

**NEWBERRY COUNTY COUNCIL
MINUTES
SEPTEMBER 1, 2010
7:00 p.m.**

Newberry County Council met on Wednesday, September 1, 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
Edgar Baker, Councilman
John E. Caldwell, 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.

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

1. Additions, Deletions and Adoption of Agenda

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

2. Personal Appearances:

a. Mike Briggs, President, Central SC Alliance

Mr. Briggs updated Council on Economic Development in Newberry County and his insight on where we are today and where he thinks we are going. Since 1994 in Newberry County, we have worked with companies who invested \$620 million dollars and created 4200 jobs. For every dollar the County has invested in Central SC Alliance, they have returned \$530 in capital investment and one job for every \$275 dollars invested. In 2009, 14 projects were logged and submitted on behalf of Newberry County of which two still have an active interest in the area and one has an active interest in Newberry County. The rest are going to others areas or being delayed. The current active interest in Newberry County has a potential investment of 10 million dollars and 100 jobs. Of these 14 project leads, 7% were generated through the efforts of the Department of Commerce, 50% through the efforts of the Central SC Alliance, and 43% came to

Teresa Powers directly. He applauded Council for their vision in the parks they have put together and said Newberry is well positioned when the economy turns around to be in the thick of the game. They are showing the Mid-Carolina Commerce Park now and will continue to show it. There is reluctance in the market place to pull the trigger and move forward; they are just not ready. He said he felt things are beginning to pick up and they look forward to continuing to represent Newberry County and marketing the Park on Hwy. 773.

b. David Parnell, Veterans Affairs Officer

Mr. Parnell briefed Council on the semi-annual report for the Veteran's Office. Their office logged 1632 claims and 3831 interviews and consultations from January – June of 2010. He noted the increase in compensation and pensions in the amount of \$1,228,000.00 from FY08 (7,815,000.00) to FY09 (\$9,043,000.00), which is cash money brought in and given to veterans in the form a check or direct deposit that is spent in Newberry County. There was also an increase in monies for education, insurance and indemnities and medical care. Mr. Parnell said the number of the veterans utilizing their services is 2,749 (FY2009); however, there are between 1500-2500 veterans that live in Newberry County that do not use the services they offer.

3. **Ordinance #08-18-10: An Ordinance to provide for the issuance and sale of general obligation bonds of Newberry County, South Carolina not exceeding \$550,000 in aggregate principal amount, to prescribe the purposes for which the proceeds of said bonds shall be expended, to provide for the payment of said bonds, and other matters relating thereto.**

Mr. Caldwell motioned to approve second reading of Ordinance #08-18-10; seconded by Mr. Baker. The vote was unanimous.

4. **Ordinance #08-19-10: An Ordinance authorizing the execution of an equipment lease-purchase agreement in an amount not exceeding \$770,000 relating to the purchase of certain equipment by Newberry County, authorizing the execution of other necessary documents and papers, and other matters relating thereto.**

Mr. Koon motioned to approve second reading of Ordinance #08-19-10; seconded by Mr. Stockman. The vote was unanimous.

5. **Ordinance #08-20-10: 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 two (2) real estate parcels totaling eight hundred and twenty-five thousandths (0.825) acres, one parcel forty-eight hundredths (0.48) acres designated as TMS Parcel No. 404-19, the other parcel three and forty-five thousandths (0.345) acres designated as TMS No. 404-04 from Single Family Residential (RS-1) to General Commercial (GC).**

Mr. Baker motioned to approve first reading of Ordinance #08-20-10; seconded by Mr. Hipp.

Chairman Livingston asked if there was any discussion.

Mr. Waldrop asked Mrs. Peters to come forward and explain exactly where the property is located.

Mrs. Peters stated that the property is located at 13251 C.R. Koon Highway (Jin's Hair Salon) and she pointed out the property's location on a map for members of Council. The owners would like to have it rezoned for the possible enlargement of the current salon.

Mr. Hipp asked if there were any objections from contiguous property owners.

Mrs. Peters said there were no objections.

Mr. Waldrop asked if the property had been posted, to which Mrs. Peters responded that it had been.

Having received no further discussions, the vote to approve first reading of Ordinance #08-20-10 was unanimously approved.

6. Ordinance #08-22-10: 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 two (2.0) acres real estate parcel designated as TMS Parcel No. 298-37 from Rural (R2) to Limited Commercial (LC).

Mr. Caldwell motioned to approve first reading of Ordinance #08-22-10; seconded by Mr. Baker.

Chairman Livingston asked Mrs. Peters to report on the proposed property rezoning.

