

NEWTON COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
April 15, 2008
Minutes

Present: Chairman Aaron Varner, Commissioners Mort Ewing, Earnest Simmons, Ester Fleming Jr., J.C. Henderson, and Monty Laster, Administrative Officer John Middleton, County Attorney Tommy Craig, Scott Cole, and Acting County Clerk Angie Shumate.

Newspaper: Covington News- Crystal Tatum
Newton Citizen- Rachel Oswald
Large Group of Citizens

Chairman Varner called the meeting to order, extended a welcome and read the thought for the day. Pastor Ronnie Brannen of Prospect Methodist Church gave the invocation and Chairman Varner led the Pledge of Allegiance to the flag.

PUBLIC SAFETY WEEK

The Board of Commissioners honored Mike Smith with E911 and his team with a proclamation declaring the week of April 13th through April 19th as National Public-Safety Telecommunications Week in Newton County. John Middleton read the proclamation and it was presented to Mike Smith. A part of the proclamation is made a part of these minutes.

APPROVAL OF MINUTES DATED APRIL 1, 2008

Motion: To table the minutes until the May 6, 2008 meeting.

Proposed by: Commissioner Mort Ewing, District One

Seconded by: Commissioner J.C. Henderson District Four

Motion Carried

ECONOMIC DEVELOPMENT PRESENTATION/ THE CENTER

Chairman Varner presented to the Board that the study cost would not exceed \$30,000.

Motion: To approve the proposal for economic development not to exceed \$30,000.00_ for the county's portion.

Proposed by: Commissioner Ewing, District One

Seconded by: Commissioner Fleming, District Three

Motion Carries

R041508 TRANSMITTAL RESOLUTION TO NEGRDC UPDATE OF CIE & SHORT TERM WORK PROGRAM FOR 2008-2012

John Middleton presented to the Board the Resolution and the projects that are being undertaken. Commissioner Ewing suggested that the work at Hwy 278 & Elks Club road should be listed as completed.

Motion: To approve Transmittal Resolution R041508 to NEGRDC.

Proposed by: Commissioner Ewing, District One

Seconded by: Commissioner Laster, District Five

Motion Carries

JULY 4TH FIREWORKS

Chairman Varner presented information about the fireworks and costs to be shared by Newton County and the City of Covington.

Motion: To approve the fireworks display with cost not to exceed \$3790.00.

Proposed by: Commissioner Laster, District Five

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

Motion Carries

PURCHASE OF USED TAR MELTER APPLICATOR FOR PUBLIC WORKS

Chairman Varner presented the request of the purchase of the used tar melter applicator that will seal cracks in the road until the County is able to pave them. Purchase price is \$26,700.00 after \$5200.00 rebate

Motion: To approve purchase of the Used Tar Melter Applicator not to exceed \$26,700.00.

Proposed by: Commissioner Ewing, District One

Seconded by: Commissioner Fleming, District Three

Motion Carries

MODIFICATION OF TASK ORDER #1 & #2 FOR OUR CONSULTANTS URS: DESIGN OF IMPROVEMENTS FOR SR212 & SR20/BROWN BRIDGE ROAD & FOR SR162 (SALEM ROAD) & SMITH STORE ROAD

Kevin Walter, County Engineer presented to the Board the recommendation of an extension of Task order #1 and #2 by \$13,539.46 for SR212 & SR20 and \$26323.00 for Brown Bridge Road & SR162.

Motion: To approve task #1 for improvement of Brown Bridge Road and SR162 under PO# 7653 not to exceed \$26,323.00 and task # 2 for SR212 & SR20 under PO# 9920 not to exceed \$13539.46.

Proposed by: Commissioner Fleming, District Three

Seconded by: Commissioner Simmons, District Two

Motion Carries

TASK ORDER #12 FOR OUR TRANSPORTATION CONSULTANT PBS&J: CONSTRUCTION MANAGEMENT ASSISTANCE FOR THE REPAVING OF JACK NEELY ROAD & CR213

Kevin Walter presented Task Order #12 for assistance from PBS&J in preparing construction documents, selecting a contractor, and supervising the repaving of Jack Neely Rd between Kirkland Rd and repaving of County Road 213 between Hwy 36 and Dixie Rd. The cost not to exceed \$54342.50.

