



**NEWBERRY COUNTY COUNCIL  
MINUTES  
AUGUST 19, 2015**

Newberry County Council met on Wednesday, August 19, 2015, 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**  
**Bill Waldrop, Councilman**  
**Leslie (Les) Hipp, Councilman**  
**Steve Stockman, Councilman**  
**Scott Cain, Councilman**  
**Travis Reeder, Councilman**  
**Wayne Adams, County Administrator**  
**A.J. Tothacer, County Attorney**  
**Laurie Renwick, Clerk to Council**  
**Debbie Cromer, Finance Director**

**MEDIA:** **Andrew Wigger, Newberry Observer**  
**Samie Truong, WKDK**

The meeting was duly advertised as required by law.

Chairman Livingston called the meeting to order.

Vice Chairman Koon led the invocation followed by the Pledge of Allegiance.

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

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

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

Mr. Koon motioned to adopt agenda as presented; seconded by Mr. Cain. The vote was unanimous.

3. ***Ordinance #07-13-15: 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 (2.0) acres portion of a real estate parcel totaling twenty-one and sixty-six hundredths (21.66) acres designated as TMS Parcel No. 588-11 from Rural (R2) to General Commercial (GC).***

Chairman Livingston declared this the Public Hearing and invited those signed up an opportunity to speak regarding this ordinance.

Michael Martin of 115 Seibert Road commented that he lives directly across from the fire department and the property that is the subject of this rezoning and asked that it not be approved. He said he has an active petition of over sixty-five names of immediate surrounding neighbors of this piece of property who do not want this rezoned as commercial property. We feel there will be an increase in traffic and noise that will disrupt our rural community and felt it is not necessary or needed in our community.

Jim Parr stated he lives near The Station near Lyons Club Road and commented that he was speaking in approval of the Dollar General going in this area. It is a wonderful opportunity to enhance the tax base and provide a great convenience to the people in this community. He said historically, Stockman's Store was in operation across the street for many years. Today, there are very few convenience stores in this area; The Station and Slice's and both are several miles away. He felt this store was not going to be a destination but visited by people in the area and should not increase the traffic flow. These stores are safely operated, are well light, and have business hours that will not foster a criminal element if that is of concern. He said he travels by this location every time he comes to Newberry which is about four miles from his home.

Mr. Reeder asked if he had a list of others in favor of this rezoning.

Mr. Parr responded that he has a friend connected with the project and was here in support of that relationship. He expressed his thoughts that there is a silent majority that are in favor of this project and they would greatly appreciate the convenience.

Tony Cates stated that he was representing the developer and has been working closely with the land owner. He noted that he is in the process of moving to Cabin Creek Road which is off of Mt. Pilgrim Church Road so this will be in his backyard as well. He said he was here for two reasons; one, he is acting as a developer and two; this will be a store he will shop in. We identified this area

because it is a main hub and will service people within a 5-6 mile radius. Macedonia Church Road already sees 2,000 + people a day so the numbers a store like this would see are less than 500. You have more cars on that road now than visitors will come to this store on a given day so traffic will not be an issue. The location is perfect in that it will be centrally located to the people in which it serves. The owner, who has been an asset to this community all his life, sees this as another way to leave the community in a better place. Noise should not be an issue because business hours end at 8 or 9 so when people are going to sleep there will be no one across the street. It will open when people are up and going to work. He asked Council to consider that this will benefit a community that is bigger than a half mile, for its tax base, and for growing this side of Newberry County. He concluded by saying that in the last two weeks he was able to personally contact about 15 residents at home and of that total only 2 were opposed; this canvas was done on Seibert Road and Macedonia Church Road. He said the petition has 65 names but there is not that number represented here tonight. He would like a better representation here to speak and not just the signing of a name on a petition; this is a public hearing for a reason.

Ellis Martin stated that he lives at 3301 Glendale Road in West Columbia and inherited and owns this property that has been in his family for over 100 years. He noted that his grandfather originally donated the land for the fire house and felt this has helped the county and this community. There is also a helicopter pad located there. He mentioned that he lives on social security and savings and this will be an income for him and his family who will inherit whatever property he leaves. He noted that he is at the property every Saturday throughout the year and there is a steady stream of traffic. It will not increase the traffic but will be a draw for the locals. He said he fenced in the 2 acre parcel (proposed for rezoning) and only one person enquired about what his intentions were and I told him that a commercial building might come there. The gentlemen asked me what I would take for the property and he offered me less than 1/2 of what I have been told I will get for the property. He said he has not signed a contract and no transfer has been made at this time.

