

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

**June 5, 2012 – 7:00 P.M.**

The regular meeting of the Newton City Council was held on Tuesday, June 5, 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., and Wes Weaver

**ABSENT:** Council Member Wayne Dellinger

**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 Mary Bess Lawing**

Council Member Mary Bess Lawing provided the invocation and led the Pledge of Allegiance.

**ITEM 3:      APPROVAL OF MINUTES FROM THE MAY 15, 2012 REGULAR CITY COUNCIL MEETING**

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

That the Minutes of the May 15, 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
- B. Sewer Adjustments
- C. Consideration of Commission/Committee Membership Appointments Business Advisory Committee – Don Essary, Joe Beaman

- D. Resolution to Write off Uncollectible Accounts
- E. Consideration of Budget Ordinance Amendment – Health Insurance Fund

**ORDINANCE 2012-14**  
**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 have 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 an increase in Medical/Dental Claims as they relate to the City’s Health Insurance. The City of Newton has experienced higher than normal costs associated with health insurance claims during Fiscal Year 2011-2012 for the second consecutive year. These claims have created a need for an additional \$145,000 appropriation within the City’s Health Insurance Fund; and,

WHEREAS, The City Council desires to authorize utilization of fund balance and to authorize the related expenditure appropriation within the Health Fund 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

Health Fund Revenues

Fund Balance Appropriated	80.0000.3990	\$145,000
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Section 2

Health Fund Appropriations

Medical/Dental Claims	80.4141.6930	\$145,000
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Adopted this 5th day of June, 2012.

- F. Consideration of Budget Ordinance Amendment – Purchase of Power

**ORDINANCE 2012-15**  
**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 have 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 budgetary increase for purchase of power costs. The City of Newton anticipates the need for additional funds associated with the purchase of power costs. Our projections for Fiscal Year 2013 on purchase of power costs are slightly higher than our budget; therefore, we would like to ensure adequate funds are available to cover any additional costs at year end. The additional \$100,000 appropriation will ensure those funds are available, if needed; and,

WHEREAS, The City Council desires to recognize an appropriation from Retained Earnings and authorize the related expenditure appropriation within the Electric Fund 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

Electric Fund Revenues

Retained Earnings Appropriated	63.0000.3995	\$100,000
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Section 2

Electric Fund Appropriations

Purchase for Resale	63.7200.5700	\$100,000
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Adopted this 5th day of June, 2012.

G. Consideration of Budget Ordinance Amendment – Contribution From Estate of Lillian Sewell Jones

**ORDINANCE 2012-16**  
**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 have 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, On April 11, 2012, the City of Newton received a check in the amount of \$1.2 million from the Estate of Lillian Sewell Jones to establish a fund to be known as “**The Frank and Sue Jones Recreation Fund**”. The \$1.2 million is only a partial payment and we anticipate an additional distribution; however, that amount is unknown at this time. The net investment income from this fund shall be used in the general support of the recreation program of the City of Newton.

The principal amount of this fund may only be utilized under the following conditions:

- 1) Capital costs in a new facility (ex: new park or new expansion to existing park).
- 2) Principal may not be used for maintenance or repair.

The use of principal funds must be approved by the unanimous vote of the governing body of the City of Newton taken on two separate occasions spaced at least two years and three months apart.

These funds will be maintained within the City’s General Fund; however, the principal and related interest will be restricted for the purposes established above and will be maintained separately within fund balance so as not to commingle those funds; and,

WHEREAS, The City Council desires to recognize this contribution within the General Fund.

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

Spec Project Cont/Other Grant	11.0000.3845	\$1,200,000
Fund Balance Appropriated	11.0000.3990	(\$1,200,000)

Adopted this 5th day of June, 2012.

H. Consideration of Project Budget Ordinance Amendment – North Carolina Main Street Solutions Fund Grant

**ORDINANCE 2012-17**  
**CITY OF NEWTON’S PROJECT BUDGET ORDINANCE**  
**FOR THE NORTH CAROLINA MAIN STREET SOLUTIONS FUND GRANT**

Be it ordained by the City Council of Newton that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted.

Section 1. The project authorized is the North Carolina Main Street Solutions Fund Grant between the City of Newton and the North Carolina Department of Commerce, Community Development – Urban Development Division in the amount of \$80,830. The City of Newton is the administrator for this grant and Second Nature Technology is the sub-recipient. This project is for the purpose of assisting Second Nature Technology with its renovation of the interior and exterior of a building located in the City’s Central Business District at 19 North College Avenue; and, this project is more familiarly known as the Main Street Solutions Fund Grant.