Motion: To approve task order # 12 for assistance from PBS&J – Jack Neely Road & CR213.

Proposed by: Commissioner Laster, District Five

Seconded by: Commissioner Simmons, District Two

Motion Carries

CITY/COUNTY PROPERTY 19.30 ACRES OFF OF HIGHWAY 142

Scott Cole requested that the Board of Commissioners table this item until it is reviewed with the City of Covington.

Motion: To table this until it is reviewed with the City of Covington.

Proposed by: Commissioner Henderson, District Four

Seconded by: Commissioner Fleming, District Three

Motion Carried

COMMISSIONER J.C. HENDERSON, DISTRICT FOUR

Request for discussion of Landfill report. Commissioner Henderson felt that he should have received the report of the Landfill. Commissioner Henderson also felt concern for the citizens to express their concerns regarding the landfill and the high levels of the gases. Commissioner Henderson expressed that the State should be involved. Some of the citizens have expressed concern over the affects that the landfill has had or will have over their wells. Commissioner Henderson requested that Wayne Johnson make his comments to the Board and He would make a motion on Mr. Johnson's comments. Commissioner Ewing requested a parliamentary inquiry that it is not proper for a non Board member to make comments during the session other Board members were not aware what was on the agenda. Public hearings on this matter were duly advertised and public information meeting was held last night. Citizens were told if they had concerns about the gases that they could give their names to Mr. Craig's office. If a citizen has a concern or comment it should be given at the Citizen comment portion of the meeting. Parliamentary Tommy Craig stated that the appropriate time to give his comments would be at the citizen comment portion of the meeting. Commissioner Henderson states that the meeting last night was just informational not an official meeting and that this is an official meeting. Commissioner Henderson states he would like to have Mr. Johnson's comments as part of the record.

Motion: Every house in Spring Hill, Lower River Rd, and Mountain view circle area that house either contaminated water or methane gas, that they should be able to make a request in writing to a county facility to have them check their homes or to have a monitor placed in their homes to monitor methane gas. Community should have a committee set up to receive the monthly landfill report to see the levels of methane gas and contaminated water. The committee should be able to get with Tommy Craig to set this up.

Proposed by: Commissioner Henderson, District Four

Seconded by: Commissioner Simmons, District Two

Motion Fails

7:30PM ZONINGS:

MOD07-013

Proposal: Modification of Conditions 1.b., and 2.a.

Existing Zoning: A (Agricultural) approved April 19, 2005

Location: Byrd Road (East Side)

2,462 Feet of Frontage

Gum Creek Road (North Side)

123 Feet of Frontage

Parcel Size: 64.38 acres

Tax parcel: 59-35A, 35B, 35C

Owner: Crosspointe Baptist Church, LLC

Applicant's Intent: 1. To increase the number of children from 75 to 250 for the private school. 2. To modify the site plan to add one additional building (10,000 square feet)

Deferred to February 19, 2008

Deferred to March 18, 2008

Deferred to April 15, 2008

District Five

Petitioner: Darrell Head, Crosspointe Baptist Church

- Increase number of students from 75 to 250
- Traffic study completed re Byrd Road with grading scale equal to that of school grades and received an "A".
- Engineering Firm Kimley-Horn & Associates- Traffic Study
- Level of service is graded B in the mornings & A in the afternoon.
- No need for additional entrance or turn lanes
- GDOT Accident Reports indicate no accidents reported at this intersection.

Commissioner Simmons

- Questioned times of congestion? 7-9 a.m. & 11-1 & 2-4 pm

County Engineer Kevin Walter

- Reviewed report & agrees with methodology\
- Does not agree with assumptions made regarding traffic increase to double amount
- Recommends an interim study of traffic for one year

Commissioner Ewing

- Questioned if church would be willing to pay for left turn lane? No
- Concerned about night activities, lights & noise.
- Infrequent occasions where youth meet that could be later, but usually over by 8:00 p.m.

