

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

April 16, 2013 – 7:00 P.M.

The regular meeting of the Newton City Council was held on Tuesday, April 16, 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 – 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 2, 2013 REGULAR CITY COUNCIL MEETING

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

That the Regular Minutes of the April 2, 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. Sewer Adjustments
- B. Consideration of Ordinance 2013-10 Amending Revenues and Expenditures for Fiscal year 2012-2013
- C. Consideration of Public Fee Structure Statement of Intent for “Unity Festival 2013” – Consisting of “City Wide Yard Sale,” “Unity Day Celebration,” and “Newton Nights Music on the Square” – May 18, 2013
- D. Consideration of Street Closure for “Unity Festival 2013”
- E. Proclamation – Municipal Clerk’s Week May 5-May 11, 2013
- F. Consideration to Adopt Resolution Regarding the State Designation Regions for Provisions of Services

(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**

A. Special Use Permit Application #2013-01 – Eastern Sky Church of God

Mayor Stedman recessed the Council Meeting and called to order a Public Hearing as scheduled to receive public input on Special Use Permit #2013-01 – Eastern Sky Church of God.

Alex Fulbright, Assistant Planning Director, reviewed the requirements for the quasi-judicial process (evidentiary hearing) the Council must follow for considering Special Use Permits. He stated that all persons wanting to make a statement, either for or against the Special Use Permit, must be sworn. Mr. Fulbright was then sworn in at that time.

Mr. Fulbright stated that along with a memo, there is a copy of an application filed by Eastern Sky Child Development Center located in the Council Agenda Packet. Mr. Fulbright stated that the church is seeking a Special Use Permit to allow them to locate a Child Development Center, with capacity for 35 children, at 1432 Old Conover Startown Road, which is also the location of their existing church, Eastern Sky Church of God. Mr. Fulbright stated that the site is zoned R-20 and while it does allow churches as a permitted use, child development centers are a Class A Special Use in the R-20 District, which has to be approved by the Newton City Council. Mr. Fulbright stated that the property is owned by Newstar Community Church of God, which has given Eastern Sky Child Development Center permission to apply for the special use permit.

Mr. Fulbright stated that for all special use permits the City Council is required to make four findings, and that these findings are listed in Zoning Ordinance Section 102-462. Mr. Fulbright stated that Section 102-465 (5), which is the standard for Child and Adult Care Centers, is also included in the Council Agenda Packet. Mr. Fulbright explained that as defined by the City Code, a Special Use is a use that would not be appropriate generally without special study throughout the zoning district but which is controlled as to number, size, location or relation to the neighborhood and would promote public health, safety, and welfare.

Mr. Fulbright stated that the daycare would be co-located within the existing building at 1432 Old Conover Startown Road, that the City's ordinance contains minimum standards for Child Development Centers, and that these standards were adopted to allow facilities to provide daycare services for more than 30 children at a specific location. Additionally, daycares should be located on property having a minimum lot size of 30,000 square feet. The 12.2 acres on which the daycare is proposed to be located exceeds that requirement. Mr. Fulbright stated that the ordinance also requires a fenced outdoor playing area for children and that there is already a fenced in play area that will be used and there is space that could be fenced in to provide additional area if needed or required by the State agency that licenses daycares.

Mr. Fulbright stated that an additional consideration is the location of existing or proposed thoroughfares in relationship to the proposed daycare facility. He explained that the western portion of the proposed

Newton-Conover Loop crosses the northeastern portion of the site, but the proposed daycare facility does not negatively affect the proposed road.

Mr. Fulbright stated that the Planning Commission recommended the City Council approve the special permit as presented.

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

That Public Hearing be – CLOSED.

Mayor Stedman asked for a motion and second on the general standards that shall be met by the applicants for approval for a Special Use Permit for the proposed daycare.

1. It is the Council's conclusion that the proposed daycare will promote the public health, safety and general welfare.

A motion was made by Council Member Tom Rowe, seconded by Council Member Robert C. Abernethy, Jr., and unanimously adopted to approve Sec. 102-462. General Standards (1);

2. It is the Council's conclusion that the proposed daycare which is listed as a special use in the district in which it is proposed to be located, complies with all required regulations and standards, including the provisions of articles IV, V, and VI of this chapter, unless greater or different regulations are contained in the individual standards for that special use.

A motion was made by Mayor Pro Tem Bill Lutz, seconded by Council Member Mary Bess Lawing, and unanimously adopted to approve Sec. 102-462. General Standards (2);

3. It is the Council's conclusion that the proposed daycare will maintain or enhance the value of contiguous property, or that the use is a public necessity.

A motion was made by Council Member Wes Weaver, seconded by Council Member Robert C. Abernethy, Jr., and unanimously adopted to approve Sec. 102-462. General Standards (3);

4. It is the Council's conclusion that the proposed daycare is in compliance with the general plans for the physical development of the city as embodied in these regulations.

