

**NEWBERRY COUNTY COUNCIL  
MINUTES  
DECEMBER 3, 2008**

**PRESENT:** Henry B. Summer, Chairman  
William D. Waldrop, Vice Chairman  
Henry H. Livingston, III, Councilman  
Edgar Baker, Councilman  
Mike Hawkins, Councilman  
Wayne Adams, County Administrator  
A.J. Tothacer, County Attorney  
Laurie Renwick, Clerk to Council  
Debbie Cromer, Finance Director

**ABSENT:** John E. Caldwell, Councilman  
John David Dawkins, Councilman

**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. Hawkins led the invocation followed by the Pledge of Allegiance.

Mr. Summer stated that Mr. Caldwell was not in attendance because he was attending a South Carolina Association of Counties meeting representing Newberry County and Mr. Dawkins had a personal matter which enabled him to attend.

**1. Personal Appearances**

- a. Mr. David Enzastiga – Financial Audit, June 30, 2008.

Mr. David Enzastiga, CPA, presented the audited financial statement for Newberry County for the year ending June 30, 2008. (A copy of the audit is on file in the Office of Clerk to County Council.)

Mr. Summer inquired about revenue from tipping fees of \$709,000.00 and recyclables of \$157,000.00 versus the Transfer Station expenses of \$1, 498,000. 00. He asked if the difference was what it cost the county to get rid of our waste.

Mr. Enzastiga stated the difference was what it was costing the County unless a user fee was included on property taxes.

Mr. Adams said this is one area where the revenue and expenses will vary directly; if your revenue goes down then your expenses go down. He stated the tonnage at the Transfer Station had fallen off.

Mr. Summer asked Mr. Adams if he was going to try to save the County some money in this area when the contract with Allied Waste runs out next year.

Mr. Adams stated that the County is negotiating with Allied Waste on a contract that will allow us to replace their containers over time. Allied Waste presently owns all of the containers at the recycling centers. The advantage to owning the containers is when the contract is bid out; you can break it down into two parts. One part is called transfer transportation delivery which is garbage being taken from the transfer station to the burial hole. The other part, which is the most costly, is transferring the garbage from the recycling centers to the transfer station. At the present, we are paying Allied for all transportation plus they own the containers. Mr. Adams stated if we owned the containers we could break the contract in half. He feels the County would get more competitive pricing because we would not have to find someone to haul the garbage that happens to own the containers. Mr. Adams said that this change-over will take some time.

Mr. Summer asked Mr. Enzastiga to clarify for the public the difference between General Obligation Bonds and Special Source Revenue Bonds which makes up the County's long term debt.

Mr. Enzastiga stated that the County had two Special Source Revenue Bonds that are paid for by the one percent sales tax for special projects and is not paid for by property tax.

## **2. Adoption of Consent Agenda**

Mr. Waldrop moved to adopt Consent Agenda; second by Mr. Baker. Vote was unanimous

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

Mr. Hawkins asked to add item 14b to the Executive Session for a brief discussion on an economic development issue.

Mr. Livingston moved to approve the agenda as amended; second by Mr. Baker. Vote was unanimous.

## **4. Ordinance #11-34-08: 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 2 parcels containing a total of two and twenty-three hundredths (2.23) acres and designated as TMS Parcel Nos. 289-8 and 289-14, from Rural (R2) to Limited Commercial (LC).**

### **a. First Reading**

Mr. Summer declared this the Public Hearing.

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

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

5. **Ordinance #11-35-08: 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 thirty-two hundredths (0.32) acre portion of a tract designated as TMS Parcel No. 399-117, from Rural (R2) to General Commercial (GC).**

Mr. Summer declared this the Public Hearing.

