

**NEWBERRY COUNTY COUNCIL
MINUTES
APRIL 7, 2010**

Newberry County Council met on Wednesday, April 7, 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.

Councilman Stockman led the invocation followed by the Pledge of Allegiance.

1. Adoption of Consent Agenda

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

2. Additions, Deletions and Adoption of Agenda

Chairman Livingston made a recommendation to move agenda item 9 to 3b for an Executive Session to receive legal advice for agenda items 4 and 5. He also recommended moving agenda item 4 to item 5 and vice versa.

Mr. Caldwell motioned to adopt the agenda as amended; seconded by Mr. Koon. The vote was unanimous.

3. Personal Appearances

a. Charles Pettigrew, Inspector General for Disabled American Veterans Department of South Carolina – Presentation to Marie Harmon

Mr. Pettigrew introduced himself and stated it was an honor and pleasure to make this presentation to Mrs. Marie Harmon. There is nobody in South Carolina that is more deserving than Marie and asked her to come forward. Mr. Pettigrew presented Marie with a 2010 American Veterans Disabled for Life Silver Dollar from the veterans of Newberry County. He thanked her for all the work she has done over the years on behalf of veterans.

Mrs. Harmon thanked Mr. Pettigrew and stated that this means the world to her. She said she had the most wonderful job for 30 years; taking care of our veterans here in Newberry County. Nothing meant more to her and when she had to stop, it broke her heart. She said it has been an honor and privilege and she thanked everyone.

Chairman Livingston thanked Mr. Pettigrew for the nice comments about Mrs. Marie and said he has known her personally for a long time, and in addition to her being an angel to the veterans; she has been an angel in all her roles in life. There are no words or expressions of kindness that can repay you for all you have done over the years. It is well deserved that you are bestowed with this presentation and honor by the disabled veterans and the Inspector General. He thanked Mr. Pettigrew for coming to recognize such a wonderful lady.

Mr. Waldrop said Mrs. Marie has always done a great job for our veterans and he is very proud of her.

b. Vote for Executive Session

Mr. Caldwell motioned to go into Executive Session; seconded by Mr. Baker. The vote was unanimous.

Executive Session

[7:08 p.m. – 8:10 p.m.]

Necessary Action on Matters Discussed in Executive Session

Chairman Livingston returned to Open Session and stated that when you look at changing zoning, you are not looking at changing it for one particular facet; there are multiple things that can go into that area based on the zoning change. There was a lot discussion in Executive Session about the possibilities within the proposed zoning changes. He asked Mr. Tothacer, County Attorney, to report out from Executive Session.

Mr. Tothacer stated that Newberry County Council went into Executive Session to receive legal advise about two items on the agenda and no action was taken in that session.

- 4. Ordinance #02-05-10: An Ordinance acting on a request to amend the official zoning map established pursuant to zoning Ordinance No. 12-24-01, codified in Chapter 153 of the Newberry County Code of Ordinances, so as to rezone a twenty-seven and ninety-two hundredths (27.92) acres real estate parcel designated as TMS Parcel No. 536-5 from Single Family Residential (RS1) to Rural (R2).**

Chairman Livingston declared this the Public Hearing and asked if there was anyone signed up to speak.

Phillip Palmer introduced himself and stated he lived at 228 Halley Creek Road and he represented the property in question. He said he was not here to speak but to answer any questions. He said they were just looking to have a few animals and that none of their neighbors have a problem with the rezoning.

Chairman Livingston asked Mrs. Peters to explain what all is allowed in the requested zoning change.

Mrs. Peters referred Council to page 58 of the Zoning Code handout under §153.069 R-2 Rural District, and she read the permitted uses, accessory uses, conditional uses and the special exceptions that are allowed in the R-2 District. (Attached)

Mr. Stockman asked Mrs. Peters to restate for his benefit the things that are permitted in the R-2 District that would not require further permitting or approval.

Mrs. Peters restated the permitted uses for the R-2 Zoning District. (Attached)

Mr. Stockman asked if anything not on this list would require further approval.

Mrs. Peters said the conditions would have to be met for her to approve it; otherwise, it would go to the Board of Zoning Appeals for them to approve the conditions.

After receiving no further comments, Chairman Livingston declared the Public Hearing closed.

Mr. Waldrop motioned to approve second reading of Ordinance #02-05-10; seconded by Mr. Stockman.

