

MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL
December 11, 2012 – 7:00 P.M.

The regular meeting of the Newton City Council was held on Tuesday, December 11, 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 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 Larry Pitts, 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 Robert C. Abernethy, Jr.

Council Member Robert C. Abernethy, Jr. provided the invocation and led the Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES FROM THE November 20, 2012 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 Minutes of the November 20, 2012 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 – October 2012
- B. Sewer Adjustments
- C. Consideration of the 2013 Regular City Council Meeting Schedule

- D. Consideration of Appointment to the Business Advisory Committee – Nick Martin
- E. Consideration of Annual Fire Department Membership Roster And Department Certifications for Year 2013
- F. Resolution – Certificate of Appreciation to John C. Tippet, Jr. 34 Years of Service at Western Piedmont Council of Governments
- G. Resolution – Certificate of Appreciation to James E. Chandler 39 Years of Service at Western Piedmont Council of Governments

(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. No one appeared.

ITEM 6: **Public Hearing**

- A. Consideration of Zoning Ordinance Text Amendment 2012-02, Accessory Dwelling Units

Mayor Stedman opened the Public hearing and asked if there was anyone present that would like to speak in consideration of the proposed Zoning Ordinance Text Amendment – Accessory Dwelling Units.

Ms. Johnnie Bolick of 58 County Center Drive stated that she has concerns about the accessory dwelling units. She stated that she worked in an assisted facility, and also cared for her mother until she had to live at a nursing home. She stated that if the ADU is detached, not only will it hurt property value, but it would be impossible to care for someone elderly. She asked what would happen to the structure when the “mother-in-law” dies. Ms. Bolick voiced her concern about the use of the structure as future rental property or a business. She also was concerned that it could be used for storage that would later turn in to a junk pile. Ms. Bolick asked that Council consider all the “maybes” that could happen in backyards all across town.

Council Member Abernethy asked Ms. Bolick if she would not pass the ordinance that is being presented to Council. Ms. Bolick stated that is not what she said, she just thinks that detached dwellings will not work, and would like to see the plans sent back to the Planning Department.

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

That Public Hearing be – CLOSED.

Mayor Stedman asked Council if they would like to consider the ordinance concerning Accessory Dwelling Units. Council Member Mary Bess Lawing stated that Ms. Bolick made some really good comments.

Council Member Robert C. Abernethy, Jr. asked if a detached building with a breezeway would be considered detached. Assistant Planning Director Alex Fulbright stated that it would be considered attached if the breezeway connected the two structures. Council Member Abernethy asked if the ADUs must maintain design consistency, Mr. Fulbright answered yes. Council Member Wes Weaver asked if there was a format in place for the design consistency, Mr. Fulbright answered that there is.

Council Member Abernethy asked what the current ordinance says concerning ADUs. Mr. Fulbright stated that the City does not currently have an ordinance concerning ADUs.

Assistant Planning Director Alex Fulbright stated that there have been, on average, three to four inquiries per year pertaining to accessory use dwellings. He explained that some citizens have subdivided their property in order to have another dwelling.

Council Member Tom Rowe asked if the owner of the property is not required to live in either dwelling, Mr. Fulbright said that was correct. Mr. Rowe stated that if the owner lived on the property then they would more than likely take more pride in the property.

Council Member Wes Weaver stated that he has concerns about the dwellings becoming empty, becoming arbitrary businesses, or being used as storage.

Mayor Stedman stated that there have been requests, and that people are already living in similar spaces, and that this ordinance would give the city more control. City Manager Todd Clark agreed. Mayor Stedman stated that this has been talked about and that these changes to the ordinances were agreed on.

Council Member Wayne Dellinger stated that as long as setbacks are met everyone could build the units. Mr. Fulbright stated that some developments wouldn't allow it.

Council Member Robert Abernethy asked if this ordinance would make it easier for the Planning Department to monitor, Mr. Fulbright stated that it would, and that it would help the people that are unable to subdivide be able to have another dwelling on their property.

Mayor Pro Tem Bill Lutz expressed his concern about the property owner not being required to live in one of the dwellings. He stated that there could potentially be two rental units.

Council Member Wayne Dellinger stated that everybody could build accessory dwelling units, and that only 40 or so people have inquired, so if it's not broke, don't fix it. Mr. Fulbright mentioned that there are people that build them without permission.

