

The Russell County Planning Commission
Special Called
Meeting Minutes
February 22, 2011
4:30 P.M. EDT

An adjourned meeting of the Russell County Planning Commission was called to order. Members present were: Chair R.C. Adams, Gary Head, Commissioner Peggy Martin, Bill Friend, Carla Thomas, Jimmie Batchelder, Fedinard Crawford, David Ellis, Dr. Thomas Shelton, Attorney Walter Gray and County Administrator Leann Horne who kept the minutes. Advisors present were: Johnny Burrell from the Health Department, Russell County Water Manager Roger Conner, and Naomi Elliott and County Attorney Kenneth Funderburk.

A quorum was established.

This special called meeting concerns changes for the Sanitary Sewer System Requirements. An outline was distributed to each member with the proposed changes.

- 1.1 "Available Public Sewer"** means a public or privately owned sanitary sewer provider is within ~~4000~~ (500) feet of property to be served, without crossing another property to make the new connection, or such other conditions of availability as are established by administrative rule. In cases of onsite conveyance or disposal system failure, sewer shall be deemed available if within 300 feet.
- 1.7 "Immediately Available Public Sewer"** means a public or privately owned sanitary sewer provider system to which a property can connect without further extension of the sewer lines or within ~~4000 feet~~ (500 feet) of an existing sewer line
- 1.8 "Nonconforming Sewer"** means a private sanitary sewer that is:
- a. Located on public or private property that is not on the same property as the structure or structures being served by the sewer; and
 - b. Not located within a recorded sewer easement or subject to a recorded covenant for easement regarding use of the sewer meeting the standards specified in administrative rules, or
 - c. An on site sewer system which has failed as determined by the ~~County Engineer or the Russell County Building Inspector~~ or Health Department.

2.1 Applicability. Properties having development or being subdivided or with a failed onsite sewage disposal system that generates or may generate sanitary waste must decommission onsite sewage disposal systems and/or connect to the public sewer when:

- a. The development is not completely connected to a sanitary sewer system;
- b. A publicly or privately owned sewer treatment provider is immediately available as defined herein without the need for further sewer extension; and/or
- c. A sewer line has been provided to curb or property line
- d. The property's on site system has failed as determined by the Health Department or the Building Official of Russell County.

Section 2: Sewer Connection

2.7 If property subject to the requirement imposed by this Section is sold and has less than 180 days remaining in the one (1) year connection period referred to above is sold, the new owner may enter into an agreement with the sewer service to extend the time to connect to the public sewer system for 180 days from the date of the sale of the property. In the event a new owner elects to enter into an agreement, said election shall constitute a waiver of any objection to so connect. As used herein, the term "sale" includes every disposition or transfer including the transfer of equitable title or legal title to real property, but excluding real estate mortgages.

SECTION 3: MANDATED SEWER SERVICE CONNECTION CHARGES

3.1 Property owners shall be charged the rate and fees in place at their time of payment or at the time of connection, whichever is sooner. Only one agreement per property may be entered into under the terms of this subsection. As used herein, the term "sale" includes every disposition or transfer including the transfer of equitable title or legal title to real property, but excluding real estate mortgages.

SECTION 4: CONVERTING NONCONFORMING SANITARY SEWER CONNECTIONS.

- 4.1** Applicability. Properties using nonconforming failed on site sewer systems shall be required to convert to conforming sewer connections when public sewer is available within 4000 (500) feet of the property being served by the nonconforming system. All connections shall be made along a route of service approved by the County. Regardless of distance from available sewers, the sewer service may notify property owners along routes identified for sewer extension of the requirement that they participate in the Nonconforming Sewer Conversion Program as required by this ordinance resolution.
- 4.2** Exemption. The Building Official Inspector may exempt properties with nonconforming sewer connections from the requirement to convert to a conforming public sewer connection in the following circumstances:
- a. The Building Official Inspector determines that conversion of a nonconforming connection to a conforming connection would have detrimental effects on public health or safety; or
- 4.3** Timing. If this ordinance requires property owners to convert or abandon a nonconforming sanitary sewer connection within 180 days of the date on the notice of sewer availability. All individual sewer connections shall be made in conformance with the Sewer and Drainage Facilities Design Manual. The County Building Inspector will provide written notice to all affected property owners at 180 days prior to the conversion deadline. Request a manual be provided to the Planning Commission.

