

**NEWTON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
October 16, 2007
MINUTES**

**Newton County Historic Courthouse
1124 Clark Street
Covington, Georgia
Chairman Aaron Varner, Presiding**

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, and Clerk Jackie Smith

Newspaper: Covington News
Newton Citizen
Small group of citizens

Chairman Varner called the meeting to order, extended a welcome and read the thought for the day. Pastor Ronnie Brannen, Canaan Baptist Church, gave the invocation and after expressing thanks to Rev. Brannen for the beautiful prayer, Chairman Varner led the Pledge of Allegiance to our great Flag.

Chairman Varner extended, on behalf of himself, and the commission, a special welcome to members of Leadership Newton County.

APPROVAL OF BOC MINUTES DATED OCTOBER 2, 2007

Motion: To approve the BOC Minutes dated October 2, 2007 with duly noted corrections by Commissioner Ewing.

Proposed by: Commissioner Mort Ewing, District One

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

Motion Carried

**PROCLAMATION – DOMESTIC VIOLENCE AWARENESS
MONTH**

Executive Director Vicky Stevenson and board member Brian Ross appeared before the board to receive a proclamation designating October as Domestic Violence Awareness month in Newton County. Ms. Stevenson gave a brief summary of their services. Administrative Office John Middleton read the proclamation and appreciation was extended by Ms. Stevenson and Mr. Ross to the board for the proclamation.

Motion: To approve the proclamation proclaiming October as Domestic Violence Awareness Month as read by Mr. Middleton. A copy of proclamation is made part of these minutes.

Proposed by: Commissioner Mort Ewing, District One

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

Motion Carried

R101607 – RESOLUTION IN SUPPORT OF PRESCRIBED FIRES

Chief Ranger Terry Quigley appeared before the board and noted the State of Georgia requested each county to adopt a resolution regarding prescribed fires.

Commissioners gave their support for the resolution and Commissioner Ewing duly made a motion to adopt.

- Resolution made part of these minutes

Motion: To approve Resolution R101607 in support of prescribed fires as presented and outlined in agenda packet book on pages 19-20.

Proposed by: Commissioner Mort Ewing, District One

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

Motion Carried

Note: The original resolution is contained in file number R101607, incorporated herein by reference and expressly made a part of these minutes.

R101607a ANNEXATION AGREEMENT BETWEEN NCBOC & THE CITY OF PORTERDALE

Attorney James Griffin appeared before the board to present this agreement. Mr. Griffin gave a brief summary of the annexation request. He noted that by objecting to the annexation we are simply following state law. He noted that county representatives have met with Porterdale officials to discuss concerns (Ms. Eisenberg, Mr. Sirotkin, Mr. Walter and Attorney Griffin). He also told the board that the Georgia General Assembly, in essence, took away the power to veto annexations from the counties. The process we go through now is:

1. Object to annexation in writing
2. After 28 days request mediator
3. Citizen review panel

Still at the end of the process, the city annexes the property.

Commissioner Ewing reiterated this was the last annexation under the old law.

Mr. Griffin commented that the City of Porterdale have been very cooperative easy to work with. He was very pleased that Porterdale agreed to several things the county requested and recommended proposed agreement to the board for consideration and approval.

Commissioner Laster expressed appreciation to Mr. Griffin and the others for working so hard with the City of Porterdale and for getting the boards concerns and requests addressed.

- Resolution made part of these minutes

Motion: To approve Resolution R101607a – Annexation Agreement with the City of Porterdale as presented by Attorney James Griffin.

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 R101607a, incorporated herein by reference and expressly made a part of these minutes.

BID #08-07 OLD ATLANTA HIGHWAY @ COOK ROAD

County Engineer Kevin Walter presented this project to the board for approval.

- Both roads have heavy truck traffic
- Will last average 10-12 years
- Received three bids
- Funding will be provided through SPLOST

Motion: To approve Bid #08-07 for Old Atlanta Highway @ Cook Road and award the bid to Pittman Construction Company for a not to exceed cost of \$361,292.00.

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

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

Motion Carried

BID #08-04 RESURFACING OF FLAT ROCK ROAD & ROCKY POINT ROAD

County Engineer Kevin Walter presented this project to the board for approval.

- Heavily cracked
- Chairman very familiar with and supports Surface Treatment
- Surface Treatment very good for roads with less traffic
- Flat Rock will be conventionally repaired with asphalt
- Rock Point will be repaired with Surface Treatment
- Pittman has a good history with Surface Treatment application & duration
- Signage will be in place for work conditions
- Funding from SPLOST

Motion: To approve Bid #08-04 for Resurfacing of Flat Rock Road & Rock Point Road and award the bid to Pittman Construction Company for a not to exceed cost of \$541,060.75.

