

**NEWBERRY COUNTY COUNCIL
MINUTES
OCTOBER 15, 2008**

PRESENT: Mr. Henry Summer, Chairman
Mr. William D. Waldrop, Vice Chairman
Mr. John E. Caldwell, Councilman
Henry H. Livingston, III, Councilman
Edgar Baker, Councilman
Mr. John David Dawkins, Councilman
Mr. Mike Hawkins, Councilman
Mr. Wayne Adams, County Administrator
Mr. A.J. Tothacer, Jr., County Attorney
Laurie N. Renwick, Clerk to Council

PRESS: Heather Hawkins, WKDK
Cindy Pitts, Newberry Observer

The meeting was duly advertised as required by law.

Mr. Summer called the meeting to order and determined a quorum present.

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

1. Adoption of Consent Agenda.

Mr. Adams briefed Council on the two Resolutions on the Consent Agenda. Resolution #15-08 appoints eight specified County employees as Code Enforcement Officers. Once adopted by Council, they will receive their ticket books as soon as they are sworn in by a Magistrate. They will write citations for infractions such as building code violations, and animal control ordinance violations. Resolution #16-08 establishes a non-objection position for the County in court proceedings relating to closing the never developed subdivision roads in the Outback on Lake Murray.

Mr. Baker moved to approve the Consent Agenda, second by Mr. Waldrop. Vote was unanimous.

2. Additions, Deletions, and Adoption of Agenda.

Mr. Summer asked to move agenda item #8, Resolution #17-08, to agenda item #2A.

Mr. Dawkins asked for a short Executive Session on a contractual matter concerning the leasing of County property.

Mr. Hawkins moved to approve the Agenda as Amended; second by Mr. Livingston. Vote was unanimous.

2A. Resolution #17-08: A Resolution authorizing the issuance and sale of a Newberry County, South Carolina, Special Source Revenue Bond Anticipation Note (Mid-Carolina Commerce Park, Phase 1 Project), Series 2008, in the principal amount of not to exceed \$1,500,000; providing for the application of the proceeds of said note; and other matters relating thereto.

Ms. Francenia B. Heizer, Esquire, updated Council that approximately a year ago they authorized the issuance of a Special Source Revenue Bond Anticipation Note in the amount of \$1.2 million for improvements to the Mid Carolina Commerce Park, Phase 1. A Bond Anticipation Note is a short term debt that has to either be paid off or renewed in not more than one year. She informed Council that we were coming up on the anniversary of the Bond Anticipation Note due at the end of October. She stated that when Council adopted the Ordinance authorizing the initial Bond Anticipation Note, you made it clear that you could authorize an extension or a rollover of that note by Resolution. Mr. Heizer said that Newberry had been fortunate that they received a million dollar grant for this project from the EDA, and availability of the proceeds of the grant will reduce the total amount of the Special Source Revenue Bond that will be needed. Instead of financing 1.5 million you probably only need \$500,000 of Special Source Revenue Bond Indebtedness. Ms. Heizer asked Council to consider Amending the Resolution to authorize a Bond Anticipation Note in the amount not to exceed \$500,000. She also informed Council that if additional money is needed to supplement the grant, you can still borrow an additional amount of Special Source Revenue Bond but would come back to Council for another Resolution for that purpose. Ms. Heizer suggested that Council place this note with BB&T because they are the bank that has the County's senior debt for the Special Source Revenue Fee Stream and they are willing to work with the County.

Mr. Summer verified with Ms. Heizer that this bond does not count against the bond indebtedness of the County and that Fee in Lieu of from the Multi-County Park will be the source of paying for this.

Mr. Waldrop asked if there would be any prepayment penalty.

Ms. Heiser said that partial payment can be made at any time without penalty.

Mr. Hawkins moved to approve Resolution#17-08 as Amended; second by Mr. Dawkins.

Mr. Summer asked if there was any discussion.

Mr. Livingston gave thanks to those who went to Washington and negotiated with Senior Representatives to get the million dollar grant.

Having received no other discussion; All were in favor of approving Resolution #17-08 as amended. Vote was unanimous.

