

**MINUTES**  
**REGULAR MEETING OF THE NEWTON CITY COUNCIL**  
**February 4, 2014 – 7:00 P.M.**

The regular meeting of the Newton City Council was held on Tuesday, February 4, 2014 at 7:00 p.m. in the Council Chambers at City Hall.

**PRESENT:** Mayor Anne P. Stedman, Mayor Pro Tem Mary Bess Lawing, Tom Rowe, Wayne Dellinger, Robert C. Abernethy, Jr., Wes Weaver, and John Stiver

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

**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 John Stiver**

Council Member John Stiver provided the invocation and led the Pledge of Allegiance.

**ITEM 3:**        **APPROVAL OF MINUTES FROM THE January 21, 2014 REGULAR CITY COUNCIL MEETING**

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

That the Regular Minutes of the January 21, 2014 City Council Meeting be –  
APPROVED

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

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

That Consent Agenda be – APPROVED.

- A. Consideration of Appointment to Planning Commission
- B. Consideration to Close East First Street Between College and Brady for the Purpose of Conducting an Auction – Saturday, February 15, 9 a.m. – 4 p.m.
- C. Consideration of Capital Project Ordinance Amendment for Buffalo Shoals Waterline Project
- D. Consideration to Accept Annual Water and Wastewater Systems Reports

(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 anyone present would like to make any comments concerning non-agenda items. No one appeared.

**ITEM 6:**        **Old Business**

A. Consideration of Ordinance to Amendment to the Code of Ordinances – Yard Sales

Assistant City Manager Sean Hovis stated on October 15, 2013, Collette Touchette, Chairperson for the City of Newton Appearance Commission, presented a proposed ordinance for yard sales. During the presentation City Council had some concerns related to the proposed ordinance's permit requirements, fees, fines, and restrictions on goods being sold. Mr. Hovis stated that City Council asked that city staff look at the proposed ordinance to try and address City Council's concerns. Mr. Hovis stated that at the January 7, 2014 meeting, Newton City Council asked staff to bring a proposed ordinance back to them at the next meeting with changes as discussed during the City Council meeting. Mr. Hovis stated the following is the proposed ordinance staff is presenting to Newton City Council for consideration.

**Section 1:**

Chapter 66, "OFFENSES AND MISCELLANEOUS PROVISIONS" of the City Code of the City of Newton shall be amended by deleting the existing section Sec. 66-14. entitled "Yard sales." and replacing it with a new Sec. 66-14. entitled "Yard sales" to read as follows:

Sec. 66-14. Yard sales.

- (a) For the purpose of this section yard sale means an occasional sale at which surplus and primarily used household goods and/or clothing are sold. Such sales can also be referred to as garage sale, attic sale, porch sale, and other similar terms.
- (b) It shall be unlawful for any person to conduct or permit to be conducted on his or her land in the city more than four (4) yard sales during the period of one (1) calendar year. Each yard sale is limited to one (1) thirty-six hour period.
- (c) No yard sales shall be held on Sunday.
- (d) All apparatus, racks, shelves, tables, signs or other materials related to the sale shall be removed the same day as the sale.

Council Member Wes Weaver stated that no one likes ordinances in these times, and that it is very hard to make a living. Mayor Stedman stated that this new ordinance would actually allow more yard sales.

Council Member Robert C. Abernethy, Jr. stated that the current ordinance is not being enforced. He stated that he has had complaints about the city putting limits on things citizens do on their private property. Mayor Pro Tem Mary Bess Lawing stated that Council is adding a yard sale per year, and that most people didn't even know that there was an existing ordinance. She stated that four would give people an opportunity to plan their yard sales according to the seasons.

Council Member Tom Rowe stated that he did not agree with either ordinance.

A motion duly made by Council Member Tom Rowe, seconded by Mayor Pro Tem Mary Bess Lawing, was made to adopt an ordinance to amend the city's Code of Ordinances – Yard Sales.

Council Member Robert Abernethy stated that he thought there were people in the audience that would like to speak.

Council Member Wes Weaver stated that he thinks the ordinance is a waste of the Police Department's time.

Council Member Wayne Dellinger asked why anything needs to be done.

Collette Touchette, Chairperson of the Appearance Commission, stated that the Commission is more concerned about the appearance left behind after a yard sale rather than the yard sale itself. She stated that ordinances are enforced because of complaints, and that the police receive calls and complaints, they aren't usually out looking for violations.

