AGENDA
CITY OF NEWTON
NEWTON CITY COUNCIL - REGULAR MEETING
February 7, 2017
7:00 p.m.

1. Call to Order – Mayor Anne P. Stedman

2. Opening – Council Member Jody Dixon

3. Approval of Minutes from the January 10, 2017 Regular Meeting

4. Consideration of Consent Agenda Items
   A. Tax Releases
   B. Sewer Adjustments
   C. Consideration of Application for Safer Grant
   D. Consideration of Amendment to AT&T Lease at Water Tank
   E. Consideration of Street Closure – April 29th, Newton Conover Rotary Car Show

5. Comments from the Public: (PERSONS WANTING TO MAKE A PUBLIC COMMENT ON NON-AGENDA ITEMS ARE REQUESTED TO SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING):

6. New Business
   A. Consideration of Radio Station Road Aerial Construction Contract
   B. Consideration of Amendment to Animal Control Ordinance
   C. Consideration of Amendment to Schedule of Fees and Charges – Downtown Events
   D. Consideration of Designated Parking for Birch and Zander’s Parking Lots.
   E. Consideration of Public Arts Program and Committee

7. City Manager’s Report

8. Questions and Comments From Mayor and Council
   A. Reports from Appointed Representatives on Outside Boards – Council Member Robert C. Abernethy, Jr.

9. Closed Session – per North Carolina General Statutes 143-318.11(a)(4), 143-318.11(a)(5) and 143-318.11(a)(6)

10. Adjournment
The regular meeting of the Newton City Council was held at 7 p.m. Tuesday, January 10, 2017 at Newton City Hall.

PRESENT: Mayor Anne P. Stedman, Mayor Pro Tem John Stiver, and Council Members Tom Rowe, Jerry Hodge, Wes Weaver, Robert C. Abernethy, Jr., and Jody Dixon

STAFF: City Manager Todd Clark, City Clerk Amy S. Falowski, City Attorney John Cilley, City Department Heads and members of the management team

ITEM 1: CALL TO ORDER

Mayor Anne P. Stedman welcomed everyone and called the meeting to order. Mayor Stedman thanked Police Chief Don Brown and the Newton Police Department for their hard work for the past two years on the Maggie Daniels case. She stated that she and the City Council were grateful to the Police Department and all agencies involved.

ITEM 2: OPENING Invocation and Pledge of Allegiance

Council Member Tom Rowe provided the invocation and Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES

Upon motion duly made by Council Member Robert C. Abernethy, Jr., seconded by Mayor Pro Tem John Stiver, it was unanimously RESOLVED:

That the Regular Minutes of the December 6, 2016 City Council meeting be – APPROVED

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS

Upon motion duly made by Council Member Jerry Hodge, seconded by Council Member Jody Dixon, it was RESOLVED:

That the Consent Agenda be – APPROVED

A. Tax Releases
B. Sewer Adjustments
C. Consideration of Budget Ordinance Amendment for ElectriCities
D. Consideration of Budget Ordinance Amendment for Forensic Testing

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

ITEM 5: COMMENTS FROM THE PUBLIC: PEOPLE WHO WISH TO COMMENT ON NON-AGENDA ITEMS ARE ASKED TO SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING.

Mayor Anne P. Stedman asked if anyone present would like to make comment concerning non-agenda items. No one appeared.
ITEM 6: Presentations

A. Parks and Recreation

Assistant City Manager Sean Hovis gave a presentation concerning future sites and information for a potential splash pad. Mr. Hovis showed several locations for a potential water feature, and gave comparisons of splash pads in other cities.

Council Member Robert Abernethy stated that Mr. Weaver wasn’t here last time council discussed parks, and added that he thought he would like to talk about workout facility expansion and whether that could be something to consider. He stated that a new workout facility would be something to keep citizens in Newton. Mr. Weaver stated that the current facility was small and outdated. Council Member John Stiver stated that some of the equipment is new. Mr. Abernethy mentioned that there is nowhere to change and that a locker facility is needed. Mayor Stedman stated that staff could research this, Mr. Weaver stated that would be good. Mr. Weaver added that this is an active community as far as citizens working out. Mr. Rowe stated that maybe staff could see what other cities are doing as far as running their own facilities.

ITEM 7: Public Hearing

A. To Consider an Installment Financing Agreement for Infrastructure Improvements

Mayor Stedman recessed the Council Meeting and called to order a Public Hearing as scheduled to receive public input on the consideration of an agreement for installment financing for infrastructure improvements.

Finance Director Serina Hinson stated that on December 9, 2016, bids were solicited for funding the Westside Drive Wastewater Infrastructure Project. Seven RFP’s were submitted to the following financial institutions: BB&T Governmental Finance, Wells Fargo, SunTrust Equipment Finance & Leasing Corp. (SunTrust), First Tennessee Commercial Banking, First Citizens Bank, Peoples Bank, and Regions Bank. Of the seven financial institutions solicited, two of these institutions provided a quote: BB&T Governmental Finance and Peoples Bank.

The bids were as follows:

<table>
<thead>
<tr>
<th>Financial Institution</th>
<th>Interest Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>15 Year Amortization ($1,400,000):</td>
<td></td>
</tr>
<tr>
<td>BB&amp;T Governmental Finance</td>
<td>3.04%</td>
</tr>
<tr>
<td>Peoples Bank</td>
<td>2.67%</td>
</tr>
</tbody>
</table>

BB&T Governmental Finance and Peoples Bank provided very attractive and competitive bids. Peoples Bank provided the lowest bid.

Ms. Hinson asked that City Council award Peoples Bank the bid.

Ms. Hinson asked that the City Council award the bid to provide financing to Peoples Bank for an amount not to exceed $1,400,000 at stated interest rate of 2.67% for 15 years, and adopt the Resolution Approving Financing Terms based on a 15 year amortization.

Mayor Stedman asked if there was anyone present that would like to speak in favor or against the proposed financing agreement. No one appeared.
Upon motion duly made by Council Member Wes Weaver, seconded by Council Member Tom Rowe, it was unanimously RESOLVED:

That the Public Hearing be - CLOSED.

ITEM 8: Old Business

A. Consideration of Award of Financing Bid and Resolution Approving Financing Terms

Council Member Robert C. Abernethy, Jr. asked to be recused from voting on the award of bid to provide financing to Peoples Bank for an amount not to exceed $1,400,000 at stated interest rate of 2.67% for 15 years.

Upon motion duly made by Council Member Wes Weaver, seconded by Council Member Jerry Hodge, it was unanimously RESOLVED:

That Robert C. Abernethy, Jr. be- RECUSED from voting on the award of bid to provide financing to Peoples Bank for an amount not to exceed $1,400,000 at stated interest rate of 2.67% for 15 years

Finance Director Serina Hinson stated that on December 9, 2016, bids were solicited for funding the Westside Drive Wastewater Infrastructure Project. Seven RFP’s were submitted to the following financial institutions: BB&T Governmental Finance, Wells Fargo, SunTrust Equipment Finance & Leasing Corp. (SunTrust), First Tennessee Commercial Banking, First Citizens Bank, Peoples Bank, and Regions Bank.

Ms. Hinson stated that of the seven financial institutions solicited, two of these institutions provided a quote: BB&T Governmental Finance and Peoples Bank.

The bids were as follows:

<table>
<thead>
<tr>
<th>Financial Institution</th>
<th>Interest Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>15 Year Amortization ($1,400,000):</td>
<td></td>
</tr>
<tr>
<td>BB&amp;T Governmental Finance</td>
<td>3.04%</td>
</tr>
<tr>
<td>Peoples Bank</td>
<td>2.67%</td>
</tr>
</tbody>
</table>

Ms. Hinson stated that BB&T Governmental Finance and Peoples Bank provided very attractive and competitive bids. Peoples Bank provided the lowest bid and recommended that City Council award Peoples Bank the bid for an amount not to exceed $1,400,000 at stated interest rate of 2.67% for 15 years.

