

**NEWTON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
March 1, 2005**

MINUTES

Newton County Historical Courthouse
Covington, Georgia
Chairman Aaron Varner, Presiding

Present: Chairman Varner, Commissioners' Mort Ewing, Ronnie Dimsdale, Ester Fleming, Jr., J.C. Henderson, and Monty Laster; Administrative Assistant John Middleton, Attorneys' Tommy Craig, Scott Cole, Jenny Carter, James Griffin, and Amit Bose; Clerk Jackie Smith

Also Present: Will Whitehorn, Covington News
Crystal Tatum, Newton Citizen

Chairman Varner called the meeting to order, welcomed everyone present, and read the thought for the day.

Rev. Roger Whitley from Almon Gospel Mission gave the invocation and the chairman, on behalf of himself and the board, expressed appreciation for the prayers and the positive influence Rev. Whitley and his congregation has upon the county.

APPROVAL OF BOC MINUTES DATED FEBRUARY 15, 2005

Motion: To approve the minutes as printed.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried

APPOINTMENT TO W&S AUTHORITY - DISTRICT 2

Commissioner Dimsdale addressed the board requesting affirmation for his appointment to the W&SA Board, Mr. Fred Vick. He noted that Mr. Vick has done a fantastic job and very grateful that he is willing to continue to serve.

Motion: To reappoint Fred Vick to serve on the Newton County Water & Sewerage Authority representing District Two. Mr. Vick's term will expire on March 31, 2009.

Proposed by: Commissioner Ronnie Dimsdale, District Two

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

Motion Carried

R030105 TO AFFIRM E911 SURCHARGE FEES FOR
LANDLINE & WIRELESS PHONE SERVICE

- Next phase is to install equipment that could provide the location of someone calling in an emergency on a cell phone
- Thanks to the people at the 911 Center who work so hard for the safety of the citizens and to the people who worked on this resolution.

Motion: To approve Resolution R030105 Affirming E911 Surcharge Fees for Landline and Wireless Phone Service.

Proposed by: Commissioner Ronnie Dimsdale, District Two

Second by: Commissioner Monty Laster, District Five

Motion Carried

Note: The original resolution is contained in file number R030105, incorporated herein by reference and expressly made a part of these minutes.

R030105 a Re: NEWTON COUNTY WATER & SEWERAGE
AUTHORITY

R030105b RE: NEWTON COUNTY RECREATION COMMISSION

County Attorney Tommy Craig addressed the board regarding these resolutions.

NCRC

- Met with Recreation Commission regarding proposed bill
- Recreation is currently funded 100% through county
- No restructuring of the commission
- Contact local legislative delegation requesting they present bill to enact a "Recreation Authority" for Newton County
- Time sensitive due to legislative calendar
- Chairman of this board would vote to break a tie vote.
- Suggested that it be a 7-member board instead of a 6-member board and the 7th member would be at large. The current membership is 8.
- Have spoken with local delegation and they are looking forward to receiving a copy of this resolution.

NCW&SA

- Created to deal with problems, i.e. sewer lines
- HB489
- Similar to BOC and Recreation Authority.... W&SA would have a six-member board and chairman would vote to break a tie vote.
- Terms would be shorter. Currently they serve a five-year term. Change the term to run concurrent with commissioner or chairman who made the appointment.
- Represents an effort on part of the commissioners to deal with growth.
- Allows this board tighter control.

- Great collaborative workshop held in Athens. (City of Covington, Board of Education, Development Authority, Water & Sewer Authority and Board of Commissioners. Work together.
- Resolution is in response to request received from this board...housekeeping changes.

Commissioner Dimsdale

- Questioned time schedule? Legislative target is March 31st (last day of session)
- Questioned if we needed to move on this tonight
- Would like to study the information.

Commissioner Henderson

- Regarding the Recreation Commission Mr. B.C. is a non-voting member and would like to see him stay on in an advisory position.
- Would also like to see the recreation commission receive the same stipend as the W&SA.

Commissioner Fleming

- Questioned if the board had to act on this tonight? Mr. Craig said that to have it successfully presented to the General Assembly we need to move forward.
- Would like to see them appoint their own chairman.

Commissioner Ewing

- Reiterated that what the county attorney has attempted to do was to present what has been discussed previously in a draft form.

County Attorney Craig

- Sixteen other counties in the Atlanta Region have done the same thing due to growth.

Commissioner Dimsdale

- Requested a called meeting to allow for more time to study

Commissioner Ewing

- Questioned if board could have a called meeting for the purpose of action on these resolutions and still get bills introduced in time for the General Assembly?

County Attorney Craig

- Noted that it is highly desirable to have a unanimous decision by board.

