

NEWTON COUNTY BOARD OF COMMISSIONERS  
1124 Clark Street  
Covington, Georgia 30014  
September 16, 2014  
Regular Meeting Minutes

**Present:** Chairman Keith Ellis; Commissioners John Douglas, Nancy Schulz, J.C. Henderson, and Levie Maddox; County Manager Tom Garrett; Attorney Tommy Craig; Attorney Jenny Carter; and, Crystal Dooley

**Absent:** Commissioner Lanier Sims and County Clerk Jackie Smith

Chairman Ellis called the meeting to order, extended a welcome, and read the thought for the day. The invocation was given by Pastor H.K. Benton (Bethlehem Baptist Church), and the Pledge of Allegiance was led by Captain Sammy Banks of the Newton County Sheriff's Office.

Chairman Ellis stated that in an effort to give any citizen who wanted to speak the opportunity, zoning petitions would be heard as close to 7:30 p.m. as possible.

**AMEND AGENDA**

Motion made by Commissioner Douglas, seconded by Commissioner Maddox, to amend the agenda by moving Item #10 (Approval of BOC Minutes dated September 2, 2014) to the first item on the agenda. Motion carried unanimously (4-0).

**COUNTY CLERK: APPROVAL OF BOC MINUTES DATED SEPTEMBER 2, 2014**

Commissioner Maddox stated the Board acted in haste two (2) weeks ago, but now it was time to move forward and work on the peoples' business.

Tommy Craig, County Attorney, spoke as to the legality of sanctions against Commissioner Henderson. Mr. Craig made a brief presentation on OCGA 36-64-5 (Park and Recreation Board), Resolution R-06G-99 (Resolution to Create the Newton County Recreation Commission), Resolution to Create and Enact the Nelson Heights Community Center Board of Directors, SPLOST ballot language, and SPLOST Intergovernmental Agreement, Exhibit A (these documents are attached and made a part of the minutes). Mr. Craig stated it is the Chairman's power to appoint/remove persons from the Newton County Recreation Commission. In regard to Nelson Heights Community Board of Directors, Mr. Craig said it would require revising the resolution, due to the actions of the Board of Commissioners, to have Commissioner Henderson removed. Mr. Craig said the District 4 SPLOST Improvements were voted "yes" by the citizens and the Board of Commissioners voted to approve the projects. Mr. Craig said most of what was done by the Board of Commissioners against Commissioner Henderson was illegal and probably inadvisable.

Motion made by Commissioner Douglas, seconded by Commissioner Maddox, to approve the minutes of the September 2, 2014, Board of Commissioners Meeting, with the following paragraph by Commissioner Schulz stricken from the record:

*“Okay, um, that I move that the Board is taking the following steps to remove Commissioner Henderson in the form of appropriation. This includes, but is not limited to, the Recreation Board and the Nelson Heights Community Center. The Nelson Heights Community Center locks should be re-keyed. All rental fees for the Nelson Heights Community Center should be paid directly to and administered by Newton County. Period. Suspend all work activities, including land acquisition is pertaining to Resolution R050614A, until further notice. This will allow better understanding of the issues related to the Nelson Heights board and allows for better understanding of the overall finances.”*

Commissioner Schulz stated she appreciated the discussion and read the following statement into the record:

*“We cannot rewrite history, as the events of September 2 occurred and are recorded in video and audio tape. If mistakes were made we can correct them, but we need to know what they are. The minutes reflect the actual occurrence. We have a wonderful community and I have received calls from many of you and appreciate and understand your comments and concerns and take very seriously public trust issues and ethical behavior. I believe we as a Board owe an apology to our taxpayers, citizens, employees, businesses, and civic organizations for this unfortunate situation. Newton County taxpayers deserve our public trust and the unfortunate events from the \$4500 loan to Commissioner Henderson has brought outrage from the County’s taxpayers, much public mistrust and understandable many questions. I think we can all agree, along with the outcry from our taxpayers whom we represent, that loans and/or gratuities to politicians are not in the best interest of Newton County. Newton County is not a lending institution or bank. What is most unfortunate is that it may appear to be questionable about what is ethical and unethical/right and wrong? Have we been following our own Code of Ethics now and over the years? If not, why? Just as the taxpayers and citizens have questions, so do I as a public servant. In our own Code of Ethics, Article 2.1 Code of Ethics, we have PROHIBITIVE Conduct. (Commissioner Schulz read Article 2.1 Code of Ethics, Sections A, B, and F into the record and they are attached as a part of these minutes. Commissioner Schulz also read into record from the Georgia Constitution, Section IX, Section II, Paragraph VIII and Article III, Section VI, Paragraph VI, Sub-paragraph A, which are attached and made a part of these minutes.) The chain of events, as unfortunate, as they may be, has happened and we cannot rewrite history. However, we can move forward by taking action to become a more ethical and transparent government. If the County has violated its own Ethics Code which state Prohibitive activities over the past decade we need to know and take corrective action. It is apparent that Newton County needs assistance and I propose that Newton County initiate a County Ethics Analysis & Study by the Carl Vinson Institute. According to the Carl Vinson Institute: “An ethical government is often seen by the public as a precondition for making good public policy; political ethics are one basis by which citizens judge official actions. Generally, ethics codes fall into two categories: prohibitive or aspirational. An effective ethics code is directed at providing guidelines for ethical behavior and eliminating opportunities for unethical purposes. The three issues most commonly addressed in county ethics ordinances are a general prohibition on engaging in activity that creates a conflict of interest with one’s official county responsibilities, a ban on the receipt of gifts from prohibited sources, and a requirement that outside or conflicting interests be disclosed and that the official or employee disqualifying himself from participating in county action affecting such interests.”*

Chairman Ellis addressed the Board, asking if there would be any relief for him as far as sanctions (i.e., Fleet Management and Engineering). There was no response.

Motion carried (2-1-1; Commissioners Douglas and Maddox in favor; Commissioner Schulz against; and, Commissioner Henderson abstained).

## **CITIZEN COMMENTS**

Archie S. Shepherd (9169 Village Drive, Covington, GA)

- County Attorney should be guiding the Board of Commissioners
- Actions have long range problems for community

Anita Thompson

- Agrees with Commissioner Schulz; cannot undo what has happened
- Need to address why actions were taken
- Resolve practices within the County
- Elected Chairman Ellis to run County

Willie James Durden

- Commissioner Henderson is a county employee and subject to same benefits as others
- Commissioner Henderson not treated fairly

Thomas Buckner (650 Fleeta Drive, Covington, GA)

- Refer to newspaper article concerning loans and Commissioner Henderson
- Someone leaked information to paper
- Chairman Ellis to get power back

Dennis Taylor (575 Ellington Road, Oxford, GA)

- Need to investigate where money came to pay loan back
- Do not harass Commissioner Schulz
- Open Records Request reference purchase card expenditures for Commissioners/Chairman
- No trust in County Attorney and county officials

Rosie Crawford (9282 Westview Drive, Covington, GA)

- After actions of September 2, 2014, has lost trust of District 2 constituents
- Is it a good use of taxpayer dollars to pay Chairman and strip him of his power
- Restore Chairman Ellis' responsibilities
- Bring change of government to the voters

Fred Wheeler (7125 High Lake Terrace, Covington, GA)

- Commissioner Henderson had many supporters present who pled his case well
- Are Commissioners tone deaf on 2050 plan; infrastructure

Ann

- Resides in District 2; supports actions at last Board of Commissioners meeting
- Encouraged work session on change of government, but feels agenda was railroad
- Feels Chairman Ellis wasn't allowed to affect change in County
- Thankful for Commissioners Sims and Schulz and Chairman Ellis

Willie H. Johnson (876 Lower River Road, Covington, GA)

- Concerned about timber contract
- Can smell Landfill
- Constituent of District 5 and needs to talk with Commissioner Maddox about Landfill

At 8:00 p.m., Chairman Ellis recessed the proceedings for five minutes

**ZONINGS (Time 8:05 p.m.)**

Chairman Ellis noted the applicant and those in favor of the petitions are allowed a cumulative of ten minutes to address the Board. In addition, a cumulative of ten minutes is allowed for those in opposition of the petition. This time does not include a response to any questions raised by Commission members.

