

Newton Town Council Meeting
 October 5, 2023, 7:00 P.M.
 Newton Town Hall, 51 South Center, Newton UT
Minutes

Agenda
1. Roll Call
2. Opening Ceremony – Jed Woodward
3. Approval of September 7, 2023, Minutes
4. Update by Newton Youth Council
5. Resolution 2023-02, Cancellation of the 2023 Municipal Election and considers two candidates elected to office for two open seats
6. Public Hearing for Final Plan for Junius Hansen, lot division, 360 West 100 South, parcel 13-028-0047
7. Final Plan for Junius Hansen, lot division, 360 West 100 South, parcel 13-028-0047
8. Discuss adopting provisions for the collection of waste and other changes needed to code
9. Public Hearing for Ordinance 2023-02 adopting provisions for the collection of waste within Newton Town limits
10. Waiting list for new water connections
11. Financial Statement Review
12. Newton Planning Commission Member appointments
13. Report on Mayor/Council Member Assignments

1. Call to Order and Roll Call of Members present.

Members present: Mayor Mike Benson, Jake Christiansen, Kent Fabricius, Brett Petersen and Jed Woodward. Karla Ferguson (Recorder) and Kathryn Rigby (Treasurer)
 Others present: Anzel Rhodes, Lee Woodley, Sarah Rigby, Steven Presbury and Steven Jenkins.
 Electronic attendance by Zoom: None

2. Opening ceremony conducted by Jed Woodward

3. The Newton Town Council meeting minutes for September 7, 2023, were approved.

4. Youth Council Update – Not present

5. Resolution 2023-02, Cancellation of the 2023 Municipal Election and considers two candidates elected to office for two open seats. Mike Benson read the proposed resolution canceling the election.

WHEREAS, the Utah State Code 20A-1-206 gives instruction for cancelling a local municipal election; and

WHEREAS, all municipal officers are elected in an at-large election under Utah Code Subsection 10-3-205.5(1); and

WHEREAS, the number of municipal officer candidates, including any eligible write-in candidates under Utah Code Section 20A-9-601, for the at-large municipal offices does not exceed the number of open at- large municipal offices for which the candidates have been nominated; and

WHEREAS, there are no other municipal ballot propositions;

THEREFORE, BE IT RESOLVED by the Newton Town Council that: Newton Town is cancelling the 2023 municipal election and certifies that: each municipal officer candidate is a candidate for an at-large municipal office for which the number of candidates does not exceed the number of open at-large municipal offices and the candidates are hereby considered to be elected to the office.

The Newton Town Council declared the candidates Jed Woodward and Steven Jenkins elected to office.

COUNCILMEMBER	YES	NO	ABSENT	ABSTAIN
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Mike Benson	X			
Jake Christiansen	X			
Kent Fabricius	X			
Brett Petersen	X			
Jed Woodward	X			

8. Discuss adopting provisions for the collection of waste and other changes needed to code – Mike Benson explained the need to update Newton’s garbage code because of the exclusive garbage collection rights required by the new contract with Waste Management. The attorney, Seth Tait, drafted a proposed code change to meet the requirements of the contract for the consortium. Newton’s current code refers to the old Cache County waste management area that needs to be changed. The town council discussed garbage collection rates, overage rates, can sizes and changes. Green waste collection options are unknown for next season. Logan City will begin to charge for green waste at the landfill beginning in January. Mike Benson plans to write an article for the newsletter discussing garbage collection changes. Next month put on the agenda to review all the old code regarding garbage collection. All members should review the code prior to the meeting to suggest changes to the code to update it. Jed Woodward would like to discuss green waste collection rates.

