

**MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL**

September 6, 2016 – 7 p.m.

The regular meeting of the Newton City Council was held at 7 p.m. Tuesday, September 6, 2016 at Newton City Hall.

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

ABSENT: Mayor Pro Tem John Stiver

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 Tom Rowe 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 Tom Rowe, it was unanimously RESOLVED:

That the Regular Minutes of the August 2, 2016 City Council meeting be –
APPROVED

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS

Council Member Jerry Hodge asked that Item 4F be removed from the consent agenda and added to New Business.

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

That the Consent Agenda, with Item 4F being removed and added to New Business be –
APPROVED

- A. Tax Releases
- B. Sewer Adjustments
- C. Proclamation – Kiwanis Club of Newton
- D. Proclamation – Fire Prevention Week
- E. Consideration of Firefighter Relief Fund – Board of Trustees Report
- F. Consideration to Accept Assistance to Firefighters Grant (moved to New Business)

- G. Consideration to Accept Contributions for Police Department Explorer Program
- H. Consideration to Adopt Budget Ordinance – Police Department
- I. Consideration of Commission/Committee Membership Appointment: Bradley Saine – Business Advisory Committee

(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. Parks and Recreation Master Plan

Parks and Recreation Director Sandra Waters introduced Sara Burroughs with Sage Design. Ms. Burroughs gave a power point presentation on the newly created Parks and Recreation Master Plan.

Mayor Stedman stated that it is nice to know that Southside Park is used so often. Council Member Jerry Hodge stated that with development Jacob Fork Park would be an even greater park. Ms. Burroughs stated that the public loves that park as well and would like to see more down there. Mr. Hodge stated that the park is far from downtown and doesn't have lights and wondered if that impacts the usage. He stated that taxpayers pay for the parks and should get full use of them. Mr. Hodge stated that softball could be a revenue stream for the city as well as AAU baseball.

Mayor Stedman stated that it sounds like there is a need for a Senior Center. Ms. Burroughs stated that there is a need to develop programs and see about space.

Council Member Robert C. Abernethy, Jr. stated that serving the current demographic is one thing, but target is another and that is something that council needs to discuss.

Council Member Wes Weaver stated that his kids like Northside, but it's a constant wrestling to keep them from the splash pad in Conover.

Mayor Stedman thanked Ms. Burroughs for her presentation.

ITEM 7: **Public Hearing**

- A. Consideration of Agreement – Temprano Techvestors

Mayor Stedman opened the Public Hearing.

City Manager Todd Clark stated that Mr. Luke Walling proposes to utilize a vacant building located at 2015 Northwest Boulevard for a new business startup called Temprano Techvestors, Inc. As part of this new business startup, Mr. Walling intends to create 21 new full time jobs with an average weekly wage of \$51,906. Furthermore, he intends to invest \$507,500 to renovate the building at this address.

Mr. Clark stated that in accordance with the City's Commercial and Small Business Economic Development Incentives Policy, the City Council may award a grant for qualifying projects for a period of up to five (5) years based on the amount of new capital investment. The amount of the grant is calculated based upon the actual net increase in taxable property value and the corresponding additional tax revenue collected by the City of Newton as a result of the project. Mr. Clark stated that a minimum real property investment of \$50,000 is required and there must be a commitment to job creation. A copy of the policy is provided with this Request for Council Action for City Council's review.

Mr. Clark stated the City has worked with Mr. Walling for several months to secure funding for building renovations through the State of North Carolina Department of Commerce, Building Reuse Grant program. At this time, Mr. Walling is seeking a grant through the City's Commercial and Small Business Economic Development Incentive Program to further assist in the cost of building renovations and job creation in Newton.

Mr. Clark explained that a total grant of \$10,962 may be awarded over a five year period based on the proposed new investment in real property and the number of new full time jobs created as outlined and calculated in the City's Policy. The city staff has also worked with the City Attorney to prepare an Economic Development Agreement between the City of Newton and Temprano Techvestors, Inc.

Mr. Clark recommended awarding a grant to Temprano Techvestors, Inc. in accordance with the City of Newton's Commercial and Small Business Economic Development Incentives Policy and authorizing the Mayor of the City of Newton to execute the attached Economic Development Agreement with Temprano Techvestors, Inc.

