the lift station. Chairman Morgan stated he spoke with Randy Mills, Directory of W&S Authority in reference to this. He stated there is capacity now and could be made available to this site; however he indicated to me that the Gross Brothers helped to provide funding for this main trunk line and for that reserved so many taps. Attorney Tommy Craig confirmed history on this. Commissioner White stated that he was a part of reducing the density apartments to the eight number, taking the flood plain out so that you can't use that for your density and usually that eliminates most apartment projects because most apartment projects are close to flood plain because they have to be on sewer. We have eliminated a lot of future apartment projects just because of the fact that we have gone to eight. Commissioner Dimsdale expressed his concern that there comes a time when first come/first sever uses all of it up and when those people who have made plans to use this come for water and its all gone....the Water & Sewer Authority are telling us this. Commissioner White said that the City of Covington is putting on a \$14 million extension in their sewer system and have courted the county in an attitude of the county dumping some of theirs when they give out of capacity in that. This would involve a pumping station. It would cost money, but the W&SA have money and stated he was a liaison for the BOC to the Water Authority and at some point I think it would make sense to put the pumping station at that high

point so that when the city gets low they can use ours and when we get low we can use theirs. I think this is a long-term pro-active plan that would work and we need to work with the city and the mayor to work details out. I think the first come/first serve basis will never happen if we are good planners. He stated he agreed with the man who spoke earlier and said we don't have any right to turn these people down on a Future Land Use Plan that allows eight units per acre and duly made motion. Commissioner Dimsdale stated he felt that we were making decisions for the W&SA by extending density and the number of people that will get onto the sewer. Commissioner White commented to Mr. Craig that it was his understanding that we could not deny this petition on the basis that "there might not be any." Mr. Craig stated he thought we should not be so focused on the sewer, but that you should be asking these gentlemen would it be 200 units 320 or how many. Mr. Greer responded that there was 7 acres of flood plain. It is something like 33 acres. He asked how many units? The petitioner replied 260 and that should work out according to Mark Patrick. After further discussion Commissioner White duly made motion to approve.

Opposition: None

Motion: To approve petition as proposed.

Proposed by: Commissioner Hubert White, District Five

Second: Commissioner J.C. Henderson, District Four

Commissioner Tommy Ballard abstained because he owns land that backs up to this property.

Commissioner Ronnie Dimsdale voted against motion.

Motion Carried

PHIL JOHNSON

Location of Property: East Side of Lower River Road north of Rocky Plains Road.

Property: 147.82 acres

Current Zoning: A (Agricultural)

Proposed Zoning: A-R (Low-Density Residential)

Staff Recommendation: The staff recommends approval of the zone change request from A to AR on the subject property.

Planning Commission Recommendation: Recommended approval subject to the following:

1. Conservation Overlay
2. Boulevard Entrance
3. Curb & Gutter Streets
4. 1400 Square feet house minimum
5. 2 car garage attached to house

Mr. Byce said it would be 92 lots.

Petitioner: Mr. Phil Johnson

Mr. Johnson stated they had done topo and design that would allow them to use a conservation overlay. He agreed to all lots facing interior, underground utilities as well as Planning Commission conditions and seek your approval.

Opposition: None

A gentleman did ask for a buffer along Lower River Road to preserve the looks of the road.

Motion: To uphold the Planning Commission's recommendation to approve with conditions outlined and agreed upon.

Proposed by: Commissioner Tommy Ballard, District One

Second: Commissioner Hubert White, District Five

Motion Carried

STREET LIGHT PETITIONS:

Cameron's Landing Phase V
Lake Charles Estate
East Trelawney
Berkshire Phase II
Alcovy Forest

Motion: To approve request as submitted.
Proposed by: Commissioner Hubert White, District Five
Second: Commissioner J.C. Henderson, District Four
Motion Carried

ALCOHOLIC BEVERAGE LICENSE:

Foodland
15036 Brown Bridge Road
Covington, Georgia 30016

Motion: Motion to table for updated report from Sheriff Department.
Proposed by: Commissioner Hubert White, District Five
Second: Commissioner J.C. Henderson, District Four
Motion Carried

First Reading: New Ownership

Shiddhi Inc. – Salem Amoco
3501 Salem Road
Covington, Georgia 30016
Licensee: Patel, Kaushik M.
Note: Sheriff report indicated no record.

APPROVAL OF COUNTY CHECKS:

Motion: To approve checks as submitted.
Proposed by: Commissioner J.C. Henderson, District Four
Second: Commissioner Ronnie Dimsdale, District Two
Motion Carried

SPLOST PROJECTS – JOE LAY

Mr. Lay commented that in planning the marketing of bonds is timing and how to sell them. In talking about timing, he developed a model that shows estimates of income of sales tax and estimates of the out flow of money to be spent for construction. He recommended that we make plans to sell the bonds as soon as possible and urged the board to consider going ahead with deliberate speed and at that the earliest would be sometime in early July. I also thought we should establish the need to borrow and when. We need to have a plan and schedule. On how to sell the bonds, I noted the number of firms showing an interest in the sale of the bonds as a perspective underwriter. Chairman Morgan asked if they had completed a proposal package to send out. Mr. Lay stated not at this time, but each one of these firms is anxious to have an opportunity to negotiate the purchase of the bonds. He said we could go one of two ways.

1. Ask them to consider forming a group so that all of them are represented of an underwriting group and that way you assure the participation of the local banks; and you get some flexibility in the timing of the sales, which might be helpful.
2. We ask to have interviews with each one as we've done in the past.

Finally a competitive sale as possible which means advertising the sale for the best bidder. He asked for indication in planning the sale. He asked if it was understood that we wanted Merchant Capital to manage this group? Yes. Board gave nod to proceed.

Mr. Craig stated the proposal that Mr. Lay is making would allow all projects to proceed at one time.

CITIZENS COMMENTS:

EXECUTIVE SESSION: 9:15 PM

Motion: To enter into Executive Session to discuss land acquisition and litigation.

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

Second: Commissioner Ronnie Dimsdale, District Two

Motion Carried

Time: 9:46 PM

Motion: To come out of Executive Session.

Proposed by: Commissioner Tommy Ballard, District One

Second: Commissioner J. C. Henderson, District Four

Motion Carried

ADJOURN: 9:46 PM

Motion: To adjourn

Proposed by: Commissioner Tommy Ballard, District One

Second: Commissioner J.C. Henderson, District Four

Motion Carried

Respectfully Submitted,

Jackie B. Smith, Clerk

Davis C. Morgan, Chairman