

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

May 15, 2012 – 7:00 P.M.

The regular meeting of the Newton City Council was held on Tuesday, May 15, 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 Wayne Dellinger, Mary Bess Lawing, Tom Rowe, Robert C. Abernethy, Jr., and Wes Weaver

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

Council Member Tom Rowe provided the invocation and led the Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES FROM THE April 17, 2012 REGULAR CITY COUNCIL MEETING

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

That the Minutes of the April 17, 2012 Regular City Council Meeting be – APPROVED.

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS

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

That Consent Agenda be – APPROVED

- A. Tax Releases
- B. Sewer Adjustments
- C. Consideration of Budget Ordinance Amendment for Acceptance Of 3M Corp. “Protect Your Family from Fire” Grant

ORDINANCE 2012-11
AN ORDINANCE TO AMEND REVENUES AND EXPENDITURES FOR FISCAL YEAR 2011-2012
FOR THE CITY OF NEWTON.

WHEREAS, the City Council of the City of Newton has adopted a Budget Ordinance for fiscal year beginning July 1, 2011, and ending June 30, 2012, in accordance with the General Statutes of the State of North Carolina, and

WHEREAS, the City Council has authorized the Fire Department to apply for a “Protect your Family from Fire” grant by 3M Corporation, parent company of Polymask, in the amount of \$750 with no match required from the City of Newton for a total approved project cost of \$750 for smoke detectors and batteries, and

WHEREAS, the City Council desires to recognize the revenue and authorize the related expenditure appropriation within the Fire Department 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

Special Project Cont./Other Grants	11.0000.3845	\$750
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Section 2

General Fund Appropriations

Fire Prevention Supplies	11.4340.5660	\$750
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Adopted this 15th day of May, 2012.

D. Consideration of Resolution Approving Terms of Re-Financing & Related Budget Ordinance

ORDINANCE 2012-12
AN ORDINANCE TO AMEND REVENUES AND EXPENDITURES FOR FISCAL
YEAR 2011-2012 FOR THE CITY OF NEWTON

WHEREAS, the City Council of the City of Newton has adopted a Budget Ordinance for fiscal year beginning July 1, 2011, and ending June 30, 2012, in accordance with the General Statutes of the State of North Carolina, and

WHEREAS, City Council desires to re-finance three (3) existing loans with BB&T Governmental Finance. The re-financing of these loans changes the terms of our original financing agreements by modifying the interest rates on each of these loans. The length of the payoff terms have not been modified. BB&T Governmental Finance has offered very competitive rates on these loans. The City will realize a savings of \$274,528.03 as a result of the modification.

4.19% to 2.73% for contract 993300273700004 (old #003-1405245-027) - **\$106,020.46 savings**
 3.91% to 2.97% for contract 993300273700006 (old #003-1405245-030) - **\$138,895.51 savings**
 4.13% to 2.97% for contract 993300273700007 (old #003-1405245-032) - **\$ 29,612.06 saving**

WHEREAS, the City Council desires to utilize fund balance and authorize the related expenditure appropriation within the operating budget of each respective fund to recognize accrued interest through March 15 which is the anticipated closing date on the above re-financings as well as closing fees.

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.

General Fund Revenues

Fund Balance Appropriated	11.0000.3990	\$ 3,900
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General Fund Appropriations

Debt Issuance Cost	11.9100.9501	\$ 3,900
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Water/Wastewater Fund Revenues

Retained Earnings Appropriated	61.0000.3995	\$ 6,750
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Water/Wastewater Fund Appropriations

Lease Purchase Interest	61.7100.9201	\$ 1,500
Lease Purchase Interest	61.7141.9201	\$ 1,350
Debt Issuance Cost	61.9100.9501	\$ 3,900

Electric Fund Revenues

Retained Earnings Appropriated	63.0000.3995	\$ 5,450
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Electric Fund Appropriations

Lease Purchase Interest	63.7201.9201	\$ 1,550
Debt Issuance Cost	63.9100.9501	\$ 3,900

Adopted this 15th day of May, 2012.

- E. Consideration of Memorandum of Agreement Regarding Implementation of a County-Wide Gang Prevention Initiative Grant
- F. Consideration of Commission/Committee Membership Appointments 2012- Jim Gargis – Appearance Commission
- G. Consideration of Proclamation – Preservation Month – May
- H. Consideration of Proclamation – National Police Week May 13-19, 2012
- I. Consideration of Proclamation – National Public Works Week May 20-26, 2012

(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.

