

**NEWTON COUNTY BOARD OF COMMISSIONERS
MINUTES
June 19, 2001**

Newton County Executive Office Board Room

Presiding: Chairman Aaron Varner

Present: Chairman Aaron Varner, Commissioners Mort Ewing, Ronnie Dimsdale, Ester Fleming, J.C. Henderson, and Billy Strickland; Attorneys Tommy Craig and Ann Pickett, Clerk Jackie Smith

Newspaper: Cindy Tumlin, Covington News
Small Group of citizens.

Call To Order: Chairman Varner extended welcome and read thought for the day.

Invocation: Commissioner J.C. Henderson

Pledge of Allegiance: Led by Chairman Varner

APPROVAL OF MINUTES DATED JUNE 5, 2001

Motion: To adopt minutes as printed.
Proposed by: Commissioner Mort Ewing, District One
Second: Commissioner Billy Strickland, District Five
Motion Carried Unanimously

**APPROVAL OF MINUTES DATED JUNE 12, 2001
FY 2002 BUDGET HEARING – 11:00 a.m.**

Motion: To adopt minutes as printed.
Proposed by: Commissioner Mort Ewing, District One
Second: Commissioner J.C. Henderson, District Four
Motion Carried Unanimously

**APPROVAL OF MINUTES DATED JUNE 12, 2001
FY 2002 BUDGET HEARING – 7:00 p.m.**

Motion: To adopt minutes as printed.
Proposed by: Commissioner Billy Strickland, District Five
Second: Commissioner Mort Ewing, District One
Motion Carried Unanimously

RESOLUTION R061901 – COMMUNITY SERVICE BLOCK GRANT

This grant is used for home bound meals, assisting low-income citizens through our Senior Center Program. W. Frank Newton, Inc. is the CSBG Administrator for Newton County.

Motion: To adopt Resolution R061901 Community Service Block Grant Program FY 2002.
Proposed by: Commissioner Mort Ewing, District One
Second: Commissioner Ester Fleming, District Three
Motion Carried Unanimously

Note: The original resolution is contained in file number R061901, incorporated herein by reference and expressly made a part of these minutes.

REQUEST TO INSTALL WATER LINE ON NEWTON COUNTY RIGHT-OF-WAY BY THE CITY OF OXFORD

Chairman Varner stated this was discussed at the work session on Thursday night. The City of Oxford has asked permission to install the line along the county right-of-way on the eastern side of Cook Road. The City of Oxford stated they will also install a fire hydrant at this location. Chairman Varner said he has talked with the road department regarding this installation and they have no opposition to this request.

Motion: Move to approve request to install a water line on Newton County right-of-way by the City of Oxford.

Proposed by: Commissioner J.C. Henderson, District Four

Second: Commissioner Mort Ewing, District One

Motion Carried Unanimously

JULY 4TH FIREWORKS DISPLAY

Chairman Varner stated this, too, was discussed at the work session. This is a yearly event that is supported by Newton County, the City of Covington and local businesses. Commissioner Ewing commented this was such an important community event he hoped it could be held at a place where more people could view the display. Chairman Varner said they are working on using the property inside the city that was used several years ago; however a decision had not been reached as yet.

Motion: To approve funding for July 4th Fireworks Display. Newton County's share is \$2500.00.

Proposed by: Commissioner Billy Strickland, District Five

Second: Commissioner J.C. Henderson, District Four

Motion Carried Unanimously

DHR CONTRACT: ACCEPTANCE OF FAMILY CONNECTION CONTRACT - \$50,000

Chairman Varner said this was discussed at the work session on Thursday night. Some of the services provided by this contract are: To provide Family Connection activities for and services to children and their families in order to: improve child health, including birth results, reduce incidence of preventable diseases and disabilities, and improve physical and mental health status. Improve child health/development, including prevalence of achieving normal milestones in cognitive, emotional and social development. Improve school performance, including entry into school with requisite skills, reduced need for redemption services, and increase attendance and grad progression. Improve family functioning, including family stability and reduce incidence of child abuse. Improve family economic capacity, including job training and employment housing and community economic development. To submit quarterly expenditure and programmatic/narrative reports.

