

MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL

August 5, 2014 – 7:00 P.M.

The regular meeting of the Newton City Council was held on Tuesday, August 5, 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 – Mayor Pro Tem Mary Bess Lawing

Mayor Pro Tem Mary Bess Lawing thanked Chief Brown and the Newton Police Department for the excellent job that they did with the Maggie Daniels case. Mayor Pro Tem Lawing then welcomed Reverend Paul Fitzpatrick and invited him to provide the invocation. Mayor Pro Tem Lawing then led the Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES FROM THE July 8, 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 July 8, 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 Tom Rowe, it was unanimously RESOLVED:

That Consent Agenda be – APPROVED

- A. Tax Releases – June 2014
- B. Sewer Adjustments
- C. Consideration of Budget Ordinance to Establish Capital Project Funds and to Amend Revenues and Expenditures for Fiscal Year 2014-2015
- D. Consideration of Budget Ordinance Amendment to Carry Forward Outstanding Purchase Orders at June 20, 2014
- E. Consideration of Sole Source award of Bid for Fire Station Generator to Carolina CAT
- F. Authorization for Fireworks Display – Hickory American Legion Fair Association

G. Consideration to Accept the Area Wide Optimization Program Award (AWOP) for 2013

(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.

Dennis Baucom, Managing Partner of Second Nature Technologies (Carolina Vines), stated that the Council's answer to a request he made in July comes in short of what he was seeking. Mr. Baucom stated that the city staff ignored his requests, and that he has 15 years of local government experience, and he knows that his request can be answered differently. He stated that people pay taxes as citizens and businesses, and he thinks the city should work with them instead of saying "no". He also said that city staff should get back to citizens in a complete and timely fashion. Mr. Baucom stated that his issue has not been dealt with yet, and that he feels that it is too much work for city staff to help with the process. Mr. Baucom stated that he will keep making his request, and that he is not going to go away. Council Member Robert Abernethy asked when the first request was made. Mr. Baucom stated that it was the middle or end of March. Mr. Abernethy stated that he was on Mr. Baucom's side, but that he didn't appreciate Mr. Baucom inferring that city staff is lazy. He stated that he felt like city staff has worked with Mr. Baucom, and that maybe both sides need to improve their communications. Mr. Baucom agreed.

City Manager Todd Clark stated that the request written by Mr. Baucom was received 2-3 business days before the July meeting. Mr. Clark stated that staff is not trying to dismiss Mr. Baucom, but that there are laws that have to be adhered to.

Mayor Stedman thanked Mr. Baucom for his comments and asked if there was anyone else that would like to speak. No one appeared.

ITEM 6: **Old Business**

A. Consideration of Ordinance Amendment Sec. 66-1 (Sidewalk Dining)

Assistant City Manager Sean Hovis stated that staff came to City Council on July 8, 2014 following a request by Dennis Baucom of Carolina Vines to amend the City Code of Ordinances that prohibits the sale of malt beverages and/or wine in public places. Mr. Baucom's request asked the Code be amended to allow for profit businesses to hold events and sell malt beverages and/or wine in a public area that would require a street closure request.

Mr. Hovis explained that following discussion by City Council, Council asked staff to bring back an amendment to the City Code that would allow for sidewalk dining as permitted under NC GS 136-27.4.

Mr. Hovis stated that staff recommends that Newton City Council amend the proposed attached ordinance as presented by staff.

City Manager Todd Clark stated that staff does advocate for business expansion and growth and that staff did try to bring the issue to Council at the last meeting. Mr. Hovis stated that Mr. Baucom requested 7 events in a row, and that the 45 day window for street closure could not be met. Mr. Hovis also stated that other businesses could also ask for multiple street closures and that this must be considered.

Dennis Baucom stated that he would like to extend his premise out to the street while still meeting the 5' passage ADA law. Mr. Hovis explained that this change to the ordinance would make Carolina Vines compliant for what they are doing now. Council Member Mary Bess Lawing stated that this is dining just for restaurants with prepared food.

Mayor Stedman stated that, in essence, the tables are about as far as he can go. Mr. Hovis stated that once the space is established for the outdoor dining, the owner would have to dedicate an area so that people know to stay in the boundary. Mayor Stedman asked what if people go in to the back alleyway. Mr. Hovis stated that it depends on who owns the alleyway.

Council Member John Stiver stated that he is not against what Mr. Baucom is asking for; he would just like to find a way to do it legally and fairly. Mr. Hovis explained that this amendment is to allow for this kind of activity, and that the city would sign encroachment agreements with NCDOT. City Attorney John Cilley stated that the city would be an agent for the state. Mayor Stedman stated that it looks like Council's hands are tied at this point. Mr. Clark stated that staff has earnestly looked for ways to help and will continue to do so. Mr. Clark sincerely apologized for the lack of communication.