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

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

6. **Resolution #18-08: A Resolution by Newberry County, South Carolina consenting to the Amendment of a Multi-County Industrial Park Agreement with Greenwood County, South Carolina, pursuant to Section 4-1-170 of the South Carolina Code.**

Mr. Will Johnson thanked the Chairman and Council Members and stated he was from Haynsworth Sinkler Boyd Law Firm representing Carolina Pride Foods. He said Carolina Pride was expanding its facilities in Greenwood County and was requesting that Newberry County consent to the inclusion of its property in Greenwood County in an existing Multi-County Park between the two counties. He stated that South Carolina Law allows two particulous counties to enter into a Multi-County Park agreement covering any property in either county for economic development purposes. There are two primary purposes behind this agreement. First, the company in which the property is located is creating new jobs and qualifies for a job tax credit. Secondly, the company is receiving Special Source Revenue financing from the County in which the property is located. They are seeking Newberry County's approval of the amendment of the existing agreement to include this property in the Park. Mr. Johnson stated that Newberry and Greenwood County entered into this Park agreement in 2006. The typical structure of a Multi-County Park agreement provides that the county where the property is located pays for all expenses related to the park and retains 99% of the property tax revenue or payments in lieu of taxes from the park and the 1% goes to the Partner County. Mr. Johnson stated that his understanding of what Greenwood and Newberry County did, through ordinances adopted by Council, was to create a new structure where the counties would retain a full 100% of the property tax revenue.

Mr. Hawkins asked if there was a clause in the agreement that states Greenwood County would do the same for Newberry County.

Mr. Johnson stated that the agreement provides that either County can add property in the park without consent of the Partner County but their client wanted approval of Newberry County Council.

Mr. Hawkins moved to adopt the Resolution; second by Mr. Livingston. Vote was unanimous

7. **Resolution #19-08: A Resolution that Newberry County Council clarifies, ratifies, and affirms its consent to Newberry County Hospital and its Board of Directors taking all administrative and legal steps necessary to oppose Parkridge Hospital, including Newberry County Hospital initiating and participating in the Certificate of Need project review process and the Administrative Law Court's contested case process, including all appeals therefrom.**

Mr. Will Thomas, an attorney representing Newberry County Hospital in the CON process in opposition to Parkridge Hospital being built in Irmo, South Carolina, came forward and briefed Council. He stated County Council had already signed two previous Resolutions authorizing NCMH to move forward with litigation. He stated Palmetto Health had filed a motion to dismiss on the basis that Newberry County Hospital Board does not have the authority to sue or be sued. Palmetto Health contends that the County has to specifically authorize the Board to participate in the CON action. Resolution #19-08 authorizes Newberry County Hospital Board by Newberry County Council to sue or be sued and authorizes Newberry County Council to intervene if necessary in the litigation so that the proper party would be on the caption of the case. Mr. Thomas stated that NCMH will continue to fund the litigation as it has all along and feels this will be a quick and easy way to resolve this issue.

Mr. Livingston asked for clarification that this Resolution only addresses this particular issue and would not address any other future lawsuits.

Mr. Thomas stated that was correct.

Mr. Livingston asked the County Attorney, Mr. Tothacer, for his advice.

Mr. Tothacer stated that he had no objections to the Resolution.

Mr. Summer wanted clarification that the County would not incur any legal expenses and that if this hospital was built in Irmo it would have a severe economic hardship on Newberry County Hospital.

Mr. Thomas stated that a hospital in this location would not only take away a good number of patients but staff as well. He stated we are in a serious health care staffing shortage throughout the State

Mr. Waldrop stated he attended the meeting several years ago with DHEC and the hospital personnel concerning this same issue and DHEC had turned them down for this hospital in Irmo. He asked if they could continue to go back and raise the same issue.

Mr. Thomas said unfortunately they could but they have to wait a period of one year.

Mr. Hawkins asked Mr. Thomas what CON stood for.

Mr. Thomas stated that CON stood for Certificate of Need and that Palmetto Health has to go through the Certificate of Need (CON) process and apply with the State and show that there is a need for the hospital in Irmo.

Mr. Livingston moved to adopt Resolution #19-08; second by Mr. Waldrop. Vote was unanimous

## **8. Committee Reports**

No committee reports.

## **9. Appointments**

No appointments.

Mr. Hawkins stated a few months back Mr. Livingston appointed someone to the Hospital Board and he had asked the County Attorney to do some research and report back to them. Mr. Tothacer had done that through a written report to Mr. Livingston and Mr. Hawkins. Mr. Hawkins stated that his position was that this person was not legally appointed to the Hospital Board; however, he is a practical person and has decided to let Mr. Koon make this call in January.