Mayor Stedman asked if there was anyone present that would like to speak. No one appeared.

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

That Public Hearing be – CLOSED.

Council Member Jerry Hodge asked if there is eligibility for the grant such as geographic incentives, like the ETJ. City Attorney John Cilley stated that it could include the ETJ, but this is in the city limits. Mr. Abernethy stated that it was discussed years ago, but that council didn't want to limit it.

Council Member Wes Weaver stated that he is not a fan of these incentives, but in these times he feels he needs to, and will support.

Council Member Jody Dixon made a motion that it be determined by Newton City Council that entering into the Economic Development Agreement with Temprano Techvestors, Inc. as presented is a necessity for the establishment of Temprano Techvestors, Inc., in the City to go forward and that said agreement shall increase the taxable value of real and personal property within the city, promote and enhance business prospects with the city, stimulate the local economy and result in the creation of a substantial number of new jobs in the City of Newton that pay at or above the median average wage in the city. The motion was seconded by Council Member Tom Rowe. All Ayes.

Council Member Wes Weaver made the motion that the city of Newton enter into the Economic Development Agreement with Temprano Techvestors, Inc., as presented and that the Mayor is hereby authorized to execute said agreement on behalf of the City of Newton, The motion was seconded by Council Member Tom Rowe. All Ayes.

B. Consideration of Rezoning Application #2016-03 – Accent Industries, Inc.

Mayor Stedman opened the Public Hearing.

Planner Alex Fulbright stated that Melissa Sigmon on behalf of Accent Industries, Inc. is requesting that the property located at 230 Ann Avenue, containing 1.73 acres be rezoned from an existing EM-1 Exclusive Manufacturing District to M-1 General Manufacturing District. Mr. Fulbright stated that the proposed rezoning, if approved, will permit commercial uses and product assembly. The subject adjacent site is located in the southwestern quadrant of the intersection of Burris Road and Ann Avenue. Accent Industries is the owner of the site.

Background:

Mr. Fulbright stated that the following is the surrounding Zoning and Land Use:

	ZONING	LANDUSE
Subject	EM-1 Exclusive Manufacturing	Auto repair and wholesale auto sales
North	EM-1 Exclusive Manufacturing	Warehousing and Distribution
South	EM-1 Exclusive Manufacturing	Vacant and Manufacturing
East	R-9 Multifamily Residential	Residential
West	EM-1 Exclusive Manufacturing	Manufacturing

Mr. Fulbright stated that the area under consideration has been zoned EM-1 Exclusive Manufacturing since the adoption of the City's 1966 Zoning Map. At that time the site was in the City's Extraterritorial Jurisdiction. The property was annexed into the City in the late 80's as part of the Eastside annexation. There have not been any zoning map amendments to the subject site or adjoining properties.

Mr. Fulbright stated the property was historically used for manufacturing use, but currently the site is being used by Performance Auto Exchange. Performance Auto Exchange is using the 35,000 square foot building for vehicle repair, wholesale vehicle sales, and vehicle storage with major vehicle repair being the primary use of the site. Mr. Fulbright explained this use is not permitted in the Exclusive Manufacturing district and no certificate of occupancy was applied for or was issued. If the rezoning request is approved the tenant of the building intends to continue operating his business at that location as he has since 2015.

Mr. Fulbright stated the site has frontage along Ann Avenue, which is classified as a local access streets; and Burris Road which is classified as Collector Street. There are no planned improvements to either street. City water and sewer are provided to the subject site. The site obtains power through Duke Energy.

Mr. Fulbright stated the proposed request **is consistent** with the 2005 Eastside Area Plan's Future Land Use. The plan shows the area as industrial but it does not differentiate between M-1 and EM-1.

Mr. Fulbright stated that public notice for this rezoning case has been performed as follows:

Newspaper: published on August 26 and September 2, 2016.

Posted on-site: posted July 14, 2016

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. 27 letters were sent on August 25, 2016

Mr. Fulbright stated that it is the Newton Planning Commission's recommendation that the Newton City Council approve the request as submitted as it was found to be **consistent** with the Eastside Area Plan that was adopted by City Council in 2005.

Mayor Stedman asked if there was anyone present that would like to speak. Ms. Melissa Sigmon stated that she was thankful for someone to sign a three year lease on the building and make improvements.