Section 2. The officers of this unit are hereby directed to proceed with the grant project within the terms of the grant document(s), the rules and regulations of the North Carolina Department of Commerce, Community Development – Urban Development Division, and the budget contained herein.

Section 3. The following revenues are anticipated to be available to complete this project:

**Revenues**

Main Street Solutions Fund Grant

State Grants	41.4910.3410	\$ 80,830
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Section 4. The following amounts are appropriated for the project:

**Appropriations**

Main Street Solutions Fund Grant

Main Street Solutions Fund Grant	41.4910.5820	\$ 80,830
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Section 5. The Finance Officer is hereby directed to maintain within the Grant Project Fund sufficient specific detailed accounting records to provide the accounting to the grantor agency required by the grant agreement(s) and federal and state regulations.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due. Reimbursement requests should be made to the grantor agency in an orderly and timely manner.

Section 7. The Finance Officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total grant revenues received or claimed.

Section 8. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this grant project in every budget submission made to this Council.

Section 9. Copies of this grant project ordinance shall be made available to the Budget Officer and the Finance Officer for direction in carrying out this project.

Adopted this 5<sup>th</sup> day of June, 2012

I. Consideration of Flag Day Proclamation – June 14, 2012

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

**ITEM 5: PUBLIC HEARING**

A. Consideration of Fiscal Year 2012-13 Budget

Mayor Stedman opened the Public Hearing, as scheduled and advertised, on the Fiscal Year 2012-2013 Budget.

City Manager Todd Clark stated that he has presented the budget to City Council, filed it with the City Clerk, and posted it on the website. Mr. Clark stated that City Council has had three work sessions concerning the budget, and that the proposed budget reflects changes made by Council at those work sessions.

Mayor Stedman asked if there was anyone present that wanted to speak concerning the Fiscal Year 2012-2013 Budget. No one appeared and Mayor Stedman CLOSED the Public Hearing.

**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 there was anyone present that would like to make any comments concerning non-agenda items. No one appeared.

**ITEM 7:**      **OLD BUSINESS**

A. Consideration of Capital Budget Ordinance Amendment for Generator Modifications

Wilce Martin, Director of Public Works and Utilities, stated that in December of 2002, the US EPA began the process to establish National Emission Standards for Hazardous Air Pollutants (NESHAPS) for Reciprocating Internal Combustion Engines (RICE). Mr. Martin explained that the purpose of these rules is to reduce emissions of toxic air pollutants from existing diesel powered stationary reciprocating internal combustion engines and that these rules will apply to the generators that the City of Newton currently uses for emergency and peak shaving purposes at various industry and city facilities.

Mr. Martin stated that in order to comply with these regulations that must be met prior to May of 2013, staff requested a quote from Carolina Engine (CAT) to install Diesel Oxidation Catalysts on all of the City generators. Mr. Martin stated that on May 15, 2012 staff received quotes of \$48,627.68 per catalyst for each of the City's seven 1825 KW generators catalyst and a quote of \$37,914.68 for a smaller 725 KW unit.

Mr. Martin stated that a Capital Project budget has been established with a total budget of \$359,300, and that the quote from CAT totals \$378,308.44, which leaves a shortfall of \$19,008.44 that needs to be funded. He said that after review of the quotes with the Finance Director, it was determined that adequate funding needed to satisfy the shortfall can be transferred from other capital projects where savings have been realized.

Mr. Martin recommended that the City Council adopt the Capital Budget Ordinance Amendment for Generator Modifications.

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

That Capital Budget Ordinance Amendment for Generator Modifications be – ADOPTED.

**ORDINANCE 2012-18**  
**AN ORDINANCE TO AMEND A CAPITAL PROJECT FOR THE GENERATOR MODIFICATION AND THE ACSR LINE EXTENSION (McKAY ROAD) PROJECTS**

WHEREAS, the City Council of the City of Newton have 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 of the City of Newton desires to amend two capital projects in order to comply with the regulations set forth by the US EPA pertaining to generators. In December of 2002, the US EPA began the process to establish National Emission Standards for Hazardous Air Pollutants (NESHAPS) for Reciprocating Internal Combustion Engines (RICE). The purpose of these rules is to reduce emissions of toxic air pollutants from existing diesel powered stationary reciprocating internal combustion engines. These rules will apply to the generators that the City of Newton currently uses for emergency and peak shaving purposes at various industry and city facilities; and,

WHEREAS, In order to comply with these regulations that must be met prior to May of 2013, staff requested a quote from Carolina Engine (CAT) to install Diesel Oxidation Catalysts on all of the City generators. On May 15, 2012 staff received quotes of \$48,627.68 per catalyst for each of the City's seven 1825 KW generators catalyst and a quote of \$37,914.68 for a smaller 725 KW unit. A Capital Project budget has been established with a total budget of \$359,300. The quote from CAT totals \$378,308.44, which leaves a shortfall of \$19,008.44 that needs to be funded; and,

WHEREAS, the City Council desires to amend two Capital Projects by increasing the Generator Modification Capital Project by \$19,050 and reducing the ACSR Line Ext (McKay Road) Capital Project by \$19,050.

