

**NEWBERRY COUNTY COUNCIL
SPECIAL CALLED MEETING
MINUTES
JULY 29, 2020**

Newberry County Council met on Wednesday, July 29, 2020, at 7:00 p.m. in Council Chambers at the Courthouse Annex, 1309 College Street, Newberry, South Carolina, for a special called meeting.

Notice of the special called meeting was duly advertised as required by law.

PRESENT: Henry H. Livingston, III, Chairman
Kirksey Koon, Vice Chairman
Steve Stockman, Council Member
Scott Cain, Council Member
Travis Reeder, Council Member
Dr. Harriett Rucker, Council Member
Johnny Mack Scurry, Council Member
Wayne Adams, County Administrator
A.J. Tothacer, Jr., County Attorney
Susan C. Fellers, Clerk to Council
Taylor Davenport, Legislative Support Specialist

MEDIA: Andrew Wigger, Newberry Observer

Mr. Livingston called the meeting to order at 7:00 p.m.

Mr. Reeder had the invocation followed by the Pledge of Allegiance.

1. Additions, Deletions and Adoption of Agenda.

There being no additions or deletions to the Agenda, Mr. Scurry moved to adopt the agenda as presented; second by Dr. Rucker. Vote was unanimous.

Mr. Adams set forth the following parliamentary and related considerations prior to the public hearings.

DESCRIPTION OF THE PROPERTY TO BE REZONED

This rezoning involves nine contiguous parcels located on Lake Murray and bounded by Hollands Landing Road, Granny Hill Road, Circle H. Woods Road, and Peninsula Drive. Currently, these parcels are zoned variously as General Commercial, Limited Commercial, R-2 Rural, or Single Family Residential (RS). The applicant's request is to rezone all nine properties to Single Family Residential (RSM).

RSM ZONING DISTRICT

The property to be rezoned adjoins other property with this same designation, meaning that "spot" zoning is not a concern. The chief attraction of this designation to the applicant is that it allows for residential lots as small as 7,500 sq. ft., provided that the development meets all conditions for "cluster" homes. (These conditions are listed in the Newberry County Zoning Ordinance. The Zoning Administrator makes the determination as to whether the development meets these conditions.) Of concern to some neighboring property owners is the fact that the RSM zone allows for manufactured homes, though the applicant has expressed intent to place covenants on the property that would prohibit the placement of manufactured homes within the development.

AFTER THIRD READING

- If third reading fails, the application for rezoning is denied. If third reading is approved, further consideration and approvals of the development are determined by planning staff and Newberry County Planning Commission. Council is not further involved.
- There are no public hearings during future phases of the application and approval process. Broadly speaking, the approval process consists of three steps: a sketch plan, and a preliminary approval plan, and a final approval plan. Staff would make the determination of whether to allow "cluster" homes in conjunction with the sketch plan step. That determination would be made based on specific requirements set forth in the Zoning Ordinance.

- While all required Planning Commission approvals will take place in public, parties other than staff, the developer, and the agents of each will not be involved in approvals or processes related to the developer's application. In sum, the remaining part of the process is **NOT** a community effort.
- Staff will recommend strongly against any efforts to oppose the development, or to make it unnecessarily more expensive or time consuming, through the enactment of new ordinances that are merely dilatory or obstructive in nature. Likewise, while we will certainly take notice of any reports that our ordinances are being violated at any time during implementation of the development, we will not be actively involved in fishing for regulatory interpretations aimed at stopping the proposed development or putting up roadblocks to its completion.

COMBINED CONSIDERATION OF ITEMS TWO THROUGH TEN

The applicants are agreeable to considering items two through ten under a single motion, i.e., the option of having one single rezoning vote rather than having a separate vote for each of the nine rezoning ordinances listed as agenda items two through ten.

The rationale for this method of consideration is compelling. If considered individually, each ordinance would rezone one from a group of nine contiguous parcels to the same zoning designation: RSM , a single-family residential district. Through the previous two readings, no one has raised a point suggesting that any of these parcels is in any way distinct from the others in terms of rezoning. Moreover, these nine ordinances were considered under a single motion at both first and second readings.