Commissioner Simmons

- Questioned if petitioner was aware of left turn lane and when
- Marian Eisenberg state petitioner was aware two weeks ago

Commissioner Laster

- Church needs to have good communication with neighbors about events that will create noise
- No need for left turn lane
- Questioned how could BOC be assured that only number of students approved will be attending school
- Mr. Head assured Board that the church will be back in front of them if there is an increase in students

Commissioner Fleming

- Agrees with no need for left turn lane

Commissioner Henderson

- Questioned how many students building will hold and will another building need to be constructed
- Petitioner states current building will hold 120 students. Another building will need to be constructed and completion is set for sometime in 2009

Opposition

- Ken Artwright of 550 Byrd Rd states the gradual expansion of school will ultimately upset the rural setting of the neighborhood
- Janie Lee of Byrd Road expressed concern for traffic congestion and safety hazards from high traffic levels
- Concern regarding noise and commercial lighting affecting rural setting
- Concern for future that church may split and cause problems with potential future buyers

Pastor of Church Alan Posey

- Apologized to neighbors and Board for any insensitivity perceived and for any bad attitudes expressed.

Motion: To approve construction of building to 10,000 square feet and to limit modification MOD07-013 to 150 students with zoning conditions and noted changes regarding student population and left turn lane.

Proposed by: Commissioner Laster, District 5

Seconded by: Commissioner Ewing, District 1

Comment by Fleming supports the 250. Church is very important and so are private schools in the community.

Motion Fails

Substitute Motion: To compromise and approve students up to 200.

Proposed by: Commissioner Henderson, District Four

Seconded by: Commissioner Simmons, District Two

Motion fails

Motion: To approve MOD07-013 with conditions to increase from student limit number 75 to 250 and to add one additional building up to 10,000 square feet deleting left turn lane.

Proposed by: Commissioner Fleming, District Three

Seconded by: none

Motion fails for lack of second

Motion: To table until the next meeting. (next zoning meeting)

Proposed by: Commissioner Henderson, District Four

Seconded by: Commissioner Simmons, District Two

Motion Carries

APP08-002

VAR07-050

Applicant: Angela J. Smith

Address: 11574 Hwy. 36

Tax Parcel: 66A-68C

Request: Appeal to Board of Zoning Appeals' decision (Denied) at January 24, 2008 meeting.

Property Size: 0.602 acres

Zoning: R3 (Single-family Residential)

Potential Effects: Commercial vehicles may present negative aesthetic/noise impacts on neighbors. However, some of these impacts may be mitigated through the implementation of the recommended conditions.

Deferred to April 15, 2008

District Five

Applicant for this item was not present at the meeting.

Motion: To deny this application.
Proposed by: Commissioner Laster, District Five
Seconded by: Commissioner Ewing, District One
Motion Carries

CUP08-003

Proposed Use: Adult Day Care
Existing Zoning: R2 (Single-family Residential)
Watershed: Yellow River
Location: 660 Kirkland Road (North Side) 458.07 Feet of Frontage
Jack Neely Road (East Side)
250 Feet of Frontage
Parcel Size: 2.767 acres
Tax Parcel: 26-43
Owner: Faye Laing
Applicant's Intent: To increase the number of clients from 6 to 12 in an existing business,
EJB Adult Day Care.
Planning Commission Recommendation: Denial (February 26, 2008)
Deferred to April 15, 2008
District Three

Marian Eisenberg stated that this applicant has withdrawn their petition.