Mrs. Peters stated that the property was located on the corner of Quaker Road and Dennis Dairy Road. There is currently a lawn mower business on the property and the owner would like it rezoned so that he will have more options with the business and the possibility of a family member living on the property which Limited Commercial will allow.

Mr. Hipp asked the owner to come forward to speak on behalf of his rezoning request.

J.D. Souder introduced himself as owner of JD Services Lawn Mower Repair Center. He said that his intention with the property was to get a 911 address for his daughter a home on the property and realized that the current zoning would not allow it. There were some

objections at the zoning meeting about the increase in traffic flow and the impact on county water and sewer. He stated that his business is on a well and septic tank system and there has not been an increase in traffic since he started the business 15 years ago. He said there was some talk about abandoned cars and nuisance of dogs on his property and he assured Council that he does not own any dogs nor does he have any abandoned cars on the property. He is contracted to do work for Wal-Mart, Lowe's and Tractor Supply stores and the current zoning will not allow him to increase his business, add an extra shed, carport, or put fencing up. He said he invited Mr. Caldwell to his property to see what he was up against.

Mr. Caldwell said from his visit he felt the lawn mowers were being stored legally. They were fenced in and in his opinion not an eyesore. He did; however, have some concerns about some of the other properties along that route and our future plans for that area.

Mr. Hipp asked Mr. Souder how many employees he had and if the change in zoning would have any tax implications on his current business.

Mr. Souder stated that he currently has nine employees and to his knowledge the rezoning would not have any tax implications.

Mrs. Peter said that she did not know right now the tax implications but would find out from the Assessor's Office if he is presently paying a commercial rate on his land.

Mr. Koon said that the report states that the planning staff does recommend that this property be rezoned to Light Commercial. He asked if there was anyone in attendance tonight that was opposed to the rezoning of this piece of property.

Mr. Hipp mentioned that the Planning Commission did not recommend that the property be rezoned.

Mr. Caldwell encouraged Council to go look at the property before making their final decision.

After receiving no further discussion, the vote to approve first reading of Ordinance #08-22-10 was unanimous.

Chairman Livingston stated that the next three Ordinances on the agenda deal with the potential sale of JF Hawkins/Springfield Place. He said there were several people signed up to speak regarding this sale and wanted them to have the opportunity to speak before any action is taken on first reading. He asked Mr. George Burke to the podium.

Mr. George Burke introduced himself and stated he lived at 325 Crosson Street in Newberry. He informed Council that he was opposed to the sale of Jessie Frank or Springfield Place. The sale is very upsetting to the residents as they have been through some gyrations before with managers and administrators. He said the residents are fearful that the workforce at the facilities will turnover with the hiring of unfamiliar and

unconcerned faces. They are also afraid of a rate increase. He is concerned about the 190 employees that are currently under the state retirement system. Some have invested many years there and the sale will put them out of eligibility for their retirement. The employees are afraid of losing their jobs and of position downgrading. He hasn't ever seen a sale take place where the company retained all the employees at their present levels. He said the employees are running scared because every time he tries to talk to one of them they say if they open their mouth, they are going to get fired. He did not know if this was disabale tactics or just a perceived fear of the employees. He said Jessie Frank and Springfield Place are self paying and are not a burden on taxpayers contrary to what some articles lead you to believe. Mr. Burke said he understood Council wanting to get out of the management and recommended putting it back under a Commission which would relieve that burden. He urged Council to vote no on the sale and appoint a Commission to oversee it take charge of it.

Mr. Waldrop said that Mr. Burke was a fine man and has worked hard in this community for a long time. He reminded Mr. Burke of the issues that have faced the nursing homes over the years. A while back, DHEC came in and found all kinds of problems and we had to pay out a substantial amount of money. Mr. Adams and Mr. Wicker confirmed a figure of around \$70,000.00. Mr. Waldrop said there is a big difference between gross and net and felt that if things did not turn around and in the event of any major maintenance problems, we will probably have to increase the millage to keep the facilities operating. In order for us to be competitive with other nursing homes, we cannot keep going up on the rates.

Mr. Hipp thanked Mr. Burke for coming tonight and sharing his concerns. All of Council will hear from both those in favor and opposed to the sale of the nursing homes. He said he was concerned about the statement that employees are fearful. We do not need employees being fearful anywhere in our system and can't imagine anyone on Council having done anything to make employees fearful to speak. If this has happened, he hopes it is perception and not fact. Mr. Hipp asked for clarification for those people already on the state retirement plan and going to a private plan. His understanding was they would not continue on the state retirement plan but they would not loose everything they have already accumulated; they would still have that.

