MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL
March 7, 2017 – 7 p.m.

The regular meeting of the Newton City Council was held at 7 p.m. Tuesday, March 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, and Jody Dixon

ABSENT: Council Member Robert C. Abernethy, Jr.

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 Jerry Hodge provided the invocation and Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES

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

That the Regular Minutes of the February 21, 2017 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 John Stiver, it was unanimously RESOLVED:

That the Consent Agenda be – APPROVED

A. Tax Releases
B. Sewer Adjustments
C. Consideration of Audit Contract for Fiscal Year 2017
D. Consideration of Budget Ordinance Amendment for Electrical System Improvements Related to Corning Contract
E. Consideration of Budget Ordinance Amendment for Roof at Old Fire Headquarters

(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: Presentation

A. Newton Depot Authority

Catherine LeFevers gave a presentation and slide show about the recent events and projects at the Newton Depot Authority.

ITEM 7: Old Business

A. Consideration of Contract Agreement with Catawba County for Hwy 16 Waterline Construction

City Manager Todd Clark stated that the City of Newton entered into an agreement with Catawba County in 2013 to cooperatively finance and construct a waterline within a North Carolina State right-of-way along N.C. Highway 16, south. The construction of this waterline project was to be coordinated with NCDOT and commence with the construction of a much anticipated multi-lane highway project planned for NC Highway 16, south.

Mr. Clark stated that in addition to the construction of a water line along N.C. Highway 16, south, the agreement included the construction of water lines on Buffalo Shoals Road and Balls Creek Road for the purpose of connecting existing dead end water lines. He explained the completion of the project would also provide municipal water service to property owners in the immediate area of the construction project.

Mr. Clark stated the agreement with Catawba County specified that the County would be responsible for acquiring all right-of-ways for the City, complete all engineering plans and specifications, bid construction, award construction, and conduct oversight of the project until its completion. Mr. Clark said the water lines would then be turned over to the City of Newton for ownership, maintenance, and operation when completed and that the agreement also specified that Catawba County would provide the City a loan for the project, with a required 75% match from the City at zero percent interest for a 10-year term.

Mr. Clark stated that in October of 2016, the City was notified by Catawba County that NCDOT will now be responsible for the coordination and completion of the construction project on N.C. Highway 16, south. Mr. Clark stated that as a matter of policy, NCDOT requires the future owner and operator of the water line to enter into an agreement with them for all facets of the project, including those outlined in this Request for Council Action. Since the City of Newton will be the future owner and operator of the water line, the agreement with Catawba County must be terminated and a new contract agreement approved. Mr. Clark stated that this includes a change that coordinates a payment from Catawba County to the City of Newton to satisfy our financial obligation to NCDOT.

Mr. Clark stated that the City Attorney and he have worked with the County Manager and his staff to draft a new contract agreement and that a copy of the contract agreement has been included with this Request for Council Action for review by City Council.

Mr. Clark stated that City Council is advised that Catawba County retained the services of McGill & Associates to complete engineering plans and specifications prior to October 2016 and that these plans and specifications are complete and have been accepted by NCDOT for the portion of the project located within the N.C. Highway 16, south right-of-way. The related engineering expenses have been incorporated into the proposed new contract agreement with Catawba County.

Mr. Clark explained the contract presented by NCDOT for consideration includes an estimated project construction cost of $3,765,078. The estimated construction project cost for Buffalo Shoals Road and Balls Creek Road is $1,474,206. The cost for Design Engineering on the entire project is $300,000 and Engineering Construction Administration is $300,000. The total cost for all phases of the water line project is $5,839,284.
Mr. Clark stated that the substantive changes to the contract agreement with Catawba County include updated project costs, assignments of responsibility for construction, amendments to the loan repayment schedule, a provision for Catawba County to assure the City will fulfill the terms of the loan repayment schedule, and a 5-year project commencement schedule.

Mr. Clark said that the contract has been reviewed by the City Attorney and also with the County Manager and his staff, and recommended City Council enter into the contract agreement with Catawba County for completion of the Highway 16, south water line project.