3. Ordinance #09-29-08: An Ordinance amending §153.148 of the Newberry County Code of Ordinances to allow for the limited use of recreational vehicles in the RS1-A Zoning District, and to make such other amendments to chapter 153 of the Code of Ordinances, commonly known as the “Zoning Ordinance”, as may be necessary to incorporate such new regulations

Mr. Summer declared this the Public Hearing.

Mr. Summer asked Mr. Al Cullen to the podium.

Mr. Cullen introduced himself as the current President of the Summerset Bay POA. He spoke on behalf of the POA to thank everyone within Newberry County Government for their individual and collective efforts towards a negotiated settlement to an issue that was difficult for both sides of the RV use issue. He stated he was confident that there are things in the proposed ordinance that are liked and disliked no matter which side someone might support. He commended the Newberry County Government team for their diligence and cooperative attitude in making this happen.

Mr. Waldrop moved to approve second reading; second by Mr. Livingston. Vote was unanimous

Mr. Adams asked the Chairman if he could make a few comments on agenda items #4 & #5. Mr. Adams stated that we had intended to have Public Hearings on both of these items tonight but for some reason the Public Hearings were not advertised in the newspaper. Letters were sent to affected property owners that the Public Hearings had been postponed to the next meeting on November 5th. In case there are some people here to speak on these issues, he asked the Chairman to let them speak.

4. Ordinance #09-30-08: 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 two (2) acres portion of a tract containing a total of 8.34 acres designated as TMS Parcel No. 335-24, from limited commercial (LC) to light industrial (LI).

Mr. Summer asked if anyone in attendance wanted to speak on this issue.

Having received no comments, Mr. Baker moved to approve second reading; second by Mr. Caldwell. Vote was unanimous.

5. Ordinance #09-31-08: 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 two (2) acres portion of a tract containing a total of five (5) acres designated as TMS Parcel No. 617-3, from rural (R2) to limited commercial (LC).

Mr. Summer asked if anyone in attendance wanted to speak on this issue.

Having received no comments, Mr. Baker moved to approve second reading; second by Mr. Dawkins. Vote was unanimous.

6. Ordinance #09-32-08: An ordinance amending section 91.33 of the Newberry County Code of Ordinances, commonly known as the criteria for acceptance of new roads into the County road system.

Chairman Summer asked Mr. Adams to update Council on this item.

Mr. Adams stated that this ordinance creates an exception in Section 91.33 G3 of the Code of Ordinances allowing unpaved roads be accepted into the County road system condition upon developers providing satisfactory evidence to Council that the roads were constructed between July 2, 2003 and July 31, 2007 and that the roadway was constructed with the intent of having it placed in the County road maintenance system.

Mr. Summer asked if anyone had any question of the Administrator

Mr. Waldrop said that the Road Committee met this afternoon and stated that this was pertaining to the next item on the agenda. He asked Mr. Tothacer, County Attorney, if Council went along with this would we be changing the ordinance on all roads.

Mr. Tothacer said it would not make a change from this day forward but would only apply to roads that might be eligible for consideration between 2003 to 2007, the dates stated in the ordinance.

Mr. Waldrop asked Mr. Dawkins if he would explain why Council would want to do this.

Mr. Dawkins stated that amending this ordinance would allow for agenda item #7 to come before Council requesting that Glade Springs Road be taken into the County road system. He stated that agenda item #6 did not pertain to a particular road.

Mr. Waldrop stated that his recommendation as Chairman of the Road Committee was not to change our road ordinance at this time.

Mr. Hawkins said that he has always been in favor of taking in roads as long as they are built to County specifications. Requiring them to be paved is pricing the lots out of reach for a lot of our citizens. He has been consistent throughout the years and has never voted that a road be paved before we accept it into the County system. He is favor of this change in the ordinance.

Mr. Baker said he was not in favor of it. He stated we should not amend the ordinance that we have requiring that roads be paved before they are taken in. He said by accepting gravel roads will be at the taxpayers expense to get them paved.

Mr. Hawkins moved to approve second reading, second by Mr. Dawkins.

All in favor of approving second reading were Mr. Summer, Mr. Caldwell, Mr. Livingston, Mr. Dawkins, and Mr. Hawkins.

Opposed to approving second reading were Mr. Waldrop and Mr. Baker

7. Ordinance #09-33-08: An Ordinance to accept Glade Springs Road into the County Public Road System, to be maintained as are all other County maintained roads, and matters relating thereto.

