

Agenda: Newton City Council

City Council Meeting

Council Chambers, 101 W 4th St S., Newton, IA 50208
Mediacom Channels: 12/85/121.12, Website Livestream:
Newtongov.org / I want to “view” Livestream of City
Council Meetings (www.newtongov.org/cablecast).

July 18, 2022 6:00 p.m.

- | | |
|------------------------------|---|
| Pledge | Pledge of Allegiance |
| Call to Order | 1. Roll Call |
| Presentations | 2. DMACC – Rob Denson, President
3. Jasper Co Conservation - Greg Oldsen, Naturalist |
| Citizen Participation | 4. This is the time of the meeting that a citizen may address the Council on matters that are included in the consent agenda or a matter that is not on the regular agenda. After being recognized by the Mayor, each person will be given three (3) minutes to speak. Comments and/or questions must be related to City policies or the provision of City services and shall not include derogatory statements or comments about any individual. Except in cases of legal emergency, the City Council cannot take formal action at the meeting, but may ask the City staff to research the matter or have the matter placed on a subsequent agenda. |
| Consent Agenda | 5. July 05, 2022 Regular City Council Meeting Minutes
6. July 11, 2022 Special City Council Workshop Minutes
7. Approve Liquor Licenses for the following: <u>Nostalgia Wine & Spirits</u> , 109 N 2nd Ave E, Extending Outdoor Service August 27, 2022; <u>Newton Post No. 111, The American Legion</u> , Special Event August 12, 2022 – Thunder Nights, 101 1 st St N;
8. Resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Schedule 22-06). (Council Report 22-210)
9. Resolution approving the revised purchase of materials for the Woodland Park Small Shelters Replacement Project. (Council Report 22-211)
10. Resolution Amending the City of Newton Community Services Park Fee Schedule. (Council Report 22-212)
11. Resolution approving the purchase of materials for the Maytag Bowl Wood Bench Replacement Project. (Council Report 22-213)
12. Resolution approving a revision to the 2022 Cemetery Rules and Regulations for Union Cemetery and Memorial Park Cemetery. (Council Report 22-214)
13. Resolution Authorizing Additional Fund Transfers in FY21/22. (Council Report 22-215) |

14. Resolution awarding the purchase of a fire station alerting system. (Council Report 22-216)
15. Resolution to take part in three FY23 Tourism Co-op advertising opportunities with the Iowa Tourism Office. (Council Report 22-217)
16. Resolution approving agreement with the property owner of 109 N 2nd Ave E for non-standard improvements in the city right-of-way. (Council Report 22-218)
17. Resolution approving a Telecommunications Licensing Agreement with NEXTLINK. (Council Report 22-219)
18. Resolution Setting Date for Public Hearing on Urban Renewal Plan Amendment for the North Central Urban Renewal Area. (Council Report 22-220)
19. Resolution ordering bids, approving plans, specifications and form of contract and notice to bidders, and ordering clerk to publish notice and fixing a date for receiving same, and for a public hearing on plans, specifications, form of contract and estimate of costs for the 2022 Union Cemetery Paving Project. (Council Report 22-221)
20. Approve Bills

Public Hearing

21. Public Hearing on a Resolution Adopting the Jasper County Multi-Jurisdictional Hazard Mitigation Plan 2022-2027. (Council Report 22-222)
 - The Jasper County Emergency Management Agency (EMA) worked in conjunction with local governments to create a mitigation plan that identifies potential hazards and the actions that need to be taken to reduce or eliminate the long-term risks to human life and property from those hazards for the residents of Jasper County and the City of Newton.
 - A Local Mitigation Plan is required for local jurisdictions that elect to participate in FEMA hazard mitigation programs.
 - The development of the Plan included a 30 day public input portion and a local Public Hearing was held on 7/5/2022.
22. Resolution Adopting the Jasper County Multi-Jurisdictional Hazard Mitigation Plan 2022-2027. (Council Report 22-222)

Ordinances

23. Second Consideration of an Ordinance adding Title XI, Chapter 120 - Natural Gas Franchise to the Newton Code of Ordinances 2016, granting to Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, its successors and assigns, a nonexclusive twenty-five year franchise to construct, operate, maintain, and extend a natural gas distribution system in the City of Newton, Iowa. (Council Report 22-206).
 - Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy recently requested that the City of Newton enact an ordinance granting Black Hills Energy a new, nonexclusive twenty-five year franchise agreement to construct, operate, maintain, and extend a natural gas distribution system in the City of Newton, Iowa.
 - This agreement would define the rights and responsibilities of both the City and Black Hills Energy as it relates to Black Hills Energy's natural gas distribution system within Newton.

- Staff recommends approval of the ordinance, which would replace Ordinance No. 1883 approved on August 18, 1997.

24. Second Consideration of an Ordinance vacating and disposing of the full width of the east-to-west South 7th Avenue East roadway located between the 600 and 700 blocks of East 27th Street South, City of Newton, Jasper County, Iowa. (Council Report 22-207)

- The proposal is to vacate the unimproved public roadway for South 7th Avenue East to the east of East 27th Street South and attach it to the abutting property on the north side.
- The Planning and Zoning Commission recommended approval of the right of way vacation at their meeting on June 7, 2022 subject to the establishment of a utility easement over the area.

Resolutions

25. Resolution accepting a Prairie Meadows Community Betterment Grant for the Proposed Sunset Dog Park. (Council Report 22-223)

- To help offset costs of the proposed Sunset Park dog park project and the other three projects included in the park bond referendum should the ballot issue pass on September 13th, staff has sought out possible grant funding.
- An application was submitted to Prairie Meadows for a Community Betterment Grant, with said application requesting funding towards the Sunset Park dog park project.
- Staff recommends approval of the resolution accepting the \$20,000 Community Betterment Grant from Prairie Meadows for the Sunset Park Dog Park Project.

Mayor/Council Comments

26.

Adjourn

The City of Newton is pleased to provide reasonable accommodations, in compliance with the Americans with Disabilities Act, for those individuals or groups who require assistance to be able to participate in the public meeting. Should special accommodations be required, please contact the City Clerk's Office at least 48 hours in advance of the meeting, at 641-792-2787 to arrange for accommodations to be provided.

REGULAR CITY COUNCIL MEETING MINUTES

JULY 05, 2022, 6:00 P.M.

CITY COUNCIL CHAMBERS

The City Council of Newton, Iowa met in regular session at 6:00 P.M. on the above date in the Council Chambers at 101 West 4th Street South. Mayor Pro Tem George presided. Present Council Members: Hallam, Dalton, George, Ervin. Absent: Wade.

Mayor Pro Tem George asked everyone present to join in saying the Pledge of Allegiance.

Doug Smith, Board President for Project Awake presented on the many community activities going on for Project Awake including the annual plant and bulb sales, the educational activities, and the community partnerships.

There was no citizen participation.

Moved by Ervin, seconded by Hallam to approve consent agenda items 4-10.

4. June 20, 2022 Regular City Council Meeting Minutes
5. Approve Liquor Licenses for the following: The addition of Catering Privilege for Newton Post No. 111, The American Legion, 1101 W 4th St S; Hy-Vee Club Room, 1501 1st Ave E, Class C Liquor License, Outdoor Service, Sunday Sales, Catering; New Star 66, 405 1st Ave E, Class C Beer Permit, Sunday Sales; Thunderdome, LLC formally Baqara, 1615 1st Ave W, Class C Liquor License, Outdoor Service, Sunday Sales; PB Pub, 113 1st Ave E, Class C Liquor License, Outdoor Service, Sunday Sales.
6. Resolution fixing the amounts to be assessed against individual private properties for the abatement of nuisance violations (Schedule No. 22-06). Resolution 2022-200 adopted.
7. Resolution Setting a Public Hearing for Adopting the Jasper County Multi-Jurisdictional Hazard Mitigation Plan 2022-2027. Resolution 2022-201 adopted.
8. Resolution approving a payment for body cameras, in-car dash cameras, software, cloud storage and accessories for \$22,154 from Axon Enterprise Inc. Resolution 2022-202 adopted.
9. Resolution approving a payment to Lexipol, LLC. for police policy manual maintenance and training services. Resolution 2022-203 adopted.
10. Approve Bills

AYES: Five. NAYS: None. Consent Agenda was adopted.