Council Member Tom Rowe asked if any neighbors opposed the rezoning. Mr. Fulbright said that no one had.

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

That Rezoning Application #2016-03 – Accent Industries, Inc. be – APPROVED.

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

ITEM 8: **New Business**

- A. Presentation – Business Advisory Committee Report – Jennifer Stiver, Chairperson

The Business Advisory Council made four recommendations:

- 1. Plan for NC Hwy 16
- 2. Development of a Senior Center
- 3. Public Art Center
- 4. Welcome Center

Jennifer Stiver, Chair of the Business Advisory Committee gave a report of the committees' activities.

- B. Consideration of Stormwater Enterprise Fund

City Manager Todd Clark stated that the City of Newton and other municipalities across the country have been responsible for the maintenance and control of storm water control systems for many years. In accordance with the Federal Clean Water Act of 1972 and subsequent amendments, the City of Newton was required to comply with a state issued Storm Water Permit that was first issued in 2005. Mr. Clark stated the provisions set forth in the issued permit are intended to protect water quality, ensure the public health, and safeguard the natural environment from harmful pollutants.

Mr. Clark stated that in order to comply with the mandates of the Clean Water Act, the City of Newton expends approximately \$425,000 each year for compliance purposes. Approximately \$225,000 of this cost is expensed through the Powell Bill and \$200,000 through the General Fund. Mr. Clark stated that neither the Federal Government nor the State of North Carolina has provided any form of revenue to support the program, and in fact, the City has been forced to absorb the full cost of the program using funds that were previously used to support other service delivery areas.

Mr. Clark explained that in response to the rising cost of compliance, the city staff reported to City Council that some jurisdictions are turning to the creation of storm water enterprises to help fund the cost of this federally mandated program. Additionally, the staff sought approval from the Council to appropriate \$100,000 in the FY 2017 budget to fund engineering studies leading to the creation of a storm water enterprise. Mr. Clark stated that in response, the Council authorized \$100,000 in the FY 2017 budget but with the caveat that City Council take up the idea for further discussion before final

authorization was granted. Mr. Clark stated a workshop was held on August 2, 2016, at which time the staff provided a report to City Council. At the conclusion of the workshop, members of City Council asked for the matter to be placed on an upcoming City Council agenda for consideration.

Mr. Clark stated that the staff respectfully asks for direction from City Council concerning the procurement of engineering services leading to the creation of a storm water enterprise that includes a public fee structure designed to recover costs associated with the implementation of permits issued pursuant to mandates from the state and federal government.

Council Member Wes Weaver asked how the city is going to fund the storm water enterprise. Mr. Clark explained that there would be a fee or tax on impervious surface and that it can be a flat fee or by square footage. Dusty Wentz stated that often industrial is based on square footage and residential is based on an average.

Council Member Jerry Hodge asked what will the study provide. Mr. Wentz stated that it depends on the fee structure. Mr. Weaver asked what reason is fee structure needed, Mr. Clark stated that this will generate revenue for expenses that we are forced to take on. Mr. Weaver asked where the rest of the money would come from, Mr. Clark said Powell bill and General funds.

Council Member Robert Abernethy stated that he was confused, and that he thought a large part of the problem was that stormwater infiltrated system and the city is treating it. Mr. Clark said that is correct, but that these are two separate issues. Mr. Wentz explained that these are two different costs; treating the water, wear and tear on equipment, etc.; and when a lot of water hits at one time it backs up and fines have to be paid.

Council Member Tom Rowe stated that if \$225,000 is used from Powell Bill then you have only \$175,000 to pave roads with and the city needs to use Powell Bill to pave roads. Council Member Robert Abernethy stated that he agrees with Tom on paving and that if the city moves forward not to take money from one pocket and put it in to another.

Council Member Weaver asked if there were any initial forecasts. Mr. Wentz stated that he would like to recover \$425,000 and that the fee is not exempt for nonprofits. Mr. Rowe asked if that means nonprofits will pay. Mr. Wentz stated that they would.

Council Member Jerry Hodge asked if there are other municipalities that have done this. Mr. Wentz stated that in 2011 60 cities had this fund and he is sure that this number has grown.

