

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

**July 8, 2014 – 7:00 P.M.**

The regular meeting of the Newton City Council was held on Tuesday, July 8, 2014 at 7:00 p.m. at Newton 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, 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 Wayne Dellinger**

Council Member Tom Rowe led the Invocation and Pledge of Allegiance.

Council Member Tom Rowe asked that everyone keep the family of Maggie Daniels in their prayers; and also the Newton Police Department.

**ITEM 3:      APPROVAL OF MINUTES FROM THE June 17, 2014 REGULAR CITY COUNCIL MEETING**

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

That the Regular Minutes of the June 17, 2014 City Council Meeting be –  
APPROVED

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

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

That Consent Agenda be – APPROVED

- A. Tax Refund – July 2014
- B. Sewer Adjustments
- C. Consideration of Commission/Committee Membership Re-appointments:  
Newton Depot Authority – Fred Lee Sherrill, Jr., Pendleton G. Waldron, and  
Joseph F. Beaman
- D. Consideration of Public Fee Structure for Public Events – 2014 Soldiers  
Reunion Celebration Week
- E. Consideration of Resolution Declaring Official Intent to Reimburse  
Expenditures

(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.

Cindy Sigmon stated that she will fight to know where every penny is going in the city's budget. She stated that she would like to have clarification about the money that is to be returned to taxpayers concerning streetscape.

Mayor Stedman stated that she is not sure what Ms. Sigmon is referring to. Council Member Robert C. Abernethy, Jr. asked if she meant the sunset for the streetscape project. He stated that it will be reviewed. Mayor Stedman thanked Ms. Sigmon for coming.

Reverend Paul Fitzpatrick stated that as he reflected on the behavior of the citizens at the Budget Public Hearing he became concerned. He stated that after the budget was decided that over half the citizens in the room left so they missed where the money was going to be spent. He stated that it is important as a citizen to stand up and pay attention to everything that the city is doing. Reverend Fitzpatrick also stated that he was saddened by the way that some citizens treated City Council Members during the meeting. He stated that they said things like "we will remember in November", but he believes that the people that really care will be watching and will remember what City Council's task is and that it is to do what the city needs by keeping it the "heart of Catawba County".

**ITEM 6:**      **Old Business**

A. Consideration of Bid for the Purchase of a Custom Tanker Pumper Truck and Related Budget Ordinance Amendment

Fire Chief Kevin Yoder stated that the City requested a Rural Fire tax increase from Catawba County in the 2014-2015 Budget for the purchase of a Fire Tanker/Pumper and for additional personnel. He stated that a 2 cent tax increase was requested, but that an increase of 1.5 cents was recommended by the Catawba County Manager and approved by the Catawba County Board of Commissioners. Chief Yoder stated this increase will generate approximately \$75,000 annually.

Chief Yoder stated the total project budget for the Fire Tanker/Pumper purchase is \$450,000.00 and the debt service payment will be approximately \$55,000. Chief Yoder explained the Tanker/Pumper will replace an existing apparatus that is approximately 27 years old. Chief Yoder stated the City requested bids from numerous vendors and received six responses. Five of the responses were bids and one of the responses was a "NO BID". Chief Yoder stated staff has evaluated the lowest bid and determined it to be the lowest responsible/responsive bid. The lowest bid was submitted by Spartan ERV in the amount of \$349,798.00. Staff recommends a contingency of approximately \$10,000 associated with the apparatus construction. Chief Yoder stated the construction of the apparatus will take approximately 270 days following the signing of the contract. Therefore, delivery would be in late April of 2015.

Chief Yoder stated there will be additional purchases of fire equipment for this vehicle for service at a cost not to exceed \$90,200. The equipment will be purchased later in the fiscal year prior to delivery of the apparatus. The equipment for this apparatus is expected to be within the total budget for this project.

Mayor Stedman asked why Pierce submitted two bids. Chief Yoder stated that he wasn't sure, but he thinks that there was some confusion over the chassis. He thinks their bids were for two different chassis.

Council Member Wes Weaver asked why there is a difference between the bid and budget of \$450,000. Chief Yoder stated that the difference will be used to purchase extra equipment and that he is not sure yet of the exact cost.

