

**NEWBERRY COUNTY COUNCIL  
MINUTES  
FEBRUARY 17 2010**

Newberry County Council met on Wednesday, February 17, 2010, at 7:00 p.m. in Council Chambers at the Courthouse Annex, 1309 College Street, Newberry, SC, for a regular scheduled meeting.

**PRESENT:** Henry H. Livingston, III, Chairman  
William D. Waldrop, Vice Chairman  
Kirksey Koon, Councilman  
John E. Caldwell, Councilman  
Edgar Baker, Councilman  
Leslie (Les) Hipp, Councilman  
Steven C. Stockman, Councilman  
Wayne Adams, County Administrator  
A.J. Tothacer, County Attorney  
Laurie Renwick, Clerk to Council  
Debbie Cromer, Finance Director

**PRESS:** Heather Hawkins, WKDK  
Cindy Pitts, Newberry Observer

The meeting was duly advertised as required by law.

Chairman Livingston called the meeting to order and determined a quorum present.

Wayne Adams, County Administrator, led the invocation followed by the Pledge of Allegiance

**1. Presentations of Newberry County Service Awards**

Chairman Livingston stated that on behalf of County Council, it was a pleasure to present the following service awards: Larry Graham, Registration Board – 5 years; Brook Matthews, Clerk of Court's Office – 5 years; Debbie Cromer, Finance Director – 35 years; Jackie Bowers, Clerk to Court – 40 years.

Chairman Livingston shared that recognizing our employees for their service is probably one of the greatest treats for Council.

**2. Adoption of Consent Agenda**

Mr. Caldwell motioned to adopt the consent agenda; seconded by Mr. Baker. The vote was unanimous.

### **3. Additions, Deletions and Adoption of Agenda**

Mr. Baker motioned to adopt the agenda as presented; seconded by Mr. Stockman. The vote was unanimous.

### **4. Personal Appearances**

- **The Honorable Walt McLeod, SC House of Representatives – Update on DNR Land Purchase**

Representative McLeod briefed Council on the State's budget and presented each with a handout (a copy in on file in the Clerk to Council's Office) that was prepared by Mike Shealy for the SC Senate Finance Committee. As it stands right now, the Governor has recommended reducing the Local Government Fund from \$230,232,591.00 to \$202,619,411.00 for the FY1010-11, which is a reduction of approximately 28 million dollars.

Representative McLeod updated Council on DNR's proposed Belfast Plantation land acquisition. He said that last week, five (5) Newberry County Councilmen signed a document stating they did not support DNR's acquiring an additional 2400 acres at the Belfast Plantation located in Newberry County. He said DNR acquired 1700 acres several years ago and was trying to acquire 2400 acres more; combined taking approximately 11-12 thousand dollars of property taxes out of Newberry's tax base annually. Rep. McLeod's position on this issue, as presented to Council tonight and at the Joint Bond and Review Committee last week, is that 15% of Newberry County's land area is already owned by the US Forest Service, and coupled with the fact that the state's resources are shrinking, we must be concerned with protecting our tax base. At the present time, the 2400 acres in question is owned by the Conservation Fund, a nationwide organization, whose mission is to go around America acquiring large tracts of land and then transferring them to public agencies. This bill is before the Joint Bond and Review Committee and they have decided to carry it over, or take no action on it, at this time. He was asked to come before Council by several House Representatives on the Committee to see if Council would support the legislature passing a law that states that any land DNR owns, the Department must pay a fee in lieu of taxes comparable to the County's realistic loss in property taxes. He asked Council if they would be interested in receiving a fee in lieu of taxes for the 2400 acres in question. He stated he had no idea if this kind of legislation would pass but would be willing to give it a try. He advised Council that things at the State House move in a hurry and his task is to protect Newberry's interest at all times. He said if the Sumter National Forest Park was not in our County, he would not be here but we need to be careful about eroding the tax base that we have. Land acquisitions such as this over time will leave the rest of us having to pay more property taxes. He said proponents of this acquisition have said that the County would receive revenues from people coming in and purchasing hunting clothes, licenses, shells, food, etc.; however, every piece of tax money generated by that would go straight from the retailer to the State Treasury in Columbia as part of the sales tax. Not one cent would

enter the revenue stream in the County of Newberry. He said this concluded his presentation for the evening and asked Council if they had any questions.