Upon motion duly made by Council Member Wes Weaver, seconded by Council Member Tom Rowe, it was unanimously RESOLVED:

That the bid to provide financing to Peoples Bank for an amount not to exceed $1,400,000 at stated interest rate of 2.67% for 15 years be – APPROVED.

Upon motion duly made by Council Member Jody Dixon, seconded by Mayor Pro Tem John Stiver, it was unanimously RESOLVED:

That the Resolution Approving Financing Terms Based on 15 years amortization be - ADOPTED.

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the office of the City Clerk)
ITEM 9: City Manager’s Report

Meetings & Events

- January 19th and 20th – City Council/Staff Annual Workshop
  Items to be sent early to City Council:
  - City Properties Map & Spreadsheet
  - Capital Improvement Plan
  - 2016 Goals and Objectives
  - Map of Economic Development Properties

- January 23rd-25th – North Star Branding in-market visit
- January 24th – ElectriCities Board of Commissioners Meeting, Concord, NC
- March 12th- 15th – NLC Conference, Washington, DC

Projects

  o New Signage at City Hall and Police Department
  o “Newton Notify” newtonnc.gov/notify
  o Service Excellence University
  o Report on Snow Removal

Council Members Jody Dixon and Robert Abernethy commended staff on a job well done with the recent snow removal.

  o Report on Water and Sewer Leaks
  o Current Employment Openings

Mr. Clark talked about the shortage of linemen applying for jobs in the electric division. Mr. Rowe asked what can the city do to make these jobs more competitive. Mr. Clark stated that salaries are more competitive for contracted and private industry linemen positions. He stated that there are some of the same problems with fire and police. Mr. Abernethy asked if this was an issue with other electric cities. Mr. Weaver mentioned that there could also be trouble with the number of people qualified to do the job. Teresa Laffon, Human Resources said that it is both salaries and qualifications.

ITEM 10: Questions and Comments from Mayor and Council

Council Member Tom Rowe gave a brief summary of things going on with the Newton Depot Authority. He mentioned the mural in North Newton, the welcome center and the public restrooms in the pavilion. He also stated that the commemorative brick project is being held for anyone that would like to buy.

ITEM 11: Adjournment

Upon motion duly made by Council Member Wes Weaver, seconded by Council Member Jody Dixon, it was unanimously RESOLVED:

That the Meeting be – ADJORNED

_________________________________________
Anne P. Stedman, Mayor

_________________________________________
Amy S. Falowski, City Clerk
CITY OF NEWTON

Inter-office Correspondence

TO: E. Todd Clark, City Manager

DATE: January 13, 2017


FROM: Serina T. Hinson, Finance Director

The following tax releases has been received from the Catawba County Tax Collector. The reason for the release is annotated beside the name.

<table>
<thead>
<tr>
<th>Tax Year</th>
<th>Tax Release Number</th>
<th>Name</th>
<th>Reason</th>
<th>Amount of Release</th>
</tr>
</thead>
<tbody>
<tr>
<td>2016</td>
<td>61</td>
<td>Ervin, Neil A. Jr.</td>
<td>Small underpayment</td>
<td>$0.05</td>
</tr>
<tr>
<td>2016</td>
<td>62</td>
<td>Ford Motor Company</td>
<td>Penalty assessed in error</td>
<td>$73.44</td>
</tr>
<tr>
<td>2014</td>
<td>63</td>
<td>Jones, Dewey W. Jr.</td>
<td>Property sold</td>
<td>$10.77</td>
</tr>
<tr>
<td>2015</td>
<td>64</td>
<td>Jones, Dewey W. Jr.</td>
<td>Property sold</td>
<td>$10.61</td>
</tr>
<tr>
<td>2016</td>
<td>66</td>
<td>Killian, Rickie D.</td>
<td>Untagged vehicle was disposed of</td>
<td>$4.75</td>
</tr>
<tr>
<td>2016</td>
<td>67</td>
<td>N&amp;K Properties, Inc.</td>
<td>Small underpayment</td>
<td>$0.05</td>
</tr>
<tr>
<td>2016</td>
<td>68</td>
<td>Sanders, Edward E.</td>
<td>Property sold</td>
<td>$19.31</td>
</tr>
<tr>
<td>2015</td>
<td>69</td>
<td>Sorenson, Lee</td>
<td>Small underpayment</td>
<td>$0.18</td>
</tr>
<tr>
<td>2016</td>
<td>70</td>
<td>Tucker, Winford A.</td>
<td>Small underpayment</td>
<td>$0.10</td>
</tr>
</tbody>
</table>

Should you have any questions or need clarification, please notify. Releases are submitted as required by NCGS § 105-381(b).
The following sewer adjustment is recommended for approval. The adjustment is recommended as a result of a water leak at the service address or a pool fill up.

<table>
<thead>
<tr>
<th>Account Number</th>
<th>Name</th>
<th>Service Address</th>
<th>Adjustment Period</th>
<th>Amount of Adjustment</th>
</tr>
</thead>
<tbody>
<tr>
<td>50001886-002</td>
<td>Sheryl Bye</td>
<td>1622 Mayfair Dr.</td>
<td>Dec</td>
<td>$ 43.83</td>
</tr>
<tr>
<td>59000270-001</td>
<td>Angela Heafner</td>
<td>412 E. 11th St.</td>
<td>Dec</td>
<td>$ 45.93</td>
</tr>
<tr>
<td>17000174-002</td>
<td>Michael Lawing</td>
<td>806 Courtyard Dr.</td>
<td>Dec</td>
<td>$146.25</td>
</tr>
</tbody>
</table>

Backup documentation to support each adjustment is on file in the Finance Department. Should you have questions or require further clarification, please notify.
DATE: February 1, 2017

TO: E. Todd Clark, City Manager

FROM: Kevin Yoder, Fire Chief

CONSIDERATION OF: Consider submitting an application for the 2016 SAFER Grant (Staffing for Adequate Fire and Emergency Response) for increased staffing within the Fire Department

Approved for Council Consideration

Background:

1. The Fire Department has previously applied to the Federal Government through the SAFER Grant for funding for additional personnel for firefighting purposes.
2. The department has applied for the grant almost every year since its inception.
3. Previously this grant was a five year grant with a local match each of the first four years with the local unit committing to 100% of the funding in the fifth and final year.
4. This grant was then modified to a two year grant with 100% funding in each of the two years with no obligation by the recipient following the two year period.
5. Presently this grant has been modified to a three year grant with the local unit committing to a match each year in the amount of 25% in year 1, 25% in year 2 and 65% in year three.
6. During the grant period the local unit can have no reduction in full-time staffing in the fire department without forfeiting part or the entire grant.
7. If the council chooses to submit an application for funding for firefighting personnel, the recommendation of the staff is that the request be for six additional full-time personnel.
8. The justification for this funding request is to comply with NFPA (National Fire Protection Association) minimum guidelines for the Fire Department. The Fire Department does not currently meet minimum staffing levels required by the National Fire Protection Association.
9. Staff anticipates funding the local match and funding of the positions following the grant period through reductions in part-time staff, reserve staff and an increase in the Rural Fire District Tax rate.