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

That Ordinance Amendment Sec. 66-1 (Sidewalk Dining) 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 Award of Piggyback Bid on Street Sweeper

Public Works and Utilities Director Wilce Martin stated that Council approved a street sweeper as part of the FY 2015 Budget in the amount of \$240,000. Due to the disrepair of the existing street sweeper, Council authorized staff on 07/08/14 to move forward with the purchase in advance of the January 2015 financing with the intent to reimburse those funds to the City once the financing is complete.

Mr. Martin explained that "Piggybacking" authorizes local governments to purchase without bidding from a person or entity that has contracted to furnish an item with any local, state or federal agency as long as it was competitively bid within the past twelve (12) months. Mr. Martin stated this allows a local government to enter into a new and separate contract with a vendor who has contracted with another public agency and who is willing to extend the same price and terms.

Mr. Martin stated staff has found that the City of Asheville bid a street sweeper on April 2, 2014 which is within the last 12 months, and the City can piggyback on their bid with the vendor who supplied their sweeper. Mr. Martin stated this vendor is willing to extend the same price and terms. This process allows the City to obtain a sweeper in August of this year instead of waiting 155 days from the date of order for another new sweeper. Mr. Martin explained the old existing sweeper will not last long due to the condition of the sweeper.

Mr. Martin recommended Council consider authorizing staff to proceed with the piggybacking on the City of Asheville's bid to purchase the street sweeper from Carolina Industrial Equipment, Inc. (CIE) of Charlotte, NC for the price of \$234,688.00.

Mayor Stedman agreed that the city does need the street sweeper.

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

That the Piggybacking on the City of Asheville's Bid to Purchase the Street Sweeper from Carolina Industrial Equipment, Inc. (CIE) of Charlotte, NC for the price of \$234,688.00 be – APPROVED.

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

B. Consideration of Property Dedication – 216 W. 7th Street

City Manager Todd Clark stated that the City of Newton was recently contacted by Michelle Almquist, a Donation Asset Manager for Wells Fargo, Premiere Asset Services Division, concerning a possible donation of property to the City of Newton. The property, located at 216 West 7th Street in Newton, was last occupied approximately three years ago by Mr. Johnny Saunders who recently passed away.

City Attorney John Cilley stated that Ms. Almquist informed the City that “Wells Fargo’s REO (Real Estate Owned) Donation program is designed to facilitate the transfer of Wells Fargo owned or serviced REO properties to cities and public nonprofits that provide sustainable homeownership or rental opportunities to low- to moderate-income (LMI) families”. The program is also part of Wells Fargo’s effort to stabilize neighborhoods and prevent blight with the property ultimately rehabilitated and occupied.

Mr. Cilley stated that Wells Fargo has recognized the home located at 216 West 7th Street is in very poor condition and likely will need to be demolished. Although demolition is not a stipulated condition of accepting the property, they are offering \$8,000 as an inducement to accept the donation.

Mr. Cilley explained that due to a very narrow window of time specified by Wells Fargo to respond to the proposed donation, a thorough evaluation of the property could not be completed. Mr. Clark stated that city staff did however meet on site with DH Griffin Wrecking Company on July 30, 2014 and based on their cursory review received a quote for demolition. The quote of \$10,000 is for the demolition of the structure only and does not include any additional costs associated with asbestos removal or work that may be required as noted on the attached bid sheet. Mr. Clark stated that according to DH Griffin, the floor covering in the kitchen may contain asbestos and if so, will need to be removed at an additional cost of \$1,000. There were no other materials that were visible to the inspector that would have been classified as asbestos containing materials (ACM).

Mr. Cilley stated it is important for City Council to be aware that more than one organization was contacted by Wells Fargo soliciting their interest in this property. He explained that he has been in contact with Wells Fargo and indicated to them that the City of Newton is interested and qualified the acceptance contingent upon a final decision of the City Council.

Mr. Clark stated the staff recommends City Council accept the donation of property and determine the disposition of the structure located on the property.

Council Member Wayne Dellinger stated that if a motion is made, he would like it done with the understanding it be sold. Mr. Cilley stated that is fine, if that is what Council wishes to do.

Council Member Wayne Dellinger made a motion to accept the property and resell it.

Council Member Wes Weaver asked what the land is worth. Council Member Robert Abernethy asked if the city would be responsible for any of the closing costs. Mr. Cilley stated that Wells Fargo would pay all the closing costs. Mr. Clark stated that there has been no appraisal and he is not sure of the tax value at this time, Mr. Cilley stated that the tax bill is approximately \$1,000 per year. Mr. Cilley stated that the bank agreed to prorate the taxes and would pay most of the 2014 taxes. Council Member Tom Rowe stated that after the house is gone, then the land has value. Mayor Stedman asked if there were any pipes coming out of the ground indicating underground tanks. Mr. Hovis stated that none were found. Mr. Clark stated that he had spoken to a neighbor that told him they would be happy that the city is taking the

property.