Mayor Pro Tem George stated that this is the time and place for a Public Hearing on an Ordinance adding Title XI, Chapter 120 - Natural Gas Franchise to the Newton Code of Ordinances 2016, granting to Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, its successors and assigns, a nonexclusive twenty-five year franchise to construct, operate, maintain, and extend a natural gas distribution system in the City of Newton, Iowa. There were no written comments. Moved by Trotter, seconded by Dalton, to close the public hearing. AYES: Five. NAYS: None. The public hearing was closed. Moved by Dalton, seconded by Hallam to approve the First consideration of the Ordinance. AYES: Five. NAYS: None. First consideration was approved.

Mayor Pro Tem George stated that this is the time and place for a Public Hearing on an Ordinance vacating and disposing of the full width of the east-to-west South 7th Avenue East roadway located between the 600 and 700 blocks of East 27th Street South, City of Newton, Jasper County, Iowa. There were no written comments. Vincent Haydon, adjacent property owner requesting the vacate explained that he has been maintaining the property and plans to do some additional landscaping. Moved by Hallam, seconded by Ervin, to close the public hearing. AYES: Five. NAYS: None. The public hearing was closed. Moved by Hallam, seconded by Trotter to approve the First consideration of the Ordinance. AYES: Five. NAYS: None. First consideration was approved.

Moved by Trotter, seconded by Dalton, to approve the Third consideration of the Ordinance Closing Maytag Plant 2 Urban Renewal Area. AYES: Five. NAYS: None. Third Consideration passed. Moved by Trotter, seconded by Dalton to adopt the ordinance. AYES: Five. NAYS: None. Ordinance 2416 was adopted.

Moved by Hallam, seconded by Ervin to adopt the Resolution approving the grant agreement between the Iowa Economic Development Authority and the City of Newton for the Downtown Housing Grant. AYES: Five. NAYS: None. Resolution 2022-204 adopted.

Moved by Trotter, seconded by Dalton to adopt the Resolution to reorganize staff in the Community Development Department. AYES: Five. NAYS: None. Resolution 2022-205 adopted.

During Mayor/Council comments Mayor Pro Tem George appreciated the participants that were in the July 4th parade. Chief Burdess spoke regarding firework calls. July 1st through July 4 there were 68 calls for service with 4 citations issued. There was one injury that is being investigated. On July 3rd there was a 50 minute period with over 20 calls. July 4th calls were more about safety. For the year we are trending down.

Moved by Trotter, seconded by Hallam to adjourn the meeting at 6.36 P.M. Motion unanimously carried by voice vote.

Michael L. Hansen, Mayor

Katrina Davis, City Clerk

SPECIAL CITY COUNCIL WORKSHOP MINUTES
JULY 11, 2022, 6:00 P.M.
JASPER COUNTY EMERGENCY OPERATIONS CENTER

The City Council of Newton, Iowa met in special session at 6:00 P.M. on the above date in the Jasper County Emergency Operations Center at 1030 W 2nd Street South. Mayor Pro Tem presided. Present Council Members: Hallam, Dalton, George, Ervin, Trotter, Wade. Absent: None.

Police Chief Rob Burdess, Sergeant Lavelly, and Officer McDonnell presented a workshop on the response and management of Police use of force incidents. Council was educated on their role in a use of force situation and participated in a virtual reality situation.

Moved by Trotter, seconded by Hallam to adjourn the meeting at 8:25 P.M. Motion unanimously carried by voice vote.

Michael L. Hansen, Mayor

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Schedule 22-06).

Report Number: 22-210

Date:

July 18, 2022

Summary:

The City of Newton abated some nuisances, such as tall grass/weeds, unshoveled sidewalks, and/or trash. These costs remain unpaid by the property owner(s) and should be assessed to the property taxes.

Lead Department:

Community Services

Recommendation:

Approve

Financial Impact:

Cost Recovery: \$854.00

Background:

At their last meeting, City Council approved a Schedule of Assessment for the Expenses of Nuisance Abatement. The total amount for cost recovery is \$854.00. The attached schedule lists owner, parcel number, address, amount to be assessed, date work was completed, property legal description, and property valuation.

With the approval of this resolution, the costs expended by the City for the abatement of nuisances will be placed on the taxes as a special assessment for each property.

Recommendation:

Staff recommends approval of the resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Schedule 22-06).

A handwritten signature in black ink, appearing to read "Matt Muckler".

Matt Muckler
City Administrator

RESOLUTION NO. 2022 – _____

**RESOLUTION LEVYING ASSESSMENTS FOR COSTS OF
NUISANCE ABATEMENT AND PROVIDING FOR THE
PAYMENT THEREOF (SCHEDULE 22-06)**

WHEREAS, pursuant to its powers and duties as set out in Chapter 364, Code of Iowa, the City of Newton, after the property owner's failure upon being given notice and opportunity to cure, has performed the required action to abate the public nuisance and now seeks, as provided in 364.12, Code of Iowa, to assess the costs of such action against each of the properties set out on the attached Schedule No. 22-06 for collection in the same manner as the property tax.

NOW, THEREFORE, BE IT RESOLVED, that the attached Schedule No. 22-06, is hereby approved and adopted with the amounts shown thereon assessed and levied against each property for the collection in the same manner as a property tax.

BE IT FURTHER RESOLVED, that said assessments shall be payable in 1 annual installment and shall bear interest at the rate of 3.88 percent per annum, from the date of the acceptance of this assessment schedule; the one installment of each assessment with interest on the whole assessment from date of acceptance of this schedule by the Council shall become due and payable on August 17, 2022, and shall be paid at the same time and in the same manner as the semiannual payment of ordinary taxes. Said assessment shall be payable at the office of the County Treasurer of Jasper County, Iowa, in full and without interest within thirty days after first date of publication of the Notice to Property Owners of filing the schedule of assessments.

BE IT FURTHER RESOLVED, that the Clerk be and is hereby directed to certify said schedule to the County Treasurer of Jasper County, Iowa and to publish notice of said certification once each week for two consecutive weeks in the Newton Daily News, a newspaper printed wholly in the English language, published in Newton, Iowa, and of general circulation in Newton, Iowa, the first publication of said notice to be made within fifteen days from the date of the filing of said schedule with the County Treasurer, the City shall send by regular mail to all property owners whose property is subject to assessment a copy of said notice, said mailing to be on or before the date of the second publication of the notice all as provided and directed by Code Section 384.60, Code of Iowa.

PASSED this _____ day of July, 2022.

APPROVED this _____ day of July, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

Schedule 22-06: Assessment for the Expenses for Nuisance Abatement

Deed/Contract Holder	Parcel Number	Property Address	City	Net Assessed Property Value	Abatement Fee	Admin. Fee	Total Amount Assessed	Legal	Date Abated
Ruth Stewart	833102012	211 W 16th St N	Newton	\$101,570	\$60.00	\$75.00	\$135.00	HILLCREST PLACE LOT 9 BLK A	5/24/2022
Westward Tax Service	1303202004	619 S 13th Ave E	Newton	\$10,290	\$165.00	\$75.00	\$240.00	LISTER'S ACRES E 1/2 LOT 5 EX W 2' OF N 1/2 & E 2' OF S 1/2 OF W 1/2 LOT 5	5/2/2022
Farrell Properties Inc	834206019	732 1st Ave E	Newton	\$110,030	\$125.00	\$75.00	\$200.00	LEE'S SD LOT 3	5/2/2022
Farrell Properties Inc	834304003	512 W 2nd St S	Newton	\$99,570	\$69.00	\$75.00	\$144.00	COE'S SD LOT 3 BLK C & N 1/2 ALLEY ON S	5/26/2022
Aubrey Barney	1304202012	1108 S 14th Ave W	Newton	\$198,210	\$60.00	\$75.00	\$135.00	ELM PARK PLACE PLAT NO. 2 LOT 40	5/26/2022
Total							\$854.00		

City of Newton Council Report

**Item:**

Resolution approving the revised purchase of materials for the Woodland Park Small Shelters Replacement Project

Report Number: 22-211

Date:

July 18, 2022

Summary:

Rescind original purchase approval; and approve purchase of two engineered, maintenance-free steel shelters for the replacement of two small park shelters in Woodland Park destroyed by the derecho in August 2020.