Council Member Robert C. Abernethy, Jr. asked if this truck will replace a tanker truck and engine 5. Chief Yoder stated that if another department can use one of those two, maybe public works, then only one would have to be surplus. Mr. Abernethy stated that he was confused; he thought that the request for 2 cents was for additional personnel, but it is being used for the tanker. City Manager Todd Clark stated that this was discussed during the budget process. Mr. Abernethy asked if the \$20,000 that was left would be for additional personnel. Chief Yoder stated no, that it could be used, if possible, to increase part time employee(s) to full time. Mr. Abernethy asked which would help the ISO rating more; to add additional personnel, or to add the tanker. Chief Yoder stated that it is difficult to say which helps most because both will get the city points and will benefit the city. City Manager Clark asked Chief Yoder if he would consider the tanker in operation now a safety hazard. Chief Yoder stated that yes; it would have to be red lined anyway.

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

That bid by Spartan ERV in the amount of \$349,798.00 be – AWARDED.

Council Member Wes Weaver stated that he was concerned that if Pierce was confused about the chassis, then maybe the other bidders were as well. Chief Yoder stated that the city was very specific about what was wanted.

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

That Ordinance 2014-20 – Amending Revenues and expenditures for Fiscal Year 2014-2015 be – ADOPTED.

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

**B. Consideration of Criminal Justice Improvement Grant from the Governor's Crime Commission**

Police Chief Don Brown stated that in October of 2013 the North Carolina Governor's Crime Commission released the latest grant cycle for Criminal Justice Improvement grants. The application period for this grant ends on January 31<sup>st</sup> or the last working day of January. Chief Brown stated the funding cap for Criminal Justice Improvement is \$60,000.00 with a required match of 25%. Chief Brown explained that if received, this funding would be used to offset the amount requested in the 2014-2015 FY CIP for mandated replacement of the police department's radio system.

Chief Brown stated on April 1, 2014 the Newton Police Department received written notification from the North Carolina Governor's Crime Commission that the application for a Criminal Justice Improvement Grant had been approved to move forward in the application process.

Chief Brown stated on May 31, 2014 the Newton Police Department received written notification from the Office of the Governor stating that the Governor's Crime Commission had approved the application for the Criminal Justice Improvement Grant. Chief Brown stated the Newton Police Department has been selected by the Commission to tentatively receive a grant award in the amount of \$56,289.92. Chief Brown stated the total budget for the project is \$75,053.23 and the city's required match of \$18,763.92 will require a future budget amendment from retained earnings.

City Manager Todd Clark stated that this project is in the CIP and that without the grant the city would have to borrow the full amount.

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

That the Criminal Justice Improvement Grant from the Governor's Crime Commission be  
– ACCEPTED.

**ITEM 7:**      **New Business**

- A. Consideration of Request from Carolina Vines to Amend City Code of Ordinances Sec 66-1(a)(3) – Consumption, serving, etc., of certain alcoholic beverages prohibited in certain places

Assistant City Manager Sean Hovis stated that Dennis Baucom of Carolina Vines has requested an amendment to the City Code that currently prohibits the sale of malt beverages and/or wine in public places. The request seeks Council approval to allow “for profit” businesses to hold and participate in festivals and scheduled events that require the closure of a sidewalk(s) and street(s). Mr. Hovis stated the request also seeks an amendment to the Code to allow “for profit” businesses to sell malt beverages and/or wine in a public area.

Mr. Hovis stated the city staff has carefully reviewed the request and believes an amendment to the City Code is necessary. The recommendation however would not include the extension of the premises of a business into a public street. Mr. Hovis stated this decision is based on the potential that exists for multiple “for profit” businesses to seek approval of frequent and varying street closures on a weekly basis.

Mr. Hovis stated staff is supportive of an amendment that will allow businesses to extend their premises onto the public sidewalk for the purpose of the sale and consumption of alcohol. He explained the amendment will further require the proprietors of these businesses to secure an encroachment agreement from the City of Newton acting as an agent of the North Carolina Department of Transportation who regulates activity within the NCDOT right-of-way and codified under N.C.G.S. §136.27.

