

MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL
January 17, 2012 – 7:00 P.M.

The regular meeting of the Newton City Council was held on Tuesday, January 17, 2012 at 7:00 p.m. in the Council Chambers at City Hall.

PRESENT: Mayor Anne P. Stedman, Mayor Pro Tem Bill Lutz, Council Members Wayne Dellinger, Mary Bess Lawing, Tom Rowe, Robert C. Abernethy, Jr., and Wes Weaver

STAFF: City Manager Todd Clark, City Attorney Larry Pitts, City Clerk Amy S. Falowski, City Department Heads, and members of the Management Team.

ITEM 1: CALL TO ORDER – Mayor Anne P. Stedman:

Mayor Anne P. Stedman welcomed everyone, and called the meeting to order.

ITEM 2: OPENING – Council Member Mary Bess Lawing

Council Member Mary Bess Lawing provided the invocation and led the Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES FROM THE JANUARY 3, 2012 REGULAR CITY COUNCIL MEETING:

Upon motion duly made by Council Member Mary Bess Lawing, seconded by Council Member Robert C. Abernethy, Jr., it was unanimously RESOLVED:

That the Minutes of the January 3, 2011 Regular City Council Meeting be – APPROVED.

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS:

Upon motion duly made by Mayor Pro Tem Bill Lutz, seconded by Council Member Tom Rowe, it was unanimously RESOLVED:

That Consent Agenda be – APPROVED.

- A. Tax Releases – December
- B. Sewer Adjustments – January 2012
- C. Consideration of Rural Fire District Budget to be Submitted to County

- D. Acceptance of \$1,000 Grant to Newton Police Department from Target

ITEM 5: **COMMENTS FROM THE PUBLIC: (PERSONS WANTING TO MAKE A PUBLIC COMMENT ON NON-AGENDA ITEMS ARE REQUESTED TO SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING):**

Mayor Anne P. Stedman asked if there was anyone present that would like to make any comments concerning non-agenda items.

No one appeared.

ITEM 6: **Public Hearings:**

- A. Rezoning Application #2011-04 – Property located at 2223 Indian Trail

Planner Max Sigler stated that Albert Kennedy has submitted a Rezoning Application for property owned by Marvell Price located at 2223 Indian Trail and includes one parcel with the area of 2.85 acres located approximately 1400 feet to the southwest of the intersection of Indian Trail and Smyre Road. The requested rezoning would be from EM-1 (Exclusive Manufacturing District) to M-1 (General Manufacturing District). Mr. Sigler explained that the property is located within the Extra Territorial Jurisdiction of the City of Newton.

Mr. Sigler stated that the proposed request is consistent with the 2008 Southeast Area Plan's Future Land Use Map and that the property for which the applicant is applying for the rezoning is located within the Southeast Industrial District. He explained that the plan and the associated map document do not differentiate between the Exclusive and General Manufacturing Districts.

There will be minimal impact on the surrounding transportation network, and the site will utilize a well and septic system

Mr. Sigler stated that it is the Newton Planning Commission's recommendation that the Newton City Council approve the application as requested as the application was found to be in compliance with the intent and policies the Southeast Area Plan adopted by the City Council in 2008.

Mayor Stedman opened the Public Hearing, as scheduled and advertised, and asked if there was anyone present that would like to speak in favor of or against the proposed Rezoning Application.

Mr. Albert Kennedy stated that he would like to have this property re-zoned in order to operate a trucking facility and small garage there. He stated that he has looked at other sites and that this one is the right size for his operation. He stated that he would like to create jobs in this area, and that hopefully someday some kind of manufacturing facility would locate on the large adjoining parcel and his trucking company would be there, ready for them.