Chairman Livingston asked if there was any discussion.

Mr. Adams said if the property owners and Council were amenable, it might be that allowing horses in residential areas could be pursued without the possibly of these other

uses coming in, which happens when you make a change from one zone to another. There might be another way to accomplish this; perhaps having conditions within the residential area that would have to be met in order for you keep horses there. This might include the parcel being of a certain size. Some kind of regulations of that sort would not open you or your neighbors up to other incompatible use possibilities.

Mr. Stockman said that based on the information received from Mrs. Peters, he did not hear anything that these folks could do to the property that would be detrimental to the community, so he was in favor of the rezoning.

Mr. Hipp stated they went into Executive Session to discuss and get legal advice on these issues. He appreciated the fact that Mr. Palmer took the proper steps to make sure the property is zoned correctly and has met the County's requirements. In order to eliminate anything outside of what you would like to use this property for, he recommended that the Palmers define their own limitations instead of our placing conditional uses on it. Council could then look at it and vote on the property based on the limitations that you provide us.

Chairman Livingston asked if we could get the Palmers to work with Mrs. Peters on a text amendment change.

Mr. Adams explained that a text amendment that is not parcel specific allows those around you to do whatever you are able to do.

Chairman Livingston stated that our comprehensive plan is being reviewed currently but will not be available until next year and maybe some of the glitches will be caught during this process.

After receiving no further discussion, Chairman Livingston called for the question and second reading of Ordinance #02-05-10 was approved 6-1, with Mr. Caldwell abstaining from the vote.

- 5. Ordinance #02-04-10: An Ordinance acting on a request to amend the official zoning map established pursuant to zoning Ordinance No. 12-24-01, codified in Chapter 153 of the Newberry County Code of Ordinances, so as to rezone a twelve and thirteen hundredths (12.13) acres portion of a real estate parcel totaling thirty-four and thirteen hundredths (34.13) acres designated as TMS Parcel No. 512-15 from Rural (R2) to Light Industrial (LI).**

Chairman Livingston declared this the Public Hearing and stated several people have signed up to speak. Mark Vedder, Mark Kiser, George Kinard, Jr., and Kenneth Sanders each came forward, introduced themselves, and voiced their concerns in favor of the rezoning. Jim Hough, Steve McKean and Chris McLane came forward and voiced their concerns in opposition to the rezoning. David Rodgers, owner of Southern Vacuum Cooling, stated he was not speaking to disparage anyone's comments but said he raised his children right beside their present shop and has never had any problems. Their

present neighbor is a SLED agent who lives closer than Mr. McLane does, and he has never had a problem. He said he was not going to change the minds of those people who are scared. Council has heard everyone's concerns and will make the decision. He said he hoped they would use good judgment and shared that this is not the life threatening situation it has been made out to be and would appreciate their consideration for rezoning.

Mr. Koon asked Mr. Rodgers what assurances he could give the people in the community that he will do what he says he will do.

Mr. Rodgers asked if Council would recommend they sign something and have it notarized. He did not know how anybody could offer assurances, other than their word. He said they have his word and he would sign a legal document; other than that, he did not know what else he could do.

Having received no other comments, Chairman Livingston declared the Public Hearing closed.

Mr. Waldrop motioned to approve second reading of Ordinance #02-04-05; seconded by Mr. Stockman.

Chairman Livingston asked if there was any discussion.

Mr. Baker asked if it was possible for Administration to come up with a different proposal before third reading other than the Ordinance to change these things.

Mr. Hipp thanked Mr. Hough for following through on his agreement with him about going down and looking at the facility. He said he went online and studied the material on anhydrous ammonia and talked with a professional chemist about the effects of a release, and couldn't say that the information he received was consistent with all the information he has heard tonight. From the information he obtained, if you have a release of this anhydrous ammonia in that area, it will not affect beyond the limitation of this 12 acres from a personal safety aspect. When released in the atmosphere, it is not going to spread as it seems to have been presented. He said he appreciated the fact that Mr. Hough recognized that he is very committed to smart growth. We do not need to have random growth in this County; we need to plan our growth but we need to make sure that we do not shut our doors to growth. Mr. Hipp said that he contacted a number of people on the petition list that he knows personally and asked them what their specific objections and concerns were to the rezoning. Increased traffic seems to be of a concern. He said he used the Jollystreet route on his way to work so he could monitor the current 18-wheel traffic that is currently on that road. There are a lot of existing businesses that have more traffic than this gentleman's business would generate. Based on my visit to his current facility and from what he has told me, you can expect one 18-wheeler per month bringing a trailer in or out or possibly bringing in metal to do some fabricating work. Mr. Hipp shared that when he ran for office he promised the people that he would not represent just his district but his vision would extend beyond his district to what is best

