



**NEWBERRY COUNTY COUNCIL  
MINUTES  
MAY 22, 2013**

Newberry County Council met on Wednesday, May 22, 2013, 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  
Kirksey Koon, Vice Chairman  
John E. Caldwell, Councilman  
Bill Waldrop, Councilman  
Leslie (Les) Hipp, Councilman  
Steven C. Stockman, Councilman  
Scott Cain, Councilman  
Wayne Adams, County Administrator  
A.J. Tothacer, County Attorney  
Laurie Renwick, Clerk to Council  
Debbie Cromer, Finance Director

**PRESS:** Natalie Netzel, Newberry Observer  
Tammy Kitchen, WKDK

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

Chairman Livingston led the invocation followed by the Pledge of Allegiance.

**1. Adoption of Consent Agenda**

Mr. Hipp motioned to adopt the consent agenda; seconded by Mr. Caldwell. The vote was unanimous.

**2. Ordinance #04-09-13: An Ordinance to amend Ordinance No. 206 as amended by subsequent ordinances relating to the Joint County Industrial Park of Newberry and Lexington Counties so as to enlarge the park so as to include the Lexington County Technology Park Property.**

Chairman Livingston declared this the Public Hearing.

Having received no comments from the public, Chairman Livingston declared the Public Hearing closed.

Mr. Koon motioned to approve third reading of Ordinance #04-09-13; seconded by Mr. Waldrop. The vote was unanimous.

- 3. Ordinance #05-10-13: An Ordinance to provide for the issuance and sale of General Obligation Bonds of Newberry County, South Carolina not exceeding \$1,215,000 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.

Having received no comments from the public, Chairman Livingston declared the Public Hearing closed.

Mr. Hipp motioned to approve second reading of Ordinance #05-10-13; seconded by Mr. Cain.

- 4. Ordinance #05-11-13: An Ordinance enacting and adopting 2013 S-10 supplement to the Code of Ordinances for the County of Newberry, South Carolina.**

Mr. Caldwell motioned to approve second reading of Ordinance #05-11-13; seconded by Mr. Cain. The vote was unanimous.

- 5. Consideration to approve purchase of EMS Ambulance through Equipment Lease Purchase.**

Mr. Long reported that we received two (2) bids on this ambulance and Southeastern Specialty submitted the low bid of \$133,999.00 with Custom Trucks coming in at \$136,197.00. We would like to move forward with the purchase from Southeastern Specialty in the amount of \$133,999.00.

Mr. Hipp stated that we have purchased a number of ambulances recently and asked if we were getting some consistency in our fleets

Mr. Long responded that this is the second Dodge Ram vehicle we have ordered of this type for EMS. We have moved away from Fords because of the problems we have had with them. The shop has also been pleased with the maintenance on the Rams.

Mr. Koon motioned to approve the low bid from Southeastern Specialty in the amount of \$133,999.00; seconded by Mr. Hipp. The vote was unanimous.

**6. Consideration to approve moving spare Pomaria Rescue Squad Vehicle to Consolidated Fire Department.**

Mr. Long reported that they would like to keep the vehicle in Pomaria Rescue's fleet but move it to the Consolidated Fire Department so it can respond to wrecks and medical calls. Consolidated has an open bay where it can be parked and this will greatly improve the response time in this area.

Mr. Cain motioned to approve the move of this vehicle to the Consolidated Fire Department; seconded by Mr. Hipp. The vote was unanimous.

**7. Consideration to approve Memorandum of Understanding between Piedmont Technical College and Newberry County**

Mr. Adams reported that there has been a lot of discussion in our "Vision 2015" meeting that Council sponsors about industrial recruitment including the education component. Having a mechatronics degree program here at the Piedmont Tech Newberry Campus will be a major draw and major incentive for industry to locate here. We have a number of industries that could use mechatronics degree graduates today. We want to make that training available to people right here in Newberry County. The consideration that Newberry County would fulfill would be purchasing the mechatronics equipment which is about \$515,000.00 and in addition to meeting at least 80% of the annual funding formula, the county would add \$25,000.00 per year. The source of the funding for the equipment would be the escrow from the sale of the nursing home which will be released on March 1, 2014.