A motion was made by Council Member Mary Bess Lawing, seconded by Council Member Wes Weaver, and unanimously adopted to approve Sec 102-462. General Standards (4);

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

That Special Use Permit Application #2013-01 – Eastern Sky Church of God for a Daycare facility be APPROVED

ITEM 7: New Business

A. Consideration of the Award of Bid for the 2012-13 Annual Street Overlay Project

Public Works and Utilities Director Wilce Martin stated that on April 4, 2013 bids were opened for the annual street overlay projects. Mr. Martin stated that of the four bids that were sent out three bids were received and they are listed below:

Street #	Street Name	Midstate	Maymeade	Carolina Paving
		Total Cost		
1	East 2nd St.	\$ 7,971.00	\$ 9,750.00	\$ 7,695.00
2	Clover Ln.	\$ 20,728.50	\$ 22,900.00	\$ 14,850.00
3	N. College St.	\$ 35,688.50	\$ 38,500.00	\$ 28,540.00
4	East 18 th St.	\$ 5,239.20	\$ 6,750.00	\$ 4,500.00
A1	Touchstone Cir.	\$ 48,751.00	\$ 50,800.00	\$ 38,530.00
A2	S. Brady Ave.	\$ 27,061.90	\$ 30,800.00	\$ 19,140.00
A3	West Lake Dr.	\$ 11,883.00	\$ 13,400.00	\$ 12,420.00
A4	E. 18 th St.	\$ 14,900.75	\$ 16,500.00	\$ 14,040.00
A5	W. 2 nd St.	\$ 9,397.75	\$ 11,000.00	\$ 8,280.00
	1,000 SY 4" Gravel Base Repair	\$ 5,750.00	\$ 7,250.00	\$ 5,500.00
5	Contingency Allowance (10%)	\$ 18,737.00	\$ 20,765.00	\$ 15,349.50
	Total	\$ 206,108.60	\$ 228,415.00	\$ 168,844.50

Mr. Martin stated that staff has reviewed the bids and Carolina Paving was the lowest bidder on the base bid and alternates A2-A5. He explained that the Annual Powell Bill budget for this item is \$140,035.85, and that by appropriating \$28,808.65 from Powell Bill fund balance, all the alternates can be completed.

Mr. Martin recommended that Council award the bid for the Annual Street Overlay Projects to Carolina Paving including all projects for \$168,844.50 and appropriate \$28,808.65 from Powell Bill fund balance.

Council Member Wayne Dellinger stated that the dollar amount on the ordinance amendment should only be \$10,300. City Manager Todd Clark stated that Mr. Dellinger was correct, and that the ordinance should be corrected.

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

That Bid for the 2012-13 Annual Street Overlay Project be AWARDED to Carolina Paving

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

That Ordinance to Amend Revenues and Expenditures be – CHANGED to Show the Amount Appropriated from Powell Bill Fund as \$10,300 then ADOPTED with Change

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

ORDINANCE # 2013-11
 AN ORDINANCE TO AMEND REVENUES AND EXPENDITURES FOR FISCAL YEAR 2012-2013
 FOR THE CITY OF NEWTON

WHEREAS, The Council of the City of Newton desires to complete the following Powell Bill street overlay projects during Fiscal Year 2013: East 2nd St., Clover Lane, N. College St., East 18th St., Touchstone Circle, N. Brady Ave., West Lake Drive, E. 18th St., and W. 2nd St. as recommended by staff, and

WHEREAS, Staff received bids on April 4, 2013 for a total project cost of \$168,844.50 on all projects noted above. Due to the Snow Creek Sewer Project, the City will remove the East 18th project totaling \$18,550 until a later date. In an effort to complete all of these projects during Fiscal Year 2013, a \$10,300 Fund Balance Appropriation is necessary, and

WHEREAS, the City Council desires to utilize Powell Bill fund balance and authorize the related expenditure appropriation within the Powell Bill 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

Powell Bill Fund Revenues

Fund Balance Appropriated	13.0000.3992	\$10,300
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Powell Bill Fund Appropriations

Street Con/Recon Repair/Maint	13.4253.6571	\$10,300
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Adopted this 16th day of April, 2013

B. Consideration of the Award of Bid for the North Main 4kv Conversion Project

Wilce Martin, Director of Public Works and Utilities stated that this is the last project in the City’s electrical system conversion from 4 kv to 24kv. Mr. Martin explained that because the 4kv system is more than 60 years old, it was necessary to convert to the 24kv system to prevent major failures within the City electrical system.

Mr. Martin stated that funding for this project was obtained in the borrowing in fiscal year 2013. Those funds are available in the electric fund.

