

**NEWBERRY COUNTY COUNCIL
MINUTES
SEPTEMBER 15 2010
7:00 p.m.**

Newberry County Council met on Wednesday, September 15, 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.

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

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

1. Adoption of Consent Agenda

Mr. Baker noted an error on the July 29th minutes on the motion and second of agenda item #2 but stated Mrs. Renwick has already corrected the original to be signed by the Chairman.

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

2. Additions, Deletions and Adoption of Agenda

Chairman Livingston recommended moving agenda items #7, #8, and #9 to the top of the agenda. He said Bob Norcross, CEO of Prestige Healthcare, was in attendance to address these items and needed to leave as soon as possible. We also need to add Resolution #06-10 as agenda item #10a which is in reference to the Whitmire Library grant.

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

Chairman Livingston stated that we will now have public comments for those who have signed up regarding the nursing homes giving them the opportunity to speak before Council votes on these items.

Chairman Livingston asked Mr. Henry Summer to the podium.

Mr. Summer introduced himself and stated that he resided at 1903 Main St. He thanked Council for the opportunity and commented that it has been said in the past that the nursing homes have been a losing operation. He passed out some material to members of Council to show that this is not the case. He referred Council to page one of the handout and said this information was retrieved from the audited financial statements that are posted on the internet. He said the cash flow from operations at JF Hawkins and Springfield Place from 2003 through 2009 added up to a positive cash flow of \$1,954,743.00. In addition to the positive cash flow, \$4,153,966.00 of interest was paid. Even after paying interest, they still operated in the black generating \$1.9 million in cash flow from operating the facilities.

Mr. Summer said the next page shows a total of \$1,525,599.00 paid in principal, and property and equipment bought during this time totaling \$592,359.00.

The last page compares the financial statements of 6/30/03 to 6/30/09 and reflects the following: Cash went up by \$450,383.00; restricted cash went up \$1,011,300.00; and they were able to pay on bonds totaling \$1,480,152. These are the financial operations of the facilities showing that it is doing quite well.

Mr. Summer distributed another handout to Council members and mentioned that the newspaper and radio reported the selling price of these facilities at \$11,300,000.00 with some tax incentives given to the buyers over the first 10 years in the amount of \$2,041,000.00. He reported that the insured value of the buildings being sold is \$18,400,000.00; a lot on Wilson Road valued around \$180,000.00; 30 acres of land in the City of Newberry, including roads and parking lots, at a cost of \$2,300,000.00; and \$216,715.00 for the depreciated value of equipment (10% of cost) that is in the facilities right now. He said after adding these figures up, you have a total of \$21,096,715.00 worth of stuff that is being sold for \$11,300,000.00. He closed by thanking Council for their time.

Chairman Livingston asked Mr. George Burke and Mr. Mike Keim to the podium to which they both responded that Mr. Summer addressed the same concerns they both have and they had nothing more to add.

Chairman Livingston asked Mr. Bob Norcross if he would like to address these comments.

Mr. Norcross introduced himself as CEO of Prestige Healthcare and stated that he will address some of these concerns. He said he did not doubt any of the numbers as far as the value of \$21 million based on land, equipment, and original purchase price but as far as the projected cash flow from 2003-2009, he would have to look at those numbers. He said he did not know all of the information available on the internet but he has looked at the cost reports and the operation of these facilities. What shows on paper and what is collected vs. cost report take backs, penalties and fines, and the County's expense to maintain the grounds, he did not think the number would add up to exactly that.

Mr. Norcross said companies look at it differently; some go on a per bed amount and take a look at the net operating income (NOI) loss or gain. When we look, we don't necessarily look at per bed, especially on a continuing care retirement community. We look at the last 2-3 year financials; include adjustments we will make and what we believe we can operate at.

Some of the adjustments we will make deals with staffing. The current staffing is extremely tight and difficult to manage and we will increase staffing. We need to also look at refurbishing. A lot of people he spoke with felt that Springfield Place is the pet project and JF Hawkins is the step-sister and we kind of agree with that. There is a lot that needs to be done at JF Hawkins and we have put that into our numbers.

Mr. Norcross commented that he has been in a nursing home since he was 16 years old and this is all he has ever done. He said he trains nurse aids voluntarily every year through a faith based CAN course. If you want a reference, you can call Sister Mary John at St. Augustine in Indianapolis where he has graduated 144 nurse aids through there. He said he has done maintenance, licensed practical nursing, registered nursing, Director of Nursing, Administrator, etc. Newberry has a very viable campus today but typically counties do not run nursing homes and by the time they figure it out, they are way under valuation. What they owe vs. what they can get, make it hard to move them. . He said he has spoken with employees at both facilities and they will tell you that additional training and systems are needed. There are changes coming that will affect Medicare, Medicaid, cost reports and therapy. Changes to reimbursement and regulation systems go into effect October 1st. There are many payer sources coming into the market which take a lot of expertise in billing and collecting. Adding all of this together, there is no way the county can oversee that. The staff is good but they need a lot of oversight, education, training, equipment, upgrades and strategic planning to maintain that, just like the 17 other facilities we own.

