

**The Town of Newborn  
September Council Meeting  
Minutes  
August 28, 2023**

Present: Mayor Ellwanger, MPT Krieger, CP Williamson, CP Spitler, CP Bratton, Clerk Elisa Rowe, Attorney Joe Reitman  
Citizens: Lori Krieger, Susan Oliveto, Shirley Davis  
Guests: Code Enforcement Officer Juan Irwin  
Representative for the family of Joan Castellana / Sam Walton Property

- I. **CALL TO ORDER:** Mayor Ellwanger called the meeting to order at 7pm
- II. **INVOCATION:**
- III. **PLEDGE OF ALLEGIANCE:** Lead by Mayor Ellwanger
- IV. **APPROVAL OF MINUTES:**

**August 7<sup>th</sup> council meeting:** CP Williamson made a motion to approve the minutes from the August 7<sup>th</sup> council meeting  
**Motion: CP Williamson**  
**Second: CP Bratton**  
**Approved: 5-0-0**
- V. **OLD BUSINESS:**
  - A. **Expand parking lot:** Mayor Ellwanger stated that Town hall is in need of additional parking due to the office rental next door and library patrons. There were three (3) bids received and the Mayor & Council selected Asphalt by Design. Mayor Ellwanger stated that he believed removing the grass and use the crushed millings will work at a price of \$5000.00. MPT Krieger agreed and stated that he would like to see some type of border put in also, maybe railroad ties, etc. Mayor Ellwanger agreed that would be a good idea. CP Bratton made a motion to approve Asphalt by Design to add additional parking spaces at a cost of \$5000.00 using crushed millings.
    - a. **Con-South (Jason Baker): \$10,920.00**
    - b. **MGS Paving: \$20,000**
    - c. **Asphalt by Design: \$7500.00 (or \$5000.00 to remove grass and do the area in crushed millings**  
**Motion: CP Bratton**  
**Second: MPT Krieger**  
**Approved: 5-0-0**
  - B. **Bids received for clean-up of 123 Porter Street:** Mayor Ellwanger recognized Attorney Joe Reitman and Code Enforcement officer Juan Irwin to bring he and the council up to date. Mr. Irwin stated that he went to the Davis property before the meeting and took pictures and that the situation at the property has not improved, in fact it has probably gotten worse. Attorney Joe Reitman stated that this has been an ongoing case for over a year and that the court had approved for the Town to go in and hire someone to clean up of the property. Home owner Shirley Davis requested that the Town give her another month that her son Joe is sick and, in the bed, and

unable to do anything at this time. Mayor Ellwanger stated that the Town has given extensions over and over again, and Joe has promised time and time again that he would get the property cleaned up and he never did. The Town cannot give anymore extensions. Ms. Davis stated that there are some vehicles that she and her son would like to keep. Attorney Joe Reitman stated that he will compose a letter regarding the vehicles and that if the Mayor & Council would approve, could give another month extension on removing the vehicles that they would like to keep. The Mayor and Council agreed to the month extension on the vehicles but will proceed with the clean-up of the property as it would also help Ms. Davis as she wouldn't have to pay someone to come in and do it. MPT Krieger made a motion to approve the hiring of TJC Maintenance at a cost of \$2000.00 to clean up the Davis property. Attorney Joe Reitman stated that the Davis's will be given notice of when the clean-up will begin and that a law enforcement officer will be on sight.

**a. TJC Maintenance: \$2000.00 – will also remove vehicles with a truck, requests towns authorization for that. His bid will not increase even with removing the vehicles, he just asks for the Towns authorization.**

**b. Everything Must Go Junk Removal LLC - \$13,250.00**

**Motion: MPT Krieger**

**Second: CP Bratton**

**Approved: 5-0-0**

- C. **Eubanks donation of property:** Attorney Joe Reitman stated that he has drawn up the final agreement of the donation of property from the Eubanks to the Town of Newborn. Joe specified certain parts of the agreement, the first being Paragraph 1- Town requirements which states: *1. Town Requirements. Town shall accept the Contribution of this Land described as follows (with two houses on it) and use it for Park purposes for at least 3 years: All that tract or parcel of land lying and being in Land Lot 186, of the 19th Land District in the City of Newborn, Newton County, Georgia, and being shown more particularly on that plat of survey prepared for Ernest Sims, Roy Chester and Mitchell Turner by Louie D. Patrick, Ga. RLS. No. 1757, dated December 9, 1991, and recorded in Plat Book 25, page 246, Clerk's Office Superior Court of Newton County, Georgia, which plat is referred to and incorporated herein for a more particular description thereof. This being the same property conveyed to the Tommy Adams, Jr. and Johnny B. Blackshear, Jr. by Albert B. Ozburn by Warranty Deed dated July 7, 1994, and recorded in Deed Book 512, page 498 Clerk's Office, Newton Superior Court, which Deed is incorporated herein by reference thereto for a more definite description.* Joe also added to read Paragraph 2 and 3 specifically: *Donor Requirements. Donor's obligation to make the Contribution is contingent on the following being fulfilled prior to Donor making such Contribution: Town being, as of the date of Contribution ("Contribution Date"), recognized by IRS as a government organization i) exempt from taxes, or otherwise described in 501(c)(3) of the IRC of 1986, ("Code") or such other section of the Code that establishes Town is exempt from federal taxation and ii) is not a "private foundation" per Section 509(a) of the Code.*
- 3. Tax Compliance. If Donor provides the Contribution, and Town accepts the same, Town agrees as follows:*
- a) Town shall in all respects treat the Contribution as a "charitable contribution," within the meaning in Section 170 of the Code.*
- Joe went on to say that on page 2 item b) *Town shall deliver to Donor a "contemporaneous written acknowledgement" with respect to the Contribution, per*