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

Electric Capital Project Fund Appropriations

Generator Modifications	38.7201.5988	\$ 19,050
ACSR Line Ext (McKay Road)	38.7201.5984	(\$ 19,050)

Adopted this 5th day of June, 2012

**ITEM 8:**      **NEW BUSINESS**

A. Consideration of Fiscal Year 2012-2013 Budget

City Manager Todd Clark stated that the proposed FY 2013 budget has been presented to City Council for review and consideration and that three workshops have been conducted and open to the public. Mr. Clark stated that during these workshops, City Council has made several changes to the proposed budget. These changes include: electric rate increase from 6.4% to 6.2%; four defibrillators added to the Fire Department; four security cameras added to the IS Department; and \$3,000.00 added to the Wayfinding line item, for a total of \$10,000.

Finance Director Serina Hinson added that the COLA (Cost of Living Adjustment) proposal of 2.5% had been reduced to 2% for all employees.

Mayor Stedman stated that staff has worked hard to produce a fiscally sound and lean budget, and she hoped that City Council would vote to adopt the proposed Fiscal Year 2012-2013 Budget.

Council Member Mary Bess Lawing made a motion, seconded by Council Member Tom Rowe, to ADOPT the Fiscal Year 2012-2013 Budget.

Council Member Robert C. Abernethy, Jr. stated that the electric rate increase should only be 5.9% because citizens did not deserve the “take money now to charge less later” proposal that would establish a rate stabilization fund. He also stated that he felt like the cost of living adjustment for all employees should be less and that special appropriations should be scaled back to elimination.

Council Member Wes Weaver stated that his biggest point of contention with the proposed budget is the proposed rate stabilization fund for electric and the City’s contribution to special appropriations.

Mayor Stedman stated that there is a motion by Council Member Mary Bess Lawing and a second by Council Member Tom Rowe to adopt the Fiscal Year 2012-2013 Budget, and asked for a vote. With Mayor Pro Tem Bill Lutz, and Council Members Mary Bess Lawing and Tom Rowe voting in favor of, and Council Members Robert C. Abernethy, Jr. and Wes Weaver voting against motion – FAILED.

City Attorney Larry Pitts explained that the proposed Fiscal Year 2012-2013 Budget Ordinance requires an affirmative vote equal to or greater than two thirds of all the actual membership of the council in order to pass, per **G.S. 160A-75. Voting.**

B. Presentation from Shuford Abernethy – Neighbors Network

Mr. Shuford Abernethy gave a presentation concerning the Neighbors Network, which is an organization designed to help people, as they age, to be able to remain in their homes. Mr. Abernethy stated that the Neighbors Network’s goal is to serve citizens in the city limits of Newton and Conover, and that the most visible effort so far is the home on Hwy 16 in South Conover that is being renovated for a clubhouse and offices. He stated that he hopes the



renovations will be complete by fall 2012. The renovated house will be named “Mayors House” and will be equipped with volunteers and the resources to help folks stay in their homes longer and not have to go to assisted living.

Council Member Mary Bess Lawing stated that this is a really good program and that she is proud to serve on the board.

Mayor Stedman thanked Mr. Abernethy for the presentation and for the great program.

C. Consideration of Memorandum of Understanding to Adopt  
Catawba County’s Voluntary Agricultural District

Christine Bartleson, Planning Director, stated that Mary George, Assistant Planning Director for Catawba County, presented a Power Point slideshow about the Voluntary Agricultural District Program at the Newton City Council Retreat on February 17, 2011. Mrs. Bartleson stated that over the course of the year, the County Planning Department and Agricultural Extension office worked with Attorney Larry Pitts on a Memorandum of Understanding (MOU) to implement this program in Newton and the City’s Extraterritorial Jurisdiction.

Mrs. Bartleson stated that there are currently 1,151.6 acres within the City limits and ETJ that are enrolled in the “present use tax” program as Agricultural Use. She explained that any existing farm use can enroll in the present use tax program at any time regardless of whether they also apply to be in the Voluntary Agricultural District (VAD) program. Mrs. Bartleson stated that the County Extension office has informed the city that there are two farms which have applied for inclusion in the VAD but have been turned down due to the fact that the City of Newton has not adopted the program.