Mr. Norcross said members of Council went unannounced to three of their facilities and he thought it was great. They looked around and spoke to residents, staff, and other individuals to see what the people that receive the care and give the care thought of their management. They came back very impressed by what they saw and heard. We are a very good company and we do things the right way. All of our Tennessee homes got desk reviews in the last survey cycle and they have put over 3 million dollars in capital improvements in the last two years alone and will continue to do that. He stated he is very

positive about what they can do. He said it is when people are not vocal that bad nursing homes exist. The community needs to watch and hold people accountable and he encourages people to listen closer, harder, and longer about what is being said out of the nursing homes. You should be very proud that you have these facilities; a continuing care community which is nice for the County. He said he understands that they have to do an excellent job with this and he absolutely believes they will. The more vocal you are and the more you demand out of them is good and he is OK with that. He said he appreciated the opportunity to speak and was available to answer any questions.

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, LLC or its designee.

Mr. Baker motioned to approve second reading of Ordinance #08-21-10; seconded by Mr. Koon.

Chairman Livingston asked if there was any discussion.

Mr. Hipp shared that he has said all along he would not continue to support this process unless he felt the patients and employees were adequately protected contractually. He received a copy of the initial contract today but it did not include the details on some of the issues Council talked about in Executive Session at Springfield Place. He said at this time, he will not continue to support this until some of those details are resolved.

Mr. Waldrop asked Mr. Summer to come back to the podium to answer some question.

Mr. Waldrop asked Mr. Summer if he remembered when the situation arose at Springfield when they did away with the Board and the County took over these facilities.

Mr. Summer said Mr. Lominack was the County Administrator so it had to have been before 2002. He could not remember the exact year.

Mr. Waldrop stated that the figures Mr. Summer presented looked pretty good but from his recollection in 2002, it did not look this good. We had to borrow quite a sum of money.

Mr. Summer said when the County first took it over payroll taxes had not been paid, money to the retirement system had not been made, and they could not meet payroll so we started off in a big hole.

Mr. Adams commented that Mr. Summer mentioned a million dollar restricted fund and asked if there were any notes in the audit on what this was for.

Mr. Summer said he thought this was part of the bond agreement.

Mr. Adams stated that he has a bond cushion fund figure of \$1,055,895.00 which exists entirely to protect the bond holders that the County cannot access.

Mr. Summer said between \$600,000.00-\$800,000.00 of interest was paid per year from 2003-2005. When the County refinanced the debt, that interest went from around \$700,000.00 to \$400,000.00 a year which freed up some money and made the facilities viable from a cash flow standpoint. Until it was refinanced, it was touch and go.

Mr. Adams commented that the million dollars restricted is not money that can be accessed to which Mr. Summer responded that he was correct.

Chairman Livingston added that there was a \$450,000.00 gift that could have increased the cash flow during this period of time.

Mr. Baker said he did not see any deductions on what the County owes included in the figures Mr. Summer gave that totaled 21 million.

Mr. Summer said his understanding is that the County owes a little over \$10 million dollars. He said he assumed that the people buying the facilities are not going to assume that debt and the debt will have to be paid.

Mr. Adams stated that what the County shows over the past 5 years is the cash and equivalent or unrestricted cash, typically amounts to about 25% of the current liabilities. You will get a solid one quick ratio so there are some financial strains and marginal in terms of paying its bills.

Mr. Summer reported that over the past 7 years it has still generated a positive cash flow of 1.9 million.

Chairman Livingston said that would equate to around \$279,000.00 a year.

Mr. Summer stated that was about right; some years it was up and some years it was down.

Chairman Livingston thanked Mr. Summer for doing his homework and for his input.

Mr. Hipp wanted to clarify that his comment about not voting in favor of second reading is again contingent to the contractual details that can be worked out with any purchaser. He said he is not opposed to the purchase but he is opposed at this time without those details already being resolved.

Chairman Livingston shared that there will be a public hearing and third reading before that has to be detailed out.

Having received no further discussion, the vote to approve second reading of Ordinance #08-21-10 passed 6-1, with Mr. Hipp opposed.