Mayor Pro Tem Bill Lutz asked Collette Touchette (Ms. Touchette spoke at the previous Public Hearing concerning accessory use dwellings) if she is for or against the proposed ordinance. Ms. Touchette stated that she was more against them now considering that the owner of the property would not be required to live there.

Upon motion duly made by Council Member Tom Rowe, seconded by Mayor Pro Tem Bill Lutz, it was unanimously RESOLVED:

That Zoning Text Amendment 2012-02, Accessory Dwelling Units be – DENIED.

Council Member Robert Abernethy stated that this issue needs to be addressed, but that he didn't necessarily agree with everything in the proposed ordinance. Mayor Pro Tem Bill Lutz stated that if the city does allow for an ordinance it would give the city more control and would give conformity. Council Member Wes Weaver agreed.

ITEM 7: New Business

A. Modification To An Approved Planned Development – Catawba County Government Center

Assistant Planning Director Alex Fulbright stated that Jackie Eubanks, on behalf of Catawba County, has requested that the City Council modify the approved site plan to include the addition of a 336 space parking deck. He stated that the letter and associated documentation, including site plan and renderings of the parking deck are included in the Council's agenda. The proposed location is located within the Catawba County Government Center Campus located at 100 Southwest Blvd, which is known as Catawba County Tax Map #3730-15-53-8151, and has a zoning of Planned Development Office and Institutional (PD-O&I).

Mr. Fulbright explained that the site has been zoned R-20 Single family residential dating back to 1982, and is home to the Government Center, the Justice Center, the Sheriff's Department, Vehicle Facility Maintenance, childcare homes, and an animal shelter. He stated that a special use permit was granted in 1977 which was amended several times between 1977 and 2011. Effective January 17, 2012, the site was rezoned to PD-O&I.

Mr. Fulbright stated that Section 102-502 of the City Code changes in approved preliminary plans states specifically in subsection (b)(2) that any change in parking areas resulting in an increase or reduction of five percent or more in the number of spaces approved shall constitute a change requiring council action.

Mr. Fulbright stated further that Section 102-507 states the intent of Planned development office and institutional (PD-O&I) districts are intended to include carefully related buildings, parking and service areas and landscaped open space that will serve clearly demonstrated public need, reduce marginal traffic friction below that which would result from strip commercial development, to protect property values in surrounding neighborhoods and to provide a broad range of facilities and services appropriate to the general need of the area served. He stated that

the overall intent of the ordinance has been met in the sense that a preliminary plan for development of an office and institutional campus and the zoning to govern that has been established, so the question is whether the Council wants to allow the addition of a 336 space parking deck.

Chris Timberlake, Catawba County Planner, stated that the purpose of the request is cost savings. He stated that with surface area parking it would be better to build up, and that the deck would be at ground level.

Council Member Robert Abernethy asked that if the County had more changes to the plan would they come back to City Council. Mr. Timberlake said that they would.

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

That Modification To An Approved Planned Development – Catawba County Government Center be – APPROVED.

B. Consideration to Award Financing Bid and Adopt Resolutions Approving Financing Terms

Finance Director Serina Hinson stated that on November 19, 2012, she solicited bids for funding of equipment and infrastructure improvements. These capital items were approved as part of the FY 2012-2013 budget ordinance. She stated that six RFP's were submitted to the following financial institutions: BB&T Governmental Finance, RBC Centura Bank, Wells Fargo, SunTrust Bank, Bank of America, and First Tennessee Bank.

Ms. Hinson stated that of the six financial institutions solicited, two of these institutions provided a quote; BB&T Governmental Finance and SunTrust Bank.

The bids were as follows:

<u>Financial Institution</u>	<u>Interest Rate</u>
5 Year Amortization (\$486,100)	
BB&T Governmental Finance	1.56%
SunTrust Bank	1.636%
7 Year Amortization (\$289,000):	
BB&T Governmental Finance	1.78%
SunTrust Bank	1.755%
15 Year Amortization (\$3,621,050):	
BB&T Governmental Finance	2.60%
SunTrust Bank	No bid

Ms. Hinson stated that both BB&T and Sun Trust Bank provided competitive bids. BB&T provided a lower bid on the 5 Year amortization by \$1,108.31 while Sun Trust provided a lower

bid on the 7 year amortization by \$288.97. BB&T was the only bid provided on the 15 year amortization.