Lead Department:

Community Services

Recommendation:

Approve

Financial Impact:

\$39,103.00 to be paid using insurance payments from ICAP.

Background:

On August 10, 2020 large trees that were downed by the derecho completely crushed two small park shelters in Woodland Park. These shelters are non-reserveable, so their replacement was a lower priority. Community Services staff removed the structural debris following the storm, but left the existing concrete pads beneath both shelters in-place with the intentions of replacing the shelters in the same approximate size.

On February 21, 2022 City Council passed Resolution 2022-037, which authorized the purchase of building materials to replace the destroyed shelters. This purchase was not acted upon at that time as staff soon shifted their priorities to clean-up work following the March 5, 2022 tornado. Since that time additional replacement options were found, leading Staff to seek another set of quotes.

Staff then sought quotes for purchase of two engineered, maintenance-free steel shelters, which are more like the shelters being replaced.

The following quotes were received for replacement kits for both shelters:

Crouch Recreation – Elkhorn, NE	\$39,103.00
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Boland Recreation – Marshalltown, IA	\$71,517.50
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Staff intends to utilize in-house labor to erect both replacement shelters using materials from the lowest quote received. Project costs are to be paid by insurance payments.

Recommendation:

City Staff recommends that Council approve this resolution rescinding the purchase approved on February 21, 2022, and authorizing Community Services Director to purchase materials for two engineered, maintenance-free steel shelters from Crouch Recreation of Elkhorn, Nebraska at a total cost of \$39,103.00.

A handwritten signature in black ink, appearing to read "Matt Muckler". The signature is fluid and cursive, with the first name "Matt" and last name "Muckler" clearly distinguishable.

Matt Muckler
City Administrator

RESOLUTION 2022- _____

**RESOLUTION APPROVING THE REVISED PURCHASE OF MATERIALS FOR THE
WOODLAND PARK SMALL SHELTERS REPLACEMENT PROJECT**

WHEREAS, on August 10, 2020 large trees that were downed by the derecho completely crushed two small park shelters in Woodland Park; and

WHEREAS, these shelters are non-reserveable, so their replacement was a lower priority; and

WHEREAS, Community Services staff removed the structural debris following the storm, but left the existing concrete pads beneath both shelters in-place with the intentions of replacing the shelters in the same approximate size; and

WHEREAS, on February 21, 2022 City Council passed Resolution 2022-037, which authorized the purchase of building materials to replace the destroyed shelters; and

WHEREAS, this purchase was not acted upon at that time as staff soon shifted their priorities to clean-up work following the March 5, 2022 tornado; and

WHEREAS, since that time additional replacement options were found, leading Staff to seek another set of quotes; and

WHEREAS, Staff then sought quotes for purchase of two engineered, maintenance-free steel shelters, which are more like the shelters being replaced; and

WHEREAS, Staff intends to utilize in-house labor to erect both replacement shelters using materials from the lowest quote received from Crouch Recreation of Elkhorn, Nebraska at a total cost of \$39,103.00.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Newton, Iowa, that the purchase approved on February 21, 2022 by Resolution 2022-037 is rescinded.

BE IT FURTHER RESOLVED, by the City Council of Newton, Iowa, that the Community Services Director is authorized to purchase two engineered, maintenance-free steel shelters from Crouch Recreation of Elkhorn, Nebraska at a total cost of \$39,103.00; and that the replacement work will be paid for using insurance payments from ICAP.

PASSED this _____ day of July, 2022.

APPROVED this _____ day of July, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution Amending the City of Newton Community Services Park Fee Schedule.

Report Number: 22-212

Date:

July 18, 2022

Summary:

This resolution makes additions to the Park Fee Schedule section only related to the Thanks with Franks Event.

Lead Department:

Community Services

Recommendation:

Approve

Financial Impact:

Minimal impact expected.

Background:

The various fees charged for rentals and passes at Westwood Golf Course, Maytag Pool, and other Park facilities and offerings are reviewed each year. Staff proposes the following mid-year additions to the Park Fee Schedule section only to accommodate planned events this fall:

Other Park and Sports Fees:

- Adding a Business Registration fee of \$100 for the Thanks w/Franks Hot Dog Contest.
- Adding a Doggie Dash Registration Fee of \$10 per dog.

All other fees included on the most-recent revisions, if any, to other fee schedule categories or headings are unaffected by this resolution.

Recommendation:

City Staff recommends approval of this resolution amending the 2022 Park Fee Schedule.

A handwritten signature in black ink, appearing to read "Matt Muckler".

Matt Muckler
City Administrator

RESOLUTION NO. 2022 – _____

RESOLUTION AMENDING THE CITY OF NEWTON COMMUNITY SERVICES PARK FEE SCHEDULE

WHEREAS, the City of Newton charges fees for certain services provided by the City; and

WHEREAS, these fees are reviewed annually by the City as part of the budget preparation process; and

WHEREAS, minor additions are proposed mid-year to the Park Fee Schedule section only to accommodate planned events this Fall; and

WHEREAS, the following Park Fee Schedule additions will be effective immediately upon approval of this resolution:

Park Fee Schedule

Other Park and Sports Fees	Fee
Youth or Adult Camp, Class, or Program (per week) *	\$25.00
Youth Camp, Class, or Program (per day) *	\$6.00
Adult Class or Program (per day) *	\$6.00
Disc Golf Tournament (per event)	\$10.00
Sand Volleyball Tournament (per team)	\$25.00
Minor Equipment Rental (per day) **	\$4.00
5K Run/Walk or Cycling Event (per event)	\$15.00
Business Registration for Thanks w/Franks Hot Dog Contest	\$100.00
Doggie Dash Registration Fee (per dog)	\$10.00

*non-pool offerings

**may include ice skates, snowshoes, or other small equipment

WHEREAS, all other fees included on the most-recent revisions, if any, to other fee schedule categories or headings are unaffected by this resolution.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newton, Iowa, that the above revised 2022 Park Fee Schedule additions be adopted.

PASSED this _____ day of July, 2022.

APPROVED this _____ day of July, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution approving the purchase of materials for the Maytag Bowl Wood Bench Replacement Project

Report Number: 22-213

Date:

July 18, 2022

Summary:

Approve purchase of materials to replace all wood pieces on the lower level Maytag Bowl seating area.

Lead Department:

Community Services

Recommendation:

Approve

Financial Impact:

\$23,904.00 to be paid from the FY-23 General Fund Budget.

Background:

Per the City of Newton's Capital Improvement Plan (FY-23 through FY-27) approved on March 7, 2022 (Resolution 2022-061), the replacement of all wood pieces on the existing benches in front of the bowl was included as the Maytag Bowl Wood Bench Replacement Project. The wood has aged and is splintering causing safety concerns. Staff sought quotes for purchase of replacement boards for all benches, with a recycled material of wood-toned appearance planned to be used as a more maintenance-free and long-term alternative.

The only quote secured was from the original supplier of the benches, likely due to non-standard dimensions of the pieces being replaced. Said quote received was:

RJ Thomas Mfg. Co. Inc. – Cherokee, Iowa

\$23,904.00

Staff intends to utilize in-house labor to install these replacement pieces. Project costs are to be paid from the FY-23 General Fund Budget.

