MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL
May 16, 2017 – 7 p.m.

The regular meeting of the Newton City Council was held at 7 p.m. Tuesday, May 16, 2017 at Newton City Hall.

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

Mayor Pro Tem John Stiver 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 Council Member Jerry Hodge, it was unanimously RESOLVED:

That the Regular Minutes of the May 2, 2017 City Council meeting be – APPROVED

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS

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

That the Consent Agenda be – APPROVED

A. Tax Releases April 2017

B. Consideration of Commission/Committee Membership Appointments – Business Advisory Commission – Suzanne White Newton-Conover Auditorium Board – Candace Reinhardt

(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.

Mr. Paul Setzer of 920 E 1st St stated that he has well water and septic and would like to figure out a way to tie on to the city water and sewer which is not available at this time. He asked if there was a timeline of availability for these services. Mayor Stedman asked if Mr. Setzer has talked to any staff at the city, he said that he had about a year ago. He said that there is sewer all around and that his septic system needs attention. City Manager Todd Clark invited Mr. Setzer to come talk to staff more about this situation.
Amelia Kennedy, Vice President and Co-Founder of Leaderes Comunidad of North Carolina stated that she realized that the appropriations were not approved for her organization, but thanked City council for allowing them to apply. She stated that her community is mourning the loss of Hickory Mayor Rudy Wright and that the Hispanic community is 11% in Newton and that there are 26 Hispanic businesses in Newton. Ms. Kennedy said that they are part of the community and would mourn and celebrate with the leaders here as well.

**ITEM 6: Public Hearing**

A. Consideration of Plan Development Modification – Filed by Shuford Abernathy to Amend the Previously Approved Plan for court Street Commons

Mayor Stedman opened the Public Hearing.

Assistant Planner Alex Fulbright stated that Mr. Abernethy has submitted a plan to modify his planned unit development located off of Radio Station Road. The proposed Azela Glen Development is located within the Court Street Commons Mixed Use Planned Development which was originally approved by City Council in the late 1990’s. Mr. Fulbright stated the plan being considered is a revision of the plan that was submitted and approved in 2008, which consisted of 21 structures proposed; 62 dwelling units; and a clubhouse facility to accommodate residents. The new plan consists of 26 buildings with 67 dwelling units. Mr. Fulbright explained the increase in units is accommodated by the addition of 1.29 acre of land to accommodate the clubhouse so that the overall density remains nearly the same as the previous plan.

Mr. Fulbright stated that in order to gauge whether the modifications meet the standards as set forth in the Ordinance, a review of the regulations applicable to Mixed Used developments is necessary. The intent of residential uses within Planned Development Mixed Use Districts are to provide complementary groupings of residential, commercial and office uses...scaled, balanced and located to reduce general traffic congestion...and separated from major vehicular traffic flows (Newton City Code Sec.102-508).

Mr. Fulbright explained the style, arrangement, and density of the proposed units are complementary to the existing community as stated in this chapter. Single family, two-family and multifamily dwellings are all permitted principal structures in the PD-MU district. Mr. Fulbright stated all proposed structures meet the requirements as designated in the Ordinance, and that sidewalks will also be required to be constructed to extend the existing pedestrian network and there is discussion regarding a connection to the Heritage Trail Greenway to meet pedestrian and recreation requirements associated with this development.

Mr. Fulbright also explained that the site where the clubhouse is located is outside of the plan development area but it is zoned P-1 Office and Institutional. Community Centers (which we are considering the clubhouse facility) are a permitted principal use with in the P-1 District; so no change to the zoning will be required to allow for the construction of the clubhouse.

In addition to Planning and Zoning, other City Departments have reviewed the site plan for compliance with applicable City standards and have found this proposal to be acceptable to those standards with the following:

- That building 4 and building 26 are closer to the external property line than 40 feet. These buildings will need to be adjusted to ensure that 40’ external setback can be met.
- Building 24 is a 3 unit building is not in harmony with the other buildings, as it does not maintain consistent setback distance off of Trail Place. The ordinance requires that the site plan shall provide for safe, efficient, convenient and harmonious grouping of structures, uses and facilities, for appropriate relation of space inside and outside buildings to intended uses and structural features, and for preservation of desirable natural features and minimum disturbance of natural topography. A 2 unit building would be more appropriate in that location.
Additional details involving road profiles, storm water facilities, landscaping, sidewalks, deed restrictions, etc. will be evaluated and approved by appropriate offices and agencies before actual construction may proceed.