Combining the readings and public hearings for agenda items two through ten does **NOT** rezone the parcels. It merely governs the method by which the rezoning requests will be considered as the meeting unfolds.

Motion by Mr. Reeder that the readings and public hearings for agenda items two through ten be combined; second by Dr. Rucker.

There being no further discussion, Mr. Livingston called for the vote.

Vote was unanimous.

PUBLIC HEARING

Before offering or considering the motion on whether to rezone the parcels in question, it is suggested that Council entertain all public comments, whether offered in person or in writing. The County Administrator will read aloud all written comments, once the last speaker to comment in person has finished. Social distancing will be enforced within the chambers among a limited number of attendees, and also among those standing in line to speak. Speakers are asked to limit their comments to three minutes.

Motion by Mr. Reeder to open public hearing; second by Mr. Cain. Vote was unanimous.

Mr. Livingston declared this to be the public hearing on Agenda Items 2 through 10.

The following persons signed up and spoke:

- **Terry Cotney:** owns a small farm consisting of approximately 25 acres on Holland's Landing Road. Mr. Cotney felt it was a waste of time for him to speak since it's a done deal, and the County Administrator is only interested in tax revenue. The proposed subdivision will be an eyesore. Not one County Council member has invited the developers to come to their home and develop a subdivision. The survey has already been done on the property, and he feels it is a done deal and the residents in that area have no voice in the matter. Plantation Pointe will be stuck with increased traffic, children playing in the streets and parking in the streets..

Mr. Stockman stated as far as he was concerned, he had not voted for any final approval.

- **Ron Bailey:** lives in Plantation Pointe and is speaking as a homeowner - not for the Pointe. He believes in progress and development, as well as increasing the county's revenue. It has been

said that the cluster homes would be sold for \$250,000. The homes in Plantation Pointe are assessed at \$500,000 and up, and our homes will depreciate. The septic system issue needs to be addressed, and it will be made public if this cluster subdivision is approved and built.

- **Patricia Bailey:** gave her 3 minutes to Bob Jarmer.
- **Sharon Law:** gave her 3 minutes to Bob Jarmer.
- **Mike Tumm:** sent information through the mail to Council members with facts and figures, along with a picture of an eagle, which was taken in the cove. (Copies not provided for the record). The water and sewer system is already dysfunctional. Sediment runs in the water and causes it to be toxic. The infrastructure and roads are not adequate to handle all the traffic. Plantation Pointe house values will go down with a cluster subdivision. He requested that Council make the right decision for Newberry County and future generations,
- **Sheryll Jarmer:** gave her 3 minutes to Bob Jarmer.
- **Bob Jarmer:** lives on Holland's Landing Road across from this proposed subdivision. Every sewer spill reported by Newberry County Water and Sewer Authority is on the DHEC website. Too much rain is a lie as to the cause of these spills. He read a report from EPA (Copy not provided for the record). This defective system has been going on for the past 15 years.

He cited information from the DHEC website as to the sewage spills in the Plantation Pointe area. (Copy not provided for record) He told Council they could go online and check the information.

He also read a Congaree River Keeper report of 2018. (Copy not provided for record).

His concern was what would happen when Newberry County Water and Sewer Authority had an increase from 500 sewer customers to 5,000 sewer customers.