Dr. Wilbanks thanked Council for allowing her to be here and for considering this request. Several years ago, many of the technical colleges came together and looked at the skilled work force that was needed in South Carolina to address the shortfall in manufacturing and they came up with a degree in mechatronics. This combines electrical, mechanical, robotics and computer information systems and ties them together. If this is passed, we will be able to put the full Associates in Science Degree in Mechatronics Technology here at the Newberry Campus. Students will be able to take either a one year certificate or a full two year associate degree program. We currently have the space and are working with our architects and engineers on a feasibility study to add an auditorium and Health Science Program in Occupational Therapy Assistant so this will be the push we need to do it all at one time.

Mr. Waldrop commented that this type of equipment is very expensive and asked who would be advising them on what type of equipment will be needed.

Dr. Wilbanks responded that they have a strong partnership with a lot of businesses and industry and recently purchased a similar set of equipment for another campus. We worked very closely to make sure we have state of the art technology on the floor for training individuals.

Mr. Waldrop asked how many campuses in the state are doing this besides Newberry.

Dr. Wilbanks said she was not sure but maybe 6 or 7. We have one in Laurens but it is not fully implemented yet. She said they had a group from Zeus tour the Center for Advanced Manufacturing right off of Interstate 385, a smaller facility than the Newberry, and they said it was one of the best in the state and offered the college a million dollars' worth of software which is currently being installed.

Mr. Waldrop commented that companies might invest in some of the equipment and felt they should.

Dr. Wilbanks said once we give it a push off a lot of companies will come in and help with upgrades and different types of equipment. We have seen this in Laurens as well.

Chairman Livingston shared that basically every plant you go in is mechatronically based and they are looking for people and willing to pay for them.

Mr. Hipp confirmed that the County's only obligation beyond the initial purchase of equipment is the \$25,000.00 annually. There will be no commitment in addition to this as far as maintenance or replacement.

Dr. Wilbanks reported that they will take care of construction, architects, engineers, salaries, and upgrading the equipment.

Mr. Hipp asked is there would be any changes to the current new facility to set this equipment up and be available for use.

Dr. Wilbanks stated that they will take care of that part of it.

Mr. Hipp motioned to approve the Memorandum of Understanding with Piedmont Tech; seconded by Mr. Waldrop. The vote was unanimous.

**8. Consideration to approve low bid in the amount of \$14,000.00 from Moats Construction, LLC for Demolition of Highway 219 Building.**

Mrs. Waldrop reported that we received eleven (11) bids on May 8, 2013 and the low bidder was Moats Construction out of Anderson in the amount of \$14,000.00. They will be removing the entire building down to the concrete slab and leaving the asphalt parking lot and curbing. We recommend that Council consider the low bid.

Mr. Waldrop motioned to approve the low bid from Moats Construction in the amount of \$14,000.00; seconded by Mr. Cain. The vote was unanimous.

## **9. Consideration of bids for Berley Road Bridge Project.**

Mr. Pisano reported that this item was forwarded by the Public Works and Planning Committee on May 13, 2013, and is for the bids received for the Berley Road Bridge Project which came in over budget. The engineers we are working with offered to value engineer in order to get the price down but doing so will change a lot of the specs on the project. We can change some of the specs and re-bid and save some money by having county forces do a lot of the work such as the demolition and we can move away from the DOT specs which include paving of the bridge surface. Right now, the bridge is on a dirt and gravel road and does not necessarily need to be paved. We believe at this point re-bidding the project after changing the specs will be the best bet.

Mr. Koon stated that we have already spent \$35,000.00 on this project and he felt Mr. Pisano was right that we needed to re-bid and see what comes in. We can revisit it then and decide if we want to move forward or do some of the work ourselves to cut corners to get the cost down; however, he did not think we should abandon the project.

Mr. Hipp said that at a minimum we need to re-bid the project and consider our own county's ability to defer as much of the cost as we can by using our own labor and equipment. Maybe Mr. West can assist us in determining the minimum specifications required for those fire trucks. We need to make sure we don't overbuild because this is a lot of money for the limited service that we would be providing.

Chairman Livingston asked if these were the only three (3) bids received.

Mr. Pisano confirmed only three (3) bids and reported they came from Eagle Construction, McClam & Associates, and Brantley Construction.

Chairman Livingston asked if we re-bid would it be open to everybody or just these three companies.

