

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

October 15, 2013 – 7:00 P.M.

The regular meeting of the Newton City Council was held on Tuesday, October 15, 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, Wayne Dellinger, Robert C. Abernethy, Jr., and Wes Weaver

STAFF: City Manager Todd Clark, City Clerk Amy S. Falowski, Assistant City Manager Sean Hovis, City Attorney John Cilley, Public Information Officer Julie Chang, 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 Mary Bess Lawing

Mayor Pro Tem Bill Lutz provided the invocation and led the Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES FROM THE October 1, 2013 REGULAR CITY COUNCIL MEETING

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

That the Regular Minutes of the October 1, 2013 City Council Meeting be –
APPROVED

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS

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

That Consent Agenda be – APPROVED.

- A. Tax Releases
- B. Sewer Adjustments
- C. Consideration of Proclamation – Hunger and Homelessness Awareness Week – November 16-24, 2013
- D. Consideration to Ratify Resolution Honoring S. Ellis Hankins in his Retirement as Executive Director of the North Carolina League of Municipalities
- E. Consideration of Budget Ordinance to Recognize Artfest Contributions

(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 anyone present would like to make any comments concerning non-agenda items. No one appeared.

ITEM 6: **New Business**

A. Report – Appearance Commission

Collette Touchette, Appearance Commission Chairperson, gave a presentation highlighting some of the things that the Appearance Commission has been working on. Some of the highlights were:

- Developed projects and goals and starting working on them
- City Council approved the expanded powers and duties of the Appearance Commission
- Proposal of a “Keep Newton Beautiful” essay/poster contest
- A Downtown Audit complete with before and after pictures
- Completion of the “Eat Smart, Move More” Trail
- Development of a Facebook page

Council Member Bill Lutz thanked Ms. Touchette for the Commission’s hard work.

Next, Ms. Touchette presented a proposed Yard Sale Ordinance. Ms. Touchette stated that the slides were for Council to read and look at and not for a vote at this time. She explained some of the grievances that have been filed in the past year and how this proposed ordinance would define a yard sale.

Mayor Anne Stedman asked how it would be possible for the city to determine if items at a yard sale had been purchased for yard sale purposes. Ms. Touchette stated that the city and the Appearance Commission would have to rely on neighbors for that information. Mayor Stedman stated that she didn’t think that answered the question of whether or not the items had been bought specifically for yard sale purposes. Council Member Dellinger stated that if you had neighbors that were angry with each other they could make false reports in retaliation.

Ms. Touchette stated that one proposal to the ordinance would be that each yard sale would require a \$5 permit to be posted on site. Council Member Robert Abernethy stated that these changes would be for people that actually follow the rules, and that most offenders don’t follow them to begin with. Ms. Touchette stated that something needed to be in place so that the laws were enforceable.

Council Member Robert C. Abernethy, Jr. stated that the yard sales should be fine as long as they are clean and not being held every week. Ms. Touchette said that was the problem; they are not following the rules already in place.

Ms. Touchette stated that some of the other requirements of the proposed ordinance are: 1) Permits good for 2 consecutive days; three per year; 2) No yard sales on Sunday; and 3) Fines not to exceed \$500.

Mayor Stedman stated that staff needs to take a look at the proposed ordinance and ways that the problem can be addressed.

B. Consideration of Resolution Exempting the City of Newton from North Carolina General Statute 14-234

City Manager Todd Clark stated the City of Newton has volunteered to host the Western Piedmont Council of Governments' November 26, 2013 Bi-Monthly Policy Board meeting. Mr. Clark explained that the staff would like to use the Newton Expo that is presently owned and operated by Council Member Wayne Dellinger. Mr. Clark stated that in accordance with N.C.G.S. §14-234, no city council member who is involved in making or administering contracts on behalf of a city may derive a direct benefit from any contract entered into between him/her and the city unless the city meets specific exemption requirements as set forth in Subdivision (a)(1) of the statute. Mr. Clark explained that City Council would need to approve a resolution that exempts the City of Newton and enables the city to rent Council Member Dellinger's facility for the purpose of the Mayors/Chairmen/Managers meeting on November 26, 2013. Mr. Clark recommended this action be taken.