Phil Shealy stated that he resided at 303 Smallwood Drive in Chapin and owns a home and property right across from Mr. Ellis's property. He said he liked the tranquility of the country and worked as a young boy for Mr. Ellis's grandfather. He said he did not like the idea of having a store right in front of the house because it will draw certain traffic and people will park there at night. He stated his opposition to this property being rezoned for a retail store.

Mr. Koon asked Mr. Shealy if there was a problem with Stockman's Store being in the community when it was opened at that time.

Mr. Shealy responded that he could not recall any problems but after the store was there for awhile a lot of people parked on the side of store.

David Sharpe stated that he lives in Leesville and Mr. Ellis is his father-in-law who was a veteran and served his country well. Mr. Ellis's mother, Mrs. Ruby, gave the land for the fire department and when she passed away Mr. Ellis inherited the land. He has three sons; one was murdered, another died of cancer, and one is here tonight. Mr. Ellis needs this money to keep his cattle farm going; something he has enjoyed for many years. He said Dollar General will be coming to this area eventually; there are three Dollar Generals on 378 coming from Lexington towards the traffic circle. He felt Mr. Ellis has suffered enough in this life and felt this store would be good for the community.

Donny Stockman stated he lives at 1559 Stockman Rd and had no intentions of speaking tonight but felt he had to. Mr. Ellis said he was doing this for his family and I am speaking tonight for my family. He said that as long as Mr. Ellis is alive things will be fine but what might happen when he is gone is his concern. It will open the entire triangle up for commercial development and that will not fit in this community. There are reasons to do it but this is the primary reason not to. He said we have not heard anything from anyone who lives in the community that is for this; everyone that is for this does not live in the community and he considered 5 miles up the road on Mt. Pilgrim Road not in the community.

Alan Stockman stated that he lives at 4212 Macedonia Church Road and almost directly across from the proposed property. He said he has lived in this area for 45 years and he plans on dying here. He has 7 brothers in his immediate family and several nieces and nephews that live in this area and we do not want to see a store coming here. This rezoning will open the area up for a liquor store or strip mall. He said the people that have spoken are great people and he has known them his entire life but they do not live across from this property and if they did they would not want a store here either. He said he works in Columbia and passes a Dollar General in Chapin and in Prosperity. There are no plants or work in this community; everybody coming into this community passes a Dollar General to get here. He questioned why we have to have another Dollar General when there are two within 8 miles of this community.

Michael Martin approached Council again and confirmed that we actually have 3 Dollar Generals within 11 miles; the closest being 4.6 miles in Prosperity, 8.9 miles in Chapin, and 11.2 mile at the traffic circle. We are fully inundated with Dollar Generals in this area. He said there are other pieces of property that are already zoned commercial in this area ready to go. We are not telling Mr. Ellis that we do not want him to live comfortably; we are saying we don't want it in our front yard.

Chairman Livingston declared the Public Hearing closed.

Mr. Cain motioned to approve second reading; seconded Mr. Reeder.

Chairman Livingston asked if there was any discussion.

Mr. Koon stated he has heard some compelling arguments for and against from both sides. Several years back we had a zoning issue similar to this on Jollystreet Road with a commercial business and there was a petition with quite a few names on it against the rezoning. He said he and former Councilman John Caldwell voted against the rezoning. At this time, there have been good arguments on both sides and feels Council should move forward with second reading and have a vote tonight.

Mr. Stockman commented that he appreciates what everybody has said but there was a comment made that the folks on the petition were not here representing the fact that they oppose the rezoning when in fact they are. He said he has heard from every one of the folks on the petition but has not received the first call in favor of this going into our community. With the strong opposition he has received, he cannot vote in favor of this; cannot vote for the rezoning of this property, and would ask that Council not rezone this property.

Chairman Livingston wanted to clarify that someone had alluded to 21 acres and this ordinance only pertains to the rezoning of 2 acres.

Having received no further discussion, there was no vote in favor of second reading of Ordinance #07-13-15. The vote was unanimous, 0-7, opposing second reading; therefore, second reading failed.

**4. Resolution #10-15: A Resolution creating a Commission to select Capital Projects to be funded by Proposed Local Sales Tax.**

Mr. Adams reported that this is the first step toward a renewal or continuation of the Capital Project Sales Tax. This resolution creates the commission that will choose the projects that will be on the ballot in 2016.