Ms. Nora Smyre stated that she owns 46 acres of adjoining farmland to the property. She stated that two years ago the County sent out information for farmland owners to participate in a voluntary agricultural district program, and that she should have joined at that time, but didn't. She stated that she would like to be able to join now so that she could tell potential businesses to the area about certain smells and other things associated with farming that the businesses would have to contend with. She stated that she is not against the trucking facility, but that she just wanted them to know that there would be farmland surrounding them. Ms. Smyre said that she was told by Mary George, planner for Catawba County, that the City of Newton would have to implement their own agricultural district program, and that the city was aware of this.

Mayor Stedman asked if there was anyone else that would like to speak. No one appeared and Mayor Stedman CLOSED the Public Hearing.

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

That Rezoning Application #2011-04 – Property located at 2223 Indian Trail be – APPROVED.

B. Rezoning Application #2011-05 – Property located at 100 SW Blvd.

Assistant Planning Director Alex Fulbright stated that Catawba County submitted a Rezoning Application for property located at 100 Southwest Boulevard at the Southwest corner of the intersection of Southwest Boulevard and Radio Station Road. The requested rezoning would be from R-20 (Single Family Residential District) to a PD-O&I (Planned Development Office and Institutional District). Mr. Fulbright stated that the property is located within the City of Newton.

Mr. Fulbright explained that the 1988 Land Development Plan indicates the property as being residential. He stated that the current use is allowed as special use in the R-20 District and that the request is not a change of use, but changing the zoning to facilitate the development of the County's property without utilizing the special use permit process.

Mr. Fulbright stated that the site has been zoned R-20 Single family residential dating back to 1982. This campus is home to the Government Center, the Justice Center, the Sheriff's Department, Vehicle Facility Maintenance, childcare homes, and an animal shelter. The original special use permit was granted in 1977 and has been amended over the years to include some of the above uses, most recently the Charter Communications substation on Radio Station Road and an operation and maintenance facility for Western Piedmont Regional Transit Authority.

Mr. Fulbright stated that Southwest Boulevard is a major arterial and Radio Station Road is a collector street. He stated that city water, sewer, and electric are available to the site.

Mr. Fulbright stated that it is the Newton Planning Commission's recommendation that the Newton City Council approve the application as requested

Mayor Stedman opened the Public Hearing, as scheduled and advertised, and asked if there was anyone present that would like to speak in favor of or against the proposed Rezoning Application.

County Planner Mike Poston stated that the county would have two new projects in the near future which would be the animal shelter and the justice center expansion.

Mayor Stedman asked if there was anyone else that would like to speak. No one appeared and Mayor Stedman CLOSED the Public Hearing.

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

That Rezoning Application #2011-05 – Property located at 100 Southwest Boulevard be – APPROVED.

C. Zoning Ordinance Text Amendment #2011-05 – Temporary Signs

Assistant Planner Alex Fulbright stated that in early spring of 2011 the City Manager, at the request of then Mayor Robert Mullinax, asked the Planning Commission to study the existing ordinance as it relates to temporary signs located within public road right of ways.

Mr. Fulbright stated that the Planning Commission took the matter up at its June 2011 meeting. At that time they heard a report from then Planning Director Glenn Pattishall explaining the city's Ordinance and giving background to the Planning Commission as to the various portions of the City Code and other regulations enforced by the DOT with regard to signs in the public rights of way. Mr. Fulbright stated that the Planning Commission determined at that meeting to take no action to make any changes to the Zoning Ordinance.

Mr. Fulbright stated that at that time then Mayor Mullinax made an appeal to the Planning Commission at its August 2011 meeting to reconsider its position with regard to the temporary signs. At the subsequent September and October meetings, the Planning Commission took the matter up and determined at its October 25th meeting that it would not recommend any changes to the Zoning Ordinance with regard to temporary signs or signs in right of way.

Mr. Fulbright stated that as outlined in the September 22, 2011 memo to the Planning Commission the Mayor had requested that the Planning Commission consider an amendment to the Zoning Ordinance that would allow an unlimited number of on and off premise signs to be placed anywhere, including city property and street rights of way. This would include residential zoning districts. In addition, he requested that a time limit for temporary signs be set at seven days; however no permit would be required for these signs.

