

**NEWTON COUNTY BOARD OF COMMISSIONERS  
REGULAR MEETING  
September 6, 2005  
MINUTES**

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

Chairman Varner extended a welcome to all present and read the thought for the day. Commissioner Mort Ewing gave the invocation and the chairman led the Pledge of Allegiance.

Chairman Varner announced the **Public Hearing** regarding the abandonment of Old Brown Bridge Road.

There were not questions.

**APPROVAL OF BOC MINUTES DATED AUGUST 16, 2005**

Motion: To approve the Minutes of August 16, 2005 as written.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried

**03-035 (REMANDED BACK TO BOC BY COURTS.)**

**Russell H. Foskey, Petitioner**

**Butler Bridge Road (West Side)**

2,393.92 Feet of Frontage

Parcel Size: 65.8 Acres

Tax Parcel: 9-20

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

Existing Land Use Map: RR (Rural Residential)

Watershed: South River

Proposed Zoning: R1 (Single Family Residential)

Existing Zoning: AR (Agricultural Residential)

Applicant's Intent: To develop a 59-lot residential subdivision on 65.8 acres for a density of 0.897 lots per acre.

Planning Commissioner Recommendation: Denial (11/23/04)

B.O.C. Decision: Denied/August 19, 2003

Staff Comments: 1.Remanded to Board of Commissioner pursuant to Court Order 2003-2570-1.

2. Delineate some sole types and 18% slopes.

District Two

Director Marian Eisenberg asked that Attorney James Griffin address the board regarding this petition that was remanded back to the board by the court.

Attorney James Griffin noted the following:

- Case went before the Honorable Judge Marvin Sorrells
- Court found zoning was not constitutional
- Board needs to rezone property or face court system.

Petitioner Representative: Attorney Dan Greer

- Court Order speaks clearly
- Request for petition to be granted

Opposition:

- Jim Carter

Commissioner Dimsdale addressed the rezoning with the following comments before making a motion.

“On May 10, 2005, Judge Marvin Sorrells issued his Order in the case of Tarpley v. Newton County and found that the zoning of the subject property was unconstitutional. This case was initiated in 2003. It has been my belief all along that these 65 acres were not suited for development as an R-1 subdivision, and such development would have a negative impact on the neighbors, neighborhood, and public roads. I have always voted to deny the application to rezone as submitted by the owner and developer whenever the issue came to this Board during the last two years.”

“When the Newton County Superior Court ruled against the Board of Commissioners in this case on May 10, 2005, I advocated our appealing the decision to the Supreme Court of Georgia. Newton County petitioned the Supreme Court of Georgia to review the decision, but it was a discretionary appeal. The Supreme Court elected not to review the decision, so the decision stands and is the law of Newton County.”

“Under Georgia law, a court cannot order this Board to rezone the subject property to any particular rezoning; a court can merely declare the present zoning to be unlawful and order the Board to rezone the property. The Court has made such a finding and order. If the Board refuses to rezone the property, the Court can declare the property not zoned at all thereby open a worse situation for the neighbors and neighborhood.”

Motion: To amend the Future Land Use Map for the subject property from Rural Residential to Low-Density Residential in compliance with the Court’s Order of May 10, 2005.

Proposed by: Commissioner Ronnie Dimsdale, District Two

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

Motion Carried

Motion: To approve 03-035 rezoning from Agricultural-Residential to R-1 in compliance with the Court's Order of May 10, 2005 and subject to the following conditions:

1. Single family detached dwellings and accessory uses and structures.
2. The minimum heated floor area per dwelling unit shall be 1,600 square feet.
3. The minimum lot size for lots fronting on Butler Bridge Road shall be one acre.
4. No more than 64 total dwelling units, at a maximum density of 0.988 dwelling units per acre, whichever is less based on the total acreage zoned.
5. To submit a site plan to the Department of Planning and Development. Said site plan 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.
6. To submit plans for review pursuant to Sections 415-030 and 415-060 of the Newton County Development Regulations.
7. Stormwater plan to be reviewed and approved by County Engineer.
8. Provide curb and gutter on all new streets.
9. Provide streetlights on all new streets.
10. Provide sodded front and side yards.
11. Provide underground utilities.
12. Provide uniform mailboxes.
13. Homes shall have brick, stone or stucco accents.
14. Entrance to subdivision off of Butler Bridge Road shall be landscaped
15. Provide a deceleration lane at the entrance off of Butler Bridge Road.

Proposed by: Commissioner Ronnie Dimsdale, District Two

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

Motion Carried

Note: During the Citizen Comments portion of the meeting Attorney Dan Greer stated as part of the record that he, nor his client had seen the conditions placed on their zoning prior to the meeting and vote. He asked that the record state that their silence did not mean they had acquiesced or agreed to the conditions.

### **R090605 – EMINENT DOMAIN**

Commissioner Dimsdale addressed the board with a resolution regarding eminent domain. It was a consensus of the board to approve such a resolution, but asked that the county attorney review as to the legality and return to the board for action on September 20<sup>th</sup>.

Motion: To table Resolution R090605 Eminent Domain until Tuesday, September 20<sup>th</sup> meeting.

Proposed by: Commissioner Ronnie Dimsdale, District Two

Second by: Commissioner Monty Laster, District Five

Motion Carried

## **TASK ORDERS #1,2&3 FOR TRANSPORTATION CONSULTANT URS**

County Engineer Kevin Walter addressed the board regarding these requests.