Motion: To approve Acceptance of Family Connection Contract of \$50,000 through DHR.

Proposed by: Commissioner Ester Fleming, District Three

Second: Commissioner Billy Strickland, District Five

Motion Carried Unanimously

**REQUEST TO WAIVE PENALTIES AND INTEREST WITH
RECOMMENDATION FROM TAX COMMISSIONER:**

Chairman Varner introduced Tax Commissioner Barbara Dingler who recapped each request as to why she recommended approval or denial.

**Georgia District Council of the Assemblies of God, Inc.
Tax Commissioner Recommendation: Waive Penalty of \$532.90**

Commissioner Dingler stated they thought everything was handled at closing and when her office sent out a delinquent notice, they called and came in immediately and paid the taxes, penalties and interest.

Commissioner Fleming stated at closing they would have been made aware of how the taxes were being handled. Commissioner Dingler explained that most of the attorneys do debit and credits take away from the seller the asking price and give credit to the property owner making them liable for the full year taxes, and if they don't receive a tax bill they did not know the taxes were due. They bought property in the year 2000 and never received a tax bill and since the original tax bill went out, we have done the 1561 form of tax transfer showing new owners and we tried to send as many as we could delinquent tax notices if they had not been paid, but the Assemblies of God was one that was not sent out. The majority of all these requests tonight fall under this category.

Commissioner Ewing asked if someone paid the total taxes due for the year 2000 from January 1 to December 31?

Commissioner Dingler said the delinquent notice was sent to Mr. Doster (previous owner) who probably sent it to the Assemblies of God and that's when they called and immediately came in and paid a full year's tax.

Motion: To uphold Tax Commissioner's recommendation and waive penalty of \$532.90.

Proposed by: Commissioner Ronnie Dimsdale, District Two

Second: Commissioner J.C. Henderson, District Four

Motion Carried Unanimously

Maxine Bibbins

Tax Commissioner Recommendation: Deny Request

Penalty: \$142.29; Interest: \$68.30

This property was purchased in 1998 by Ms. Bibbins. Commissioner Dingler said Ms. Bibbins notified her that at the present time she is out of work and this presents a hardship for her to pay. She stated her records indicate that all reports was sent to the same address which was Washington, D.C. where Ms. Bibbins lives. Ms. Bibbins still has not paid the bill in full, but is making partial payments. Commissioner Dingler stated she does not have any proof of hardship other than what Ms. Bibbins has said.

Commissioner Dimsdale questioned if request was denied would Ms. Bibbins have further recourse and Commissioner Dingler said she could then go to Superior Court.

Motion: To uphold Tax Commissioner's recommendation to deny.

Proposed by: Commissioner Mort Ewing, District One

Second: Commissioner Ester Fleming, District Three

Motion Carried Unanimously

Newton County Water & Sewage Authority

Tax Commissioner Recommendation: Refund \$107.92

Commissioner Dingler stated authority purchased property from an individual and missed getting notice.

Commissioner Fleming questioned date of purchase (May 17th) and stated he could understand when an individual closed on property and had so many papers to sign how

this might be missed, but felt an authority would know better and did not feel board should waive the penalty. Penalty: \$142.59 and Interest: \$68.30. This is for 2000 taxes, 1998 & 1999 has been paid.

Commissioner Ewing questioned if the total amount of taxes due had been paid?

Commissioner Dingler stated the W&SA had paid the total taxes due.

Motion: To uphold Tax Commissioner's recommendation to waive penalty.

Proposed by: Commissioner J.C. Henderson, District Four

Motion died for a lack of a second

Motion: To deny refund request.