Recommendation:

City Staff recommends that Council approve this resolution approving the purchase of materials to replace all wood pieces on the lower level Maytag Bowl seating area from RJ Thomas Mfg. Co. Inc. of Cherokee, Iowa at a cost of \$23,904.00; which is \$9,096 under budget estimates.

A handwritten signature in black ink, appearing to read "Matt Muckler".

Matt Muckler
City Administrator

RESOLUTION 2022- _____

**RESOLUTION APPROVING THE PURCHASE OF MATERIALS FOR THE MAYTAG
BOWL WOOD BENCH REPLACEMENT PROJECT**

WHEREAS, per the City of Newton's Capital Improvement Plan (FY-23 through FY-27) approved on March 7, 2022 (Resolution 2022-061), the replacement of all wood pieces on the existing benches in front of the bowl was included as the Maytag Bowl Wood Bench Replacement Project; and

WHEREAS, the wood has aged and is splintering causing safety concerns; and

WHEREAS, Staff sought quotes for purchase of replacement boards for all benches, with a recycled material of wood-toned appearance planned to be used as a more maintenance-free and long-term alternative; and

WHEREAS, the only quote secured was from the original supplier of the benches, likely due to non-standard dimensions of the pieces being replaced; and

WHEREAS, said quote received was from RJ Thomas Mfg. Co. Inc. of Cherokee, Iowa for \$23,904.00; and

WHEREAS, Staff intends to utilize in-house labor to install these replacement pieces; and

WHEREAS, project costs are to be paid from the FY-23 General Fund Budget.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Newton, Iowa, that purchase of materials to replace all wood pieces on the lower level Maytag Bowl seating area from RJ Thomas Mfg. Co. Inc. of Cherokee, Iowa at a cost of \$23,904.00 is approved; and that the replacement work will be paid from the FY-23 General Fund Budget.

PASSED this _____ day of July, 2022.

APPROVED this _____ day of July, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

Item: Resolution approving a revision to the 2022 Cemetery Rules and Regulations for Union Cemetery and Memorial Park Cemetery.

Summary: Approve a minor revision to the recently-approved rules and regulations for both City cemeteries.

Financial Impact: none



Report Number: 22-214

Date: July 18, 2022

Lead Department:
Community Services

Recommendation: Approve

Background:

On May 2, 2022 City Council passed Resolution 2022-138 approving a substantial update to the rules and regulations for Union Cemetery and Memorial Park Cemetery. Shortly thereafter, City staff was contacted by a couple local funeral homes requesting clarification on a certain portion of the new rules.

The clarification was requested in Section 4. Ownership Rights of Interments, in particular whether cremation burials for current spouses and biological/adopted children of the deceased are allowed when space remains on said lot. Staff reviewed the new rules along with the input of the funeral homes, and proposes adding the following new, additional paragraph to said Section 4:

b) Additional cremation burial will be allowed on same space as deceased owner for current spouse or biological/adopted children of deceased buried in space but not to exceed cemetery regulations for maximum burials. Heirs of such owner, by written agreement filed with the City, may determine the right of interment or direction for interment for this additional cremation burial.

Recommendation:

City staff recommends approval of this resolution.

A handwritten signature in black ink, appearing to read "Matt Muckler".

Matt Muckler
City Administrator

RESOLUTION NO. 2022 – _____

**RESOLUTION APPROVING A REVISION TO THE 2022 CEMETERY
RULES AND REGULATIONS FOR UNION CEMETERY AND MEMORIAL
PARK CEMETERY**

WHEREAS, on May 2, 2022 City Council passed Resolution 2022-138 approving a substantial update to the rules and regulations for Union Cemetery and Memorial Park Cemetery; and

WHEREAS, shortly thereafter, City staff was contacted by a couple local funeral homes requesting clarification on a certain portion of the new rules; and

WHEREAS, the clarification was requested in Section 4. Ownership Rights of Interments, in particular whether cremation burials for current spouses and biological/adopted children of the deceased are allowed when space remains on said lot; and

WHEREAS, Staff reviewed the new rules along with the input of the funeral homes, and proposes adding the following new, additional paragraph to said Section 4:

b) Additional cremation burial will be allowed on same space as deceased owner for current spouse or biological/adopted children of deceased buried in space but not to exceed cemetery regulations for maximum burials. Heirs of such owner, by written agreement filed with the City, may determine the right of interment or direction for interment for this additional cremation burial.

NOW, THEREFORE, BE IT RESOLVED, that the above noted addition to the recently-approved 2022 Cemetery Rules and Regulations for Union Cemetery and Memorial Park Cemetery is hereby accepted; and

BE IT FURTHER RESOLVED, that the 2022 Cemetery Rules and Regulations for Union Cemetery and Memorial Park Cemetery, as approved by Resolution 2022-138, shall be updated to include above noted paragraph.

PASSED this _____ day of July, 2022.

APPROVED this _____ day of July, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

Cemetery Rules and Regulations

Union Cemetery & Memorial Park Cemetery

Newton, Iowa

(Approved 5-2-2022)

Forward

It is the desire of the City of Newton to continue to make Union Cemetery and Memorial Park Cemetery a quiet, beautiful place and a symbol of love and faith. To this end and for the mutual protection of the interment rights of others, the following rules and regulations have been adopted by the City Council of the City of Newton, Iowa, as the rules and regulations of Union Cemetery and Memorial Park Cemetery.

All lot, niche or crypt owners of interment rights; visitors within the Cemetery; and all lots, niches, or crypts sold shall be subject to these rules and regulations, amendments, or alterations. Reference to these rules and regulations in the certificate of interment rights to a lot shall have the same force and effect as if set forth in full therein.

It is the duty of the City of Newton to preserve the rights conferred on them under the laws of the State of Iowa for insuring the stability of improvements, the orderly upkeep of the grounds, a respectful manner of interment, and proper observance of the sacredness of the Cemetery.

The City reserves, at its option, to temporarily suspend or modify any rule or regulation; and such temporary suspension or modification shall not be construed as affecting the general application and enforcement of such rules. In the event that questions or disputes arise due to conflicting, unclear, or otherwise ambiguous interpretations of these rules and regulations, the City Administrator, or their designee, shall reserve the right to issue a clarification or determination on any said question or dispute.

Section 1. Definitions:

Cemetery Office: The term "Cemetery Office", if used in this document, shall mean the Community Services Office maintained at 403 W 4th St N, Suite 501, Newton, Iowa.

a) Cemetery: The term "Cemetery" is hereby defined as Union Cemetery located at 1601 W 4th St N, Newton, Iowa and/or Memorial Park Cemetery located at 2710 1st Ave E, Newton, Iowa; one or both to include a burial park for earth interments, a mausoleum for vault or crypt interments, and a columbarium for cremains interments or a combination of one or more than one thereof.

Columbarium: A structure for above ground placement of ashes of cremated remains.

Community Services Office: The term "Community Services Office" shall mean the Office of the Community Services Director located at 403 W 4th St N, Suite 501, Newton, Iowa.

Crypt: A chamber in a mausoleum.

Deed: The original conveyance of interment rights given by the City of Newton to the original purchaser. The use of "Deed" has been replaced with "Interment Rights".

Domestic Animal: The term shall mean every tame member of the animal kingdom other than the genus and species Homo sapiens.

Interment Rights: The right to inter human remains in a particular interment space in the cemetery. This definition was formerly referred to as “Deed”. **Lot:** The term “lot” shall apply to numbered divisions as shown on the plat maps.

Mausoleum: A stone structure for above ground interment.

Management: The term “Management” shall mean the person or persons duly appointed by the City of Newton for the purpose of conducting Cemetery business and administering the Cemetery rules and regulations.

Memorial: The term “Memorial” shall include the monument, grave marker, headstone, and/or private mausoleum to include foundation and all attachments for family or individual use.