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 second reading of Ordinance #08-23-10; seconded by Mr. Stockman. The vote passed 6-1, with Mr. Hipp opposed.

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 second reading of Ordinance #08-24-10; seconded by Mr. Stockman. The vote passed 6-1, with Mr. Hipp opposed.

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.**

Chairman Livingston declared this the public hearing for Ordinance #08-18-10.

Having received no comments, Chairman Livingston declared the public hearing closed.

Mr. Hipp motioned to approve third reading of Ordinance #08-18-10; seconded by Mr. Koon. 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 and other matters relating thereto.**

Chairman Livingston declared this the public hearing for Ordinance #08-19-10.

Having received no comments, Chairman Livingston declared the public hearing closed.

Mr. Koon motioned to approve third reading of Ordinance #08-19-10; seconded by Mr. Hipp. 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 containing forty-eight hundredths (0.48) acres designated as TMS Parcel No. 404-19, the other parcel containing three and forty-five thousandths (0.345) acres designated as TMS Parcel No. 404-04 from Single Family Residential (RS-1) to General Commercial (GC).**

Chairman Livingston declared this the public hearing for Ordinance #08-20-10.

Chairman Livingston invited Mr. Richard Horton to the podium.

Mr. Horton introduced himself and stated he resided at 138 Deer Trace Lane and was representing his wife who was requesting the rezoning. He was available to answer any questions.

Having received no additional comments, Chairman Livingston declared the public hearing closed.

Mr. Hipp motioned to approve second reading of Ordinance #08-20-10; seconded by Mr. Baker. The vote was unanimous.

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).**

Chairman Livingston declared this the public hearing for Ordinance #08-22-10.

Chairman Livingston invited Mr. David Souder to the podium.

Mr. Souder stated that he would let anyone who is opposed to the rezoning speak first so he could answer any questions they might have.

Chairman Livingston asked if there was anyone in attendance opposed to this rezoning.

Ms. Dianne Turner introduced herself and stated she resided at 3263 Nance Street. She read Council a statement she prepared about her thoughts and concerns on the proposed rezoning. (Attached and part of the official minutes.)

Mr. Souder, owner of the property to be rezoned on 1733 Quaker Road, said he would like to address the environmental issue. The disposal of all waste products on his property has been handled. The oil is being handled through the county's recycling center and the scrap iron is taken over to Carolina Scrapyard twice a year. He said he has a well and septic tank which should have no influence on county water or sewer. Since 1995, his employees have cut the frontage on Ms. Turner's property and other neighbor's property to keep it neat to prevent people from throwing trash out there. He said his intentions were to allow his daughter to have a home on the property and found out with the present zoning it was not possible. His hands are completely tied because he cannot put up a fence, a shed, a buffer, or a home. If I decided to rent the building out, another business will not be allowed to come in under the current zoning as anything other than a lawn mower shop. Unless the property is rezoned, he can not do anything else with it. Mr. Souder said that Ms. Turner's parents live 1 ½ miles from his facility and some of the other issues Ms. Turner has addressed do not exist. We have tried to maintain a community active business and we are inspected to a higher standard than most lawnmower shops. He said Lowe's and Wal-Mart send a representative every year to inspect his facility to make sure that he is maintaining a neighbor friendly facility for everybody.

Mr. Koon asked Mr. Souder if he has ever received any violations from DHEC or OSHA or any other governmental agency.

Mr. Souder stated that he has not. OSHA has been in his business and inspected everything that he has out there and he has received no violations.

Mr. Waldrop asked Mrs. Peters to come forward and explain why he cannot put a buffer on his property.

Mrs. Peters stated that Mr. Souder could put up a perimeter fence but current zoning would not allow him to put any other structures.

Mr. Caldwell asked Mrs. Peters why this would not be allowed.

Mrs. Peters stated that non-conforming use means that you can continue doing what you were doing prior to zoning being adopted but you are not able to enlarge it. Putting up another structure would be considered enlarging or changing it.

Mr. Hipp asked Mr. Souder who owned the property immediately contiguous to the left of his property if you are on Dennis Dairy Road and facing his property.

Mr. Souder said that was David Winchester's property and Ms. Turner owns 10 acres behind his property which is all agricultural.

Mr. Stockman asked Mr. Souder how long he has been in business.

Mr. Souder said he has been in business in Newberry County since 1989. We started out in the City and moved to our present location in 1995.

Ms. Linda Werts of 1108 Amelia Street came to the podium and asked how long his business has been non-conforming. It was her understanding that non-conforming would be that he had no authority to have the business.

Mrs. Peters said that was not correct and non-conforming means that the business was in existence before zoning was adopted in 2001 which would allow him to continue as is with no changes.

