

**NEWTON COUNTY BOARD OF COMMISSIONERS  
REGULAR MEETING  
July 19, 2005  
MINUTES**

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

Present: Chairman Varner, Commissioners' Mort Ewing, Ronnie Dimsdale, Ester Fleming, Jr., J.C. Henderson and Monty Laster; Administrative Assistant John Middleton, County Attorney Tommy Craig, Attorney Scott Cole, and Clerk Jackie Smith

Chairman Varner extended a welcome to all present and read the thought for the day. Rev. David Payne from the Church At Covington gave the invocation and the chairman led the Pledge of Allegiance. Rev. Payne expressed appreciation to the chairman and board for a very successful July 4<sup>th</sup> Extravaganza and noted that he hoped we could join together again next year for a great event. Chairman Varner thanked Rev. Payne for their participation and the amount of time and expenses they put into the event.

**APPROVAL OF BOC MINUTES JUNE 21, 2005 (TABLED FROM JULY 5<sup>TH</sup> MEETING)**

Commissioner Ewing reported that he had met with the parties and a solution had been reached.

He told the board that the applicant amended the application at the Planning Commission meeting on May 24, 2005 to increase the lot yield from 72 lots to 80 lots. Staff included this in conditions presented to the Board. Staff is now aware that 80 lots at a density of 0.55 lots per acre exceeds the allowable density of 0.50 lots per acre pursuant to Section 430-050 of the Newton County Zoning Ordinance (145.38 acres / 0.50 lots per acre – 72.69 (lots).

He duly made a motion with an amendment to the Minutes Dated June 21, 2005 as follows:

Motion: To approve the Minutes dated June 21, 2005 with the following amendment relating to the zoning portion of the meeting.

Pursuant to petition **REZ05-010**. To the owner's agreement to restrict the use of the subject property as follows:

**c. No more than 72 total dwelling units, at a maximum density of 0.50 dwelling units per acre, which ever is less based on the total acreage zoned.**

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

### **APPROVAL OF BOC WORK SESSION MINUTES JULY 5, 2005**

Motion: To approve the Work Session Minutes dated July 5, 2005 as written.  
Proposed by: Commissioner Monty Laster, District Five  
Second by: Commissioner Mort Ewing, District One  
Motion Carried Unanimously

### **APPROVAL OF BOC MINUTES JULY 5, 2005**

Motion: To approve the BOC Minutes dated July 5, 2005 as written.  
Proposed by: Commissioner Monty Laster, District Five  
Second by: Commissioner J.C. Henderson, District Four  
Motion Carried Unanimously

### **APPOINTMENT TO LIBRARY BOARD – DISTRICT THREE**

Motion: To appoint Deborah Anderson representing the third district to the Newton County Library Board. Term will expire on June 30, 2008.  
Proposed by: Commissioner Ester Fleming, Jr., District Three  
Second by: Commissioner J.C. Henderson, District Four  
Motion Carried Unanimously

### **APPOINTMENT TO LIBRARY BOARD – DISTRICT FOUR**

Motion: To reappoint Marc Jordan to represent district four on the Newton County Library Board. Term will expire on June 30, 2008.  
Proposed by: Commissioner J.C. Henderson, District Four  
Second by: Commissioner Monty Laster, District Five  
Motion Carried Unanimously

### **INTERGOVERNMENTAL AGREEMENT W/WALTON COUNTY REGARDING AUTOMATIC MUTUAL AID ASSISTANT AGREEMENT FOR FIRE DEPARTMENT SERVICES**

- Housekeeping matter
- Walton County already works with Newton County regarding responding to fires nearer to Walton County stations.

Motion: To affirm the Agreement with Walton County regarding Automatic Mutual Aid Assistance for Fire Department Services.

Proposed by: Commissioner Ronnie Dimsdale, District Two  
Second by: Commissioner Mort Ewing, District One  
Motion Carried Unanimously

### **RFP #05-07 DOCUMENT MANAGEMENT**

Purchasing Director Tina McDonald appeared before the board and presented the request for Document Management. She noted that a work session was held previously with Donnie Barstow and Rusty Belcher from MCCi for the board's consideration and information. She noted there was a committee, which consisted of Probate & Magistrate Offices, Human Resources, I.T., County Clerk and Purchasing that reviewed and interviewed the companies. It was the committee's recommendation that the contract be awarded to MCCi who was by far the most qualified candidate.

The board had their questions answered at the earlier work session. Commissioner Dimsdale noted that he felt this would be a tremendous benefit to the employees and the citizens of Newton County and duly made a motion to approve.

