

**NEWTON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
December 20, 2011
MINUTES**

Present: Chairman Kathy Morgan, Commissioner's Mort Ewing, Lanier Sims, Nancy Schulz, J.C. Henderson, and Tim Fleming; County Manager John Middleton, County Attorney Tommy Craig, Attorney Jenny Carter & Clerk Jackie Smith

Newspaper: Covington News-Gabe Khouli
Newton Citizen-Crystal Tatum
Small group of citizens

Chairman Morgan called the meeting to order, extended a welcome, and read the thought for the day. Reverend Ronny Brannen, Prospect United Methodist Church gave the invocation and Chairman Morgan led the Pledge of Allegiance to our great flag.

GENERAL ADMINISTRATION

**LEGAL OPINION ON SECTION 4-104 OF THE ENABLING LEGISLATION –
NEWTON COUNTY CHARTER, AS AMENDED ON OCTOBER 1, 2002
REGARDING APPROVAL OF CONTRACTS OVER \$50,000.**

At the request of Chairman Morgan County Attorney Tommy Craig presented a written opinion regarding the legality of the contracts over \$50,000 which is attached and made part of these minutes.

**APPROVAL OF BOC WORK SESSION MINUTES DATED OCTOBER 24, 2011
APPROVAL OF BOC WORK SESSION MINUTES DATED NOVEMBER 7, 2011
APPROVAL OF BOC WORK SESSION MINUTES DATED NOVEMBER 14,
2011**

APPROVAL OF BOC MINUTES DATED NOVEMBER 15, 2011

Motion by Commissioner Ewing, and seconded by Commissioner Sims to approve the BOC Work Session Minutes dated October 24, 2011, November 7, 2011, November 14, 2011, and BOC Regular Meeting Minutes dated November 15, 2011 as printed in board book.

Motion carried unanimously

CITY OF MANSFIELD WATER LINE REQUEST

County Manager John Middleton presented this request to the board for approval.

- Information is made part of these minutes
- Commissioner Ewing expressed appreciation and gave honor to Mayor Cocchi for his service to the citizens of Mansfield, being an excellent mayor and excellent to work with over the years. Mayor Cocchi chose not to run again for mayor and will retire on December 31st. This will be his last joint project with Newton County.
- Total Cost: \$56,908.70
- County Cost: \$14,227.18
- Funding Source: Water Fund

Motion by Commissioner Ewing, and seconded by Commissioner Fleming to approve the City of Mansfield waterline request as listed in the board book on pages 11-14 with Newton County's share of the cost not to exceed \$14,227.18.

Motion carried unanimously

R122011 – RESOLUTION TO ADOPT A REAPPORTIONMENT PLAN

Attorney Jenny Carter appeared before the board to present this resolution for adoption.

- Previously held a public hearing where it was decided to return to the DOJ to see if there could be a final consensus on a map.
- Meeting took place Monday, December 19th and after making some minor changes to Proposal #6 there was a consensus on Proposal #10.
- Request BOC to adopt resolution.
- Next step: Attorney will get map to Representative Doug Holt
- Representative Holt will take to Legislature for map to be drawn-up.
- BOE will have a called meeting on January 2, 2012 to adopt the resolution.
- Commissioner Henderson noted that everyone did not get all they wanted, but feels it is a good map for the overall county districts.
- Resolution R122011 and proposed map is made part of these minutes.

Motion by Commissioner Schulz, and seconded by Commissioner Ewing to approve Resolution R122011 – Resolution to adopt a reapportionment Plan.

Motion carried unanimously

APPOINTMENT TO N.C. BOARD OF HEALTH – CHAIRMAN

Motion by Commissioner Ewing, and seconded by Commissioner Schulz to appoint Dr. Henry Patton to serve on the Newton County Board of Health as submitted by Chairman Morgan.

Motion carried unanimously

APPOINTMENT TO ZONING BOARD OF APPEALS – DISTRICT ONE

Motion by Commissioner Ewing, and seconded by Commissioner Sims to appoint Mr. James Brooks to serve on the Newton County Zoning Board of Appeals representing the first district.

Motion carried unanimously

APPOINTMENT TO N.C. TAX ASSESSOR'S BOARD - DISTRICT FOUR

Motion by Commissioner Henderson, and seconded by Commissioner Fleming to appoint Mr. Johnny Blackshear to serve on the Newton County Tax Assessor Board representing the fourth district.

