

MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL

October 7, 2014 – 7:00 P.M.

The regular meeting of the Newton City Council was held on Tuesday, October 7, 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 led the Pledge of Allegiance.

ITEM 3: **APPROVAL OF MINUTES FROM THE September 2, 2014 REGULAR CITY COUNCIL MEETING**

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

That the Regular Minutes of the September 2, 2014 City Council Meeting be –
APPROVED

ITEM 4: **SPECIAL PRESENTATION OF HOUSE RESOLUTION 1259 HONORING THE PARTICIPANTS AND SUPPORTERS OF THE ANNUAL SOLDIERS REUNION – REPRESENTATIVE MITCHELL SETZER**

Mayor Stedman introduced North Carolina State Representative Mitchell Setzer. Representative Setzer Presented Mayor Anne P. Stedman, Council Member Wayne Dellinger and the Newton City Council with House Resolution 1259 honoring the participants and supporters of the City of Newton’s Annual Soldiers Reunion on the one hundredth twenty-fifth anniversary of the reunion.

Representative Setzer expressed his congratulations to the City of Newton for this monumental achievement.

ITEM 5: **CONSIDERATION OF CONSENT AGENDA ITEMS**

Mayor Stedman asked City Council to consider removing Item F, and moving Item I to “Old Business”.

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

That Consent Agenda be – APPROVED

- A. Tax Releases
- B. Sewer Adjustments

- C. Consideration of Proclamation – National Red Ribbon Week – October 23-31, 2014
- D. Proclamation – Fire Prevention Week – October 5-11, 2014
- E. Consideration of Resolution Proclaiming October 5-11, 2014 as Public Power Week
- F. ~~Consideration of Resolution Supporting “Burt’s Law”~~ **REMOVED**
- G. Consideration of Appointment to the Business Advisory Committee
- H. Consideration to Designate Mayor Pro Tem Mary Bess Lawing as Voting Delegate, and Todd Clark as the Alternate Voting Delegate at the NCLM Annual Conference October 12-14, 2014
- I. ~~Consideration to Declare 216 West 7th Street as Surplus Property~~ **MOVED TO OLD BUSINESS**

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

ITEM 6: **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. No one appeared.

ITEM 7: **PUBLIC HEARINGS**

- A. Consideration of an Application for an Amendment to a Planned Development for Property Located at 1818 Northwest Blvd.

Assistant Manager Sean Hovis stated that Marianne Moseley, on behalf of Newton Center LLC., is requesting an amendment to a Planned Development for 8.15 acres located at 1818 Northwest Blvd, also known as Catawba County Pin # 3731-20-70-5085. Mr. Hovis explained that the proposed project consist of the demolition of the existing structures on the property and constructing a new building containing approximately 41,000 square feet of retail space, a 6-pump fuel station, and creating a 0.58 acre out parcel for future commercial use. Mr. Hovis stated the site is zoned PD-SC(C) Planned Development Shopping Center Community District and it will not change with the request. Mr. Hovis explained that a new plan is required per Section 102-502 of the Newton Zoning Ordinance due to construction of new buildings, the addition of a fueling station, and the reconfiguration of the site.

Mr. Hovis stated the applicant is seeking the rezoning in order to redevelop the property at 1818 Northwest Blvd. located at the intersection of Northwest Boulevard and W. 20th Street. The subject site is located at the southwest quadrant of the intersection of Northwest Boulevard and W. 20th Street. This is the former Harris Teeter location. Mr. Hovis stated the original project was constructed in 1972 and consisted of 65,000 square feet of retail space, a small retail restaurant, and a 3-pump fuel station. The fueling station was removed as result of the widening of West 20th Street in late 1970’s.

Mr. Hovis explained that in 1991, the Zoning Ordinance was rewritten, and the subject site along with other shopping centers was rezoned to Planned Development Shopping Center Districts (PD-SC) in 1992. Mr. Hovis stated Catawba Village was zoned PD-SC-Community based on the characteristics at the

time, primary size and uses within the center. Mr. Hovis stated that due to the reduction in retail square footage the PD-SC-Neighborhood was needed to accommodate the project.

