

**NEWBERRY COUNTY COUNCIL  
MINUTES  
NOVEMBER 5, 2008**

**PRESENT:** Henry B. Summer, Chairman  
William D. Waldrop, Vice-Chairman  
John E. Caldwell, Councilman  
Henry H. Livingston, III, Councilman  
Edgar Baker, Councilman  
John David Dawkins, Councilman  
Mike Hawkins, 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. Summer called the meeting to order and determined a quorum present.

Mr. John E. Caldwell led the invocation followed by the Pledge of Allegiance.

Mr. Dawkins introduced District 2's newly elected Councilman, Mr. Steve Stockman, of the Fairview community. He welcomed and congratulated Mr. Stockman and offered him the opportunity to speak.

Mr. Stockman stated that he did not have any comments to make at the time, but was glad to be here and was looking forward to serving the people of Newberry County.

Mr. Summer introduced Mr. Les Hipp and Mr. Kirksey Koon and stated he was glad they were in attendance.

Mr. Hawkins stated he had talked with Mr. Koon last night and pledged to him that he would help him in any way move Newberry County forward. He promised he would always give an honest answer when Mr. Koon asked his opinion on an issue. Mr. Hawkins said if Mr. Koon's business was to undo all of the progress that has been made; he will not have to ask his opinion because he will be at the microphone to let him know.

## **1. Adoption of Consent Agenda**

Mr. Caldwell moved to adopt consent agenda, second by Mr. Baker. Vote was unanimous.

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

Mr. Adams stated that the petitioner for Ordinance #09-30-08 asked that third reading be postponed for three month.

Mr. Summer said that this was agenda item #5 that would be postponed for three months.

Mr. Waldrop moved to approve the agenda as amended; second by Mr. Livingston. 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 stated that Mr. Dean Pierce had signed up to comment and invited him to the podium.

Mr. Pierce introduced himself and stated he was an owner at Summerset Bay which is a property that will be covered by this zoning amendment. He said he was a Real Estate Developer by trade and also an Attorney. Mr. Pierce stated it has been his experience that when you have a lot of recreational vehicles coming in and out, it decreases the likelihood of people building homes on the property that they own. He stated it also depresses the tax base for the County because the County makes more money on a built home than a vacant lot. Mr. Pierce said he had built at Summerset Bay and was looking for like houses to be built instead a being saddled up on each side by RV's coming in and out. He hoped Council would consider that there was a higher and better use for the property than the zoning in which they are considering.

Mr. Waldrop stated most of the people in the area seemed to be pleased with the new RS1-A zoning. He said the only way to solve the problem would be to have the community gated, but this is a county maintained road through this property.

Mr. Waldrop asked Mr. Pierce if he was a permanent resident.

Mr. Pierce stated his business was in Hilton Head. He said Hilton Head has gone to great lengths to see that property was maintained in a way that property values do not go down. He said he has seen first hand how it can be done successfully. He felt the County was making a mistake when they have the opportunity to increase the tax base and fears the County is headed in the wrong direction.

Mr. Baker informed Mr. Pierce that the County has been in negotiations with this group for a little over a year. He said both the County and this community had finally agreed and it needed to be left where it is.

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

**4. Ordinance #07-24-08: An Ordinance acting on a Council-initiated request to amend the Official Zoning Map established pursuant to Zoning Ordinance #12-24-01, codified in Chapter 153 of the Newberry Code of Ordinances, so as to rezone one hundred twenty-five (125) tracts containing a total of one hundred twenty-nine and eighty-eight one hundredths (129.88) acres designated as TMS parcel numbers 4-2-1 through and including 4-2-14 and 4-2-12/1 (fifteen parcels); and TMS parcel numbers 4-1-1 through and including 4-1-76 and 4-1-53/1, 4-1-100, 4-16/1,2 and 3 (eighty-one parcels); and parcel numbers 5-2-2 through and including 5-2-30 (twenty-nine parcels) from Single-Family Residential (RS-1) to Single-Family Residential (RS-1A).**

Mr. Caldwell moved to approve third reading; second by Mr. Dawkins. Vote was unanimous.