Motion: To table action until called meeting on Thursday, March 3rd @ 6:00 p.m.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried

CITIZENS ADVISORY COMMITTEE – SALEM ROAD PRELIMINARY ENGINEERING PROJECT

County Engineer Kevin Walter appeared before the board regarding approval of the citizens advisory committee.

- Technical staff of Newton and Rockdale has written over 1000 letters soliciting people to serve on advisory committee.
- Everyone interested could be accommodated to serve on the committee with at least one representative.
- GDOT will formerly notify committee members

Motion: To approve the Citizens Advisory Committee list as attached and made part of these minutes.

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

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

Motion Carried

SUPPORT SERVICES FOR THE BEAR CREEK RESERVOIR PROJECT

Attorney Scott Cole appeared before the board and presented the proposal for permitting the support services for the Bear Creek Reservoir.

- Proposal from Schnabel Engineering South, LLC – Alpharetta, Georgia
- They will provide assistance in support of the Bear Creek Reservoir Project.
- Services provided on an as requested basis according to contract
- They will perform hydrologic engineering services to confirm the yield for the proposed Bear Creek Reservoir Project.
- Assess cumulative flow impacts
- Determine impacts downstream

Commissioner Dimsdale

- Questioned the ownership of the documents at the end of the project and Mr. Cole said that Schnabel has agreed the documents will be the property of Newton County.
- Cost: Budget of \$42,500.

Motion: To approve the support service contract with Schnabel Engineering South, LLC as outlined on pages 11-19 for an amount not to exceed \$42,500.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried

CONFISCATED DRUG MONEY – CITY OF OXFORD

Administrative Assistant John Middleton addressed the board with the request for payment from confiscated drug money regarding the City of Oxford. He noted the county had received a letter from the City of Oxford requesting payment in the amount of \$445.00. Correspondence from City Attorney Roger Gladden and District Attorney Ken Wynne is made part of these minutes.

Motion: To comply with request and approve payment of \$445.00 to the City of Oxford regarding confiscated drug money.

Proposed by: Commissioner Mort Ewing, District One

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

Motion Carried

DISCUSSION OF COMMERCIAL VEHICLES PARKING/RESIDENCE

Chairman Varner addressed the board and stated he had received several calls regarding this particular issue. Commissioners' Fleming and Dimsdale said they, too, have received several calls.

Chairman Varner:

- Chairman requested guidance on this issue and commented that he thought he understood the board's intent was to prohibit big rigs from parking.
- People are receiving tickets that drive their pick-up home with a company sign displayed.
- Ordinance is somewhat confusing.... seeking intent of board?

Commissioner Dimsdale

- Received calls regarding this and surprised to see this part of the ordinance enforced so strictly. A lot of time was spent on this ordinance and the types of vehicles. It was not our intention to punish people for bringing home a company vehicle.
- Surprised to hear it is being enforced this way and would like to see the ordinance changed with language cleared up regarding vehicles.
- Requested that Mrs. Eisenberg and Code Enforcement not write any more tickets until this has been addressed.

County Attorney Craig

- Told the board that they have the power to enact a moratorium on this particular portion of the ordinance.
- Suggest going to vehicles with more than four wheels.

Commissioner Ewing

- Concurs with Commissioner Dimsdale
- Previously had a problem in district one with large dump trucks, tractor-trailers, etc parking in front of residential yards.
- Never intended for people to be cited like this.
- Would like for board to declare a moratorium and rewrite the ordinance.

Commissioner Fleming

- Very concerned about this issue.
- Questioned if board could grandfather or provide someone vested rights to exempt people who have been doing this for 20-25 years.
- Asked if something of this nature could be written into the ordinance. Ms. Carter said “yes”
- Concerned about the hardship this could place on people.
- Expressed concern about the citations that are pending
- Mr. Craig said to have the county dismiss them.

Motion: To enact a 90-day moratorium un-enforcing this particular revision of the ordinance and request staff and county attorney’s office to provide language for board of commissioner’s study. Also, dismiss all existing citations regarding it.

Proposed by: Commissioner Mort Ewing, District One

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

Motion Carried

CLAIRFICATION OF PLAN SUBMITTAL TIME ON COMMERCIAL PROJECTS AS IT RELATES TO THE IMPACT FEE ORDINANCE

Commissioner Fleming addressed the board and asked that clarification be given on the submittal time for plans as it relates to commercial projects. He stated there would be no possible way for commercial projects to be at a submittal time by March 15th. He invited Lou Pasarella and Kevin Price address the board with their concerns.