Proposed by: Commissioner Monty Laster, District Five

Second by: Commissioner Mort Ewing, District One

Motion Carried

REDUCTION OF SPEED LIMIT ON BROWN BRIDGE ROAD NEAR MAGNET ROAD & BROWN BRIDGE INTERSECTION

County Engineer Kevin Walter presented this request to the board for consideration.

- Request is to change the speed limit from 45 mph to 35 mph.
- Safety concerns. Several accidents at this intersection. A child was tragically killed at this intersection earlier this year.
- The following are additional improvements that will be constructed by County Staff over the next 4-6 weeks:
 - Cut back trees on Brown Bride Road south of Magnet Road
 - Move stop bar at Magnet Road southeast leg closer to Brown Bridge Road
 - Add rumble strips to all both legs of Magnet Road
 - Install permanent radar signs on Brown Bridge Road
 - Remediate drainage issues
 - Add Intersection Ahead and other warnings signs

Commissioner Simmons expressed appreciation for the board taking action and requested work to be done without delay, noting he thinks this will help curtail speeders in the area. Mr. Walter said it would be completed within 30 days.

Motion: To approve the reduction of the Speed Limit on Brown Bridge Road near the Magnet Road/Brown Bridge Road Intersection from 45 MPH to 35 MPH as presented.

Proposed by: Commissioner Earnest Simmons, District Two

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

Motion Carried

O-101607 AMEND N.C. WATER RESOURCES MANAGEMENT ORDINANCE FOR FLOODPLAIN MANAGEMENT

- Ordinance required by State of Georgia and FEMA Agency to be updated
- Requirement to be adopted along with Flood Plain Map by October 30th
- Flood Maps have been approved by FEMA
- Flood Maps' will be available in the Planning & Development Office
- Review at no cost to public
- Copy fee only
- Commissioner Ewing reiterated that board does not want construction within the flood zone and questioned if map is based on 100 or 500-year zone? Both
- Ordinance made part of these minutes

Motion: To approve the adoption of Ordinance O-101607 to amend the Newton County Water Resources Management Ordinance for Floodplain Management

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried

Note: The original ordinance is contained in file number O101607, incorporated herein by reference and expressly made a part of these minutes.

O-101607a REGULATING CONDUCT ON BRIDGES

Attorney Jenny Carter appeared before the board and presented this request.

- Sheriff Department requested this regulation.
- People are jumping off bridge in southern end of county into river – just playing around.
- Safety concerns
- Ordinance made part of these minutes

Motion: To approve Ordinance O-101607a Regulating Conduct on Bridges as requested by the Sheriff Department and presented by Attorney Jenny Carter.

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

Second by: Commissioner Monty Laster, District Five

Motion Carried

Note: The original ordinance is contained in file number O101607a, incorporated herein by reference and expressly made a part of these minutes.

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

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

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

REZ07-020

Existing Land Use Map: DN (Development Node)

Existing Zoning: R2 (Single-Family Residential)

Proposed Zoning: CH (Highway Commercial)

Watershed: South River

Location: 5361 & 5369 GA Hwy. 20 South (West Side)

216 Feet of Frontage

Parcel Size: 1.957 Acres

Tax Parcel: 7A-10, 11

Owner: GA Hwy. 20, LLC

Petitioner: Rick Carpenter

Applicant's Intent: To develop a maximum 15,000 square-foot retail establishment or drive-thru restaurant at a density of 7,664.8square feet per acre.

Planning Commission Recommendation: Deferred to August 28, 2007 (July 24, 2007)

Approval with Changed Conditions (August 28, 2007)

BOC Deferred to October 16, 2007

District Two

Petitioner Representative: Attorney Andy Welch
Presented the request and after discussion with the board Commission Simmons made the following motion:

Motion: To deny the petition.

Proposed by: Commissioner Earnest Simmons, District Two

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

The board discussed deferring the petition so that language regarding connectivity and conditions, prohibited uses can be further reviewed by legal office. Commissioner Simmons withdrew the motion to deny, Commissioner Henderson withdrew the second for a new motion.

Motion: To defer REZ07-020 until November 20th meeting for further review regarding connectivity language, conditions and prohibited uses.

Proposed by: Commissioner Earnest Simmons, District Two

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

Motion Carried

CUP07-013

Proposed Use: Operation of a Trade School (CDL Training)

Existing Zoning: M1 (Light Industrial)

Watershed: Yellow River

Location: 350 Old Oxford Road (West Side)

485.07 Feet of Frontage

Parcel Size: 7.14 Acres

Tax Parcel: 42-170A

Owner: Johnny W. Harris

Petitioner: Linda Pate

Planning Commission Recommendation: Approval with Staff Conditions (September 25, 2007)

District Three

Petitioner: Russell Widner

- Request approval to conclude the process
- This will cover community all the way to Augusta
- State has visited the property and approved the testing site.