Niche: A place to put cremated remains above ground located in a columbarium.

Owner: Person whose name appears on original “Deed” or “Interment Rights”. Also referred to as “legal owner”.

Perpetual Care: The term “Perpetual Care” shall be construed to mean the obligation which the City of Newton assumes each year to expend the net annual income of the perpetual care endowment set aside for the lot in furnishing such care as mowing and maintaining the grass, raking and cleaning the lot, and filling of sunken graves. Where the income is sufficient it may be used in the perpetual care of avenues, alleys, fences, buildings and grounds in general.

Purchaser: Person who originally purchased lot whose name appears on the “Deed” or “Interment rights”.

Space: The term “space” shall apply to an area of sufficient size to accommodate one interment. “Space” shall be determined by the type of burial; i.e. adult, infant, ashes. Size of the space needed shall be determined by the City. Sometimes referred to as a “section”.

Section 2. Perpetual Care:

- a) At the time of purchase of interment rights in the Cemetery, a portion of the fee paid shall be for the perpetual care of the cemetery lot. Monies to pay for the perpetual care shall be placed in a Perpetual Care fund. This fund is an irrevocable trust from which deposits cannot be withdrawn, and the income from said fund shall be used by the City of Newton for the maintenance, repair, and care of the Cemetery.
- b) Amounts paid for perpetual care shall be set by Resolution of the City Council in accordance with Iowa Code 523I. Payments made for the purchase of a cemetery lot shall first be credited to the Perpetual Care fund.
- c) Perpetual care payments cannot be withdrawn from this irrevocable trust, even in the event of cancellation or.

Section 3. Purchase of Interment Rights:

- a) The interment rights for all lots, niches, or crypts sold and the use of such lots, niches, or crypts is subject to the rules and regulations of Union Cemetery and Memorial Park Cemetery now in

effect or any amendments thereto. Any statements of employees or agents, unless confirmed in writing by the City Council, shall in no way alter said rules and regulations.

- b) Cost of cemetery lots, niches or crypts, interment rights, perpetual care, burials, and all cemetery operations shall be set by Resolution of the City Council.
- c) Individuals purchasing cemetery lots will be advised that the perpetual care for these lots is to be paid at the time of the purchase. Any monies paid to the City of Newton for the purchase of a cemetery lot, niche, or crypt shall first be credited to the cost for the perpetual care.
- d) Cemetery lots, niches, or crypts must initially be purchased at the Community Services Office.

Section 4. Ownership Rights of Interments:

- a) The surviving spouse of the lot, niche, or crypt owner shall have the first right of interment or to direct the right of interment for remaining open spaces.
- b) Additional cremation burial will be allowed on same space as deceased owner for current spouse or biological/adopted children of deceased buried in space but not to exceed cemetery regulations for maximum burials. Heirs of such owner, by written agreement filed with the City, may determine the right of interment or direction for interment for this additional cremation burial.
- c) In the event the owner had not arranged for further interments, then the devisee or heirs of such owner, by written agreement, may determine the right of interment or direction for interment for remaining open spaces. Said agreement shall be filed with the City. If there is no parent or child surviving the deceased person, the right of interment therein shall go to the next heirs at law of the deceased owner as specified by the statutes of descent. (See Section 633.1 *et seq.* of the *Code of Iowa*.)
- d) If the owner of a lot, niche, or crypt gives permission for others to be buried on remaining open spaces on the lot, niche, or crypt; this permission must be given in writing to the Community Services Office, and the owner's signature shall be notarized.
- e) The certificate of interment rights to a cemetery lot, niche, or crypt invests in the owner the right to use such lot, niche, or crypt for burial of the human dead only.
- f) If a lot, niche, or crypt owner wishes to relinquish ownership of a cemetery lot, niche, or crypt in Union Cemetery or Memorial Park Cemetery, a transfer can be made by the owner by surrendering the original certificate of interment rights along with a notarized letter listing the terms of sale, and paying the lot transfer fee. The City will then issue a new certificate of interment rights to the new owners of lots, niches, or crypts or parts of lots so transferred. A Lot/Niche Transfer fee for each transfer will be made to the City of Newton, and no transfer or sale is valid until entered on the cemetery records at the Community Services Office. If original deed is not returned, the City cannot issue a new certificate of interment rights but can place a notarized letter from the owner in our records indicating the name, address and spaces they were given.
- g) If the owner of a cemetery lot, niche, or crypt requests a transfer of a lot, niche, or crypt from one section of the Cemetery to another section of the Cemetery, a Lot/Niche Transfer fee shall be paid by the owner to cover the cost of the transfer. A transfer may be made only by the original owner by surrendering the original certificate of interment rights and there must not have been

any interments placed in the spaces. If an increase in the sale price has been made since the original lot, niche, or crypt was purchased, the owner shall be required to pay the difference between the original lot, niche, or crypt price and the current lot, niche, or crypt price.

Section 5. Lot Care:

- a) Perpetual care shall include the cutting of grass at reasonable intervals, seasonal herbicide applications as needed, the raking and cleaning of the grounds, and the pruning of shrubs and trees that may be placed by the management.
- b) The general care or perpetual care assumed by the City of Newton shall in no case mean the maintenance, repair, or replacement of any memorial, tomb, columbarium, or mausoleum placed or erected upon lots, nor the doing of any special or unusual work in the cemetery, including work caused by the impoverishment of the soil, nor does it mean the reconstruction of any marble or granite work on any section or lot, or any portions thereof in the cemetery caused by the elements, an act of God, common enemy, thieves, vandals, accidents, invasions, insurrections, riots, or by the order of any military or civil authority, whether the damage be direct or collateral other than as herein provided.

Section 6. Rules for Visitors:

The cemetery grounds will be open to public, typically from sun-up to sundown daily, or as established by City Council resolution. Rules and Regulations regarding use of the cemetery grounds are set by resolution of the City Council. The following rules apply:

- a) No Loud or boisterous talking.
- b) No Idling or loafing on the grounds or in any of the buildings.
- c) No refreshments, food or drink are allowed in the cemetery unless a part of the burial ritual.
- d) No smoking, vaping, or use of tobacco products.
- e) No dogs in burial blocks on cemetery grounds. This rule shall not apply to certified animals assisting persons with disabilities.
- f) No firearms allowed in the cemetery except for a military funeral only.

Section 7. Privileges & Restrictions:

- a) No owner of any domestic animal, whether such animal is leashed or unleashed, shall cause or permit such animal, by action or inaction, to be in or within cemetery burial blocks owned or operated by the City at any time. This prohibition shall not apply to certified animals assisting persons with disabilities.
- b) The driving of vehicles on cemetery grounds at a speed greater than 10 mph is prohibited.
- c) Driving any motor car or other vehicles across or upon any grave, lot or lawn, or parking or leaving the same thereon is prohibited; except in the case of equipment or vehicles operated by the City for normal Cemetery maintenance operations.
- d) No lot, niche, or crypt shall be used for any other purpose than for the burial of the human dead.
- e) The City reserves the right to:

- i. Enlarge, reduce, replat or change the boundaries or grading, including the right to modify or change the location of or remove or re-grade roads, drives, or walks, or any part thereof.
 - ii. Lay, maintain and operate, or alter or change pipe lines or gutters for sprinkling systems, drainage, etc.
 - iii. Use cemetery property not sold to individual plat owners for cemetery purposes.
 - iv. Perpetual right and control of ingress and egress over lots for the purpose of passing to and from other lots.
 - v. The City reserves, and shall have the right to correct any errors that may be made in making interments, disinterments, or removals or in the description, transfer or conveyance of any interment property, either by canceling such conveyance or by replacing with a similar location, as may be selected by the City, or in the sole discretion of the City, or by refunding the amount of money paid on account of said purchased. In the event an error involves the interment of the remains of any person in such property, the cemetery reserves, and shall have the right to remove or transfer such remains so interred to such other property of equal value and similar location as may be substituted and conveyed in lieu thereof.
- f) Descriptions of lots shall conform to the cemetery plats which are kept on file with the City in the Community Services Office.

