MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL
June 18, 2019 – 7 p.m.

The regular meeting of the Newton City Council was held at 7 p.m. Tuesday, June 18, 2019 at Newton City Hall.

PRESENT: Mayor Anne P. Jordan, Mayor Pro Tem John Stiver and Council Members Jerry Hodge, Anne Wepner, Jody Dixon, Tom Rowe and Ed Sain

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. Jordan 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 Jerry Hodge, seconded by Council Member Anne Wepner, it was unanimously RESOLVED:

That the Regular Minutes of the June 4, 2019 City Council meeting be – APPROVED

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS

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

That the Consent Agenda be – APPROVED

A. Tax Releases

B. Sewer Adjustments

C. Consideration to Adopt a Budget Ordinance Amendment to Recognize Donation – Police Department

D. Consideration to Adopt a Budget Ordinance Amendment to Recognize Grant Funds – United Arts Council

E. Consideration to Receive Donated Equipment – Fire Department

F. Consideration of Joint Use Agreement Contract – AT&T

(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. Jordan asked if anyone present would like to make comment concerning non-agenda items. No one appeared.
ITEM 6: New Business

A. Consideration of Year-End Budget Ordinance Amendment for Operating Budget Accounts

Finance Director Vickie Thomas stated that a budget ordinance amendment is needed to adjust operating budget revenues and appropriations at year-end.

Ms. Thomas stated that the Electric Department’s demand capacity credits were budgeted as a reduction in the Purchase for Resale expenditure account, although the actual credits were recorded as revenue in the Avoided Energy Charge/Demand Capacity Credits revenue account. As a result, the $400,000 budgeted amount needs to be transferred between these two accounts.

Ms. Thomas stated that second, the city received two contributions of $2,500 each to support NCDOT’s efforts to address the 20th Street flooding issue, and a budget amendment is needed to recognize the $5,000 in additional revenues and authorize the related expenditure.

Third, insurance claims for the Water and Wastewater Fund were higher than anticipated, and $9,700 in insurance proceeds needs to be recognized as revenue and the related expenditures authorized.

Fourth, a budget ordinance amendment was made in April of 2019 to authorize $131,150 for the replacement of the Wastewater Treatment Plant’s lime slaking unit. However, this capital project was included in the original FY2018-2019 budget for $112,000, and that original budget authorization needs to be reversed.

Ms. Thomas stated that lastly, several Water and Wastewater Fund capital outlay projects that were funded with Fund Balance were completed in FY2018-2019 with savings of $32,960 on those projects. The Fund Balance Appropriation of $32,960 needs to be reduced as a result of these savings.

Ms. Thomas recommended that City Council approve the attached Budget Ordinance Amendment.

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

That the Budget Ordinance Amendment be – ADOPTED

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

B. Consideration of Year-End Budget Ordinance Amendment for Capital Projects

Ms. Thomas stated that a budget ordinance amendment is needed to adjust revenues and appropriations for certain capital projects at year-end.

Ms. Thomas stated that first, for the Downtown Streetscape Revitalization project, the total estimated cost for Phase I is expected to exceed the available funding by $12,000. However, the funding available for the Water and Wastewater Fund and the Electric Fund are significantly less than their expenditures. Ms. Thomas explained that the amounts borrowed for each fund were estimated based on an engineer’s estimate, and not the actual construction contract. In addition, the engineering costs were not included in the estimated amounts for borrowing. As a result, for Phase 1 of the Streetscape project, the amount spent for Water & Wastewater infrastructure improvements is estimated to exceed the $589,800 borrowed by $220,000. The amount spent for Electric infrastructure improvements is estimated to exceed the $610,200
borrowed by $110,000. Although the borrowing and other grant revenues available for the General Fund are expected to exceed its expenditures by $318,000, due to the regulations regarding tax-exempt borrowing, it is not advisable to make transfers between funds. Ms. Thomas stated that as a result, the shortages need to be funded by transfers from the respective operating funds.

Ms. Thomas stated that in addition, the preliminary engineering for Phase 2 began in FY2018-2019, although the related borrowing will not occur until the construction contract is finalized in FY2019-2020. She explained that as a result, the General Fund needs to appropriate Fund Balance of $13,300 and the Electric Fund needs to appropriate Fund Balance of $10,000 for Phase 2 engineering costs.

Ms. Thomas stated that second, for the West A Street Bikeway and Pedestrian Improvements project, staff has been informed that the federal and state grant funding awarded for the project may be rescinded. As a result, estimated engineering costs incurred during FY2018 -2019 need to be budgeted with Fund Balance revenues instead of grant revenues. Ms. Thomas stated that estimated engineering costs for FY2018-2019 are $110,000 for the General Fund for Streets, $35,000 for the Water and Sewer Fund and $10,500 for the Electric Fund.

Third, one Electric Fund capital outlay project, the refresh of the SCADA server, was budgeted to be financed. However, no Intent to Reimburse was adopted prior to spending, so the $68,900 in expenditures needs to be funded with Fund Balance.