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

That Council Member Wayne Dellinger be recused from voting on the matter of the City of Newton renting Council Member Dellinger's facility, the Newton Expo, for the purpose of the Mayors/Chairmen/Managers meeting on November 26, 2013

Upon motion duly made by Council member Wes Weaver, seconded by Council Member Mary Bess Lawing, it was unanimously RESOLVED:

That Resolution Exempting the City of Newton from North Carolina General Statute 14-234 be – ADOPTED.

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

C. Consideration of Utility Adjustment for First Baptist Church Due to Flood Relief Efforts

City Manager Todd Clark stated that on August 9, 2013 the City received a letter from First Baptist Church requesting Council's consideration of an adjustment on their utility bills. Mr. Clark explained that the NC Baptist Men Disaster Relief established a headquarters for local and regional assistance for flood victims as a result of the July 27, 2013 flood and that they are a non-profit organization that works closely with the Red Cross and the Salvation Army.

Mr. Clark stated that the First Baptist Church's facilities served as a command and communications center as well as provided shelter and dining facilities to a large number of families in need as well as volunteers from across the state. Their facilities were operational 24 hours a day/7 days a week from July 27 through August 24. During that time there were 647 volunteers. Mr. Clark explained that those volunteers prepared 756 meals, provided 207 showers and completed 238 clean-up/recovery jobs in addition to day/night shelter for the volunteers and the displaced families due to the flood. Mr. Clark stated that The Family Center was the main area utilized in addition to a couple of rooms within the church, and that all labor provided by the volunteers is completed at no cost to the families in need.

Mr. Clark stated that adjustments for consideration are as follows:

Family Center – During the period under review, water consumption increased to 12,700 gallons in August and 15,400 in September. The increased consumption resulted in water and sewer charges of \$53.75 and \$95.40 respectively. The average electric usage of 3,043 increased to 5,880 kwh in August and 10,400 kwh in September resulting in monthly charges of \$322.99 and \$803.49, respectively.

Consideration for Family Center:

Total Water - \$53.75

Total Sewer - \$95.40

Total Electric - \$1126.48

Overall Total for Family Center \$1,275.63

Church – Even with the utilization of the church facility during the disaster recovery period, water and sewer remained below the minimum 3,000 gallons. Thus, there would be no consideration with those utilities. The Church’s average electric usage of 2,058 kwh went to 2,760 kwh for August and 6,240 for September for a consideration of \$544.26 (\$87.16-Aug and \$457.10-Sept).

Consideration for Church:

Electric only - \$544.26

Mr. Clark stated that the City’s policy has never included electric or water adjustments. However, the July 27, 2013 was considered a disaster for Newton as well as the region. He stated that letters from Butch Coley, Deacon with First Baptist Church, and from NC Baptist Men have also been provided for review.

Mr. Clark recommended that the council consider a utility adjustment to assist First Baptist Church with disaster recovery due to the July 27, 2013 flood in the amount of \$53.75 for water, \$95.40 for sewer and \$1,670.74 for electric.

Council Member Mary Bess Lawing stated that she felt like the city should grant the utility adjustments. Mayor Anne Stedman agreed, and stated that it had been a good effort by these organizations. Council Member Wes Weaver stated that he felt like this was a minute part of the expenses the church put forth, and that the city should grant the adjustments.

Council Member Robert C. Abernethy, Jr. stated that he is afraid that this could blur the lines, and that this is a situation that the community should gather and help. He stated the church should have accepted the costs or solicited donations.

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

That Utility Adjustment for First Baptist Church Due to Flood Relief Efforts be –
GRANTED.

D. Consideration to Close the Purchase Order for the 5th St. Culvert
Replacement

Public Works and Utilities Director Wilce Martin stated that during the July 27, 2013 flooding event a number of storm water culvert washouts occurred within Newton. Mr. Martin stated that one of the replacement projects identified was the replacement of the East 5th Street Culvert. Mr. Martin stated the project was bid out and Dellinger Inc. was the lowest qualified bidder for \$84,050. Dellinger began the work in September and completed this project last week.