Mr. Dawkins moved to approve second reading; second by Mr. Hawkins.

Mr. Summer asked if there was any discussion.

Mr. Waldrop said that the Road Committee met this afternoon and recommended that Glade Springs Road not be taken into the County maintenance system at this time. It would be very costly to take it in and it was intended to be a private road. This is a gated community and the property owners were responsible for maintaining the road. The developer has decided for some reason that he is not going to take care of the road.

Mr. Livingston asked why the Road Committee did not want to accept Glade Springs Road.

Mr. Waldrop stated that it was written in the covenants that the developer was to maintain the road. All of the property owners agreed when they bought their property to help maintain the road. He said that putting a little gravel on the road will cost around \$20,000, and felt with the economy like it was that this was too costly a project for the County.

Mr. Whitehead, Public Works Director, stated that the former Public Works Director, Mr. Ron Lily, was approached by the developer Mr. Bill Steele. Mr. Lily had approved what had been done in 2004 to Glade Springs Road. The road was deeded with a 66 ft. right of way. The developer set up covenants, easements and restrictions. The lot owners, as stated in the covenants, were responsible for maintaining the road up to standard. Mr. Whitehead stated that the road at the present needs a lot work and there was no DHEC permit on this road. Taking all of this into account, he could not recommend that this road be taken into the County system. He feels it is too much of a liability for Council to accept this road in its present condition. Mr. Whitehead said that it is stated in each homeowner's deed that this is a private road and that they will pay to maintain it. In Mr. Whitehead's opinion, Glade Springs Road does not meet the County standard for acceptance.

Mr. Waldrop thanked Mr. Whitehead for the information he provided to Council concerning Glade Springs Road. He stated that he would not have a problem accepting this road if the Steele family would bring it up to County standards.

Mr. Summer asked if anyone had any questions for Mr. Whitehead.

Mr. Hawkins wanted an update on the Lever Chapel Church Road.

Mr. Whitehead said that Lever Chapel Church Road was a very curvy, one lane, dirt road leading to a Church. He stated the previous attorney, Mr. Pope, was looking into right of way ownership. Since Mr. Pope has left, he was not certain of the status of Lever Chapel Church Road.

Mr. Hawkins stated that he had been inquiring about Lever Chapel Church Road for eight years and hoped that Council could do something for those folks before January.

Mr. Dawkins stated that he respectfully disagreed with the opinions of the Public Works Director, Mr. Whitehead. To say that there was no DHEC permit on Glade Springs Road or weather a permit was even requested, he questioned if Mr. Whitehead had spoken with DHEC.

Mr. Whitehead said he had spoken with Mr. Wilson, an inspector at DHEC, and he will be giving Mr. Steele a call due to that road not being permitted.

Mr. Dawkins asked if Mr. Whitehead had called DHEC after the Road Committee Meeting this afternoon.

Mr. Whitehead stated he did not call after the Road Committee Meeting. He called Mr. Wilson yesterday and again this morning.

Mr. Dawkins said that Mr. Whitehead had stated in an earlier meeting that he did not know if a DHEC permit had been requested.

Mr. Whitehead said that he did not know if there was a permit requested but he knew there was not a permit. He stated that DHEC did a cursory search on their computer from 2000-2008 to see if a permit had been issued in the name of Mountain View Estates or Bill and Louise Steele and they found neither.

All in favor of approving second reading were Mr. Summer, Mr. Caldwell, Mr. Livingston, Mr. Dawkins, and Mr. Hawkins

Opposed to second reading were Mr. Waldrop and Mr. Baker

8. Resolution # 17-08 – Moved to agenda item # 2A. See page 2.

9. Committee Reports:

No Committee Reports

10. Appointments:

No Appointments

11. Agreement in Principle between the County of Newberry, Town of Prosperity, Jerald Drafts, and John Bedenbaugh

Mr. Adams stated that this agreement pertains to 1.5 acres on McNeary Street in Prosperity, SC. The Town of Prosperity would like to enter into an agreement with Newberry County to convert this parcel into a parking lot. There are a couple of relevant issue; one pertaining to closing of a road that runs across the property and another issue of an existing storage building on the property that is leased to the Town of Prosperity and they would assign that lease over to Newberry County. This agreement addresses these issues. The agreement is to construct a non-paved parking lot that will be cleared, graded and stone put down at this time.

