

**MINUTES**  
**REGULAR MEETING OF THE NEWTON CITY COUNCIL**  
**February 21, 2012 – 7:00 P.M.**

The regular meeting of the Newton City Council was held on Tuesday, February 21, 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, including several Bandy's High School Students that were in attendance, and called the meeting to order.

**ITEM 2:      OPENING – Council Member Wes Weaver**

Council Member Wes Weaver provided the invocation and led the Pledge of Allegiance.

**ITEM 3:      APPROVAL OF MINUTES FROM THE JANUARY 17, 2012 REGULAR CITY COUNCIL MEETING**

Upon motion duly made by Council Member Mary Bess Lawing, seconded by Council Member Wes Weaver, it was unanimously RESOLVED:

That the Minutes of the January 17, 2012 Regular City Council Meeting be – APPROVED.

**ITEM 4:      CONSIDERATION OF CONSENT AGENDA ITEMS**

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

That Consent Agenda be – APPROVED.

- A.      Consideration of audit Contract for FY 2011-2012
- B.      Consideration of the City of Newton Annual Water Consumer Confidence Report for 2011
- C.      Consideration of the City of Newton Wastewater Treatment System Performance Annual Report for 2011

**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: Old Business**

- A. Budget Amendment to Appropriate General Fund Balance for the Purpose Of Constructing a Road for Fire Protection Purposes at the City Landfill On Boston Road

Wilce Martin, Director of Public Works and Utilities stated that in 2010 the City received a modified permit of the LCID permit from NCDENR for a compost facility which would allow the City to dispose of the leaves collected within the City limits of Newton. On December 1, 2011 a NCDENR inspector came to the compost facility for an official inspection. Mr. Martin explained that as a result of this inspection the City was cited for not having an approved erosion control plan per General Statute 113A-57(4) and insufficient erosion retention of sediments on the site per General Statute 113A-57(3).

Mr. Martin stated that the corrective measures required by the inspector were: to complete an erosion control plan for the site by December 15, 2011 which would be about 58 pages long; and install silt fencing around the entire two acre site for an estimated cost of \$1,120.00; In addition, an all-weather access road with an estimated cost of \$22,970.00 is required by Local and State fire regulations. Mr. Martin stated that DENR also explained that the need for a silt pond would be a decision made by the City Public Works and Utility Director. Mr. Martin stated that staff contacted DENR to request more time to decide if we wanted to continue the compost operations, and that DENR agreed to extend the time limit to allow staff to review this matter and bring it to the Council.

Mr. Martin stated that the City Council decided at their January 17, 2012 to keep the compost facility open and make the necessary upgrades as required by NCDENR. Mr. Martin explained that staff contacted the NCDENR staff to inform them of the Council's decision and NCDENR staff extended the deadline for the erosion control plan to February 15, 2012, and that staff will have the plan completed and mailed to NCDENR by that date. Once they review the plan they will visit the site for an inspection.

Mr. Martin explained to Council that the expense of building an all-weather road and installing silt fencing is estimated to cost \$24,090.00 which has not been budgeted in the current budget. In order to complete the compost facility upgrades as required by NCDENR staff recommends that the City Council approve the attached budget ordinance of \$24,090.

Mayor Anne Stedman asked if the Erosion Control Plan is complete. Mr. Martin stated that it is.

Upon motion duly made by Council Member Wes Weaver, seconded by Mayor Pro-Tem Bill Lutz, it was unanimously RESOLVED:

That Ordinance 2012-5 - Budget Amendment to Appropriate General Fund Balance for the Purpose of Constructing a Road for Fire Protection Purposes at the City Landfill On Boston Road be – ADOPTED.

(Ordinance 2012-5 is hereby referenced and on file in the office of the City Clerk)

**ORDINANCE 2012-5**

**AN ORDINANCE TO AMEND REVENUES AND EXPENDITURES FOR FISCAL YEAR 2011-2012 FOR THE CITY OF NEWTON.**

WHEREAS, the City Council of the City of Newton have adopted a Budget Ordinance for fiscal year beginning July 1, 2011, and ending June 30, 2012, in accordance with the General Statutes of the State of North Carolina, and

WHEREAS, on December 1, 2011 an official inspection by NC DENR was conducted at the City compost site. NC DENR noted insufficient erosion retention of sediments on the site. Corrective measures require the City to install silt fencing around the entire compost site. In addition, an all-weather access road is required by local and State fire regulations. On January 17, 2012 City Council approved the installation of the silt fencing and an all-weather access road; and

WHEREAS, the City Council desires to utilize fund balance and authorize the related expenditure appropriation within the operating budget.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON, NORTH CAROLINA, THAT:

THE FOLLOWING SOURCE OF REVENUE AND APPROPRIATION ARE HEREBY APPROVED.