Section 8. Interments & Disinterments:

- a) The cemetery will open for interments from 7:30 am to 2:30 pm daily. Additional fees shall apply for weekdays after: 2:30 pm, Saturday, Sunday, and holiday burials or interments. See Section 14. – Fees.
- b) The following holidays are observed by the City of Newton:

▪ Good Friday	▪ Thanksgiving Day
▪ Memorial Day	▪ the day after Thanksgiving
▪ July 4th	▪ Christmas Day
▪ Labor Day	▪ New Year's Day
▪ Veteran's Day	▪ City Floating Holiday (occurrence varies – as set by the Mayor)

Exceptions may be made where an unreasonable hardship may be caused or by order of the Board of Health. Special interments made by this cause will require additional charge. See Section 14. – Fees.

- c) All funerals on entering the cemetery shall be under the charge of the cemetery management and once a casket containing a body is within the confines of the cemetery, no funeral director nor his embalmer, assistant, employee, or agent shall be permitted to open the casket or to touch the body without the consent of the legal representative of the deceased, or an order signed by a Court of Competent Jurisdiction.
- d) All orders for interments in lots, niches, or crypts must be signed by the owner of the lot, niche, or crypt or the owner's legal representative. When this is impossible because of illness or other

reasonable cause, text message, email, fax or telephone permission will be accepted but will make the person calling responsible and any change of location made after the opening is begun shall be at the expense of the lot, niche, or crypt owner. Should the lot, niche, or crypt owner fail or neglect to make such designation, the cemetery reserves the right to make interment in accordance with normal cemetery procedure. The cemetery assumes no responsibility for any error in such location and an additional charge will be made for any change requested.

- e) If cemetery management receives direction from a lot, niche, or crypt owner or funeral home to open a grave site, and then a change is made after the site is opened, an additional charge will be assessed to the owner or funeral home making the initial request.
- f) Cemetery personnel or designated contractual services hired by the City of Newton will be the only workers permitted to open and close graves. Others may be allowed to observe or participate in a ceremonial manner as approved by the Cemetery Management on a case-by-case basis.
- g) No bodies shall be buried or interred within or on any lot, niche, or crypt in the cemetery unless previous arrangements have been made with, and permission given, by the cemetery. Persons requesting openings will be responsible for payment of work.
- h) Lots, niches, or crypts shall not be used for any other purpose than the burial of human remains and shall be for members of the family only, except where written permission of the owner is filed with the City.
- i) Burials shall conform to all applicable State of Iowa codes, regulations, and guidelines.
- j) Graves for adults shall not be less than 5' deep, and for children not less than 3' deep. All graves shall be dug by cemetery personnel or by contracted services hired by the City, and shall be paid for in advance, or guaranteed by the undertaker in charge in writing.
- k) In all areas except designated Veteran's blocks, the interment of multiple bodies in one lot or space, up to a total of two bodies in either combination of one adult casketed remains and one additional cremation remains or two cremation remains, shall be permitted, as long as adequate or useable space exists, as determined by the City. Said multiple burials shall all be of one family unit, and could also include separate casketed parent and casketed child burials, or two separate casketed child burials, also if space exists as determined by the City.
- l) To eliminate sunken graves caused by the collapse of wooden outer containers, it is required that all burials must be made in outer receptacles made of reinforced concrete.
- m) The use of surface burial vaults is prohibited.
- n) All charges for interments or services in connection therewith, shall be paid at the Community Services Office and payment of any and all indebtedness due the cemetery must be arranged for before interment is made.
- o) The right is reserved by the City to require at least two business days advance notice prior to any interment. Additional notice of three business days required during the months of December through March or if adverse conditions exist, i.e. heavy snow, frozen ground, etc. All interments and disinterments must be made in the manner, and upon the charges fixed by the City.
- p) The cemetery will not be liable for the interment permits nor for the identity of the person sought to be interred.
- q) Disinterments will be made in the manner prescribed by the Laws of the State of Iowa. A written request for disinterment, with the proper permit as required by Iowa state law

attached, must be filed with the Community Services Office at least one week prior to any disinterment. Graves will be re-opened for inspection only for investigation. Removal of bodies from graves shall be made only between April 1 and November 1, and the work shall be performed by cemetery employees and paid for in advance.

Section 9. Floral Decorations, Plantings, & Other Decorative Items:

- a) The cemetery will undertake to maintain, as may be practicable, the planting of trees and shrubs, to preserve and maintain landscape features, but does not undertake to maintain hanging baskets or urns of plants.
- b) The cemetery encourages the use of floral tributes on the graves of loved ones, however, the beauty and continuity of the cemetery depends on the cooperative efforts of all families who have loved ones in the cemetery's care.
- c) Clean-up Times will be: The 1st full week of April and the 1st full week of October weather permitting. During this clean-up City Cemetery staff will remove all cemetery decorations that have been placed on burial spaces. Persons who have left decorations that they would like to keep must remove them prior to the dates listed above. All decorations not permanently attached to a headstone or the foundation left after the start of clean-up will be removed and thrown out. Once clean-up week is over the public will again be able to place decorations until the next removal period begins.
- d)
- e) Flower Regulations: Fresh cut flowers and artificial bouquets when set into the permanent containers/vases on the foundations will be permitted at all times. Permanent containers/vases must be made of granite, bronze or aluminum. No glass containers allowed. Flowers/bouquets will be removed when they become unsightly. Flowers stuck in the ground will not be permitted. The City assumes no liability for damage to fresh flowers and plants caused by periodic spraying of weeds, mowing or weed eating.
- f) Plantings: Trees, bushes, flowers or any other live plants are not permitted on or around the burial space.
- g) No benches, hedges, fences, landscape edging or enclosures of any kind will be permitted on or around burial plots.
- h) Donations of trees, plantings or benches can be made to the cemetery with the approval of the Community Services Director or their designee. All donated items will be purchased and installed by City staff upon completion of the donation information form and payment of all related costs by the donor. Installment dates, location, bench style and plant/tree species will be determined by the Community Services Director or their designee. All donated items become the property of the City. The City will make every effort to maintain donated items, but will not guarantee survival or replacement if damaged. Due to space restrictions, the City reserves the right to limit the number of donations accepted.
- i) Regulations Regarding Items Other Than Flowers: The permanent placing of toys, boxes, ornaments, and similar articles may ONLY be located on the foundation of the monument. Glass objects are not permitted. Such items must be permanently attached to the foundation and can exceed no more than 12" in height and are limited to no more than 2 items per monument. A metal, single stem flag holder no more than 30 inches above ground surface is allowed if placed adjacent to the foundation. Flags can be placed in the flag holders and shall not extend more than 36 inches above the ground surface. A single shepherd's hook, no more

than 42 inches in height, may be placed immediately adjacent to the foundation with one hanging basket allowed. The City of Newton is not responsible for these items and if items are placed in areas other than in the permanent container on the monument, the City reserves the right to remove the items not in compliance with regulations.

- j) No flowers, wreaths, plantings or other objects are allowed on or at base of columbarium at any time.
- k) Artificial wreaths and evergreen blankets are permitted between November 1st and the first clean-up of each calendar year which occurs the first full week in April.
- l) The City of Newton does not assume any responsibility for the loss or damage of any floral decorations, other memorials or their containers.

Section 10. Marker/Monument Regulations:

To perpetuate the beauty and continuity of the cemetery, the City reserves the right to enforce all rules and regulations here set forth and others that might seem necessary for a particular situation.