Mr. Baker said he was getting conflicting numbers and asked Rep. McLeod if he knew how much land DNR owns in the State of South Carolina.

Mr. Waldrop commented that DNR owns approximately 220,000 acres.

Rep. McLeod mentioned that there are several points that Council needs to retain. One is that when the US Forest Service cuts timber, it gives the County from which the timber came a percentage (.25%) of the timber sales. DNR on the other hand is able to retain the revenue they receive from timber marketed on their land.

Mr. Waldrop said what is really pitiful is that DNR is paying a premium for this land. He said the land acquired by the US Forest Service back in the depression was purchase for .50-\$1.00 per acre. Mr. Waldrop felt DNR should not be in the business of owning property except maybe for a boat landing.

Rep. McLeod shared that if a state agency has the right to generate its own income and keep it; then that alone is a wonderful motivation for acquiring more real estate.

Mr. Waldrop asked how DNR was purchasing the property.

Rep. McLeod read from a letter sent to the Newberry County Legislative Delegation which stated the following: A variety of federal and state funds will be used to acquire this property. They include a 3.25 million dollar grant from the United States Forest Service; 1 million dollar grant from the United States Fish and Wildlife Service; \$609,000 from SCDNR timber revenue; \$100,000 from the Deer Project revenue; and 2.6 million from DNR's Heritage Land Trust Fund, which is reserved for acquiring significant natural and coastal areas in the state. The National Wild Turkey Federation is working on a fund raising effort for this tract with all funds going directly to the acquisition cost and will decrease the commitment of funds from SCDNR account.

Mr. Waldrop shared his concern that DNR could have purchased several hundred acres surrounding the Belfast Plantation for educational purposes; they did not need to buy thousands of acres.

Mr. Hipp commented that Rep. McLeod mentioned that they had five of County Council's signatures on a document opposing DNR's acquisition of this tract but it never came before Council publicly. He felt it would be good to go on record as to who was in favor or opposed at this time.

Rep. McLeod stated that Edgar Baker, Bill Waldrop, John Caldwell, Les Hipp, and Kirksey Koon signed the document opposing DNR's land acquisition which was provided to the Joint Bond Review Committee this past Wednesday.

Mr. Hipp said that he agreed with the points Rep. McLeod has mentioned. We have almost 60,000 acres of federal land in our County which is enough to meet the program needs that state agencies would like to implement. All this would take is some collaboration on both the state and federal side to make the land available for these programs. The state does not need to be competing with the federal on gun ranges because in the process, the taxpayers of this county suffer. Mr. Hipp said he was an avid outdoorsman and felt we have adequate land to hunt on through the wildlife management land program. He stated he supports the efforts to try to eliminate DNR from acquiring these additional acres.

Chairman Livingston asked Rep. McLeod who was sponsoring the bill.

Rep. McLeod said that Rep. Duncan, Chairman of the House Agricultural Committee, Chairman of the Senate Agricultural Committee, and Senator Cromer, Chairman of Fish, Game and Forestry Committee were sponsoring the bill.

Chairman Livingston asked if he was correct in assuming the Conservation Group that owns the property now is precluded from paying taxes also.

Rep. McLeod stated that the Conservation Group did pay Newberry County taxes.

Mr. Stockman shared that the Conservation Group paid Newberry Co. taxes in the amount of \$5,387.87.

Chairman Livingston said he would like to go on record in support of this acquisition. He said it offers a lot of opportunities and the Director of DNR shared with him that all timber sales on the property will be re-invested back into the property for projects and for the benefit of the residence of the State of South Carolina. He felt Newberry County, being situated in close proximity, would receive the most benefit. He agreed with Mr. Waldrop that it could have been a smaller portion purchased, but within the scope of what they are doing, a larger tract is needed. Chairman Livingston said the \$5387.87 in taxes is less than 10% of 1 mil, which would equate to .25 cent on \$100,000.00 home over the course of a tax year. Part of the bill will also offer local foresters the opportunity to manage the property through a bidding type process instead of it all being tied up in state government. He asked Rep. McLeod if that was his interpretation of what the bill states.

Rep. McLeod stated that Mr. Frampton said that trees cut on this tract will be reinvested in Newberry County; however, this has not been the practice in the past. The bill, if it were to pass, states that timber sales will be deposited with the State Treasurer in the Game, Fish and Wildlife Protection Fund.

