

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

March 5, 2013 – 7:00 P.M.

The regular meeting of the Newton City Council was held on Tuesday, March 5, 2013 at 7:00 p.m. in the Council Chambers at City Hall.

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

STAFF: City Manager Todd Clark, Assistant City Manager Sean Hovis, City Attorney John Cilley, Public Information Officer Julie Chang, City Department Heads and members of the management team

ABSENT: City Clerk Amy S. Falowski

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

Mayor Anne P. Stedman welcomed every one and called the meeting to order.

ITEM 2: OPENING – Council Member Wayne Dellinger

Council Member Wayne Dellinger led the Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES FROM THE February 19, 2013 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 Regular Minutes of the February 19, 2013 City Council Meeting be – APPROVED.

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS

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

That Consent Agenda be – APPROVED.

- A. Tax Releases – January 2013
- B. Consideration of Resolution – Certificate of Achievement Newton-Conover High School Men’s Wrestling Team State 2A Dual-Team Champions

C. Consideration of Assistant City Manager Sean Hovis for Appointment as Alternate Member of the Western Piedmont Regional Transit Authority Board of Directors

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

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 invited Mr. Bill Hodge of 1772 Whitehall Court, who signed-in for a public comment, to speak before the Council.

Mr. Hodge stated he represented an ad hoc committee formed weeks ago regarding a zoning ordinance violation in the Nottingham residential neighborhood. He thanked city staff for their help in enforcing the zoning ordinance. Mr. Hodge did not specify what the zoning violation was or how the issue was resolved.

Mr. Hodge stated if the violator attempts to circumvent the ordinance, the committee is standing ready. Mr. Hodge said he has a petition with 96 signatures of people who are opposed to the zoning violation. He stated he hoped the issue had been put to rest and thanked the city again for doing what it is supposed to.

Mayor Stedman invited Ms. Judy Fisher of 804 East 19th Street to speak before the Council.

Ms. Fisher stated she had already spoken to Mayor Stedman and Assistant Planning Director Alex Fulbright about the matter she was about to speak on. Ms. Fisher said the house next to hers was auctioned off on November 10, 2012. As a result of the auction, the ground along her fence was torn up, Ms. Fisher said.

Ms. Fisher asked if the city could do anything to remedy the situation. She stated in the past if the city's property was torn up, she would take care of it, so if someone tears up her ground why can't the city fix it.

Mayor Stedman stated the city's policy is to not maintain private property. A right-of-way gives the city access, but it's not up to the city to maintain the property.

City Manager Todd Clark asked Ms. Fisher if she was talking about the grassy area beyond the curb in her yard. Ms. Fisher said yes. Mr. Clark said the city maintains the right-of-way to maintain the street, but does not provide for maintenance of the lawn.

Ms. Fisher stated the affected area is not on her lawn, but is part of the city's property. She said there was a vehicular wreck the same day of the auction resulting in a one-lane road, which contributed to tearing up the property.

Mr. Clark stated he was not familiar with the situation. He told the Council he would work with Ms. Fisher with the Council's permission.

Council Member Robert C. Abernethy, Jr. asked Ms. Fisher if she had spoken to her new neighbor about the damaged property. Ms. Fisher stated she had not as the property owner does not appear to reside at the house. She said he brings "junk" into the house and already held one auction. Ms. Fisher said she is concerned he will hold another auction.

Council Member Abernethy stated if he was in the same situation as Ms. Fisher he would try to talk to his neighbor. He suggested leaving a note on the neighbor's door indicating Ms. Fisher's concerns. Ms. Fisher stated the neighbor is never there except to bring junk in the house.

Council Member Tom Rowe asked Ms. Fisher if she believed the neighbor would hold another auction. Ms. Fisher stated she did not know but he keeps bringing items. He recently unloaded three Penske truckloads of items, Ms. Fisher said.

Mayor Stedman stated Mr. Fulbright had spoken to with Ms. Fisher and her neighbor. Mr. Fulbright told the neighbor if he held another auction it would be considered a commercial enterprise and would not be allowed, Mayor Stedman said.

Ms. Fisher stated she is too old to shovel dirt and plant grass on property that is not hers. She stated the auction was under handed and was advertised through flyers at the flea market. Ms. Fisher said right before the auction, the neighbors placed a small sign in their yard advertising the auction.