Proposed by: Commissioner Mort Ewing, District One

Second: Commissioner Ronnie Dimsdale, District Two

Motion Carried 4 to 1 with Commissioner Henderson voting in opposition

Marie Bradford

Tax Commissioner Recommendation: Waive Penalty of \$187.43

Ms. Bradford purchased property in February of 2000, moving from Ohio. GA Law 48-2-44 states when moving to Georgia from out of state the penalty can be waived because the incoming resident would not be familiar with Georgia Law.

Commissioner Ewing reiterated that what Tax Commissioner was requesting would be in compliance with state law and duly made motion to approve request.

Motion: To uphold Tax Commissioner's recommendation to waive penalty of \$187.43.

Proposed by: Commissioner Mort Ewing, District One

Second: Commissioner Billy Strickland, District Five

Motion Carried Unanimously

Glenn & Deborah Mixon

Tax Commissioner Recommendation: Refund Penalty of \$27.41

The Mixon's original tax bill went to DuBois Construction and they did not forward tax bill to the Mixon's. This was purchased in April of 2000 and as soon as they received the past due notice, which was forwarded by DuBois, the Mixon's paid the tax bill.

Motion: To uphold Tax Commissioner's recommendation to refund \$27.41.

Proposed by: Commissioner Billy Strickland, District Five

Second: Commissioner J.C. Henderson, District Four

Motion Carried Unanimously

Marcia Grace McCart

Tax Commissioner Recommendation: Refund Penalty of \$44.56

Ms. McCart purchased property in October of 2000 and there was a mix up with the attorney at closing. Commissioner Dimsdale stated the penalty is because of a faulty closing and Commissioner Dingler concurred. Commissioner Dimsdale stated he felt this error should be addressed with the attorney.

Motion: To deny refund request.

Proposed by: Commissioner Ronnie Dimsdale, District Two

Second: Commissioner Mort Ewing, District One

Motion Carried Unanimously

Alice Marie Lovin

Tax Commissioner Recommendation: Deny Request of \$75.85

Ms. Loving purchased property in May of 1998. Her letter stated she did not receive a tax bill, however her address has not changed and she received other tax bills according to Tax Commissioner's records.

Motion: To uphold Tax Commissioner's recommendation to deny.
Proposed by: Commissioner Ester Fleming, District Three
Second: Commissioner Billy Strickland, District Five
Motion Carried Unanimously

John R. & Natalie Moreau

Tax Commissioner Recommendation: Refund Penalty of \$75.92

The Moreau's purchased property in May of 2000. The original tax bill went to W.F. Wallace at Highland's Plantation instead of the Moreau's. When the Moreau's received the delinquent notice they immediately came in and paid tax bill. She stated each case is individually handled.

Motion: To uphold Tax Commissioner's recommendation and refund \$75.92.
Proposed by: Commissioner Ronnie Dimsdale, District Two
Second: Commissioner J.C. Henderson, District Four
Motion Carried Unanimously

Revel Construction Co., Inc.

Tax Commissioner Recommendation: Refund Penalty of \$78.22

This request is on vehicles. Tax Commissioner's office made a clerical error causing the penalty on tag and tax.

Motion: To uphold Tax Commissioner's recommendation to approve refund of \$78.22.
Proposed by: Commissioner Billy Strickland, District Five
Second: Commissioner Mort Ewing, District One
Motion Carried Unanimously

Komatsu Forklift U.S.A., Inc.

Note: Due to possible litigation the following discussion is close to verbatim.

County Attorney Tommy Craig: Introduced Tim Phillips of Troutman Sanders Law Firm in Atlanta and invited him to introduce the people that was with him.

Tim Phillips, Troutman Sanders: Ladies and Gentlemen, Tim Phillips, Troutman Sanders and in fact I'll just go ahead and let the representatives from Komatsu introduce themselves.

