

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

May 21, 2013 – 7:00 P.M.

The regular meeting of the Newton City Council was held on Tuesday, May 21, 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 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 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 everyone and called the meeting to order.

ITEM 2: OPENING – Mayor Pro Tem Bill Lutz

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

ITEM 3: APPROVAL OF MINUTES FROM THE May 7, 2013 REGULAR CITY COUNCIL MEETING

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

That the Regular Minutes of the May 7, 2013 Regular City Council Meeting be –
APPROVED

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS

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

That Consent Agenda be – APPROVED.

- A. Tax Releases – April 2013
- B. Consideration of Resolution and Budget Ordinance Amendment to Write Off Uncollectible Accounts
- C. Consideration of Budget Ordinance Amendment to Recognize ElectriCities Energy Efficiency Project Funding for LED Lights
- D. Consideration of Resolution to Maintain and Support the Current Integrity and Funding for the Parks and Recreation Trust Fund (PARTF)

At this time, Mayor Anne P. Stedman presented Ms. Addie Shuford with the 2013 Unity Day Award.

(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 agenda and non-agenda items. No one appeared.

ITEM 6: **Public Hearing**

Mayor Stedman opened the Public Hearing.

City Manager Todd Clark stated that the City of Newton learned last July that North Carolina State Employees Credit Union (NCSECU) was seeking to relocate an automatic teller machine presently located adjacent to the Food Lion located at 1390 South Highway 16 in Newton. Mr. Clark stated that the City Council authorized him on October 2, 2012 to enter into a one year lease with NCSECU to relocate the ATM to the north side parking lot at City Hall. Mr. Clark stated that Council set a lease rate of \$250 per month and authorized him to renew the lease on an annual basis for a period up to ten years without further Council review.

Mr. Clark stated that the Credit Union was contacted following the October 2nd meeting and a lease agreement was drafted by the City for the Credit Union's review and consideration. Mr. Clark explained that at that time, the Credit Union expressed a desire to seek a multi-year term in consideration of the anticipated expense of moving the ATM machine and other associated costs to establish service. Mr. Clark stated the Credit Union also expressed a desire to establish a lease agreement that would provide some assurance that the lease rate would not increase dramatically from year to year. Mr. Clark explained that in consideration of a limited one year contract, the renewing rate could not be guaranteed.

Mr. Clark stated that further negotiation with the Credit Union initiated but came to a sudden stop as the City transitioned to new legal counsel following the untimely death of Larry Pitts. Mr. Clark stated that the City then worked to amend the contract with language that would hopefully address the concerns of NCSECU. The amendments however did not provide the assurances of a multi-year lease or guarantee future lease rates. Mr. Clark stated that in light of the cost outlay, the Credit Union has said they are not prepared to enter into a one year lease agreement but still are however interested in placing the ATM at City Hall.

Mr. Clark stated the City of Newton and surrounding area serves as the hub for many state and local government offices. This includes the Newton-Conover School System (administrative offices and schools), the Catawba County School System (administrative offices and Startown Elementary), the N.C. Division of Motor Vehicles, N.C. Highway Patrol offices, N.C. Department of Transportation maintenance facility, a minimum security prison operated by the N.C. Division of Adult Correction, various City of Newton offices and Catawba County Government Offices (Administration, Courts, Sherriff's Office, County Jail, Clerk of Court, Register of Deeds, Elections Office, and Animal Control).

Mr. Clark explained that if City Council continues to support the ATM and supports a ten (10) year lease the City must follow state law that establishes the procedure for entering into a multi-year lease agreement in accordance with North Carolina General Statute §160A-272. Mr. Clark also advised City Council that a revised contract has been drafted that provides for a ten (10) year lease at a rate of \$250 per month for the entire term. He stated that the lease agreement has been reviewed by NCSECU and is acceptable in its present form. Mr. Clark stated that City staff has also advertised a public hearing for the

May 21st City Council meeting and prepared a resolution as required by state law. A copy of the lease agreement and resolution are attached for reference.

Mr. Clark requested City Council to consider a ten year lease agreement with NCSECU for the ATM machine.

Council Member Wayne Dellinger stated that he thought five years would be long enough for the lease agreement.