City Attorney John Cilley stated that N.C.G.S. Section 160A-75 requires a two-thirds majority vote for an Ordinance not involving budgetary matters or contracts to become effective on its first vote by Council. Having already received a simple majority vote at the last Council Meeting, this ordinance can take effect with at least a simple majority vote at this time.

Upon motion duly made by Council Member Tom Rowe, seconded by Council Member Mary Bess Lawing, with Council Members John Stiver, Tom Rowe and Mayor Pro Tem Mary Bess Lawing voting in favor of, and Council Members Wes Weaver, Wayne Dellinger, and Robert C. Abernethy, Jr. voting against, the tie was broken by Mayor Stedman who voted in favor of the proposed Yard Sale Ordinance it was RESOLVED:

That Amendment to the Code of Ordinance - Yard Sales be - ADOPTED

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

**ITEM 7:**      **New Business**

A. Consideration of Capital Project Ordinance Amendment to Recognize  
ElectriCities Grant Savings from Borrowed Funds

Finance Director Serina Hinson stated that on April 26, 2013 the Electric Department applied for an Energy Efficiency Grant through ElectriCities for a portion of its aging 4Kv System, and that the City has received \$100,634 from this grant.

Ms. Hinson stated the City has savings from two (2) of its Capital Financings, January 2012 and April 2013, in the amount of \$260,800 (8% of total financing) and \$151,700 (11% of total financing), respectively. She explained all savings are mainly due to contingencies not utilized with the exception of a capital project involving the purchase of an 8.0 mgd pump at the City's Water Filtration Plant. Ms. Hinson stated that financings are based on actual bids and not estimates with the exception of the 8.0 mgd pump due to timing issues relative to the City's application with the Local Government Commission for project approval.

Ms. Hinson explained that staff has identified three (3) projects to utilize the ElectriCities grant and savings from capital financings: Oakland Circle to Outfall Sewer Rehabilitation Project in the amount of \$111,000, Water Plant Improvements in the amount of \$100,000, and Circuit Reconfiguration (7 circuits) in the amount of \$302,150 for a total of \$513,150.

Ms. Hinson stated that due to spending requirements with our capital financings, staff recommends redirecting these savings to the capital items noted above in an effort to quickly utilize these funds while achieving some capital needs identified on the 5-Year Capital Improvement Plan.

Council Member Robert C. Abernethy, Jr. asked that in the future Council receive recommendations for the water, sewer and electric funds separately.

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

That Capital Project Ordinance Amendment to Recognize ElectriCities Grant Savings from Borrowed Funds be – ADOPTED.

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

B. Consideration of Resolution Exempting the City of Newton from North Carolina General Statute 14-234

City Manager Todd Clark stated the City of Newton has planned the 2014 City Council/Staff Workshop for February 17, 18, and 19, 2014. Mr. Clark stated the staff would like to use the Newton Expo that is presently owned and operated by Council Member Wayne Dellinger. Mr. Clark explained that in accordance with N.C.G.S. §14-234, however, no city council member who is involved in making or administering contracts on behalf of a city may derive a direct benefit from any contract entered into between him/her and the city unless the city meets specific exemption requirements as set forth in Subdivision (a)(1) of the statute. Mr. Clark stated that he recommends Council adopt a resolution that exempts the City of Newton and enables the City to rent Council Member Dellinger's facility for the purpose of the Newton City Council/Staff Workshop on February 17, 18, and 19, 2014.

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

That Council Member Wayne Dellinger be – RECUSED from Voting on Item 7B Consideration of Resolution Exempting the City of Newton from North Carolina General Statute 14-234

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

That Resolution Exempting the City of Newton form North Carolina General Statute 14-234 be – ADOPTED.

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

C. Consideration of Renovations at Northside Park

Parks and Recreation Director Sandra Waters stated at the present time the lower tennis courts at Northside Park remain locked due to deterioration of the asphalt and liability concerns. Ms. Waters explained the Recreation Commission as well as the recreation staff completed onsite inspections to assess the conditions and determine the best course of action. After thoroughly inspecting the courts both the commission and the staff have deemed the courts a danger for public use.