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

That Contract Agreement with Catawba County for Hwy 16 Waterline Construction be – APPROVED.

B. Consideration of Contract Agreement with North Carolina Department of Transportation for Hwy 16 Waterline Construction

City Manager Todd Clark stated that the City of Newton entered into an agreement with Catawba County in 2013 to cooperatively finance and construct a waterline within a North Carolina State right-of-way along N.C. Highway 16, south. The construction of this waterline project was to be coordinated with NCDOT and commence with the construction of a much anticipated multi-lane highway project planned for NC Highway 16, south. This agreement with Catawba County specified that the County would be responsible for acquiring all right-of-ways for the City, complete all engineering plans and specifications, bid construction, award construction, and conduct oversight of the project until its completion. Mr. Clark said the water line would then be turned over to the City of Newton for ownership, maintenance, and operation when completed. The agreement also specified that Catawba County would provide the City a loan for the project, with a required 75% match from the City at zero percent interest for a 10-year term.

In October of 2016, the City was notified by Catawba County that NCDOT will now be responsible for the coordination and completion of the construction project, and that as a matter of policy, NCDOT requires the future owner and operator of the water line to enter into an agreement with them for all facets of the project, including those outlined in this Request for Council Action. Mr. Clark said that since the City of Newton will be the future owner and operator of the project, the agreement with Catawba County must be terminated and a new contract approved, which you just approved. This new agreement includes changes to the original agreement that coordinates a payment from Catawba County to the City of Newton to satisfy our financial obligation to NCDOT.

Mr. Clark said that a standard agreement has been provided by NCDOT to the City for this project. The agreement has been reviewed by our City Attorney and a copy of the agreement has been included for review by City Council.

Mr. Clark said that the contract that has been presented by NCDOT to the City and includes an estimated construction project cost of $3,765,078. The total cost including design engineering and construction administration is $4,179,578. This cost has also been included in the amended contract agreement with Catawba County, which has been reviewed by the City Attorney and with the County Manager and his staff. Mr. Clark recommended ‘City Council enter into the agreement with NCDOT for completion of the Highway 16, south water line project.

Upon motion duly made by Council Member Wes Weaver, seconded by Council Member John Stiver, it was unanimously RESOLVED:
That Contract Agreement with North Carolina Department of Transportation for Hwy 16 Waterline Construction be – APPROVED.

Council Member Jerry Hodge stated that this is a departure from the original arrangement and is this the model with DOT moving forward. Mr. Clark said that is correct.

C. Consideration of Amendment to Animal Control Ordinance

City Manager Todd Clark stated that several issues came before the Animal Control Officer last fall and the City council was asked to look at changes that could be made to the animal control ordinances such as number of animals, general upkeep, and location. He stated that information was given at the last meeting and now staff needs further guidance.

Mayor Stedman invited anyone that wanted to speak on the subject to do so now.

Mr. James Cannon, of 1120 Shannonbrook, stated that he has had 3 animal control officers tell him to close his blinds and not look outside. He said that there is no way to sell his house with those animals behind him and that it is all 63’ from the back door. He said there is horrendous odor in the summertime, and the pigs get out. He said that he can show video of pigs in yard, eating his tomatoes and that a lady up the street said they got in her trash. He said that it is an aggravation and he can’t do anything and he can’t sell.

Mr. John Sigmon asked that the council not penalize everyone because someone isn’t doing the right thing.

Mr. Cale Young stated that he owns land on 7th and Old Conover-Startown Rd. He said he moved so he could have horses and that he has improved the property from a tax value of $70,000 to $220,000 – 250,000. He said if managed correctly there shouldn’t be any issues. He said that horses don’t make as much noise as dogs or cats. He said that he would like to see the number of animals per acre stay the same. He said that he worked with a neighbor on the view of his property by building a hedge on his (Mr. Young’s) side. Mayor Stedman said that she is glad that they were able to work it out together.