Action Suggested:

Approval of an application for the 2016 SAFER Grant
FY2016 SAFER Funding

- Funding request for 6 Full-Time Firefighter positions
- Grant provides partial funding for salary and benefits for 3 years.
- Year One—75% Federal funding ($236,115)/25% City Funding ($78,705)
- Year Two—75% Federal funding ($236,115)/25% City funding ($78,705)
- Year Three—35% Federal funding ($110,187)/65% City funding ($204,633)
- Positions may be eliminated or reduced after 3 year period; however current FT staffing levels must be maintained during initial 3 year period of grant.
- Funding for annual physicals and uniforms is not provided.
- Currently, we are only meeting NFPA staffing requirements on 68% of structural incidents.
- At the end of the 3 year grant period, any change or reduction in staffing levels is accepted with no penalty from FEMA.
- Application deadline is February 10, 2017 at 5:00 PM.
- Awards are expected to begin around June 2017.

- For our PT staffing, FEMA has responded by email and stated we can reduce PT hours for each of those positions but cannot eliminate those positions completely during the grant period.
This letter is in reference to the FY2016 SAFER Grant application for The City of Newton Fire Department. As the governing body over the Fire Department, The Newton City Council is aware and has approved of the application for funding requested by the Fire Department for Six Firefighter positions. The Newton City Council fully understands the need of this additional staffing, however at this time, our revenues will not fully support the required funding of these additional positions. The Newton City Council understands the requirements set forth by the SAFER grant program in that staffing levels will not be reduced within the three-year grant period. In addition, it is the intent of The Newton City Council to work towards full funding of the positions, after the grant period expires.
DATE: January 26, 2017

TO: E. Todd Clark, City Manager

FROM: Sean Hovis, Assistant City Manager

CONSIDERATION OF: Amendment to AT&T Lease at Water Tank

Approved for Council Consideration

Background:

The City of Newton entered into a Lease Agreement with AT&T to lease space on the city’s water tank located at 201 West 4th Street on December 14, 2010, and it is set to expire December 13, 2020. AT&T is requesting to renew the lease now because if they have to change sites it can take up to 3 years to get new leases and move equipment. Also the current rates for leases are not sustainable due to current competition in the industry. The current lease amount is $3583.33 per month. AT&T requests to renew the lease agreement for up to 180 months. Each initial lease is for 60 months with up to two renewals with the City of Newton being guaranteed 120 months. AT&T requests the monthly lease be reduced to $3,300.00. AT&T is offering a 10% escalation rate every 5 years.

On October 4, 2016, City Council unanimously approved to allow the City Manager to enter into this contract. This Council Action Request is necessary to comply with state law requiring a 30 day notice to the public.

Requested Action:

That City Council agrees to the terms of the amendment allowing the City Manager to sign the contract and City Council determine the property will not be needed or interfere with city operations for the term of the lease.
DATE: January 24, 2017

TO: E. Todd Clark, City Manager

FROM: Sean Hovis, Assistant City Manager

CONSIDERATION OF: Street Closure

Approved for Council Consideration

Background:

The 2017 Newton Conover Rotary Car Show is scheduled for April 29th with the rain date of May 6th. The Rotary Club has requested that the following streets be closed:

Saturday Morning, 7:30 a.m.: Main Avenue will be closed from 1st Street to A Street. College Ave will be closed from 2nd Street to B Street. A Street will be closed from Main Ave to Brady Avenue. One direction of 1st Street will be closed from Brady Avenue to Ashe Avenue. Cars moving through the city will be directed along the highlighted detour route. Please refer to the attached map.

The streets will be re-opened at 3 p.m.

If approved by City Council, staff will assist with filing the request for street closures with the NCDOT for the closure of NC Hwy 16 (Main and College Avenues). The Rotary Club requests the closure of the remaining city streets per the attached map (“A” Street and 1st Street), which may be granted at the discretion of City Council.

Requested Action:

That City Council authorizes the closure of the streets as requested by the Newton Conover Rotary Club, for the date of April 29th, 2017, with the rain date of May 6th, 2017.
NEWTON - Newton Conover Rotary Club Car Show 2017
April 29th 2017 - Sections of NC HIGHWAY 16 BUSINESS, “A” Street, and 1st Street
CLOSED FROM 7:30 am until 3 pm
CITY OF NEWTON
REQUEST FOR COUNCIL ACTION

DATE: February 1, 2017

TO: Todd Clark, City Manager

FROM: Dusty Wentz, Director of PWU

CONSIDERATION OF: Budget Ordinance Amendment for the Radio Station Road Sewer Aerial Replacement.

Approved for Council Consideration

Background:

In January of 2017, staff discovered that the existing gravity sewer aerial crossing near the intersection of Radio Station Road and Shannonbrook Drive (the intersection at the bottom of the hill) was leaking. Inspection by staff determined that the footings in the creek bank had failed, placing excess stress on the encasement pipe and the gravity sewer main inside of the encasement. Field repairs were made to the crossing in order to structurally stabilize the crossing and stop the leak, however, these repairs are short term solutions and constitutes an emergency requiring a total replacement of the line.

This crossing is at least 35 years old. It provides gravity sewer service to Shannonbrook development as well as some other properties around that area.

Given the technical complexity of the replacement, and the lack of direct experience on staff, an engineering consultant was contracted to provide a permanent solution and direct the work of a construction contractor. The consultant also ensured that the construction work and the replacement met current State requirements.

Due to the emergency nature of this situation, Hickory Sand Construction Company was contacted to provide a quote, which they did in the amount of $89,000. However, scheduling between their existing contracts and the delivery time for the materials needed could not be reconciled.

The engineer then recommended contacting Wesson Septic Tank Service for a quote and a schedule to begin work. Wesson Septic provided a quote of $81,030 (attached) to complete all work, and stated that they could begin replacement as soon as materials arrived, which would be between three and five weeks.

To date, the replacement project has only incurred the cost of the engineering consultant, in the amount of $14,700. Staff recommends adding a 10% construction contingency to this quote, in the amount of $8,103. This results in a total project cost of $103,833.

Action Suggested:

The staff recommends that City Council entertain separate motions for the attached Budget Ordinance Amendment for the Radio Station Road Aerial Replacement project (attached).
Wesson Septic Tank Service Inc.
707 Poplar Springs Ch. Rd.
Shelby, NC  28152

<table>
<thead>
<tr>
<th>Name / Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Newton</td>
</tr>
<tr>
<td>P.O. Box 550</td>
</tr>
<tr>
<td>Newton, NC  28658</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Date</th>
<th>Estimate #</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/31/2017</td>
<td>1977</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Qty</th>
<th>Cost</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Radio Station Sewer Pier Crossing</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mobilization</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Installation of Approximately 80' of 12&quot; Mech Lok Long Span Pipe with 401 Lined</td>
<td></td>
<td>81,030.00</td>
<td>81,030.00</td>
</tr>
<tr>
<td>Installation of Approximately 80' of 12&quot; TJ PR 350 DIP with 401 Lined</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Installation of (5) 12&quot; Field Locking Gaskets</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Installation of (1) 5' Diameter Manhole (0' - 6' Deep) in Asphalt with Ring &amp; Cover &amp; Reconnection to all Existing Pipe</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Installation of (1) 5' Diameter Manhole (0' - 6' Deep) in Grass &amp; Reconnection to Existing Pipe</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ReAsphalt at Shannon Brook Dr.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pump Around</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Installation of (2) Concrete Piers with Eye Beams</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rip Rap</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Demolition of Existing Beams; Manholes; Piping; Tree</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ReSeed/Straw/Fertilizer/Matting (if needed)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Miscellaneous Materials</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Note:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Please ADD $ 3985.00 to use Flanged Pipe and TR Flex Flanged.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

We appreciate your business.