Mayor Stedman asked if the request was to extend the business to the curb. Mr. Hovis explained that would not be possible as there would have to be a 5' clearance for passage per ADA requirements. Council Member Wes Weaver asked if that would still apply if the road was closed. Mayor Stedman stated that it would. Council Member Wayne Dellinger stated that meant if there were only 6 or 7' only 3' or so could be used. Mr. Hovis stated that is correct. Council Member Tom Rowe asked how wide the sidewalk is at that location. Public Works and Utilities Director Wilce Martin stated that it was around 8'. Planner Alex Fulbright agreed and said that it varied between 8 and 10' feet depending on the location. Council Member Wes Weaver stated that he doesn't see how this amendment changes anything. Mr. Hovis explained that it would put them in to compliance. Council Member Weaver stated they would still not be able to sell wine outside the building. Council Member Wayne Dellinger stated that they are not allowed to sell outside of the building and that people can't cruise around town with a beverage. Mr. Hovis explained that ALE determines where alcohol can be sold and that the city has to stick by the law. Council Member Robert C. Abernethy, Jr. stated that he thinks the city should do what it can to help. Mr. Hovis stated that Mr. Baucom would have to get an encroachment from DOT. Council Member Wes Weaver stated that he has been to festivals where wine is sold. Mr. Hovis stated that he can't speak for them, but they are probably non-profit. City Attorney John Cilley stated that the state is very detailed, and that businesses are at the state's mercy. He stated the most the city can do is to allow sidewalk dining activities, and that the city does not have jurisdiction concerning the 5' ADA requirement. Council Member Robert Abernethy asked if the ordinance needed to be amended in order to do this. Council Member Dellinger asked if it would apply to anyone that sells alcohol. Mr. Cilley stated that any dining establish would need to have proper ALE permits. He stated that for instance, Blue Moon currently has outdoor dining not located on the sidewalk, but if they wanted to extend to the sidewalk this would affect

them. Council Member Dellinger mentioned the Pool Room as well. He stated that years ago people wanted a change but a lot of people in the community did not want it. Mr. Hovis also mentioned that it would have to be in a designated area, and that the owners would have to designate or mark the area. He stated that it could harm their license if they violated it or if anyone goes outside of the designated area. Council Member Mary Bess Lawing stated that officials do come and check.

Council Member Wes Weaver asked if College Avenue is a DOT street. Mr. Cilley stated that it is. Mr. Clark mentioned that even if the street is a city street, the city is still required to maintain the 5' for ADA requirements. Council Member Dellinger asked if it is even worth the trouble for 2'-3' of sidewalk. Council Member Weaver stated that when he passes Carolina Vines there is someone always outside eating. Mr. Clark asked if they would be in compliance. Council Member Robert Abernethy stated that the city could make them in compliance. Mayor Stedman stated that the city needs to do what it can to help businesses. Council Member Abernethy agreed with the Mayor and stated that the city needs to do what it can while also playing by the rules. Mayor Stedman asked Council Member Abernethy if he would like to make a motion. City Manager Todd Clark stated that he presumed City Council is giving staff the direction to draft an amendment for the next meeting. Mayor Stedman said that would be the correct thing to do, draft an ordinance amendment for the August meeting.

B. Consideration of Request from Shooters Sanctuary to Amend City Code of Ordinances Chapter 66 "Offenses and Miscellaneous Provisions" Subsection (a) of Section 66-3 "Discharge of Firearms, Explosives, etc."

Assistant City Manager Sean Hovis stated that David Collins, Owner/ CEO of Shooters' Sanctuary, LLC, has requested that the City Code related to the discharging of firearms within the City of Newton be amended to allow for firearms to be discharged at an approved indoor firing range.

Mr. Hovis stated the City Staff recommends that Chapter 66, of the City's Code of Ordinances be amended by adding the highlighted text to Section 66-3 entitled "Discharge of firearms, explosives, etc."

Sec. 66-3 (a). Discharge of Firearms, Explosives, Etc.

- (a) Discharge prohibited; exceptions. No person shall discharge any gun or other firearm, shoot any blank cartridge, torpedo, dynamite, air rifle (BB guns or pellet guns), slingshot, pyrotechnics, bow and arrow or cross bow, or explode any fireworks within the city; except that permission may be given by the chief of police for the shooting of rodents, the training of law enforcement personnel at the police pistol range, **indoor firing range authorized for such use under any local, state, or federal regulations or guidelines**, memorial services or funerals, high school field and track events, or special events held in connection with Soldiers Reunion activities.

Mayor Pro Tem Mary Bess Lawing stated that in her opinion she didn't think the city needs a firing range. She stated that she is totally against any firing ranges; for the safety and wellbeing of citizens.