Ms. Werts encouraged everyone go out and take a look at the area and what is going on out there. This is not going to be an improvement to the area.

Having received no further comments, Chairman Livingston declared the public hearing closed.

Mr. Koon motioned to approve second reading; seconded by Mr. Baker.

Chairman Livingston asked if there was any discussion.

Mr. Koon said he was going to vote for this to move forward to third reading and asked Ms. Turner to give Council a copy of her concerns so they can look into them before they make their final decision.

Mr. Caldwell suggested that members of Council who had not looked at the property to do so. One picture is worth a thousand words.

Mr. Hipp asked Mrs. Peters to look at the use as it conforms to the current codes on the property immediately adjacent and to the left of this property.

Mrs. Peters stated that letters were mailed out this week to that property owner and some other property owners in the area who have some major violations.

Having received no further discussions, the vote to approve second reading of Ordinance #10-22-10 was unanimous.

10. Resolution #05-10: A Resolution to commission Code Enforcement Officers for Newberry County pursuant to the authority granted in Section 4-9-145 of the Code of Laws of South Carolina, 1976 as amended.

Mr. Waldrop motioned to approve Resolution #05-10; seconded by Mr. Hipp. The vote was unanimous.

10a. Resolution #06-10: A Resolution to provide local match for the Whitmire Library expansion Community Development Block Grant (CDBG) application.

Mr. Baker motioned to approve Resolution #06-10; seconded by Mr. Stockman. The vote was unanimous.

11. Consideration to accept high bid from John r. Frazier for timber harvest on 13 acre County owned tract of land located on Highway 34 (future Public Works Complex Site).

<u>Vendor</u>	<u>Amount of Bid</u>
• Mark Vedder	\$ 14,199.00
• Palmetto Pulpwood & Timber	\$ 10,160.00
• John R. Frazier	\$ 27,634.00
• Heritage Land & Timber	\$ 20,150.00
• CK Doolittle	\$14,238.00

Crystal Waldrop, Purchasing Director, reported that the range of bids accepted were from \$10,000.00 up to \$27, 634.00 with the high bid coming from John R. Frazier. This is for the clear cutting of 13 acres where the proposed Public Works facility will be and is all that will be cleared at this time.

Mr. Hipp motioned to accept the high bid; seconded by Mr. Caldwell.

Chairman Livingston asked if there was any discussion.

Mr. Baker asked Mr. Nash if everybody was looking at the same property.

Mr. Nash said this is for the 13 acres that is going to be clear cut where the complex will actually sit. There will be separate bids for the thinning of the larger parcel at a later date and should be considerably more than this.

Mr. Baker said he asked just based on the variance in bids.

Mr. Nash stated that bidders were required to contact them for visits so they could be made aware of the required buffers and boundaries. A County representative was with them to show the property and make this very clear.

Mrs. Waldrop shared that Mr. Frazier visited the tract on several occasions.

Having received no further discussion, the vote to accept the high bid of \$27,634.00 from John R. Frazier was unanimous.

12. Appointments

No appointments

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

Mr. Tom Crooks of 759 Hughey Ferry Road said he just had a general comment. He stated he has not attended very many meetings since the finalization of the one cent sales tax but he has kept track of things by the newspaper. He said he has read some good questions and seen some good comments made by Mr. Stockman, Mr. Hipp and Mr. Koon and wanted to commend them and encourage them to keep it up. He said it seems to him that they are serving on County Council for the right reasons and he was glad they were willing to serve. He said he was not trying to leave out Mr. Baker or Mr. Livingston, but they were not elected to replace one of the magnificent seven that tried to pillage Newberry County for some time.

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

Mr. Adams reported that the renovations on the agricultural building should be finished by the end of this month. We will then turn our attention to the Courthouse basement.

18. Comments/Requests from Council Members

Mr. Baker said he would like to ask Mr. Adams if he would contact Mr. Ervin West to provide an update at least monthly on the status of all projects and where we stand.

Mr. Koon commented that as we move forward with the decision to sell our nursing home facilities, he hopes the citizens of Newberry County know that Council is going to work hard to look under every rock and turn over every leaf to try and make sure that the folks that live there will be cared for as well as they can possibly be cared for.

19. Future Meetings

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

- c. Public Hearings on sale of JF Hawkins/Springfield Place properties
– October 6, 2010 @ 7:00 p.m.
- d. County Council – October 20, 2010 @ 7:00 p.m.

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 7:55 p.m.

NEWBERRY COUNTY COUNCIL

Henry H. Livingston, III Chairman

APPROVED:

Laurie N. Renwick, Clerk to Council