Motion: To approve RFP #0507 Document Management and award to MCCi for \$65,140.00 and a maintenance cost of \$8,350.00 per year.

Proposed by: Commissioner Ronnie Dimsdale, District Two  
Second by: Commissioner Monty Laster, District Five  
Motion Carried Unanimously

### **PROPOSAL #05-24 FACTORY SHOALS CARETAKER HOUSE**

Purchasing Director Tina McDonald appeared before the board and presented the proposal of the Factory Shoals Caretaker House. She noted the following:

- Received three bids
- E.H. Ladd Gray from Mansfield received the highest grading points from the committee.
- Very good references.
- Cost is within budget amount.
- Includes everything but gravel
- Not required, but chose to ask for payment bond and performance bond

The board expressed appreciation for the work on this proposal by Ms. McDonald and staff.

Motion: To approve Proposal #05-24 Factory Shoals Caretaker House and award to E.H. Ladd Gray for a cost not to exceed \$105,410.31. This approval is contingent upon Ladd Gray providing Payment and Performance Bonds.

Proposed by: Commissioner Ronnie Dimsdale, District Two  
Second by: Commissioner Mort Ewing, District One  
Motion Carried Unanimously

**DHR CONTRACT #427-93-622ADR – JUVENILE FAMILY INTERVENTION &/OR COMMUNITY SUPPORT – TEAM SERVICES: \$103,447.00 (GRANT)**

Administrative Assistant John Middleton told the board this was a housekeeping measure and that state required approval from them. There will be no matching funds required.

Motion: To approve DHR Contract #427-93-622ADR – Juvenile Family Intervention and/or Community Support Team Services Grant in the amount of \$103,447.00. Noted there will be no matching funds required on the county’s part.  
Proposed by: Commissioner Ronnie Dimsdale, District Two  
Second by: Commissioner Monty Laster, District Five  
Motion Carried Unanimously

**AMENDMENT TO RECREATION COMMISSION ORDINANCE ARTICLE II, SECTION 23-201 VIOLENCE AT COUNTY RECREATION FACILITIES**

Attorney Scott Cole addressed the board regarding this amendment to the Recreation Commission. He noted that a number of years ago the board adopted an ordinance regarding violent acts at recreation facilities. Director Tommy Hailey had requested there be an interim measure drafted along with a tier set for suspensions. This interim would be utilized before the Sheriff Office is brought into the situation. The BOC would not be called upon until the Recreation Commission has exhausted all avenues.

Motion: To approve the Amendment to the Recreation Commission Ordinance Article II, Section 23-201 Violence At County Recreation Facilities as presented and attached and made part of these minutes.  
Proposed by: Commissioner Ronnie Dimsdale, District Two  
Second by: Commissioner J.C. Henderson, District Four  
Motion Carried Unanimously

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

Chairman Varner noted the following:

**Public Hearing Procedure for Rezoning, Future Land Use Map Amendments & Conditional Use Permits**

The applicant and those in favor of the petition are allowed ten-minutes to address the board. In addition, ten-minutes is allotted for those in opposition to the petition. This ten-minute allotment does not include a response to any questions raised by commission

members. Additional discussion may be held should the chairman be called upon to break a tie vote.

Speaker Cards: Cards are available on the information table. Should you desire to address the board regarding a Rezoning, Future Land Use Map Amendment, or a Conditional Use Permit, please complete the card and give to the clerk at the beginning of the meeting. Thank you for your kind cooperation in this matter.

Zoning Director Marian Eisenberg presented the following zoning requests:

Ms. Eisenberg requested that 05-006 and 05-007 be differed until the August meeting, as the signs were dated incorrectly. The board unanimously concurred with the request.

**REZ04-060 (Petition remanded back to BOC by Court Order)**

**FLU04-055**

**TIMBERSOUTH PROPERTIES**

**DISTRICT THREE**

Location: Salem Road (East Side)

1,251.82 Feet of Frontage

Kirkland Road (South Side)

599.77 Feet of Frontage

Proposed Zoning: CG (Commercial)

Existing Zoning: R-2 (Single Family Residential & CH (Highway Commercial)

Proposed FLUM: C (Commercial)

Existing FLUM: A (Agricultural) and C (Commercial)

Parcel Size: 21.17 Acres

Tax Parcel: 13-46, 48, 49, 133, 134

Applicant's Intent: To develop a 92,000 square-foot retail center.