Andrew S. Etkind, Esq., General Counsel for Komatsu

Raymond M. Hamilton, Accounting Manager for Komatsu

David Dea, Comptroller for Komatsu

Kensaku "Ken" Goto, Vice President, Finances & General Administration and Treasurer for Komatsu

Tommy Craig: We have discussed this situation once before. I think we had a letter threatening litigation and this matter was discussed in Executive Session about a month ago. It still has not been resolved. In an effort to try to give you a little bit of a perspective, an overview on what this relates to I am going to draw a time line on wall

and walk you through time line and let you know what I think the facts are, and then to the extent that I am wrong or misstated those facts, Mr. Phillips will have an opportunity to correct my version of what transpired. I told him earlier that I may be wrong, I frequently am, and that you are used to it and will not be offended by the fact that he shows me to be wrong. (Presented slide – attached)

What happened is this...I'm going to ask Tommy Knight or Barbara Dangler to stop me if I'm wrong. This is a chart that Tommy and I, and Barbara and Aaron sat down and went through the facts and I tried to put the chart together. I had Tommy review it to see whether or not he thought my chronology was correct.

On February 1, 2000 Business and Property Tax Returns and Personal Property Reporting Forms were mailed. This was last year. On February 22nd the Board of Tax Assessors mailed a courtesy letter, not required by law, but was sent out to all Freeport Claimants from the prior year that had not responded one week prior to the March 1st deadline. March 1^{st, 2000} is the deadline in Newton County to claim 100% Freeport Exemption. In many counties in Georgia April 1st is the deadline, but because we are a county that collects taxes in installments, we collect twice a year, we have the privilege under state law to move the deadline to March 1st. That the County Commissioners and the Board of Tax Assessor exercised both privileges's some year's back. The first year for which returns that should have been filed was 1997, however taxpayers were informed there would be a grace period of one year and in 1998 strict enforcement of the rules began. Thirty days after the deadline Komatsu filed a Freeport Exemption Claim. April 1st the Tax Assessors granted a 75% Freeport Exemption per state law. July 20th Real and Personal Tax Bills were mailed out. You have an installment due on September 20th and an installment due on December 20th. On September 15th Komatsu paid ½ of the Real Property Tax, but nothing toward the Personal. On December 20th they paid ½ the Real Property Tax bill, but nothing on the Personal. Then, April 1, 2001 was when delinquent tax bills were mailed on both Real and Personal property. When the present management at Komatsu received notice of the delinquent taxes with respect to Personal Property that's when they began an investigation and complaint to see whether or not they could rectify the situation or figure out what had happened. It is my understanding, not with conversations with them, but with others, they have had a good bit of turn over in their accounting office, or whatever, maybe three employees had left and there was some confusion over there during this period of time. What is at stake for Komatsu, according to what my understanding is...(go to next page on screen)? It was a state personal property return that was filed by Komatsu. This is the form on which you return your personal property inventory and the form on which you claim your exemption. That form contains the following language and set out in a little box on that form, and it says: (Attorney Craig read language in box). The Legislature in a recent session changed the law in order to give partial exemption to late filers. Failure to file by June 1st constitutes a waiver of the entire exemption for the year and you get zero. It goes on to discuss counties that have a filing date of April 1st. So the calculation of what is owed through May 24 because of the county's contention that it was late the payoff would be \$254,573.75. Interest is added to that figure on the 21st day of the month and the payoff will be larger on the 22nd that it is now. \$164,687.00 of that number, if I recall, is directly related to the denial of the 25% loss of the exemption you might say. That's the factor that is the direct loss of being late. Then \$40,099.32 was the penalties and interest that comprise the \$254,573.75. The difference between you adding together \$164,687 and \$40,099.32 you still don't reach the \$254,573.75, the amount is caused by Personal Property that was not subject to a claim for Freeport Exemption. It was Personal Property, but it didn't meet the eligibility criteria for the Freeport Exemption in any event. So that's kind of where we are as I see it. Now, the letter that we have received from Komatsu, I just want to make this point before I hush and let Mr. Phillips talk. The letters we have received have said they never received a Notice of Assessment, so consequently they never have an opportunity to appeal. And since they never had an opportunity to appeal then the tax ought not to be imposed, and the problem with that argument, at least from my perspective, is that Komatsu filed, and Commissioner Ewing will understand this because 25 years ago he taught me what little I know about this process. When they filed this was a Return. There was no change by the Board of Assessors to the Return. The Return was accepted as filed and since the Return was accepted as filed there was no Notice of Change Assessment issued. Since there was no Notice of Change issued, there was no opportunity for an appeal under state law. I just put this together, Tim may disagree with the chronology, but I was trying to give you