Mr. Livingston said if the legislature would put their efforts on taking the cap off the sales tax on cars, they could generate a lot more money to send back to the counties than the \$5,000.00 we're debating over right now.

Mr. Koon commented that he hoped we were going to do our very best to protect the tax base in Newberry County, which primarily comes from property taxes. There are people in this county who have sacrificed to save and purchase property and they are taxed, and taxed, and taxed. Everybody needs to pay their fair share. The total taxes on these two DNR land purchases are between 11-12 thousand dollars. If we keep pecking away at our backbone (tax base); we are going to break it. Mr. Koon said he could not support DNR's bid to buy this property.

Mr. Stockman wanted to go on record as a supporter of the land purchase by DNR. Based on the information that he obtained, his understanding of the project, and all the Associations that are involved and putting money into this project, leads him to believe that this is going to generate a lot more income and revenue for Newberry County than what we would be losing. He said we may lose some revenue in the short term but in the long term this acquisition will be in the best interest of Newberry County.

Mr. Baker stated that he signed the paper and he was going to stand behind it. He did not understand why DNR would want to acquire this acreage when they have over 240,000 acres they haven't done anything with yet. He said we do not need any more land taken out of the tax base.

Mr. Hipp commented that Rep. McLeod used the term in perpetuity and that means if we let this go, it is irreversible. It should be clear that every time the government takes land it is irreversible. While we may be losing tax base, we are also losing any future potential for growth on that property. He said these are the main reasons he participated in signing the letter.

Mr. Baker asked Rep. McLeod about DNR paying a fee in lieu of taxes.

Rep. McLeod stated that he had three leaders ask him if Council would be agreeable to accepting a fee in lieu of taxes from DNR in the amount of what the taxes would be on these two parcels of land. He told them he would ask Council and report back.

Mr. Baker asked if this would have to originate in the State House

Rep. McLeod stated that it would and asked if Council would be agreeable to a state law that would require DNR to pay a fee in lieu of taxes in the amount the taxes would be on the real estate they own.

Mr. Baker motioned to support legislature that would require DNR to pay a fee in lieu of taxes equal to what the taxes would be.

Mr. Waldrop wanted to amend the motion to not only include fee in lieu but also include DNR paying a stumpage fee; similar to what the County receives from the US Forest Service. It would be nice if we could get one or the other, or maybe both.

There was a second on the amended motion.

Chairman Livingston asked if there was any discussion.

Mr. Koon shared that the US Forest Service pays a stumpage fee only and felt it would not be fair to ask for both from DNR.

Chairman Livingston commented that we do not have the authority to ask the federal.

Mr. Waldrop recommended that Rep. McLeod go to Columbia and talk with the other Representatives and see if they will go along with this and asked him how it worked in Columbia.

Rep. McLeod said he felt there were three leading people who would be pleased to sponsor a bill saying that DNR must pay a fee in lieu of taxes equivalent to the amount of taxes on the real estate they own. This is the issue I am trying to find out tonight. He said Council could request that a percentage of timber harvested go to the County from which the timber came.

Mr. Waldrop reiterated that he is not trying to prevent anyone from hunting and fishing but felt there was enough land already in Newberry County under government control where people are allowed to hunt and fish.

Chairman Livingston urged Council to give DNR the opportunity to make a presentation on what they have done and their future intentions. He felt all of Council should hear the same things instead of being talked to individually about this acquisition. This way we can make an educated decision instead of a knee jerk one based only on parts of the information.

Mr. Caldwell asked about the liability on the property.

Rep. McLeod stated he was not sure about the relative liability on this piece of property.

Rep. McLeod asked Council again to consider a motion that they would accept a fee in lieu of taxes and stated this would be helpful to know.

Mr. Baker shared that on the amendment to the motion, he did know if we could do that if we don't do the National Forest that way; with both stumpage and fee in lieu of taxes. It should probably be one or the other.

Mr. Hipp commented that based on what we are getting from the federal government for stumpage fee; it would pay us get stumpage over tax. He said he would support a fee of some type from DNR for this acquisition; however, he still opposes the purchase of the land at this point because it eliminates that land from any future use.

Chairman Livingston asked if Council was ready for the vote. He stated that the motion on the table was for both fee in lieu of taxes and a stumpage fee.

Mr. Waldrop withdrew the amendment to the motion which included the stumpage fee.