Ms. Hinson recommended that City Council award BB&T Governmental Finance the bid to provide the requested funding and approve the attached financing resolutions for the 5 year, 7 year and 15 year amortizations.

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

That Financing Terms be – APPROVED.

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

That Resolution 15-2012 – Financing for 5 years be – ADOPTED.

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

That Resolution 16-2012 – Financing for 7 years be – ADOPTED.

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

That Resolution 17-2012 – Financing for 15 years be – ADOPTED.

C. Consideration to Accept Grant from ElectriCities for Wayfinding Project

Commercial Development Coordinator Rob Powell stated that at the September 4th, 2012 Council meeting, Business Advisory Committee Chairman John Stiver presented an outline of a proposed wayfinding signage project which included the engagement of a design professional to complete the details of the plan. Mr. Powell stated that at that meeting, City Council approved the use of \$10,000 for the development of a wayfinding plan for the City of Newton.

Mr. Powell explained to City Council that ElectriCities offers a Smart Communities grant program to NCMPA1 and NCEMPA participating communities and that the maximum annual grant amount is \$4,000 per community. Mr. Powell stated that wayfinding is a qualifying economic development activity under the Smart Communities grant program, so City staff applied for a \$4,000 Smart Communities grant, using the Council's previously approved appropriation to fulfill the matching expenditure requirement. ElectriCities has notified the City Manager that a grant of \$4,000 has been approved for the design of the City's wayfinding project.

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

That \$4,000 ElectriCities Smart Communities Grant be - ACCEPTED, and the Budget Ordinance Amendment Recognizing the Grant and Related Expenditure be - ADOPTED.

D. Consideration of Ordinance to Cause a Dwelling to be Demolished as Provided in Sec. 18-74 of the City of Newton Code

Police Chief Don Brown stated this case, for property located at 802 W. 15th St., has continued in violation of the City of Newton Minimum Housing Code since May, 2011. From May 2011 until October 2012 at least (3) minimum housing inspections had been performed with each inspection indicating that no attempt had been made to correct any of the documented issues.

Chief Brown stated that on October 18th, 2012, a *Notice of Hearing* was issued to Donna and Mickel Sartin for violation of the City of Newton *Minimum Housing Code*. He stated the notification was mailed certified and signed for by M. Sartin on October 19th, 2012 stating that a hearing would be held on October 25th, 2012 at 401 N. Main Ave, Newton, NC for the purpose of finding of fact.

Chief Brown stated that on October 19th, 2012, a hearing was opened at 9:00 am at 401 N. Main Ave, Newton, NC. Present at the hearing was Jon Raines, Code Enforcement Officer, Captain Tim Hayes, Support Services Commander, City of Newton Police Department and Tammy Curtis, Records Specialist, City of Newton Police Department. Chief Brown stated that the Sartin's did not appear nor did anyone on their behalf. Evidence was presented by Officer Raines and an Order was issued directing the owners of record Donna and Mickel Sartin to demolish or remove the dilapidated dwelling from the premises by a date not later than the 24th day of November, 2012. Chief Brown stated that this order was delivered by personal service on October 25th, 2012 to the Sartin residence, and that a *Notice of Appeal* has not been filed with the Code Enforcement Officer as required by ordinance.

Chief Brown explained that as required by ordinance, if the property owner fails to follow an *Order* issued by the code enforcement officer for repair or demolition, the code enforcement officer shall submit an ordinance to council that would order the code enforcement officer to cause such action as previously ordered.

Chief Brown requested that Council approve an ordinance authorizing the Code Enforcement Officer to cause the demolition of the listed structure at 802 W. 15th St. pursuant to an Order issued October 25th, 2012.

Mickel Sartin stated that someone is trying to get the home moved. Council Member Robert C. Abernethy, Jr. stated that the City has been trying to reach out for quite some time to Mr. Sartin, and that Mr. Sartin failed to show up at the hearing. Mr. Sartin stated that he was waiting for a settlement. Mayor Stedman stated that Mr. Sartin could have still shown up for the hearing.

