



**NEWBERRY COUNTY COUNCIL  
MINUTES  
AUGUST 21, 2013**

Newberry County Council met on Wednesday, August 21, 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**

The meeting was duly advertised as required by law.

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

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

**1. Newberry County Service Awards**

Chairman Livingston recognized the following employees for their years of service: Jacob Counts, Sheriff's Office – 5 years; Laurie Renwick, Clerk to Council – 5 years; and Rosemary Floyd, Sheriff's Office – 10 years (absent).

**2. Personal Appearances**

- a. The Honorable Frank R. Addy, Jr., Judge of the Circuit Courts,

## 8<sup>th</sup> Circuit – Courthouse Repairs

The Honorable Frank Addy thanked Council for the opportunity to be back in Newberry. He said he was tasked by Chief Justice Toal with helping to oversee and offer any assistance to Newberry County with the renovations at the Courthouse. The Chief Justice is concerned about the water leaking in this old structure. She really wants to see everything done as quickly as possible to preserve the architect of this historical building and the documents inside. He said you can not have economic development without a functioning Courthouse and a lot of the records necessary for people to engage in economic development (deed records, mortgage records, common pleas and criminal records) are being compromised by the level of moisture, mold, and damage that has been done. These records are absolutely essential for any county to have and keep safe. He said he had the opportunity to speak with the County Administrator, Vice-Chairman of County Council, and the county engineer earlier this week about the progress and it sounds like things are coming along nicely. The roof is about half way done and tomorrow the Historical Board (ARB) will review plans to dig a trench around the Courthouse to weatherproof it and solve that problem once and for all. Hopefully this design will be a permanent fix which is something the Chief Justice wants as well as what the county wants. He said he encourages Council to let them know if there is anything they can do. We have already adjusted the court schedule next week to be held here at the Annex. This should not pose a big logistical problem but going forward when family court is running at the same time as common pleas or general session's court, we may not be in a position to appropriate Judge Rucker's courtroom. There is a term of court coming in October so this is something we will have to work through. The County Administrator said he is very confident that the roof will be completed by the end of September so hopefully we can transition back to the Courthouse if it is in decent enough shape to hold court. We would love to see the waterproofing process completed in the next 2-3 months. You have the full support of the Chief Justice and if there is something we need to change or adjust let us know; as long as we can keep moving forward with this.

Mr. Adams wanted Mrs. Bowers to know that the county will do whatever it can to help her prepare for court.

Mrs. Bowers commented that they have done everything they can for this term of court.

Mr. Adams stated that County Council wants nothing more than to fix the Courthouse right. Doing it quickly is nice but doing it right is the emphasis. The Chief Justice may be assured that Council is in support of that.

The Honorable Frank Addy asked that he be kept informed of the progress.

### **3. Ordinance #07-16-13: 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 five and seventy-three hundredths (5.73) acres real estate parcel designated as TMS Parcel No. 751-4 from Rural (R2) to Limited Commercial (LC).**

Chairman Livingston declared this the Public Hearing.

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

Mrs. Peters identified the parcel on a map for members of Council and stated that the owner has a mobile restaurant on the property that serves lunch to the VC Summer patrons and would like for it to be rezoned to Limited Commercial.

Mr. Koon motioned to approve third reading of Ordinance #07-16-13; seconded by Mr. Hipp. The vote was unanimous.

- 4. Ordinance #03-06-13: An Ordinance authorizing pursuant to Chapter 44 of Title 12, South Carolina Code of Laws, 1976, as amended, the execution and delivery of a Fee Agreement between Newberry County, South Carolina and Georgia-Pacific Wood Products LLC; the application of a Special Source Revenue Credit to Fees-In-Lieu Of tax payments; and providing for other matters relating thereto.**

Ordinance #03-06-13 was deleted from agenda.

- 5. Ordinance #08-17-13: An Ordinance repealing Ordinance No. 227, relating to Careless Operation of a Motor Vehicle.**

Mr. Koon motioned to approve first reading of Ordinance #08-17-13; seconded by Mr. Cain.

Mr. Adams reported that the Sheriff would like to have this ordinance repealed because it no longer serves its original purpose which was to have a method to ticket traffic offenders in a way that would not affect their car insurance.

Having received no further discussion, the vote was unanimous to approve first reading of Ordinance #08-17-13.