Mr. Martin stated that on March 20, 2013 bids for the construction of this project were opened with the following bids received:

<u>Bidder</u>	<u>Williams</u>	<u>Lee Electrical</u>	<u>T&D Solutions</u>
Total, Installation Units	\$202,902.85	\$357,765.39	\$182,370.00
Total, Removal Units	\$58,576.50	\$204,826.04	\$91,058.58

Change Order Fund	\$5,000.00	\$5,000.00	\$5,000.00
<u>Total Bid</u>	<u>\$266,479.35</u>	<u>\$567,591.33</u>	<u>\$278,428.85</u>
Bid Bond	Yes	Yes	Yes

Mr. Martin stated that Southeastern Engineering reviewed the bids and found Williams Electric to be the lowest qualified bidder on this project. He explained that the budgeted amount of \$650,000 for this project was approved in the adopted CIP for 2012-13, and that as is the city’s practice all these electrical projects were bid with the labor and material costs separately, saving about 10% on the cost of materials.

Mr. Martin stated that the lowest qualified bid came in lower than expected at \$266,479.35, and that it is recommended that Council consider awarding the bid for the construction labor of the North Main 4kv Conversion project to Williams Electric for that amount.

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

That Award of Bid for the North Main 4kv Conversion Project – Williams Electric be APPROVED.

Council Member Robert C. Abernethy, Jr. stated that in the future, he would like to know where the bidding companies are based.

ITEM 8: City Manager’s Report

- Newton-Conover Concert Band and Jazz Band will perform Sunday, April 21, at 3:00 p.m. at Old Post Office Playhouse
- North Carolina Communities and Business Alliance “Community Conversation” Thursday, April 25, 11:00 a.m.-1:30 p.m. at Crown Plaza Hickory Hotel. **RSVP by April 23rd**
- The Police Department will be holding a Civilian Police Academy starting May 2, 2013, 6:00 p.m.-8:00 p.m. and running every Thursday for 8 weeks at the Police Complex, 2427 North Ashe Ave.
- Ribbon Cutting for 2.5 mile Bike and Walking Trail at Jacob Fork Park, Saturday, May 4th at 10:00 a.m.
- Unity Day is scheduled for Saturday, May 18th (Unity Day will be combined with the city-wide yard sale in the morning and entertainment in the evening).
- Registration is open for ElectriCities Annual Conference at the Grove Park Inn in Asheville, August 1-3
- ElectriCities Regional Meetings – April 4, Shelby – April 23, Concord – May 2, Statesville (so far Tom and Mary Bess are confirmed for Statesville)

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)(5)

Upon motion duly made by Council Member Mary Bess Lawing, seconded by Council Member Bill Lutz, it was unanimously RESOLVED: that the City Council enters CLOSED SESSION per G.S. 143-318-11(a)(5).

Upon motion duly made by Council Member Tom Rowe, seconded by Council Member Wayne Dellinger, it was unanimously RESOLVED: that the City Council returns to REGULAR SESSION.

Mayor Anne Stedman asked if there was a motion to build a new Fire Headquarters (Station #1).

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

That the City of Newton Build a New Fire Headquarters (Station #1)

Council Member Robert C. Abernethy, Jr. stated that he thinks it's all too much for his liking, and he is concerned about trucks getting in and out and response times not being as good.

Council Member Wes Weaver stated that he has reservations about the property proposed to be bought to build the fire station on.

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

That the City of Newton Purchase Parcel A – PIN 374017023407, Parcel B – PIN 374013023515, Parcel C – PIN 374013023643, and Parcel D – PIN 374017023407 for a Total of \$395,500 for the Purpose of Building a New Fire Headquarters (Station #1)

Council Member Wes Weaver stated that he thinks it is a good idea to build a new Fire Station, but buying this land is costing more money, and he doesn't like spending the money frivolously. Mr. Weaver stated that he also feels like the Fire Department will eventually need more room than this property will allow.

Council Member Robert C. Abernethy, Jr. stated that even though there have been workshops and closed session meetings to discuss the purchase of this land; he doesn't feel good about making the decision without the general public present. He stated that he doesn't feel like this is a good time to vote on this matter. Council Member Wes Weaver agreed with Council Member Abernethy.

Mayor Stedman stated that this matter has been discussed in public many times in open meetings. Council Member Tom Rowe agreed with Mayor Stedman.

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

That the City Manager be AUTHORIZED to Execute Four Separate Contracts for the Amounts Listed - Parcel A – PIN 374017023407 for \$204,500; Parcel B – PIN 374013023515 for \$30,500; Parcel C – PIN 374013023643 for \$30,500; and Parcel D – PIN 374017023407 for \$130,000

ITEM 11: Adjournment

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

That the meeting be – ADJOURNED

Amy S. Falowski, City Clerk



Anne P. Stedman, Mayor