Motion carried unanimously

APPOINTMENT TO ZONING BOARD OF APPEALS – DISTRICT FIVE

Motion by Commissioner Fleming, and seconded by Commissioner Henderson to appoint Mr. Doyle Baker to serve on the Newton County Zoning Board of Appeals representing the fifth district.

Motion carried unanimously

APPOINTMENT TO N.C. PLANNING COMMISSION - DISTRICT FIVE:

Motion by Commissioner Fleming, and seconded by Commissioner Sims to appoint Mr. Jody Smith to serve on the Newton County Planning Commission representing the fifth district.

Motion carried unanimously

APPOINTMENT TO REGION 3 PLANNING BOARD FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE

Chairman Morgan briefly went over the criteria to serve on this board and sought board's approval.

- information is made part of these minutes.

Motion by Commissioner Schulz, and seconded by Commissioner Ewing to appoint Ms. Debbie Carlisle to serve on the Region 3 Planning Board for Mental Health, Developmental Disabilities and Substance Abuse.

Motion carried unanimously

RECYCLING CENTERS: DONATION OF USED BOOKS PROGRAM

County Manager John Middleton presented this request to the board.

- Books will be dropped off at recycling centers
- Another expansion of recycling efforts to keep items out of landfill that could otherwise be used.
- 15% funds: 10% goes to state and 5% of funds go to benefit Newton County Library.
- Average Funds for a county our size is anywhere from \$2000-\$5000.
- Agreement is made part of these minutes

Motion by Commissioner Ewing, and seconded by Commissioner Fleming to approve the Donation of Use Books Program through the Recycling Centers as presented

Motion carried unanimously

INTERGOVERNMENTAL AGREEMENT BETWEEN N.C. & JDA RE: EMERGENCY SERVICES TRAINING EXERCISE AT STANTON SPRINGS

Deputy Director of EMA Jody Nolan appeared before the board seeking approval of this request.

- Extensive emergency services training w/multiple agencies (Newton, Rockdale, Morgan, Walton Counties, also state and federal agencies will participate.
- Staging area will be Stanton Springs
- Time: Spring/2012
- Location: Hwy. 278 between Stanton Springs & Hwy. 11.
- Residents will be notified prior to the massive drill.
- GDOT will use message boards to inform residents.
- Required to have a full scale drill every four years

Commissioner Ewing

- JDA approved request at last meeting.

- Newton County owns 37.5% of the land.
- Good location to carry out drill.
- Very much in favor of approving this exercise.

Motion by Commissioner Ewing, and seconded by Commissioner Henderson to approve The Intergovernmental Agreement between Newton County and the Joint Development Authority (JDA) regarding Emergency Services Training Exercise at Stanton Springs as outlined on pages 28-31 in board packet and explained to the board by Jody Nolan, Deputy Director EMA.

Motion carried unanimously

INTERGOVERNMENTAL AGREEMENT BETWEEN N.C. & STANTON SPRINGS, LLC RE: EMERGENCY SERVICES TRAINING EXERCISE AT STANTON SPRINGS

Motion by Commissioner Ewing, and seconded by Commissioner Schulz to approve The Intergovernmental Agreement between Newton County and Stanton Springs, LLC regarding Emergency Services Training Exercise at Stanton Springs as it relates to the training exercises outlined by Mr. Nolan and listed on pages 34-36 in board packet.

Motion carried unanimously

ROW MAINTENANCE AGREEMENT BETWEEN GDOT, NEWTON COUNTY & CITY OF COVINGTON – COVINGTON BYPASS TUNNELS

Chairman Morgan presented this request to the board for approval.

- Reviewed by county attorney's office
- GDOT takes over responsibility of road
- Adds responsibility of repair and maintenance of tunnel to the county.
- This agreement adds City of Covington to the mix.
- Passed by City Council to pay ½.
- City & County, developer and owner would share responsibility of any accident inside the tunnel
- Tunnels go with title of property
- Notify property owners of deed restrictions.
- Agreement is made part of these minutes.

Motion by Commissioner Fleming, and seconded by Commissioner Sims to approve the ROW Maintenance Agreement between Georgia Department of Transportation, Newton County and the City of Covington as it relates to maintenance of the inside of tunnels.

Motion carried unanimously

NEWTON COUNTY COURTHOUSE EXPANSION – APPROVE CONTRACT

County Manager John Middleton presented this to board for approval.