Mr. Fulbright stated the notice for this case has been performed as follows:

- Posted on-site: posted April 14, 2017
- Mailed notices: sent notice to the owner of the site, owners of adjacent property, and the owners of property within 100 feet of the property adjacent to the subject site. 38 letters were sent on May 5, 2017.

Mr. Fulbright stated The Planning Commission unanimously recommended approval to the City Council of this plan modification with the following conditions:

1. That all buildings main a 40’ setback to the external property lines.
2. That building 24 becomes a duplex instead of a triplex as proposed.

The applicant is aware and agreeable to the conditions recommended by the Planning Commission.

Council Member Jerry Hodge asked if there was any feedback from the public. Mr. Fulbright said that on gentleman asked about property values of surrounding properties.

Mr. Shuford Abernathy stated that he does have deposits on 7 of the 67 homes. Council Member Robert Abernethy asked when they might get started. Mr. Abernethy stated that he hopes they can start this summer.

Council Member Jerry Hodge asked if there are 5 acres for open space. Mr. Abernethy stated that is correct, and that it joins the greenway. Mr. Abernethy stated that they also have an agreement with Abernethy Laurels for the group rate on their fitness facility, which will be a plus for potential buyers.

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

That Public Hearing be – CLOSED.

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

That Plan Development Modification – Filed by Shuford Abernathy to Amend the Previously Approved Plan for court Street Commons be – APPROVED.

ITEM 7: New Business

A. Consideration of Lease Agreement with The Green Room Community Theatre

City Manager Todd Clark stated that the City Council held a workshop on March 21, 2017 to review city-owned properties and determine if certain parcels could be sold. As part of that discussion, the Council considered the disposition of the former Fire Headquarters station located on West A Street in Newton. Mr. Clark stated that after lengthy discussion as to whether or not the City should consider the sale versus lease of the property, a decision was made to offer the property for lease while also marketing the property for sale. Mr. Clark stated the Council then directed the City Attorney and City Manager to prepare a lease agreement between the City and The Green Room Community Theater.
Mr. Clark explained that a lease agreement has been prepared and is attached to this Request for Council Action. The lease is for a term of three years beginning on July 1, 2017, and terminating on June 30, 2020, and leased at a rate equal to the annual ad-valorem tax value. The agreement also includes a sixty (60) day termination clause that will allow the City to sell the property if a willing buyer is located. Other notable terms of the agreement include a requirement of the lessee to maintain comprehensive general liability insurance on an occurrence basis with minimum limits of liability in the amount of three hundred thousand dollars ($300,000) for property damage, bodily injury, personal injury, or death to any one person and maintain excess liability coverage with a per occurrence limit of at least one million dollars ($1,000,000). Mr. Clark stated the lessee must also keep the structure and the equipment within the building insured against loss or damage by fire or other casualties with guaranteed replacement value showing the City as the loss payee. The cost for utilities including electricity, gas, water, sewer, and telephone services are also the responsibility of the lessee.

Mr. Clark and City Attorney John Cilley recommended that City Council consider the terms of the lease agreement and direct the same to enter into the agreement with The Green Room Community Theater, Incorporated.

Sherry Butler, Executive Director of The Green Room Community Theater, Incorporated, stated that the quote she received on insurance is $1,607 to replace $5,000 per year. She was not aware that it would cost that much and would pretty much price her out of the lease.

Mayor Stedman asked Mr. Cilley if this insurance agreement is typical in a lease. Mr. Cilley said that it is negotiable and depends case by case. He said that for instance the rent could be reduced in exchange for the lessee to carry the insurance, depending on the comfort zone of both parties.

Ms. Butler asked what the cost is currently for the city for insurance. Mr. Clark stated it is $1,012, but that would likely change when the building is changed to rental property. Council Member Wes Weaver said that it is typically more expensive as rental property. Ms. Butler stated that she would also be willing to vacate if there is a buyer for the property.

Council Member Robert Abernethy asked when the first planned event would be held there. Ms. Butler said that she hopes that Spooktacular would be the first event. She stated that she hopes to generate traffic for downtown and that it wouldn’t really be a money making venture.

