

Newton Town Council Meeting
October 6, 2022, 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 1, 2022, Minutes
4. CAPSA presentation – Ashley Shaw
5. Review water data, current water system ordinance and suggestions for ordinance changes
6. Water connection temporary moratorium
7. Request for flooding mitigation measures – Carson Maughan
8. Interlocal agreement for garbage collection services
9. Lot review for 24 South Center, parcel 13-023-0008
10. 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: Eric Dursteler, Tom Pitcher, Jagger Draper, Jeremy Cooley, Ashley Shaw, Terrie Jenkins, Seth Tait, Steven Jenkins and Clark Rigby.

Electronic attendance by ZOOM: Carson Maughan, Sarah Rigby and Gordon Anderson

2. Opening ceremony conducted by Jed Woodward

3. The Newton Town Council meeting minutes for September 1, 2022, were approved.

4. CAPSA presentation – Ashley Shaw discussed that October is domestic violence awareness month. Ashley Shaw discussed services offered by CAPSA for domestic violence.

5. Review water data, current water system ordinance and suggestions for ordinance changes – Mayor Mike Benson discussed that a moratorium on new water connections was enacted in August and expires today. Because of this, water data and the water code need to be reviewed to address the moratorium. Mayor Benson asked Seth Tait, Newton's attorney, to attend this meeting to address Newton's water code and to make any suggested code changes that are needed. Seth Tait discussed Newton's water code. Brett Petersen asked Eric Dursteler for an update on the water situation. Eric Dursteler did not have updated flow data report and the water committee will not meet until next week. The water committee plans to review the Willowstick study of the Loosle-Buttars spring and will then make a recommendation to the town council. Jed Woodward said the spring water flows today at Big Birch Spring complex is at 183 gpm, which is a drop of 3 gallons from last month. Loosle-Buttars spring flow is 17 gpm. Brett Petersen asked Seth Tait to what extent the town needs to provide water for every buildable lot and can a timeline restraint be put on development as new water sources are developed. Seth Tait discussed that it is not a legal requirement to provide water but provide equality for all residents. Seth Tait discussed having a 40-year growth plan, water development plan and having developers provide water. Seth Tait explained how developers can bring in water based on their estimated impact either by water share, rights, or a monetary option. Brett Petersen asked about in scarcity of water situations what are the options on how long a moratorium can be extended. Is it until the town engineer can show water improvement or can an individual property owner bring in water? Mike Benson discussed that water exaction would need to be for culinary water and not secondary water. Water wells, water shares and current water code were discussed. Seth Tait discussed that a moratorium on development can be placed while updating code. Brett Petersen discussed that

the Newton Planning Commission is currently working on a new water exaction code. Water exaction was discussed. Tom Pitcher explained that he would like to help his daughter build a new home and they have started the permit process and want to know when they can build. Mike Benson explained that the town may develop a well to increase water capacity, but the work wouldn't start until the spring. Mike Benson said until the water supply improves then they need to limit connections. Mike explained that we can't pick and choose who gets to build but must apply the moratorium equally. Mike Benson discussed the process for building an individual culinary water well. For a well the owner must apply with the state for a well permit and go through Bear River Health for water testing. Brett Petersen asked for clarification on Newton's water code and individual water wells. Seth Tait explained that the current code does not prohibit wells. Tom Pitcher asked that if the city would come after his individual well to acquire water. Seth Tait explained that no it would be a private well. Brett Petersen asked if wells could help meet water exaction requirements. Seth Tait agreed that it could be a mechanism to help meet exaction requirements. Seth Tait explained the process for obtaining a well permit. Seth Tait discussed the Newton water code allows to withhold new water connections until there is not a scarcity of water based on data. The second option is to put a hold on land use applications because of a compelling reason, such as, while the town addresses code or ordinance changes. The scarcity of water, Newton code 8-1-15, was reviewed. Conditions for lifting the moratorium were discussed. It was discussed that it should be data driven based on a study and percentage of capacity. Eric Dursteler discussed a test well could indicate the amount of water to anticipate from a new source. Terri Jenkins explained that they have applied for a single-family home building permit, but it has not been approved because of the water connection moratorium. Terri asked if it could be approved as soon as the moratorium is lifted. The building permit application process was discussed. Jeremy Cooley asked if the moratorium on water connections prevents a landowner from subdividing their land. Seth Tait explained that in theory land could still be subdivided but not buildable. Clark Rigby asked that if the decision is based on data and you are going to make a declaration then you need to know when this is going to end. Clark asked that it not be in perpetuity but use data to say what can be supported and when the moratorium can be lifted. Eric Dursteler discussed spring flow variations based on the winter or summer season, water use and water data. Mike Benson asked the town engineer to work on a matrix to determine the number of connections that can be supported with current spring flow and what the spring flow needs to be at to lift the moratorium, considering the season variations. Terri Jenkins asked what efforts the town is making in conserving water. Water conservation efforts such as, water rate increase, new auto-read meters, secondary-water metering, grant for a new filter system to switch to irrigation water for town parks and posting drought actions was discussed.

Agenda adjusted for Seth Tait's attendance.