Mrs. Bartleson stated that there are two classifications within the County’s VAD Ordinance: regular and enhanced. She explained that either classification requires a minimum of five (5) acres of horticultural land, ten (10) acres of agricultural land or twenty (20) total acres of forestland, and that the land is within one mile of another farm. The regular category requires a Conservation Agreement with the County which shall be enforced for a period of ten years unless revoked by the landowner or the County. Mrs. Bartleson explained that the landowner would be required to provide a sixty (60) days written notice to the Advisory Board and the County requesting to be released from the VAD requirements, but the enhanced classification requires that the Conservation Agreement be recorded, and it is irrevocable for the 10-year period.

Mrs. Bartleson stated that Staff recommends adoption of the Memorandum of Understanding between the City of Newton and Catawba County in the regular category.

Council Member Mary Bess Lawing stated that this is a great thing and that she is glad we are acting on this Memorandum of Understanding, and that the city should protect what the city has.

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

That Memorandum of Understanding - Catawba County's Voluntary  
Agricultural District be – ADOPTED.

**ITEM 9: City Manager's Report**

- Town Hall Day, Wednesday, June 5, 2012
- Street Sweeper – The City purchased a 2002 Freightliner Johnson 605 for \$23,000 from Jacksonville, NC
- Western Piedmont Council of Governments Mayors/Managers Meeting Thursday, June 21 – Town of Valdese
- VisionAire Jets Full Scale Mockup – Tuesday, June 19<sup>th</sup> or Wed., June 20<sup>th</sup> at 3:00 p.m., 5:00 p.m., or 6:30 p.m.
- Fire Station 3 Remodeling
- East 26<sup>th</sup> Street
- Air Quality Conference – June 15, 2012, L-R University
- ElectriCities Regular Quarterly Board Meeting - Tuesday, June 12, 2012, 10:00 a.m.
- ElectriCities Video Project - Monday, June 11, 2012 – Mayor Stedman, Randy Isenhower, and Dale Mull

**ITEM 10: Questions and Comments from Mayor and Council**

Council Member Tom Rowe stated that at this time he would like to discuss the disrepair of East 26<sup>th</sup> Street. He stated that it was on the overlay list of streets to be repaired, but was not recommended at this time. He explained that it was falling apart, crumbling, and that it was exhibiting “spider webbing”. Mr. Rowe stated that he felt like the City needs to spend more on paving streets because we have received good bids, and it is a necessity on some of these roads, especially East 26<sup>th</sup> Street. Mr. Rowe asked if he is the only one that feels this way. Mayor Stedman stated that she went to East 26<sup>th</sup> Street and she agrees that it is bad, especially the last 50’ or so. She asked Public Works and Utilities Director Wilce Martin what he thought. Mr. Martin stated that quotes for East 26<sup>th</sup> Street would be in on Thursday, June 7<sup>th</sup>, but he asked Asst. Public Works Director Dusty Wentz to do an estimate based on recent bids. He explained that on the last 326’ the base was completely gone, which would cause the cost to be around

\$29,317 for that section. He said the rest could be resurfaced for around \$21,000. Mr. Martin explained that because the street is less than 16’ wide, it is not considered a Powell Bill Street. Council Member Wes Weaver asked if the City could get an estimate based on making the street 16’ wide. Mr. Martin stated that he could. Mr. Weaver stated that he feels we should go 16’ so the City can use Powell Bill funds in future. Mr. Martin stated that there would be easements involved since there are right of way issues, which would cause the project to cost more.

Council Member Robert C. Abernethy, Jr. stated that this is the type of thing the city is supposed to be providing for our citizens.

Mayor Pro Tem Bill Lutz stated that the last stretch is the worst, and that he estimates twelve families live on that street. He asked if the street could be patched until the city decides what to

do. Mr. Martin stated that the problem with patching is that the base is faulty. Council Member Tom Rowe stated that the last 326' definitely need to be done.

Mayor Stedman asked Mr. Martin to get quotes for 16' and to report back to Council.

Council Member Robert C. Abernethy, Jr. asked if the City Council could engage in further discussion about the proposed budget. City Attorney Larry Pitts stated that the budget would have to be adopted as presented in the Public Hearing and then amendments would have to be made afterward.

**ITEM 11: Adjournment:**

There being no further business, upon motion duly made by Council Member Mary Bess Lawing, seconded by Council Member Robert C. Abernethy, Jr., the meeting was ADJOURNED.

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Anne P. Stedman, Mayor

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Amy S. Falowski, City Clerk