Ms. Waters stated the Recreation Commission as well as the staff recognize that tennis is an integral part of recreation for residents of all ages and weighed all options carefully, but due to current budget restraints replacing the courts would not be an option at this time. Ms. Waters stated quotations were then solicited for repair of these courts; however, repairing the courts would only be a short-term solution and would not be cost effective as we would have the same issues again within 1-2 years. Ms. Waters stated removal of the courts was determined to be the most cost effective solution. To minimize the cost, city staff will be used for removal of the asphalt and existing fencing. She explained fencing will then be installed around the basketball court making the park safer and more aesthetically pleasing.

Ms. Waters stated after carefully evaluating all options it is the recommendation of the Recreation Commission to remove the (2) lower tennis courts at Northside Park and that new playground equipment included in the 2013-2014 budget be purchased and installed in this exact location after the tennis courts have been removed.

Mayor Pro Tem Mary Bess Lawing stated that the upper tennis courts are used. Council Member Robert C. Abernethy, Jr. asked how long the lower courts have been closed. Ms. Waters stated about six months. Council Member Wes Weaver asked how often the lower courts were utilized before they were locked. Ms. Waters stated that they were rarely used.

Council Member Abernethy asked what would be put in place of the tennis courts after they are demolished. Ms. Waters stated that playground equipment that was budgeted for in this budget would be placed there. Council Member Abernethy asked if there was already playground equipment at this park, and Ms. Waters stated that there is, but that the new would accommodate more age groups of children. Council Member Weaver asked if all the equipment would be removed and replaced by new playground equipment. Ms. Waters stated that she has certified staff that will determine which equipment doesn't pass inspection and that will be removed.

Council Member Abernethy stated that he is okay with removing tennis courts, but questioned the use of staff for the removal. Council Member John Stiver asked if he would rather hire someone and pay them to remove it. Mr. Abernethy stated that he doesn't see government doing the work better or cheaper than the private industry. He questioned how staff, which doesn't do this kind of work regularly, can do it better or cheaper than subcontractors. City Manager Todd Clark stated that staff is qualified to take out two tennis courts, and that they would be doing the work during regular work hours, not overtime hours.

Upon motion duly made by Council Member Tom Rowe, seconded by Wes Weaver, with Council Member Robert C. Abernethy voting in opposition, it was RESOLVED:

That Renovations at Northside Park be – APPROVED.

#### D. Report – Festival and Events Committee

Jessica Setzer, Chairperson of the Festival and Events Committee, gave a brief presentation to City Council about the upcoming years' scheduled events.

Mayor Stedman told Ms. Setzer that the Committee was doing a great job, and that they really upped their game this coming year.

#### E. Report – Code Enforcement

Police Major Tim Hayes presented City Council with code enforcement cases that have been opened so far for this year.

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

- Business Advisory Committee Meeting/Annual Business Owners Meeting – Thursday, February 27<sup>th</sup> 6:30 p.m. – Newton-Conover Auditorium
- N.C. City & County Management Association Winter Seminar February 6-8, 2013 – Research Triangle Park
- Recreation Center will host Senior Citizens Sweetheart Dance from 7-10 p.m., Thursday, February 7<sup>th</sup>.
- City Council Workshop – Wednesday, February 13<sup>th</sup> – Friday, February 15<sup>th</sup>
- Teen Leadership will begin February 21<sup>st</sup>, with presentations to Council scheduled March 19<sup>th</sup>
- Recreation Center will host the annual Easter Egg hunt at 2 p.m., Sunday, March 24<sup>th</sup> at Southside Park
- Duke Energy Carolinas' Rate Increase Request

Mayor Anne Stedman stated she needs a motion to change the time of Regular City Council Meeting on February 18<sup>th</sup> from 7:00 p.m. to 4:00 p.m.

Upon motion duly made by Mayor Pro Tem Mary Bess Lawing, seconded by Council Member John Stiver, with Council Member Wes Weaver voting in opposition, it was RESOLVED:

That the Time of the Regular City Council Meeting of February 18, 2014 be Changed from 7:00 p.m. to 4:00 p.m. be – APPROVED.

Council Member Wes Weaver stated that he needs to check his schedule to make sure that time works for him.

**ITEM 9:**      **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.

**ITEM 10:**      **Adjournment**

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

That the Meeting be – RECESSED Until the Staff/Council Workshop on February 17, 2014 at 9:00 a.m.

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Anne P. Stedman, Mayor

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Amy S. Falowski, City Clerk