Section 1

General Fund Revenues

Fund Balance Appropriated	11.0000.3990	\$24,150
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Section 2

General Fund Appropriations

Capital Outlay – Other	11.4252.8990	\$24,150
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Adopted this 21<sup>st</sup> day of February, 2012.

**ITEM 7:      New Business**

- A.      Consideration of Amendment to Special Use Permit 85-1

Assistant City Planner, Alex Fulbright stated that Wilce Martin, Public Works and Utilities Director on behalf of City of Newton Water Treatment Plant, has submitted a letter requesting an amendment to the special use permit which was obtained in 1985 to operate a water treatment plant at 1782 West NC 10 Highway. Mr. Martin stated that he wishes to have the row of white pines that were planted in front of the water plant along NC 10 removed. The white pines were a requirement of the special use permit to serve as a buffer between the plant and the residential properties on the south side of the NC 10 on the property known as Catawba County Tax Map # 3639-09-27-2483.

Mr. Fulbright stated that the removal of the white pines, which were a required buffer, would be considered a substantial change per City Code. Mr. Fulbright explained that Section 102-467 subsection (b)(5) states that substantial change in the amount or location of open space, recreation facilities or landscape screens shall constitute a modification requiring Council action.

Mr. Fulbright direct Council's attention to an aerial map of the water treatment plant showing the location of the white pine screening. He pointed out that a number of trees from the original planting has been removed because of storm damage. Mr. Fulbright stated that Mr. Martin is requesting the removal of the trees that are left to increase the visibility of plant both from the plant itself and from NC 10 for security purposes.

Mr. Fulbright stated that the options which the Council has before it to consider are: (1) denying the request; (2) approve the request as presented; (3) any other requirements which Council may feel necessary for aesthetic, safety or operational purposes. Mr. Fulbright stated that the City Council may hold a public hearing if they feel there is a need to do so prior to consideration.

Council Member Mary Bess Lawing asked if the reason for the tree removal would be for better visibility. Mr. Fulbright stated that it would be for safety and visibility.

Wilce Martin, Public Works and Utilities Director, stated that a buffer for the facility was no longer needed and that no complaints have been received by the city concerning the view of the water treatment plant. City Manager Todd Clark stated that the trees had either been become diseased, or had been taken down by the weather.

Council Member Tom Rowe stated that two trees on the west side of the water treatment plant should come down also, as they are dead or close to it.

Mayor Stedman asked if the Tree Board had been notified of this issue. Mr. Rowe stated that the Tree Board voted unanimously to remove the trees and not to replace the buffer.

Upon motion duly made by Council Member Tom Rowe, seconded by Council Member Mary Bess Lawing, it was unanimously RESOLVED:

That Special Use Permit 85-1be –AMENDED in Order to Remove the Tree Buffer at the Water Treatment Plant and Also the Two Trees to the West of the Water Treatment Plant.

B. Consideration of SAFER Grant Application

Fire Chief Kevin Yoder stated that the Fire Department is asking City Council to consider submitting an application for the FY 2011 SAFER (Staffing for Adequate Fire and Emergency Response) for additional personnel within the Fire Department. He stated that the Fire Department has previously applied to the Federal Government through the SAFER Grant for funding for additional personnel for firefighting purposes since its inception each of the last six years excluding FY 2010.

Chief Yoder explained that previously this grant was a five year grant with a local match each of the first four years with the local unit committing to 100% of the funding in the fifth and final year. Following the adoption of the ARRA legislation this grant (SAFER) was modified to a three year grant with no local match each of the first two years. The local unit of government would however have to commit to 100% funding during the third and final year. Chief Yoder further stated that for FY 2011, the grant was modified to 100% funding for two years with no required match after the two year period and that if awarded, the local unit would have the authority to eliminate the personnel in the third year following award with no penalty. Chief Yoder stated that if the positions were eliminated after the two years the City would be responsible for approximately \$67,500 for unemployment compensation.

Chief Yoder stated that in order to meet NFP 17-10 requirements, nine firefighters would need to be hired.

Council Member Robert Abernethy stated that the amounts for year one and year two totaled \$404,159 for nine firefighters. Chief Yoder said that is correct. Council Member Abernethy stated that he was concerned that in that third year the City would then have half a million dollars in nine new positions. He stated that historically the City does not lay off personnel from the Fire Department.

Council Member Wes Weaver asked if there was any chance that the grant could be extended after the two years were up. Chief Yoder stated that they would certainly be checking on that possibility as the time grew close.

Council Member Wayne Dellinger stated that he felt like three would be a more suitable number to request than nine.