6. Public Hearing for Final Plan for Junius Hansen, lot division, 360 West 100 South, parcel 13-028-0047 – Brett Petersen explained that the minor subdivision has met all requirements and has received approval from the Newton Planning Commission. Mike Benson opened the public hearing for comments. Brett Petersen explained the proposed division of one lot into two lots. Jed Woodward discussed the location of the secondary water and that a secondary water share is available for the second lot. Mike Benson read an email comment received from Bruce Erickson. The comment was opposed to the division of the parcel due to concerns over having enough water and too much growth in Newton and building near his property. Steve Presbury said he is okay with dividing the lot because it is a large lot and meets all requirements for a lot. Jeff Benson said he doesn’t see a problem with the lot division. The public hearing was closed.

7. Final Plan for Junius Hansen, lot division, 360 West 100 South, parcel 13-028-0047 – Jake Christiansen made a motion to accept the final plan for the division of parcel 13-28-0047. Jed Woodward seconds the motion. Roll call vote:

COUNCILMEMBER	YES	NO	ABSENT	ABSTAIN
Mike Benson	X			
Jake Christiansen	X			
Kent Fabricius	X			
Brett Petersen	X			
Jed Woodward	X			

8. Discuss adopting provisions for the collection of waste and other changes needed to code – continued discussion from previous agenda item – Jake Christiansen reported that Richmond has contracted with Econowaste and it costs \$22 a can per month. They do not offer recycling collection or green waste collection. Richmond contracts with a separate provider for a green waste dumpster. It was discussed that collecting green waste is important because if it is not collected then it is dumped in fields and ditches. Mike Benson discussed that rate changes must be agreed upon by the board, which is made up of all the mayors in the consortium. Brett Petersen discussed concerns with an increase in the rate for green waste. It was suggested to investigate charging residents a \$5 green waste charge. Jed Woodward suggested the town purchase a chipper to use for large clean up projects. Kent Fabricius suggested getting more

information about green waste collection before making decisions regarding rates. Mike Benson asked all council members to review town garbage code for suggested updates.

9. Public Hearing for Ordinance 2023-02 adopting provisions for the collection of waste within Newton Town limits I – Mike Benson opened the public hearing. No comments received.
ORDINANCE NO. 2023-02

AN ORDINANCE ADOPTING PROVISIONS FOR THE COLLECTION OF WASTE WITHIN NEWTON TOWN LIMITS.

WHEREAS, the Utah Code § 10-11-1(2)(ii) grants municipalities the right to regulate the abatement of garbage and refuse;

WHEREAS, in response to Logan City’s abrupt termination of waste collection services to cities in Cache Valley, Newton Town (the “Town”) in concert with several other municipalities and Cache County formed an interlocal entity called the Cache Waste Consortium (the “Consortium”) to procure waste collections services for Cache County and the participating municipalities;

WHEREAS, the Consortium entered into that certain Solid Waste Services Agreement with Waste Management of Utah, Inc. (“Waste Management”) dated March 22, 2023 (the “Services Agreement”) by which Waste Management agreed to provide waste collection services for all cities in the Consortium;

WHEREAS, as a condition of Waste Management entering into the Services Agreement, Waste Management demanded exclusive ability to provide waste collection services in all jurisdictions that are part of the Consortium;

WHEREAS, the Services Agreement requires the Town to adopt an ordinance making Waste Management the exclusive waste collection services provider in the Town; and

WHEREAS, the Newton Town Council determined it was in the best interests of the residents of the Town to participate as part of the Consortium and adopt an ordinance as required by the Services Agreement;

NOW, THEREFORE, BE IT ORDAINED, by the Council of Newton Town, Cache County, State of Utah, as follows:

1. Title 4, Chapter 4, of the Newton Town Code (the “Code”) is hereby adopted to read as follows:

SECTION 1: PURPOSE. The Town is a party to that certain Interlocal Cooperation Agreement between Cache County and Participating Municipalities of Cache County for Creation of an Interlocal Entity for County and Municipal Solid Waste Disposal dated November 2022 (the “Interlocal Agreement”) which established the interlocal entity called the Cache Waste Consortium (the “Consortium”). The Consortium may from time to time enter into certain Solid Waste Services Agreements (the “Services Agreement”) whereby providers agree to provide waste collection services for all governmental entities who are a part of the Consortium. The Services Agreements require governmental entities in the Consortium to adopt ordinances for the enforcement of the exclusive right granted to the provider under contract with the Consortium. This Chapter is meant to, and should be interpreted to, meet the requirements of the current Services Agreement of the Consortium.

