

MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL

November 6, 2012 – 7:00 P.M.

The regular meeting of the Newton City Council was held on Tuesday, November 6, 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 Mary Bess Lawing, Tom Rowe, Robert C. Abernethy, Jr., Wayne Dellinger and Wes Weaver

STAFF: City Manager Todd Clark, City Clerk Amy S. Falowski, City Attorney Larry Pitts, 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 Tom Rowe

Mayor Pro Tem Bill Lutz provided the invocation and led the Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES FROM THE October 2, 2012 REGULAR CITY COUNCIL MEETING

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

That the Minutes of the October 16, 2012 Regular City Council Meeting be – APPROVED

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS

Mayor Stedman stated that a request has been made to remove Item 4E from the Consent Agenda.

It was unanimously RESOLVED:

That Request to Remove Item 4E – Consideration of Budget Amendment to Appropriate Fund Balance for, and Associated with Southside Park Paving Project from Consent Agenda be – APPROVED

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

That Consent Agenda be – APPROVED

- A. Sewer Adjustments
- B. Tax Releases – September 2012
- C. Tax Refund – October 2012
- D. Consideration of Commission/Committee Membership Appointments – Newton Depot Authority
- E. REMOVED – Placed Under New Business

(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 asked if there was anyone present that would like to make any comments concerning non-agenda items.

Reverend Fitzpatrick, of Holy Cross Lutheran Church expressed his condolences for the recent passing of Council Member Wayne Dellinger’s Mother. Reverend Fitzpatrick also stated that at this election time, he would like to remind City Council that the money the city spends is money paid by tax payers; therefore they are all employees of the citizens. He stated that he feels the City Council does a good job and he thanked them.

ITEM 6: **New Business**

- A. Presentation of Awards from ElectriCities

Public Works and Utilities Director Wilce Martin stated that The Municipal Electric Safety Award is being presented by Tim Tunis and Matt Shaer, representatives of ElectriCities in recognition of the City of Newton Electric Division for having no lost-time injuries while performing electrical system operations during the entire 2011 calendar year.

Mr. Martin explained that working around electricity, especially high voltage lines and equipment can be dangerous and any accident involving electricity is potentially life-threatening. This award acknowledges that the City of Newton City Council and Staff are extremely safety conscious, and both are committed to following safety policies and procedures.

Mr. Martin stated that under the direction of Electric Distribution Manager Doug Wesson and Supervisor Mike Kiziah, electric employees maintain 125 miles of distribution lines, 11 peak-shaving generators, and read 4,900 electric meters and 6,000 water meters every month. He stated that members of the electric crew have approximately 125 years of combined experience in electric distribution and that members include: Doug Wesson, Mike Kiziah, Jeff Cochrane, Harold Duckworth, Russell Smith, Tim Dumire, Harold Preswood, Matt Kroger, Steve Speagle, Donald Cannon, Brad Tompkins, and Alex Ikerd.

Mr. Martin stated that the employees in this division should be commended for their successful efforts in providing these and other services in a safe and efficient manner.

Mr. Martin stated that other awards being presented are the Public Power Awards of Excellence which are given annually to those ElectriCities Member Agencies that achieve excellence in various areas. The City of Newton has been given awards of excellence for the following categories: Financial Stability, Energy Efficiency, Legislative Involvement and Competitive Business Environment.

All awards were presented by Mr. Tunis and Mr. Shaer.

Mayor Stedman thanked the Electric Department, and all City Departments mentioned, for their hard work.

B. DNDA 3rd Quarter Report

Mr. Jeremy Petty, Chairman of DNDA, thanked Mr. Tunis and Mr. Shear of ElectriCities, before they left the meeting, for ElectriCities' help with the Phostell's project.

Mr. Petty gave the 3rd Quarter Report of the DNDA. He announced that Melinda Travis would be the new Chairperson of the organization.

Mr. Petty announced that the Phostell's Project is complete, and would be added to the Downtown Historic District. Council Member Mary Bess Lawing asked if the new windows were state approved. Mr. Petty stated that they were, and that they were the original windows that were restored.

Mr. Petty also stated that the DNDA was still trying to persuade the owner of the State Theater to apply for a façade grant.

Mayor Stedman thanked Mr. Petty for all his hard work as Chairman.

C. Consideration of Business Advisory Committee's Recommendation to Adopt Commercial Business Incentive Plan

City Manager Todd Clark stated that the City Council established the Business Advisory Committee in 2011 to implement the strategies contained in the economic development study entitled "Retail, Downtown and Residential Development Report" and to recommend new strategies to promote economic development within the City. He explained that during late 2011 and the first half of 2012, the Business Advisory Committee studied incentive plans adopted by other North Carolina cities and drafted a business incentives policy for the City of Newton. Mr. Clark stated that the proposed plan has been reviewed by City Staff, and that recommended changes have been incorporated into the proposed Incentives Policy and approved by the Business Advisory Committee.