some perspective on what happened and when. I have told Tim and the people from Komatsu that this board and its predecessor boards implemented Freeport to attract industry. There is not effort on this board to be punitive or to say, "here's a \$250,000 windfall, let's take advantage of it." The board finds itself in a difficult position here and we are trying to preserve to you and other industries going forward, but we still have to deal with the facts as presented.

Tim Phillips: On behalf of Komatsu, let me first thank the commissioners for allowing us to speak and be heard on this issue. It is clearly something that's important to Komatsu, but equally as important to the commission. We haven't really come here to dispute the facts about filing an exemption application. What we are really trying to do is talk about some of the equities involved in the situation. There is a \$250,000 tax bill. In terms of what types of claims Komatsu has made to Mr. Craig and to Mrs. Dingler, if we assume that the application was filed late, then the law states if the application was filed late you're not permitted to have a full exemption. You don't get the 100%. Some read the law to say you only get 75% of that exemption if you file by a certain date and if you file by another date you get another prorated, that is subject to debate. The property here issue is also exempt for other reasons. Freeport Exemption is sought because that is all encompassing of the type of property we get... Under the Freeport exemption we get 100% exemption. But we also have a valid claim for what is foreign merchandise in transit and that is property that is moved from foreign point of origin and not get taxed in the county and moving forward, and that's what Komatsu property does. Komatsu can claim almost all of its property would fit under that type of exemption. However, instead of going under that which does not require filing, there is no need to perfect that kind of exemption, it just is under the law, they sought Freeport, because again, you can fit all your property in this 100% exemption. An additional exemption for the property was that of the heavy-duty motor vehicle equipment, as you all know, Komatsu Forklift does sell these types of heavy-duty motor vehicles, they qualify again without filing. So there is no need to put in an application to ask for the exemption it just simply is in the law. What Komatsu is seeking here, given the circumstances, given its history as a good corporate citizen in Newton County, is some form of relieve from the assessed tax. We've gotten the sense from our conversation with the county attorney that the commissioners feel bound, in a sense, that they can't grant relief and what we've provided are mechanisms by which you can provide either full or partially from this heavy burden of an additional tax. The property again would fit within at least two other exemptions, either whole or part, and as for the operation of what we will call the waiver of perfection, or failure to perfect under the law by filing your application in a timely manner, if we assume that that didn't happen, the statute, if read properly says, that you, in effect, waive that exemption until you file, which means the property is exempt because it qualifies as property that can be Freeport exempted, it's personal property owned by a business in that trade. It's exempt under law. What the law provides is a mechanism for the Tax Assessor's office to collect information so that they can provide what it needs to collect revenue in a proper, administerable manner. So, if the taxpayers haven't provided that perfection, which is the filing of the application on that due date, there is effect a penalty. That penalty is disproportionate, if you read it, to exclude from taxation or waiver from taxation property 25%. If you go down to 75% you've lost 25% exemption, in effect three months, January, February, March. More properly read you would lose your exemption for one month – 1/12th. In effect that would drop the penalty that is being assessed against Komatsu for failure to file in a timely manner by 2/3's. Right now they've got three months they've lost, but if you look at that statute and read it properly, you only need one month of that exemption and that is the one month, during which they failed to perfect that exemption. Again, the exemption exist as of January 1 of that year, whatever property you have on hand, listed out, that property qualifies for exemption, and if you don't file it by June 1 we can't administer that kind of system having tax payers filing that late. It doesn't permit us to do the books that we need to do, get the digest set, so that we can tax the rest of the tax payers and collect enough revenue so we put a penalty. That penalty, correctly read, you lose a month if you don't file within the first month, it makes it proportionate and it makes it fair. Really that's all Komatsu is seeking here, nothing adverse, no threats of litigation, the claims we've made have been couched in what they would have to be argued before a court because when you are trying to interpret the law that's the circumstances you have to couch them in. You don't threaten litigation you just explain what the different arguments would be. The claim would be we have Foreign Merchandise in Commerce Exemption that applies