Mr. Martin explained the project required the removal of an existing 72” storm water culvert and connecting to an existing 72” corrugated metal pipe just north of the sink hole. Unfortunately, excavation uncovered a rock box culvert under 5th Street and two parallel 36” culverts tied into it, which resulted in an additional \$10,000 change order for an additional junction box and costs for removal of the existing storm water system and downstream bank restoration.

Mr. Martin stated that the city was able to reduce the scope of the project somewhat, and realized some savings in other line items. He said the Contract amount was \$84,050, the final payment application is for \$89,558 which is \$5,508 over the contract amount, but this additional amount is well within the approved contingency.

Mr. Martin asked that the Council consider approving the final closing change order and authorize the final payment of \$89,558.

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

That Purchase Order for the 5th St. Culvert Replacement be – CLOSED.

ITEM 7: City Manager's Report

- Report on NCLM Meeting
- Report on City sponsored Culture and Arts Day
- Passing of Gail Lowder (Former Member of Festival and Events and active with Green Room)
- Night Crawl/5k run – Saturday, October 19th 7:30/8:00 p.m.
- United Way Cross Country Race – 800 High School Students (Oct. 9th)
- Middle School 2A Track Meets
- High School 3&4A Track Meets
- Crop Walk – October 20th at Southside Park
- NLC Meeting in Washington state November 13-16, 2013
- Thursday, Oct. 24 – 6:30 p.m., Newton 101 graduation at City Hall
- Saturday, Oct. 26 – 5-8p.m. Spooktacular in downtown Newton. Hosted by Festival and Events Committee and with costume contests sponsored by the Parks and Recreation Dept.
- Future date to keep in mind: Light Up The Town is Sunday, Dec. 1 From 5-9 p.m.
- Also, The Greater Hickory MPO is seeking public comments on the Draft 2040 Long Range Transportation Plan (LRTP). They are accepting comments through Friday November 1st.
- Fire Department Closing on property is complete

- 2013 NC Public Power Awards of Excellence Announced
The City of Newton was Awarded:
 - A. Energy Efficiency
 - B. Financial Stability
 - C. Service Excellence

CIP

1. Water Treatment Plant Pump Upgrade – the new vault and valves have been installed and tied into the existing water system. The new motor is here and the contractor is still waiting for delivery of the pump from the manufacturer which has an October or November delivery date.
2. Shannonbrook Phase II – All water mains have been installed and connections made to complete this project.
3. High School Sewer – Installation of the sewer main is complete, including behind the high school baseball field. This project is complete.
4. AC Little – Complete, under warranty.
5. E. 18th Waterline – Complete, under warranty.
6. McDaniel's Court Waterline – Complete, under warranty.
7. S. Caldwell Street Culvert – Engineering has begun.

8. Snow Creek – Asset management plan has been approved and permitting and bid dates are still on schedule.

Flooding Emergency Projects

1. W. 7th Street Sewer Main replacement – The aerial crossing has been restored by PWU.
2. Radio Station Rd. Water main replacement is completed.
3. Woodson Dr. Culvert – Dellinger Contracting Inc is the low bid and has begun work this week.
4. Settlemeyer Bridge Road Sewer Line Replacement –NCDOT completed the restoration which completed the work necessary for the City. Instead of \$300,000 plus cost it will only be about \$10,000 for has been done.

ITEM 8: Questions and Comments from Mayor and Council

Mayor Anne P. Stedman asked if any Council Members would like to make any comments. There were none.

ITEM 9: 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 Mary Bess Lawing, it was unanimously RESOLVED: to go to CLOSED SESSION.

The Council, Mayor, Attorney Bob Grant, City Clerk and City Manager met in the Council Chambers for the purpose of discussion of several legal matters. No action was taken

Upon motion duly made by Council Member Wes Weaver, seconded by Council Member Robert C. Abernethy, Jr., it was unanimously RESOLVED: to leave CLOSED SESSION and return to OPEN SESSION.

ITEM 10: 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

Anne P. Stedman, Mayor

Amy S. Falowski, City Clerk