SECTION 2: DEFINITIONS

- A. **“Bin”** means a watertight metal or heavy plastic receptacle with a hinged plastic lid and a capacity of between one (1) and eight (8) cubic yards, designed or intended to be mechanically dumped into a packer type truck and provided to the Town by the Town Collector.
- B. **“Cart”** means a watertight heavy plastic receptacle with a rated capacity of approximately sixty-four (64) or ninety-six (96) gallons, having a hinged, tight-fitting lid, and two (2) wheels and provided to the Town by the Town Collector.
- C. **“Town Collector”** means the provider currently established by resolution of the Town Council.
- D. **“Collection Service(s)”** means the process by which Solid Waste is removed from a Commercial or Residential Premises, transported to a transfer, disposal or processing facility, and subsequently disposed or processed.
- E. **“Commercial Premises”** means (i) Multi-Family Complexes, and (ii) Premises at which business or governmental activity is conducted, including, but not limited to, retail sales, services, medical facilities, wholesale operations, manufacturing and industrial operations, governmental operations, and schools.
- F. **“Container”** means a Bin, Cart or Roll-Off Container provided by the Town Provider.
- G. **“Dwelling Unit”** means any individual living unit that includes a kitchen, and a room or suite of rooms, and is designed or occupied as separate living quarters for an individual or group of individuals. However, Dwelling Unit does not include a hotel or motel unit.
- H. **“Green Waste”** means any vegetative matter resulting from normal yard and landscaping maintenance that is not more than three (3) feet in its longest dimension or six (6) inches in diameter. Green Waste includes, but is not limited to, plant debris such as palm, yucca and cactus, grass clippings, leaves, prunings, weeds, branches, brush, undecorated Christmas trees, and other forms of vegetative waste.
- I. **“Multi-Family Complex”** means any Premises with four (4) or more Dwelling Units, where such Dwelling Units receive centralized Collection Services (and not individualized Cart-based Collection Services).
- J. **“Multi-Family Dwelling Unit”** means a Dwelling Unit in a Multi-Family Complex.
- K. **“Overage”** is defined as (i) Refuse, Recyclables or Green Waste exceeding its Container’s intended capacity such that the lid is lifted by at least ten inches (or would be lifted by at least ten inches if lowered) or (ii) Refuse, Recyclables or Green Waste placed on top of or in the immediate vicinity of the Container, in bags or otherwise.
- L. **“Premises”** means any parcel of real property in the Town where Solid Waste is generated or accumulated.
- M. **“Recyclables”** means aluminum cans, PET bottles with the symbol #1 with screw tops only, HDPE plastic bottles and containers with the symbol #2 (milk jugs, detergent containers, and shampoo bottles, etc.), PP plastic bottles and containers with symbol # 5 (ex. yogurt containers, syrup bottles), steel and tin cans, glass food and beverage containers – any color, newspaper, mail, uncoated paperboard (Cereal boxes, food and snack boxes), old corrugated containers/cardboard (uncoated) (moving boxes, pizza boxes), magazines, glossy inserts and pamphlets.

N. **“Refuse”** means Solid Waste that is set out for collection and disposal pursuant to this Agreement. Refuse does not include Recyclables or Green Waste set out for collection.

O. **“Residential Premises”** means a Single-Family Premises.

P. **“Roll-Off Container”** means an all-metal container with ten (10) cubic yards or more capacity that is loaded onto a specialized collection vehicle.

Q. **“Service Recipient”** means an owner or occupant of a Residential or Commercial Premises who is receiving Collection Services.