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

That Ordinance to Cause a Dwelling to be Demolished as Provided in Sec. 18-74 of the City of Newton Code – located at 802 W. 15th St be – ADOPTED.

Council Member Abernethy asked if the Sartins will still own the property. City Manager Todd Clark stated yes, they would.

Ordinance 2012-38

OWNERS ADDRESS: 802 W. 15th Street, Newton, NC 28658

PROPERTY ADDRESS: 802 W. 15th Street, Newton, NC 28658

TAX MAP REFERENCE: MAP# 050N 04008C, BLOCK PT 4, LOT PT 4 PL 27-58, COUNTY Catawba

PIN:373007791649

AN ORDINANCE DIRECTING THE CODE ENFORCEMENT OFFICER TO REMOVE OR DEMOLISH THE PROPERTY HEREIN DESCRIBED AS UNFIT FOR HUMAN HABITATION AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME MAY NOT BE OCCUPIED.

WHEREAS, the City Council of the City of Newton finds that the dwelling described herein is unfit for human habitation under the City Housing Standards, and that all of the procedures of the Minimum Housing Standards have been complied with; and

WHEREAS, this dwelling should be removed or demolished, as directed by the Code Enforcement Officer, and should be placarded thereon a notice prohibiting use for human habitation; and

WHEREAS, the owner of this dwelling has been given a reasonable opportunity to bring the dwelling up to the standards of the Minimum Housing Standards accordance with G.S. 160A-443 pursuant to an Order issued by the Code Enforcement Standards on 25th of October, 2012, and the owner has failed to comply with the Order;

NOW THEREFORE BE IT ORDAINED BY the City Council of the City of Newton that:

Section 1. The Code Enforcement Officer is hereby authorized and directed to place a placard containing the legend noted below on the building located at the following address:

802 W. 15th Street, Newton, NC 28658 “**This building is unfit for human habitation; the use or occupying of this building for human habitation is prohibited and unlawful.**”

- Section 2.** The Code Enforcement Officer is hereby authorized and directed to proceed to remove or demolish the described above dwelling in accordance with the Order to the owner thereof dated the 25th of October, 2012, and in accordance with the Minimum Standards Housing Code and G.S. 160A-443, and improvements of the lot.
- Section 3.** The cost of demolition and improvement of the lot shall be a lien against the real property as provided by G.S. 160A-443.
- Section 4.** It shall be unlawful for any person to remove or cause to be removed the placard from any building to which it is affixed. It shall be likewise unlawful for any person to occupy or to permit the occupancy of any building therein declared to be unfit for human habitation.
- Section 5.** A copy of this Ordinance shall be recorded in the Register of Deeds of Catawba County, North Carolina, and indexed in the name of the property owner or owners in the grantor index.
- Section 6.** This Ordinance shall become effective upon its adoption.

Adopted this 11th day of December, 2012

A. Code Enforcement Report

Police Lieutenant Tim Hayes gave a brief Code Enforcement Report to City Council.

Mayor Stedman thanked Lt. Hayes and Code Enforcement Officer Raines for their hard work.

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

ITEM 8: City Manager’s Report

- Retirement celebration for Jerry Travis and Charles “Rick” Crater – Friday, December 14 at 11:30 am
- Retirement celebration for Bobby Chambers, Harold Presswood, Harold Duckworth and Ronald Wilson – Friday, December 21, 2012 at 12 pm
- Cleaning, patching and painting of City Hall by Certapro Painters will start tomorrow/ estimated to finish end of December
- Ribbon Cutting at Godoy Art Studio 2:45 pm, this Thursday the 13th, 115 N. College Ave

- 2013 Advocacy Goals Conference – Raleigh - Thursday, January 24th 9:30 – 5:00
- Planning Commission will be holding a Public Hearing on Retail Sales, Ammunition Supply, and Firing Ranges in the M-1 District tomorrow, December 12th at 7 pm
-

Fire Chief Kevin Yoder introduced Jimmy Martin as the new Deputy Fire Chief.

ITEM 9: Questions and Comments from Mayor and Council

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

ITEM 10: Adjournment

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

That the meeting be – ADJOURNED.

Anne P. Stedman, Mayor

Amy S. Falowski, City Clerk