Mrs. Jo Schmuker stated that she and her husband are the reason for this issue to be called to question. She said that this is the first farm they have ever had. She said that they have done everything they can to appease Mr. Cannon and that he used to send kids over to pet the animals. She stated that her house isn’t hurting his home value and that she is a real estate agent. She said the fence is there because a goat got lose and as she was trying to catch the goat Mr. Cannon was videotaping her and laughing at her and mocking her. She said it brought her to tears and that is when the fence went up. She said she had a right to put the fence up. She also apologized to all the other farmers that this might affect. She said that they don’t want these kind, considerate people to be punished. Ms. Schmuker said that the police department has been patient and understanding and that she and her husband have tried to do right.

Mr. Tim Dumire of 1109 Shannonbrook stated that he has no issues with anything that goes on at the Schmukers’. He said that his grandchildren enjoy the animals and he wants to make that known.

Mr. Michael Waltuch stated that council is considering an amendment to an ordinance when there is a situation that involves a private dispute. He said the old ordinance works fine for everyone else and that the proposed distances and prohibitions in the proposal are not appropriate to the community.

Mr. Hiram Longfellow said that this is a dispute and that the old ordinance works fine for everyone else. He said that he has pigs, and chickens on 10 acres and he is a good steward of the land. He said that his neighbors have no problems.
Mrs. Cecilia Chiok said that she is a neighbor of the Schmukers and that she has never had a problem. She said the children like the animals and she would like to see a good solution.

Mr. Travis Schumuker said that he would like to thank the neighbors that spoke on their behalf. He said that he and his wife never intended any harm and that they always wanted a small farm. He said the pigs were a learning experience and that they are planning to sell them. He said the babies are gone and the adults will be gone soon. He said that he doesn’t want others to be punished.

Council Member Wes Weaver asked if they are selling the pigs because of this issue. Mr. Schumukers said that they are. Mr. Weaver said that he was strongly against these changes last time and that his opinion hasn’t changed. He said that he thinks this is an isolated incident. He said we live in a rural community and that he likes seeing animals and that he moved back here to get that again.

Council Member Tom Rowe stated that he is glad to hear the Schumukers are going to remove the pigs. He said he doesn’t agree because the pigs were right on the property line. He said that he knows others have farm animals but he is against having farm animals against a property line.

Council Member Jerry Hodge stated that he would do what Mr. Cannon did and get the city involved. He said that the Schumukers have created a barrier and removed pigs. He would like to see them work together.

Council Member Wes Weaver stated that he worked on a farm from age 11 until high school and he understands that animals get out occasionally. He said that he hates the Schumukers had to get rid of their pigs.

Mayor Pro Tem John Stiver stated that parts of the policy need amended. He said these include the definition of service animals, and things like setbacks. He also thinks that pet pigs should be considered. He said he would like to upgrade policy to help code enforcement have better options.

Mayor Stedman stated that the language needs to be cleaned up in the ordinance.

Council Member Jody Dixon stated that he is all good with defining the zoning, but he doesn’t believe that the city needs chickens in downtown Newton. He said that we are rural, but should look at some areas and so no chickens or pigs in downtown.

Council Member Tom Rowe stated that he feels strongly about this animal ordinance and that what Mr. Dixon says makes sense. He said there are subdivisions with lots of people and that they are more sparse.

**ITEM 8: New Business**

A. Consideration of Pedestrian Crossing on N Ashe Ave at Newton-Conover High School

Planning Director Randy Williams stated that the Planning Department was requested to examine potential options concerning pedestrian crossing improvements on North Ashe Avenue between West 18th Street and West 15th Street – the area between Newton Conover High School and Discovery High School.

Mr. Williams explained that in early February, a student crossing this section of North Ashe Avenue was struck by a vehicle and injured. Since that time there has been an increased concern for pedestrian safety due to the students which must cross North Ashe Avenue during schools hours, but particularly between 2:00 pm and 3:00 pm as the schools are released. Mr. Williams stated that at this time, many students are waiting to be picked up by cars, going to their own cars and migrating between the schools for extracurricular activities.
Mr. Williams stated that although there are crosswalks painted on the street, students cross at many points between those schools. North Ashe Avenue is the primary access for both NCHS and DHS and vehicular use is high. He said that the city has a policy on traffic calming measures which indicates thresholds for implementation and includes the study of vehicular speed and volume. Mr. Williams stated that at this time the Planning Staff has not been able to place traffic counters to study speed and volume on the street.