Mr. John Stiver, Chairman of the Business Advisory Committee explained that The Commercial and Small Business Economic Development Incentives Policy, as recommended by the Business Advisory Committee, applies to the entire city limits of Newton with special incentives

applicable to the downtown district. He further explained that the incentive policy is general in nature, is available to most commercial development and small business expansions, and requires the approval of Newton City Council for each incentive grant application. Mr. Stiver stated that incentive payments would be on a reimbursement basis, after the project is complete and after all property taxes due to the City and County are paid, and that the amount of the incentive grant is limited so that it will not exceed the net new tax revenue brought to the City from the subject project. Mr. Stiver explained that the term of the incentive payments is limited to three years after completion of the project, and that the incentive policy requires the applicant to agree to a performance contract before any grant award is made. The performance contract will be approved by Council along with the incentive application. Mr. Stiver stated that the proposed Incentives Policy will not restrict Newton City Council from adopting other incentive policies or granting other incentives not addressed in the Commercial and Small Business Economic Development Incentives Policy.

It is recommended that Council approve the City of Newton Commercial and Small Business Economic Development Incentives Policy as recommended by the Business Advisory Committee.

Council Member Wayne Dellinger asked if the amount was based on the tax value before or after the improvements. Mr. Stiver explained that after all property taxes due to the City and County are paid, that the amount of the incentive grant is limited so that it will not exceed the net new tax revenue brought to the City from the subject project. Council Member Dellinger stated that is a better deal than businesses had been getting. Mr. Stiver stated that every little bit counts.

Council Member Robert C. Abernethy, Jr. asked if this incentive program was in line with others in the region so as to make the City competitive. He stated that he doesn't necessarily agree with an incentive plan, but understands that it is needed. Mr. Abernethy stated that this looks like a three year plan and that others he is familiar with are five to seven years. Mr. Stiver stated that this is a working document and that it will evolve through experience.

Council Member Tom Rowe asked if other towns in the area have similar plans. Mr. Stiver stated that Hickory has many, but they are limited to certain areas. Mr. Stiver stated that Newton needs this to try to be competitive.

Mayor Stedman asked if the projects would come before Council for approval, Mr. Stiver stated that they would go before Staff and City Council.

Mayor Stedman asked if the Council was ready to vote. Council Member Dellinger stated that he was ready to vote, and that he would like to see the plan go to five years.

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

That Commercial Business Incentive Plan – With the term of the incentive payments CHANGED from three years after completion of the project to five years after completion of the project be – ADOPTED.

D. Consideration to Accept Donated Property from Family Care Center – Parcels located at 922 West 1st Street, 838 West 6th Street and West 7th Street

City Manager Todd Clark stated that The Family Care Center of Catawba Valley, Inc. owns three vacant parcels located within the Newton city limits. He explained that these properties were donated to the Family Care Center, and that the Executive Director of the Family Care Center, Jane Earnest, contacted the City Manager to offer to transfer ownership of these three properties to the City. Mr. Clark explained that Ms. Earnest stated that the Family Care Center has determined that the three parcels are not needed by the Family Care Center and they would like to reduce the real property tax burden by donating the property to the City.

Mr. Clark stated that the three parcels are:

Parcel 373011664210	West 7 th Street	.500 acres	Tax Value \$7,600
Parcel 373011664031	838 West 6 th Street	.510 acres	Tax Value \$15,800
Parcel 373011556813	922 West 1 st Street	4.600 acres	Tax Value \$27,800

Mr. Clark explained that parcels 4210 and 4031, on West 6th and 7th Streets, are back-to-back and, combined, would extend from West 6th Street to West 7th Street. Parcel 6813, on West 1st Street, lies along the greenway and Hildebran Creek and is mostly in the flood plain.

Mr. Clark stated that the City would likely incur expenses for title searches and transfers if the donation of these properties were to be accepted. Ms. Earnest has stated that the Family Care Center would be agreeable to the City accepting any one or two of these parcels or all three.

Council Member Wayne Dellinger stated that they pay property taxes on these parcels now, and he didn't know why the City would want to start paying them. Council Member Tom Rowe stated that there are some reasons. City Manager Todd Clark stated that the property on West 1st Street could be used as parking for the greenway.