Mr. Pisano responded that it would be open to everybody.

Mr. Cain asked Mr. Long if there were only two (2) houses on that road.

Mr. Long said there is one house near the bridge and the other one is on the opposite end of the road. In order to get to this house we would have to drive around on the paved road which would take about 12 minutes.

Mr. Cain stated that this was a lot of money for one house. The county has a lot of other roads and bridges that \$100,000.00 could be used on. He asked if the fire department would use this as a cut through road.

Mr. Long said the fire department could use the road; however, it would be a lot quicker to use the paved road. He said if there was any type of fire on the road they would have to go around anyway.

Mr. Cain commented that this project would be done for basically only one house.

Chairman Livingston stated that we would be doing it for one house and hopefully for future development.

Mr. Waldrop asked how many people owned property on the road.

Mr. Billy Fanning said there are multiple land owners on the road.

Mr. Hipp asked if the Pomaria Fire Department responded to other homes that would require this same amount of time to service.

Mr. Long responded that they could be to any house within the five mile service area in less than 12 minutes.

Mr. Koon motioned to re-bid the Berley Road Bridge; seconded by Mr. Hipp. The motion passed by vote of 6-1; Mr. Cain opposed.

**10. Consideration to approve low bid in the amount of \$137,575.00 from ACS Construction Equipment for Front Wheel Loader.**

Mrs. Waldrop reported that we accepted bids back in February and staff recommends that we accept the low bid from ACS Construction in the amount \$137,575.00.

Mr. Waldrop asked how often we use a front end loader of this size.

Mr. Pisano responded that it is used several times during the week and on the weekends to windrow and load mulch. It is also used on the yard to load gravel into our trucks from the stockpile and for moving material while out on site.

Mr. Stockman asked if the Volvo from ACS Construction will do the job.

Mr. Pisano confirmed that it would.

Mr. Hipp asked the salvage value of our existing loader.

Mr. Pisano stated that we do not have one; we have been using a track machine that is old and unserviceable at this point. We priced to get it fixed and it would cost around \$69,000.00 to get a distribution box for the hydraulics and that is with a used replacement part. He said he did not know what the salvage value of the track machine would be.

Mr. Caldwell commented that it is only fair that we provide these individuals with the equipment they need to get the work done. They have a good idea of what is needed and how it should be done.

Mr. Hipp said there is less than a 10% difference between two of our bids; Volvo and Komatsu. There was only one bidder that bid Komatsu and Mr. Cain mentioned that he knows of a number of Komatsu Dealers within 100-200 miles. Komatsu wheel loaders are made here in Newberry County and he felt supporting our local industry has a value; however, we need to balance that between the needs of our taxpayers and make sure we spend their money wisely. He felt that if we have a county piece of equipment that he would rather have a Komatsu being that it's made in Newberry by Newberry people in a Newberry industry. He would like to see us go out for bid for Komatsu equipment to as many Komatsu vendors as we can within a couple hundred mile radius to see what kind of price we can get and maybe even improve on this price.

Mr. Koon asked how the bidding process was done and if any dealers could bid.

Mrs. Waldrop responded that it was a sealed bid process and anyone could bid. She said usually companies are limited to one dealer for a certain area and that may be why we only received one bid from Komatsu, one from Caterpillar, etc. For our area, Blanchard CAT is the Caterpillar dealer and Lindler is the Komatsu dealer and that is who submits bids to us locally.

Mr. Koon said we had six bids and all were six different pieces of equipment; Case, John Deere, Caterpillar, Komatsu, Volvo, and Doosan.

Mrs. Waldrop commented that it was advertised locally and in SCIBO as required.

Mr. Waldrop stated that he felt Volvo makes good equipment too. We are out trying to recruit industry and Volvo might be the next big industry that might move to Newberry County. He said they ran Volvo trucks hauling milk to the outer banks and they are good trucks but he also agrees about Komatsu.

Mr. Stockman said we are looking two issues here. These bids were received back in February and he has been on Council for over four years and has never known us to award to anyone other than the low bidder. He would like to recommend that we approve it to ACS Construction because they are the low bidder and if we want to look at our policies and procedures on how we look at our bids in the future then we should take that up separately.