Mayor Stedman stated that this is a Public Hearing and that anyone that wanted could come forward to speak on this matter. Mayor Stedman stated that there would be a three minute limit for comments, and she asked that anyone that comes forward be respectful.

Council Member Wes Weaver asked City Attorney John Cilley to clarify what exactly the City Council would be taking action on. Mr. Cilley stated that City Council would not be voting to rezone this area or to change the use. He stated that City Council would only be voting to change the physical footprint of the Planned Development. Mr. Cilley stated that the property is already zoned for a grocery store, pharmacy or gas station and that the vote is not to change those activities, just the footprint of what the building looks like. Mr. Cilley stated that it does not matter who plans to build there as long as what is built conforms to the zoning.

Jerry Hodge stated that he has lived in Newton for 24 years and that he is in favor of the proposed amendment. He stated that it is the legal thing to do as this does not require a rezoning. Mr. Hodge stated that this could potentially be a national retailer that would provide jobs and they have complied and that they want to improve the property. Mr. Hodge stated that they could potentially bring other retailers or businesses. Mr. Hodge stated that this would increase the tax base for Newton and could prevent future tax increases, fees or the loss of resources. Mr. Hodge stated that if this business is turned away, Newton could be blacklisted as not business friendly.

Rick Houckland stated that he totally disagreed with Mr. Hodge, and that if this is voted for his property could be taken by the bank if it caused Honeys grocery store to close.

Ed Haupt stated that the City of Newton does not need a Wal-Mart. He stated that Wal-Mart does not give back to the community. Mr. Haupt asked the City Council what they are going to give Wal-Mart for coming to the city.

Gene Sigmon stated that he knows City Council has a hard decision to make, but that he is representing the heart of the city. He stated that H&W has been around since 1909 and that the store, as well as Walkers, and Dana's Fine Jewelry would be impacted by this decision. He asked that City Council please not jeopardize the downtown square.

Donnie Setzer stated that he is definitely for the amendment. He stated that Conover merchants were concerned when the super center came and that other businesses such as Dollar Tree and various restaurants have come as a result. He stated that Conover has shown that a business friendly attitude has made for better business for the city. Mr. Setzer stated that he can't see Newton turning down a Fortune 500 Company and that he doesn't want to see that lot left the way it is.

Roy Roycering from Banana Box Grocery asked City Council to look at a documentary on Wal-Mart and they will see what Wal-Mart's do to the community. He stated that he loves Newton and that full time jobs at places such as Honey's could be lost and only replaced by part time jobs at Wal-Mart.

Mayor Stedman reminded everyone that the only thing City Council is voting on is the foot print of the Planned Development.

Beverly Young of 1146 Sain Rd, Hickory stated that she is the owner of Honey's IGA of Newton and that the City Council does not realize the help that they give to an unseen population of Newton. She stated that without the donations that her store makes these people would go without.

Mayor Stedman thanked Ms. Young for all that she does for the City of Newton and the community.

Jerry Travis asked City Council if an impact study on the project has been conducted. He stated that if not, he feels like the city has been irresponsible and negligent.

Mayor Stedman thanked everyone for their comments and asked if anyone else would like to speak. No one appeared.

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

That Public Hearing be – CLOSED

Mayor Stedman stated once again that City Council is only voting on physical changes to the foot print of the Planned Development.

City Manager Todd Clark stated that he wanted to be clear that the City of Newton has offered no incentives for any business to come to Newton.

Council Member Robert C. Abernethy, Jr. stated that people may know more than he knows, but he has no clue what the business is. He stated that Mr. Haupt told him who was coming and that it was a grocery store, gas station and pharmacy. He stated that it is impossible to do an impact study if it is not even known what is coming. He stated that it is tough to look at anything other than the site plan change and not the use. He stated that all he has is hearsay.