<table>
<thead>
<tr>
<th>Phone #</th>
<th>Fax #</th>
</tr>
</thead>
<tbody>
<tr>
<td>704-487-9997</td>
<td>704-482-9658</td>
</tr>
</tbody>
</table>

Subtotal                                                                                      Cost 14,012.00

Sales Tax (7.0%)                                                                                      980.84

Total                                                                                           Cost 14,992.84
Wesson Septic Tank Service Inc.
707 Poplar Springs Ch. Rd.
Shelby, NC 28152

<table>
<thead>
<tr>
<th>Name / Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Newton</td>
</tr>
<tr>
<td>P.O. Box 550</td>
</tr>
<tr>
<td>Newton, NC 28658</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Project</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Qty</th>
<th>Cost</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>If you would like for us to attempt to stop leaking pipe until material comes in, the pricing would be approximately $1900. A Vacuum Pump Truck is included in this pricing. If the City would like to provide the vacuum pump truck, we would issue a credit.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

We appreciate your business.

<table>
<thead>
<tr>
<th>Subtotal</th>
<th>$81,030.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sales Tax (7.0%)</td>
<td>$0.00</td>
</tr>
<tr>
<td>Total</td>
<td>$81,030.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Phone #</th>
<th>Fax #</th>
</tr>
</thead>
<tbody>
<tr>
<td>704-487-9997</td>
<td>704-482-9658</td>
</tr>
</tbody>
</table>
AN ORDINANCE TO AMEND REVENUES AND EXPENDITURES FOR FISCAL YEAR 2016-2017 FOR THE CITY OF NEWTON.

WHEREAS, the City Council of the City of Newton have adopted a Budget Ordinance for fiscal year beginning July 1, 2016, and ending June 30, 2017, in accordance with the General Statutes of the State of North Carolina; and

WHEREAS, the City Council desires to approve $103,850 for the emergency repair of the Radio Station Road Sewer Aerial Crossing. This crossing is at least 35 years old; and it provides gravity sewer to the Shannonbrook Development as well as other surrounding properties. This has become an emergency due to the footings in the creek bank which have failed, placing excess stress on the encasement pipe and the gravity sewer main inside of the encasement. The total project cost is $103,833 which includes $14,700 for engineering, $81,030 for construction and $8,103 for a 10% contingency; and,

WHEREAS, the City Council desires to utilize fund equity and to authorize the related expenditure appropriation within the Water/Wastewater operating budget.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON, NORTH CAROLINA, THAT:

THE FOLLOWING SOURCE OF REVENUE AND Appropriation ARE HEREBY APPROVED.

| Water/Wastewater Fund Revenues | Fund Equity Appropriated | 61-0000.3995 | $103,850 |
| Water/Wastewater Fund Appropriations | Capital Outlay – Sewer Lines | 61-7100.8942 | $103,850 |

Adopted this 7th day of February, 2017.

______________________________
Anne P. Stedman, Mayor

Attest:

______________________________
Amy S. Falowski, City Clerk
DATE: February 1, 2017

TO: E. Todd Clark, City Manager

FROM: Donald G. Brown II, Chief of Police

CONSIDERATION OF: Adopt changes to the Code of Ordinances, Chapter 14 – Animals and Fowl: Article I – In General.

Approved for Council Consideration

Background:

The city of Newton does not have an adequate ordinance to address issues related to maintaining livestock within the city limits. As a result, some situations have arisen where the questionable placement of pastures, fencing and the keeping of livestock have created complaints from citizens that could have otherwise been resolved by a more clear and concise code. The draft ordinance presented has been gleaned from North Carolina statute and surrounding municipality ordinances.

Summary:

Based upon a request from Council, staff has developed an ordinance that pertains to livestock, pastures and fencing. This ordinance is based upon current North Carolina statute and also surrounding municipality’s code of ordinances. Staff is presenting this ordinance as a draft for review and seeking any additional guidance and recommendations from Council.

Requested Action:

The proposed changes are submitted for review, discussion and possible adoption by City Council.
• Chapter 14 - ANIMALS AND FOWL

• ARTICLE I. - IN GENERAL

• Sec. 14-1. - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Animal* means any living vertebrate, domestic or wild, excluding humans.

*Animal shelter* means a place provided and operated by the city, other governmental unit or subdivision for the restraint, care and disposition of animals.

*At large.* Any dog shall be deemed to be "at large" when it is off the property of its owner and not under the control of a competent person.

*Dangerous animal* means any animal found within the corporate limits which is determined to be dangerous to persons or property under the provisions of G.S. 67-4.1.

*Dog* includes both male and female dogs.

*Livestock* in this Chapter shall include, but not be limited to, equine animals, bovine animals, sheep, goats, llamas but does not include swine.

*Owner* means any person owning, keeping, having charge of, sheltering, feeding, harboring or taking care of any animal. The head of the household shall be deemed to be the owner of any animal owned, kept or harbored by any person residing in such household and kept on such premises.

*Pasture* means a fenced area with sufficient grass for grazing of not less than one and one half acre.

*Reptile* means any cold-blooded vertebrate of the class Reptilia including tortoises, turtles, snakes, lizards, alligators, crocodiles and extinct forms.

*Service animal* as defined by the Americans with Disabilities Act is as follows:

Service animal means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the individual’s disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.” (Service Animal as defined by the ADA, Title III, subpart A 36.104 definitions, July 2010)
In addition to the provisions about Service Dogs, the U.S. Department of Justice’s revised ADA regulations have a new, separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities. (Miniature horses generally range in height from 24 inches to 34 inches measured to the shoulders and generally weigh between 70 and 100 pounds.) Entities covered by the ADA must modify their policies to permit miniature horses where reasonable. The regulations set out four assessment factors to assist entities in determining whether miniature horses can be accommodated in their facility. The assessment factors are (1) whether the miniature horse is housebroken; (2) whether the miniature horse is under the owner’s control; (3) whether the facility can accommodate the miniature horse’s type, size, and weight; and (4) whether the miniature horse’s presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

The ADA limits the definition of Service Animals to dogs and miniature horses.

Therapy dogs, emotional support dogs and companion dogs are not Service Animals as defined by the ADA.

In North Carolina, this law also applies to animals in training to become Service Animals. Training organizations and people training a Service Animal have the same access rights as people with disabilities using a Service Animal. The animal must wear a collar and leash, harness or cape that identifies it as a Service Animal in Training. The trainer is liable for any damage caused by the animal while in a place of business.

*Stray dog* means any dog within the city, wandering at large or lost which does not have an owner; or any dog that within the city whose owner fails to have such dog vaccinated against rabies as provided by law.

*Sus scrofa domesticus* often called swine, hog, or pig.

*Therapy animal* is normally a dog (but can be other species) that has been obedience trained and screened for its ability to interact favorably with humans and other animals. The primary purpose of a therapy animal is to provide affection and comfort to people in hospitals, retirement homes, nursing homes, schools, hospices, disaster areas, and to people with learning difficulties.

*Vicious animal* means any animal whose owner or keeper knows, or reasonably should know, has a propensity to attack a person by biting or in any manner causing injury or the reasonable likelihood of injury; or one which has a propensity to habitually or repeatedly attack livestock or other domestic animals. However, this provision shall not apply to any animal which bites, attacks or attempts to attack any person or animal unlawfully present upon the premises upon which such animal is properly kept, or which is provoked to attack.

*Wild animal* means any animal which can normally be found in a wild state; those feral, exotic, dangerous or nondomestic animals which generally do not live in or about the habitation of humans, including, but not limited to, lions, tigers, leopards, wildcats, bears, deer and the like.

(Code 1972, § 4-8; Ord. No. 73.60, § 2; Ord. No. 89.9, § 1; Ord. No. 2015-12, 5-19-2015)

- Sec. 14-2. - City animal wardens.
The chief of police is hereby authorized to appoint one or more city animal wardens and to determine the amount of salary. Such wardens shall be supervised and answerable to the chief of police, shall be responsible for the enforcement of the provisions of this chapter and shall be authorized to wear badges and uniforms but shall not be required to be members of the police department of the city.