Motion: To accept the applicant's withdrawal of the petition.
Proposed by: Commissioner Fleming, District Three
Seconded by: Commissioner Henderson, District Four
Motion Carries

APP08-003

VAR08-002

Applicant: Jody Hammond
Address: 3301 Access Road
Tax Parcel: 25-40A, & 39A
Request: Appeal to Board of Zoning Appeals decision (Approved with Recommended
Conditions for western side of stream only) at February 28, 2008 meeting.
Original Request: To reduce the 150-foot undisturbed riparian buffer to 35 feet.
Property Size: 2 acres
Zoning: R2 (Single-family Residential) & CG (General Commercial)
Purpose of Request: To reduce the 150-foot undisturbed riparian buffer to 35 feet on
both the eastern and western side of the stream
Potential Effects: None if developed with Revised Recommended Conditions per the
County Arborist.
District Three

Attorney Jim Alexander spoke of behalf of applicant stating that the buffer needs to be reduced to 35ft. Mr. Alexander stated that the buffer creates a hardship on the property that devalues it because it cannot be used for anything
There was no opposition

Motion: To approve the reduction of the buffer to 35 foot with the following conditions:

1. If the entire buffer area beyond (outside) the 35' buffer line is developed (cleared, graded and stabilized) at one time under a single Land Disturbance Permit (LDP), the remaining 35' undisturbed buffer shall be treated as follows:
 - a. All non-native vegetation shall be removed by hand. For vegetation that is too large to pull, such as large privet plants, cut the plant and treat the stem/cut stump with an appropriate herbicide. All chemicals must be applied by properly licensed persons. Proof of licensure is required; removal will prevent the reinvasion of the 35' buffer by the non-native species.
 - b. Immediately mulch all exposed areas of ground and areas that do not have a good cover of natural leaf litter to stabilize.
 - c. In the 35' buffer areas, revegetate with native vegetation to the attached standards. A recommended plant list is also included. Planting shall be deferred until the appropriate season.
 - d. Re-treat returning privet (*Ligustrum* spp.) with herbicide for the first 12 months after planting buffer plants.
2. If the project cannot be completed as described in Condition 1, above, the following shall be substituted for Condition 1:
 - a. In the entire 100' buffer area, remove, by hand, all non-native vegetation. For vegetation that is too large to remove, such as large privet plants, cut the plant and treat the stem/cut stump with an appropriate herbicide. All chemicals must be applied by properly licensed persons. Proof of licensure is required. The entire 100' buffer area is included in this requirement because it is quite likely that development on various parts of the property may not happen simultaneously; removal will prevent the reinvasion of the 35' by the non-native species.
 - b. Immediately mulch all exposed areas of ground to stabilize.
 - c. In the remaining 35' buffer areas, revegetate with native vegetation to the attached standards. A recommended plant list is also included.
 - d. Re-treat returning privet (*Ligustrum* spp.) with herbicide for the first 12 months after planting buffer plants.
3. The landscape contractor installing the plants shall have a pre-construction meeting with the County Arborist
4. Plantings shall be installed per Newton County standards (planting detail and specifications attached). Quantities are to be based upon the buffer restoration guidelines (attached).
5. Root-bound plant material **WILL NOT BE ACCEPTED.**
6. Plantings shall be inspected and approved by the County Arborist.
7. Plantings shall be mulched with 2" to 3" of organic, undyed mulch.
8. All landscape materials shall be watered according to approved outdoor watering regulations. Plants shall be watered for a period of 3 months. Plants shall be watered twice a week for the first three weeks then once a week thereafter unless adequate rainfall is received. Adequate rainfall shall be considered as a total of one inch (1") per week. If less than one inch is received, enough supplemental water shall be applied to achieve a total application of one inch in that week.

GENERAL REQUIREMENTS

- Due to unforeseen conditions, field changes may be necessary. Please advise the County Arborist of the need for changes before making them.
- The landscape contractor will be required to have a preconstruction meeting with the **County Arborist**.
- All substitutions must be approved before installation.