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

That Application for an Amendment to a Planned Development for Property Located at 1818 Northwest Blvd. be – APPROVED.

B. Consideration of Text Amendment 2014-02 for Amendments to the Zoning Ordinance Related to Downtown Newton

Mayor Stedman opened the Public Hearing.

Planning Assistant Alex Fulbright stated the Newton Business Advisory Committee (BAC) requested that the Newton Planning Commission review and update zoning ordinances related to Downtown Newton to create, maintain, and preserve downtown so that it can be a vibrant, active focal point of the City. The Planning Commission began discussion about Downtown zoning at their March, 2014 Meeting. Over several months a draft ordinance was developed. Mr. Fulbright stated that the proposed changes are as follows:

- The establishment of a zoning overlay district for the area around and just north of the Courthouse Square, which is referred to as the Downtown Core.
- The creation of appearance criteria for the Downtown Core that would require new construction and significant alterations to look similar to the existing buildings within the Downtown Core.
- Restrict uses from the Downtown Core that maybe suitable for the B-3 Central Business District but not suitable for Downtown Core.
- Prohibit metal and vinyl siding on new construction within the B-3 Central Business District.

Mr. Fulbright stated the draft ordinance was presented at a drop-in workshop, which was held on August 14, 2014 at the Old Post Office Playhouse. He stated that approximately 35 people attended with 24 completing surveys. Mr. Fulbright stated the majority of those completing surveys were supportive of the changes as they were presented. Mr. Fulbright stated the Planning Commission

reviewed the results and held a public hearing at their September Meeting. The Planning Commission voted unanimously to approve the proposed amendment as presented with the condition that staff clarifies within the proposed ordinance that windows covered with boards not be permitted.

Council Member Wayne Dellinger asked about “D” where it states that a building must be built back “lot line to lot line”. He stated that at a building on the lot where First Citizens is, the parking on the whole side of the building would be gone. Mr. Fulbright stated that they would have to comply. Council Member Dellinger asked if the sides could be saved for parking and Mr. Fulbright stated that parking would have to be in the rear. Mr. Dellinger asked if there could be a recess entrance like Blue Moon, Mr. Fulbright stated that there could be.

Council Member Tom Rowe asked if, for example the where First Citizens is, would the builder have to build it “lot line to lot line” all the way around. Mr. Fulbright stated that yes, it would have to be sidewalk to sidewalk. Mayor Stedman said the purpose is to maintain the character and integrity of downtown.

Council Member Dellinger asked about building a drive-through. Mr. Fulbright stated that they are not prohibited. Mr. Dellinger asked about Larry Pitts’ building. Mr. Fulbright stated that if it was rebuilt they would have to comply. Mr. Dellinger stated that the city is always talking about needing more parking downtown, and now we are talking about eliminating it and that this would force people to park on the street. City Manager Todd Clark stated that at Debbie Wentz’ building there is a private ally. He asked if it would have to be closed. Mr. Fulbright stated that if it’s not a right of way.

Council Member Dellinger stated that the “lot to lot” is going too far, but that he is okay with the rest of the changes.

Mayor Stedman asked if there was anyone that would like to speak. No one appeared.

Council Member Rowe agreed with Mr. Dellinger. Council Member Wes Weaver stated that he is not comfortable making decision without more time. Mayor Pro Tem Mary Bess Lawing stated that everyone had a chance to attend the meeting and submit notes. Council Member Abernethy stated that was assuming Mr. Weaver had a choice to attend and didn’t have previous plans.

Council Member Tom Rowe made a motion to adopt the amendment after removing the ‘lot line to lot line” stipulation. Council Member Wayne Dellinger seconded the motion.

After further discussion, Council Member Dellinger rescinded his second.

Mayor Stedman stated that the motion made by Council Member Tom Rowe fails for lack of a second.

Mayor Pro Tem Mary Bess Lawing made a motion to adopt the amendment as is.