Council Member Wayne Dellinger asked about fireworks at the fairgrounds. Fire Chief Kevin Yoder stated that should be two different things. Council Member Robert Abernethy stated that it should be addressed as well. Chief Yoder stated that citizens already have to get a special permit to shoot fireworks. Mr. Clark stated that this amendment to remove fireworks and dynamite needs to be made to the ordinance as well.

Council Member Dellinger stated that he did not see anything wrong with shooting a gun in a building, and that a lot of people want to learn how to shoot. Mayor Stedman asked about the building or range being within 1,000 ft. of a school. Mayor Pro Tem Mary Bess Lawing stated that it is a matter of public safety. Council Member Robert Abernethy stated that the next step to help them open is to approve this amendment. He stated that he has a concealed carry permit, but doesn't own a gun. Mr. Abernethy stated that if there was a range then he would possibly purchase and learn how to handle a gun in a safe way.

Mr. Clark stated that the ordinance would apply uniformly throughout the M-1 zones. He also explained that the distance from schools requirements would be determined by state and federal law.

Council Member Tom Rowe asked if a person could fire a pistol or a rifle in an indoor shooting range. Mr. Hovis stated that it would depend on the permit of the business. Mr. Rowe stated that he thinks there needs to be a place like this, but not in such a populated area. Council Member Dellinger stated that state and federal laws would take care of all the safety issues and concerns. Mayor Pro Tem Lawing stated that her biggest fear is that one will pop up where the city doesn't want it. Council Member Abernethy stated that if consumers don't like it then they don't have to go there.

Council Member Robert C. Abernethy, Jr. made a motion to approve the proposed ordinance amendment with the removal of the wording concerning pyrotechnics, fireworks and dynamite.

Mayor Stedman stated that she thinks that the motion should just add to the list of permissible special uses. Mr. Abernethy stated or it could just end at "special events". After some discussion, Fire Chief Yoder stated that pyrotechnics, fireworks and dynamite should just be excluded altogether from the ordinance.

Council Member Wes Weaver seconded the motion. With Council Members John Stiver, Wes Weaver, Wayne Dellinger and Robert C. Abernethy, Jr. voting in favor of, and Mayor Pro Tem Mary Bess Lawing and Council Member Tom Rowe voting against, it was RESOLVED:

That the Proposed Ordinance Amendment with the Removal of the Wording Concerning "Pyrotechnics, Fireworks and Dynamite" be – ADOPTED.

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

- City Manager Todd Clark gave an update on the Soldiers Reunion Schedule
- July 9<sup>th</sup> (tomorrow) Catawba EDC 2014 Annual Meeting Hickory Metro Convention Center 11:45 a.m.
- New Playground Equipment being installed at Northside Park
- 125<sup>th</sup> Annual Soldiers Reunion Schedule
- Only one scheduled meeting for the month of August - August 5<sup>th</sup>
- July 9<sup>th</sup>, 23<sup>rd</sup> and Oct 9<sup>th</sup> the PD will be giving fraud presentations to the elderly at Abernethy Laurels. This will help protect citizens from scams
- New Pump Track – Kenyon Kelly gave a brief presentation concerning the completion of the new pump track at Jacob Fork Park.

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

Mayor Stedman asked the City Council if they had any comments.

Council Member Robert C. Abernethy, Jr. stated that he would like to make a suggestion that as part of the budget process the city council hold quarterly meetings throughout the year. He stated that maybe the council could have these meetings prior to a regular meeting. Mayor Stedman stated that is a good idea. Council Member John Stiver agreed. Mayor Stedman stated the first quarterly meeting will be September 2<sup>nd</sup>, prior to the regular city council meeting.

Mayor Pro Tem Mary Bess Lawing asked Parks and Recreation Director Sandra Waters to tell her about the "Movies at the Pool". Ms. Waters stated that it is something new they are trying for this year, and that it is going good so far.

Council Member Tom Rowe gave a brief report concerning Hwy 16 S.

**ITEM 10:     Adjournment**

Upon motion duly made by Council Member Wes Weaver, seconded by Council Member Robert C. Abernethy, Jr., the meeting was ADJOURNED.

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Amy S. Falowski, City Clerk



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Anne P. Stedman, Mayor