Mr. Cain stated that he disagreed with Mr. Stockman's statement in that just because we have done it that way in the past doesn't mean that it's right. He said all of these companies are good but in this case we are not comparing apples to apples. The 8.5% difference in the cost is the quality of the machine. Above all that, Komatsu has been a good partner with Newberry County. They put a 20 million dollar investment in our county and they employ 200-250 people. He felt if it is made, manufactured or grown in Newberry County we ought to support our local

industry. We only have a couple of companies that produce the end product in Newberry County and Komatsu happens to be one of them. There are only a few companies that we have the opportunity to patronize and show that we are business friendly and this is a company that we appreciate being in our county.

Mr. Stockman said he appreciates the fact that Komatsu is in Newberry County and we need to do what we can to have a great relationship with them and that is the reason we do tax incentives for companies such as that. If we start selecting companies after we receive bids, how long are these companies going to continue to bid. They are going to quit bidding because we will select someone other than the low bidder.

Mr. Koon commented that he didn't think we should always take the low bid and he thinks Mr. Hipp is right in what he said. If Komatsu is \$12-13,000.00 higher than the Volvo but is a better piece of equipment, then he did not have a problem with us putting it back out for bid.

Chairman Livingston shared his concerns that if the dealers that submitted bids met the specs then he did not know if we could re-bid and be within the legalities of procurement unless we reject all bids, start over, and re-bid.

Mr. Hipp motioned to award the contract to Lindler Machinery for the Komatsu Front Wheel Loader at \$149,920.00; seconded by Mr. Cain.

Chairman Livingston asked if there was any discussion.

Mr. Stockman commented that he felt we will be creating a major problem because when you go back and put this equipment out for bid we will not have the bidders; they will not bid again.

Having received no further discussion, the motion to award the contract to Lindler Machinery for the Komatsu Front Wheel Loader failed by vote of 2-5; Hipp and Cain in favor; Stockman, Waldrop, Caldwell, Koon and Livingston opposed.

Mr. Stockman motioned to approve the low bid from ACS Construction in the amount \$137,575.00; seconded by Mr. Waldrop. The vote was 3-3-1; Stockman, Waldrop, Koon in favor; Hipp, Cain, Livingston opposed; Caldwell abstained.

Mr. Adams stated that there are two choices. Council may award under the current policy (low bid) or reject all bids and develop a new policy. Those are the cleanest choices; however, staff will follow the will of Council. There has been discussion at the committee level about developing a policy that allows for reasonable preference for products like this and Mr. Tothacer is reviewing the policy.

Mr. Koon motioned to revisit the specs and re-bid; seconded by Mr. Livingston.

There was discussion among Council about the Volvo front wheel loader not having a hydrostatic transmission therefore not meeting specs and a need for Executive Session for legal advice on this matter.

Mr. Adams commented that part of this is about policy, part about brand preference, and part about proper procurement procedure so he would suggest that Mr. Tothacer give Council some legal advice in Executive Session.

Mr. Koon withdrew his motion to revisit the specs and re-bid; Chairman Livingston withdrew his second.

Chairman Livingston stated that the decision about the purchase of the front wheel loader will be postponed until after the Executive Session.

**11. Consideration to surplus abandoned boiler at the Newberry County Armory (New Sheriff's Office).**

Mrs. Waldrop reported that this particular boiler was covered up by Piedmont Tech and discovered in the middle of the building and we are requesting that it be removed.

Mr. Hipp asked what the cost of removal and abatement will be.

Mrs. Waldrop stated that Mr. West gave a figure of around \$7,000.00.

Mr. Adams shared that the Sheriff is willing to use some of his contingency to have this removed.

Mr. Hipp motioned to surplus the boiler at the Newberry County Armory; seconded by Mr. Cain. The vote was unanimous.

**12. Committee Reports**

**a. Public Safety and Courts Committee – 5/06/2013**

Mr. Long reported that there were only two items on the agenda at this meeting and both were covered tonight.

**b. Public Works and Planning Committee – 5/13/2013**

Mr. Pisano reported that the committee was updated on the following:

- Goodwill boxes at the Convenience Centers
- CTC appropriation of \$160,000.00 for Pineland Road repair and overlay;

- Public Works and Animal Control Complex/occupancy within 6-8 weeks
- Size limitation on pavement repairs (200 sq. ft. per repair) by Public Works personnel/anything over being contracted out
- Front wheel loader
- Leslie Jenkins gave an update on Animal Shelter activities.