for almost all the property and or we qualify for Heavy Duty Motor Vehicle Exemption, which is quite a bit more of the property. Given that, what we believe you can do as a body is accept our request for relief and grant it in full or in part based on those theories. We have property that qualifies for Foreign Merchandise in Transit and property that qualifies for Heavy Duty Equipment Motor Vehicle. We can provide the data that supports those claims that reduces the amount of taxes owed and pay the difference. It's fair, it provides for revenue collection and it's proportionate. We thank you for your time and willing to entertain any questions.

Questions:

Commissioner Henderson: Tommy (Craig) what is your take on it?

Commissioner Dimsdale: Can I say something before you start?

Tommy Craig: Sure.

Commissioner Dimsdale: I'd like to express to everyone here representing Komatsu and representing the county, that this is not an adversarial situation that we are in. We are looking for the right, legal and just thing to do. I don't want anybody to see this as adversarial, I don't and I hope nobody else does.

Tommy Craig: I guess my problem is I feel some obligation that there be some integrity that I tell this board. I would like for you to be able to rely on what I say what I think, and my analysis. I may not always be right, but I at least want to feel in my heart that I am. I may be proven wrong, but I don't think the Foreign Goods in Transit Exemption are the answer to the problem, nor do I think the Heavy Equipment Exemption he spoken to is. I am uncomfortable with the interpretation that, I can understand the equity and the argument he makes that 1/12 of the exemption ought to be forfeited instead of the 25%. I don't think its right, I just don't agree with his legal analysis. They understand this, and I think we respectfully disagree. My concern is simply that as much as I would like to issue a ruling that says I think these people made a mistake, its regrettable, lets give them a break, they're a good industry, their important to us locally, they've been good citizens, s much as I would like to say that, I have to be concerned with the precedent we establish if we grant this request under the circumstances whether or not the law permits this. We've got thousands of people in this county that claim homestead exemption, if they claim it on a timely basis, veterans exemption and 56 other industries that claim Freeport Exemption. I know that Tommy Knight and Barbara Dingler have to be concerned with, there has to be some procedure, some process, and some observation of precedent. We have to be concerned about those things because next week my phone my ring again, and it will be another industry that has slipped up and late and the first thing they are going to say is y'all gave Komatsu a break under similar circumstances. It's where do you draw the line. You feel sorry for the people under the circumstances they find themselves in and its fine to give them relief as long as you can distinguish their situation from others that are likely to be presented later, but I don't know how to distinguish this situation. I told them as much. To the extent that their legal arguments are right I have offered for the county to voluntarily cooperate with them and participate in what is called a Declaratory Judgement Procedure. You simply go before a Superior Court Judge and say we've got a genuine dispute, not sure who is right or wrong, we'd like to tell you the facts and have you apply the law and tell us what to do under the circumstances. We're willing to do that. Of course, they don't have to have our cooperation they can just sue us and we can settle it that way to. I don't know how I can say as county attorney to give them relief in this situation and turn around face Tommy and Barbara knowing that they have the responsibility to see that this whole system is run fairly. Sometimes you make mistakes and sometimes there is justification, but you have to pay the piper and move on. I'm sorry they find themselves in that position, I'm sorry the county finds itself in a position where it has a decision to make, I'm sorry it represents an opportunity for friction where otherwise has been harmonious, but I can't change what my feeling is where we stand legally in this matter. I am genuinely sorry and I respect Mr. Phillips and the arguments he has made, but I don't think he is right.

Tim Phillips: Just follow up with Commissioner Dimsdale, we don't feel this is something that is adversary. We are not asking you to interpret the law. We are not asking you to sit as judge and jury. Mr. Craig has mentioned there is a different interpretation of the law, given that we think we can provide precisely the precedent you need to preserve your integrity, which Mr. Craig mentioned.