- Architectural & engineering design services
- Meet with Lyman Davison Dooley, Judges, Maintenance Staff
- Lyman Davison Dooley is the firm that did the renovation for the 5th Judge
- Contractor: Lyman Davison Dooley

- Time to complete Phase I: 1-2 years
- Will probably begin construction near end of SPLOST.
- Money will not be spent until funds are available through SPLOST.
- Agreement is part of these minutes.

Motion by Commissioner Ewing, and seconded by Commissioner Henderson to approve the contract between Newton County BOC and Lyman Davison Dooley, 1640 Powers Ferry Road, Marietta, GA as explained by Mr. Middleton. This is for the Newton County Judicial Center Expansion as it relates to developing the Master Plan outlined on pages 47-62, with a not to exceed amount of \$474,920, and with money on hand from 2011 SPLOST before project begins.

Motion carried unanimously

ZONINGS:

Chairman Morgan noted the rules regarding speaking in favor or against the petition. Both sides will have 10 minutes each to speak.

Zoning Administrator Branin Burdette presented the following for approval.

CASE: CUP11-000127

Proposed use: Personal Care Home for 4 people

Existing Zoning: CN (Neighborhood Commercial)

Watershed: Yellow River

Location: 2129 Hwy. 81 South

Parcel Size: .35 acres

Tax Parcel: 28A-71

Owner: Fritz & Marie Pierre

Petitioner: Kaprisky Pierre

Applicant's Intent: To open a personal care home that would serve four persons total (3 residents and 1 caretaker).

Planning Commission Recommendation: Denial with 3 to 1 vote (November 22, 2011)

District Five

Petitioner: Kaprisky Pierre

- house is commercially zoned
- Intent is to have 3 clients
- Clients will need limited assistance
- Registered Nurse (Ms. Pierre)
- 24 hour care
- 2 assistants
- Parking? Rear holds 5 cars

Opposition:

Ronald Dobbs

15 Mimosa Road

(Directly across the street from the home)

- Parking in back of house is less than ½ acre
- Septic tank concerns
- Mimosa Road area has blind spot
- Concerned about children getting off school bus

Johnny Walden

2132 Hwy. 81 S

(Across the street from the home)

- House sits almost on right-of-way
- Uncle built house 26 years ago
- You have to use the neighbor's driveway to get to the back.
- Born & raised here and has wife that is very ill.
- Doesn't feel like it is a good fit for the neighborhood
- 8 people stood up in opposition to the request.

Rebuttal (Ms. Pierre)

- Front of the house can hold 2 cars
- Back of the house can hold 5 cars
- Less traffic than you see at the Burger King

Commissioner Schulz

- Busy highway...speed limit is 55 mph
- Concerned about clients safety

Ms. Pierre

- Put in Alarm System
- Fence the backyard

Commissioner Fleming

- Major concern Hwy. 81 is such a busy highway
- Dangerous hill/site distance
- Size of the facility

Motion by Commissioner Fleming, and seconded by Commissioner Schulz to deny CUP11-000127 (Conditional Use Permit) for a Personal Care Home for up to four (4) people based on the following conditional use permit criteria contained in Section 620-060(B) of the Zoning Ordinance:

Compatibility with adjacent properties and with other properties in the same and adjoining zoning districts.

Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed conditional use.

Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area.

The proposed use will create unreasonable adverse impacts upon adjoining land use by reason of the manner of operation of the proposed use.

Motion carried 4 to 1 with Commissioner Henderson voting in opposition to the motion.

CASE: MOD11-000138

Proposal: To allow for commercial trailers associated with semi trucks to be placed on-site for the storage of landscaping materials.

Existing Zoning: CG (General Commercial) approved September 20, 2011

Location: 2486 Hwy. 81 South

Parcel Size: 3.1 acres

Tax Parcel: 28A-1

Owner: Kathryn Chestnut

Original Applicant: Jeremy Head

Petitioner: Newton County Department of Development Services

Applicant's Intent: To operate a landscaping business.