Mr. Fulbright stated that the proposed draft ordinance to be considered by the City Council was considered at the December 14, 2011 Planning Commission Meeting, wherein the Planning Commission voted unanimously to not recommend adoption of the proposed ordinance.

Mr. Fulbright explained that the Planning Commission indicated that their reasons for not recommending any changes are that there are prohibitions against signs in public rights of way on state maintained roads, that not requiring permits would make it difficult to enforce, and that allowing temporary signs anywhere would create a clutter issue throughout the city and diminish the aesthetic appeal of the city.

Mr. Fulbright stated that at its December 14, 2011 meeting the Planning Commission voted unanimously to recommend denial of the proposed Zoning Ordinance Text Amendment.

Mayor Stedman opened the Public Hearing, as scheduled and advertised, and asked if there was anyone present that would like to speak in favor of or against the Zoning Ordinance Text Amendment.

Mr. Robert A. Mullinax stated that the City Council previously voted to approve this Zoning Ordinance Text Amendment and that he would like to see the Council uphold their previous decision. He stated that he felt like the existing ordinance was hurting business in town, and he would like to help them and civic clubs like Kiwanis and any other group by letting them use temporary signs for advertising. He asked the City Council to please help these people.

Planning Commission Member Jim Granny stated that he was not asked to come to this meeting by the Planning Commission, that he was here on his own. He stated that the Planning Commission, after weighing the pros and cons, voted three times not to recommend this Zoning Ordinance Text Amendment to City Council. He stated that it would be too difficult to regulate these signs without permits on file. Mr. Granny stated that no business owners or anyone else showed up at the public hearing held by the Planning Commission to discuss this matter.

Mayor Stedman asked if there was anyone else that would like to speak. No one appeared and Mayor Stedman CLOSED the Public Hearing.

Council Member Tom Rowe stated that Civic Clubs can put up temporary signs as long as they pay \$50, which would be refunded to them once the signs were removed.

Council Member Wayne Dellinger stated that no matter the pros or cons, Council voted to pass this Zoning Ordinance Text Amendment at an earlier meeting and that nothing has changed.

Council Member Mary Bess Lawing stated that she had received telephone calls concerning business signs being placed everywhere. Council Member Wayne Dellinger stated that could happen at any time, and already happens now with a stronger ordinance in place and nothing is done about it.

City Manager Todd Clark stated that staff pulls signs up periodically as time and staffing allows, and asked Assistant Planning Director Alex Fulbright to comment. Mr. Fulbright stated that the furniture business signs that were being complained about were going up on Friday afternoon, and being pulled by Sunday afternoon. He also stated that this text amendment would have no impact on sandwich board signs.

Council Member Wayne Dellinger made a motion to APPROVE Zoning Ordinance Text Amendment #2011-05 – Temporary Signs, and Council Member Robert C. Abernethy, Jr. seconded the motion.

Mayor Pro Tem Bill Lutz stated that he appreciated the Planning Commission's review, and that although he did vote to approve previously, he had time to consider the matter since then. He stated that he did not want to see the city become unsightly with numerous signs everywhere. Mr. Lutz asked if the sign situation became out of control could City Council revisit this matter.

Council Members Robert C. Abernethy, Jr., and Wes Weaver agreed that if it becomes a problem the matter should be revisited.

Both Council Member Tom Rowe and Mayor Pro Tem Bill Lutz stated that they have re-thought this text amendment since it was voted on previously.

With Council Members Wayne Dellinger, Robert C. Abernethy, Jr., Bill Lutz, and Wes Weaver voting in favor of, and Council Members Tom Rowe and Mary Bess Lawing voting against – MOTION PASSED.