Council Member Rowe asked Ms. Dorothy Gantt if she has a chain-link fence and if there was a ditch in front of her property. Ms. Gantt said she lives on the other side of the property that was auctioned off. She stated her fence is 8 feet from the road and the ditch in front had been filled in.

Ms. Gantt stated she believed the property owner would start holding yard sales due to the amount of stuff he was hauling in. She suggested the city erect no parking signs to discourage the yard sales. She asked if designating that area as no parking could be done. Mayor Stedman said she did not know but Ms. Gantt could discuss the matter with the City Manager.

Council Member Wayne Dellinger said people ignore no parking signs for yard sales. Ms. Gantt said the city could have police officers enforce the no parking area, and if the signs were up neighbors could call the police about a violation.

Ms. Gantt stated Bassett Furniture is located behind her home and asked if her property could be rezoned from industrial to residential. Doing so would increase the value of her property. Council Member Dellinger asked if the properties across from Ms. Fisher and Ms. Gantt were zoned residential. Ms. Fisher and Ms. Gantt said yes. Ms. Gantt said one side of the street is zoned industrial while the other side is zoned residential. Ms. Fisher said many of the street's

residents are up in their years and if their homes were to burn down, they would lose everything as they could not rebuild on their property.

Mayor Stedman asked Appearance Commission member Collette Touchette if she wanted to comment on yard sales. Ms. Touchette said the Appearance Commission is working on an ordinance concerning yard sales. Council Member Abernethy said that would have to be approved by the City Council.

Ms. Fisher said the property owner claims he will live at the house but hasn't moved in yet. Council Member Abernethy said as far as the yard is concerned, Ms. Fisher should speak with her neighbor. Ms. Fisher stated the property owner looks at the ground as he walks to the house and she would have to flag him down.

Ms. Gantt said the neighborhood is upset about the issues with the new property owner, and that the neighborhood had been upset with Bassett for many years.

Council Member Dellinger said the Ms. Fisher and Ms. Gantt need to meet with the City Manager and let him help them. Mr. Clark asked Ms. Fisher to give her contact information to Assistant City Manager Sean Hovis.

Mayor Stedman asked if anyone else would like to speak. No one came forward.

ITEM 6: Old Business

A. Consideration of Financing Bid and Adopting Resolution Approving Financing Terms

City Manager Todd Clark stated the City Council would be considering bids for financing for three infrastructure improvement projects that the Council has had conversations about. The projects had been approved as part of the FY 2012-2013 budget ordinance. Mr. Clark stated of the six financial institutions solicited, only one provided a quote.

The bids were as follows:

<u>Financial Institution</u>	<u>Interest Rate</u>
15 Year Amortization	
BB&T Governmental Finance	2.58%

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

That the bid to provide financing for infrastructure improvements be awarded to BB&T Governmental Finance for an amount not to exceed \$1,414,975 at stated interest rate of 2.58% for 15 years be – APPROVED.

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

That Resolution 6-2013 Approving Financing Terms be – APPROVED.

ITEM 7: **New Business**

A. DNDA Quarterly Report – Melinda Travis

Downtown Newton Development Association Chairperson Melinda Travis said one of the DNDA's goals was to fill its vacancies, and there is only one vacancy left to fill. Ms. Travis said seven people attended the Main Street Conference in January and heard some refreshing ideas. Ms. Travis said the DNDA has discussed teaming up with the Business Advisory Committee and Appearance Commission to build relationships and share the work on similar goals.

Ms. Travis said the DNDA held its annual planning meeting on February 21 and identified its top five priorities for 2013. They are study adding new planters to downtown, prepare and print brochures for downtown, create a new website for DNDA, combine resources with other committees and commissions and develop a comprehensive plan for marketing downtown Newton.

Ms. Travis said a façade grant application from Carolina Vines was approved based on its new awning.

Mayor Anne Stedman thanked Ms. Travis for the report.

B. Consideration of Budget Ordinance for CDBG Rehabilitation and Program Income

City Manager Todd Clark stated the Council may recall the City of Newton had administered funds for a Community Development Block Grant through Western Piedmont Council of Governments. The CDBG-R program provided assistance to low income eligible participants. WPCOG identified the recipients and the City released the funds at WPCOG's discretion, Mr. Clark said. There is \$2,750 left in the program's budget.