- a) All memorial work must be approved by the City as to material, design, inscription and location on the lot.
- b) Any unauthorized memorial work will be removed from the grave at the expense of the monument company until proper arrangements have been made at the Community Services Office.
- c) No memorial work will be allowed on lots or graves until all cemetery obligations to the City are paid in full.
- d) In the event that a lot is purchased for multiple burials, only 1 marker per single lot is allowed. A "monument" may be a "Head Marker" (single stone), a "Flush Marker" (single stone set flush to the ground), or a "Companion Marker" (a single or double stone with more than one name inscribed).
- e) See Section 11 and Section 12 for marker/monument regulations specific to both Union Cemetery and Memorial Park Cemetery.
- f) Only granite or bronze will be permitted in all memorial work.
- g) Any memorial work not approved by the City and not meeting the criteria set forth in this section shall be removed at the expense of the contractor.
- h) Striving for surroundings of peace and beauty as a setting for memorial work prohibits advertising of any description within the cemetery. However, a small emblem or insignia inconspicuously located on the memorial will be permitted.
- i) No monument will be permitted without prior approval of the City. All foundations shall comply with City specifications or be subject to removal. Monument size and foundation specifications are stated in Appendix "A" to this document. Lot location and inspection costs for foundations are set by Resolution of the Newton City Council. It shall be the responsibility of the individual or company selling the monument to pay for this fee.
- j) Cemetery management will flag the dedicated lot to show the monument salesperson or monument company representatives where the marker is to be placed.

- k) Cemetery personnel will only set the foundation for a Veteran's headstone not located in a designated Veteran's block; the funeral home who handles the burial will be billed. The price of setting is set by Resolution of the City Council. These foundations may also be set by monument companies in accordance with Cemetery rules and regulations.
- l) Cemetery personnel will not help unload or place any markers for the salesperson.
- m) All monument salespersons are to contact the cemetery management before constructing or pouring foundations on any lot in the cemetery.
- n) All monument companies will keep an up-to-date list of all foundations and markers delivered to the Cemetery, and provide same to cemetery management on a yearly basis.
- o) After a salesperson has been billed for the setting of a marker, if the bill is not paid within 30 days, the City has the right to refuse to let anyone else set any markers for this salesperson until all bills are paid.
- p) The temporary marker provided by the funeral directors are assumed to be short lived and the City assumes no responsibility for them.

Section 11. Marker/Monument Regulations for Union Cemetery:

- a) In all Blocks except designated Veteran's Blocks, markers shall not exceed 22" in height.
- b) In all Blocks except designated Veteran's Blocks two-piece markers or monuments will be allowed.
- c) All markers must be granite or bronze and shall not be coated with paint, stain, shellac, etc.
- d) No markers allowed at foot of graves in all Blocks and designated Veteran's Blocks.
- e) Military markers not located in the Veteran's Blocks are required to have a foundation. Markers shall be placed in the area of a normal setting.
- f) Military markers located in designated Veteran's Blocks shall be marked with one Government Issue, flat, gray granite Veteran's marker 24 inches in length, 12 inches in width and not less than four, nor more than six inches thick, or a like marker obtained from other sources.
- g) No permanent vases are allowed to be put in the Veteran's section.

Section 12. Marker/Monument Regulations for Memorial Park Cemetery:

- a) Markers shall be flush with the ground and must be granite or bronze and shall not be coated with paint, stain, shellac, etc.
- b) No markers allowed at foot of graves.
- c) Monument size and foundation specifications are stated in Appendix "A" to this document

Section 13. Columbarium Rules & Regulations:

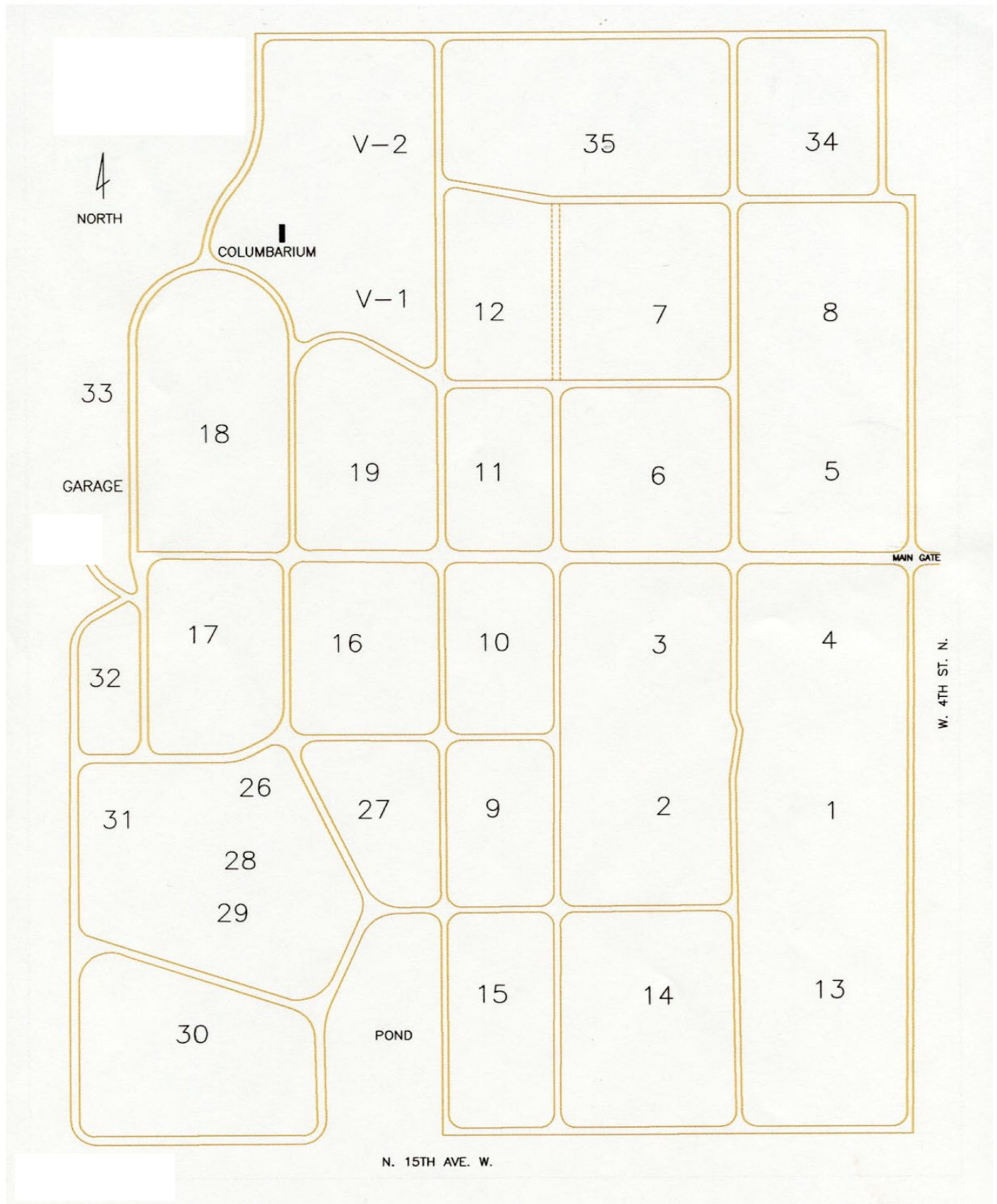
- a) One burial of ashes per single niche and two per double niche.
- b) All Bronze nameplates will be ordered by the Community Services Office. Cemetery personnel or a monument company, under the supervision of the City of Newton, will place the nameplate.
- c) All opening and closings of niches shall be made under the direction of the City.
- d) All interments and disinterments shall be done in accordance with Section 8 of this document.

- e) No flowers or objects shall be placed on or around the Columbarium and will be subject to removal by cemetery personnel. The City of Newton is not responsible for the theft or loss of any objects placed on or near the columbarium.
- f) No plantings of trees, bushes flowers or any other live plants are permitted on or around the Columbarium.
- g) City of Newton is not responsible for the replacement of discolored or damaged bronze nameplates.