Council Member Bill Lutz stated that just because this is a grant does not mean that it is a free program

Chief Yoder stated that fewer personnel could be requested in the grant request, but the chances would be decreased that the City would receive the grant. Council Member Lutz stated that he felt like the City already has a need for a new Fire Station 1.

Council Member Wes Weaver asked if some part-time firefighters could be laid off now to help offset the cost and Chief Yoder explained that during the two year grant period the local unit can have no reduction in force in the fire department without forfeiting part or all of the grant.

Mayor Stedman asked Council for a motion on the consideration of the grant request.

Council Member Tom Rowe made a motion to apply for the FY 2011 SAFER (Staffing for Adequate Fire and Emergency Response) for three positions; motion was seconded by Council

Member Wes Weaver, with Council Member Robert C. Abernethy, Jr. voting in opposition - MOTION CARRIED.

C. Consideration of Intent to Apply for Grant/Loan Assistance for the Snow Creek Sewer Rehabilitation Project

Wilce Martin, Director of Public Works and Utilities stated that at this time, the Federal Clean Water Act Amendments of 1987 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid units of government in financing the cost of construction of various eligible water and sewer projects. Mr. Martin stated that the City of Newton has a need to rehabilitate an existing sanitary sewer gravity main project known as Snow Creek Outfall.

Mr. Martin explained that to obtain funding either from a grant or loan through the North Carolina Construction Grants and Loans Section of the NC Department of Environment and Natural Resources (DENR) municipalities have to submit the an application packet to be considered for a grant or loan. Also with the application a resolution is required to be adopted by the Council to begin this process.

Mr. Martin stated that once the City's application has been reviewed and a grant or loan has been approved the City will be informed of any required financial match. He explained that if the Council approves the resolution, the City will not be obligated in the future to accept any loan or grant. However, if awarded the Council can choose to accept, or not accept, the grant or loan.

Mr. Martin stated that the Snow Creek Sewer Rehabilitation Project is a four phase project to reduce the annual borrowing costs. He stated that Phase I of these projects will be completed in fiscal year 2012. If a grant or loan can be obtained the City may be able to fund some or all of the remaining phases in 2013.

Mr. Martin stated that the remaining three phases of the project are estimated to cost about \$1,069,000. Even with a 60% grant it would fund \$641,400 of the remaining phase costs which would be \$641,400 less that the City would have to finance. A loan from the North Carolina Construction Grants and Loans Section has an interest rate of 2.45% for \$1,000,000 at this time and is reevaluated on March 31 of each year at one-half the 20-year bond Buyer's index.

Mr. recommended that the City Council adopt the Resolution of Intent to Apply for Grant or Loan Assistance and authorize the Mayor to sign the resolution.

City Manager Todd Clark stated that construction grants and loans allow cities to be considered but does not obligate them, just allows them to submit.

Council Member Robert C. Abernethy, Jr. asked if staff has searched out other programs. Mr. Martin replied yes. Council Member Abernethy stated that the city is not obligated and Mr. Martin stated that the city is not obligated.

Council Member Mary Bess Lawing stated that she felt like the City had nothing to lose by applying.

Council Member Bill Lutz stated that the Snow Creek Sewer Rehabilitation Project was part of the CIP, and Mr. Martin stated that it is.

Upon motion duly made by Council Member Mary Bess Lawing, seconded by Council Member Tom Rowe, it was unanimously RESOLVED:

That Intent to Apply for Grant/Loan Assistance for the Snow Creek Sewer Rehabilitation Project be – APPROVED.

**ITEM 8: City Manager's Report**

- Burris Road Pump Station projected completion May 1<sup>st</sup>

Council Member Robert C. Abernethy, Jr. asked if the sewer line would also be replaced. Mr. Martin answered that yes, it would. Mr. Abernethy asked how far, and Mr. Martin stated from the force main to Mt. Olive Church Road. Mr. Abernethy expressed concern about some standing water at the location, and Mr. Martin stated that staff is aware as is the contractor and that there would be better grading at the completion of the project.

- Mr. Clark asked Mr. Martin to talk about a water line break from the previous weekend. Mr. Martin stated that the break was under Hwy 16 and was in a 6" pipe. He said that the repair was a \$24,000 unexpected repair.
- Teen Leadership begins February 22, 2012

**ITEM 9: Questions and Comments from Mayor and Council**

There were none.

**ITEM 10: Closed Session to Consult with the City Attorney – G.S. 143-318-11(a)(3)**

A motion was made by Mayor Pro Tem Bill Lutz, seconded by Council Member Wes Weaver and unanimously approved to enter Closed Session to consult with the City Attorney per G.S. 143-318-11(a)(3).

**ITEM 11: Adjournment:**

There being no further business, the meeting was RECESSED until 5:30 p.m., March 6, 2012

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Anne P. Stedman, Mayor

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Amy S. Falowski, City Clerk