Judy Johnson (Zoning Administrator) sounded the petition and advised there was an accompanying variance which would go before the Board of Zoning Appeals on September 25, 2014. Ms. Johnson stated the Planning Commission had recommended approval of the petition with staff recommendations.

<b>CASE NUMBER:</b>	<b>NTL14-000067</b>
Applicant:	Dale Finocchi (52 Eighty LLC)
Owner of Tower	52 Eighty LLC
Property Owner:	Level 3 Communications
Property Address:	10816 Old Atlanta Highway
Tax Parcel	42-192
District:	Four
Request:	To construct a 150' Microwave Back Haul Facility/Telecommunications Support Structure

The applicant, Dale Finocchi (52 Eighty LLC), presented a PowerPoint presentation on the operation of the microwave back haul facility.

Commissioner Schulz inquired as to what the radius of service would be and would it provide coverage in gaps in northern Newton County. Mr. Finocchi advised at 150', the hub will provide service to approximately forty structures. Mr. Finocchi stated the primary function of the hub will be to enable other structures to have access to fiber and that other carriers (i.e., Verizon) have shown interest into co-locating onto the structure. Commissioner Schulz asked what public health risk, if any, there would be associated with this technology. Mr. Finocchi advised governments cannot make decisions based on public health; however, the structure would be safe, per the FCC and the county's consultant.

Commissioner Henderson asked how many houses would be affected by the facility and if the homeowners had been spoken with. Mr. Finocchi stated the homeowners had been invited to a meeting at the Hampton Inn and five had attended. Ms. Johnson stated on the Future Land Use Map this area is designated as "I" (Industrial).

Mr. Gladstone Nicholson (495 Lakeside Circle, Covington, GA) stated he was in favor of public/private partnerships; however, he felt as though a variance was a haphazard approach to the problem. Mr. Nichols said this was certainly a unique situation and he was not sure if he was for or against the petition.

Commissioner Henderson asked staff about the process and the Planning Commission's recommendation. Ms. Johnson advised the petition had been received by Development Services and forwarded to the county's consultant. Ms. Johnson stated the Planning Commission recommended unanimous approval of the petition.

Motion made by Commissioner Henderson, seconded by Commissioner Douglas, to approve the Conditional Use Permit, with the following conditions of zoning as printed in the Board book and listed below:

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 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 microwave backhaul facility/telecommunications support structure.
  - 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 Development Services Department on June 10, 2014. Said site plan is conceptual only and shall meet or exceed the requirements of the Zoning Ordinance and these conditions prior to the approval of a Minor Land Disturbance Permit. Unless otherwise noted herein, compliance with all conditions shall be in place prior to the issuance of the first electrical permit.
3. To the owner's agreement to abide by the following development standards:
  - a. Support structure shall be a monopole design.
  - b. Maximum height of the tower shall be 150 feet, with a 4 foot lightning rod.
  - c. The monopole shall accommodate equipment for the potential use of Newton County for E-911 and other emergency services.
  - d. Approval of VAR14-000105.
  - e. All required landscaping shall be maintained by the applicant, or their assigns, and shall be kept in a healthy manner.
  - f. Upon the transfer of ownership of an interest in the support structure or lot upon which such structure has been erected, the support structure permittee shall notify the Department of the transaction in writing within thirty (30) days.

- g. The approval of this Conditional Use Permit is for the ability to construct a transmission support structure only and does not include any approvals for minor site disturbance, electrical work or the physical building of the tower.
- h. Provide the ability to co-locate on the tower as required by Section 510-630(D)(4) of the Newton County Zoning Ordinance.

The motion carried (3-1; Commissioners Douglas, Schulz, and Henderson in favor and Commissioner Maddox against).