Mr. Clark stated WPCOG contacted the City on January 3 about a citizen, Shirley Lindley of 912 North Davis Avenue, who has a rotten floor that needs to be repaired. CDBG-R fund uses are limited, Mr. Clark said, but this type of repair is eligible and would cost about \$1,000.

If the recipient sells or refinances the property, the CDBG money would revert back to the City to use for a similar purpose, Mr. Clark said. He further stated the budget ordinance up for the Council's consideration includes the total \$2,750 to reflect the amount in the special revenue fund.

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

That Ordinance 2013-9, an ordinance to amend revenues and expenditures for Fiscal Year 2012-2013 for the City of Newton, be – ADOPTED.

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

ORDINANCE 2013-9
AN ORDINANCE TO AMEND REVENUES AND EXPENDITURES FOR FISCAL YEAR 2012-2013 FOR THE CITY OF NEWTON

WHEREAS, on January 3, 2013, the Western Piedmont Council of Governments (WPCOG) notified the City of a citizen, Shirley Lindley of 912 North Davis Avenue, with an emergency repair. Ms. Lindley’s gas hot water heater is sitting on a floor that has become weak with existing holes in the floor surrounding the gas water heater. This creates a very unsafe environment for Ms. Lindley and adjacent properties in the event that the floor is no longer able to support the gas hot water heater.

WHEREAS, there would be a need to temporary remove the existing gas hot water heater while the existing floor is repaired. Once repaired the gas hot water heater would be reinstalled. The total cost of this project is \$1,000, and

WHEREAS, the WPCOG has determined that Ms. Lindley meets the CDBG eligibility requirements and the specified repairs comply as an eligible project through CDBG. The City wishes to utilize Community Development Block Grant (CDBG) program income to fund this project. This program income originated from CDBG-R (Foreclosure Prevention) funds. The City maintained a deed of trust for the amount of the CDBG-R assistance on respective properties as part of the CDBG-R Program requirements. In the event that the property is sold or refinanced, the CDBG-R grant assistance amount reverts back to the City. These CDBG funds provide a double benefit for citizens, and

WHEREAS, the City would like to recognize CDBG Program Revenues received.

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

Special Revenue Fund

CDBG Program Revenue	41.4910.3471	\$2,750
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Section 2

Special Revenue Fund

CDBG Rehabilitation	41.4910.7992	\$2,750
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Adopted this 5th day of March, 2013

C. Consideration to Approve a Municipal Agreement with NCDOT for Improvements within the City

City Manager Todd Clark said the North Carolina Department of Transportation over the course of the next 12 months will engage in a bridge replace project on Old Conover Startown Road. The City is not involved in the State's project but has been asked to adopt an agreement for the improvements.

Mr. Clark stated city staff is not aware of any utilities it needs to move in that area, but if any are recognized, then the city would incur the cost of moving the utilities.

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

That the municipal agreement between NCDOT and the City of Newton regarding the transportation improvement project on Old Conover Startown Road and authorizing the mayor to sign the agreement be – APPROVED.

D. Consideration to Adopt the Revised Renewable Energy Certificates (REC) Fee

City Manager Todd Clark stated the in 2007, the North Carolina General Assembly passed Session Law 2007-397 (Senate Bill 3), making North Carolina the first state in the Southeast to adopt a Renewable Energy and Energy Efficiency Portfolio Standard.

Mr. Clark said the law requires investor-owned utilities to meet up to 12.5% of their energy needs through renewable energy resources or energy efficient measures. Rural electric cooperatives and municipal electric suppliers are subject to a 10% REPS requirement. In 2008, the NC Commission issued an Order Adopting Final Rules implementing Senate Bill 3.

Mr. Clark stated ElectriCities determined in 2008 to compensate anyone who utilized Renewable Energy Certificates at \$40/kw. ElectriCities is now changing the REC rate to \$10/kw effective February 1, 2013. Mr. Clark said the City needs to revise its schedule of fees to reflect the change.

Mr. Clark stated that presently no one is putting anything out on the City's grid. If someone applies for a renewable energy interconnect, the city would give a credit of \$10/kw on their bill. The City would then submit a request for credit from ElectriCities.