Council Member Jody Dixon stated that the city has to spend \$425,000 because the state says we have to, plus the water that goes in to sewer. He stated that staff is asking for engineering that will tell us what to charge customers. Mr. Wentz stated that is corrected.

Council Member Jody Dixon stated that he will make a motion for city council to approve this request. Council Member Jerry Hodge seconded the motion.

Mayor Stedman asked if there were any more concerns.

Council Member Tom Rowe stated that storm water costs go up every year and Mr. Wentz agreed. Mr. Weaver stated that he believes the quote is low and what about a flat fee. Mr. Wentz said these are all things to talk about when the council adopts an ordinance.

Mr. Abernethy stated the point is to protect natural resources. The concept is to ensure clean water. The city just has to do it in a way not to scare people and businesses away. Mr. Rowe said we need to be fair to businesses and schools but also need to be fair to streets. Mr. Weaver said it seems like another fee on

citizens.

Mr. Abernethy stated that the money will really be coming from the general fund. Mr. Weaver stated that he didn't want to impose another fee, Mayor Stedman said that it was already being paid. Mr. Abernethy stated that if the city does this then it can be given back. Mr. Rowe asked how can it be given back when there are so many needs. Mr. Weaver said the city does a lot of good things and he doesn't want to price us out of the market.

Upon motion duly made by Council Member Jody Dixon, and seconded by Council Member Jerry Hodge, with Council Members Tom Rowe, Jody Dixon, and Jerry Hodge voting in favor of and Council Members Robert C. Abernethy, Jr. and Wes Weaver voting against, it was RESOLVED:

That the Procurement of Engineering Services Leading to the Creation of a Storm Water Enterprise be – APPROVED.

4F - Consideration to Accept Assistance to Firefighters Grant (moved to New Business)

Council Member Jerry Hodge stated that he wanted to move this item from consent so that it could be read because of the amount need for the match he felt that there was a need for discussion for transparency. Mr. Hodge asked Chief Yoder if the replacements were essential. City Manager Todd Clark stated that they were. Chief Yoder stated that the city will have to pay with or without the grant.

Chief Yoder explained that the grant is for the purchase of 45 new Self Contained Breathing Apparatus (SCBA). This equipment is the primary air source for firefighters that enter burning buildings and other toxic atmospheres.

Chief Yoder stated the grant application also included two other types of equipment. The first type of equipment enables a rescue team of firefighters known as a RIT Team (Rapid Intervention Team) to rescue downed firefighters that have depleted their air supply. This equipment recharges the air pack of the downed firefighter and enables their rescue. The second type of equipment assists in locating downed or disoriented firefighters and is known as a Pack Tracker.

Chief Yoder stated the Fire Department has recently been notified by FEMA that the Grant application has been approved with a decrease in the amount of federal funding. The additional equipment was not funded by the grant.

Chief Yoder explained that the project is included in the Adopted Capital Improvement Plan, and the necessary funds to purchase this equipment will total \$304,270.00. The Federal portion of the Grant will total \$253,637 Chief Yoder stated that the City of Newton's portion of the project will be \$50,633, which consists of a Grant match of \$25,363 and funding of the additional equipment not funded by FEMA at a cost of \$25,270.

Council Member Robert Abernethy stated that the only way to save is to leave off the tracker for the Rapid Intervention Team which is the extra \$25,000. Chief Yoder said that yes, that could be left off. Mayor Anne Stedman stated that there would also be savings by piggy backing with another agency, Chief Yoder said that is correct. Council Member Robert Abernethy asked where the \$50,000 would be coming from. City Manager Todd Clark stated that we knew we would have to go to Fund Balance.

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

That Assistance to Firefighters Grant be – ACCEPTED.

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

C. Consideration of Golf Cart Ordinance

Police Chief Don Brown stated that on August 2, 2016, City Council was presented a power point presentation concerning the use of golf carts on city streets. Council was advised that current state statute allows municipalities to create their own ordinance to address the operation of golf carts on local streets and roadways with certain restrictions such as age of the operator begin a minimum of 16 and operation on streets with a speed limit of 35 MPH or less.