## **10. Discussion of Location for Proposed Household Waste/Recycling Site**

Mr. Ervin West with Carter Goble Lee introduced Jamie Frost and Christian Jones with Alliance Engineering, the firm chosen to do the design for the new Newberry Recycling Center. Mr. West briefed Council on the pros and cons of the two sites selected to be considered. (See attachment)

Mr. Livingston stated his preference of Site 2 over Site 1 because of the possibility of future commercial development on Site 1. Given too that the pros out weight the cons for Site 2, it is his opinion that Site 2 seems to be a better location

Mr. Baker asked Mr. West why the recycling center had to be moved at all.

Mr. West referred that question to Mr. Adams.

Mr. Adams stated that one of goals was to improve the circulation of traffic at the site. He said the present site is very congested and also is potentially valuable property down the road. Another reason is that SC Department of Health and Environmental Control is going to provide \$80,000 of the cost of this with grant money. This will be our first paved site in Newberry County and will be a lot more useable to the citizens of the town where there is a bigger target for gathering recyclables.

Mr. Baker asked that if Site 1 were chosen would it not interfere with the County selling it at a future date.

Mr. Adams stated that Site 2 seemed to be the preferable site.

Mr. Baker said that he preferred Site 2 as well. He asked Mr. West about the complications of getting the road into Site 2 because of the difficulty they had with the Rescue Squad road which neighbors this site.

Mr. West assured Council that lessons were learned from the Rescue Squad experience and that it should not be a problem.

Mr. Baker asked if they had done a cost analysis on the two sites.

Mr. Frost with Alliance stated that a ballpark figure from similar sites they had done would be between \$150,000 - \$300,000.

Mr. Waldrop stated that this was a lot of money and asked had they not pinpointed exactly how much this was going to cost.

Mr. Frost said that once a site was chosen they would be able to provide a more accurate cost figure.

Mr. Adams stated that just the paving for the project would cost around \$90,000.00. Concrete will be needed to go under the large containers that are serviced by the truck and the rest will be asphalt.

Mr. Waldrop stated he could understand the cost if we had to purchase the land but we own the land. He said he has never experienced one costing this much.

Mr. Hawkins asked if anyone had discussed this with the Rescue Squad 14 people and stated they might want to let them know.

Mr. Baker moved to approve the Site 2 location for the new recycling center; second by Mr. Livingston.

Mr. Summer asked if there was any discussion.

Mr. Livingston suggested that they move forward with submitting Council a cost for the project.

Having no other discussion, vote was unanimous to approve Site 2.

## **11. Request by Councilmen**

Mr. Hawkins stated that Rescue Squad 14 put up a sign and heard it had to be moved.

Mr. Adams said the City had called him about the sign. He was unaware the sign was being constructed on the right of way. The City is supposed to be dealing directly with the Rescue Squad on this issue. The sign was not put up or paid for with county funds.

**12. Public Comments**

No comments

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

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

**14. EXECUTIVE SESSION [8:05 p.m. – 8:40 p.m.]**

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

**15. Necessary Action on Matter Discussed in Executive Session.**

Mr. Summer stated that Council had evaluated the County Administrator and the score will be given to the Human Resources Director and he will be subject to the same merit increase as other county employees.

**16. Comments from County Administrator.**

Mr. Adams stated that parking lot at new library should be paved any day now.

**17. Comments from Council Members.**

Mr. Baker said he had inquired today about the tax outbreak from the Renfro Plant that will be closing in Whitmire. According to the county, we are going to lose \$212,000.00. Of that, \$72,500.00 is the County's portion and \$140,000.00 is the school's portion.

Mr. Summer stated that the building will be occupied as of December 31, 2008 and the 2009 property taxes will be based on that. He said we will receive taxes in 2009.

Mr. Waldrop stated that Teresa Powers will be working to promote this area and try to create some jobs in this facility.

**18. Future Meetings**

- a. December 17, 2008
- b. January 7, 2009

**19. Vote to Adjourn**

Mr. Baker moved to adjourn.

**20. Adjournment**

Mr. Summer declared the meeting adjourned at 8:45 p.m.

NEWBERRY COUNTY COUNCIL

APPROVED:

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Henry H. Livingston, III, Chairman

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Laurie N. Renwick, Clerk to Council