District Two

No opposition

Motion by Commissioner Sims, and seconded by Commissioner Henderson to approve MOD11-000138, to allow for commercial trailers associated with semi-trucks to be placed on-site for the storage of landscaping materials with the following modified staff conditions:

1. To the owner's agreement to restrict the use of the subject property as follows:

a. The following uses shall not be allowed:

1. Amphitheaters, Stadiums
2. Major Auto Repair, Auto Sales
3. Bar, Night Club
4. Campground, RV Park
5. Private Club, Order, Lodge
6. Electric Station; Gas Pumps not related to Anchor Store
7. Flea Market
8. Group Home
9. Hospital
10. Manufactured Home Sales, Rental, Repair
11. Kennel
12. Manufactured Home Display
13. Personal Care Home
14. Produce Stand
15. Dry Cleaning, Institutional (Neighborhood Dry Cleaners that do on-site cleaning shall be allowed if they meet environmental regulations.)
16. Light Manufacturing
17. Commercial Outdoor Recreational Facilities
18. Used or New Auto Sales

19. Private Recreation Center or Club
20. Sawmill, Planing Mill
21. Mini-Warehouses
22. Tattoo Parlors
23. Adult Book Store/Entertainment
24. Establishments selling alcoholic beverages

2. To the owner's agreement to abide by the following:
 - a. To the site plan received by the Development Services Department on January 26, 2011 and the legal description received by the Development Services Department on August 2, 2011. Said site plan is conceptual only and must meet or exceed the requirements of the Zoning Ordinance, other applicable ordinances or regulations and these conditions prior to the approval of a Land Disturbance Permit or other applicable development/grading permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy or business license (as applicable).
3. To the owner's agreement to abide by the following development standards:
 - a. Obtain all necessary permits from the Development Services Department, which may include, but are not limited to, building permits, landscape plans, and business licenses, and approval from Environmental Health.
 - b. If future development is proposed on the subject parcel(s), obtain all necessary permits from the Georgia Department of Transportation (GDOT) and the Development Services Department, which may include, but are not limited to, sidewalk installation, deceleration lane installation, right turn lane installation and any required hydraulic or stormwater studies.
 - c. No processing, manufacturing, assembly, etc. of materials shall be allowed on the property. Materials may be loaded and unloaded from vehicles to the display and storage areas only.
 - d. Hours of operation shall be limited to 7:00 am through 10:00 pm, seven days a week.
 - e. All existing trees along the northern property line adjacent to Shepherd Road, for a width of no less than 75-feet, shall remain and shall be kept in their natural state and replaced as necessary.
 - f. ~~No commercial vehicles may remain on-site overnight. - Commercial vehicles include tractors, earthmoving equipment, dump trucks, heavy construction equipment, flatbed trucks, box vans, vehicles with trailers and semi-tractor cabs with or without trailers. - If the applicant wishes to allow for parking of commercial vehicles on-site over night, a Conditional Use Permit shall be required.~~

No commercial vehicles, with the exception that, as long as, the property has a valid business license to operate as a landscape business, no commercial vehicles other than two (2) tractor truck trailers without cabs may remain on-site overnight; the location of said trailers to be approved by the Director of the Development Services Department. Commercial vehicles include tractors, earthmoving equipment, dump trucks, heavy construction equipment, flatbed trucks, box vans, vehicles with trailers and semi tractor cabs with or without trailers. If the applicant wishes to allow for parking of commercial vehicles on site over night, a Conditional Use Permit shall be required.

- g. All existing signage, outdoor display of merchandise, equipment or storage that is within the GDOT right-of-way shall be removed immediately.
- h. The existing house and all accessory structures associated with the existing or any future commercial uses shall require a fire marshal inspection. All recommendations and requirements set forth by the fire marshal shall be implemented within thirty (30) calendar days.
- i. All existing vehicles without tags shall be removed within fifteen (15) calendar days of obtaining rezone and FLUM change approval.
- j. All existing on-site solid waste which includes used tires and commercial debris shall be removed to a proper disposal facility within fifteen (15) calendar days. A receipt from the disposal facility shall be submitted to the Development Services Department within twenty (20) calendar days.
- k. The applicant shall seed, grass or sod all exposed areas of the property that are not currently paved or graveled. This shall include all those areas between the accessory structure associated with the landscape business and the existing single family home.
- l. The applicant shall be required to obtain a business license for the property within fourteen (14) calendar days from the date of any approval of this proposal and APP11-000049. In addition to the business license fees, all other fees associated with the Fire Marshal review and back-flow preventer certification shall be required.

Motion carried unanimously

Chairman Morgan declared the public hearing open.