Mr. Reeder motioned to approve Resolution #10-15; seconded by Mr. Cain. The vote was unanimous.

**5. Resolution #11-15: A Resolution Designating Deborah Smith Appreciation Day.**

Mr. Adams read Resolution #11-15 into the record:

“**WHEREAS**, Deborah Smith is retiring as the Executive Director of the Newberry Opera House in September 2015, after 18 years of outstanding service; and

**WHEREAS**, since 1997 Deborah has provided long-term vision and essential day-to-day guidance in transforming Newberry’s cherished historic asset, the Newberry Opera House, into an arts and entertainment venue of regional, national, and international renown; and

**WHEREAS**, that transformation has been critical to revitalizing the City of Newberry's downtown, and in attracting industrial development to Newberry County; and

**WHEREAS**, in 2005, Deborah Smith was named Economic Development Ambassador for Newberry County; and

**WHEREAS**, through her efforts the Newberry Opera House, in 2008-09, received the Outstanding Historic Theatre Award from the League of Historic American Theatres; and

**WHEREAS**, Deborah continues to enrich the spirit of community here, and will remain vital to the future success of Newberry County; and

**WHEREAS**, Newberry County Council wishes to recognize her accomplishments and express its deep appreciation for her many contributions.

**NOW, THEREFORE BE IT RESOLVED THAT NEWBERRY COUNTY COUNCIL WISHES TO DESIGNATE AUGUST 23, 2015 AS DEBORAH SMITH APPRECIATION DAY.**

**AND BE IT FURTHER RESOLVED**, that this Resolution shall be published in the official minutes of the Newberry County Council and a framed copy provided to Deborah Smith.

**AND IT IS SO RESOLVED** this 19th day of August, 2015."

Mr. Koon motioned to approve Resolution #12-15; seconded by Mr. Hipp. The vote was unanimous.

- 6. Resolution #12-15: A Resolution consenting to the transfer of that certain Fee Agreement between Newberry County, South Carolina and Shakespeare Composite Structures LLC dated as of December 15, 2004; and other matters related thereto.**

Mr. Adams reported that this resolution transfers Shakespeare's existing Fee Agreement with Newberry County to the new owner Valmont Composite Structures.

Mr. Reeder motioned to approve Resolution #12-15; seconded by Mr. Stockman. The vote was unanimous.

- 7. Resolution #13-15: A Resolution to approve a Memorandum of Understanding between the Newberry County Sheriff's Office and the County of Fairfield.**

Mr. Adams reported that Newberry County's Detention Center is not certified by the SC Department of Corrections to accept 17 year old detainees. This agreement provides that Fairfield County will accept these detainees with the consideration being a swap for one of Fairfield County detainees that Newberry County is certified to house.

Mr. Koon motioned to approve Resolution #14-15; seconded by Mr. Hipp. The vote was unanimous.

**8. Consideration of bid for three (3) New Fire Substations**

Crystal Waldrop, Purchasing Director, reported that staff solicited bids and on July 16<sup>th</sup> and only received one bid from W.E. Baker and Son in the amount \$899,000.00 with two alternates. The first alternate being \$127,850.00 and the second being \$12,950.00.

Chairman Livingston asked if there was any discussion.

Mr. Koon asked what the difference was between the base bid and Alternate 1 and Alternate 2.

Ervin West, Facilities Manager, responded that both Alternate 1 and Alternate 2 apply to the Indian Creek Substation. Alternate 1 (\$127,850.00) will be a complete up-fit of 1,700 sq. ft. of unfinished space to include a day room (sitting/meeting room), a kitchenette with sink, microwave, refrigerator, two bathrooms with showers, a bunkroom on each end of the building, office space on each end of the building, and a storage space for equipment. Alternate 2 (\$12,950.00) will be to upgrade the asphalt drives that go around with concrete.

Mr. Cain read from the Capital Project Sales Tax Master Plan referring to project referendum #11 which is the fire station on Hwy.176 and Old Whitmire Hwy: "The proposed building will be a poll framed metal siding structure complete with applicable electrical system, plumbing system, and HVAC system. This proposed fire station will incorporate a large building footprint which will include office areas for temporary living quarters and training areas." He said he interprets this to mean that Alternate 1 should be included in the scope of the project because that's what was voted on. We are legally bound by what was voted on.