Mr. Dawkins stated that this property is located where the old water tower stood next to the Prosperity Fire Station. He said that the Town of Prosperity purchased a piece of this property from a private party, Mr. Jerald Drafts, and paid \$6,000.00, and in return is deeding it to Newberry County in hopes that the County will improve the parking lot.

Mr. Caldwell asked how many parking spaces the parking lot would have.

Mr. Dawkins said that his guess would be approximately 50 parking spaces.

Mr. Caldwell wanted clarification that the Town of Prosperity did not want the parking lot to be paved, and did Mr. Dawkins think that they would want in paved in the near future.

Mr. Dawkins stated that the Prosperity Fire Station has no parking except for the five spaces in front of the building. This was intended to be parking for the Fire Station but the Town of Prosperity decided to buy additional property to be used for public parking to help out the merchants of the town as well as the Fire Station.

Mr. Caldwell asked would this be free parking.

Mr. Dawkins said that it would be free parking.

Mr. Baker informed Council that he looked at this property and noticed four large foundations that were under the old water tower and a pit that was in the ground. He said that he could find nowhere in the agreement that made reference to the cost associated with tearing these foundations down, building the parking lot, or putting the rock down.

Mr. Adams stated that he was informed that the pit would remain on the property. There is a platform around the pit and this would not be a part of the parking area. The bollards

would have to be dug up. Mr. Adams asked Mr. Whitehead if he had any idea how far in the ground they went.

Mr. Dawkins stated that they could not be dug up. They were the footings for the water tower and were 20-24 feet in the ground. He said presently they are 6 inches above the grade for the parking lot and would have to be chiseled down about a foot putting them 6 inches below grade. Mr. Dawkins stated the County got bids at the time the Fire Station was being built to do away with all four of the footings. Griffin Explosives quoted \$1,200.00 to remove all four of the footings.

Mr. Baker said that they could be taken out with a demo hammer on a bobcat or a track hoe.

Mr. Caldwell stated that maybe we needed to look at Parliamentary Procedure as to the way we should conduct business. He said that the Chairman was going to recognize Mr. Whitehead when Councilman Dawkins came in, and then Mr. Baker came in. He stated that if we are representing the public properly, we should conduct these meetings according to Parliamentary Procedure.

Mr. Summer asked Mr. Whitehead, Public Works Director, if he could shed some light on this issue.

Mr. Whitehead stated that he met with Mr. Dawkins and Mr. Adams at the site of the parking lot and there are four large footings as described. Mr. Whitehead said that it would take a lot more than a chisel. If a man only wanted \$1, 2000.00, blow them up. Mr. Whitehead stated that the County has no backhoe with that type of fixture on it. He said Mr. Dawkins had a friend that would let us borrow one for a cost of \$10,000.00 and if we broke it we would have to pay him. Mr. Whitehead stated that Mr. Adams had mentioned that we might want Alliance Engineering take a look at it and see what we were taking in as a County. Mr. Whitehead stated that they had taken some gravel down to this site to help with the parking issue and when he saw the footings and the potential problems, they backed away from it. He said they can grade and put down gravel but do not have the machinery to take the footings down to where they need to be.

Mr. Summer asked if anyone had any questions for Mr. Whitehead.

Mr. Waldrop stated that he was not in the construction business but thought we could rent an air hammer and did we have anyone who could operate one.

Mr. Whitehead said that they had checked on that. It cost about \$200.00 per day from Clinton Newberry Rental with a front end bobcat. He said that it took two weeks with a similar machine to take down a freezer fault at McDonalds and felt the footings would be more difficult and probably take longer. He said again that if the County were to break the equipment we would be responsible.

Mr. Dawkins told Mr. Whitehead again that Mr. Griffin gave a bid of \$1,200.00 to get this done. He also stated he did not appreciate the sarcastic comments about the chiseling and he could address Mr. Adams about why he suggested Alliance take a look at it.