- The process for a non-residential project is more drawn out and innovative.
- A complete set of architectural drawings
- Mr. Passarella said he has personally been working on a 32,000 square foot building since October.
- Asking board to extend period of time for these commercial projects.
- Does not feel there would be a lot of projects.
- Mr. Price, a commercial developer and general contractor, said he has two projects that he has been working on for several months now.
- Months of work go into recruiting good quality tenants who will work and pay taxes in Newton County.
- We do not have enough time to meet the ordinance requirements as it now reads.
- Asking for a 45-day extension to be able to comply.
- Ordinance is not clear.
- We do not know what the impact fee would be because we don’t know who the tenants will be.
- Six weeks is not enough time to go through these procedures.
- Could be finished within 45 days of March 15th.

- Commissioner Ewing asked Scott Cole to research proposal presented and share with the board the legal ramifications.
- Commissioner Fleming asked if they could elaborate on that tonight?
- Mr. Craig said that was a good point and he needed to look at in good faith get back with board at the next commission meeting.

Motion: To defer action until commission meeting on March 15, 2005.

Proposed by: Commissioner Mort Ewing, District One

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

Motion Carried

ZONINGS:

04-049

COURT REMAND OF PETITION FOR REL DEVELOPMENT

BROWN BRIDGE ROAD (SOUTH SIDE)

716 FEET OF FRONTAGE

TAX PARCEL: 27-119

PARCEL SIZE: 81.9 ACRES

R-2 (FORMERLY R-40) TO CORD-PRD R-3 (PLANNED RESIDENTIAL DEVELOPMENT)

DISTRICT 2

Planning Commission denied request on June 25, 2002.

Petitioner Representative: Victor Ellis

- Nothing has changed
- Going on for quite some time (3 years)
- Been in litigation.
- Set up 24 conditions that Planning & Development recommended for approval.
- Requested approval for this zoning

Opposition

Lynn Coleman

Steve Sherwood

Reggie Smith

James Howell

- If approved, requested 100 foot buffer in rear instead of the 20 foot buffer
- Decrease number of houses to be constructed
- Already problems in subdivision with water running off Salem Road
- Buck Creek cannot take all the water that comes from driveways, gutters, yards
- Recycling Center has problems when it rains
- Overcrowding of schools
- Lack of water flow in area

- Within ¾ of a mile of proposed zoning there are 9 subdivisions
- Traffic already bumper to bumper
- Should not be approved at least until Salem Road is expanded
- Salem Road is a nightmare...why put more there...doesn't make sense.... school problems, water problems, traffic problems, but subs keep coming
- Not right for community at present time
- Statistics: Fairview 14.3% overcrowded; Newton High 37% overcrowded; Porterdale is 40% overcrowded.
- Presents serious safety concerns
- Entrusted commissioners to help us maintain and improve our quality of life
- This would add over 500 more vehicles on the road
- Scared of another Silo behind house
-

Commissioner Dimsdale

- Relative to any zoning the question is not whether it will be developed, but how?
- Currently zoned as R2
- Is the proposed project superior to an R2 zoning?
- Feels with all the stipulations that the proposed project is superior to the R2 and that community, as a whole would be better served with this project than the R2 zoning.
- The county worked on a list of conditions for a long time, sent the conditions to the developer who sent them back to us with his approval.
- Requested Mrs. Eisenberg to read the conditions the staff has recommended and the petitioner has agreed to.
- He stated how much he appreciated the trust the citizens have placed in him and hopes to continue to earn that trust.
- After studying the project and believing it is his responsibility as well as his desire to do what is in the best interest of the citizens, he felt this would be the better zoning and duly made a motion to approve.

Motion: To approve Zoning 04-049 with all the conditions read by Director Marian Eisenberg.

Proposed by: Commissioner Ronnie Dimsdale, District Two

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

Motion Denied with Commissioners' Ewing, Fleming, & Laster voting in opposition to the motion.

VAR04-011

DANNY R. BARNES

163 NEELY HAMMONDS/PARISH ROAD

R-3 (SINGLE FAMILY RESIDENTIAL)

TAX PARCEL #: 24A-8

PARCEL SIZE: 1.2 ACRES

DISTRICT THREE

Petitioner Representative: Angie Mason (Betty Barnes) daughter

- Been parking there for over 35 years
- Father, grand-father and great grandfather parked there
- Mr. Barnes – general contractor for about 10 years
- Has made a conscious effort to be in compliance
- Provided a packet earlier in the week to board.
- Provided affidavits

Opposition

Jim Carter

Char & Tory Roberts

- Represents four houses on Parrish Road
- Represents 40 years living in area
- Small children play from house to house
- Safety concerns for children
- Concur equipment has been there a long time, but “times and things have changed”
- Road conditions/property values
- Road now is in bad shape and will only worsen
- Single lane/dead-end road
- When large equipment is coming down the road you can pass
- Drain culverts have been crushed several times and causes water to back up
- Ask that he enter property on his property address side
- We are family homes and want to keep it that way
- Large family...lots of children...want to keep it safe for our children
- Provided pictures of road (made part of these minutes)

Commissioner Fleming

- This has been going on for 35 years and can't see the government coming in a placing a burden on this family.
- We need to look at the needs of the people who have been doing this (lively hood) and support this variance.