for Newberry County. Before we bring this to a vote, he wanted people to know that he understands their concerns and why they don't want this facility. When he looks at the total impact he feels it is not to the detriment of Newberry County but for the good of Newberry County. He said he will have to vote in favor of allowing this industrial growth in our County.

Mr. Hough commented that he did not understand why we are jumping to rezone this property when the owners have not yet decided what they are going to do or when they plan to build on this property.

Mr. Hipp replied that until they are able to rezone the property for their business, they are not going to build their homes there. This is a case where zoning has to come first. Their whole purpose of putting the business there was so they could build and be close to it and not have to travel.

Mr. Hipp mentioned that he noticed, due to the current high volume of 18-wheel traffic, that Jolleystreet Road needs some repair. He said he has spoken with Mr. Waldrop, Chairman of the Road Committee, and he would like to see this road improved.

Mr. Koon stated that he could not make a decision based on the information that he has so far and asked if we could hear from zoning the other uses of this property like we did on the prior zoning issue.

Mrs. Peters referred Council to page 105 of the Zoning Code handout under §153.085 and read the permitted uses, conditional uses, and the special exceptions that are allowed in the Light Industrial District. (Attached)

Mr. Caldwell stated that his grave concern is the amount of lives we are putting in harms way verses the number of jobs we are creating. We should look at this and see which outweighs the other. He said he has a problem voting in favor of this with the few jobs that will be created while putting such a large number of people in harms way.

Mr. Hipp responded that he would be opposed to putting anybodies life in danger regardless of the number of jobs.

Chairman Livingston said we all talk about the value of Interstate 26 in its relationship to economic development but if we viewed the Interstate based on the hazardous materials that travel it daily, we would shut it down before 12:00 p.m. tonight. The State Department of Education located those schools next to their facility in Irmo long after it had been in operation. The Division of School House Planning would not have put hundreds of kids in harms way by locating a school close to something that was considered extremely hazardous and dangerous.

Mr. Hipp asked if there was some way the County's Planning Commission, through some text change, could work out an agreement where we could limit the use of this facility to what is currently being offered.

Mr. Adams stated that an alternative would be to look at some text changes that would conditionally allow these purposes in this case and also in the case with the horses. They will do some research and give Council their best possible recommendations within the week.

Having received no further discussion, Chairman Livingston called for the question and second reading of Ordinance #02-04-10 passed with a vote of 5-2, with Mr. Koon and Mr. Caldwell voting in opposition to the rezoning.

6. Appointments

Mr. Baker motioned to appoint Jimmy Dunaway to the Board of Rescue Squads, filling a vacant at-large seat, for a term expiring June 30, 2012; second by Mr. Waldrop. The vote was unanimous to appoint Jimmy Dunaway to the Board of Rescue Squads.

7. Public Comments (by those who signed up at the meeting)

All citizens who signed up shared their concerns during the Public Hearings.

8. Vote for Executive Session

See agenda item 3B.

9. Executive Session

See agenda item 3B

10. Necessary Action on Matters Discussed in Executive Session

See agenda item 3b.

11. Comments from County Administrator

No Comments

12. Comments from Council Members

No Comments

13. Future Meetings

- a. County Council – April 21, 2010 @ 7:00 p.m.
- b. County Council – May 5, 2010 @ 7:00 p.m.
- c. Public Works and Planning Committee – April 12, 2010 @ 6:00 p.m.
- d. Finance Committee (Budget FY10-11) – April 12, 2010 @ 6:00 p.m.
- d. Finance Committee – April 26, 2010 @ 6:00 p.m.

14. Vote to Adjourn

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

15. Adjournment

Chairman Livingston declared the meeting adjourned at 10:05 p.m.

NEWBERRY COUNTY COUNCIL

Henry H. Livingston, III, Chairman

APPROVED:

Laurie N. Renwick, Clerk to Council