Mr. Hipp wanted confirmation that we have already spent some the CPST funds allocated for these three locations to purchase the property. He asked how much was spent to purchase the property versus our approved budget amount for the building.

Mr. Adams concluded that the land purchase price is included in the "other cost" that he provided to Council.

Mr. Waldrop asked Mr. Tommy Long to the podium and asked about the equipment that will go in these bays or will we have to purchase those.

Mr. Long stated that the county already has the fire trucks to go in these three stations.

Mr. Waldrop said so there will not be anything in future budgets in the next year or two for new pumpers.

Mr. Long stated that he rotates the older equipment to the fire substations when new equipment is purchased.

Mr. Waldrop wanted confirmation that we will have everything we need once we build these stations.

Mr. Long responded that Mr. Waldrop was correct.

Mr. Hipp commented that everything to this point shows that we will have the funds in the CPST and this is within the CPST budget. His concern is that we only have one bid. He understand that we go through the bidding process and this is the only bid we received procedurally; however, there was another contractor who had a desire to bid but somehow got confused over the alternates or addendum.

Mr. Adams clarified that the other contractor did not bid due to the timing of bringing in the bid.

Mr. Hipp commented that he did not know whether this bid was a high bid or a low bid; there is nothing to compare it to. He said he generally does not like to see us make purchases especially in excess of a million dollars and only have one bid. Sometimes we not only have to do the right thing but it has got to look like we are doing the right thing. By only having one bid and spending in excess of one million on this project, his desire would be to take this out for re-bid if it will not affect our ability to get the work done prior to the next CPST.

Mrs. Waldrop reported that staff had a pre-bid meeting on June 30<sup>th</sup> with 6 contractors, including W.E. Baker, and none of the other five contractors were local nor did they bid on the project.

Mr. Hipp stated that it did not matter who the bidder was; his concern is that we only received one bid on a project of this size and with all things considered might be subject to some questions as to whether or not this is appropriate.

Mr. West said he was unaware of the wording on the ballot and he understands now the way it should have been bid. He said he also understands the concern of only having one bid and would recommend that we do re-bid and change it where we do not have alternates; put it together as presented on the ballot.

Mr. Waldrop asked how we can go back after already receiving this bid and how would this work when we already know what Baker and Son will do it for.

Mr. West stated that the number will already known; whether it is a good one or a bad one but he felt the square foot averages were on target.

Chairman Livingston said it's almost like having a poker hand and making someone reveal their hand before taking all the bets.

Mr. Waldrop shared his concerns about up fitting this substation and asked if we were we going to man it. He sees the need for the stations for water capabilities but didn't know about the need to have it up fitted.

Mr. Cain responded that this is what was voted on and the taxpayers expect this to be done. He said he did not think that we could legally change anything.

Mr. Koon commented that based on what Mr. Hipp, Mr. Cain, and Mr. West have said; he agrees that we probably should go back and re-bid this project and by doing so will be in the best interest of the county.

Mr. Reeder said his concern is that if we re-bid this project do we risk the bid that we have being higher.

Mr. Hipp responded that we also risk that it could be lower.

Mr. Stockman wanted clarification on the bidding process and that there were six other contractors at the pre-bid meeting and asked why they did not bid.

Mrs. Waldrop responded that they all had the opportunity to bid; it was advertised in the SCBO magazine, the county's website and the local newspaper.

Mr. Stockman added that we have a contractor, regardless of who it is, that submitted a bid and what would his recourse be against the county if we up and say we are not going to accept his bid even though he was the only one that bid.

Chairman Livingston shared that before we vote on this, he would like to receive the opinion of Mr. Tothacer in Executive Session before we render a decision. With all of Council in agreement, the vote on this bid will be given after the Executive Session.

## **9. *Consideration of bid for Asphalt Patcher***

Crystal Waldrop reported that staff received bids on August 4<sup>th</sup> and one bid was received from Duraco, Inc. in the amount of \$60,165.00. This funding was budgeted in the Public Works Capital Expenditures and according to Mike Pisano there are only a few providers that bid on this type of product and they are a vendor that the state uses.

Mr. Koon wanted clarification that Mrs. Waldrop did say that it is not unusual to receive just one bid on this type of equipment because there are not many manufacturers out there.

Mrs. Waldrop concurred with Mr. Koon's statement and stated that bids were solicited through SCBO, the county website and the Newberry Observer.