**5. 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 stated that this ordinance had been postponed. (See agenda item #2, Additions, Deletions, and Adoption of Agenda)

**6. 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 declared this the Public Hearing.

Having received no comments, Mr. Summer declared the Public Hearing closed.

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

Mr. Hawkins asked the Chairman if this was the last zoning issue we had tonight. He asked Mrs. Peters to come to the podium. Mr. Hawkins asked Mrs. Peters what we charged someone who comes in her office and wants their property re-zoned.

Mrs. Peters stated to rezone you have to have a minimum of 2 acres. The charge is \$50 for the first acre, \$50 for the second acre, and \$10 for each acre thereafter.

Mr. Hawkins asked Mrs. Peters if we charged the same if multiple owners of a property wanted it rezoned. He asked if we charge them individually or as a group.

Mrs. Peter said the group is charged for the total acreage amount. The County is paid and the owners usually decided how they were going to split up the total cost among themselves.

**7. 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.**

**NOTE: Staff is requesting an amendment to this ordinance prior to third reading. The proposed amendment (attached) is explained as follows:**

- **Language in blue typeface represents language contained in Ordinance #09-32-08 through the first two readings, the most substantive change to the original language being that allowing for the acceptance of certain aggregate-base roadways constructed between July 2, 2003, and July 31, 2007 (this language is also in bold typeface and underlined).**
- **Language in red typeface represents new language proposed for addition at third reading.**
- **Language currently in place may be referenced in section 91.29 (A) and 91.33 (G).**

Mr. Summer asked Council to look at the color coded ordinance. The language in blue type represents the language contained throughout the first two readings. The red type represents additional new language proposed for third reading which states that no road shall be accepted until any and all outstanding liens, including ad valorem taxes, have been paid. The offeror of any road must also clearly establish full legal and legitimate authority to execute the transfer documents to the satisfaction of the County Attorney prior to consideration and acceptance by the County.

Mr. Baker stated he was going to vote in favor of this for third reading, however, at the next Road Committee Meeting, he would like to see the committee set up rules, regulations, and specifications on any road taken in by the County, especially as it pertains to widths of roads.

Mr. Summer said the underlined blue type, also contained throughout the first two readings, will open up the door to accept unpaved graded aggregate base roads from July 2, 2003 through July 31, 2007.

Mr. Waldrop stated he would like this portion deleted from the ordinance.

Mr. Summer asked if he would like to make this in the form of a motion.

Mr. Waldrop moved to amend the ordinance to delete the underlined portion that states the County will accept unpaved graded aggregate base roads from July 2, 2003 through July 31, 2007; second by Mr. Summer.

Mr. Summer asked if there was any more discussion.

Mr. Hawkins stated the underlined portion was what this ordinance was all about so why not just vote against the ordinance.

Mr. Adams said that Mr. Waldrop, Road Committee Chairman, proposed adding the additional language in red stating that the County would not accept any roads with any outstanding liens. He said that the addition also addresses an oversight in the Code 91.29 dealing with policy statements to incorporate the acceptance of graded aggregate where the ordinance states the County does not accept unpaved roads.

Mr. Hawkins said the additional language added is confusing even for those who have followed this process. He thought all the ordinance was doing was allowing an exception, to pick up a few roads built to County specifications during the time from July 2, 2003 through July 31, 2007. Mr. Hawkins stated he wanted to vote for the exception but was not sure he wanted to vote for the additional language.

Mr. Dawkins said the action taken on this amendment also affects the action that can be taken on the next agenda item. He asked if there was anyone in attendance who was representing Glade Springs Road.

Having no one present representing Glade Springs Road, Mr. Dawkins said to move forward.

Mr. Summer clarified that the motion on the table was to delete the underlined portion of the ordinance that states the County will accept unpaved graded aggregate base roads from July 2, 2003 through July 31, 2007.