Council Member John Stiver seconded the motion made by Council Member Wayne Dellinger.

Mayor Stedman stated that there is a motion to accept the property and resell it.

Council Member Robert Abernethy stated that this is acceptance with intent to resell. Council Member Tom Rowe stated that he would like to talk more about the motion. He stated that he thinks that the city should accept the property, tear down the house, and sell the lot. Council Member Dellinger stated that if the city is made an offer of \$12,000 as it sits, the city is already ahead of the game. Mr. Clark stated that the main objective is to clean up Newton as well. City Attorney Cilley stated that the City Manager can negotiate a price for Council to accept or reject.

Mayor Stedman asked for a vote on the motion and second.

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

That the Donation of the Property Located at 216 W 7th Street be – ACCEPTED with the intent to resell.

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

That the City Manager be Allowed to Accept Offers on the Property on the City's Behalf.

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

That the Ordinance to Amend the Revenues and Expenditures to Recognize the Donation of Property Located at 216 W 7th Street and \$8,000 Contribution for the Demolition of the House be – ADOPTED.

ITEM 8: City Manager's Report

- August 7th at 2:30 - Ribbon Cutting at Pack and Ship, 2725 Northwest Blvd, Suite H
- Newton 101 runs from Sept. 11-Oct. 23. Anyone interested in signing up should contact PIO Julie Chang.
- Burriss Rd & Hwy 16 Super St. Improvements
- August 14th, 4:30 p.m. – 7:00 p.m. Planning Commission is hosting a drop in workshop for public input regarding proposed changes to the B-3 Zoning District, downtown area
- Electric Charging Station
- August 24th 3:00-4:00 p.m. - South Newton Elementary School Building Dedication Ceremony with Open House Immediately Following
- Newton Corporate Center Site Certification
- Street resurfacing project update
- Newton Appearance Commission and City Staff have painted utilities poles downtown and North Main/College Ave median has been planted
- Report on Meeting with Technibilt
- Fire Chief Kevin Yoder gave a brief update on the status of the Fire Headquarters construction
- City Manager Todd Clark mentioned that he had received complaints about the fire siren
- NCEMPA – Duke Energy Contract
- During the week of Soldiers Reunion the Museum will offer a Cold War Exhibit to all citizens
- Quarterly Council Workshop prior to September 2nd meeting

- Upcoming Retirements: Doug Carswell, August 31st; Ricky Sims, December; Wilce Martin, December 19th
- Mayor Stedman mentioned that Technibilt would like to expand and that the city needs to help them any way possible. Council Member Tom Rowe and Mayor Pro Tem Mary Bess Lawing agreed.
- 125th Annual Soldiers Reunion Schedule
- Soldiers Reunion posters are now on sale for \$5 each. Shirts are \$8-10 depending on size.

Tuesday, August 5 – Thursday, August 7

- Beauty Pageants at Newton-Conover Auditorium

Thursday, August 14

- 7 p.m. Soldiers Reunion Senior Citizens Dance (Lower Level of Rec Center)

Friday, August 15 and Saturday, August 16

- Soldiers Reunion Men’s Softball Tournament (Northside/Broyhill Park)

Sunday, August 17

- 2:30 p.m. Cruisin’ and Car Show
- 8:30 p.m. Laser Show

Monday, August 18

- 7:30 p.m. Gospel Music: Greater Vision and The Littles

Tuesday, August 19

- 6:30 p.m. Cornhole Tourney (Rec Center)
- 7:30 p.m. Beach Music: The Fantastic Shakers

Wednesday, August 20

- 6 p.m. Baby Parade (east side of Courthouse)
- 7 p.m. Pet Mania (west side of Courthouse)
- 7:30 p.m. Country Music: Confederate Railroad

Thursday, August 21: Reunion Day

- 9 a.m. Activities on the Square
- 10 a.m. Memorial Service
- 11:30 a.m. to 2 p.m. Jazz Concert
- 4 p.m. Reunion Service
- 5 p.m. Reunion Parade
- 7 p.m. Horseshoe Tourney (at Westside/Jaycee Park)

Saturday, August 23 – Begins at Newton Rec Center

- 8 a.m. One-Mile Fun Run
- 8:30 a.m. 5K Run/Walk

Sunday, August 24 – Begins at Newton Rec Center

- 8 a.m. 30-60-100 Mile Bike Ride

Soldiers Reunion will be streamed live and details are being worked out for aerial video to be broadcast on the internet

ITEM 9: Questions and Comments from Mayor and Council

Mayor Stedman asked the City Council if they had any comments. There were none.

ITEM 10: Adjournment

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

Amy S. Falowski, City Clerk



Anne P. Stedman, Mayor