- 6. Ordinance #08-18-13: An Ordinance amending Chapter 153 of the Newberry County Code of Ordinances amending nonconforming structures or uses to permit changes on lots containing less than two (2) acres, and for other matters related thereto.**

Mr. Waldrop motioned to approve first reading of Ordinance #08-18-13; seconded by Mr. Caldwell.

Mr. Adams reported that when zoning was put into place not all structures in a given district would belong to that district ideally; those structures are considered non-conforming structures and are allowed to continue even though they would not have fit the profile in their original use with regard to the zoning district. Like most zoning ordinances, Newberry County does not allow the expansion of a non-conforming structure. There is a relief option if there are more than 2 acres involved either from a single property owner or in the aggregate a number of property owners who want to rezone to allow a certain use. We have done that on several occasions for businesses that want to expand. If you have less than 2 acres that option is not available to you. This ordinance would change that somewhat by allowing those who have non-conforming structures on parcels less than 2 acres to expand under limited circumstances. It is meant to allow for an expansion that minimally impacts the neighborhood while allowing the non-conforming user to fully enjoy the property they have. This has not yet gone before the Planning Commission but it has been forwarded to them. They have a 30 day period in which to review it and there is nothing to keep Council from having readings of the ordinance in the meantime.

Mr. Hipp asked if the Public Works and Planning Committee recommended approval.

Chairman Livingston stated that they did recommend approval.

Having received no further discussion, the vote was unanimous to approve first reading of Ordinance #08-18-13.

7. **Resolution #07-13: A Resolution to amend the Master Agreement governing the Greenwood–Newberry Industrial Park between Greenwood County, South Carolina, and Newberry County, South Carolina, dated as of December 31, 2012, as amended, providing for the development of a jointly operated industrial/business park so as to include property of Georgia-Pacific Wood Products, LLC.**

Resolution #07-13 was deleted from agenda.

8. **Resolution #10-13: A Resolution to Commission a Code Enforcement Officer for Newberry County pursuant to the authority granted in Section 4-9-145 of the Code of Laws of South Carolina, 1976 as amended.**

Mr. Adams reported that statute requires that County Council appoint Code Enforcement Officers by Resolution and Virginia Atkins the subject of this resolution is an employee of the Building Department.

Mr. Koon motioned to approve Resolution #10-13; seconded by Mr. Stockman. The vote was unanimous.

**9. Consideration to approve low bid in the amount of \$1,830,000.00 from Yeargin, Potter, Shackelford Construction for Speculative Building at Mid-Carolina Commerce Park.**

Mr. Hipp motioned to approve the low bid from Yeargin, Potter, Shackelford Construction in the amount of \$1,830,000.00; seconded by Mr. Stockman.

Mr. Jamie Frost with Alliance Consulting Engineers reported that he was here to discuss consideration of the low bidder Yeargin, Potter, Shakelford for the spec building at the Mid-Carolina Commerce Park. He said one thing we talked about as we were going through the design was to come up with a fly-over marketing tool that can go on the website and be emailed out to folks who were looking. He proceeded with showing Council the visual fly-over of the rendering of the spec building that can be tweaked to add some imagery and commentary. Mr. Frost moved on and stated that on July 30<sup>th</sup> we opened bids from 17 prospective bidders with bids ranging from \$1,830,000.00 up to \$2,240,000.00. Yeargin, Potter, Shackelford was the low bidder at \$1,830,000.00. We completed certified bid tabulation and requested a qualifications breakdown from Yeargin and called on those references which checked out very well. He said their recommendation would be to move forward with awarding the project to Yeargin, Potter, Shackelford for \$1,830,000.00.

Mr. Waldrop asked if the building was located on the 40 acre commercial area or back beyond the 40 acres.

Mr. Frost said it is back beyond the 40 acres. He identified the location on the fly-over imagery for members of Council.

Mr. Hipp asked how much contingency money was in the 2 million.

Mr. Frost said the 2 million was the budgetary amount after taking out engineering fees, construction/administration fees. We are about \$170,000.00 below that. There was not much contingency in the 2 million.

Mr. Waldrop asked if those who did not vote in favor of borrowing the money for this project should abstain from the vote tonight.

Chairman Livingston said he felt that was a separate issue. The other has passed and this vote is supporting the contractor that is being recommended.

Mr. Waldrop commented that he did not want a conflict and he is certainly trying to support the project.

Mr. Koon asked if this 2 million will take us through the end of the project.

Mr. Frost said the \$1,830,000.00 is just for the building and site work. It does not include up-fitting the building inside.