All in favor of deleting the underlined portion were Mr. Waldrop, Mr. Baker, and Mr. Summer

Opposed to deleting the underline portion were Mr. Caldwell, Mr. Livingston, Mr. Dawkins, and Mr. Hawkins

With a vote of 4 to 3, Mr. Summer stated that the language would stay in.

Mr. Livingston recommended that Council postpone third reading until the additional information brought forward in red had a chance to be brought before the public. He

stated he does not disagree with the new additions, but Council was adding new information that the public has not had a chance to comment on.

Mr. Livingston moved to postponed third reading until the next meeting; second by Mr. Baker.

Mr. Dawkins stated we have just voted on an amendment that passed, and if we postpone it, what value does the amendment have on the postponement and where does it stand for third reading.

Mr. Summer asked the County Attorney if Mr. Livingston's motion was appropriate.

Mr. Tothacer stated that the motion before the body tonight was to postpone the ordinance as amended until the next meeting.

All in favor of postponing third reading until the next meeting were Mr. Summer, Mr. Waldrop, Mr. Caldwell, Mr. Livingston, Mr. Baker, and Mr. Dawkins.

Opposed to postponing third reading was Mr. Hawkins.

**8. 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.**

Postponed due to the postponement of Ordinance #09-32-08

Mr. Dawkins asked the Chairman that by postponing Ordinance #09-32-08, we could technically vote on Ordinance #09-33-08 pending Ordinance #09-32-08 is passed at the next meeting.

Mr. Waldrop said that most of Council had the opportunity to look at Glade Springs Rd., and it is a disgrace for the County to have to take in and manage. There are no pipes under the driveways and no drainage. He stated the developer had planned for this to be a gated community and this was to be a private road. For some reason now, the developer wanted it taken into the County system. Mr. Waldrop stated he is not in favor of doing this and said we would be doing the taxpayers an injustice by taking this road as it is into the system.

Mr. Dawkins said the plat did show this was a private road, however, during this period when the County did accept gravel roads; all plats at that time stated private road until taken into the County system. The actions of Council made them public roads

Mr. Summer stated the postponement of this item until next meeting.

## **9. Committee Reports**

No committee reports

## **10. Appointments**

No appointments

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

Chairman Summer asked Mr. Adams to give Council an update.

Mr. Adams stated that having examined the property and the obstructions that the Town of Prosperity wants the County to clear, it is recommend that a hoe ram be used first, instead of explosives, to try to dislodge the footings because of the water line underneath the property. He said the agreement states that the Town of Prosperity will deed the County the property on which the Fire Department building sits, in addition to buying a small piece to square off the parcel and alleviate a road problem, at no cost to the County. Unbeknownst to the County, the fire station was built on top of an old state road, which will have to be abandoned to the Town of Prosperity, who will then deed it to the County. Mr. Adams said the agreement will also preserve access from McNeary Street through the proposed parking lot to the Wightman Church building which sits behind the Fire Department. The only requirement in the agreement is that the County removes the obstructions, grade the lot, and put gravel on it. The only thing Mr. Adams said he might change about the agreement is the large valve vault on the property that is 6 x 8 wide and 2-3 feet high. He is unsure of the expense and danger involved in moving the vault. His recommendation to Council would be to accept the agreement excluding the valve vault. Mr. Adams stated the Town of Prosperity is contributing \$6,000.00 towards this project and the County estimates that its cost will be approximately \$8,000.00

Mr. Dawkins gave some background information on the project. He said where the Prosperity Fire Department sits is where the old Prosperity Town Hall was. When the one cent sales tax passed and the Fire Department was approved, they had no place to build. The Town of Prosperity's future plans were to move the Town Hall into the old Prosperity High School Building. The Fire Department and the Town of Prosperity worked out an agreement where the Fire Department could be built where the Town Hall is as soon as they moved into the old school building. Prosperity Council deeded this property to the County for this purpose.