(Code 1972, § 4-17; Ord. No. 73.60, § 2; Ord. No. 77.141, § 1; Ord. No. 89.9, § 1; Ord. No. 2015-12, 5-19-2015)

- **Sec. 14-3. - Interference with impoundment.**

It shall be unlawful for any person to obstruct or interfere with, in any way, the impoundment of any dog found in violation of the provisions of this chapter. It shall be unlawful for any person to release, or attempt to release, any dog which has been impounded.

(Code 1972, § 4-18; Ord. No. 73.60, § 2; Ord. No. 89.9, § 1; Ord. No. 2015-12, 5-19-2015)

- **Sec. 14-4. - Authority of police officers.**

Members of the police department of the city shall be empowered to perform the duties of the animal warden. Members of the police department are also empowered to use such force as is necessary for the protection of persons, including the immediate destruction of an animal under the existing police policy.

(Code 1972, § 4-19; Ord. No. 73.60, § 2; Ord. No. 89.9, § 1; Ord. No. 2015-12, 5-19-2015)

- **Sec. 14-5. - Reserved**

Editor's note—(Ord. No. 2015-12, adopted May 19, 2015 repealed § 14-5 pertaining to permit fees and derived from the Code of 1953; the Code of 1972; Ord. No. 73.63; and Ord. No. 89.9)

---

- **Sec. 14-6. - Permit fees—Payment schedule. Reserved**

Permit fees shall be paid by the dog owners at the office of the city clerk not later than January 31 of each year, or within 40 days from the date of acquisition of ownership of each dog, and shall be valid until January 31 of the following year; except, that the permit fee applicable for dogs acquired after July 31 of each year shall be one-half the regular fee for the remainder of the applicable year.

(Code 1972, § 4-10; Ord. No. 73.63, § 2; Ord. No. 89.9, § 1; Ord. No. 2015-12, 5-19-2015)

- **Sec. 14-7. - Rabies inoculation required.**

No dog shall be permitted within the corporate limits unless it shall have been inoculated against rabies as required by G.S. 130A-185(a), and proof of such inoculation shall be attached to such dog.

(Code 1972, §4-11; Ord. No. 73.60, §2; Ord. No. 89.9, § 1; Ord. No. 2015-12, 5-19-2015)

---

- **Sec. 14-8. - Responsibility of owners for securing permit tags and for acts of animals. Reserved**

(a)
Every owner of a dog shall be responsible for securing the proper city permit tag from the office of the city clerk or the animal warden, upon payment of the fee fixed by the council from time to time. Such permit tag shall be attached to such dog at any time while the dog is off the premises of the owner.

Owners of animals are responsible for acts of their animals. The owner of any animal which commits a nuisance upon the property of another person, or which damages another person’s property or person, is fully responsible and accountable for these acts.

(Code 1972, § 4-12; Ord. No. 73.60, § 2; Ord. No. 89.9, § 1; Ord. No. 2002.31, § 21-21-2002; Ord. No. 2015-12, 5-19-2015)

- **Sec. 14-9. - Allowing dog to run at large.**

  It shall be unlawful for an owner to permit a dog to run at large.

  (Code 1972, § 4-13; Ord. No. 73.60, § 2; Ord. No. 89.9, § 1; Ord. No. 2015-12, 5-19-2015)

  **State Law reference**— Authority of city to regulate, prohibit, etc., the running at large of dogs, G.S. 160A-186.

- **Sec. 14-10. - Barking dogs.**

  It shall be unlawful for any dog owner to keep or have within the city a dog that habitually or repeatedly barks in such manner or to such extent that it is a public nuisance.

  (Code 1972, § 4-14; Ord. No. 73.60, § 2; Ord. No. 89.9, § 1; Ord. No. 2015-12, 5-19-2015)

- **Sec. 14-11. - Teasing or molesting dogs.**

  It shall be unlawful for any person to tease, molest or bait any dog not belonging to him or legally under his control.

  (Code 1972, § 4-15; Ord. No. 73.60, § 2; Ord. No. 89.9, § 1; Ord. No. 2015-12, 5-19-2015)

- **Sec. 14-12. - Wild, vicious or dangerous animals.**

  (a) 

  *Keeping or possession prohibited.* It shall be unlawful for any owner to own, keep, possess or in any way maintain a wild, vicious or dangerous animal within the corporate limits. After a determination by the animal warden or other properly designated agent or employee of the city that a particular animal is wild, vicious or dangerous, that designee may order that the owner of such animal have it humanely destroyed or shall otherwise immediately remove it from within the corporate limits. If the animal is to be destroyed, a designee from the city shall bear witness to the destruction. If the animal is removed from the corporate limits, it shall be permanently marked for future identification and available for periodic inspection as determined by the chief of police.

  (b)
Right of appeal. An owner of a dog declared potentially dangerous or dangerous shall follow the appeal process established in G.S. 67-4.1 et seq.

(c)

Vicious animals.

(1)

The animal control supervisor has the authority to declare an animal vicious. Any animal declared to be a vicious animal shall be immediately impounded and held for a ten calendar-day quarantine period and then humanely destroyed unless an appeal is filed as prescribed in this chapter. If an appropriate appeal is filed, the dog shall be held at the shelter, at the owner’s expense, pending the final outcome of the appeal.

(2)

The owner shall deposit with the shelter the anticipated fee for the estimated time of the appeal beginning with the first day of quarantine. Such amount shall be calculated based on transportation fees, boarding fees and any known veterinary care the animal is in need of at the time the quarantine period begins. Payment of the fees is a required part of the appeals process. If the owner fails to pay the determined amount of fees, the appeal application will be deemed incomplete and no appeal heard.

(3)

Nothing in this section shall prohibit the owner from voluntarily releasing the dog to be destroyed in a humane way.

(d)

Appeal procedure. To appeal any other determination or finding in this chapter such as a finding or determination that an animal is vicious or is a public nuisance, the following provisions shall apply:

(1)

The filing of a written appeal stays all proceedings in furtherance of the action appealed, unless the animal control supervisor whose decision is being appealed certifies to the chief of police, after the appeal is filed, because of facts stated in the certification: (i) that a stay would cause immediate peril to life or property; or (ii) that the solution appealed from is transitory in nature, and therefore an appeal would seriously interfere with enforcement of the provisions of the Newton City Code or the operation of any program in the city.

a.

In such case, proceedings shall not be stayed other than by a restraining order, which may be granted by a court of record having jurisdiction in the county.

b.

The animal control supervisor shall transmit to the chief of police, as appropriate, all papers constituting the record upon which the action appealed is taken and shall provide a copy of such record to the city clerk.
Within 30 days of the receipt of the written appeal, the chief of police shall hold at least one hearing on the appeal. Following the close of the hearing, the chief of police shall take final action based on the procedures and requirements of this section.

a. In exercising the appeal power, the chief of police shall have all the powers of the official from whom the appeal is taken, and the chief of police may reverse or affirm wholly or partly or may modify the decision being appealed.

b. If the chief of police determines that it is necessary to obtain additional evidence in order to resolve the matter, he shall remand the appeal to the animal control supervisor from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence.

The chief of police may reverse or modify an order, requirement, decision, or determination of the animal control supervisor. The decision of the chief of police shall be supported by written findings of fact. After the hearing, the chief of police has ten days to make the final decision.

a. Within five days after a final decision of an administrative appeal is made by the chief of police, copies of the written decision shall be sent to the appellant and filed in the office of the city clerk, where it shall be available for public inspection during regular office hours.

b. Contemporaneous with the filing of the decision of the chief of police, a written copy of the chief of police's decision shall be sent, via first class mail or personal service, to the appellant at the appellant's last known address, or such other addresses as the appellant may request in writing in the appeal documents.