*Section 170(f)(8) of the Code (“Acknowledgement”). Town has not provided any substantial return benefit to Donor and the Acknowledgement shall not reflect any return benefit to Donor. Joe stated that can be done at closing and we must also certify that: c) The Contribution was not made in any part in consideration for goods or services provided to Donor by Town and Town will not treat the Contribution as a “quid pro quo” contribution per Section 6115(b) of the Code. Joe stated that it is a true, arm’s length donation and the only thing is the Town is getting the land and Mr. Eubanks is getting the tax deduction. The rest of the document is pretty standard. Joe added that Mrs. Eubanks wanted it to be clear which parcel it is and what comes with the property. Joe added that the grass is extremely high and the Town will clean that up once it has become under the Town ownership. Joe stated that if there are no questions, that a motion can be made to approve the donation agreement and authorize the Mayor, Clerk and himself to handle all the necessary documents. CP Williamson stated so moved to approve.*

**Motion: CP Williamson**

**Second: CP Bratton**

**Approved: 5-0-0**

Mayor Ellwanger wanted to address the issue of the littering of cigarette butts, and how many he picked up during the Covington Century Bike ride. He had them all cleaned up and now the pavilion area is littered with them again. He would like to have some signage put up that no smoking is allowed. There is also an issue of a couple of people loitering in the pavilion and drinking there all day. They will drink a few beers, then walk to the store and get more and come back to the pavilion and drink (not to mention relieving themselves in the pavilion). Mayor Ellwanger stated that he would also like to have a no loitering sign put up. MPT Krieger stated that if a no loitering sign is posted, it would give the sheriff’s department a way to enforce.

Mayor Ellwanger stated that the outside of the schoolhouse needs to be painted (includes windows and iron railing) and that Eric Mack has given a quote of \$8200.00 and that includes paint. Mayor Ellwanger asked if a motion and vote is needed since the funding can come out of SPLOST. Clerk Elisa Rowe stated that the money is allotted to facilities. Joe stated that as long as the criteria is met through SPLOST then a vote would not be needed.

## **VI. NEW BUSINESS:**

- A. Sam Walton Property: A request has been made from the Estate to combine parcels N138-40 and N138-43A. The Estate is also conveying 0.7 acres to Frank and Joan Castellana, parcel N138-43B. The property is currently zoned Residential Agricultural.** Mayor Ellwanger stated that Sam Waltons estate would like to combine two parcels and add 0.7 acres to Frank & Joan Castellana’s parcel of property from Sam Walton’s Estate. The zoning would remain the same. Mayor Ellwanger added that he has talked to attorney Joe Reitman and it would not be an issue. Joe stated the property is not splitting, but will be combined and is handled in a public hearing. CP Bratton made a motion to approve the combining of parcels N138-40 and N138-43A and conveying 0.7 acres to Frank and Joan Castellana from the Sam Walton Estate.

**Motion: CP Bratton**

**Second: MPT Krieger**

**Approved: 5-0-0**

**VII. PUBLIC COMMENTS:**

Lori Krieger: Questioned if the Mayor & Council had heard anything from the Sheriff's department regarding the burglary that happened last Monday (8/21). Mayor Ellwanger stated that he had called the sheriff's department last Friday and left a message with the Sheriff's secretary. She called him back this morning, but he was with a patient so she left him a voicemail. He tried to call her back this afternoon, but didn't get her, so currently they are playing phone tag. He will try to call her back in the morning. Clerk Elisa Rowe stated that the deputy still has not called her regarding the incident. Mayor Ellwanger stated that he is going to request to the Sheriff that the community outreach deputy start attending the council meetings again. The Council agreed.

**VIII. ADJOURNMENT:** Mayor Ellwanger adjourned the meeting at 7:55pm

**Motion: MPT Krieger**

**Second: CP Bratton**

**Approved: 5-0-0**