Planning Commission Recommendation: Denial (Request for CORD-PRC/R3)

Date: 02/22/05

BOC Decision on 03/15/05: Denied (Request for CORD-PRC/R3)

Staff Comments: Petition remanded by court order.

New request is for commercial component only.

Consistent with FLUM and zonings in area.

Note: Change in square-foot retail center should be 119,000.

Petitioner Representative: Attorney Jimmy Alexander

- Almost exactly the same as it was presented to the Planning Commission before.
- 134 plus acres
- Same Site plan as revised by board and planning commission in February.
- Checked with staff earlier and square footage was a typo...should have read 119,000.
- Same site plan

- Same building foot plan
- Conditions are included in staff report
- Kroger would like the pumps
- Zoning in area is general commercial, R-2, Ch and R-3
- URS Traffic Study

Opposition:

Angela Dawkins, President Home Owners Association

Kim Kelly

Robert Phillips

Gary Layman, President Home Owners Association

- Homeowners do not want this zoning connected to their subdivision
- Publix is less than a mile down the road
- Does not want a 24-hour Kroger
- 176 homes with children – concerned about safety – we do not want this zoning.
- Traffic
- Concerned about break-ins
- Does not want commercial property adjacent to their property.
- Crime
- Too much growth in West already
- Salem Road can't handle anymore traffic
- Stormwater issue
- Beaver Dam is in area and second worse in Newton County
- Commercial areas take 90% and flush runoff downstream.
- Concerned about property rights.
- Salem Village quiet area and people want it to stay that way.

There was a lengthy discussion among the board with Commissioner Fleming suggesting the request be remanded back to the Planning Commission with the new changes.

Commissioner Fleming expressed strong opposition to approving this zoning noting traffic concerns, congested area, dangerous crossing the street in area, and entire community against the zoning. Commissioner Ewing concurred with Commissioner Fleming.

Commissioner Fleming made a motion to remand zoning back to the Planning Commission for their consideration with a second by Commissioner Ewing. Motion was defeated three (3) to two (2) with Commissioners Dimsdale, Henderson and Laster voting against the motion.

After many comments from the audience and much discussion among the board, Commissioner Fleming noted again his strong concern about transportation and safety issues. He then duly made a motion to deny the Future Land Use Map change. Commissioner Ewing gave the second and the motion was defeated three (3) to two (2) with Commissioners Dimsdale, Henderson and Laster voting in opposition to the motion.

Commissioner Fleming made a motion to deny the rezoning request and Commissioner Ewing gave the second. The motion was defeated three (3) to two (2) with Commissioners Dimsdale, Henderson and Laster in opposition to the motion.

Commissioner Dimsdale addressed the board and said he had spoken with two of the Planning Commission members about this issue and noted there was no change in the plan they had reviewed except that there will be no residential. He noted that the retail component is the same as before and they (Planning Commission) have no problem with that. He also reminded the board that they (this board) hired a professional to complete a traffic study for Newton County and it was their recommendation this zoning would have no significant impact upon the traffic in area.

Commissioner Dimsdale stated he felt this would be good for the community and people would not have to travel down Salem Road to the grocery store with one closer to their homes. He said he, along with the other commissioners, understands the traffic congestion, however measures are being taken to help alleviate some of the traffic in the western end of the county. He duly made a motion to approve the FLUM.

Motion: To approve the Future Land Use Change from A (Agricultural) to C (Commercial) as requested.

Proposed by: Commissioner Ronnie Dimsdale, District Two

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

Motion carried three (3) to two (2) with Commissioners' Fleming and Ewing voting in opposition to the motion.

Motion: To approve REZ04-060 to CG (Commercial) with the following conditions:

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 density of 5,621.16 gross square feet per acre zoned or a total of 119,000 square feet, whichever is less.
  - b. The following uses shall not be allowed:
    1. Amphitheaters, Stadiums
    2. Animal Hospitals, Vet Clinics
    3. Auto Repair, Auto Sales
    4. Bar, Night Club
    5. Auto Service Station
    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. Hospital
12. Manufactured Home Sales, Rental, Repair
13. Kennel
14. Manufactured Home Display
15. Personal Care Home
16. Produce Stands
17. Farm Equipment Sales
18. Dry Cleaning, Institutional
19. Light Manufacturing
20. Commercial Outdoor Recreational Facilities
21. Place of Worship
22. Private Recreation Center or Club
23. Temporary Religious Meeting
24. Sawmill, Planing Mill
25. Mini-Warehouses
26. Tattoo Parlors