Council Member Robert C. Abernethy, Jr. stated that he was hesitant to agree to the lease and was glad that nothing has been done yet. Council Member Wes Weaver asked Council Member Abernethy what his concerns were. Mr. Abernethy stated that he was concerned that the NCSECU was the only bank to be offered the spot and that other banks might want that spot. Mr. Weaver asked if the lease fee was a normal fee, Mr. Clark stated that it was a typical rate. Mr. Weaver stated that he felt like it would be a benefit for employees and for citizens.

Mayor Stedman asked if there was any more discussion.

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

That the Public Hearing be – CLOSED.

Council Member Tom Rowe asked if the State Employees Credit Union would pay for power to the ATM, Mr. Clark stated that they would.

Council Member Wes Weaver made a motion that the City of Newton enter in to a lease agreement with the North Carolina State Employees Credit Union for property located in the north parking lot of City Hall for the purpose of an Automated Teller Machine for a period of five (5) years at a rate of \$250 per month with a 5% annual increase. The motion was seconded by Council Member Wayne Dellinger.

Council Member Mary Bess Lawing asked if the SECU would agree to these terms, Mr. Clark stated that he thinks it's a fair lease agreement.

Council Member Robert C. Abernethy, Jr. stated that multiple banks with investments are located in this city, and that this is a competition, and he doesn't know how they would feel about not having the chance to have an ATM at this location.

With Mayor Pro Tem Bill Lutz, and Council Members Wes Weaver, Wayne Dellinger, Tom Rowe, and Mary Bess Lawing voting in favor of, and Council Member Robert C. Abernethy, Jr. opposed it was RESOLVED:

That the City of Newton enters in to a lease agreement with the North Carolina State Employees Credit Union for property located in the north parking lot of City Hall for the purpose of an Automated Teller Machine for a period of five (5) years at a rate of \$250 per month with a 5% annual increase.

(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 Bids – Southfork Project

Director of Public Works and Utilities Wilce Martin stated that on October 6, 1998 the City of Newton entered into an agreement with Jerry D. and Janet R. Rudisill to provide water, sewer and electrical services for their property on Southfork Road. Mr. Martin stated that according to the agreement the City would provide sewer services via an onsite septic tank until permanent sewer services were available to the site.

Mr. Martin explained that several months ago United Franchise Group expressed interest in the property and inquired about the utility services. He stated that staff met with David Baxter of United Franchise Group on several occasions to review their utility needs and at the February 5, 2013 Council meeting the City Council approved the use of capital fund savings from several water and sewer projects to fund the sewer installation project on Southfork Road.

Mr. Martin stated that on April 30, 2013 bids were opened for the Southfork Sewer Line installation. Of the 4 bids solicited two were received and they are listed below:

- | | |
|--|-------------|
| 1. CK Construction Inc of Kings Mountain, NC | \$45,985.00 |
| 2. Neil Grading Company of Hickory, NC | \$43,730.00 |

Mr. Martin stated City staff and Wooten Engineers have reviewed the bids and Wooten is recommending Neil Grading Company of Hickory, NC as the lowest qualified bidder and that the funding for this project is available in the water and sewer fund.

Mr. Martin recommended that Council consider awarding the bid for the Southfork Sewer Line Installation Project to Neil Grading Company for \$43,730.00.

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

That Award of Bids – Southfork Project – to Neil Grading Company of Hickory, NC, in the amount of \$43,730 be – APPROVED.

B. Consideration of United Franchise Group Annexation Petition

Assistant Planning Director Alex Fulbright stated that Sign*A*Rama, Inc. has filed a petition seeking a non-contiguous annexation to the City. Mr. Fulbright stated that they are seeking to annex 2.228 acres located at 1630 South Fork Drive and that the requested property is adjacent to the 10.6 ac. that was annexed in 1999. Mr. Fulbright explained that the 2.228 acre piece was added to the original 10.6 acre property after the annexation was recorded and is not currently included in the City Limits.

Mr. Fulbright explained that this annexation would be outside the City's extraterritorial planning jurisdiction; because of this the City will need to establish zoning on the annexed parcel after completing the annexation. Mr. Fulbright stated that staff will present this issue to the Planning Commission at its July meeting.

Mr. Fulbright stated that the Council would need to do the following in order to start the annexation process:

1. Adopt a resolution directing the City Clerk to investigate the petition.
2. Receive Clerk's Certification of Sufficiency.
3. Adopt a resolution fixing the date of public hearing on the question of annexation.