- **Mary Guise:** previously gave up her 3 minutes to Bob Jarmer.
- **Robert Enos:** has been a resident of Plantation Pointe for the past 8 months. He is a member of the HOA Board, but is speaking as a private citizen, and feels the rezoning is a done deal. He is concerned about the RSM zoning because it allows cluster housing. There will be significant traffic with only one entrance and exit and weakened infrastructure will happen. The state and county roads are not being fixed properly and feels that Council needs to help with proper replacement of these roads. The septic system needs to be fixed. The developer has promised cluster homes as single family second homes to families not in the Prosperity area. What is to keep them from converting them to rental properties.
- **Harold Betty:** Chairman of the Plantation Pointe Homeowners Association and is speaking on behalf of the HOA. (At this point persons in council chambers started saying he was not speaking on behalf of the HOA). He retracted his prior statement and said he was speaking on behalf of the Board of the HOA. The Board feels the rezoning request should be approved. Deeds will set forth restrictions against manufactured and mobile homes. The roads are in bad shape and need to be upgraded; there are deficiencies in the water and sewer system. The Department of Natural Resources is responsible for the boat traffic. Plantation Pointe has a covenant restriction to prevent short term rentals and asks that the developer restrict this property as to short term rentals.
- **Donald Dills:** has been a resident of Newberry County for 20 years and feels the proposed rezoning will change the residential area. Roads are bad. This is too much home development and is not needed. He asked County Council to reconsider the development petition.
- **Larry Guise:** gave up his 3 minutes
- **Pee Wee Green:** declined his time.

Mr. Livingston recognized **Senator Ronnie Cromer.**

Senator Cromer was chairman of the Newberry County Water and Sewer Authority Board in the 90s and commended them for work done on a shoestring budget. He doesn't know how the Water and Sewer Authority can successfully take care of all these homes over a period of years with the funds they have. The property will be devalued by the cluster homes. This is a disservice to Newberry County. The roads are the state's problem and the revenues for repair went out the window with covid.

Senator Cromer recognized Mike Pisano, Public Works Director, for his work on the county roads.

Newberry County Water and Sewer Authority is not under County Council. They are a special purpose district. They get their money from customers only.

Brent Richardson, Newberry County Water and Sewer Authority, presented a handout to Council Members (a copy of which is attached hereto and incorporated herein) as to Palmetto Pointe Cottage Community relating to water service, wastewater, sanitary sewer overflows, capacity evaluation and Lake Murray Water Treatment Plant.

Mr. Richardson said it was not true that they would be unable to handle a cottage subdivision. The developer will be responsible for one off-site water line on Granny Hill Road. Tap fees will have to be paid before installation.

The sanitary sewer overflow is caused by rainwater from roof gutters, catch basins, etc., which are tied into the pump station. The Water and Sewer Authority will be conducting inspections and coordinating repairs.

Mr. Adams read emails received from the following persons into the record. Copies of these emails are on file in the County Administrator's office.

- Brenda and Sean Cassidy, 963 Peninsula Drive, Prosperity, SC.
- Peyton Howell, 507 Edgewater Drive, Prosperity, SC.
- Duane Twining, 573 Hamm's Landing Road, Prosperity, SC.
- Timothy and Deborah Peake, 18 Alston Place, Prosperity, SC.
- Robert and Karen Coomes, 1448 Blacksgate East, Prosperity, SC.
- Bill and Nancy Montgomery, 406 Pioneer Shores, Prosperity, SC.
- Thomas J. and Cristita Hammill, 603 Living Inn Road, Prosperity, SC.

- Art Rademaekers, 518 Pioneer Shores, Prosperity, SC.
- Patricia Buzby, 230 Middleton Place, Prosperity, SC.
- Jean Marie and John Robert Eckert, 603 Living Inn Road, Prosperity, SC.
- Walt Mazzei, 11 Belle Isle Lane, Prosperity, SC
- Druie Cavender, 48 Drayton Court, Prosperity, SC
- John William Panhorst, Jr., 73 Melrose Place, Prosperity, SC
- Paul and Faye Puckett, 226 Paul Green Road, Prosperity, SC
- Thomas and Pat Sowinski, 192 Middleton Place, Prosperity, SC
- Sharon and Gene Miceika, 1331 Peninsula Drive, Prosperity, SC
- Leslie Twining, 573 Hamm's Landing Road, Prosperity, SC
- Dougal and Angela Kear, 651 Peninsula Drive, Prosperity, SC
- Bob and Celeste Parsons, 23 Middleton Place, Prosperity, SC
- Rick and Sharon Law, 640 Peninsula Drive, Prosperity, SC

There being no further comments/emails from the public, Mr. Cain moved to close the public hearing; seconded by Dr. Rucker. Vote was unanimous.