R. **“Single-Family Premises”** means (i) any Premises with less than four (4) Dwelling Units, and (ii) any Premises with four (4) or more Dwelling Units where each Dwelling Unit receives individualized Cart-based Collection Services (and not centralized Collection Services), which Premises have been registered or verified with the Town for the receipt of Collection Services.

S. **“Solid Waste”** means all putrescible and non-putrescible solid, semi-solid, and liquid wastes that are generated or coming to exist in the Town, including discarded Recyclables and Green Waste, but excluding Unacceptable Waste.

T. **“Unacceptable Waste”** means any waste tires, radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio-hazardous, regulated medical or hazardous waste, toxic substance or material, as defined by, characterized, or listed under applicable federal, state, or local laws or regulations, any materials containing information protected by federal, state or local privacy and security laws or regulations (unless tendered to the Town Collector pursuant to a separate agreement), or any material the acceptance or handling of which would cause a violation of any applicable statute, rule or regulation, damage to the Town Collector’s equipment or facilities, or present a substantial endangerment to the health or safety of the public or the Town Collector’s employees. Title to and liability for Unacceptable Waste shall remain with the generator at all times.

SECTION 3: WASTE MANAGEMENT GRANTED EXCLUSIVE FRANCHISE. The Town Collector is hereby granted the exclusive duty, right and privilege to provide Collection Services or otherwise handle all Solid Waste generated, deposited, accumulated or coming to exist at Commercial and Residential Premises in the Town.

SECTION 4: REQUIREMENT FOR COLLECTION SERVICES. All Commercial and Residential Premises in the Town shall receive Collection Services through the Town Collector and shall enroll in Collection Services with the Town through the forms and agreements adopted by the Town.

SECTION 5: PROHIBITIONS.

A. Except as provided herein, it shall be unlawful for any person, except the Town Collector, to collect or remove any Solid Waste, whether commercial or residential, accumulated or located within the Town, or use the streets, avenues, alleys or ways within the Town for the purpose of collection or transportation of same.

B. It shall be unlawful for more than one Single-Family Premises to share the same Collection Services account with the Town.

C. Except as may occur through ordinary wear and tear, it shall be unlawful for any person to lose, damage or destroy any Container.

D. It shall be unlawful for any person to intentionally remit any Unusable Waste in any Container with the purpose of the Unusual Waste being picked up as part of Collection Services.

E. It shall be unlawful for any person to cause any Overage with any Container.

F. It shall be unlawful for any person to fill any Container until it is overweight. For the purposes of this subsection, “overweight” shall mean two times the volume capacity of the Container (e.g. 192 pounds for a 96-gallon Cart).

G. Nothing herein shall be construed to prohibit any owner, occupant or tenant of a Premises from personally handling, hauling, or transporting Solid Waste generated by or from such Premises for purposes of disposing of the same at an authorized disposal area or transfer station.

H. Nothing herein shall be construed to prohibit the right of any person to sell Recyclables (i.e., receipt of a net payment) to any person lawfully engaged in the recycling business in the Town or to donate Recyclables to any bona fide charity, provided that all such Recyclables are separated by the generator of the Recyclables.

SECTION 6: INDEMNITY. Any person who violates any provision of this Chapter shall indemnify the Town against any and all costs and expenses incurred by the Town as a result of the violation, including costs and attorney fees incurred in enforcing the provisions of this Chapter or collecting any amounts due and owing to the Town due to Collection Services.

Jed Woodward made a motion to accept ordinance 2023-02, adopting provisions for the collection of waste. Jake Christiansen seconds the motion. Roll call vote:

COUNCILMEMBER	YES	NO	ABSENT	ABSTAIN
Mike Benson	X			
Jake Christiansen	X			
Kent Fabricius	X			
Brett Petersen	X			
Jed Woodward	X			

ADOPTED AND PASSED, by the NEWTON TOWN COUNCIL this 5th day of October 2023.

10. Waiting list for new water connections – It was discussed that a request for a non-residential water connection has been made for an existing shed on its own lot. It was discussed that if a waiting list is done then it should be posted that a waiting list will be established. Brett Petersen asked if there is a separation for ERC between commercial and residential in the water studies completed. It was discussed to get a clarification from the town engineer, Eric Dursteler, and discuss this item at the next meeting.