Mr. Waldrop asked Mr. Middleton from Summerset Bay to the podium.

Mr. Middleton explained to Council that he had about 50 years experience in the construction business and felt from what he had heard about this situation, the

foundations could be broken up with compressors and jack hammers and backfilled and packed with sand.

Mr. Dawkins moved to accept the agreement with the exception of the valve vault; second by Mr. Hawkins. Vote was unanimous.

**12. Consideration of acceptance of bid for Pugh Road Bridge, Bid Number 2008-22 – Crystal Waldrop, Procurement Director.**

|                                   |              |
|-----------------------------------|--------------|
| Saddlebrook Construction, Inc.    | \$179,842.00 |
| Myles Construction Co., Inc.      | \$214,414.00 |
| A.M. Tuck, Inc.                   | \$195,194.60 |
| Republic Construction Corporation | \$247,695.00 |

Mr. Summer asked Mrs. Waldrop, Purchasing Director, to the podium.

Mrs. Waldrop stated Saddlebrook Construction, Inc. was the low bid at \$179,842.00. Mr. Randy Cannon, Project Engineer, was in attendance to answer any questions of Council.

Mr. Dawkins moved to approve low bid from Saddlebrook Construction, Inc.; second by Mr. Waldrop

Mr. Baker asked what was in the budget for this project.

Mr. Adams stated \$250,000.00.

Having received no further discussion, All were in favor of approving low bid from Saddlebrook Construction. Vote was unanimous

**13. Consideration of acceptance of bid for Rim Crusher for Collections – Crystal Waldrop, Procurement Director.**

|  |             |
|--|-------------|
| Southeastern Environmental Waste Equipment Company (SEWEC) | \$25,160.00 |
| Tire Service Equipment Mfg. Co., Inc                       | \$25,550.00 |
| GMC Construction Services                                  | \$27,466.10 |

Mrs. Waldrop stated the Rim Crusher was for the Corrections Department and the low bidder was Southeastern Environmental Waste Equipment Company with a bid of \$25,160.00 which will be paid for through a DHEC grant at no cost to the County.

Mr. Baker moved to approve low bid from SEWEC; second by Mr. Dawkins. Vote was unanimous.

Mr. Dawkins informed Council that on agenda item #12, Pugh Road Bridge, that \$75,000.00 of the total cost off \$179,842.00 would be paid for by CTC gas tax funds.

**14. Consideration of acceptance of bid for Actuarial Firm to determine Other Post Employment Benefits (“OPEB”) under the Governmental Accounting Standards Board’s (“GASB’s”) Statements 43 and 45.**

|                                |  |
|--------------------------------|--|
| Demsey, Filliger & Associates* | \$5,000.00 (includes one visit for presentation if Needed) |
| Lewis & Ellis                  | \$6,905.00 (includes one visit if needed)                  |

\*Top ranked firm

\*The County received ten proposals and conducted telephone interviews with four of the top ranked firms. Of the four; two of the firms were most qualified based on selection criteria. The selection criterion was based on education, experience and price.

Mr. Adams stated the Governmental Standard for determining how we compile and present our financials has a new requirement. States are to show their liability for future post employment benefits, which for Newberry County, is health insurance for retirees. An Actuarial Firm is required to make that determination.

Mrs. Waldrop stated they solicited a request for qualifications for this and chose Demsey, Filliger & Associates based on their qualifications. Cost was a factor involved but the criterion was based on education and experience as well as price.

Mr. Baker moved to approve Demsey, Filliger & Associates’ low bid of \$5,000 as recommended; second by Mr. Livingston.

Mr. Hawkins asked if all cities, counties and towns were required to do this right now.

Mr. Adams stated it is being phased in depending of the size of your jurisdiction.

Mr. Hawkins inquired if it were possible that the South Carolina Association of Counties or another governmental entity of Newberry County hire a firm to come in and do them all to save some money.

