MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL
February 7, 2017 – 7 p.m.
The regular meeting of the Newton City Council was held at 7 p.m. Tuesday, February 7, 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.

ITEM 2: OPENING Invocation and Pledge of Allegiance
Council Member Jody Dixon provided the invocation and Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES
Upon motion duly made by Council Member Jody Dixon, seconded by Council Member Robert C. Abernethy, Jr., it was unanimously RESOLVED:

That the Regular Minutes of the January 10, 2017 City Council meeting be – APPROVED

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS
Council Member Jerry Hodge asked that Item 4C be moved to New Business.

Upon motion duly made by Council Member Jerry Hodge, seconded by Council Member Robert C. Abernethy, Jr., it was unanimously RESOLVED:

That Item 4C be MOVED to New Business

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

That the Consent Agenda be – APPROVED

A. Tax Releases

B. Sewer Adjustments

C. Consideration of Application for SAFER Grant – Moved to New Business

D. Consideration of Amendment to AT&T Lease at Water Tank

E. Consideration of Street Closure – April 29th, Newton Conover Rotary Car Show

(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: New Business

Item 4C. Consideration of Application for SAFER Grant

Fire Chief Kevin Yoder stated that the Fire Department would like to apply to the Federal Government through the SAFER Grant for funding for additional personnel for firefighting purposes. Chief Yoder stated that the department has applied for the grant almost every year since its inception. Chief Yoder explained that 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, but 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. 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. Chief Yoder stated that 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.

Chief Yoder said that if 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. He justification for this funding request is to comply with NFPA (National Fire Protection Association) minimum guidelines for the Fire Department. Chief Yoder explained that the Fire Department does not currently meet minimum staffing levels required by the National Fire Protection Association.

Chief Yoder stated that 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.

Council Member Jerry Hodge stated that this would then have no impact on the city budget. Chief Yoder stated that it would not and that the difference would be made up with an increase in the county rural fire tax. Mr. Hodge asked what the city would need to do to help get the grant. Chief Yoder said that the fire department is doing everything that it can, and that they have been successful in getting AFG grants. He explained that this grant looks at minimum compliance with the National Fire Protection Association among other things.

Council Member Wes Weaver asked what is the criteria used for staffing and the number of firefighters. Chief Yoder explained that it has to do with the number of firefighters on each truck, which the minimum is four, and the number of firefighters on scene, the minimum is fifteen, both according to NFPA regulations. Mr. Weaver asked how the number of fire trucks per the department is determined. Chief Yoder explained that the number of vehicles depends on the Insurance Commission. City Manager Todd Clark stated that NFPA is strongly suggested because if you don’t meet then you are open to litigation, but that the city is in compliance with OSHA. Council Member Rowe stated that you can’t fight a fire at night with six people. Chief Yoder said that the department empties all three stations for structure fires at night. Mr. Weaver asked what determines size of Fire Department. Chief Yoder said that the Department of Insurance determines the size.

Council Member Jerry Hodge asked if we have to do all six on the grant. Chief Yoder said yes. Mr. Hodge asked if anyone has been awarded in the last five years. Chief Yoder said Hickory and Conover have. Mr. Hodge asked if city council could consider this in the budget workshops as well, concerning staffing and such to meet needs of the city growing. Mayor Stedman said that they could.

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

That Consideration of Application for SAFER Grant be – APPROVED.
A. Consideration of Radio Station Road Aerial Construction Contract

Public Works and Utilities Director Dusty Wentz stated that 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. Mr. Wentz stated that 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.

Mr. Wentz stated that this crossing is at least 35 years old, and provides gravity sewer service to Shannonbrook development as well as some other properties around that area.

Mr. Wentz explained that 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.

Mr. Wentz stated that 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.

Mr. Wentz said that the engineer 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.

Mr. Wentz recommended that City Council entertain separate motions for the attached Budget Ordinance Amendment for the Radio Station Road Aerial Replacement project.

Council Member Robert Abernethy asked if “aerial lines” meant that they were above ground. Mr. Wentz said yes. Mr. Abernethy asked if the reason for two bids instead of three was because it is an emergency. City Manager Todd Clark stated that under normal circumstances the city would try to get at least three bids.

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

That Radio Station Road Aerial Construction Contract and the Budget Ordinance be – APPROVED.

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

B. Consideration of Amendment to Animal Control Ordinance

Police Chief Don Brown stated that 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. Chief Brown stated that the draft ordinance presented tonight has been gleaned from North Carolina statute and surrounding municipality ordinances.
Chief Brown stated that based upon a request from Council, staff has developed an ordinance that pertains to livestock, pastures and fencing, and that this ordinance is based upon current North Carolina statute and also surrounding municipality’s code of ordinances. Chief Brown explained that this ordinance is being presented as a draft for review and seeking any additional guidance and recommendations from Council.