O-122011 – TO AMEND THE NEWTON COUNTY DEVELOPMENT REGULATIONS; TO AMEND THE DEPARTMENT OF DEVELOPMENT SERVICES FEE SCHEDULE; TO REPEAL CONFLICTING PROVISIONS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR FURTHER PURPOSES.

- PowerPoint presentation
- Mr. Sirotkin duly noted the suggested changes and will incorporate them into the original ordinance as requested by board.
- No one spoke in favor or against the ordinance changes
- Mr. Gladstone Nicholson made a few comments and will meet with Mr. Sirotkin regarding his mixed feelings about changes.
- Ordinance is made part of these minutes

Motion by Commissioner Schulz, and seconded by Commissioner Ewing to adopt Ordinance O-122011 – to amend the Newton County Development Regulations, to amend the Department of Development Services Fee Schedule; to repeal conflicting provision; to provide for an effective date; and for further purposes.

Motion carried unanimously

O-122011A – TO AMEND THE NEWTON COUNTY ZONING ORDINANCE; TO REPEAL CONFLICTING PROVISIONS; TO PROVIDE FOR AN EFFECTIVE DATE; AND FOR FURTHER PURPOSES

- PowerPoint presentation
- Mr. Sirotkin duly noted the suggested changes and will incorporate them into the original ordinance as requested by board.
- No one spoke in favor or against the amendments to the ordinance.
- Ordinance is made part of these minutes
- Chairman Morgan closed the public hearing

Motion by Commissioner Schulz, and seconded by Commissioner Ewing to approve Ordinance O-122011a – to amend the Newton County Zoning Ordinance; to repeal conflicting provision; to provide for an effective date; and for further purposes as read aloud by Commissioner Schulz with duly noted changes regarding Environmental Health regulations.

Motion carried unanimously

ALCOHOL LICENSE

- Read aloud by Chairman Morgan

First Reading

Dixie Road Marathon

1032 Hwy. 142

Covington, GA 30014

Owner: Amzed A. Lakhany (100%)

District One

Pony Express Chevron

1820 Hwy. 11

Covington, GA 30014

Owner: Next Petroleum LLC (100%)

District One

Kroger Store #436

5341 Hwy. 20 South

Covington, GA 30016

Owner: The Kroger Company (100%)

District Two

Volero Food Mart

11260 Brown Bridge Road

Covington, GA 30016

Owner: Akbar Punjani

District Three

Texaco Food Mart

2156 Hwy. 81

Oxford, GA 30054

Owner: Showkat Hossaim (25%)

Mahboob Alauddin (75%)

District Five

2012 BEER AND WINE RENEWALS

Motion by Commissioner Schulz, and seconded by Commissioner Fleming to approve the 2012 Beer & Wine Renewals read aloud by the chairman and made part of these minutes.

Motion carried unanimously

COUNTY CHECKS:

Motion by Commissioner Ewing, and seconded by Commissioner Henderson to approve the county checks as read aloud by Chairman Morgan and printed in the board book.

Motion carried unanimously

CITIZEN COMMENTS

Logan Bistok
268 Norman Drive
James Nash
520 Spears Road
Rev. Ronny Brannon
235 Glynshire Court
Thomas Buckner
Fleeta Drive

COMMISSIONER COMMENTS

Commissioner Ewing expressed his appreciation to members of the board, the staff and others who have kept him and Ms. Fay in their prayers since March 1st of this year. Every card, visit and kind word has been deeply appreciated.

Commissioner Schulz requested that the County Attorney provide Quarterly Reports as follows:

January 17th, April 3rd, July 3rd, and October 2nd.

Duly noted by Attorney Jenny Carter

EXECUTIVE SESSION:

Time: 9:35 p.m.

Motion by Commissioner Schulz, seconded by Commissioner Fleming to enter into executive session for the purpose of land acquisition.

Motion carried unanimously

REGULAR SESSION

9:40 p.m.

Motion by Commissioner Henderson, seconded by Commissioner Schulz to enter into regular session.

Motion carried unanimously

LAND ACQUISITION

Motion by Commissioner Ewing, and seconded by Commissioner Sims to accept property located on Williams Road with instructions for surveying to be done, and with authorization being given to chairman and/or county manger to execute closing statement and closing documents..

Motion carried unaimously

Chairman Morgan adjourned the meeting at 9:42 p.m.

Respectfully submitted,

Jackie Smith, County Clerk