ITEM 7: New Business:

A. Closure of City Compost Facility

Wilce Martin, Director of Public Works and Utilities stated that the City of Newton obtained a permit from the State of North Carolina in 2008 to operate a Land Clearing and Inert Debris Landfill (LCID) on 65 acres of land on Boston Road. He stated that the cost to construct the landfill that was going to be built for the purpose of accepting debris generated by the city and contractors of the city was estimated at \$360,000.

Mr. Martin stated that over the next couple of years it was apparent that an LCID was not needed since it became clear that Catawba County would receive clean concrete and asphalt for free at the County Landfill. Mr. Martin stated that around this time the City obtained a modified permit from the State in 2010 that would allow the City to dispose of leaves collected within Newton.

Mr. Martin stated that on December 1, 2011 a North Carolina Department of Environment and Natural Resources (DENR) inspector made a site visit to the compost facility and that as a result of this inspection, the City was cited for not having an approved erosion control plan or sufficient measures in place to prevent erosion. The corrective measures required by the inspector were to complete an erosion control plan for the site by December 15, 2011 and install silt fencing around the entire two acre site at an estimated cost of \$1,120. Mr. Martin explained that the city would also have to construct an all-weather access road for fire protection at an estimated cost of \$22,970. He stated that while construction of a silt pond is not presently required, the staff believes this may be a requirement at a later time. Mr. Martin stated that in consideration of these requirements, the city staff contacted DENR to request an extension of time for the purpose of determining whether or not the city wanted to continue the compost

operation. DENR agreed to an extension of time to allow the staff to review this matter and discuss it with City Council.

Mr. Martin stated that the current expense of building an all-weather road and installing silt fencing is estimated to cost \$24,090 which is not included within the current budget. With the continued new requirements that are being issued by the Federal Government, he said that staff believes that it is just a matter of time before the city will be required to install a silt pond estimated at a cost of \$35,000, and to also perform testing on the silt pond overflow at an underdetermined cost. The cost of testing is presumed to be costly, since the samples will have to be sent out to a commercial laboratory.

Mr. Martin recommended that the City Council authorize staff to proceed with closure of the City Compost Facility because staff does not believe the current and future cost of maintaining the landfill is worth the benefit of using the site only for the disposal of leaves. The estimated cost to haul leaves and mulch to the County Landfill is approximately \$9,000 per year. This includes the cost for fuel and tipping fees.

Council Member Wayne Dellinger stated that he believes it is worth keeping it open for a few years, that it would be worth spending the \$24,000 as opposed to paying tipping fees, fuel and salaries required to use the County Landfill.

Council Member Mary Bess Lawing agreed with Council Member Dellinger. Council Member Wes Weaver asked if the facility could be moved to another location and Mr. Martin answered that it could not be moved, as there was nowhere to move it.

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

To Complete a Soil Erosion Plan, Construct an All-Weather Access Road, and Install Silt Fencing at an Estimated Cost of \$24,090 – in Order to Comply with the Results of a North Carolina Department of Environment and Natural Resources (DENR) Inspection to Keep the City Compost Facility Operational.

ITEM 8: City Manager's Report:

- January 25-26, 2012 Mayor Stedman, Council Member Wes Weaver and City Manager Todd Clark will attend Essentials of Municipal Government in Asheville, NC
- Teen Leadership Newton will begin late February – early March
- Unity Day – April 28, 2012
- Water/Sewer Rate Study by McGill complete within 60 days
- Burris Road Pump Station complete by end of February
- Red Flag Renovations in the Finance are underway
- Staff is currently working on CIP
- iPads are now available for Council and a training session will be held at 6:30 before the next Council Meeting
- The Planning Workshop will be held February 15, 16, and 17, 2012

ITEM 9: Questions and Comments from Mayor and Council:

There were none.

ITEM 10: Adjournment:

There being no further business, upon motion duly made by Council Member Mary Bess Lawing, seconded by Council Member Robert C. Abernethy, Jr., it was unanimously RESOLVED:

That the meeting be ADJOURNED.

Anne P. Stedman, Mayor

Amy S. Falowski, City Clerk