Council Member Robert C. Abernethy, Jr. asked if someone was on the grid prior to May 31, 2013, would that person be grandfathered into the \$40/kw rate. Public Works and Utilities Director Wilce Martin said the effective date of the rate change is February 1, 2013.

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

That the revised REC fee of \$10/kw and immediate effectiveness be –
ADOPTED.

E. Consideration to Adopt the Revised City Sewer Use Ordinance

City Manager Todd Clark stated the State of North Carolina Environmental Management Commission revised the Pretreatment Rules NCAC 15A 02H .0900 in 2011 to be effective as of April 1, 2011. The governing body for each Public Owned Treatment Works was given time to revise and adopt the changes into their Sewer Use Ordinance and submit a copy to NCDENR by December 31, 2012. The City Council adopted those changes on November 6, 2012.

Mr. Clark stated NCDENR proposed more changes, which the Environmental Management Commission reviewed and approved.

Upon motion duly made by Council Member Mary Bess Lawing, seconded by Mayor Pro Tem Bill Lutz, it was unanimously RESOLVED:

To authorize staff to include changes in the City Code of Ordinances and that the revised City of Newton Sewer Use Ordinance be – ADOPTED.

F. Consideration to Approve Certification of Municipal Declarations to Enact Speed Limits and Request for Concurring Ordinance by NCDOT

City Manager Todd Clark said NCDOT recently advised the City that the authorized speed limit on a portion of East 20th Street is contradictory to what is posted. The section is posted as 35 mph, which was the case when the City annexed the area, but NCDOT has the area at 45 mph.

Mr. Clark said NCDOT has asked the city to concur with 45 mph. He stated that Public Works and Utilities Director Wilce Martin and Newton Police Chief Don Brown reviewed the information and recommended concurring with NCDOT.

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

That an ordinance concurring with the NCDOT in reference to SR 1739 from point 0.29 mile northeast of SR 1746 to SR 2668 be – ADOPTED.

ITEM 8: City Manager's Report

City Manager Todd Clark stated Assistant City Manager Sean Hovis would provide some comments following up on the Council's planning workshop held in February.

Mr. Hovis stated he was distributing a preliminary study report prepared by workshop facilitator Mr. David Long. The document is in the draft stages, and a final working document is in the works to track the goals and make it visible to Council.

Mr. Hovis stated the report shows the four strategic ideas the Council identified at the workshop. City Staff will identify objectives and goals for each idea, some of which may be continuous. Each idea will have a worksheet and a key staff person will be assigned.

Mr. Clark stated all staff will be participating and giving reports along the way to get a full report to the Council so it could make informed decisions. Doing so affords the staff an opportunity to research the goals.

Council Member Mary Bess Lawing stated it was great to have a plan in place.

Mayor Anne Stedman stated she thought the process went well, and she received positive feedback from the council. She said she is looking forward to the coming year.

Mr. Clark stated Finance Director Serina Hinson would provide more information to the Council to follow up on some questions the Council had at the workshop about the City's indebtedness.

Ms. Hinson stated the Council had asked about the City's debt going back to 2009. Starting in 2009, the total debt for the general fund was around \$4.2 million. In 2010, that went down to slightly over \$4 million. In 2011, it was at \$3.8 million. In 2012, it went up again to \$4.3 million. And in 2013, it is at \$3.9 million.

Ms. Hinson stated if the proposed Capital Improvement Plan is approved, the debt would go up to \$7.2 million, mostly due to the new fire station. Council Member Wes Weaver asked if the \$2.95 million for the fire station covers only the structure. Ms. Hinson said it should cover everything, and the Fiscal Year 2013 budget has \$100,000 to help with engineering and planning.

Ms. Hinson stated debt in the water and wastewater funds dwindled from 2009 to 2011 then went back up. The largest increase was from 2011 to 2012 when the City did \$1.9 million in water and wastewater rehabilitation projects. The debt amount for those years were: \$11.2 million in 2009, \$9.5 million in 2010, \$7.8 million in 2011, \$10.2 million in 2012, \$11.6 million in 2013 and for 2014 it will go up to \$11.9 million.

Council Member Robert C. Abernethy, Jr. asked what the total revenue from water and wastewater is. Ms. Hinson said the amount varies depending on capital. Mr. Clark stated it was around \$8.8 million.