Commissioner Ewing

- Questioned if there was a possibility that there could be another entrance since property fronts on one road and they enter on another road?
- Mrs. Mason said they do have frontage on Neely Road and Parrish Road, but the residence is on Neely Road. Zoning asked that vehicles be parked behind our residence.
- Questioned if they could enter off of Neely Road and eliminate some of the safety concerns?
- Mrs. Mason said there are families on Neely Road as well. They would also have to build a driveway over the septic tank.

Commissioner Fleming

- Commented that he feels the board will face more of these issues and feels the “old-time” residents should be considered.

Motion: To approve VAR04-011 requested by Danny Barnes located at 163 Neely Hammonds/Parish Road.

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

Second by: Commissioner Ronnie Dimsdale, District Two

Motion Carried with Commissioner Henderson abstaining from the vote and Chairman Varner voting in favor of the motion.

Note: During Citizens Comments Mr. Marty Roberts addressed the board regarding this variance. He suggested that the Barnes enter their property off of Almon Road. Chairman Varner said that he would personally go and talk with Mr. Barnes to see if this is possible.

VAR04-014
NEWTON ONE PROPERTIES, LLC
HIGHWAY 278 AND DEEP STEP ROAD
R1 (SINGLE FAMILY RESIDENTIAL)
TAX PARCEL: 98-10
PARCEL SIZE: 116.3 ACRES
DISTRICT ONE

Note: Court Reporter Shellie Hager from Court Reporting Services, P.O. Box 774, Conyers, Georgia 30012 – 770.922.7797 was on hand to record Zoning 04-049.
A copy of the transcription is made an official part of these minutes.

Other items that are made a part of these minutes are:

1. Transcription by Shellie Hager, Court Reporter.
2. Appeal information provided by Jim Alexander on behalf of Newton One Properties, LLC
3. Time Line presented by Attorney Jenny Carter
4. Exhibits presented by Attorney Jenny Carter

Exhibit 1: Newton County Zoning Ordinance (1985)

Exhibit 2: Secretary of State information for Deep Step Corporation

Exhibit 3: *Deep Step Corporation v. Newton County, Georgia et al.*, Consent Order

Exhibit 4: Newton County Subdivision Regulations (1985)

Exhibit 5: Board of Commissioner minutes and resolutions placing moratorium

Exhibit 6: Warranty Deed transferring property to Newton One Properties, LLC

Exhibit 7: Secretary of State information for Newton One Properties, LLC

Exhibit 8: Newton County Zoning Ordinance (2003)

Exhibit 9: Newton County Zoning Maps (2003)

Exhibit 10: Newton County Development Regulations (2003)

Exhibit 11: Newton County Planning and Development Department File and Board of Zoning Appeals file

Exhibit 12: *North Georgia Mountain Crises Network, Inc. v. City of Blue Ridge*, 248 GA.App. 450, 546 S.E.2d 850 (2001)

Exhibit 13: *Meeks et al. v. City of Buford et al.*, 275 Ga. 585, 571 S.E.2d 369 (2002)

Exhibit 14: *Corey Outdoor Advertising, Inc. v. The Board of Zoning Adjustments of the City of Atlanta et al.*, 254 GA. 221, 327 S.E.2d 178 (1985)

Exhibit 15: *Union County et al. v. CGP, Inc. et al.*, 277 Ga. 349, 589 S.E.2d 240 (2003)

5. Correspondence dated March 1, 2005 read by Betty Bledsoe
6. Newton County Board of Zoning Appeals – January 27, 2005
7. Petition to the Newton County Board of Zoning Appeals by Homeowners of Deerfield-Deep Step-Beacon Hill & other nearby subdivisions.

Motion: To uphold the decision made by Mrs. Eisenberg and follow the recommendation of the Newton County Zoning Board of Appeals and deny the request.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried with Commissioner Henderson Abstaining.

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

EXECUTIVE SESSION

Time: 9:50 p.m.

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

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

Second by: Commissioner Monty Laster, District Five

Motion Carried

REGULAR SESSION

Time: 10:40 p.m.

Motion: To enter into Regular Session.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried

NUSIANCE ABATEMENT

Motion: To authorize the County Attorney's office to pursue nuisance abatement on two houses in the third district and authorize demolition of said houses.

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

Second by: Commissioner Mort Ewing, District One

Motion Carried

ADJOURN

Time: 10:41 p.m.

Motion: To adjourn.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried

Respectfully Submitted,

Jackie B. Smith

County Clerk