Ms. Thomas stated that lastly, an Electric Fund capital project, the Distribution Automation project, was budgeted to be financed. However, it was not financially beneficial to incur the financing cost required to finance the $45,000 of FY2018-2019’s expenditures. As a result, these expenditures need to be funded with Fund Balance.

Ms. Thomas recommended that City Council approve the attached Budget Ordinance Amendment.

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

That the Budget Ordinance Amendment be – ADOPTED

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

ITEM 7: City Manager’s Report

Meetings & Events

• June 21st – Ribbon Cutting at James River Equipment, 11:00 a.m.
• June 21st – Movies in the Park - Avengers Infinity War Southside Park – 9:00p.m.
• June 28th – Movies in the Park - Mary Poppins – 9:00 p.m.
• June 29th – East Newton Community Cookout @ Central on the ballfield & shelter -2:00 – 8:30p.m. – free to public
• July 9th – Regular City Council Meeting
• July 11th, 18th and 25th – Public Meetings on Strategic Growth Plan Update

ITEM 8: Questions and Comments from Mayor and Council

Mayor Stedman asked if there were any questions or comments from City Council.

Council Member Jody Dixon gave a report on the Newton Depot Authority.
ITEM 9: Closed Session – Per North Carolina General Statutes 143-318.11(a)(6)

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

That City Council enter CLOSED SESSION per General Statute 143-318.11(a)(6)

The Mayor announced that the purpose of the closed session was to consider the newly adopted policy by the Board of Commissioners of North Carolina Municipal Power Agency Number 1, hereinafter referred to as "NCMPA1," to begin compensation payments to Ex Officio members of the Joint Board of NCMPA1, the North Carolina Eastern Municipal Power Agency, hereinafter referred to as "NCEMPA" and ElectriCities of North Carolina, all jointly referred to as “The Joint Board” as it relates to Newton's City Manager, E. Todd Clark, who as current chairman of the Board of Commissioners of NCMPA1, qualifies for such payment as an Ex Officio member of the Joint Board. The compensation would be $1,000.00 per month.

John Cilley, the City Attorney, shared with Council that N.C.G.S. 159B-10 governs compensation for directors and Ex Officio members of the Joint Board and provides that for any director or Ex Officio director who is an employee of a municipality, a payment in lieu of any compensation shall be made to the municipality for distribution to the City employee who is a director in the manner and amount, if any, it deems appropriate. Mr. Cilley stated that Council could allow Mr. Clark to receive this additional compensation if it wished to but was under no legal obligation to do so and could elect to have the compensation paid directly to the City.

The City Attorney also shared with Council that, should it be desirous of allowing Mr. Clark to receive this additional compensation as an Ex Officio member of the Joint Board, there were two different ways in which it could do so. The City could direct that the compensation be paid directly to the City and then adjust the City Manager's pay in the same amount for his service on the Joint Board, or the City could direct ElectriCities to pay the compensation directly to Mr. Clark with an IRS 1099 form to be issued directly to Mr. Clark, thereby relieving the City of having to run the compensation through its payroll system.

The Attorney also shared with Council that the employment contract currently in effect by and between the City and Mr. Clark requires Mr. Clark to "devote his full and exclusive time and best efforts to the business of the City of Newton,” and as such would require City Council to approve Mr. Clark being allowed to receive this outside income paid to him by a third party.

Council first began a general discussion as to whether Mr. Clark should receive the additional compensation for his service to NCMPA1 and the Joint Board. The consensus was that while Mr. Clark is providing this additional service to the Joint Board as an Ex Officio member because he is the City Manager for the City of Newton, he was nonetheless performing additional services in his capacity as an Ex Officio member that required numerous trips to Raleigh for meetings, in addition to his regular responsibilities as City Manager and should, therefore, receive the additional compensation.

Council then reviewed the two manners of compensation as summarized by the City Attorney and after further discussion, determined it would be best to simply direct ElectriCities to compensate Mr. Clark directly rather than having the compensation forwarded to the City for the City to then distribute it to Mr. Clark.
Council Member Ed Sain made a motion to return to open session to consider the question of the additional compensation for Mr. Clark and the manner in which it was to be provided to Mr. Clark. The motion was seconded by Mayor Pro Tern John Stiver.

All ayes.

Council Member Ed Sain then made a motion in open session that the City Manager is authorized to receive the additional compensation as provided by ElectriCities for his services as a member of the Joint Board of Directors of NCMPAI, NCEMPA and ElectriCities and notwithstanding the provisions set forth in NCGS 2159B-10(f) and Section 5 of the Board of Commissioners of NCMPAI Resolution R-10-95, the City of Newton, as a participant of NCMPAI hereby directs and authorizes ElectriCities of North Carolina, Inc., to pay directly to E. Todd Clark, an employee of the City of Newton, the compensation due to such employee for service as a member of the Board of Directors of NCMPAI, NCEMPA and ElectriCities.

The motion was seconded by Jerry Hodge

The motion was adopted unanimously.

**ITEM 13: Adjournment**

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

That the Meeting be – ADJOURNED

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Anne P. Jordan, Mayor

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Amy S. Falowski, City Clerk