Commissioner Simmons:

- Only CDL Training facility in our area? Yes, one on eastern part of state.
- #of drivers & length of program? 4-week program (160-180 hours) and state only allows four (4) students per instructor. Hope to have 2-3 instructors.

Commissioner Fleming:

- Questioned if business was already in operation? No, the only people on site now are instructors and partner.
- Questioned clean up of property? Yes

No Opposition

Motion: To approve CUP07-013 for the operation of a Trade School (CDL Training) located at 350 Old Oxford Road 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. A trade school (CDL training).
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 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 Stormwater Management Plan, to be approved by Planning & Development Engineer.
 - b. Dedicate, at no cost to Newton County, right-of-way as may be required by the County Engineer. Additional right-of-way may be necessary from back-of-curb of the road improvements to provide for placement of utilities.

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

Second by: Commissioner Earnest Simmons, District Two

Motion Carried

FLU07-009

REZ07-023

Existing Land Use Map: LDR (Low-Density Residential)

Proposed Land Use Map: RR (Rural Residential)

Existing Zoning: A (Agricultural)

Proposed Zoning: RE (Rural Estate)

Watershed: Yellow River

Location: 420 West Richardson Street

Access from the north side of street

Parcel Size: 2.0 Acres of a 25-Acre Tract

Tax Parcel: 60-47

Owner: Anna S. Womack

Petitioner: Steve Bunn

Applicant's Intent: To create a new lot for existing single-family residence.

Planning Commission Recommendation: Deferred to September 25, 2007 (August 28, 2007)

Approval with Staff Conditions (September 25, 2007)

District Five

Petitioner Representative: Attorney John Strauss

- Reviewed and accepts recommendations by staff.

Opposition

Sam Hay

- Not in opposition - here to represent Mr. R.E. Welchel estate
- Serves as executor for R.E. Welchel estate

Motion: To approve the FLUM change from LDR (Low Density Residential) to RR (Rural Residential).

Proposed by: Commissioner Monty Laster, District Five

Second by: Commissioner Mort Ewing, District One

Motion Carried

Motion: To approve REZ07-023 to create a new lot for an existing single-family residence located at 420 West Richardson Street with the following conditions as read by Director 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 dwelling (existing) and accessory uses and structures.
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 22, 2007. Said site plan references existing home and detached garage on property.
 - b. Applicant must submit proposed subdivision for approval as a Minor Plat to the Department of Planning & Development prior to recording with the Clerk of Superior Court.
 3. To the owner's agreement to abide by the following development standards:
 - a. Comply with conditions of approval of VAR07-030.

Proposed by: Commissioner Monty Laster, District Five
Second by: Commissioner Earnest Simmons, District Two
Motion Carried

APP07-005

VAR07-036

Name of Applicant: Janice Hestley

Address of Property: Friar Tuck Circle

Tax Parcel: 74A-52

Request: Appeal to Board of Zoning Appeals decision (Denial) at August 23, 2007 meeting.

Original Request: Variance Request to (1) Allow a recreational vehicle on a lot without a principal residence and

(2) Allow a recreational vehicle to be parked in the 150-foot undisturbed buffer, as depicted on applicant's site plan.

Size of Property: 0.39 Acres

Present Zoning: MSR (Mixed Use Single-Family Residential)

Present Use: Existing shed

Potential Effects on County: No negative effect anticipated

District One

Petitioner: Janice Hestley

- Owns 3 lots
- Put up fence to help with view
- Unkempt property because husband had a stroke and was unable to keep it up.
- When property purchased we were told a recreational vehicle could be placed there.
- Recreational lot and knew we couldn't build.
- Would like to park 2 or 3 times per week

- Paid over \$40,00 for recreational vehicle
- Planted lots of flowers in large pots
- Storm blew down part of the fence, but when we were notified we corrected it immediately.
- Wants to be a good neighbor
- Lot on the right side is a singlewide trailer.

Opposition

Jimmy Huz

John Mangrin

- We chose Newton County to live out our lives in tranquility. Retired there and proud of place to live.
- Understands this is an emotional issue
- Provided photos of area, fence, electric box (against code)
- Hestley Taxes for 2006 were \$64.00
- My 2006 taxes were over \$1,000.00
- Concerned about a drop in property values if approved.
- Concerned about sewerage disposal – holding capacity in recreational vehicle is less than one week.
- Power supply is on a temporary service pole

Commissioner Ewing

- Zoning Appeals board has discussed and considered this issue on two occasions. Both times they denied the variance.
- Spoke with Mr. Brooks who serves on the board to better understand their decision.
- Met with Mrs. Hestley to better understand her situation and then went back and met with Mr. Brooks again to discuss the issue. I deeply sympathize with Mrs. Hestley's situation, but...
- They own three unbuildable lots and Environmental Health refuses to issue a septic tank permit.
- Feels for the Hestley's that they purchased the lot thinking they could park a recreational vehicle on it, but...
- Ordinance is very clear and it would be an error to do anything other than to follow the recommendation of the Zoning Appeals Board and deny the request.