Council Member Robert Abernethy asked if the current ordinance is not getting the job done. City Manager Todd Clark stated that the current ordinance was adopted in 1972 and should be reviewed. Chief Brown stated some areas need clarification.

Council Member Tom Rowe asked what the ordinance says about hogs and pigs. Chief Brown stated that the ordinance changes recommend that no swine be allowed in the city. Council Member Wes Weaver asked if that is currently in the ordinance. Chief Brown said that it is not. Council Member Abernethy stated that some people have potbellied pigs as pets.

Council Member John Stiver stated that according to the draft, he isn’t sure that anyone is in compliance with the proposed draft at this time.

Council Member Wes Weaver stated that there is no way he will support the proposed draft. He stated that he had a previous complaint concerning a dog lot and cruelty to the animals and the smell associated and that a dog ended up harming a boy. He stated that the city shouldn’t penalize farmers and that this proposed draft is too restrictive.

Council Member Robert Abernethy asked if current situations would be grandfathered. City Attorney John Cilley stated that usually existing is grandfathered. Council Member Abernethy stated that in that case he didn’t think the current situation would even be fixed. Mr. Rowe stated that it will keep more pigs from coming on the property. Mr. Abernethy stated that puts him more in line with Council Member Weaver’s thinking, and that these people are in compliance so the changes may not affect them. City Attorney Cilley stated that more pigs could not come in to the property.

Mayor Stedman stated that council needed more time to study this further and asked staff to be able to provide more information at a later date. Mr. Abernethy asked for a hard copy of the ordinance.

C. Consideration of Amendment to Schedule of Fees and Charges – Downtown Events

City Manager Todd Clark stated 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. Mr. Clark explained that 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.

Mr. Clark stated that 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 also requires evidence that approval has been obtained from NCDOT before granting permission to hold the event. Mr. Clark stated that in consultation with NCDOT, city staff has agreed to act on behalf of all applicants to secure the necessary authorization for each event, which 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.

Mr. Clark explained that 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. Mr. Clark stated that 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.

Council Member Jerry Hodge stated that he is in favor of repealing the fee. Council Member Wes
Weaver agreed. Mr. Hodge stated that at this stage he thinks that no fee would be appropriate. Mr.
Abernethy agreed and asked how security is reviewed. Assistant City Manager Sean Hovis said that the
police department reviews each request, and then organizes with the businesses that then pay the officers
off duty rates.

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

That the Application Fee, in Accordance with City Code 61-1(d) (Special Event Permit)
be – REPEALED.

D. Consideration of Designated Parking for Birch and Zander’s (Red) Lots

City Manager Todd Clark stated that 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. Mr. Clark explained that 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.

Mr. Clark stated that 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, the city has 26 parking spaces in this lot and has 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. Mr. Clark stated that
parking spaces in the Red lot are available for $15 a month and we are currently receiving $315 a month
in revenue. Mr. Clark said Council should know that revenue fluctuates based on the number of leases.
Mr. Clark stated that staff also reports that the city just began leases with Catawba Valley Community
College, so prior to that there were just 10 spaces being leased. In addition, H&W Drug has 5 spaces
leased, Jeremy Petty has 1, the Corner Table has 2, and 3 are leased to individuals.

Mr. Clark stated 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”. Mr. Clark said 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. Mr. Clark asked City Council to consider designating parking as free, leased or available for a fee
through the installation of parking meters.

Council Member Wes Weaver stated that he thought when the city purchased the lots they were to be
made free parking as there was a parking problem down town. Mr. Clark stated that he understood the
purchases were for municipal control and for public parking. Council Member Abernethy stated that Mr. Clark is correct, but with the streetscape project there have been concerns about the loss of about 13 parking spots and the need for many more. He was thinking this could ensure enough spaces. Mayor Stedman agreed that parking is at a premium, at lunch time. Mayor Pro Tem John Stiver agreed, and stated that it has to be a give and take with parking for employees as well. Mr. Weaver asked about the old A&P lot. He asked if that could possibly be designated parking for employees.

Council Member Jerry Hodge stated that he researched parking at the lots and that there are 6 lots with a total of 183 spaces. He said there are 26 at the Birch lot – free all day, 20 at the Blue lot, 26 at the Zanders lot, 19 at the Green lot, 5 at the Yellow lot, and 87 at the Orange lot. He said that they are all within 2 streets of College and Main and does not include on street parking. He stated that all spaces are available after 6 p.m. Council Member Robert Abernethy stated that the 87 spaces at the A&P lot are not as convenient for the lunch crowd if you only have one hour. Council Member John Stiver stated that CVCC has a majority of parking spaces. Mr. Abernethy stated that he doesn’t think the city should charge CVCC and the Corner Table. Council Member Jody Dixon stated that CVCC students arrive in the mornings at 6:00 a.m.