PLANT MATERIALS -- SPECIFICATIONS (include on plans)

1. All plant materials shall be equal to or surpass specifications as defined in the current issue of "American Standards for Nursery Stock", published by the American Association of Nurserymen, Inc.
2. Plants shall be sound, healthy, vigorous, well branched, and densely foliated when in leaf.
3. Plants shall be free of disease, insect pests, eggs, or larvae, and have healthy, well-developed root systems.
4. Plants shall be free of physical damage or adverse condition that would prevent thriving growth.
5. Plants shall not be in a root bound condition.
6. All B & B and container plants shall have symmetrical branching patterns and shall be of specimen quality as viewed from all sides.
7. All plants shall have healthy, symmetrical, radiating root systems. Plants with root systems that evidence previous pot-bound conditions will not be accepted.
8. All trees over 8' in height or 2" caliper shall be balled and burlapped with a wire basket. Ball size shall conform to the "American Standards for Nursery Stock" specifications. B & B plants shall be freshly dug.
9. All plant material must be of the species and variety listed. No substitutions will be allowed of variety or size unless approved ahead of time by the County Arborist. Plants must meet all specifications as described.
10. All B & B material shall have the top three tiers of wire basket and corresponding burlap removed. Refer to Newton County Standard Detail for planting specifications.
11. Buffer Restoration Standards: (Note: existing native plant material shall count toward the stem counts of the appropriate category, i.e. canopy, understory, shrub perennial so that, if there are 3 existing native canopy tree within the buffer area, they will count toward the overall required total.)

For every 400 square-foot unit (20'x20') or fraction thereof, plant:

- *one* (1) canopy tree @ 1½" - 2" caliper or large evergreen @ 6'
- *two* (2) understory trees @ ¾" - 1 ½" caliper or evergreen @ 4' or *one* (1) understory tree and *two* (2) large shrubs @ 3'-4'
- *three* (3) small shrubs or woody groundcover @ 15" - 18"
- *three* (3) perennial/groundcover @ 15" - 18"

Mulch entire area with 2" - 3" of shredded, un-dyed wood mulch.

Example:

A 100-foot wide lot x 100-foot wide buffer is 10,000 square feet.

Divide by 400 square feet (20'x20' unit) to get: 25 units

Units	x	plant/unit	Number of plants
25 units	x	1 canopy tree	25 canopy trees
		2 understory trees	50 understory trees
		3 small shrubs	75 small shrubs
		3-perennial/groundcover	75 perennial/groundcover
TOTAL			225 plants

- Adapted from: Palone, Roxanne S., and Al Todd, *Chesapeake Bay riparian handbook: A guide for establishing and maintaining riparian forest buffers*. May 1977. p. 7-20.
- **Native plant species and appropriate species diversity are required.** No more than 20% of the plants in each category may be of any one species. A suggested list of plant material is attached.
- Watering once per week is required in the absence of adequate rainfall (1" per week) for 20 weeks.

LIST OF PLANTS FOR STREAM BUFFER RESTORATION

Canopy Trees

Fraxinus pennsylvanica	Green Ash
Magnolia virginica	Sweetbay Magnolia
Nyssa sylvatica	Black Tupelo/Black Gum
Quercus alba	White Oak
Quercus lyrata	Overcup Oak
Quercus nuttallii	Nuttall Oak
Quercus pagodifolia	Cherrybark Oak
Quercus phellos	Willow Oak
Quercus rubra	Northern Red Oak
Taxodium distichum	Bald Cypress

Understory Trees

Amelanchier spp.	Serviceberry
Carpinus caroliniana	American Hornbeam/Blue Beech
Cercis canadensis	Eastern Redbud
Ostrya virginiana	Eastern Hophornbeam

Viburnum dentatum
Viburnum prunifolium

Arrowood Viburnum
Blackhaw Viburnum

Shrubs/Woody Groundcover

Callicarpa americana
Fothergilla gardenii
Ilex decidua
Ilex glabra
Itea virginica
Rhododendron canescens

Beautyberry
Dwarf Fothergilla
Winterberry
Inkberry
Virginia Sweetspire
Native Azalea

Perennial Groundcover

Athyrium filix-femina
Muhlenbergia capillaries
Onoclea sensibilis
Panicum virgatum
Polystichum acrostichoides
Tradescantia virginiana

Southern Lady Fern
Pink Muhly Grass
Sensitive Fern (close to stream)
Switchgrass
Christmas Fern (furthest from stream)
Spiderwort

Proposed by: Commissioner Fleming, District Three

Seconded by: Commissioner Henderson, District Four

Motion Carried

APP08-004

VAR08-003

Applicant: Rose Thomas

Address: 249 Griffin Mountain Trail

Tax Parcel: 23-49

Request: Appeal to Board of Zoning Appeals decision (Denied) at February 28, 2008 meeting.