Public Works and Utilities Director Wilce Martin stated that the city already has easements for utilities in that area, and that the property on 6th Street is not buildable. He stated that the only use for any of the property could be the possibility of parking space on West 1st Street to be used for access to the greenway.

Mayor Stedman asked how much the property taxes per year are on the three parcels. Mr. Clark stated around \$200.

Council Member Mary Bess Lawing asked if the West 1st property could be used for a pocket park on the greenway. Mr. Martin stated that it could, but would have to be cleared.

Council Member Tom Rowe stated that the property on 1st Street had sewer line that was close to being out of the flood plain. Mr. Martin stated that yes; it was just outside the flood plain.

Council Member Tom Rowe stated that an advantage could be to use the property to get to the manhole if the bridge overflows. Mr. Martin stated that happens probably a couple times a year. Council Member Rowe stated that 6 or 8 parking places could be placed there also. Council Member Robert Abernethy asked what the depth of the property is. Council Member Rowe stated that it was around 100’.

Council Member Dellinger stated that there are too many “ifs”. Council Member Abernethy agreed and stated that there were no real positives or advantages for the City. Mr. Clark stated that the parking could be an advantage. Council Member Abernethy asked if the proposed parking area could be subject to flood. Mr. Martin stated that it is up hill from the creek.

Council Member Mary Bess Lawing stated that maybe the city should just take West 1st Street. Council Member Tom Rowe stated that when the easement was too swampy too run equipment would this property help with access. Mr. Martin stated that it would take a track hoe to get to it.

Council Member Robert Abernethy stated that he sees too many disadvantages to owning the property.

Upon motion duly made by Council Member Wayne Dellinger, seconded by Council Member Robert C. Abernethy, Jr., to REFUSE the Donated Property from Family Care Center – Parcels located at 922 West 1st Street, 838 West 6th Street and West 7th Street, with Council Members Wayne Dellinger, Robert C. Abernethy, Jr., and Mayor Pro Tem Bill Lutz in favor of; and Council Members Tom Rowe, Mary Bess Lawing and Wes Weaver in opposition of; and Mayor Stedman voting in opposition of – MOTION FAILED.

Council Member Bill Lutz stated that cars were parking near the greenway anyway. Council Member Tom Rowe stated that it really wasn’t safe to park there, and that limbs were right to the edge of the pavement.

Upon motion duly made by Council Member Wes Weaver, seconded by Mary Bess Lawing, to ACCEPT only the Parcel at 922 West 1st Street, with Council Members Wes Weaver, Tom Rowe, and Mary Bess Lawing voting in favor of; and Mayor Pro Tem Bill Lutz and Council Members Wayne Dellinger and Robert C. Abernethy, Jr. voting in opposition of; and with Mayor Stedman voting in opposition of – MOTION FAILED.

Mayor Stedman asked City Manager Clark to find out if the parcel at 922 West 1st Street could be divided and bring information back to City Council.

E. Consideration to Adopt Revision to Sewer Use Ordinance

Public Works and Utilities Director Wilce Martin stated that the State of North Carolina Environmental Management Commission (EMC) revised the Pretreatment Rules NCAC 15A 02H .0900 in 2011 to be effective as of April 1, 2011. He explained that all Public Owned Treatment Works (POTW) must revise their Sewer Use Ordinance (SUO) to comply with the adopted changes. Mr. Martin stated that the governing body for each POTW was given time to

revise and adopt these changes into their SUO and submit a copy to NCDENR by December 31, 2012.

Mr. Martin stated that The City code of Ordinances, Part II-Code of Ordinances-Chapter 98-Utilities-Article VI.-Sewer Use-Division 1.-Generally-Section 98-231 to Division 8 were changed in various sections and portions of some sections were removed as required by the EMC newly adopted Pretreatment Rules. He stated that Staff has reviewed the changes which are highlighted in yellow and included the changes in the attached SUO and that the City Attorney has reviewed the changes and asked staff to make a correction which has been done.

Mr. Martin recommended that the Council adopt the revised City of Newton Sewer Use Ordinance and authorize staff to include the changes in the City Code of Ordinances.

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

That Consideration of Revision to Sewer Use Ordinance be - ADOPTED

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

ITEM 4E: Consideration of Budget Amendment to Appropriate Fund Balance for, and Associated with Southside Paving Project

City Manager Todd Clark stated that City Staff has moved forward with a number of capital improvement projects that were outlined in the 2012-2013 fiscal year budget. One of those projects included the re-construction of the entrance road to Southside Park.