Chief Brown stated that based upon review of other municipal golf cart ordinances from across the state, staff has created an ordinance that addresses both compliance and operation. He stated the recommended golf cart ordinance also contains language to address registration and inspection of each golf cart. The recommended initial registration fee is \$50.00 to include a safety inspection and issuance of a registration plate. Annual registration renewal will be \$20.00 for inspection and registration plate. Chief Brown explained that the new ordinance will bring the city in line with other municipalities in our area and across the state in addressing the safe use of golf carts on local streets and roadways.

Mayor Stedman asked about seat belts and grab bars. Council Member Tom Rowe asked which one is better. Chief Brown stated that seat belts are better and that a horn could also be required.

Council Member Robert Abernethy stated that he is concerned about congruency with one law to the next, such as scooters. Chief Brown stated that you could be 16, with no license required to drive a scooter. City Attorney John Cilley stated that the state allows cities to create their own ordinances concerning golf carts.

Council Member Wes Weaver stated that he is not concerned with the number of seats on the golf carts. Council Member Jody Dixon stated that he wouldn't want to add more costs with seat belts and turn signals. Council Member Jerry Hodge stated that he would like to err on the side of safety and he would like to see the turn signals and seatbelts. Council Member Tom Rowe agreed.

Mayor Stedman stated that the motion would be to adopt the ordinance with the language to require the age to be 18 years old. Also no seat belt added, and removal of the turn signal requirement would be added to the ordinance.

Council Member Jody Dixon stated that he would make that motion. Council Member Robert C. Abernethy, Jr. seconded the motion. All Ayes.

Council Member Tom Rowe asked if there were state laws on turn signals or seat belts. Chief Brown said that there are not.

Council Member Abernethy asked how citizens would be notified. He asked if information could be sent in the newsletter and utility bills. Chief Brown stated that it would be sent out that way and on social media as well.

(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

- September 7th – Meeting with Thom Tillis’ staff in Charlotte
 - September 9th – Chamber of Commerce Briefing for Catawba County’s Top Business Leadership, 8:00 a.m. at CVCC Corporate Development Center
 - September 10th – Cruisin’ Newton, 3:00 p.m.
 - September 15th 1940 Flood Exhibit Reception, 5:30 p.m. at the History Museum of Catawba County
 - September 20th - ElectriCities Regular Quarterly Board Mtg., 10:00 a.m., Concord
 - September 30th – Foothills Folk Art Festival Preview Night at Newton-Conover Auditorium at 6:00 p.m. Tickets are \$30 and are available from the auditorium
 - October 1st – Folk Art Festival
 - October 4th – Water/Sewer Rate Study Workshop, 6:00 p.m.
 - October 12-19th – Streetscape Project Demonstration update
 - October 19th – BAC Annual Meeting
 - October 23-25th NCLM Annual Conference, Raleigh
 - Newton 101 has been cancelled. Program will be re-scheduled when enough participants have registered
- Newton has been awarded the 2016 NADO Innovation Award which recognizes Newton’s Strategic Growth Plan
 - CivicLive Messaging System—In the coming weeks, Newton will unveil a new messaging system to let residents know about meetings, events and programs. Residents will sign up on the city’s website and be able to choose whether to receive only certain categories of messages or all messages. Messages will be sent by voicemail, email and text, and residents will be able to choose the method by which they receive messages.
 - Asset Inventory and Assessment Grant
 - Marketing and Branding Plan - Update
 - Pedestrian Plan - Update
 - Electric Cost of Service Study – Update
 - LAPP Grant - Update
 - SAFR Grant

» The BAC is accepting nominations for the 2016 Economic Development Award and the 2016 Economic Development Professional of the Year Award, both of which will be awarded at the BAC’s annual meeting on Oct. 19. Nomination forms are available at www.newtonnc.gov/businessaward.pdf.

ITEM 10: Questions and Comments from Mayor and Council

Mayor Anne P. Stedman asked if any Council Members would like to make any comments. There were none.

Council Member Tom Rowe gave a report on the Newton Depot Authority.

ITEM 11: Closed Session to Consult with the City Attorney – G.S. 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 the City Council enter CLOSED SESSION per G.S. 143-318-11(a)(5)

Council Member Wes Weaver made the motion to go back into open session, which was seconded by Council Member Robert C. Abernethy, Jr. All Ayes.

ITEM 12: Adjournment

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

That the Meeting be – ADJORNED

Amy S. Falowski, City Clerk



Anne P. Stedman, Mayor