Task #1 – SR 162/Smith Store Road Intersection Improvements (\$26,967.87).  
He noted that this project was previously started by URS and then held while a local government agreement for partial GDOT funding of construction costs was completed.

Task #2 – SR20/SR212 Interim Intersection Improvements (\$156,518.36)  
He noted this projects includes a local government agreement for partial GDOT funding of construction costs.

Task #3 – Covington Bypass at Dearing Street Intersection Design (\$30,834.68).  
He noted that this task includes an optional subtask 3 (golf cart underpass)

Mr. Walter provided the board with information for their review in their packets.

- Steve Horton (City of Covington) was in the audience and he confirmed that Covington would pay half the engineering costs on Dearing Street.
- Funding: SPLOST

The board was pleased these projects are moving forward and duly approved.

Motion: To approve Task #1 – SR162/Smith store Road Intersection Improvements for \$26,967.87 and Task #2 – SR20/SR212 Interim Intersection Improvements for \$156,518.36, and Task #3-Covington Bypass at Dearing Street Intersection Design for \$30,834.68 with the City of Covington paying half of Task #3 as stated.

Proposed by: Commissioner Ronnie Dimsdale, District Two

Second by: Commissioner Monty Laster, District Five

Motion Carried

## **TASK ORDERS #1&2 FOR TRANSPORTATION CONSULTANT J.B. TRIMBLE**

County Engineer Kevin Walter presented the following task orders for the board's approval. The board was provided all information in their agenda packets.

Task #1 – Crowell Road Bridge (\$238,551.98)

Note that this project includes designing temporary repairs to the existing culverts as well as design of a permanent replacement bridge.

Task #2 – Dial Mill Road Flood A study and Drainage Design \$37, 144.25)

- Discussed task order requests
- Task order includes all engineering

- Chronic problem with flooding on Dial Mill Road
- Drainage design
- Temporary repairs to existing culverts
- The board questioned federal funding assistance. Mr. Walter said that once it is partially designed we could add to the state plans to see if we could receive federal funding.
- Questioned the schedule for widening Brown Bridge Road and Mr. Walter said that PBS&J would provide that information at our October 20<sup>th</sup> meeting.

Again, the board was pleased with the projects moving forward for the citizens of Newton County and duly made a motion to approve.

Motion: To approve Task Orders #1 & #2 for Transportation Consultant J.B. Trimble with the understanding that after we meet with PBS&J on October 20<sup>th</sup> we will decide how and when to proceed on the second part of the task.

Proposed by: Commissioner Ronnie Dimsdale, District Two

Second by: Commissioner Monty Laster, District Five

Motion Carried

### **TASK ORDERS #1&2 FOR TRANSPORTATION CONSULTANT STREET SMARTS**

County Engineer Kevin Walter addressed the board regarding task orders one and two for transportation consultant Street Smarts.

Task #1 – Industrial Boulevard

Task #2 – Tabor Forest Drive

- City of Covington has requested the use of our consultants regarding the Industrial Boulevard project.
- City and County works well together and this is another sign of getting things done.
- County Attorney can draw up Intergovernmental Agreement allowing City of Covington to utilize what we already have completed.

Commissioner Fleming stressed the importance of getting Tabor Forest Drive done. He noted a major safety issue and has voiced his concern numerous times. He expressed his appreciation to the consultants for working on these projects, but reiterated his concern that the Mt. Tabor Drive project move fast, duly making a motion to approve.

Motion: To approve Task #1 and Task #2, allowing the City of Covington to utilize work already completed regarding Industrial Boulevard as requested.

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

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

Motion Carried

**SPLOST 2000 UPDATE**

Executive Assistant apprised the board of finalizing SPLOST 2000.

- Surplus of \$2,412.00
- Commended board for their decision to withhold some projects due to the economy.
- Appreciates sound financial decision

Commissioner Dimsdale voiced appreciation to Mr. Varner, Mr. Middleton as well as complimenting the finance department for their work on SPLOST 2000.

No action necessary.

**STREETLIGHTS:**

Stone Ridge Subdivision – District One  
Easton Place – District One  
Parker’s Terrace – District One  
Sampson Creek Crossing – District One  
Heritage Pointe – District Two

Motion: To approve streetlights as read.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried

**ALCOHOL LICENSE:**

**FIRST READING:**

T&H One Stop  
14625 Hwy. 36  
Covington, Georgia 30014  
Habib Bijani (100% Owner)

CVS Drug/Pharmacy #8419  
4192 Salem Road  
Covington, Georgia 30016  
CVS Subsidiaries Corporate Officers

No action necessary/

**COUNTY CHECKS:**

Motion: To approve the checks as read by the chairman.

Proposed by: Commissioner Monty Laster, District Five

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

Motion Carried

**EXECUTIVE SESSION**

**Time: 8:35 p.m.**

Motion: To enter into Executive Session for the purpose of discussing land acquisition.

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

Second by: Commissioner Mort Ewing, District One

Motion Carried

**REGULAR SESSION**

**Time: 9:10 p.m.**

Motion: To enter into Regular Session.

Proposed by: Commissioner Mort Ewing, District One

Second by: Commissioner Monty Laster, District Five

Motion Carried

Chairman Varner gave the board an update on plans for fuel conservation.

**ADJOURN**

**Time: 9:15 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