Mr. Whitehead said there is some piping under the property that leads to the pit with valves and the valves control lines somewhere. He had spoken with the Prosperity Public Works Director, Mr. Fred Sexton, and he said the lines were not active. Mr. Whitehead said he is assuming there is nothing active on those lines. He didn't know for sure.

Mr. Adams stated his concerns were about the pit primarily and he was not an expert on the difficulty of removing the footings. He stated that there had been one proposal that the footings could be removed for \$1,200.00 by blasting them, so he presumes that is the most we would have to pay.

Mr. Dawkins said that the bid was about a year old.

Mr. Whitehead stated that he felt the County should jump on that \$1,200.00 and he may have it in his budget and would be glad to help with it.

Mr. Dawkins stated that he felt Mr. Whitehead needed help with his attitude.

Mr. Whitehead stated that if the County could get them blasted out for \$1,200.00 that would be a good price. He was familiar with Mr. Griffin's work as an explosion expert, and he would probably use a black power and drill it to set the charges to crack it and move it.

Mr. Hawkins stated that if this was a one reading resolution, he moved that it be postponed until the next meeting until they could get a cost from Mr. Griffin; second by Mr. Waldrop. Vote was unanimous.

12. Request by Councilmen:

Mr. Hawkins stated that there were a couple of people who were present tonight but had left and he wanted them to hear this. He said that he had been warned repeatedly by people who have his best interest at heart that he should never take on the newspaper because they buy ink by the barrel and they will drown you in it. Sometimes you just have to speak up when something gets to you. Last Tuesday at the Opera House, we had an announcement of a 170 million dollar economic development investment in Newberry County. He stated that that many zeros were not talked about that often on a County level. He said the headline on Wednesday's paper talks about somebody being arrested. Mr. Hawkins stated he rest his case.

13. Public Comments:

No Public Comments

14. Vote for Executive Session, When Necessary:

Mr. Tothacer stated that Mr. Dawkins requested an Executive Session for discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim.

Mr. Hawkins moved to go into Executive Session; second by Mr. Dawkins. Vote was unanimous.

15. [Executive Session 7:45 p.m. – 8:05 p.m.]

Mr. Waldrop moved to go into Open Session; second by Mr. Baker. Vote was unanimous.

16. Necessary Action on Matters Discussed in Executive Session

Mr. Tothacer stated that Newberry County Council went into Executive Session for discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim. More specifically, to discuss a lease matter and no action was taken in that session.

Mr. Adams asked the Chairman if there was a motion coming out of Executive Session.

Mr. Dawkins moved that Council give the County Administrator permission to contact Mr. Al Morrison to try to negotiate an extended lease for the Triangle Gun Club and bring back to County Council; second by Mr. Waldrop. Vote was unanimous

17. Comments from Administrator

Mr. Adams stated that the state legislature is going back into session next week with the intent of cutting the budget. It has already happen once and resulted in a reduction of \$67,000 in our revenue from state agent subdivisions. He understands that they will have to take a separate vote if they reduce the local government fund. He stated staff was working on an amendment to the budget that will express this loss of revenue and other adjustments to the budget. The first draft should be available for the November meeting.

18. Comments from Council

Mr. Waldrop asked the Administrator to look into timber prices and if it is a good time the County should think about marketing some of the timber on County property. This may help us out with the Industrial Park and other issues facing the County.

Mr. Summer said the new industry, Loblolly Green Power, has a website for people to find out more information about them. The website is www.loblollygreenpower.com.

Mr. Hawkins asked that Mr. Adams, Mr. Whitehead and the County Attorney continue to look into the situation on Lever Chapel Church Road. It needs attention and seems like over the years has been overlooked and asked that something be done.

Mr. Summer stated that tomorrow at 5:00 p.m., Council will get a sneak preview of the new library.

Mr. Hawkins and Mr. Livingston stated their excitement about the new library but said they would be unable to attend the preview.

Mr. Waldrop expressed good luck to fellow Councilmen on the upcoming election.

19. Future Meetings:

- a. November 5, 2008
- b. November 19, 2008

20. Vote to Adjourn.

Mr. Hawkins moved to adjourn meeting.

20. Adjournment:

The meeting was adjourned at 8:10 p.m.

NEWBERRY COUNTY COUNCIL

Henry B. Summer, Chairman

APPROVED:

Laurie N. Renwick, Clerk to Council