Any person who is directly affected by a decision of the police chief may appeal the decision to the county superior court. An appeal to superior court must be filed within 30 days of the filing by the chief of police of the decision in the office of the city clerk.

Individuals participating in the appeals process set forth above may, at their own cost and expense, be represented by legal counsel if they so desire.

Only individuals licensed as attorneys to practice law in the State of North Carolina are permitted to represent individuals in these proceedings.
If an animal has already been found to be a nuisance, vicious, dangerous, potentially dangerous, or otherwise found to be in violation of this chapter, and the appeal process has either lapsed or has been exhausted, no appeals may be filed regarding future citations written under these sections.

(e) Impounded animals. If an animal has been seized under some other provision of this chapter and is subject to a determination as being a wild, vicious or dangerous animal, it may continue to be held pending final decision of that determination. If the animal is finally adjudged not to be wild, vicious or dangerous, it shall be returned to its owner, and all impoundment fees attributable to the determination under this section shall be waived. Nothing herein precludes assessment of impoundment fees with respect to any other violations of this chapter simultaneously occurring. If the animal has been seized, and a final determination is made that the animal is wild, vicious or dangerous, the animal may be returned to the owner, provided request is made within three days of the final determination, and the owner makes satisfactory arrangement for disposition of the animal as required by subsection (a) of this section and the payment of all impoundment fees.

(f) Notice to owner. Upon a determination by the animal warden or other properly designated agent or employee of the city that a particular animal is wild, vicious or dangerous under the provisions of subsection (a) of this section, such warden or agent will undertake to ascertain, with reasonable diligence, the owner of such animal. If the owner of the animal is determined, such warden or agent shall immediately notify the owner of such determination. Notification shall be completed by receipt of registered mail signed for by an adult member of the owner's household or personal delivery to an adult member of the owner's household. If the owner cannot be determined with reasonable diligence within three days of the determination, the animal may be disposed of in a humane manner by the custodian of the animal shelter wherein the animal is impounded.

(Code 1972, § 4-16; Ord. No. 89.9, § 1; Ord. No. 2015-12, 5-19-2015)

- Sec. 14-13. - Impoundment and redemption of dogs; sale and disposal of impounded dogs.

(a) Any dog within the city without an owner, as defined in section 14-1, or any dog running at large is subject to being picked up and impounded by the animal warden. If the animal warden can determine the ownership of the dog by tag or other means, in lieu of impoundment, the dog may be taken to the owner, and a notice of violation shall be served charging the owner with a violation of this chapter. No penalty shall be charged for the first such notice of violation, but a penalty of $25.00 shall be charged for the second such violation in any fiscal year. A third violation and all subsequent violations shall have a penalty of $50.00. The penalties provided for herein shall be in addition to any impoundment charges or fees assessed and collected by another governmental unit which operates an animal shelter in which any seized animal may be impounded.

(b) Any dog running at large without a current city tag or identifiable owner shall be taken to the animal shelter. Any such animal taken to the animal shelter shall be confined for a period of five days for
redemption by the owner. If such animal is not redeemed by the owner within such period of five days, it shall be offered for sale to any member of the public and sold to such member of the public first paying for it as herein provided, or it may be disposed of in accordance with the law, rules and regulations in effect for the animal shelter in which the animal is impounded, if such animal shelter is operated by another governmental unit.

(c)

If such animal is not redeemed by the owner, as herein provided, or sold within nine days after it is taken into custody, it may be disposed of in a humane manner by the custodian of the animal shelter, or it may be delivered to some dully constituted, reputable research organization, or it may be disposed of in accordance with the law, rules and regulations in effect for the animal shelter in which the animal is impounded, if such animal shelter is operated by another governmental unit.

(d)

Any animal determined by the animal warden to be a wild, vicious or dangerous animal under the provisions of section 14-12 may be immediately seized and impounded, to be held and disposed of in accordance with the provisions of such section.

(e)

The animal warden or other person authorized to enforce the provisions of this chapter is hereby authorized to utilize the facilities of the county animal shelter for the purpose of impounding any animal picked up or seized under the provisions of this chapter. If such facilities are utilized, the owner, if otherwise applicable, shall be responsible for all fees, charges and assessments made by the county for the impoundment of any such animal, in addition to all other penalties and fees required by this chapter to be paid to the city.

(f)

In order for the owner to redeem such animal, such owner must:

(1)

Pay for and produce a permit, if he does not have one for a dog;

(2)

Have the dog duly vaccinated for rabies, if it has not been currently vaccinated before the redemption date; and

(3)

Pay a penalty as specified in subsection (a) of this section, and likewise pay the cost to the animal warden for taking care of and caring for such animal, including $25.00 for capture.

(Code 1972, § 4-20; Ord. No. 73.60, § 2; Ord. No. 89.9, § 1; Ord. No. 2015-12, 5-19-2015)

- Sec. 14-14. - Fowl running at large prohibited.
No person shall permit ducks, geese, chickens or other fowl to remain on or in any public street or public place at any time or to run at large in the corporate limits, except upon the premises of the owner thereof.

(Code 1953, ch. J, art. 2, § 9; Code 1972, § 4-1; Ord. No. 89.9, § 1)

- **Sec. 14-15. - Grazing of animals.**

  No person shall graze or tie up on any vacant lot or tract of land, within 50 feet from the property line on all sides of any dwelling or street, any cattle, sheep or other animal; except, that such animals shall be permitted to graze within a fenced area or pasture of no less than one and one half acre as defined in 14-1. Each cow or other large livestock, including equines, shall have a minimum pasture area of one and one-half acre per animal. Each additional cow or other large livestock, including equines shall have an additional one acre per animal. Each goat, sheep or other small livestock shall have a minimum pasture area of one-fourth acre. Pasture fencing shall be at least 50 feet from the nearest property line on all sides.

  (Code 1953, ch. J, art. 2, § 12; Code 1972, § 4-2; Ord. No. 89.9, § 1)

- **Sec. 14-16. - Keeping hogs or cattle livestock.**

  No person shall keep more than five hogs or five head of cattle livestock within 100 yards of any dwelling. Keeping means a stable, pen, enclosure, shelter or other place where animals and livestock are kept. Each day or part thereof hogs or cattle livestock are so kept shall be a separate offense. Sus scrofa domesticus often called swine, hog, or pig shall not be allowed within the city limits.

  (Code 1953, ch. J, art. 2, § 14; Code 1972, § 4-3; Ord. No. 89.9, § 1)

- **Sec. 14-17. - Protection of birds and wild fowl.**

  (a)

  *City designated bird sanctuary.* The entire area embraced within the corporate limits is hereby designated as a bird sanctuary.

  (b)

  *Unlawful acts; exceptions; control of undesirable species.* It shall be unlawful for any person to trap, hunt, shoot or attempt to shoot, trap or molest any bird or wild fowl or to rob bird nests or wild fowl nests within the corporate limits; provided, that starlings, pigeons and other similar birds whose presence or actions constitute a public nuisance or a menace to health or which commit depredations to property are not protected by this section; provided, further, that if starlings or other similar birds are found to be congregating in such numbers, in a particular locality, that they may, in the opinion of the city manager, constitute a nuisance or menace to health or property, the city manager shall contact and so inform representatives of the Audubon Society, bird club, garden council or humane society or as may of such clubs as are found to exist in the city. If, as a result of such contacts, no satisfactory alternative is found to abate such nuisance, such birds may be destroyed in such numbers and in such manner as is deemed advisable by the public health authorities under the supervision of the chief of police of the city.