Mr. Koon motioned to approve bid from Duraco, Inc. in the amount of \$60,165.00 for asphalt patcher; seconded by Mr. Waldrop. The vote was unanimous.

**10. Consideration of bids for Peninsula Drive Resurfacing Project funded by County Transportation Committee**

Mrs. Waldrop reported that staff received two bids on July 15<sup>th</sup>; one from Satterfield Construction in the amount of \$364,435.00 and the other from Sloan Construction in the amount of \$480,321.20.

Mr. Koon motioned to approve bid from Satterfield Construction in the amount of \$364,435.00; seconded by Mr. Stockman. The vote was unanimous.

**11. Consideration of bid for Bear Creek Road Repairs funded by County Transportation Committee**

Mrs. Waldrop reported that staff received one bid on this project on August 11<sup>th</sup> from Satterfield Construction in the amount of \$65.00 per square yard for an estimated total of \$22,100.00

Mr. Waldrop motioned to approve the bid from Satterfield Construction in the amount \$65.00 per square yard for Bear Creek Road repairs; seconded by Mr. Hipp. The vote was unanimous.

**12. Appointments**

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

Mr. Koon nominated Mr. Harold Malloy for an appointment to the Westview Behavioral Board; seconded by Mr. Cain. The vote was unanimous.

Chairman Livingston nominated Mr. Brad Bunce for reappointment to the Westview Behavioral Board; seconded by Mr. Waldrop. The vote was unanimous.

Chairman Livingston nominated Mr. Benji Vinson for reappointment to the Joint Planning Commission; seconded by Mr. Koon. The vote was unanimous.

Chairman Livingston nominated Dr. Steven Flamingo as the NCH staff representative on the NCMH Board; seconded by Mr. Cain. The vote was unanimous.

**13. Public Comments (by those who signed up at meeting)**

No comments.

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

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

Executive Session [8:19 p.m. – 8:46 p.m.]

Jay Tothacer, County Attorney, stated that County Council was going into Executive Session to receive legal advice regard a bid.

Chairman Livingston returned the meeting to Open Session and asked Mr. Tothacer to report out.

Mr. Tothacer reported that Newberry County Council went into Executive Session to receive legal advice about a bid matter on the agenda and no action was taken in that session.

Mr. Cain motioned to approve W.E. Baker and Son's base bid for the three fire substations in the amount of \$899,000.00 plus Alternate #1 in the amount \$127,850.00 plus Alternate #2 in the amount of \$12,950.00; seconded by Mr. Koon.

Chairman Livingston asked if there was any discussion.

Mr. Hipp wanted to go on record to indicate that Council received legal advice and had extensive discussions with the Purchasing Director and Facilities Manager and the bid that we received appears to be normal for the work that we are getting done. All appropriate posting for bid solicitations occurred programmatically in accordance with our procedures and in fact we did everything we could to get more than one bidder; however, the result was there was only one bidder interested.

Having received no further discussion, the bids from W.E. Baker and Son for the three substations was unanimously approved.

**15. Comments/Request from County Administrator**

No Comments.

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

Mr. Reeder congratulated the Chapin- Newberry American Legion on their win and if all possible he would like to bring them before Council.

Chairman Livingston added that he would like to do a Resolution on their accomplishment.

Mr. Hipp noted that Deborah Smith from the Opera House will be honored this Sunday from 3-5 p.m. in Memorial Park.

Mr. Koon noted that our retired Police Chief Mr. Andrew Shealy lost his wife, Mrs. Joyce, to cancer this past Thursday. Please keep the family in your prayers.

**17. Future Meetings**

- a. Public Works and Planning Committee – 8/24/15 @ 7:00 p.m.
- b. Council Work Session (Elected Officials’ Ordinance) – 8/25/15 @ 7:00 p.m.
- c. County Council – 9/2/15 @ 7:00 p.m.
- d. “On the Move with Margaret” – 9/14/15 @ 9:15 a.m.
- e. Personnel and Intergovernmental Relations Committee – 9/14/15 @ 7:00 p.m.
- f. County Council – 9/16/15 @ 7:00 p.m.
- g. Council Work Session (Zoning Ordinance) @ 9/21/15 @ 7:00 p.m.

**18. Adjournment**

Chairman Livingston declared the meeting adjourned at 8:51 p.m.

**NEWBERRY COUNTY COUNCIL**

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**Henry H. Livingston, Chairman**

**APPROVED:**

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