Mr. Adams said that was correct. After five years, an employee is vested and earns a pension from that point forward unless they pull the money out voluntarily. The point is that they will not continue to earn state retirement credits under the new employer.

Chairman Livingston asked Mr. Henry Summer to the podium to speak.

Mr. Summer introduced himself and stated that he lived at 1903 Main Street. He briefed Council on a letter sent to him as well as to Council members from Dr. Plemmons, resident of Springfield Place, who shared his concerns about living in corporate nursing homes over the years and the high praises he has for his current home at Springfield Place. Mr. Summer stated that County Council can only control who buys JF Hawkins one time. A for profit organization can resell these facilities and there will be no local

control as to who the buyer would be or what type of care would be given to our senior citizens. He said he feels you will be playing Russian roulette with the senior citizens in this community. Even if the first buyer made promises, there is no guaranteeing that the second buyer would live up to it. These facilities currently accept Medicaid and a for profit organization might decide to do away with Medicaid program. These patients could be removed from the facility and placed in another facility somewhere else that accepts Medicaid. This would create a hardship on the families in Newberry who visit their parents regularly. Our parents suffered through the depression, fought and won WWII, worked hard, and frankly their tax money and our tax money helped pay for JF Hawkins. They kept their promises to us and it is unconscionable that we here tonight are talking about breaking our promises to our parents. It is wrong to balance your budget on the backs of our parents. If this is your plan, you need to sober up and stop the music and think further down the road in 2-4 years. Think of yourself at 80 or 85 and put yourself in their shoes. Selling JF Hawkins/Springfield Place is just wrong and also disrespectful and breaks the commandment "Honor your father and your mother". He said he leaves them with that to ponder come Sunday morning.

Chairman Livingston asked Kathy Montgomery and Glen Wicker to come forward and explain the priority given to Newberry County citizens.

Mrs. Montgomery said she did not do admissions but thought in the past they tried to always take care of the people of Newberry; however, she was not aware of a policy that existed where special treatment is given to the residents of Newberry County.

Chairman Livingston stated that it was his understanding that once we accept federal dollars we cannot give priority to Newberry County citizens.

Mrs. Montgomery said there is no policy that they give priority to Newberry County citizens.

Mr. Waldrop said his understanding is that you cannot just check yourself into a place. A medical doctor has to recommend that you be admitted to a nursing home.

Mrs. Montgomery said that a doctor does have to admit you to a nursing home.

Mr. Wicker wanted to clarify that they did have a fine of a little over \$70,000.00 and JF Hawkins paid that amount in monthly payments.

Chairman Livingston asked Representative Walt McLeod to the podium.

Rep. McLeod thanked Council for their hard work and dedication to the citizens of our County. He wanted Council to know that a friend of his who is 88 years old called him and wanted him to come see her and her 91 year old husband at Springfield Place. She talked with me about the matter on the agenda tonight and they are afraid for their future security. He said as a Legislature, the number one issue that he spends time on for people is jobs, better jobs, and promotions. The second biggest time intensive activity is talking

with people about their future security so he wasn't surprised to hear from a lady who is 88 years old. They said they were physically incapable of appearing before Council and presenting their point of view. There were 67 people who also signed a petition, incapable of appearing before Council, and they asked him to come before you and represent them. He distributed and read the following document on behalf of this group:

“Springfield Place, owned and managed by the Newberry County Government, provides excellent services for residents in skilled care, assisted and independent living. We currently have skilled and caring management and direct care staff. Springfield Place offers safe, comfortable and affordable care for the senior population that now calls it their home. We are expressing our concern about the County Council's proposal to sell Springfield Place to a for profit management company. Our specific fears are:

- We will lose our current managers and caregivers whom we have come to love and trust
- We will no longer have the quality of care that we currently receive.
- Fees will increase dramatically.

We want the County Council to understand that Springfield Place is our HOME and that we are fearful of losing the place in which we have chosen to spend our last years. We are signing this document to express our objection to the sale of Jessie Frank Hawkins/Springfield Place.”

Rep. McLeod said this is a very serious matter for you and for residents of Springfield and JF Hawkins and he will not comment about the cost or the debt service. His general point of view is that when a governmental entity has an asset, they need to think long and hard before eliminating that asset. If you are tired of operating it; think about leasing it, but don't give up your ownership. Once you do, there is never any opportunity to regain it. He said he understood the situation in which Council finds itself and thanked them for the opportunity and wished them luck.