8. Interlocal agreement for garbage collection services – The current garbage collection contract with Logan City expires June 30, 2023. Seth Tait has reviewed the proposed agreement and had some suggested changes to the draft. Seth Tait reviewed the draft agreement. Brett Petersen asked about representation on the oversight board for the interlocal agreement. Mike Benson discussed that the west side of the county will always have 2 representatives. The board membership was discussed. Mike Benson will currently serve on the board. **Jed Woodward made a motion for the Mayor to approve the finalized interlocal agreement for garbage collection. Jake Christiansen seconded the motion. Roll call vote: Kent Fabricius – yes, Brett Petersen – yes, Mike Benson – yes, Jake Christiansen – yes, Jed Woodward – yes.**

6. Water connection temporary moratorium – Discussion continued regarding the moratorium and determining the data needed to discontinue the moratorium. Brett Petersen asked if we also need a moratorium for land use development while working on the water exaction code. Mike Benson suggested the Town Council just work on water connections right now. Eric Dursteler

discussed that the water committee can help evaluate data. Eric recommends that the moratorium continue for another 3 months while gathering data and possibly drilling a test well. Eric Dursteler plans to also work with the water committee on water data, gpm, water connections, source flow and historical water data to develop criteria for an exit strategy for the moratorium. Mike Benson asked the estimated cost for developing a well. Eric Dursteler said about \$50,000 for a test well and based on the estimated depth of the well about \$250 to \$300,000. Because the pipeline is already installed at the location there wouldn't be pipeline costs. Jed Woodward asked what could happen if Clarkston opposes the well. Eric Dursteler discussed water rights that can be switched from surface water collection in the area to groundwater collection for the well. Eric discussed the water study that has been completed. A new water source protection plan would need to be completed for a well. Extending the water connection moratorium for three months while data is collected and evaluated was discussed. **Mike Benson made a motion to update the proclamation by extending it for 3 months until January. Mike Benson read the proclamation. "The Newton Town Council hereby proclaims, effective October 6, 2022, that due to the scarcity of water in the Newton Town water system that water conservation measures shall continue. Furthermore, that applications for new potable water connections to the Newton Town water system be suspended.**

Applications for new connections shall be suspended to address the scarcity of water by limiting the connections to the Newton water system. Said suspension shall be in effect until the regularly scheduled January 2023 Newton Town Council meeting. At that time, the Newton Town Council will reevaluate the scarcity of water to determine appropriate further action." Brett Petersen seconded the motion. Roll call vote: Kent Fabricius – yes, Brett Petersen – yes, Mike Benson – yes, Jake Christiansen – yes, Jed Woodward – yes.

7. Request for flooding mitigation measures – Carson Maughan had to leave the meeting and asked to be on the agenda next month. Jed Woodward thinks if there is a lot of snow this winter then the snowplow could plow a berm to slow down snow melt along 200 North.

Other business items discussed: Carson Maughan has complained about dead calves being left to decompose in the yard next door. Town Council and Planning Commission members have talked to the neighbor about this. Because it is recurring Mike Benson will send a follow up letter about the offense and mitigation measures that need to take place.

9. Lot review for 24 South Center, parcel 13-023-0008 – Jed Woodward discussed that there have been conflicting plats that have been recorded regarding this parcel, so a clouded title was filed because the town council thought an illegal subdivision had been done. The homeowner is now selling the home and would like the clouded title removed. Jed Woodward asked Clark Rigby to do research on the parcel and present the findings. Clark had John Hickman with Hickman Title do a title search. Clark explained this lot is a legal non-conforming lot and was not subdivided but a mistaken plat was recorded in 2006 that does not match the legal description. The plat recorded in 2006 is an error that caused the clouded title to be filed. However, the problem is an illegal flag lot that was created from the adjoining lot 13-023-0038 into lot 13-023-0039 and not 13-023-0008. These lots 38 and 39 are the problem and are illegal non-conforming. Clark suggested that the clouded title on 13-023-0008 be removed by filing a release on the title. And then separately consider plat 13-023-0038 and 39 because of the unapproved subdivision and creation of an illegal non-conforming lot. **Mike Benson made a motion to remove the clouded title on 13-023-0008. Brett Petersen seconded the motion. All approve.**

10. 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 discussed RAPZ applications and project ideas, such as, a pickleball court.

Jake Christiansen reported that the Newton Youth Council is working on a scare house at the 17 West Main building. The Youth Council has 5 new members. Two of the Newton Youth Council members, Anna Ferguson and Marinda Taylor, have been appointed to the State of Utah Youth Council. Jake reported that the Library and the Merry & Bright Committee will have holiday lights turn on and Santa visit the library on November 30.

Kent Fabricius discussed drainage on the farmland. Jed and Kent will work on the drainage.

Jed Woodward reported that they will be working on installing the auto-read meters and working with Neptune for data collection. Jed plans to have the Clarkston installer help.

Brett Petersen reported that the Planning Commission is currently working on a draft animal ordinance, water exaction and town right-of-way code. Brett explained that in working on the animal ordinance that zoning questions have come up that need to also be addressed. It was determined that there is a need for establishing detailed guidelines for changing zoning.

It was determined to include in the town newsletter clean-up of town right of ways. Gordon Anderson requested that the town council look at parcel 13-020-0002 owned by Stephen Griffin. It has a mistake showing no Center Street right-of-way. Gordon said a survey needs to be completed with a legal description of the town right-of-way and recorded.

Meeting adjourned at 10:16 p.m.

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

Approval Date