**CASE NUMBER:** REZ14-000085  
Applicant: Frank B. Turner, Jr. (Greer, Stansfield & Turner LLC)  
Property Owner: Margie G. Cline  
Property Address: River Cove Meadows and Meadows Trail  
Tax Parcel: 111-17 and 111-18  
District: Five  
Request: Rezoning request from A (Agricultural) to AR (Agricultural Residential); to develop four (4) residential tracts as a new phase to River Cove Meadows Subdivision.

Judy Johnson sounded the petition and advised the Planning Commission had recommended approval with staff recommendations.

Commissioner Maddox asked staff if there was a minimum lot size for AR (Agricultural Residential) and Ms. Johnson stated it was two (2) acres; however, these lots were much larger.

Frank B. Turner, Jr. (Greer, Stansfield, & Turner LLC) representing the property owner

- Potential for three (3) new houses
- Smallest lot is 2.3 acres; larger than adjacent lots
- Restricted covenant agreement with neighbors is stricter
- Agree with all staff recommendations

Commissioner Maddox complimented Mr. Turner for working with civic organization and vice versa.

Dennis Taylor (575 Ellington Road, Oxford, GA) stated he was against the rezoning; taking agricultural land and turning it into residential. Mr. Taylor stated he doesn't understand why the county continues to grant variances.

Kristin Vineyard (105 Meadow Trail, Social Circle, GA) stated there should be an agreement on fencing, so as not to go against the integrity of the community.

Commissioner Maddox inquired as to whether or not the Board can vocalize how zoning is applied to the property. Tommy Craig stated the Board can place restrictions on the zoning, but not covenants.

Mr. Turner stated 85% of the houses do not have fencing and that it would be suggesting a higher standard for four (4) lots; however, the following agreement was reached: *"Fencing along all road frontages and 48' off the corner shall be a four boarded fence, unless otherwise required by law."*

Motion made by Commissioner Maddox, seconded by Commissioner Henderson, to approve the rezoning request from A (Agricultural) to AR (Agricultural Residential), with all staff recommendations to include the language regarding fencing.

Ms. Johnson read the following conditions into the record:

If this petition is approved by the Board of Commissioners, it should be approved AR (Agricultural Residential) 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 subject property as follows:
  - a. Single family detached dwellings and accessory uses and structures.
  - b. The minimum lot size shall be 2.0 acres.
  - c. No more than 4 total dwelling units, at a maximum density of 0.24 dwelling units per acre, whichever is less based on the total acreage zoned.
  - d. The minimum heated floor area per dwelling unit shall be 2,600 square feet for one-story homes and 3,000 square feet for two-story homes.
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 July 11, 2014. 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. All utilities will be underground.
  - b. Whenever buildings erected on any lot or parcel are constructed in whole or in part of concrete blocks, cinder blocks or other fabricated masonry block units, such blocks shall be veneered with brick or natural stone or other approved material over the entire surface exposed above finish grade.
  - c. All residences shall be required to have at least a double garage and such garages shall be required to have garage doors.
  - d. Fencing along all road frontages and 48' off the corners shall be a four-boarded fence unless otherwise required by law.

The motion carried unanimously (4-0).

### **GENERAL ADMINISTRATION: CHAIRMAN'S COMMENTS**

- Timber Contract – 150' buffer around residences
- Open Records Request for Purchase Card Information
- DOT Projects (bridge on Brown Bridge/Snapping Shoals Bridge/choke points to be looked at; Crowell Road/I-20)
- Turner Lake – lake leaking and all bids come in above \$10,000
- ICMA will be heard at next Board of Commissioners meeting

### **GENERAL ADMINISTRATION: COUNTY MANAGER'S REPORT**

- Development Services Director's position posted on September 4, 2014
- Insurance update
- Proposed grant opportunities (refer to list)
- SPLOST vehicle list (NCSO & Fire Department)

### **OLD BUSINESS: APPROVAL OF EXECUTIVE SESSION MINUTES DATED AUGUST 19, 2014**

Motion made by Commissioner Maddox, seconded by Commissioner Henderson, to table the August 19, 2014, Executive Session minutes until the October 7, 2014 Board of Commissioners meeting. Motion carried unanimously (4-0).