Original Request: To reduce the 100-foot buffer on the rear property line to 50 feet for livestock quarters.

Property Size: 6.07 acres

Zoning: AR (Agricultural Residential)

Potential Effects: No negative effect anticipated if developed with Recommended Conditions.

District Three

Motion: To deny application to reduce the 100ft. buffer on the rear property line to 50 feet for livestock quarters.

Proposed by: Commissioner Fleming, District Three

Seconded by: Commissioner Ewing, District One

Motion Carried

NTL08-001

Proposed Use: New Telecommunications Tower

Existing Zoning: AR (Agricultural Residential)

Watershed: Cornish Creek

Location: 12188 Highway 142 (Northeast Side)

1,833.71 Feet of Frontage

Airport Road

244.39 Feet of Frontage

Property Size: 64.076 acres

Tax Parcel: 78-45

Owner: Aubrey Welchel

Petitioner: T-Mobile South, LLC

Applicant's Intent: To locate a 129-foot monopole telecommunications tower.

Planning Commission Recommendation: Approval with an added condition that the tower be designed as a Mono-Pine. March 25, 2008

Board of Zoning Appeals Decision: Approved Variance request with Staff's Recommended Conditions. March 27, 2008

District Five

Kimberly Adams spoke on behalf of T-Mobile. When asked by Commissioner Fleming, she states that the cell tower has an internal device to notify T-Mobile if the weather affected it. Commissioner Ewing questioned if there was a cost to the county for E911 use. Ms. Adams stated there would not be a cost to the county for the E911 use and Commissioner Ewing requested that this be included in the conditions.

Motion: To approve the petition with the following conditions:

RECOMMENDED CONDITIONS

If this petition is approved by the Board of Commissioners, it should be approved for a Conditional Use Permit for a Telecommunications Tower **CONDITIONAL** subject to the owner's agreement to the following enumerated conditions. Where these conditions conflict with the stipulations and offerings contained in the Letter of Intent, these conditions shall supersede unless specifically stipulated by the Board of Commissioners.

1. To the owner's agreement to restrict the use of the leased area of the subject property as follows:
 - a. A telecommunications tower, monopine design.
 - b. Comply with the standards of Section 510-630 of the Newton County Zoning Ordinance, as applicable.
2. To the owner's agreement to abide by the following:
 - a. To the site plan and legal description received by the Department of Planning and Development on January 4, 2008. Said site plan is

conceptual only and must meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first Certificate of Occupancy.

3. To the owner's agreement to abide by the following development standards:
 - a. Landscaping plan to be approved by County Arborist.
 - b. Maximum height of tower to be 129 feet.
 - c. Provide for at least three antennas.
 - d. Monopine shall accommodate equipment for potential use by Newton County for E-911 and other emergency services below third antenna.
 - e. Tower setback of 135 feet from home located on Map & Parcel 78-43 (VAR08-004).

Proposed by: Commissioner Laster, District Five

Seconded by: Commissioner Fleming, District Three

Motion Carried

ALCOHOL LICENSE

First Reading

BP-Salem Road

3501 Salem Road

Covington, Georgia 30016

Owner: Maqbool Ahmed

COUNTY CHECKS

Motion: To approve County checks as written and read by the chairman.

Proposed by: Commissioner Ewing, District One

Seconded by: Commissioner Laster, District Five

Motion Carried

CITIZEN COMMENTS

Charles Johnson of 916 Lower River Road spoke on his concerns of the Landfill Report. His comments are included as an attachment to these minutes.

Motion: To adjourn from public session to go into executive session for land acquisition, threatened litigation, and personnel.

Proposed by: Commissioner Ewing, District One

Seconded by: Commissioner Laser, District Five

Motion Carried

Respectfully Submitted,

Angie Shumate, Acting Clerk for Jackie Smith

Aaron Varner, Chairman