Mr. Livingston declared the public hearing closed.

THIRD READING

Mr. Koon moved that the nine ordinances, listed on tonight's agenda as items two through ten, be approved as presented, rezoning all of the subject parcels to RSM single-family zoning designation; seconded by Mr. Reeder.

Mr. Livingston opened the floor for discussion by the Council Members.

Mr. Stockman thanked everyone for being here and appreciated their comments. The taxable revenue may benefit the County at the beginning but in the future when these homes sell for \$300,000, the \$500,000 plus homes will decrease in value. If County Council is not voting for taxable reasons, he doesn't know how Council can vote for this with all of these folks not wanting it. He asked Council to please honor the wishes of the people in District 2.

Mr. Cain thanked everybody for coming out tonight. Money from the state will help with the roads but it will be a while coming. He was concerned about the single entrance/exit, especially as to fire, EMS and Rescue vehicles entering and exiting this area. He thanked Brent Richardson for his comments and for

working on building an infrastructure system on a shoestring budget. Newberry County does not need cluster homes.

Mr. Scurry hurts to see these people struggling for what they want. He has made two trips to look at this proposed development. We must do what is best for Newberry County and the county must grow to be successful. We are here to make the best decision for the County.

Mr. Koon said it was a hard decision to make. The Zoning Ordinance was reworked several years ago and people were asked to come to the meetings at that time for input. Not one person showed up at that time regarding the rezoning. The County needs to move forward, and he doesn't feel it will affect the homes already there. He will vote for third reading.

Dr. Rucker said the developer has taken a lot of licks tonight. He is a businessman but has made a lot of concessions on this project. We are biased when we want something; that's human nature. This has been studied for a long time. None of us take these jobs lightly.

Mr. Livingston asked how many homes were in Plantation Pointe. (150). People travel to other counties to shop and for entertainment because Newberry County does not have enough people to bring in some of those places. Growth leads to jobs, recreation and entertainment. A lot of people didn't want Plantation Pointe on the lake. Why deny somebody else the same opportunity to enjoy Newberry County.

Mr. Stockman said there was a big difference between Plantation Pointe and the cluster homes. The opposition is toward cluster homes and not county growth.

Dr. Rucker called for the question.

Voting for approval of third reading of items two through ten: Council Members, Livingston, Koon, Reeder, Rucker and Surry.

Voting against approval of third reading of agenda items two through ten: Council Members Stockman and Cain.

Motion for approval of third reading of agenda items two through ten passed by majority vote.

2. Ordinance #02-04-20: An Ordinance acting on a request to amend the Official Zoning Map established pursuant to Zoning Ordinance No. 06-11-16, codified in Chapter 153 of the Newberry County Code of Ordinances so as to rezone one real estate parcel totaling one and nine hundredths and thirty-seven thousandths (1.937) acres designated as TMS Parcel No. 594-41 from General Commercial (GC) to Single Family Residential (RSM).

- A. Public Hearing**
- B. Third Reading**

3. Ordinance #02-05-20: An Ordinance acting on a request to amend the Official Zoning Map established pursuant to Zoning Ordinance No. 06-11-16, codified in Chapter 153 of the Newberry County Code of Ordinances so as to rezone one real estate parcel totaling one hundred and fifteen thousandths (0.115) of an acre designated as TMS Parcel No. 594-26 from General Commercial (GC) to Single Family Residential (RSM).

- A. Public Hearing**
- B. Third Reading**

4. Ordinance #02-06-20: An Ordinance acting on a request to amend the Official Zoning Map established pursuant to Zoning Ordinance No. 06-11-16, codified in Chapter 153 of the Newberry County Code of Ordinances so as to rezone one real estate parcel totaling ninety-three hundredths (0.93) of an acre designated as TMS Parcel No. 594-22 from General Commercial (GC) to Single Family Residential (RSM).