### **OLD BUSINESS: APPROVAL OF FEE PROPOSAL BY GREHAM SMITH PARTNERS FOR CROWELL ROAD @ I-20/ACCESS ROAD**

Mr. Garrett reviewed the project, which was tabled from the September 2, 2014, Board of Commissioners meeting.

Commissioner Douglas inquired as to how much would the county be paying, could other firms do the work or had the county committed to this firm. Mr. Garrett explained \$150,000 would be the cost to begin design of the project and that it would be very unlikely the county would change firms at this point.

Commissioner Maddox asked if the design were to change would the county miss the 'call for projects' deadline. Mr. Garrett advised the 'call for projects' new deadline is mid-November and the application has not yet been published. Mr. Garrett stated he would recommend Board of Commissioner approval of this project.

Motion made by Commissioner Douglas, seconded by Commissioner Henderson to deny the fee proposal by Gresham Smith Partners for Crowell Road/I-20 Access Road.

Motion made by Commissioner Schulz, seconded by Commissioner Maddox to approve the fee proposal by Gresham Smith Partners for Crowell Road/I-20 Access Road.

Commissioner Douglas asked what the total project cost would be and Mr. Garrett advised \$640,000. Chairman Ellis stated the Georgia Department of Transportation was in favor of the project.

Commissioner Schulz reminded the Board, the project will be funded with SPLOST monies, so not just local taxpayers are funding the project. Additionally, Commissioner Schulz reminded the Board the issue is not just about the traffic lights, but the road design itself is problematic.

Commissioner Douglas asked if the county had approached GDOT in reference to correcting the design and Chairman Ellis stated GDOT had looked at the design and advised this was the best alternative.

Motion on the floor was made by Commissioner Schulz, seconded by Commissioner Maddox to approve the fee proposal by Gresham Smith Partners for Crowell Road/I-20 Access Road. The motion carried (3-2; Commissioners Schulz and Maddox in favor; Commissioners Douglas and Henderson against; tie vote to Chairman Ellis in favor).

**NEW BUSINESS: RESOLUTION RO91614 – COMMUNITY IMPROVEMENT DISTRICTS (CID)**

Motion made by Commissioner Maddox, seconded by Commissioner Henderson to table Resolution RO91614-Community Improvement Districts (CID). The motion carried unanimously (4-0).

**NEW BUSINESS: DISCUSSION OF EMAIL FROM THE CENTER**

An email from The Center was read into record and it was noted The City of Covington had, at their meeting on September 15, 2014, suspended funding for the Base Line Ordinance (BLO). There was also discussion as to whether or not the county had expended any funds for the 2050 Plan and Mr. Garrett said we had not yet received any invoices from The Center for work done up to this point.

Commissioner Douglas stated that we should pay what we owe, but nothing more towards the 2050 -- \$50,000 was appropriated for the 2050.

Commissioner Schulz asked should we cease all planning for 2050 and Commissioner Douglas said we should. Commissioner Schulz asked if the 'brand' 2050 was problematic and should the county continue to plan. In reply, Commissioner Douglas said the brand was indeed problematic; however, the county had good ordinances in place already. Commissioner Schulz stated planning for the 2050 had been ongoing for ten years and she felt as though we should continue to plan and work with other entities. She suggested maybe Jenny Carter and Scott Sirotkin present a plan at a future work session. Commissioner Maddox stated he didn't feel as though Commissioner Douglas' motion prevented future planning.

Motion made by Commissioner Douglas, seconded by Commissioner Henderson, that the county end all association with, payments for (except for outstanding invoices) and planning for the 2050 Plan, and that we continue to work in-house with our employees to ensure we maintain a great quality of life in the 1st District and Newton County as a whole. The motion was seconded by Commissioner Henderson and passed unanimously (4-0).