Mr. Dwight Herman, of 4462 Startown Road, stated that he would be speaking on behalf of his family concerning a setback law in the County or City for graveyards/cemeteries. He explained that Jenkins Funeral Home was building a wall within 12” of the graves of his parents, and that other deceased family members will be blocked by the wall as well. He stated that when Mr. Jenkins had the footings poured he moved his parent’s foot stones and that he thinks this is wrong (to move the foot stones without notification and/or permission). Mr. Herman passed out photographs of the cemetery and the wall that is being built. He stated that he is afraid that water will now drain in to the graves now that they have been disturbed. Mr. Herman stated that he believes Mr. Jenkins has no respect for the dead or for the families of the deceased.

Mr. Herman stated that he is not blaming the City for the situation; he would just like to prevent this from happening to another family. He stated that he also brought the issue before the Catawba County Commissioners.

Council Member Wes Weaver asked which cemetery Mr. Herman was referring to. Mr. Herman stated that it is the cemetery that is owned by Jenkins, but used to be Startown Baptist. Council Member Weaver stated that the pictures were disturbing.

Council Member Robert C. Abernethy, Jr. asked if the Herman family would now have to read the foot stones upside down due to the placement of the wall. Mr. Herman stated yes. He also said that there are set back laws on other things, and that he would like to see the City look into

some kind of set-back for cemeteries. He also expressed concern that Jenkins would be building a crematorium close to the school.

Mayor Stedman stated that Mr. Jenkins came before Council for an amendment to a special use permit in order to build a pavilion. Mayor Stedman asked if the water run-off would disturb the graves. Mr. Herman answered that he believed that water will run in to the loose dirt, and that Mr. Jenkins seemed amused that Mr. Herman stated that the water could wash up the graves.

Mayor Stedman thanked Mr. Herman and stated that City Council would be checking into the matter.

Council Member Mary Bess Lawing asked if City Council could impose a moratorium so that nothing else is moved until this issue is resolved. Larry Pitts, attorney for the City, stated that the only thing that is really addressed in the statute is the moving of an actual grave.

Mr. Herman stated that he has contacted Mitchell Setzer and is working to try to get a setback law enacted. He stated that Mr. Jenkins has offered to move the graves at the family's expense, but the family is not willing to move on those terms.

Council Member Robert C. Abernethy, Jr. stated that he would like for staff to look into this matter. Mr. Herman asked if Mr. Jenkins could be stopped until then. Mayor Stedman stated that we couldn't stop him, and Mr. Pitts stated that that was true, the city could not.

ITEM 6: Old Business

A. Consideration of approval of Final Adjusting Change Order for the Highway 70 Water System

City Manager Todd Clark stated that the Highway 70 Water System Improvements Project included the replacement of approximately 900' of 50+ year old 16" pipe at 30' of depth in its deepest location. Mr. Clark explained that over a year ago this pipe broke and cost about \$60,000 to repair due to the extreme depth and that the improvement project changed the pipe depth from 30' to about 7' to make the pipe much more accessible to crews for any future repairs and maintenance.

Mr. Clark said that the project has been completed and the new water main is in service and the Contractor (Neill Grading) has been presented a list of items to be addressed prior to release of liens and final payment (including the 5% retainage).

Mr. Clark stated that the final adjusting change order has been presented, and includes the following items:

1. A 33 linear foot reduction in installation of 16" Ductile Iron Pipe (\$2,475.00 credit).
2. A 32 square yard reduction of asphalt drive repair (\$960.00 credit).
3. An additional concrete thrust block restraint (deadman) (\$800.00 debit).
4. Additional labor and materials as a result of a leaky valve (\$4,187.00 debit).

Mr. Clark stated that the contract price for the Hwy 70 Project is \$98,750.00, and that the final adjusting change order price is \$1,552.00. He recommended that the Council approve the use of contingency funds for this project to fund the change order of \$1,552.00.

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

That Final Adjusting Change Order for the Highway 70 Water System be – APPROVED.

ITEM 7: **New Business**

A. Business Advisory Committee Report

Mayor Stedman introduced John Stiver, Chairman of the Business Advisory Committee.

Mr. Stiver stated that since the Business Advisory Committee started meeting in October, they have had seven very detailed agendas. Some of the main items covered so far have been:

- Streetscape Master Plan
- Branding
- Non-Residential Maintenance Code
- Way-Finding
- Economic Development
- The need for an inventory of commercial property
- The need for an inventory of all businesses
- The need for the city to hire a Level 1 Code Enforcement Officer
- The need for a Business Incentive Policy
- The need to team with DNDA to create a community calendar
- The need for an Economic Development Section on the city's website
- The need to develop a marketing plan that highlights the strengths of the city
- The need for mini-parks downtown

Council Member Robert C. Abernethy, Jr. stated that he is totally in favor of the things mentioned.