  (Code 1972, § 4-4; Ord. No. 74.89, §§ 1, 2; Ord. No. 89.9, § 1)
State Law reference—Permits required for killing certain birds, G.S. 113-274; authority of city to establish bird sanctuaries, G.S. 160A-188.

- Sec. 14-18. - Cleanliness and location of stables, pens and similar enclosures.

(a) No person who owns, operates or maintains a stable, pen, enclosure, lot, shelter or other place where animals and livestock are kept within the city, in which swine, horses, mules, cows, dogs or goats are kept, shall keep such stable, pen or enclosure in an unclean and unsanitary condition. No stable, pen or enclosure in which swine, horses, mules, cows or goats livestock are kept or dog kennel in which more than two dogs are kept shall not be located closer than 300 feet to any residence or place of business other than that of the owner, without the written consent of all of the owners of all of the existing residences and/or places of business within 300 feet of the proposed location of a stable, pen or enclosure in which swine, horses, mules, cows or goats livestock are to be kept or dog kennel in which more than two dogs are to be kept.

(b) There shall be provided a watertight and fly proof bin or pit or a watertight barrel with a close-fitting lid. Manure accumulating in such stable, pen or enclosure shall be placed in the pit, bin or barrel each day, and the same shall be removed from such structure at intervals of no longer than five days. Such stable, pen, etc., shall be maintained in a sanitary and humane manner.

(Code 1953, ch. J, art. 6, § 1; Code 1972, § 4-5; Ord. of 9-7-1948; Ord. No. 73.60, § 2; Ord. No. 89.9, § 1; Ord. No. 2002.9, § 1, 4-2-2002)

- Sec. 14-19. - Cleanliness and fly control for coops or pens where fowl are kept.

Any person who owns or maintains pens, coops or shelters in which chickens, turkeys, ducks or other fowl are kept for family purposes shall maintain such pens, coops or shelters in a sanitary condition. Manure accumulating shall be placed in a watertight and fly-proof bin or in a watertight barrel with a tight-fitting lid every five days. Effective fly-control methods, such as the use of an approved insecticide, shall be practiced during the fly breeding period from April 15 to November 1 of each year.

(Code 1953, ch. J, art. 6, § 2; Code 1972, § 4-6; Ord. of 9-7-1948; Ord. No. 89.9, § 1)

- Sec. 14-20. - Notice of violation of section 14-18 or 14-19.

Any person who fails to comply with the provisions of section 14-18 or 14-19 shall be given written notice to remove or otherwise destroy the stables, pens, coops or shelters within 15 days after the receipt of such notice.

(Code 1953, ch. J, art. 6, § 3; Code 1972, § 4-7; Ord. of 9-7-1948; Ord. No. 89.9, § 1)

- Sec. 14-21. - General care; prohibited acts.

All animals shall be kept and treated under sanitary and humane conditions and it shall be unlawful for any person to engage in one or more of the following acts:

(1)
Failure to provide adequate food, water and shelter.

a. All animals, unless otherwise indicated in this chapter, shall be given at suitable intervals, not to exceed 24 hours, a quantity of wholesome foodstuff in a container suitable for the age and species of the animal and sufficient to maintain a healthful level of nutrition.

b. All animals shall have constant access to a supply of clean, fresh, portable [potable] water or a supply of clean, fresh portable [potable] water provided at suitable intervals. If access is not constant, then adequate amounts of water must be provided at least twice in a 24-hour period. If water is provided at intervals, it must remain in the animal's enclosure for at least one hour during each interval.

c. All animals shall be provided with adequate shelter from the weather at all times. It shall be within the discretion of animal control officer to determine what constitutes adequate shelter. Examples of inadequate shelter include, but are not limited to the following:

1. Underneath outside steps, decks and stoops.
2. Underneath houses.
3. Inside or underneath motor vehicles.
4. Inside metal or plastic barrels.
5. Inside cardboard boxes.
6. Inside temporary animal carriers or crates.
7. Shelters located in flood prone areas.
8. Shelters surrounded by waste, debris, obstructions or impediments that may endanger an animal.
Failure or refusal of any owner of a sick, diseased or injured animal to provide proper medical treatment for the animal.

a.

A sick, diseased or injured animal shall go no longer than 24 hours without veterinary care.

(3)

Animal cruelty. Examples of animal cruelty include, but are not limited to the following:

a.

Allowing a collar, rope or chain to become embedded in or cause injury to an animal’s neck.

b.

Allowing a choke or pinch collar to be used as a primary collar when the animal is left unsupervised.

c.

Allowing a dog or cat to be left outside in inclement weather or extreme temperatures without adequate shelter.

d.

Intentionally allowing animals to engage in a fight.

e.

Allowing animals to live in unsanitary conditions.

f.

Allowing animals to live in crowded conditions.

g.

Failure or refusal to obtain medical treatment for an animal when in an animal control officer’s opinion such treatment is needed.

h.

Shooting a dog, either on or off of the owner’s property, unless the dog is in the act of chasing or attacking a human being, sheep, cattle, horse, hog, goat, poultry or any other domestic animal.

i.

Trapping a dog or cat without a request for animal trap issued by animal control.

j.

Permitting any exhibit, function or activity where animals are being cruelly treated or animals run the risk of causing injury to the public or them. The animal control division shall have the authority to
inspect and to close down public exhibits of animals which are part of fairs, carnivals, festivals, fund-
raising events, petting zoos and any other activity or function carried out in the city if it is determined 
that animals are being cruelly treated, abused or run the risk of causing injury to the public or 

k. 

Animals being confined to or restrained on the premises of a vacant or abandoned structure. 

l. 

Failure to provide adequate drainage to prevent surface water from standing in the area of the pen or 
enclosure where the animal is kept. It shall be within the discretion of animal control as to what 
constitutes adequate drainage. 

(4) 

[Chaining or tethering.] Chaining or tethering an animal to a stationary object for a period of time or 
under conditions that an animal control officer deems harmful or potentially harmful to the animal. 
Examples of improper chaining or tethering include, but are not limited to the following: 

a. 

Using a length or weight of a chain or tether that is not appropriate for the size, weight and age of the 
animal. Guidelines for the proper weight and length of chains or tethers can be obtained from the 
animal shelter or animal control. 

b. 

Using a chain or tether made of rope, twine, cord or similar material. 

c. 

Using a chain or tether that is less than ten feet in length and/or does not have swivels on both ends. All 
chains or tethers must be attached to the animal by means of a properly fitting harness or collar of not 
less than one inch in width. 

d. 

Allowing an animal to be chained or tethered such that the animal is not confined to the owner’s 
property or such that the chain or tether can become entangled and prevent the animal from moving 
about freely, lying down comfortably or having access to adequate food, water and shelter. 

e. 

Using a chain as a primary collar. All collars used for the purpose of chaining or tethering an animal must 
be made of nylon or leather. 

(5)
Leaving an animal in a closed vehicle, etc. Leaving an animal in a closed vehicle or other enclosure for such duration or at such temperatures as an animal control officer or police officer deems harmful or potentially harmful to the animal.

(6)

Failure or refusal to report injured domestic animals.

a. All persons who injure a domesticated animal by running over, into or otherwise coming into contact with such animal with an automobile, motorcycle, bicycle or other vehicle shall notify the owner of the animal immediately.

b. If the owner is unknown, the person who injured the animal shall immediately notify animal control or any police officer by giving his or her name and address, a description of the animal and the location of the incident.

(Ord. No. 2014-2, § 1, 1-7-2014)

- Sec. 14-22. - Sanctions, penalties, fines, remedies.

Any person who fails or refuses to abide by or otherwise violates this article shall be subject to the following sanctions or penalties:

(1)

Pursuant to G.S. 19A-46, animal control may obtain a magistrate's order to take possession of the animal.