Mr. Phillips reiterates again his statements on relief, property tax exemption, due equity. No real argument...the property qualifies for exemption. We've got an administrative problem. We've got different interpretations of the law. How do we do the right thing? We are just asking that you consider the different interpretation and provide relief.

Commissioner Dimsdale: If you can give me some idea, normally when there is a dispute of the amount of taxes or circumstances around penalties, etc., the taxes are paid and then the situation is addressed. It is my understanding that Komatsu has not yet paid the taxes.

Tim Phillips: There are two ways where by a taxpayer can seek relief. 1. Go administratively and request a hearing about this matter because I don't believe this was appropriately assessed and don't agree with the value. 2. Taxpayer receives the tax bill, pays the tax and seeks a refund.

Commissioner Dimsdale: That's more commonly what we see. In conjunction with that, I understood there is about \$46,000 of personal property that is not contested and that tax bill has not been paid.

Tim Phillips: Since it is one bill that comes that has probably just fallen to the way side and that could be remedied. I am not aware of the amount and what the property is, but we'll take a look at it with Mr. Knight and figure out what the tax is take care of it.

Billy Strickland: Was it \$46,000 that was Personal Property Tax?

Tommy Craig: Reiterated figures above.

Raymond Hamilton: We got the tax delinquency in April and it was the first time we were aware of it. I immediately called Barbara Dingler and Mr. Knight and let them know I wasn't aware of it. There is not breakdown on the tax notice except the \$216,000 And then penalties. This is the first time I have been made aware of the \$46,000. It's just the Freeport issue we are disputing. We have been working on this and I have been working on this continually since I found out about it.

Chairman Varner: Mr. Craig, if we were to grant this and it was proven it was against the law what kind of liability would the county have?

Tommy Craig: You have an obligation to administer the tax according to the law. Not all the money that comes into the county stays with the county. You are really an agent. 60% of the revenue or better of this goes to Board of Education. They could ask the county to reimburse them of what they are entitled to. Long since are gone the days when people are hesitant to question city hall. What do we tell the next industry that comes along with similar situation?

Commissioner Mort Ewing: Question to Mr. Craig. As I recall 30 days ago you wrote a letter (public information) indicating the position you saw us as a Board of Commissioners and as a County of Newton. Based on what you said tonight I assume that position remains the same as it was in the letter? Yes. Thank you.

Chairman Varner: If we decided to go to a Declaratory Judgment we would make that in the form of a motion tonight.

Tommy Craig: No, Komatsu can let us know what direction they want to proceed.

Commissioner Ewing: With this being a legal matter I think we need to discuss this in Executive Session as we do all other legal matters relative to a decision being made.

Commissioner Fleming: I agree with Commissioner Ewing.

Chairman Varner: That is what we will do. Gentlemen we appreciate you coming, we'll work any way we can with you, but we've got our county to run too. You're an asset to this county and we certainly don't want to do anything to ruin it. Thank you.

ZONINGS: NONE

STREETLIGHTS: None

ALCOHOL BEVERAGE LICENSE: None

APPROVAL OF COUNTY CHECKS

Motion: To approve county checks as submitted.
Proposed by: Commissioner J.C. Henderson, District Four
Second: Commissioner Ronnie Dimsdale, District Two
Motion Carried Unanimously

CITIZEN COMMENTS: None

EXECUTIVE SESSION:

Motion: To enter into Executive Session to discuss pending and/or threatened litigation.

Proposed by: Commissioner Billy Strickland, District Five

Second: Commissioner J.C. Henderson, District Four

Motion Carried Unanimously

Motion: To enter into Regular Session.

Proposed by: Commissioner J.C. Henderson, District Four

Second: Commissioner Billy Strickland, District Five

Motion Carried Unanimously

ADJOURN-Time: 9:35 PM

Respectfully Submitted,

Jackie B. Smith, Clerk

Aaron Varner, Chairman