SECTION 6: DEFERRALS OF REQUIRED SEWER CONNECTIONS:

- 6.1** Deferrals for making the actual connection to public sewers shall be limited to five years and may not be renewed. Any deferral shall not transfer with the property. Could list reasons for deferral; example: hardships, variance, etc.

SECTION 8: ABATEMENT BY OWNER.

- 8.1** The owner of a connection delinquent property shall have at least least 30 days from the date of the Notice to Remove Nuisance to file documentation of the removal or abatement of the nuisance or to file a written request for an administrative review of the nuisance abatement requirement. Following notification of the administrative review and

determination by the Building Inspector, any extension shall be determined by the in no case shall be longer than 30 days and may not be renewed.

SECTION 9: CONNECTION ENFORCEMENT:

- 9.1** The County Building Inspector **and the Health Department** shall attempt to resolve issues with affected property owners *and* sewer provider to the extent possible. The following enforcement steps shall be used:
- 9.3** Final determination. The Building Department **along with the Health Department** shall be the substantive decision for County Code compliance proceeding. The building official or his designee shall submit information addressing the following fact:
- C.** The subject property has direct access via an intended route of service to a sewer lateral or other component of the sewer system abutting a property line or permanent easement acquired for the benefits of the property or within ~~4000~~ **(500)** feet of same.
- 9.5** ~~The County~~ **Any sewerage provider** shall maintain an accurate record of all expenses incurred, including an overhead charge of 26 percent, an administration fee for each occurrence sewer user charges, **attorney fees, court cost** and permit fees which shall be assessed as a **private** lien on the property in accordance with this ~~ordinance~~ **resolution**.
- 9.7** Neither the County nor any of its officers, employees, contractors, agents, **elected officials** or authorized representatives shall be held liable for any damage to the real property or any improvements or personal property due to the non-negligent enforcement or administration of this ~~ordinance~~ **resolution**.
- 9.9** The County may seek, in any court of competent jurisdiction, a judgment against the person or property failing to connect to a sewer in accordance with the provisions of this ~~ordinance~~ **Resolution**. In the event of such action, the measure of damages shall be the costs for abatement by county administrative cost, permits fees, overhead cost, penalties, **attorney fees, court cost** and connection charges as determined by the Building Inspector.

Section 10: Resolution Actions Available to Property Owners

10.1 Mandatory sewer Connection. Property owners subject to the Mandatory Sewer Connection Program may object to the County Building Inspector. Property owners shall receive notice of deadlines and procedures for testifying before the Building Inspector. An appeal from the Building Inspector's decision shall be made to the Construction Board of Adjustments which shall schedule a hearing to hear evidence from both the property owners and County on whether the County followed established procedures for requiring connection. ~~The Construction Board of Adjustments~~ **The Planning Commission's** decision is final. No property owner initiated appeals are allowed in the Mandatory Sewer Connecting Program. Appeals, from the decision of the ~~Construction Board of Adjustment~~ **Appeals Committee to be appointed by Planning Commission,** are to the Circuit Court of Russell County, Alabama.

SECTION 11: SEVERABILITY.

11.1 The provisions of this Chapter are ~~severable~~ **severability**. If any word, definition, clause, section or provision of this Ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this Ordinance shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein. In the event a definition is held to be invalid or is severed, the defined word or term shall be deemed to have the meaning given to that word or term under Alabama Law if Alabama Law contains such a definition. If there is not established definition of the word or term under Alabama Law, the word or term shall have its ordinary dictionary meaning. It is hereby declared to be *the* Russell County Commissions express legislative intent that this ~~Ordinance~~ **Resolution** would have been adopted had such an unconstitutional or otherwise invalid provision not been included herein.

Gary Head made a motioned to adopt changes to the Subdivision Regulations concerning Sanitation Sewer System Requirement; seconded by Bill Friend. After discussion Gary Head amended his motion to also clarify 500 feet from existing sewer line does mean from the resident or building, not the property line and is to be stated in the sewer regulation amendments. J.C. Batcheldor abstained from the vote and David Ellis voted no because he believes there should be restrictions on companies supplying sewer services in the way their systems can be installed. The other 8 members presented voted yes to the changes. The motioned passed.

The proposed subdivision regulations amendments will be advertised for 3 weeks and a public hearing.

The meeting was adjourned.