(2)

If the conditions pose an immediate threat to the health or safety of the animal or the public, the animal control officer or police officer may summarily seize the animal.

a.

A notice of seizure describing the exigent circumstances warranting the seizure shall be left with the owner or affixed to the premises. Examples of exigent circumstances include, but are not limited to the following:

1. Unsanitary conditions resulting from the number of animals involved.

2. Unsanitary conditions resulting from the owner's inability or unwillingness to clean the area where the animals are housed.

b.
The owner of animal seized pursuant to this section may appeal the seizure by filing a request for appeal with the chief of police.

c.

If the owner fails to redeem the animal within the time limit provided by this chapter, or fails to timely request an appeal, or fails to timely appeal a decision of the chief of police, the animal shall become the property of the county.

(3)

If it is determined by the animal control officer or police officer that the animal is not in immediate danger, or the problem which gives rise to the inadequate treatment or abuse can be corrected within 72 hours, the officer may, in lieu of subsection (1) or (2) above issue a written notice of violation directing the owner or possessor of the animal to correct the problem within 72 hours. If the condition or problem is not corrected within 72 hours, the animal control officer or police officer may take action as outlined in subsection (1) or (2) above.

(4)

Notwithstanding the other provisions and sanctions of this article, an animal control officer or police officer may issue a civil penalty for violation of any provision of this section in accordance with section 1.6 [sic].

(5)

Violation of state law. When it has been determined by the animal control officer or police officer that there has been a violation of one or more provisions of state law regarding cruelty to animals, including G.S. 14-360, the officer may initiate a criminal summons or warrant.

(Ord. No. 2014-2 § 1, 1-7-2014)

- Sec. 14-23. - Exemptions.

This article shall not apply to agencies conducting biomedical research or training, the production of livestock or poultry for sale as a consumer product and the lawful destruction of any animal for the purpose of protecting livestock, poultry or humans.

(Ord. No. 2014-2 § 1, 1-7-2014)

CITY OF NEWTON
REQUEST FOR COUNCIL ACTION

DATE: February 2, 2016

TO: Mayor Anne Stedman and Newton City Council

FROM: Todd Clark, City Manager

CONSIDERATION OF: Special Events Application Fees

Approved for Council Consideration

Background:

The City of Newton periodically allows special events in the core business district which require the closure of both City and State maintained streets. The City is also asked to provide municipal support services for some of these events. When a person or organization seeks approval for a special event permit, an application must be filed in accordance with City Code 61-1(d). While city staff is responsible for reviewing the application, the final authority to grant each individual special use permit rests with City Council.

When an applicant seeks to close state maintained streets, the NC Department of Transportation requires an application from the event organizer which then must be reviewed and approved. The City of Newton also requires evidence that approval has been obtained from NCDOT before granting permission to hold the event. In consultation with NCDOT, city staff has agreed to act on behalf of all applicants to secure the necessary authorization for each event. This has provided NCDOT with a single point of contact with the City who is familiar with the permit process, thereby eliminating any delay or cause for confusion from the applicant.

Although NCDOT does not require an application fee, city staff spends time preparing and filing the application on behalf of the event organizer with the state. In consideration of the time required to prepare the application and communication with NCDOT personnel, a $25 fee for each event was proposed in the 2016-17 fiscal year budget. After a review of the budget with City Council the fee was included in the final adopted budget. City staff also considered the costs that are incurred by the City when these events are held, but chose not to recommend any type of fee structure to recover those expenses.

Action Suggested:

The City Council has recently been asked by event organizers to repeal the $25 fee that was instituted with the 2016-17 fiscal year budget.
CITY OF NEWTON
REQUEST FOR COUNCIL ACTION

DATE: February 2, 2016

TO: Mayor Anne Stedman and Newton City Council

FROM: Todd Clark, City Manager

CONSIDERATION OF: Designated Parking for “Birch” and “Red” Parking Lots

Approved for Council Consideration

Background:

The City Council purchased two parking lots in the core business district in 2016 for the purpose of gaining municipal control over the future use of the property and ensuring the availability of parking. Due to a recent increase in the need for parking, the Council is asked to consider options moving forward designating parking as leased, free, hourly parking or hourly parking with a fee.

The “Red Parking Lot” located at the corner of Main Avenue and 2nd Street was already leased by the City from the Newton Merchants Association at the time of its purchase. At the present time, we have 26 parking spaces in this lot and we have leases in place for 21 of the spaces. Three of the spaces are currently being held open until pavement repairs are made following the recent installation of a sewer lateral to a nearby business. The other two spaces are handicap spaces that are only available to individuals that have handicap tag/plates and need to lease a space. Parking spaces in the Red lot are available for $15 a month and we are currently receiving $315 a month in revenue. The Council should know that revenue fluctuates based on the number of leases. My staff also reports that we just began leases with Catawba Valley Community College, so prior to that we were leasing just 10 spaces. In addition, H&W Drug has 5 spaces leased, Jeremy Petty has 1, the Corner Table has 2, and 3 are leased to individuals.

The second parking lot is located at the corner of College Avenue and B Street. It was previously owned by a private individual who leased spaces as needed to local merchants. The City Council decided to make much needed improvements to this lot after its purchase and we now call it the “Birch Parking Lot”. The improvements that were made included milling old asphalt, installing fresh asphalt pavement, construction of curb and gutter, and installation of new landscaping. The 26 parking spaces in the lot are not presently leased or reserved and the public may park free of charge.

Action Suggested:

City Council is asked to consider designating parking as free, leased or available for a fee through the installation of parking meters.
DATE: February 2, 2016

TO: Mayor Anne Stedman and Newton City Council

FROM: Todd Clark, City Manager

CONSIDERATION OF: The Creation of a Public Arts Program and Committee

Approved for Council Consideration

Background:

The Business Advisory Committee made several recommendations to City Council in the fall of 2016 that includes the creation of a Public Art Program in Newton. In making this recommendation, the BAC recognized the positive impact a program could have in further developing Newton as a community that fosters a sense of creativity and supports the cultural arts. The foundation for cultural arts in our community is already present as evidenced through performing arts programs provided through the Old Post Office Playhouse and Newton-Conover Auditorium. Additionally, the City Council’s decision to support the Foothills Folk Art Festival in 2016 as a signature event makes a strong statement that Newton is a destination for artists and visitors. The creation of a Public Art Program will complement these investments while continuing to strengthen our relationship with the Hickory Museum of Art and the Catawba County United Arts Council.

In researching Public Art Programs in North Carolina, I found at least sixteen other cities have established Public Art Programs that are coordinated either through the leadership of a Public Arts Commission or Appearance Commission. The following excerpts were selected from websites of three cities in support of their decision to foster these programs.

Hickory, NC (City of Hickory Master Art Plan)

“Public art can say much about a public space, the community it is located in, and the values of that community. Public art can forge a bond between the physical environment and one’s personal environment. Public art can create a new awareness of one’s surrounding and interpret one’s feelings. Art means different things to different people.”

Lexington, NC

“Communities across our nation are leveraging the arts and engaging design to make their communities more livable with enhanced quality of life, increased creative activity, a distinct sense of place, and vibrant local economies that together capitalize on their existing assets. These efforts are defined in the process of Creative Placemaking”

Clayton, NC

“By its presence alone public art can heighten a community’s awareness, question assumptions, transform a landscape, or express community values. It has the power to transform a city’s image and can be a unifying force. Able to reveal the unique character of a neighborhood, it can also define an entire community’s identity.”

Action Suggested:

City Council is asked to consider the creation of a Public Art Program led by a collective group of individuals, each having experience and knowledge of cultural arts programs, working collaboratively as the City of Newton Public Arts Commission.