Ms. Hinson stated debt in the electric fund declined from 2009 to 2012. With debt going away, the amount should drop to \$6.1 million in 2014.

Ms. Hinson stated annual debt service in the general fund from 2009 to 2012 was consistent and increased slightly in 2013. For the new fire department, if the project is financed over 20 years, the first payment would be \$245,000.

Economic incentive payments to Target will decrease, Ms. Hinson stated, but won't go away completely. The net effect is a savings of about \$400,000 and the projected debt for the fire department is \$245,000.

Ms. Hinson stated debt service in water and wastewater went down from 2011 to 2013, but will go up in 2014 and stay constant to 2019. This debt does not include the proposed CIP for future years, Ms. Hinson said the electric fund's debt in 2016 could be a win-win with Electricities.

Mr. Clark stated the Council toured Technibilt last fall and were looking at amending an ordinance for the corridor. The Planning Commission discussed the issue in November and unanimously agreed the original overlay was sufficient and did not recommend any changes at this time, Mr. Clark said.

Council Member Wayne Dellinger asked if the issue was about Technibilt's sign. Mr. Clark said yes and noted Technibilt could put up a sign, but it has to be consistent.

Council Member Tom Rowe asked to review the ordinance again. Mayor Anne Stedman said all Technibilt wants to do is get the trucks to the business. Council Member Wayne Dellinger asked if the company could put up a bigger sign. Several people responded no.

Council Member Rowe asked how far back the sign must be. Mr. Clark said he believed it was 50 feet. Mr. Clark stated planning department staff will meet with Technibilt, who may consider renaming the street.

Council Member Wes Weaver stated it is not just Technibilt who wants a larger sign, the American Legion would too.

Council Member Robert C. Abernethy, Jr. stated he did not see how changing the name of the street would help. Mayor Stedman said the street is currently named P Street Extension but does not connect directly with P Street, resulting in drivers getting lost.

Mayor Stedman stated she believes the Council should help Technibilt resolve the problem. Council Member Mary Bess Lawing asked if the sign is at its maximum size. Mr. Clark stated yes and that it is a little larger.

Mayor Stedman suggested the Council Members read the Planning Commission's minutes. Council Member Rowe said he believes the issue needs further discussion. Mayor Pro Tem Bill Lutz said it's important the trucks get to the business.

Mr. Clark stated he would be happy to be part of the next Planning Commission meeting. Mayor Stedman stated she believes the Council has a desire to help Technibilt. Council Member Abernethy stated that it seems there is some disconnect between what the Planning Commission wants to do and what the Council would like to do. Mayor Stedman stated it would be helpful if a Council Member attended a Planning Commission meeting.

Mr. Clark stated some upcoming dates and events:

- March 27 – Town Hall Day in Raleigh
- Teen Leadership is traveling to Raleigh on March 7, will conduct industry tours March 14 and will deliver presentations to Council on March 19
- ElectriCities rate committee will meet March 6
- The annual Chili Cookoff is Friday, March 8 at Northside Fire Station
- The annual Easter Egg Hunt is March 24
- Council Member Mary Bess Lawing and Mr. Clark will attend the WPCOG meeting
- Unity Day is May 18 and the award nomination deadline is March 22

ITEM 9: Questions and Comments from Mayor and Council

Council Member Robert C. Abernethy, Jr. asked if tax reform would be discussed on the trip to Raleigh. Mr. Clark said yes. Mayor Anne Stedman stated Town Hall Day is an opportunity for the Council to bring as many members as it can to Raleigh to talk to legislators. Mr. Clark asked the Council to let him know if they could go on the trip.

CLOSED SESSION to Consult with Attorney – G.S. 143-318-11(a)(5)

Upon motion duly made by Council Member Tom Rowe, seconded by Council Member Mary Bess Lawing, it was unanimously RESOLVED: that the City Council enters CLOSED SESSION per G.S. 143-318-11(a)(5).

Upon motion duly made by Council Member Tom Rowe, seconded by Council Member Wes Weaver, it was unanimously RESOLVED: that the City Council return to REGULAR SESSION.

There being no further business, the meeting – RECESSED until 6:00 p.m., Tuesday, March 19, 2013 for the Capital Improvement Plan Workshop.

Anne P. Stedman, Mayor

Amy S. Falowski, City Clerk