Mr. Williams stated that Planning Staff met with Public Works, Police, Fire and Administration to discuss what options are available and which may be effective. This discussion produced three alternatives that should be further investigated:

1) Close North Ashe Avenue between West 18th Street and the driveway and gate at Gurley Stadium. Vehicular traffic access to NCHS would come from West 15th Street, down North Ashe Avenue to the entrance driveway at the front of the building, use that driveway and drop off students, then exit back onto West 15th Street. Vehicular access to DHS would come from West 20th Street via North Ashe Ave enter the campus from West 18th street and exit onto West 18th Street and proceed to Hwy 16 Business. The closed section of North Ashe could be opened for special events such as football and soccer games.

2) Return “No Parking Between 7:00 am and 4:00 pm” on the east side of North Ashe Avenue so that sight distances are improved and students do not enter the street at any point between parked cars, increasing visibility.

3) Construct three “crossing tables” at intervals on North Ashe Avenue, with proper signage. This option identifies the area where the majority of students cross and calms traffic in the area. It would also require the school district to construct a sidewalk on the DHS campus for access.

Mr. Williams stated that in review of these options, Planning and Police Department staffs recommend meeting with the Newton Conover School Administration to discuss the options, required improvements and costs. Staff feels that it is the best interest of both parties involved to consider the impacts and determine the best recommendation to proceed. Part of that discussion should also include potential grant options available to the City and to the school system for the recommended improvements.

Mr. Williams stated that it is the Newton Planning Department’s recommendation that Council direct staff to meet with Newton Conover School Administration to make a joint recommendation to the Council for implementation.

City Manager Todd Clark stated that this is for information only. Mayor Stedman asked if the kids use crosswalks. Council Member Jody Dixon stated that they did not, but that they are not in the correct place. He said parking was approved there because there was no place to park, and that it is a crowded area at certain times of the day. Council Member Jerry Hodge asked about caution lights or overhead lights. Council Member Wes Weaver asked if there are any proposals or a consensus from the school. Mr. Dixon said that he can’t speak for the schools, but that he would prefer tabletop speed control.

**ITEM 9: City Manager’s Report**

**Meetings & Events**

- March 10th – Legislative Day in the District Breakfast, Catawba County Library 9:30 a.m.
- March 12th - 15th – NLC Conference, Washington, DC
- March 29, 2017 – Town Hall Day, Raleigh, NC
- May 4, 2017 – South Newton Elementary’ s Leadership Day
- Service Excellence University Update
- Teen Leadership – Dates to be determined

**Budget Workshop Dates** *All begin at 5:15 in the Council Chamber*
• May 4, 2017
• May 9, 2017
• May 11, 2017
• May 16, 2017

Projects

• West A Street project – met with NCDOT today and working on getting Municipal Agreement underway
• Downtown Streetscape – meeting with the engineers on Thursday to review the survey data and design details
• Pedestrian Plan – held a Steering Committee meeting, Public Open House and Planning Commission meeting last Tuesday. The plan will be sent to NCDOT to review and if there are no major changes, the Planning Commission will forward the final draft to the City Council
• Footings for 2 industrial park signs should be started on March 15th
• A Scope of Work for NC16 Corridor Plan has been sent to the county planning staff to review
• Meeting with Newton-Conover High School & Discovery High School to discuss North Ashe Avenue safety on Friday
• Loves annexation should be coming to you in the next couple meetings
• US321B is going to be resurfaced and planning staff asked NCDOT if crosswalks could be installed/painted at that time
• Public Works and Utilities Project Updates

ITEM 10: Questions and Comments from Mayor and Council

Council Member Jody Dixon gave a brief summary of things going on with the Branding Committee, the Newton Depot and the Auditorium.

ITEM 11: Closed Session – per North Carolina General Statutes 143-318.11(a)(5) and 143-318.11(a)(6)

No Closed Session

ITEM 12: Adjournment

Upon motion duly made by Council Member Wes Weaver, seconded by Council Member Jody Dixon, 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