Mayor Stedman stated that the motion made by Mayor Pro Tem Mary Bess lawing fails for lack of a second.

Mayor Pro Tem Mary Bess Lawing stated that she thought it should be brought back to Council and discussed further.

Mayor Stedman stated that this ordinance amendment has failed.

ITEM 8: **New Business**

A. Consideration of the Use of Contingency Funds for the Snow Creek Sewer Rehabilitation Project Closing Change Order

Assistant Public Works and Utilities Director Dusty Wentz stated that the contractor for the Snow Creek Sewer Rehabilitation Project has submitted a change order for \$5,310.80 due to the following:

- Variation in estimated quantities
- Additional rip rap next to the creek for bank stabilization
- Damage to an unmarked 18” storm water culvert
- Reduction in sewer to be replaced.

Mr. Wentz stated the original bid contract price for the Snow Creek project was \$964,861.70. With the installation labor and parts, the total cost of the project is \$970,172.50. This is a 0.55% increase in project cost over the bid amount. Mr. Wentz explained it will be necessary to use Contingency Funds for this change order.

Mr. Wentz stated the contingency for this project was 5% (\$48,243.09) which provides a sufficient amount of contingency funds for this change order. Mr. Wentz stated that with Council approval of the use of \$5,310.80 of contingency, this change order will constitute final payment and close out of the project.

Mr. Wentz explained that because the Snow Creek project was funded through a loan from NC Division of Water Quality Infrastructure Finance Section DWQ-IFS must approve change orders in writing prior to payment being issued to the contractor. DWQ-IFS was made aware of all changes prior to installation of work, but the final change order must be approved in its entirety. Mr. Wentz stated the change order was submitted to DWQ-IFS on September 17, 2014, and a decision is expected very soon. After approval is received, payment will be made to the contractor.

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

That the Use of Contingency Funds for the Snow Creek Sewer Rehabilitation Project Closing Change Order be – APPROVED.

Old Business

A. Consideration to Declare 216 West 7th Street as Surplus Property

Mayor Stedman stated that previously the City Council had decided to accept donation of this property and try to sell it. She asked the City Council if they would like to vote to have the City Manager try to sell it within thirty days, and if an offer is made within that time bring the offer back to City Council for approval.

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

That the City Manager try to sell the property located at 216 7th Street within thirty days, and if an offer is made within that time bring the offer back to City Council for approval.

ITEM 9: **City Manager’s Report**

- Update on Personnel – Planner I, Public Information Officer, Human Resources Specialist

- Wayfinding (signs)
- Signage – Danner Industrial Park and Newton Corporate Center
- Marketing
- Economic Development – Web Page
- Streetscape – Allison Platt
- Old Conover Startown Rd. Bridge – November 1st Completion
- Crime Report
- Parks and Recreation Updates
- Update on Fire Station Headquarters and the Fire Department Ladder Truck

Fire Chief Kevin Yoder gave an update on Fire Station Headquarters and stated that the ladder truck assembly was complete, and would be tested at the end of the week. He stated that the truck looked as good as it did when bought 17 years prior.

- WPCOG Mayors/Chairmen/Managers Meeting, Thursday, October 9th
- Night Crawl – Saturday, October 18, 2014
- 5K in Honor of Maggie Daniels, November 15, 2014
- NCLM Conference October 11-14 – Greensboro
- Spooktacular is Saturday, Oct. 25 from 5 to 9 p.m.

ITEM 10: Questions and Comments from Mayor and Council

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

ITEM 11: Closed Session to Consult with the City Attorney – G.S. 143-318-11(a)(3)

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

That City Council Move to Closed Session to Consult with the City Attorney per 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:

That City Council Return to Open Session

ITEM 12: Adjournment

Upon motion duly made by Council Member Wes Weaver, seconded by Council Member John Stiver the meeting was RECESSED until 5:30 on October 21, 2014.

Amy S. Falowski, City Clerk



Anne P. Stedman, Mayor