Council Member Jody Dixon made a motion to make the designated parking for Birch and Zander’s (Red) Lots free. Council Member Jerry Hodge seconded the motion. It was unanimously RESOLVED:

That the Birch and Zander’s (Red) Lots be Designated as Free Parking

Council Member Tom Rowe asked how long H&W Drug has leased their spaces. Mr. Stiver said that he thinks it’s been a long time. Mr. Rowe asked if we need to give current lease holders notice. Mr. Stiver stated that 30 days notice is standard. Council Member Robert Abernethy stated that if this doesn’t work, City Council can fix or change it.

E. Consideration of Public Arts Program and Committee

City Manager Todd Clark stated that 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. Mr. Clark stated that 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. Mr. Clark said that 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.

Mr. Clark explained that in researching Public Art Programs in North Carolina, he 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. He provided City Council with information about some of these.

Mr. Clark asked City Council 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.

Upon motion duly made by Mayor Pro Tem John Stiver, seconded by Council Member Jerry Hodge, it was unanimously RESOLVED:
That the Creation of Public Arts Program and Committee be - APPROVED

ITEM 7: City Manager’s Report
Meetings & Events

Meetings & Events

- February 9, 2017 – Senior Citizens Sweetheart Dance, 7 p.m. at the Recreation Center
- February 10, 2017 – “Breakfast with the Stars”, 7:30 a.m. at Western Steer
- February 15, 2017 – Chamber of Commerce Annual Shareholders and Investors Meeting
- February 21, 2017 – Fat Bax Café Ribbon Cutting, 3:00 p.m., 415 West A Street
  - Cancellation of the February 21, 2017 NCMPA1 Board of Commissioners Meeting
- March 12th- 15th – NLC Conference, Washington, DC
- March 29, 2017 – Town Hall Day, Raleigh, NC

Projects

- Building Reuse Grant Application filed for “Newton Urgent Care” facility to be located at 1358 Hwy 16 South
- Westside Drive Sewer Project
- Danner Industrial Park Signage has been approved by NCDOT and sign should be installed by end of February
- Newton Corporate Center sign easement has been sent to the Keith Corporation and sign will be ordered once easement has been executed

ITEM 8: Questions and Comments from Mayor and Council

Council Member Robert Abernethy gave a brief summary of things going on with the Appearance Commission. He mentioned the cleaned median in front of the fire station. He also mentioned that appreciation luncheon that the Commission gave for electric crew, recreation crew and code enforcement.

ITEM 10: Closed Session – per North Carolina General Statutes 143-318.11(a)(4), 143-318.11(a)(5) and 143-318.11(a)(6)

Upon motion duly made by Council Member Wes Weaver, seconded by Council Member Robert C. Abernethy, Jr., it was unanimously RESOLVED:

That City Council enter CLOSED SESSION per General Statutes 143-318.11(a)(4), 143-318.11(a)(5) and 143-318.11(a)(6)

Upon return to open session, Councilman Jody Dixon made the motion to authorize the City Manager to enter into negotiations with the record owner of the tract of land located at 222 North Main Avenue in Newton in an amount not to exceed the tax value of $25,400.00 with the specific understanding that all negotiations would be terminated with the record owner if the property could not be acquired for no more than $25,400.00. The motion was seconded by Mayor Pro Tem John Stiver.

During discussion of the motion, Councilman Dixon and Councilman Stiver stated that the need for additional parking in the area was significant with the recent opening of a new restaurant in the same block as the Weathers lot and the subject property is in poor condition with the need for repairs. Purchase and renovation of the subject property could add significant additional parking spaces that are needed as well as to improve the appearance of the property. Councilman Dixon also noted that part of the property could be used as a pocket park as well. Councilman Jerry Hodge stated that the purchase of the subject
property would also give the City site control of the property so that it could be developed in a fashion that the City would like to see.

Councilman Robert Abernethy stated that if the area really needed additional parking, a business person who operates a business in the area could purchase the subject property for parking as well to benefit the needs of said business without having to utilize taxpayers’ money to purchase and develop the property. Councilman Abernethy also felt that given the condition of the subject property, the estimated cost of renovations and repairs of approximately $125,000.00 to as much as $150,000.00 would not result in a good return on the City’s investment.

Councilman Wes Weaver stated that the purchase price being asked by the property owner was entirely too much given its condition. Also, Councilman Weaver concurred with Councilman Abernethy that the cost of repair and renovations of the subject was too much and he would be opposed to spending this sum of money for this transaction.

Upon calling the question, the motion passed with Council members Dixon, Stiver, Rowe and Hodge voting in favor of the motion and Council members Abernethy and Weaver voting against.

ITEM 11: Adjournment

Upon motion duly made by Council Member Weaver, seconded by Council Member Abernethy, it was unanimously RESOLVED:

That the Meeting be - ADJOURNED

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Anne P. Stedman, Mayor

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Amy S. Falowski, City Clerk