B. Consideration of Request by Tree Board to Direct Staff to Remove Numerous Trees at an Entrance of Eastview Cemetery

City Manager Todd Clark stated that at the present time, there are a total of 24 Leyland Cypress trees located on the property line in the Southwest Section of Eastview Cemetery Division "G". Mr. Clark stated that these trees are approximately 30 years old, 65' tall and over 15' wide and that, the tree canopy extends into the cemetery driveway located off Highways 10 and 16, across the street from Gene's Produce Market, and behind the Catawba County Democratic Headquarters, property owned by Tim Wepner.

Mr. Clark stated that as recommended by the City of Newton Tree Board, the city staff also recommends complete removal of the Leyland Cypress along this entrance to the cemetery. He stated that Mr. Wepner has been contacted regarding this matter since the trees are located on the property line, and that Mr. Wepner concurs with the removal of the trees. Mr. Clark stated that if approved by Council, the staff will install a split rail fence and plant a row of Knockout Roses on the city side.

Council Member Robert C. Abernethy, Jr. inquired as to the cost of the removal of the trees and the installation of the split rail fence and rose bushes. Mr. Clark stated that the city tree trimmers would remove the trees and employees of the city would install the fence and rose bushes.

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

That of Request by Tree Board to Direct Staff to Remove Numerous Trees at an Entrance of Eastview Cemetery be – APPROVED.

C. Consideration of the Award of Bids for the 2011-12 4kv Conversion, McKay Road Line Extension, and the Startown Jacob Fork Reconductoring Projects

City Manager Todd Clark stated that the City of Newton has established separate Capital Project Funds for the conversion of the Newton's NW Area 4kv electric system to a new 24 kv system, McKay Road Line Extension, and the Startown to Jacob Fork Reconductoring Project. Mr. Clark explained that at staff direction, Southeastern Consulting Engineers (SCE) solicited bid proposals for these projects, and they received five bid proposals which were opened on Thursday, April 24, 2012. The bid proposals are listed below:

1. Pike Electric of Mt. Airy, NC	\$468,355.63
3. Williams Electric of Shelby, NC	\$470,786.57
4. LEE Electric of Aberdeen, NC	\$448,633.09
5. T & D Solutions, , NC	\$638,197.00
6. Davis Elliot of Roanoke, Virginia	No bid

Mr. Clark stated that Southeastern Consulting Engineers has reviewed the bid proposals and in their attached letter are recommending that the lowest qualified bidder is LEE Electric of Aberdeen, NC. Mr. Clark stated that staff recommends Council award the bid for these projects to LEE Electric for \$448,633.09.

Public Works and Utilities Director Wilce Martin stated that the three different projects were bid together.

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

That Award of Bids for the 2011-12 4kv Conversion, McKay Road Line Extension, and the Startown Jacob Fork Reconductoring Projects – LEE Electric for \$448,633.09 be – APPROVED.

D. Consideration of the Award of Bids for the 2011-2012 Overlay Project

City Manager Todd Clark stated that bids for the 2011-12 Street Overlay Projects were sent out on April 20, 2012 and were opened on April 27, 2012. Mr. Clark stated that the results of the bidding are listed below:

1. Carolina Paving, Hickory, NC	\$ 88,817.40
2. MidState	\$ 106,736.90
3. JT Russell & Sons	\$ 109,330.00

Mr. Clark stated that staff has field reviewed the three bids received for the 2011-12 Street Overlay Projects, found Carolina Paving to be the lowest qualified bidder, and recommended that Council award the bid for the 2011-12 Street Overlay Projects to Carolina Paving.

Mr. Clark stated that Dove Street is included in these plans.

Council Member Tom Rowe stated that he is afraid that we are never going to catch up on road repair. Wilce Martin, Public Works and Utilities Director, stated that the department is saving money so that major projects such as milling and overlay can be completed.

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

That Award of Bids for the 2011-2012 Overlay Project – Carolina Paving be – APPROVED.