11. Financial Statement Review – Kathryn Rigby, Treasurer, reviewed the fourth quarter financial reports. Kathryn reviewed the items that were completed in June but paid for in July or August that need to be adjusted to the fourth quarter. Kathryn reviewed the ARPA grant and discussed department questions. Items that need to be clarified are the billing for replacement auto-read meter antenna and process for manual read fees. Mike Benson plans to talk to those that need to be charged and then tell Kelli Myers to place on the bill. Kathryn asked if the Town Council would like those items billed separately from the regular water bill and in what account those fees are placed in. The Town Council will consider the item and discuss it next month.

Garbage rates and recycling rates were discussed, and it was determined to gather more information and discuss rates at next month's meeting.

12. Newton Planning Commission Member appointments – Brett Petersen reported that due to Rich Olsen and Barry Myers receiving new ecclesiastical leadership callings that they must step down from serving on the Newton Planning Commission. Brett has begun asking residents to serve on the planning commission but has not received any agreements yet. Brett asked for a request to serve be posted and placed in the newsletter. The regular planning commission meeting scheduled for October will be cancelled. The Town Council will appoint new members at next month's meeting.

13. Report on Mayor/Council Member Assignments

- Mayor Benson – Animal Control/Administration/Nuisance/Parks
- Jake Christiansen – Library/Special Events/Youth Council
- Kent Fabricius – Buildings/Land Management
- Brett Petersen – Planning/Fire Dept./EMS
- Jed Woodward – Water/Streets

Mike Benson reported that he met with the Church of Jesus Christ of Latter-Day Saints (LDS) facilities regarding adjusting the property line north of the town hall and the ball diamond. The current property line goes along the first base line. The LDS church proposes adjusting the property line to the south so that the entire ball diamond and light poles are on church property. The LDS church proposes separating the power panel from the tennis court panel and separating the sprinkling system and switching to secondary water. The LDS church will email a survey of the proposed property line to discuss. An easement for the power pole with the town's water meter antenna will also be included.

Jake Christiansen reported that the Newton Youth Council will run a scare house at 17 West Main on October 27 and 28. The library will hold a witch's story time activity on October 21. The library will host Santa at the library on Wednesday, November 29. Sarah Rigby suggested paying Santa. Sarah will find out a suggested payment to help Santa purchase a new suit. Jake asked for suggested dates to hold a town employee dinner and let him know your preferred dates. Kent Fabricius reported that a payment will be made to Alltech to purchase security cameras and they will be installed soon. The farmland lease for the 26 acres will expire in November. Kent plans to ask if they would like to renew the lease. Kent plans to keep the outdoor restrooms open a little longer until it freezes. Brett Petersen reported that the first responders purchased a used squad vehicle from Logan City. The first responders will work on getting the vehicle inspected and outfitted before putting it into service. The old ambulance will then be declared surplus and sold. Brett would like to put together a committee for a new fire station. The committee will work on securing a design and funding. Jed Woodward reported that Trenton had a boil water order last month. The boil order was due to a sampling problem at Trenton's spring and not the shared springs. Jed reported that the extensive annual water tests were just performed on our water and he just received results and they are all clear. Jed discussed that the double chip seal has not been completed on the new intersection of 200 East 200 North yet. Jed would like a statement to watch out for auto-read water meter antennas be placed in the town newsletter. Mike Benson reported that the CCOG meeting was held and Newton's application for the center street project was not funded. Jake Christiansen said the road going to the dam is a big concern because it is narrow and does not have a shoulder. Mike will pass on concerns to Cache County about the road. Mike Benson will also arrange for a survey to be completed for the Center Street and 200 North road right-of-way problem area.

The regular meeting adjourned.

Minutes prepared by: _____ Approval Date _____
Karla R. Ferguson, Newton Town Clerk