Mr. Cain commented that he was at a drop off point for one of the Goodwill boxes and they were servicing it at the time. He talked with the gentlemen and was very impressed with their attitude and what they are doing and shared that they are servicing the boxes on Tuesday and Thursday of each week.

Mrs. Peters reported that the zoning revision is almost complete. She said they found a lot of contradictions and decided to revise the entire thing. There are only a few pieces of the puzzle left and they are in the final stages of checking for any inconsistencies within the chapters. The revision will be a lot easier to read; with diagrams and pictures and more user friendly to the general public.

### **13. Appointments**

Mr. Koon nominated Mr. Doug Hipp for an appointment to the Board of Zoning Appeals; seconded by Mr. Stockman. The vote was unanimous.

Mr. Koon nominated Ms. Michelle Bundrick for an appointment to the Recreation Commission; seconded by Mr. Waldrop. The vote was unanimous.

Mr. Stockman nominated Mr. Glen L. Hamm, II (with Mr. Koon's blessing) for an appointment to the Newberry Co. Memorial Hospital Board; seconded by Mr. Cain. The vote was unanimous.

Mr. Stockman nominated Mr. John Pugh for reappointment to the Newberry Co. Memorial Hospital board; seconded by Mr. Hipp. The vote was unanimous.

Mr. Hipp nominated Mr. Robert "Spott" Coats for reappointment to the Newberry Co. Memorial Hospital Board in District 5; seconded by Mr. Waldrop. The vote was unanimous.

Mr. Hipp nominated Dr. Alan Paysinger (with Mr. Waldrop's blessing) for reappointment to the Newberry Co. Memorial Hospital Board in District 5; seconded by Mr. Koon. The vote was unanimous.

### **14. Public Comments (by those who signed up at the meeting)**

No comments.

**15. Executive Session (if needed)**

Mr. Cain motioned to go into Executive Session, seconded by Mr. Waldrop. The vote was unanimous.

**[7:59 p.m. – 8:50 p.m.]**

Mr. Tothacer reported that Newberry County Council went into Executive Session to receive legal advice and no action was taken in that session.

Mr. Koon motioned that we rescind the vote on the low bid; seconded by Mr. Waldrop. The motion passed by vote of 5-2; Stockman, Waldrop, Caldwell, Koon and Livingston in favor; Hipp and Cain opposed.

Mr. Waldrop motioned to approve the low bid from Volvo for the front wheel loader; seconded by Mr. Koon. The motioned passed by vote of 5-2; Stockman, Waldrop, Caldwell Koon, and Livingston in favor; Hipp and Cain opposed.

**16. Comments from County Administrator**

No comments.

**17. Comments/Request from Council Members**

Mr. Cain expressed his condolences to the families of Senator Robert Lake and Nick Bouknight. He said in reference to the last vote, he would like for Council to look at our Procurement Policy because if it is made, manufactured or grown in our county and our county is a user of that product then there should some preference to support our local business.

Mr. Hipp commented that he and Mr. Cain share the same feelings about supporting our local industry and if we need to revise our procurement process to make it objective to allow for percentages of consideration based on price whether it is high or low. We do not need to be obligated to accept the low but obligated to do the right thing for the county.

Mr. Koon asked for bowed heads and a silent prayer for the folks out in Oklahoma and the devastation in that area.

Chairman Livingston thanked the Sheriff's Office for their assistance at the Pomaria Reunion.

**18. Future Meetings**

- a. Personnel and Intergovernmental Relations Committee – 6/3/13 @ 6:00 p.m.
- b. County Council – 6/5/13 @ 7:00 p.m.
- c. Budget Work Session – 6/10/13 @ 6:00 p.m.
- d. “On the Move with Margaret” – 6/17/13 – 9:30 a.m.
- e. County Council – 6/19/13 – 7:00 p.m.
- f. Economic Development Committee – 6/24/13 @ 6:00 p.m.

**19. Adjournment**

Chairman Livingston adjourned the meeting at 8:54 p.m.

**NEWBERRY COUNTY COUNCIL**

\_\_\_\_\_  
**Henry H. Livingston, III, Chairman**

**APPROVED:**

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