Chairman Livingston stated for the record that we have a motion and a second to accept a fee in lieu of taxes in the amount of what the taxes would be on the property.

The motion failed with four opposing and three in favor.

Mr. Hipp replied with a motion that we propose a stumpage fee equivalent to 25%, or a standard fee equivalent to the fee we receive from the federal government if this land is acquired by DNR; seconded by Mr. Waldrop.

Chairman Livingston asked if there was any discussion.

Mr. Waldrop said he felt we needed to go on record to state that if DNR does purchase this land that the County wants a stumpage fee of 25%.

Mr. Baker said his only problem with that was that DNR may not cut a load off this property for the next 10 years.

Rep. McLeod stated that he understood Council's desire to go where the most income was and suggested maybe Council address the two sources in separate motions. This will certainly relay a message that Council would like something in lieu of the lost tax base.

Chairman Livingston agreed with Mr. Baker that there may not be any timber cut off this tract for sometime or the Conservation Group could go ahead and clear cut it before this comes to fruition.

Chairman Livingston asked for a vote for the motion as presented. The motion failed with a vote of 2 in favor and 5 opposed to requesting a stumpage fee.

Mr. Stockman made a motion that Council be given time to do some research on what we are trying to do tonight. Upon receiving the information needed to make the decision, maybe this can be brought back up at the next Council meeting so we can make an informed decision; seconded by Mr. Waldrop. The motion failed with a vote of 2 in favor (Mr. Stockman and Mr. Livingston) and 5 opposed (Mr. Baker, Mr. Koon, Mr. Caldwell, Mr. Hipp and Mr. Waldrop)

Mr. Waldrop felt we should move forward and express our opinion. He said Mr. Hipp had mentioned that we should make it known for the record Council's views on DNR's land acquisition. A letter has been presented to the legislature with 5 of our signatures in opposition to this land opposition. We need to publicly vote on that tonight and we will be willing to listen to DNR if they would like to come and present their case.

Mr. Hipp made a motion that Newberry County Council opposes the DNR acquisition purchase of this land at this time; seconded by Mr. Waldrop.

Chairman Livingston stated that he will be voting against this because he would like to have all of Council well informed before making a decision.

The motion passed with a vote of 5-2. All in favor of the motion in opposition to DNR's land acquisition were Mr. Hipp, Mr. Baker, Mr. Caldwell, Mr. Koon and Mr. Waldrop; opposed were Mr. Stockman and Mr. Livingston.

Rep. McLeod asked Council to reconsider supporting a fee in lieu so that he could report back to his constituents.

Mr. Hipp stated he would like to go back to the original motion that we encourage our Representative to proceed at the State House to get a bill stating that DNR will pay a fee in lieu of taxes for those properties at their assessed value; seconded by Mr. Waldrop.

Chairman Livingston voiced his concerns again in favor of this acquisition and thanked Rep. McLeod for his support and interest in Newberry County.

The motion in support of our representative proceeding at the State House to get a bill passed stating that DNR will pay fee in lieu of taxes for those properties at their assessed value was passed with a vote of 4 to 3; with Mr. Hipp, Mr. Baker, Mr. Caldwell, Mr Waldrop voting in favor and Mr. Stockman, Mr. Koon, and Mr. Livingston opposing.

**5. Ordinance #01-01-10: An Ordinance repealing Ordinance No. 01-01-06, relating to the creation of the Emergency Services Board.**

Chairman Livingston stated that Mr. Tommy Long, Emergency Services Coordinator, was now providing a lot of these services and that the Emergency Services Board was no longer needed.

Mr. Long commented that since he has taken the Emergency Services Coordinator position everything has been running real smooth and felt that doing away with this board would not make any significant changes in the way things have been operating.

Mr. Baker motioned to approve first reading of Ordinance #01-01-10; seconded by Mr. Koon. The vote was unanimous.

**6. Ordinance #02-02-10: An Ordinance enacting and adopting 2010 S-7 supplement to the Code of Ordinances for the County of Newberry, South Carolina.**

Chairman Livingston stated that this was the codification of Newberry County Ordinances through December 2009.

Mr. Waldrop motioned to approve first reading of Ordinance #02-02-10; seconded by Mr. Hipp. The vote was unanimous.