Mr. Caldwell brought to Rep. McLeod's attention that there was a duplicate page attached to the petition so the actual number of signatures should be 57 instead of 67.

Rep. McLeod apologized for the oversight and stated that there were 57 signatures.

Mr. Koon commented to Mr. Summer and Rep. McLeod that all Councilmen received a letter from Mr. Plemmons and after he received it, he went out and visited with him for at least an hour and he hoped it made him feel better. He said he would be glad to visit with each of the 57 people on an individual basis if he could. Mr. Koon said that regardless of whether we sell the nursing home or not, he asked Mr. Plemmons if he could pay him a visit every once in awhile and he agreed.

Mr. Waldrop asked Rep. McLeod if he could encourage members of the SC House of Representatives to come up with a plan to increase taxes to keep the nursing homes in these counties operable instead of just using property taxes in the local area to do it.

Rep. McLeod said he would be honored to try. We do have a very high percentage of senior citizen population and we have a duty to be protective of them.

Mr. Waldrop said he cares for all the senior citizens in our County. There is a tough decision to be made and we have to try to find a way to make this work.

Rep. McLeod said the only thing he could add to this discussion is a simple one. If an organization is interested in acquiring this facility to generate a profit, they might be willing to think about doing it pursuant to a lease.

Chairman Livingston commented that Mr. Waldrop has asked a monumental task of Rep. McLeod because there are 196 nursing homes in the State of South Carolina and only 5 are County owned including the one in Newberry and he doubts the House members will try to support those 4 or 5 that are County owned.

Mr. Hipp said he appreciates what Rep. McLeod has done coming in and speaking on behalf of all these residents who couldn't come and speak for themselves. He said it has been reported that this is a done deal and that Council has already voted unanimously to do this. He wanted to report that we are going through the Ordinance process and have not voted unanimously. He said his vote is not counted until it is cast and is glad to see that we are going through this process and getting input from the public.

Chairman Livingston said since we are considering something that will impact the residents of nursing homes and recommends that we hold a forum or work session at the facilities where the residents could possibly attend. This will allow the residents to have some dialogue and discussion and we could share the information that we have with them if first reading is approved tonight.

All of Council agreed that it was a good idea to set up meetings at the facilities.

Chairman Livingston asked former Senator Jim Lander to the podium.

Mr. Lander thanked the Chairman and members of Council. He said he did not have much to add that has not already been said but he made a commitment to a number of residents at Springfield Place. He said one day when he is older, he and his wife Jolene plan to move to Springfield Place. They are comfortable with the way it is run with the current administration and with County ownership. The folks are concerned because they do not know what is going to happen. He said he did not know either and has learned some things here tonight. He promised these folks that he would come and make comments of support for the County to retain ownership and liked Rep. McLeod's suggestion of possibly leasing. One request that he has is that Jessie Frank Hawkins retains its name. We owe this much to the memory of the Senator and what he did in bringing Jessie Frank to existence. He said he hoped we were not using Bamberg County as a model to make decisions just because they are selling. The circumstances are probably considerably different down there. Newberry County has a great future and if

we had to increase taxes a mil or two that most of the citizens in the County would approve of it.

Mr. Koon stated that he did not know about the sale in Bamberg County until yesterday, so that was not a part of his decision to look at this. All of the concerns that have been expressed at the podium tonight have been discussed and will continue to be discussed throughout this process.

Mr. Hipp commented that there is a lot more investigation to be done before this process is over. We have two additional readings, a public hearing, and an opportunity to go out to JF Hawkins/Springfield Place. We will also have an opportunity to speak with those interested in purchasing these facilities which will give us additional information. There are still some questions about contractual stipulations that can be applied to a sale to limit things such as concerns expressed tonight like it being resold immediately. The new company will be properly vetted to make sure they can afford to purchase and maintain the facilities. With that said, he is willing to vote on first reading.

7. **Ordinance #08-21-10: An Ordinance for the purpose of selling the Jesse F. Hawkins and Springfield Place properties and transferring improvements and other personal property located on the two real estate parcels; to transfer the leasehold interest located at 1400 Camellia Avenue which is leased by Palmetto Health for hospice purposes; and to authorize execution of a purchase agreement with Madison Healthcare.**

Mr. Koon motioned to approve first reading of Ordinance #08-21-10; seconded by Mr. Stockman. The vote was unanimous.

8. **Ordinance #08-23-10: An Ordinance authorizing delivery by Newberry County of a Special Source Revenue Credit Agreement with Madison Healthcare Management, LLC or its designee and other matters related thereto.**

Mr. Baker motioned to approve first reading of Ordinance #08-23-10; seconded by Mr. Hipp. The vote was unanimous.