Having received no further discussion, the vote was unanimous to approve the low bid from Yeargin, Potter, Shakelford Construction in the amount of \$1,830,000.00

**10. Consideration to approve bids from Satterfield Construction for improvements to the following County Roads and Parking Lot.**

- Blackberry Lane - \$65,450.00
- Hill Trace Road - \$124,130.00
- Pineland Road - \$151,095.00
- Pomaria Fire Station Parking Lot - \$6,050.00

Mr. Mike Pisano, Public Works Director, reported that we received these bids from Satterfield and they were the only bidders on this group of paving projects. They have all come in under the budgeted amounts obtained from “C” Funds. We feel good about moving forward with Satterfield.

Mr. Hipp asked if these three roads are currently in the county road system in their current condition and asked what kind of improvements we will be making.

Mr. Pisano confirmed these roads are in the county system and are in pretty bad condition. The problem areas will be removed and repaired and an overlay placed over the entire road.

Mr. Hipp responded that it will be asphalt paving to which Mr. Pisano agreed.

Chairman Livingston commented that he has been on two of these roads and they are in deplorable condition.

Mr. Koon asked Mr. Pisano to tell folks what the “C” Fund is.

Mr. Pisano said the “C” Fund is administered by the County Transportation Committee. We receive the money through gas tax and they fund paving projects for all state, county and city roads in Newberry County.

Mr. Waldrop motioned to approve bids from Satterfield Construction for the above mentioned roads; seconded by Mr. Cain. The vote was unanimous.

**11. Appointments**

No appointments.

**12. Committee Reports**

**a. Public Safety and Courts Committee – 8/12/13**

Mr. Tommy Long, Emergency Services Coordinator, reported that the Public Safety and Courts Committee met on August 12<sup>th</sup> and there were five (5) items on the agenda.

- Tom Crooks, citizen, was given an update on the Leitzey Road Substation Mr. Long is working on securing the property for that substation.
- Sheriff Foster requested the repeal of Ordinance No. 227 relating to the Careless Operation of a Motor Vehicle.
- Sheriff Foster requested approving a “Social Hosting” Ordinance. Once fully developed, it will be brought before full Council.
- Sheriff Foster gave an update on the new Sheriff’s Building.
- Ervin West gave an update on the Courthouse.

#### **b. Public Works and Planning Committee – 8/19/13**

Mr. Mike Pisano, Public Works Director, reported that the Public Works and Planning Committee met on Monday evening, August 19<sup>th</sup>. Items discussed other than the paving projects presented tonight were:

- The committee was informed about a drainage issue on property located on Raymon Finch Drive. Staff was directed to research the feasibility of relocating the drainage easement with the aid of an engineering firm.
- A request to accept Federal Lane, a paved private road in Prosperity, into the county system. Staff was directed to assist the citizen with petitioning to have the road brought into the system and advising him how the road can be brought up to specs for the county to accept.
- A land swap at the corner of Dixie Dr. and Hwy. 76 (adjacent to our recycling facility) was presented to the committee. The owner is requesting .55 acres that affronts Hwy. 76 for .55 acres at the rear of the property. Staff was directed to consult with engineers to see the feasibility of the land swap as well as the construction of a shared driveway.
- There was discussion using the remainder of funding for the Public Work and Animal Shelter budget for generators and epoxy flooring for the kennels.

Mr. Hipp asked if the shared driveway will be a new driveway.

Mr. Pisano said it is the drive that goes into the recycling center. The business owner would like to be able to enter through there which will entail some modifications, engineering and construction in order to get into his property. Part of it will be co-owned/shared and part will be located on the .55 acres he is requesting in the swap.

Mr. Hipp asked if the owner will be paying for the engineering and road construction.

Mr. Pisano said we are still in discussions on that matter.

Mr. Cain said the issue is the property is located so close to the stop light and will not allow the owner to bring eighteen wheelers in. He will need to have a right in, right out situation or he will have limited access to the property. No decision was made so we decided to let an engineer look at it to see what is in the best interest of the people, the county and for the business owner.

Mr. Hipp wanted to make sure we were not funding a drive for a private business.

Mr. Cain said the owner will be paying for the drive itself.

Mr. Hipp asked if the owner will be paying for the engineering too.

Mr. Cain said we are going to have our engineers look at it and he was sure the owner would have an engineer also.

Mr. Adams commented that he who holds the engineers holds the outcome. We definitely want the engineers working under our direction since we will accommodate additional traffic. We haven't worked out who pays for what just yet but he felt it would be beneficial if the engineers were working for us.