Mr. Clark explained that in consideration of the condition of the road surface, City Staff recognized the need to completely remove the existing asphaltic surface, install additional stone where needed, ensure complete compaction of the new stone, and apply 3 inches of new asphalt. However, after the City awarded a bid to Mid-State Contractors and the existing asphaltic surface was removed, it was determined that the sub-base material was compromised. Mr. Clark stated that this was determined when Mid-State performed a “proof-rolling test” to determine if the sub-base was solid enough to ensure the new asphaltic surface would not crack. Unfortunately, the ground beneath the road did not meet expectations because it is regularly subjected to large volumes of water due to its location in a flood prone area. Mr. Clark stated that the soil will not support a heavy truck when under load and the new asphalt would likely crack within one year.

Mr. Clark explained that after review with City staff, Mid-State Contractors recommended additional work to include 1) the removal of the existing stone base, 2) removal of 5 inches of soil beneath the existing stone base, 3) installation of necessary soil base in needed areas, 4) installation of a fabric barrier, and 5) installation of 5 inches of stone on top of the fabric barrier, and that Mid-State recommended the installation of a 24 inch pipe 80 feet in length to help drainage of water from the surrounding area. In response to the recommendations, the City

asked Mid-State to provide a quote for the additional work. Mr. Clark stated that the additional cost to the project is \$28,193.

Mr. Clark stated that the Staff has reviewed the Recreation Department's budget and has not been able to identify any savings that could be otherwise used for this purpose. Therefore, the staff recommends to City Council an appropriation of fund balance in the amount of \$28,193, and that a proposed budget amendment has been attached for Council review and consideration.

Council Member Wayne Dellinger asked if the only place the money could be taken from was Fund Balance. Mr. Clark stated that there is money appropriated in the budget to clean and fix the exterior of City Hall and to purchase one pickup vehicle for the Recreation Department. He stated that if these projects were forgone, that money could be used for this project.

Council Member Mary Bess Lawing stated that the road needs to be fixed to get into Southside Park. Council Member Dellinger stated that sometimes you have to wait on things. Mayor Stedman stated that the road must be fixed, the question before Council is how to pay for the project.

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

That Robert C. Abernethy, Jr. be RECUSED from Voting in the Matter of the Budget Amendment to Appropriate Fund Balance for, and Associated with Southside Paving Project.

Upon motion duly made by Council Member Tom Rowe, seconded by Council Member Mary Bess Lawing, with Mayor Pro Tem Bill Lutz and Council Members Tom Rowe, Mary Bess Lawing, Robert C. Abernethy, Jr., and Wes Weaver in favor of, and Council Member Wayne Dellinger in opposition to, it was RESOLVED:

That Consideration of Budget Amendment to Appropriate Fund Balance for, and Associated with Southside Paving Project be – ADOPTED.

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

ORDINANCE 2012-35

AN ORDINANCE TO AMEND REVENUES AND EXPENDITURES FOR FISCAL YEAR 2012-2013 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, 2012, and ending June 30, 2013, in accordance with the General Statutes of the State of North Carolina, and

WHEREAS, City Council desires to appropriate additional funds for the Southside Park Paving Project in the amount of \$28,200. After the City awarded the bid to the contractor, the contractor determined during a "proof-rolling test" that the sub-base material was compromised. The ground

beneath the road did not meet the expectations as it is regularly subjected to large volumes of water due to its location in a flood prone area. The contractor is recommending the removal of the existing stone base, removal of 5 inches of soil beneath the existing stone base, installation of necessary soil base in specific areas, installation of a fabric barrier, and 5 inches of stone on top of the fabric barrier. Without the additional work recommended by the contractor, the new asphalt could begin cracking within one year, 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	\$28,200
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Section 2

General Fund Appropriations

Capital Outlay – Paving	11.6122.8911	\$28,200
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Adopted this 6th day of November, 2012

ITEM 7: City Manager’s Report

- Groundbreaking Ceremony – South Newton Elementary School – Fri, Nov 9, 1:30 p.m.
- Progress on Parking lot at City Hall/Police Department
- Renovation – Exterior of City hall
- Jason Clay – recipient of “Bight Ideas” – an Initiative of the Innovations in American Government Award Program from Harvard Kennedy School
- Jason Hill – Associate in Arts from CVCC, July 2012

ITEM 8: Questions and Comments from Mayor and Council

Mayor Stedman asked if there were any questions or comments from City Council. There were none.

Council Member Wayne Dellinger welcomed Mr. Yerby Ray as the new Editor of The Observer News Enterprise.

ITEM 9: Adjournment

Upon motion duly made by Council Member Wes Weaver, seconded by Council Member Mary Bess Lawing, the meeting was ADJOURNED.

Anne P. Stedman, Mayor

Amy S. Falowski, City Clerk