**7. Appointments**

No Appointments

**8. Consideration of County match on the following Assistance to Firefighters Grants**

**Silverstreet Fire Department**

Federal Share \$79,701.00 (95%)  
County Match \$ 4,194.00 (5%)  
Total Project \$83,895.00

**Chappells Fire Department**

Federal Share \$19,806.00 (95%)  
County Match \$ 1,042.00 (5%)  
Total Project \$20,848.00

**Pomaria Rescue Squad**

Federal Share \$123,500.00 (95%)  
County Match \$ 6,500.00 (5%)  
Total Project \$130,000.00

Chairman Livingston thanked all of those responsible for obtaining these grants. The grant revenues you are bringing in are saving the taxpayers many dollars.

Mr. Koon motioned to approve the county match on the Assistance to Firefighters Grants; seconded by Mr. Baker. The vote was unanimous.

**9. Consideration of bid award to Candies Construction for Maybinton Ballfield Grading and Drainage Project – Crystal Waldrop, Purchasing Director.**

**Bid Number: 2010-01**

**Candies Construction \$ 24,500.00**

Loftis Corp. \$ 49,070.00  
Martin Brothers \$ 49,500.00  
Richards Construction \$ 89,800.00  
McClam & Associates \$110,164.73  
L-J Inc. \$129,573.00  
JC Wilkie \$171,309.00

Mrs. Waldrop stated that there was a big spread among the bids. They have spoken with Candies Construction and feel comfortable that they are adequate and can supply the equipment to perform this job. Their references have been checked and those contacted have been satisfied with their work.

Mr. Baker motioned to accept the low bid of \$24,500.00 from Candies Construction; seconded by Mr. Hipp.

Chairman Livingston asked if there was any discussion.

Mr. Hipp asked if any of the construction firms were from Newberry County.

Mrs. Waldrop stated that none of the firms were from Newberry.

Mr. Hipp inquired about the \$150,000.00 difference between bids.

Mr. Ervin West said that Candies Construction was a one man operation whose work did check out and he was well aware of the scope of the project. He explained to Council that the National Guard started this project and had to stop due to other obligations. The original contours on the drawings from Alliance Engineers have changed and this project was just a best guess approach based on the existing contours. He felt this may have been the reason for the differences in bids coupled with the fact that the three high bidders are larger contractors with a much higher overhead.

Mr. Caldwell asked how long Candies Construction had been in business.

Mr. West stated that his current license with this company has been in effect for six years but he has been in this business for 19 years.

The vote to approve Candies Construction bid of \$24,500.00 was unanimous.

## **10. Committee Reports**

### **a. Public Safety and Courts – February 8, 2010**

Mr. Adams reported that the committee met on February 8, 2010 and the following was discussed.

- An updated by the Clerk of Court on the State Judicial Department's new case management system
- An updated by staff on financial reporting for fire departments and rescue squads
- Recommended an Ordinance repealing the Emergency Services Board
- Tommy Long, Emergency Services Coordinator made an update on a Capital Project Sales Tax Proposal to build four (4) new fire substations.
- Recommended the County match for the Silverstreet and Chappells Fire Department Grants

## **11. Public Comments (by those who signed up at the meeting)**

No public comments.

## **12. Vote for Executive Session, When Necessary**

No vote for executive session.

**13. Executive Session**

No Executive Session.

**14. Necessary Action on Matters Discussed in Executive Session**

No Action taken.

**15. Comments from County Administrator**

No comments

**16. Comments/Request from Council Members**

Mr. Hipp said we had a good lively debate tonight.

Chairman Livingston thanked Council for being able to disagree without being disagreeable. It makes a whole lot better working environment for this body.

**17. Future Meetings**

- a. County Council – March 3, 2010 @ 7:00 p.m.
- b. County Council – March 17, 2010 @ 7:00 p.m.
- c. “On the Move with Margaret” – February 22, 2010 @ 9:30 a.m.
- d. Council CPST Work Session – February 23, 2010 @ 6:00 p.m.

**18. Vote to Adjourn**

Mr. Waldrop motioned to adjourn; seconded by Mr. Koon. The vote was unanimous.

**19. Adjournment**

Chairman Livingston declared the meeting adjourned at 9:35 p.m.

**NEWBERRY COUNTY COUNCIL**

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**Henry H. Livingston, III, Chairman**

**APPROVED:**

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**Laurie N. Renwick, Clerk to Council**