Mr. Hipp asked if this will be brought before Council after the details have been worked out to approve any expense of funds.

Mr. Adams responded absolutely. He felt it might be brought before the committee as well.

Mr. Waldrop said his understanding was the owner was willing to help with the project.

Mr. Cain confirmed that this will be brought back to the sub-committee before coming to full Council.

Anne Peters, Zoning Administrator, reported that there were two planning and zoning items brought before the committee. The first item was from a citizen whose house on Lake Murray is in the A Zone of the Flood Zone, which under the NFIP Insurance Program is an undetermined zone. The only people who can determine whether the house is in or out of that zone is FEMA. The owners went through the channels to get FEMA's determination and they were told they would NOT be removed so they have to get flood insurance. The owners do not agree with FEMA's decision and have been in touch with Washington DC to acquire the computer program that sets the model. They have received this program and do not understand it and came before the committee to ask for assistance to help them interpret the computer model results. Mr. Adams has contacted Senator Grahams Office and asked that someone from FEMA's Office in District 4 come and go over the program with the owners in hopes that they will understand FEMA's determination.

Chairman Livingston commented that this family has spent an extreme amount of time trying to understand and figure this out. He has met with them several times and this seems messed up. FEMA will have to be the ones to explain or interpret what is going on here.

Mrs. Peters stated that our Flood Plain Ordinance is clear that the A Zone is undetermined and only to be determined by FEMA.

Mr. Hipp said the net effect on the home owner is that they have to buy flood insurance. He said he felt they could care less about the computer program; they just want to be out of the flood plain so they don't have to buy the insurance. He asked Mrs. Peters if the owners shared how much their flood insurance was.

Mrs. Peters said a new act was passed last year and flood insurance is being amortized so people in risk areas are going to have to pay more. In the past it has been a flat fee; now flood insurance rates are going up substantially. The owners already have a second home but come January, the primary residence is going up a lot and this is why it is so important to them.

Mr. Hipp said the reason he is asking is that he is sure this is not the only house in the county that will have to buy flood insurance.

Mrs. Peters responded that 80% of those that come in her office have been removed by FEMA if we are not sure if they are in the flood plain. She said this has been the only one she has had that has not been removed.

Mr. Adams said there is a sticker shock here in that when the family financed the home they were not required by the bank as a condition of the mortgage to have this insurance. When they refinanced, the bank then required them to have flood insurance and his understanding is that it is fairly significant.

Mr. Hipp said at this point it is not a Council issue other than any assistance we can offer to facilitate communication with FEMA.

Mr. Koon said his understanding is that there were some people who were not in the flood plain but after it changed they were put in the flood plain thence having to purchase flood insurance if they have a mortgage. If they do not have a mortgage, they are not required to have flood insurance.

Mrs. Peters reported that the other item came before Council tonight as first reading of Ordinance #08-18-13.

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

No public comments.

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

- a. §30-4-70(a)(2) SC Code of Laws: Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim.

Mr. Adams stated that this pertains to legal advice.

Mr. Cain motioned to go into Executive Session; seconded by Mr. Koon

*[EXECUTIVE SESSION 7:50 p.m. – 8:25 p.m.]*

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

**15. Comments from County Administrator**

No comments.

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

Mr. Hipp thanked staff for all their work on the J. Mitchell Graham Award. It was a great project, was well presented, and it was the number one project in the state regardless of size of county and that is a lot to be proud of. We appreciate the Medias coverage of this achievement.

Mr. Waldrop agreed with Mr. Hipp and thanked staff for a good job.

Mr. Koon recognized the passing of Mr. Hodge Harmon who worked for many years on behalf of Newberry County for the Soil and Water Conservation.

Chairman Livingston commented that the J. Mitchell Graham Award was worked very hard on by a lot of staff members. He said this was a people's choice award because the people voted for and supported it which made it happen.

**17. Future Meetings**

- a. County Council 9/4/13 @ 7:00 p.m.
- b. Personnel and Intergovernmental Relations Committee 9/9/13 @ 6:00 p.m.
- c. "On the Move with Margaret" 9/16/13 @ 9:30 a.m.
- d. County Council 9/18/13 @ 7:00 p.m.

e. Economic Development Committee 9/23/13 @ 6:00 p.m.

**18. Adjournment**

Chairman Livingston adjourned the meeting at 8:30 p.m.

**NEWBERRY COUNTY COUNCIL**

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

**APPROVED:**

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