Mr. Adams said we could certainly ask the City of Newberry if they would like to piggy back with us if they have not already progressed further with this.

Debbie Cromer, Financial Director, confirmed that the City of Newberry had already chosen their firm.

All in favor of approving Demsey, Filliger & Associates' bid were Mr. Summer, Mr. Waldrop, Mr. Caldwell, Mr. Livingston, Mr. Baker, and Mr. Dawkins.

Opposed to approving Demsey, Fillegr & Associates' bid was Mr. Hawkins

**15. Request by Councilmen**

Mr. Hawkins stated that a few meetings back, Mr. Livingston nominated an appointment to a board from another district and he had voted against the appointment. He had thought at the time that the person nominated lived in another district and asked the County Attorney to check into this. He said it has always been a courtesy that we ask the other Councilman if it would be alright. After doing more research, he found that it is not merely a courtesy but a requirement. Mr. Hawkins stated he may insist that this appointment be nullified.

**16. Public Comments**

No comments

**17. Vote for Executive Session, When Necessary**

No Vote for Executive Session

**18. Executive Session**

No Executive Session

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

No Action

**20. Comments from County Administrator**

Mr. Adams said staff has been discussing a budget amendment that would address the cuts from State Aid to Subdivisions that will affect Newberry County in the amount of \$150,000.00. There are also some capital items that need to be addressed. Mr. Adams recommended that the County wait until January to take this up since there are several new members coming on the Council.

**21. Comments from Council Members**

Mr. Baker stated he would like to see if Newberry County could adjust the County's mileage reimbursement since gas was coming down and roll it back effective 11/02/08.

Mr. Summer said at the present, our mileage reimbursement is the same as the Internal Revenue Code.

Mr. Dawkins said he thought when Council passed the budget ordinance this year, the language states that mileage reimbursement will be in accordance with state and federal regulations.

Mr. Caldwell said unless you travel on County business, you really should not have an interest in whether a person was reimbursed or not. Some County employees do travel due to organizations that they belong to and should be reimbursed for mileage accordingly.

Mr. Waldrop said that with the fluctuation in gas prices he did not see how we could adjust it.

Below is a verbatim comment from Chairman Henry B. Summer to Newberry County and the citizens of District 5.

“I want to thank the people of District 5 for the opportunity to have let me serve on County Council for the last 24 years.

“Very few people in this life have been blessed as I have been blessed. I was born in Newberry and I will die a Newberrian, which means I’ll be buried in Rosemont Cemetery, where I can hear the College victory bell and I can hear the chiming of the Opera House clock.

Very few people in this life have been blessed as I have been, and I am profoundly grateful for every blessing bestowed upon me from my neighbors and friends in District 5.

For every kind word when Sue and I knocked on over 1600 doors in the district, for every wish of good luck on doorsteps and street corners and grocery stores, for every honest concern you shared with me about our beloved Newberry County, I am very grateful.

I am grateful too for 24 years for the privilege of serving and representing Newberry County, such fine, home-loving people.

We have accomplished much in our work together. We have made our home County stronger, and I am proud to have worked shoulder to shoulder with people that care so deeply about their families, their communities, and our Newberry.

Yes, these are uncertain times but I am certain of this. The people of Newberry will prevail. We are strong, we are smart, and we are united in our shining commitment to the future of Newberry. Yes, Newberry is worth fighting for and we are equal to the fight.

To those who stood by me in this re-election bid, I want to say how much I appreciate your vision and your courage and your incredible kindnesses. They will never be forgotten.

Newberry First, Newberry Always, God Bless Newberry!”

**22. Future Meetings**

- a. November 19, 2008
- b. December 3, 2008

**23. Vote to Adjourn**

Mr. Waldrop moved to adjourn meeting.

**24. Adjournment**

Meeting was adjourned at 7:45 p.m.

**NEWBERRY COUNTY COUNCIL**

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**Henry B. Summer, Chairman**

**APPROVED:**

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