Mr. Fulbright recommended that the Council fix the date of the public hearing for 7:00 pm. on

June 4, 2013 in the Council Chambers of City Hall.

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

That Resolution Directing the City Clerk to Investigate the Annexation Petition by United Franchise Group be – ADOPTED.

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

That the City Clerk's Certification of Sufficiency be – ACCEPTED.

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

That Resolution to Fix Date of the Public Hearing for 7:00 p.m. on June 4, 2013 – on the Matter of the Annexation of Property - United Franchise Group be – ADOPTED.

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

C. Consideration To Accept the 2012 Assistance to Firefighters Grant for funding of Mobile and Portable Radios and Equipment

Fire Chief Kevin Yoder stated that the City of Newton Fire Department participated with other Fire Departments (14), Rescue Squads (5), and Catawba County in applying for and was awarded a regional grant under the Assistance to Firefighters Grant program, for funding to purchase communications equipment. Chief Yoder stated that the City of Newton Fire Department received approximately 29 portable radios on the grant and that those radios have been placed in service. Chief Yoder explained that the equipment that was awarded to the Newton Fire Department on the regional grant was approximately one third of the total equipment needed to completely change over to the new FCC compliant 800 MHz radio system.

Chief Yoder stated that in June, 2012, City Council authorized the submission of a local grant application package under the Assistance to Firefighters Grant for 800 MHz mobile and portable radios. He stated the equipment will enable the Fire Department to purchase the remaining two thirds of the equipment necessary to comply with the FCC guidelines effective 2017. Chief Yoder stated that this local grant will fund approximately 12 portable radios, 3 base radios, 16 mobile radios, and 1 mobile repeater. In addition, this grant, if approved, will fund other necessary equipment for the operation of the radio system.

Council Member Wes Weaver asked how many repeaters the Fire Department has currently. Chief Yoder stated zero. Council Member Weaver stated that he thought there was one at Station 3; Chief Yoder said that it was not 800 MHz, it is for Police frequency. Chief Yoder said that when the project is complete there should be a repeater in the supervisor's vehicles, and that if the firefighters can talk talkie to talkie they won't have to rely on repeaters.

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

That the 2012 Assistance to Firefighters Grant for funding of Mobile and Portable Radios and Equipment be – ACCEPTED.

ITEM 8: City Manager's Report

- WPCOG Policy Board Meeting – May 28th at 6p.m. at Rutherford College
- Water Released with low tritium levels at Catawba Nuclear Station on May 15, 2013
- NCLM District Days – June 4th
- City Council Priorities and Action Plan
- The pool opens on Monday, June 3
- Take A Kid Fishing Day is on Saturday, June 15 from 9 a.m. to noon at Herman's Fish Lake
- Movies in the Park begin Friday, June 14 at Southside Park with "The Lorax." Here are the movies for the remainder of the summer if you want them:
 - June 21 – Little Giants
 - June 28 – Rise of the Guardians
 - July 5 – Space Jam
 - July 12 – Madagascar 3

ITEM 9: Questions and Comments from Mayor and Council

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

ITEM 10: Closed Session to Consult with Attorney – G.S. 143-318.11(a)(3)

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

The Council, Mayor, City Attorney, City Clerk and Department Heads met in the Council Chambers for the purpose of discussion of several legal matters. No action was taken.

Upon motion duly made by Council Member Robert C. Abernethy, Jr., seconded by Council Member Wayne Dellinger, it was unanimously RESOLVED: to leave CLOSED SESSION and return to OPEN SESSION.

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

That Contract – Agreement between Catawba County and City of Newton for Construction, Operation and Maintenance of Water Line(s) to Serve Highway 16 South, Balls Creek Road and Buffalo Shoals Road be – APPROVED.

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

That Contract – Agreement between Catawba County and City of Newton for the City to provide New Electrical Primary Service, Second Primary Service and Additional Generation Equipment (Diesel Powered Generation Equipment) at the Expansion Location of the Current Justice Center, located at 100 S.W., Newton be – APPROVED.

ITEM 11: Adjournment

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

That the meeting be – RECESSED until May 22, 2013 at 5:15 p.m.

Anne P. Stedman, Mayor

Amy S. Falowski, City Clerk