Motion: To deny APP07-005 VAR07-036 and uphold the recommendation of the Zoning Appeals Board.

Proposed by: Commissioner Mort Ewing, District One

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

Motion Carried with Commissioner Henderson abstaining from the vote

APP07-006

VAR07-032

Name of Applicant: Clinton Brooks

Address of Property: 125 Tabor Forest Drive

Tax Parcel: 40-93

Request: Appeal to Board of Zoning Appeals decision (Denial) at August 23, 2007 meeting.

Original Request: Variance Request to (1) Increase the number of commercial vehicles on residential property from 1 to 2.

(2) Allow commercial vehicles on less than 10 acres of land.

(3) Allow commercial vehicles within 100 feet of property lines.

Size of Property: 2.29 Acres

Present Zoning: AR (Agricultural Residential)

Present Use: Existing Single-Family Residence

Potential Effects on the County: Commercial vehicles may present negative aesthetic/noise impacts on neighbors. However, some of these impacts may be mitigated through the implementation of recommended conditions.

District Three

Petitioner: Mr. Clinton Brooks

- Running small business from home
- Doesn't feel like vehicles are a problem
- Doesn't think there is an eyesore to neighbors
- Passed out photos of property
- Lived there for 7 years
- Has 1 box truck, 1 flatbed truck used for landscaping
- Planted 10 Leland Cyprus trees to obstruct view
- Wants to be a good neighbor
- Keeps property up
- Vehicles are parked in back and can't be seen

Opposition

Ann Savage

Leon Savage

Todd Milton

- Equipment parked in back on a 2-acre lot
- All commercial equipment must enter and exit onto Mt. Zion Road
- County determined that entrance is dangerous and spent money to try to make it safer.
- Special needs children in neighborhood
- One street neighborhood
- Safety concerns
- Walkers, bike riders, a lot of foot traffic
- Even though Mr. Brooks has done a lot of work to clean up, it is still an eyesore.

Clinton Brooks

- More than on landscaper in community.

Commissioner Henderson

- # Of employees? 3
- Struggled with small business himself and can't vote no for a man who is trying to make a living.

Commissioner Simmons

- Is denial because of acreage of property? No, and complaint did not come from neighborhood. Several issues are at hand. He did not renew his business license.
- Would one commercial vehicle be o.k? Yes

Motion: To uphold the Zoning Board of Appeals recommendation to deny APP07-006 as it relates to VAR07-032.

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

Second by: Commissioner Monty Laster, District Five

Motion Carried with Commissioners' Simmons and Henderson voting in opposition to the motion.

MOD07-008

Proposal: Modification of Conditions 1.a and 2.a

Existing Zoning: CN (Neighborhood Commercial) approved November 15, 2005

Location: Jack Neely Road (West Side)

199.79 Feet of Frontage

Kirkland Road (South Side)

546.36 Feet of Frontage

Parcel Size: 3.18 Acres

Tax Parcel: 26-34

Owner: Timbersouth Properties, Inc.

Applicant's Intent: To increase maximum size of day care center from 8,000 square feet to 13,000 square feet and to revise site plan to reflect new building layout

District Three

Motion: To defer MOD07-008 until the November 20th meeting.

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

Second by: Commissioner Earnest Simmons, District Two

Motion Carried

Alcohol License

First Reading

Maverick Food

12708 Hwy. 278

Covington, Georgia 30014

Melissa Diane Sneed (50% Owner)

Roshan Ale Dosane (50% Owner)

District One

Final Reading

Lovers Lane Citgo
2527 Hwy. 81 South
Covington, Georgia 30016
Owners: Dharani Badruddin Abdulla (100%)
District Two

Motion: To approve the alcohol license request for Lovers lane CITGO located at 2527 Hwy. 81 South, Covington, Georgia as requested.

Proposed by: Commissioner Earnest Simmons, District Two

Second by: Commissioner Mont Laster, District Five

Motion Carried

COUNTY CHECKS:

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

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Earnest Simmons, District Two

Motion Carried

ADJOURN

TIME: 9:40 p.m.

Motion: To adjourn the meeting.

Proposed by: Commissioner Monty Laster, District Five

Second by: Commissioner Mort Ewing, District One

Motion Carried

Respectfully Submitted,

Jackie B. Smith
County Clerk