Council Member Tom Rowe asked if she would be willing to forgo rent and just pay the insurance. Ms. Butler indicated that she would. Mr. Cilley said that would still include Ms. Butler paying all utilities.

Council Member Jody Dixon asked what the intended usage for the building would be. Ms. Butler stated that it would be used for painting large props and storage. She would also like to have a dinner theater of sorts. Mr. Dixon stated that the Green Room does fantastic work, that he feels like he is coming in to this process blind, and that he understood the property would be posted for lease or for sale. Ms. Butler said that she would be willing to move anytime if there is an offer to purchase. Mr. Dixon stated that whatever was decided tonight he wants to advertise the property.

After discussion of several rental options, Council Member Tom Rowe made a motion to rent the facility to The Green Room for $100 per month with them maintaining general liability insurance and the city would keep the building insured against loss or damage by fire or other casualties at its own expense but not insure any of the Lessee’s contents located within the subject premises. Council Member Jody Dixon asked what happens if someone offers $500 per month for rent. Mr. Cilley stated that like the upset bid process, City Council would have the final vote. City Council Member Jody Dixon seconded the motion made by Council Member Tom Rowe.

With Mayor Pro Tem John Stiver and Council Members Jody Dixon, Tom Rowe, Robert Abernethy and Jerry Hodges voting in favor of, and Council Member Wes Weaver voting against, it was RESOLVED:
That The City rent the facility to The Green Room Community Theater, Inc. for $100 per month with the lessee maintaining general liability insurance and the city maintaining that the building be insured against loss or damage by fire or other casualties at its own expense but not insure any of the Lessee’s contents located within the subject premises.

Upon motion duly made by Council Member Tom Rowe, seconded by Jerry Hodges and with With Mayor Pro Tem John Stiver and Council Members Jody Dixon, Tom Rowe, Robert Abernethy and Jerry Hodges voting in favor of, and Council Member Wes Weaver voting against, it was RESOLVED:

That the City Publish the Rent Notice for 30 days per North Carolina General Statute 160A-272.(a1)

ITEM 8: City Manager’s Report

Meetings & Events

- May 19, 2017 – Employee Fitness Day at Southside Park, 11:30 a.m.
- May 24, 2017 – Newton, NC First Responders Appreciation Event at Willis-Reynolds Funeral Home, 11:30 a.m.
- May 25, 2017 – Downtown Business Circle Meeting at Main Library, lower level, 8:00 a.m.
- June 8, June 15, June 22, July 6, July 13, and July 20, July 27, August 3, and August 10, 2017 from 7 p.m. until 11 p.m. “Get Your NewtOn – Thursdays on the Square”

Budget Workshop Dates *All begin at 5:15 in the Council Chamber

- May 16, 2017

Projects

- Red (Zanders) Parking Lot renovation project is out for bids. Bids are due May 23rd.
- RFP for West A Street should be going out this week.
- Newton Vision Center’s new building (behind CVS) has been permitted.
- Streetscape Demonstration Project has won the 2017 North Carolina Marvin Collins Planning Award in the Innovations category from the NCAPA. We especially want to thank the students from Discovery High School who participated in the project and who will be recognized at their Awards Day on Friday.
- DNDA’s next Downtown Business Circle meeting will be held on Thursday May 25th at the Library from 8:00 to 9:30 am. Mr. Paul Foster is facilitating the meeting and is interested in working with the downtown group to get your perspective about what matters to you in our community. This compilation of this information will help us as citizens, organizations, and businesses to align our efforts and achieve positive change within the community. Please try to be there to contribute.
- Update on pedestrian crossing on N Ashe Ave
- Information Systems Department in installing 25 new replacement computers for our heaviest users

Public Works updates to be reviewed by Manager

ITEM 9: Questions and Comments from Mayor and Council

Council Member Jerry Hodge gave a brief report about the recent meetings at the Western Piedmont Council of Governments.
ITEM 10:  Closed Session – Per North Carolina General Statutes 143-318.11(a)(5)

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)(5)

Motion was then made by Council Member Jody Dixon to return to open session, seconded by Councilman Robert C. Abernethy, Jr.  All Ayes.

ITEM 11:  Adjournment

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

That the Meeting be – ADJOURNED

___________________________________________
Anne P. Stedman, Mayor

______________________________
Amy S. Falowski, City Clerk