E. Consideration of Contract Amendment with Energy United

City Manager Todd Clark stated that the City of Newton is presently engaged in a contractual partnership with Energy United for water that is to be re-sold to the Town of Troutman. Mr. Clark explained that in accordance with the contract executed on August 16, 2005, the City agreed to provide Energy United (EU) with 200,000 gallons of water per day with the future minimum delivery requirement increasing to 500,000 gallons after three (3) years of Energy United having made an interconnection with the Town of Troutman. Mr. Clark stated that in a separate contract between Energy and Troutman, also executed in August of 2005, the Town agreed to purchase a minimum of 500,000 gallons of water from Energy United under the same conditions set forth in Energy United's contract with Newton.

Mr. Clark explained further that per the terms of the two contracts executed in August of 2005, Troutman was to begin taking 500,000 gallons of water from Energy United in March of 2011. Mr. Clark said that the City was contacted in June of 2011 by the Mayor of Troutman who sought a meeting to discuss economic conditions that have resulted in lower than projected water sales and the need for them to seek relief from their obligation to purchase 500,000 gallons of water from Newton and Energy United. The City staff has met on multiple occasions with staff representatives of Energy United and Troutman to discuss possible contract amendments to benefit everyone concerned.

Mr. Clark stated that an amendment to the contract between Newton and Energy United has been drafted for City Council review and action, and that the contract provides an extension of eight (8) years to the original term of the contract, increases the cost per 1,000 gallons of water by twenty cents, and allows the City to annually adjust the cost per gallon according to Newton's actual increase in operational and maintenance cost the prior year (as a percentage) or the consumer price index, whichever is higher.

Mr. Clark stated that the staff recommends approval of the contract amendment.

Mayor Stedman stated that the contract has been debated by all parties, and that she felt like this final contract is good for all parties.

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

That Contract Amendment with Energy United for Water that is Re-sold to the
Town of Troutman be – APPROVED.

Council Member Robert C. Abernethy, Jr. stated that he has issues with this contract amendment. Mr. Abernethy stated that he feels like the amendment is not mutually beneficial, and that he would like a better deal. Mr. Abernethy stated that he disagrees with the contract.

Council Member Wes Weaver stated that he feels that Energy United is getting too much in this contract amendment. He stated that he is not opposed to Energy United getting their share, he is just afraid that it could affect the price that the City of Newton will get for water in the future.

F. Consideration of the Award of Bids for the Renovations at the
Startown Fire Station

Fire Chief Kevin Yoder stated that the City Council appropriated funding in the FY 2011-2012 budget for the renovation of the Startown Fire Station (Station #3) with the intent of improving the functionality of the facility and to extend the life of the building for use by the Fire Department for the foreseeable future. Chief Yoder explained that this construction work will improve the appearance and functionality of the exterior of the building as well as the interior of the building.

Chief Yoder stated that a Capital Project Fund was established for this project and funds were transferred from the Fire Department Operating Budget in the amount of \$79,500.00. These funds were to be utilized for design, engineering, bidding and construction of the project. Chief Yoder explained that design plans have been prepared and bids received for the renovation work to be done from eight (8) prospective contractors.

Chief Yoder recommended that the lowest bid be accepted and awarded to Classic Home Renovations in the amount of \$105,742.00.

Council Member Mary Bess Lawing stated that there was a big variation in bids.

Chief Yoder stated that the lowest bidder spent a lot of time measuring and inspection the building prior to the bidding process.

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

That Award of Bids for the Renovations at the Startown Fire Station –
Classic Home Renovations be – APPROVED.

A. Presentation of Fiscal Year 2012-2013 Budget

City Manager Todd Clark reviewed his message to the Council on the Fiscal Year 2012-2013 Budget.

Mayor Stedman thanked Mr. Clark and staff for their hard work on the budget and stated that the Budget Hearing is expected to be held on June 5, 2012. Mayor Stedman encouraged the City Council to review the budget and also encouraged all citizens to attend.

ITEM 8: City Manager's Report

- EDC Workshop "Catawba County's need for Suitable Industrial Buildings – Wednesday, May 16, 7:45 a.m. – Newton Depot
- Ethics for Elected Officials Webinar – Wednesday, May 16, 10:00 a.m. – 12 noon WPCOG
- Budget Workshops – May 17th, 24th and 29th 5:15 -7 p.m. If needed May 31st, June 5th and 12th 5:15 – 7 p.m.
- Sarstedt Ribbon Cutting and Facility Tours – Friday, May 18, 2012 – 10 a.m.
- Street Sweeper

City Manager Todd Clark stated that the street sweeper is out of commission and that the City's stormwater permit mandates that the City has to have in one in operation. He stated that the City received \$9,000 from the insurance company for the fire that put the street sweeper down. He would like City Council to direct staff on whether or not to buy a used unit, contract for a rental unit, or buy a new unit. Public Works and Utilities Director Wilce Martin estimated that a new

unit would cost around \$194,000, with a 15 year life expectancy, or \$75,000 to \$85,000 for a good used unit with a life expectancy of 4-5 years.