**COUNTY CLERK: APPROVAL OF BOC MEETING MINUTES DATED AUGUST 19, 2014**

Motion made by Commissioner Maddox, seconded by Commissioner Henderson to approve the Board of Commissioners meeting minutes dated August 19, 2014. The motion carried unanimously (4-0).

**COUNTY CLERK: APPROVAL OF WORK SESSION MINUTES DATED AUGUST 26, 2014**

Motion made by Commissioner Maddox, seconded by Commissioner Henderson to approve the Work Session meeting minutes dated August 26, 2014. The motion passed unanimously (4-0).

**ADMINISTRATIVE: AWARD TIMBER CONTRACT**

Motion made by Commissioner Maddox, seconded by Commissioner Henderson to table the timber contract award to the October 7, 2014 Board of Commissioners meeting. The motion passed unanimously (4-0).

**ADMINISTRATIVE: AWARD BID FOR INSTALLATION OF CONCRETE PAVERS & CONCRETE FLATWORK AT MIRACLE FIELD**

Mr. Garrett reported only two (2) bids had been received and one was disqualified. Mr. Garrett said with the time schedule and the onset of winter, he would recommend moving forward.

Motion made by Commissioner Henderson, seconded by Commissioner Maddox to approve the award of the bid for installation of concrete pavers and concrete flatwork at Miracle Field as presented by Mr. Garrett. Motion carried unanimously (4-0).

**SHERIFFS OFFICE: REQUEST TO APPLY FOR FY14 SORNA PROGRAM GRANT**

- Grant amount up to \$20,000
- Two (2) palm print scanners
- No match; reimbursement grant

Motion made by Commissioner Douglas, seconded by Commissioner Maddox, to accept the FY14 SORNA Program Grant. Motion passed unanimously (4-0).

**SHERIFFS OFFICE: ACCEPTANCE OF FY14 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG)- GRANT AMOUNT \$29,443.00**

Motion made by Commissioner Henderson, seconded by Commissioner Maddox, to accept the FY14 Edward Byrne Memorial Justice Assistance Grant (JAG). The motion carried unanimously (4-0).

**SHERIFFS OFFICE: ACCEPTANCE OF FY14 STATE CRIMINAL ALIEN ASSISTANCE PROGRAM GRANT (SCAAP) – GRANT AMOUNT \$47,057.00**

Motion made by Commissioner Schulz, seconded by Commissioner Douglas, to accept the FY14 State Criminal Alien Assistance Program Grant (SCAAP). The motion carried unanimously (4-0).

**SHERIFFS OFFICE: APPROVAL OF PAY TEL COMMUNICATIONS AGREEMENT**

- No cost to county
- Make approximately \$2500 per month

Motion made by Commissioner Henderson, seconded by Commissioner Schulz, to approve the Pay Tel Communications Agreement. Motion carried unanimously (4-0).

**COMMISSIONER'S COMMENTS**

Commissioner Maddox

- Wedding anniversary

Commissioner Henderson

- Thanks to everyone who came out in support

Commissioner Douglas

- Tribute to Monroe County Deputy Michael Norris, killed in the Line of Duty
- Thank those in uniform for what they do
- Appreciates support for taking 2050 off of the table

Chairman Ellis

- Commissioner Sims' wife in accident
- Legal organ of Newton County; *The Covington News* going to weekly publication (Sunday);  
*Newton Citizen* daily publication

**EXECUTIVE SESSION (Time: 9:46 p.m.)**

Motion made by Commissioner Schulz, seconded by Commissioner Henderson, to enter into Executive Session for the purpose of discussing personnel. The motion carried unanimously (4-0).

**ADJOURN EXECUTIVE SESSION AND REGULAR MEETING (Time: 9:50 p.m.)**

Motion made by Commissioner Henderson, seconded by Commissioner Douglas to adjourn the Executive Session and regular meeting. Motion carried (3-0).

Respectfully submitted,

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Crystal J. Dooley (acting clerk) for  
Jackie Smith, Clerk

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William K. Ellis, Chairman