2. To the owner's agreement to abide by the following:
  - a. To the site plan received by the Planning and Development Department on June 24, 2005. 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 in place prior to the issuance of the first Certificate of Occupancy.
3. To comply with the following development standards:
  - a. Provide a left-turn land and deceleration lane at the entrance along Kirkland Road.
  - b. All curb cuts shall be located at sufficient distance from the intersection to provide for turn lanes, and stacking to the development.
  - c. Provide the necessary right-of-way, at no cost to Newton County, necessary for future improvements to Salem Road as proposed by DOT.
  - d. The development must comply with the standards of the Salem Road Corridor Overlay, and/or other requirements as recommended by Earth Tech, subject to the approval of the Director. These standards include, but may not be limited to, landscaping, building materials, setbacks and signage.
  - e. The proposed road connecting Salem Road to Kirkland Road shall be constructed at developer's expense and shall be constructed to Newton

County's standards. Road shall be divided along portion adjacent to commercial tract and Salem Road.

- f. Upon receipt of approval by DOT, developer shall install at its expense a traffic light at the intersection of the proposed road with Salem Road.
- g. An 8-foot landscaped berm will be constructed at the rear of the main building of the retail center.
- h. Developer shall submit a landscaping plan, which will include tree islands in parking areas. Landscaping plan subject to the approval of the County Arborist.
- i. Stormwater plan to be reviewed and approved by County Engineer.
- j. Provide downcast lighting.

Proposed by: Commissioner Ronnie Dimsdale, District Two

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

Motion carried three (3) to two (2) with Commissioners' Fleming and Ewing voting in opposition to the motion.

**REZ05-011**

**FLU05-019**

**WILLIAM BOZEMAN**

**DISTRICT THREE**

Location: Hinton Circle (Northeast Side)

1,549.6 Feet of Frontage

Proposed Zoning: R3 (Single Family Residential)

Existing Zoning: R-2 (Single Family Residential)

Proposed FLUM: MHDR (Medium/High Density Residential)

Existing FLUM: A (Agricultural)

Parcel Size: 52.56 Acres

Tax Parcel: 12-24

Applicant's Intent: To develop a 133-lot residential open space conservation subdivision on 52.56 acres for a density of 2.53 lots per acre.

Planning Commission Recommendation: Denial Date: June 28, 2005

Staff Comments: Consistent with FLUM and zonings in area.

Require improvements to Hinton Circle

Petitioner Representative: Attorney Jimmy Alexander

- Site plan
- Buffer all the way around entire property
- Easily accessible to all roadways
- Increase in minimum square footage

- Hinton Drive needs to be paved and remainder of Hinton Drive will be paved in addition to Hinton Circle
- Developer will pay at his expense paving of approximately 1/3 of a mile.
- Average cost of house? \$175,000
- Subdivision will be developed with lower density, but few amenities

Opposition:

Mike Dickson

Carl Phillips, President of Homeowners Association

Joe Kimbrou

- Traffic
- Improvements of Hinton Road
- Removing trees on private property to pave road (provided pictures)
- Dangerous
- Water Retention Pond is an eyesore on Fairview Road
- Schools overcrowded
- Roads overcrowded
- Quality of life
- Property Rights
- Decrease in property value
- High density in area
- Legacy has 300 houses
- Safety of children
- Vandalism
- Trespassing
- Police protection

Chairman Varner stated that the stormwater runoff issue would be addressed per approval of Newton County engineer.

Motion: To deny the Future Land Use Map change,

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

Second by: Commissioner Mort Ewing, District One

Motion carried with Commissioner Henderson abstaining from the vote.

Motion: To deny the zoning request change for REZ05-011 located on Hinton Circle.

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

Second by: Commissioner Mort Ewing, District One

Motion carried with Commissioner Henderson abstaining from the vote.

**REZ05-012**

**RESOURCE PIEDMONT, INC.**

**DISTRICT THREE**

Location: Almon Road (Northeast Side)

90.0 Feet of Frontage

Neely Hammond Road (West Side)

210.0 Feet of Frontage

Proposed Zoning: OI (Office Institutional)

Existing Zoning: R-3 (Single Family Residential)

Existing FLUM: DN (Development Node)

Parcel Size: 0.43 Acres

Tax Parcel: 24A-28

Applicant's Intent: To convert an existing residential house into office space.

Planning Commission Recommendation: Denial Date: June 28, 2005

Staff Comments: Zoning would set precedent in predominately residential area.