Mayor Stedman stated that it was a tough decision, but it needs to be made.

City Manager Todd Clark stated that it could take 6-12 months to purchase a new street sweeper, which is not included in the already approved Capital Improvement Plan.

Council Member Robert C. Abernethy, Jr. recommended that the City could partner with other cities. Mr. Martin stated that the street sweeper is used 5-6 hours per day.

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

That The City of Newton Spend \$30,000 to \$40,000 to Purchase a Used Street Sweeper That Could Potentially Last 2-3 Years or Until a New Street Sweeper is Funded in the Capital Improvement Plan.

- Town Hall Day, June 6, 2012
- Newton Downtown Historic District – Approved by the National Park Service and is listed on the National Register of Historic Places
- Report on Completed Water/Sewer Projects:

Hwy 70: Completed

- The city is holding retainage pending the completion of punch list items.
- The project had a change order in the amount of \$1500.00.

Shannonbrook

- All pipe has been installed.
- Pressure testing and super-chlorination is under-way. After the pipe has passed testing, adjusting fire hydrant heights and tying services over to the new water line will began.
- Project is expected to be completed on time.
- A large number of complaints regarding the restoration on Kilborne Dr. have been received. The contractor has been directed to address this restoration immediately.

Water and Sewer Rehabilitation Projects

- A, B, C – work ongoing. Sewer line installed on W. C street. Manhole at the intersection of C St. underway.
- D, E, F – Lines installed, restoration complete. Pavement Patching was completed 5/10/2012 Project F (Brady) is installed and awaiting testing. Pavement has been restored at all areas. After testing is completed, contractor will move service lines to new water main.
- G – Complete.

- H – Contractor is mobilizing to this location. Caldwell St. has been cut, and clearing of the easement has begun. Contractor anticipates beginning construction the week of May 14th.
- I – Point repairs and manhole replacements have been completed. In-situ lining is began starting the week of May 7th.
- J – Pending.
- X – Brackets and materials are being reviewed by engineer. Work is pending.

Burriss Road Pump Station and Force Main

- The pump station is online (start up on May 2nd, 2012). The contractor has several punch list items to complete, including installation of the chain link fence and decommissioning of old pump station.
- The force main is installed and in service. City personnel have completed a final walkthrough the week of May 7th to address punch list and warranty items. The City has received the list of required final closeout items from NCDENR-CGL and is working with the engineer to complete.

Water/Sewer Rate Study

A draft has been received by staff and is being reviewed.

- Monthly Police Report

These are the locations that overflowed yesterday:

- 1857 Burriss Rd over flow from manhole#2397 started at 9:40am stop at 12:00pm the over flow was 25,000 gallons into McLIn Creek.
- 1432 Hwy 10 west over flow from manhole#2260 started at 11:50am stop at 3:20pm the over flow was 80,150 gallons into Hildebran Creek (Anthony Creek).
- 922 West 1 st over flow from manhole#2241 started at 11:40am stop at 4:10pm the over flow was 103,050 gallons into Hildebran Creek (Anthony Creek).
- 922 West 1 st over flow from manhole#2241 started at 8:00pm stop at 12:00am on 5/15/2012 over flow was 91,600 gallons into Hildebran Creek (Anthony Creek).

We had a total overflow of 299,800 gallons of which 274,800 gallons went into Hildebran Creek and 25,000 gallons went into McLIn Creek.

We have reported this to NCDENR and will wait to hear from them.

ITEM 9: Questions and Comments from Mayor and Council

Council Member Tom Rowe thanked Mr. John Stiver and the Business Advisor Committee for all their hard work, and stated that he would like to see the Appearance Commission revise their purpose and for city staff to be more aggressive on code enforcement. Mr. Rowe also said that he would like to see the development of the streetscape plan, and to develop a timeline and

implement a little every year. He stated that if we have an attractive downtown, good schools, and great parks we all know that industry will come as long as we take care of our buildings.

ITEM 10: Adjournment:

There being no further business, the meeting was RECESSED.

Anne P. Stedman, Mayor

Amy S. Falowski, City Clerk