9. **Ordinance #08-24-10: An Ordinance authorizing the amendment of the agreement for development for Joint County Industrial Park executed on October 18, 1995, by and among Newberry County, South Carolina, and Fairfield County, South Carolina, providing for the development of a Joint County Industrial and Business Park so as to include additional property in Newberry County as part of the Joint County Industrial Park, and other matters relating thereto.**

Mr. Waldrop motioned to approve first reading of Ordinance #08-24-10; seconded by Mr. Hipp. The vote was unanimous.

Chairman Livingston asked members of Council for their approval to ask Mrs. Montgomery to come forward and see what would be a good time for Council to meet with the residents.

Mrs. Montgomery said she thought this was a good idea. They have tried to reassure staff and residents that they will get through this together and to be positive but there are a lot of questions; hearing from you would mean a lot more to them.

Chairman Livingston asked if the morning of September 8th would work for members of Council. It was decided that Council would meet with the residents of JF Hawkins at 10:00 a.m. and with residents of Springfield Place at 11:00 a.m. on September 8, 2010.

10. Consideration of Fire and Rescue Policy and Reporting – Debbie Cromer, Finance Director.

Mrs. Cromer reported that staff developed the original version of the policy and met with members of the Fire Departments and Rescue Squads on several occasions, made some minimal changes, and they are on board. This will be implemented in January of 2011. This has been approved by the Public Safety and Courts Committee as well as the Finance Committee and now would like Council's blessing to proceed.

Mr. Waldrop motioned to approve the Fire and Rescue Policy and Reporting; seconded by Mr. Baker. The vote was unanimous.

11. Appointments

Mr. Waldrop motioned to reappoint Mrs. Vina Abrams to the Central Midlands Council of Government Board; seconded by Mr. Baker. The vote was unanimous.

Chairman Livingston complimented Mrs. Abrams and stated she has been a long standing board member and very dedicated in her capacity and he was glad to have her back.

Mr. Koon mentioned that the Fairground Commission might need to be revisited to see if the need still exists to have this Commission. To his knowledge, all we do is rent the facility out and that decision is being made within the office and he wanted this to be brought up for Council to think about.

Chairman Livingston stated we should contact the members of the Fairgrounds Commission and see how they feel and give us some due diligence and time to check into this.

12. Committee Reports

a. Public Safety and Court Committee – August 23, 2010

Mr. Adams reported that the Public Safety and Courts Committee met on August 23, 2010 and considered the following items.

- The possibility of developing and presenting to Council proposed permit requirements concerning parades and gatherings.
- Air pack purchases requested by the Friendly Fire Department for next fiscal year.
- The appointments of Dale Crumpton and James Miller as Animal Control Code Enforcement Officers.
- The fiscal reporting policies for Fire Departments and Rescue Squads

Mr. Koon reported that the parking area at the Magistrate's Office at the old complex needed some attention and was discussed at the meeting as well. It has been put on the back burner for quite some time and when they hold court cars are parking on both sides of the road and this needs to be looked at.

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

Chairman Livingston stated that all public comments have already been addressed.

14. Vote for Executive Session, When Necessary

No vote for Executive Session

15. Executive Session

No Executive Session

16. Necessary Action on Matter Discussed in Executive Session

No Action

17. Comments from County Administrator

No comments

18. Comments/Requests from Council Members

Mr. Hipp stated that he had received a complaint/concern about fire trucks traveling on Main Street with the amount of pedestrian traffic. There might be another route where the trucks can by-pass the City to avoid having a pedestrian accident during a fire response. This is a safety issue that we might want to address with the committee in charge of fire protection.

Mr. Caldwell stated he did not have a problem with the fire truck going down Main Street if that is the most direct route and the quickest way to get there.

Chairman Livingston thanked all of the people who came out tonight and spoke.

19. Future Meetings

- a. County Council – September 15, 2010 @ 7:00 p.m.
- b. Personnel and Intergovernmental Relations Committee -
September 20, 2010 @ 6:00 p.m.
- c. County Council – October 6, 2010 @ 7:00 p.m.

Chairman Livingston invited those who were interested to attend the nursing home meetings on September 8, 2010

20. Vote to Adjourn

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

21. Adjournment

Chairman Livingston declared the meeting adjourned at 8:40 p.m.

NEWBERRY COUNTY COUNCIL

Henry H. Livingston, III Chairman

APPROVED:

Laurie N. Renwick, Clerk to Council