Disallow expansion of structure and limit signage

Petitioner Representative: Attorney Patricia Smith

Note: Court Reporter Tracy Harper was on hand to transcribe this zoning. She will provide Newton County with a transcript of the recording for our records.

Motion: To deny zoning request REZ05-012 located on Almon Road.

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

Second by: Commissioner Monty Laster, District Five

Motion carried with Commissioner Henderson abstaining from the vote.

**REZ05-013**

**FLU05-022**

**BRIAN K. MCGIBONEY**

**DISTRICT TWO**

Location: McGiboney Lane (East Side)

270.36 Feet of Frontage

Proposed Zoning: R2 (Single Family Residential)

Existing Zoning: AR (Agricultural Residential)

Proposed FLUM: MHDR (Medium/High Density Residential)

Existing FLUM: LDR (Low-Density Residential)

Parcel Size: 26.646Acres

Tax Parcel: 13-65, 67, 67A, 68, 69, 146A

Applicant's Intent: To develop a 53-lot residential open space conservation subdivision on 26.646 acres for a density of 1.99 lots per acre.

Planning Commission Recommendation: Approval with Conditions. Date: June 28, 2005

Staff Comments: Consistent with FLUM and zonings in area.

Require improvements to McGiboney Lane.

- Over 8 acres of Open Space
- Greenspace will be controlled by Homeowners Association
- Picnic Area
- Walking Trails
- 1550 sq. ft. to 1800 sq. ft.
- Agreeable to staff recommendations

No opposition

Motion: To approve Future Land Use Map change from LDR (Low Density Residential) to MHDR (Medium/High Density Residential) as requested.

Proposed by: Commissioner Ronnie Dimsdale, District Two

Second by: Commissioner Mort Ewing, District One

Motion Carried Unanimously

Motion: To approve rezoning for REZ05-013 located on McGiboney Lane from AR (Agricultural Residential) to R2 (Single Family Residential) with the following conditions:

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. The minimum lot size shall be 10,000 square feet.
  - c. No more than 53 total dwelling units, at a maximum density of 1.99 dwelling units per acre, whichever is less based on the total acreage zoned.
  - d. 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 received by the Department of Planning and Development on May 6, 2005. 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. Improve McGibony Lane to County standards from the project entrance to Spring Road. Improvements shall be subject to the approval of the Planning Director.
  - b. Establish a mandatory homeowners association (HOA). Provide a copy of executed HOA Protective Covenants before approval of Final Plat.
  - c. Buffers to be located outside of lots, except for along the eastern property line.
  - d. Buffers and open space conservation area to be dedicated to homeowners association.
  - e. Provide underground utilities for power/electricity.
  - f. Provide sodded front yards.
  - g. Provide 2-garages.
  - h. No vinyl siding permitted.
  - i. Convert existing structure in open space area (Tax Map & Parcel Number 13-65) into a community house. No additional impervious surface is permitted.
  - j. Provide walking trails in open space area.
  - k. Stormwater plan to be reviewed and approved by County Engineer.

Proposed by: Commissioner Ronnie Dimsdale, District Two

Second by: Commissioner Mort Ewing, District One

Motion Carried Unanimously

**CUP05-005**  
**THE MANSFIELD GROUP**  
**DISTRICT THREE**

Motion: To table CUP05-005 request until August 16<sup>th</sup> BOC Meeting.

Proposed by: Commissioner Mort Ewing, District One

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

Motion Carried Unanimously

### **COUNTY CHECKS:**

Motion: To approve the county checks as read.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried Unanimously

### **EXECUTIVE SESSION**

Time: 8:55 p.m.

Motion: To enter into Executive Session for the purpose of personnel and pending litigation and land acquisition.

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

Second by: Commissioner Mort Ewing, District One

Motion Carried Unanimously

### **REGULAR SESSION**

Time: 9:55 p.m.

Motion: To enter into Regular Session.

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

Second by: Commissioner Monty Laster, District Five

Motion Carried Unanimously

Commissioner Dimsdale spoke to the board about the need for a regular work session prior to the zoning meeting. Commissioner Fleming and Henderson told the board they would come whenever possible, but would prefer not to have another meeting. Commissioner Fleming reminded the board that the last time the board did this they ended up discussing the same thing again at the Regular Meeting and felt this was not a good use of time.

### **ADJOURN**

Time: 10:10

Motion: To adjourn.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried Unanimously

Respectfully Submitted,

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Jackie B. Smith, County Clerk