- A. Public Hearing**
- B. Third Reading**

5. Ordinance #02-07-20: An Ordinance acting on a request to amend the Official Zoning Map established pursuant to Zoning Ordinance No. 06-11-16, codified in Chapter 153 of the Newberry County Code of Ordinances so as to rezone one real estate parcel totaling one and seventeen hundredths (1.17) acres designated as TMS Parcel No. 594-25 from General Commercial (GC) to Single Family Residential (RSM).

- A. Public Hearing**

B. Third Reading

6. Ordinance #02-08-20: An Ordinance acting on a request to amend the Official Zoning Map established pursuant to Zoning Ordinance No. 06-11-16, codified in Chapter 153 of the Newberry County Code of Ordinances so as to rezone one real estate parcel totaling one hundred fifty-nine and eighty-eight hundredths (159.88) acres designated as TMS Parcel No. 592-8 from Rural (R-2) and Single Family Residential (RS) to Single Family Residential (RSM).

- A. Public Hearing**
- B. Third Reading**

7. Ordinance #02-09-20: An Ordinance acting on a request to amend the Official Zoning Map established pursuant to Zoning Ordinance No. 06-11-16, codified in Chapter 153 of the Newberry County Code of Ordinances so as to rezone one real estate parcel totaling eight and seventy-four hundredths (8.74) acres designated as TMS Parcel No. 592-17 from Rural (R2) to Single Family Residential (RSM).

- A. Public Hearing**
- B. Third Reading**

8. Ordinance #02-10-20: An Ordinance acting on a request to amend the Official Zoning Map established pursuant to Zoning Ordinance No. 06-11-16, codified in Chapter 153 of the Newberry County Code of Ordinances so as to rezone one real estate parcel totaling eight and sixty-nine hundredths (8.69) acres designated as TMS Parcel No. 592-37 from Limited Commercial (LC) to Single Family Residential (RSM).

- A. Public Hearing**
- B. Third Reading**

9. Ordinance #02-11-20: An Ordinance acting on a request to amend the Official Zoning Map established pursuant to Zoning Ordinance No. 06-11-16, codified in Chapter 153 of the Newberry County Code of Ordinances so as to rezone one real estate parcel totaling one and five hundredths (1.05) acres designated as TMS Parcel No. 592-38 from General Commercial (GC) to Single Family Residential (RSM).

- A. Public Hearing**
- B. Third Reading**

10. Ordinance #02-12-20: An Ordinance acting on a request to amend the Official Zoning Map established pursuant to Zoning Ordinance No. 06-11-16, codified in Chapter 153 of the Newberry County Code of Ordinances so as to rezone one real estate parcel totaling sixteen and fifty-six hundredths (16.56) acres designated as TMS Parcel No. 592-54 from Single Family Residential (RS) to Single Family Residential (RSM).

- A. Public Hearing**
- B. Third Reading**

11. Executive Session (if needed)

No Executive Session needed.

12. Appointments

Mr. Scurry recommended the appointment of Ann Scurry Ward to the Newberry County Planning Commission; second by Mr. Koon. Vote was unanimous.

13. Public Comments

No public comments other than those above.

14. Comments/Requests from County Administrator

No comments from the County Administrator.

15. Comments/Requests from Council Members

Mr. Scurry thanked everyone for being here.

Dr. Rucker appreciated the input.

Mr. Reeder expressed condolences to Prosperity Town Councilman, Allen Gallman, on the death of his wife.

Mr. Koon expressed condolences to the Forest Swittenburg, Jr. family.

Mr. Livingston advised that Mike Briggs, who was president of the Central South Carolina Alliance, passed away this week from cancer.

16. Future Meetings

- A. Public Works and Planning, 8/17/2020, 7:00 p.m.
- B. County Council, 8/19/2020, 7:00 p.m.

*****County Council will not meet on Wednesday, August 5, 2020.*****

17. Adjournment.

There being no further items to come before Council, Mr. Livingston declared the meeting adjourned at 9:35.

NEWBERRY COUNTY COUNCIL

Henry H. Livingston, III, Chairman

Susan C. Fellers, Clerk to Council

MINUTES APPROVED: _____