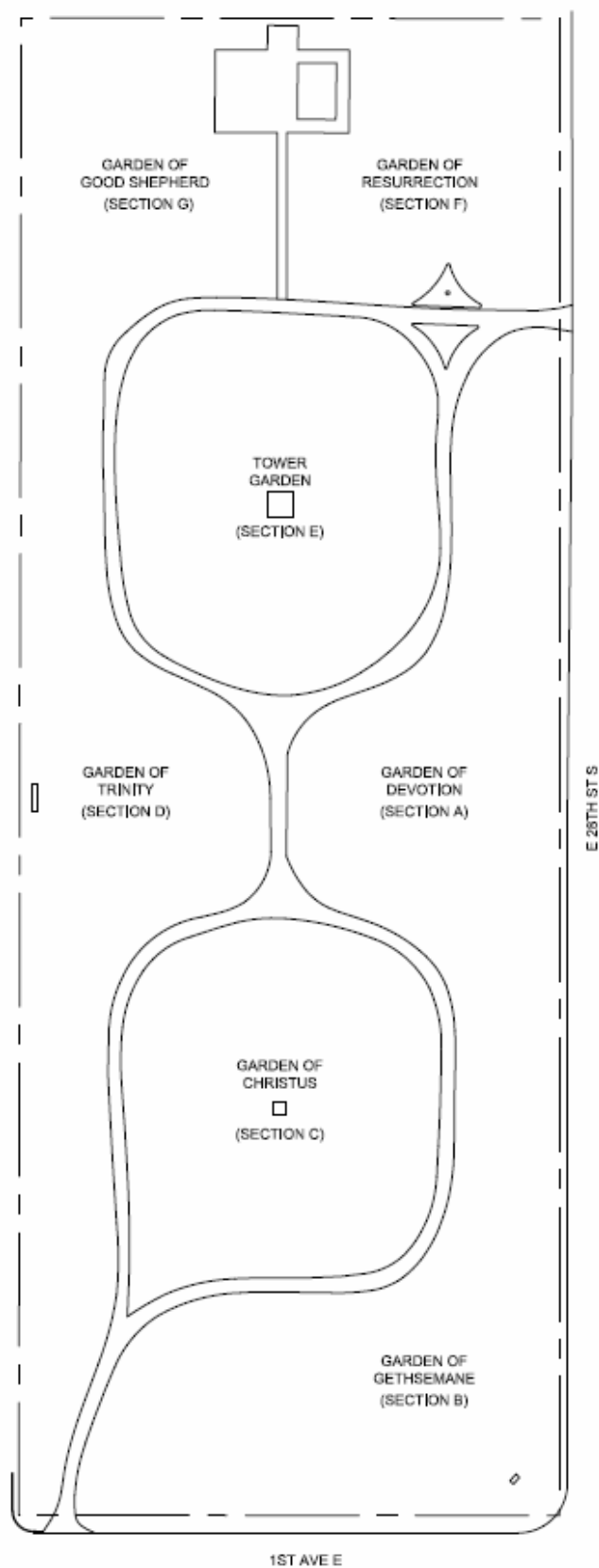
Section 14. Fees:

- a) All fees related to Union Cemetery and Memorial Park Cemetery shall be per the latest revision or update to the City of Newton fee schedules, which are approved by City Council resolution.

Map of Union Cemetery
Map of Memorial Park Cemetery



4
NORTH



Appendix A

Monument & Foundation Specifications for Newton Union Cemetery & Memorial Park Cemetery

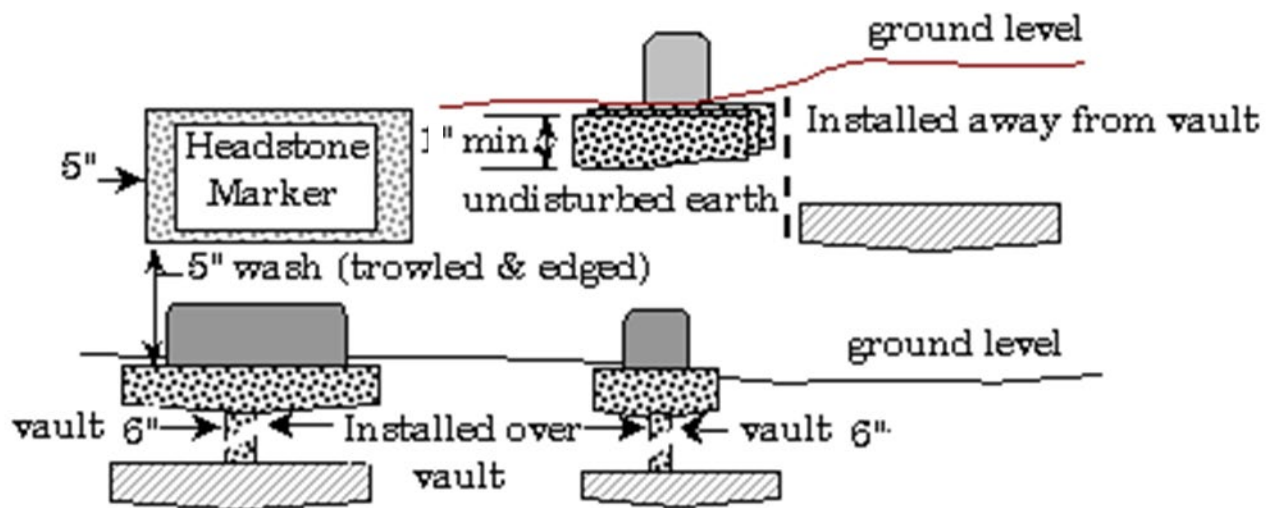
The following specifications are for monument and foundations installed in both Union Cemetery and Memorial Park Cemetery and will be enforced by management.

1. **Location:** Cemetery staff shall mark the location of the lot for each foundation or marker to be set and shall approve the location on the lot. The contractor is responsible for the positioning of the foundation as per order given by monument company/funeral home, so long as that position is not in conflict with established city guidelines.
2. **Size:** The size of the foundation is determined by the size of the monument being placed on the foundation and a minimum of 5" on all sides of the marker/monument. Permanent floral containers may be placed on the foundation at each end or center of the marker/monument. No permanent floral containers shall be allowed in the Veteran's Blocks. NOTE: It shall be the responsibility of the individual or company selling the monument to contact the City of Newton, to assure the size of the lot will accommodate the foundation. See chart below for maximum monument dimensions.

	Maximum	Maximum	Maximum	Maximum
Union Cemetery	Length of Marker	Width of Marker	Height of Marker	Foundation
Single Space	28 inches	18 inches	22 inches	38 inches x 28 inches
Single Baby land Space	20 inches	12 inches	16 inches	30 inches x 22 inches
Single Veteran's Space	24 inches	12 inches	flush to ground	no foundation required
Double Spaces	62 inches	18 inches	22 inches	72 inches x 28 inches
Memorial Park Cemetery				
Single Space	28 inches	18 inches	flush to ground	no foundation required
Double Spaces	60 inches	18 inches	flush to ground	no foundation required

3. **Placement:** Monuments on single spaces must be centered at the head of the plot. For double spaces it must be centered between both spaces.
4. **Inspection:** The cemetery management shall inspect all foundations prior to delivery of concrete. If any violations are found, said violations must be corrected prior to delivery of concrete. All cost associated with the foundation will be the responsibility of the contractor and not the City of Newton.
5. **Fee:** A lot location and/or inspection fee established by City Council shall be charged for each monument set.
6. No stone shall be set or foundation constructed prior to the interment of all parties named without the permission of the Community Services Director or their designated representative.
7. The base or foundation shall be constructed to a minimum depth of 1' the full width of the foundation. If set above vault at least 6" must contact vault. **(SEE DIAGRAM BELOW).**
8. The top of the base or foundation shall be level in all directions with its top at the highest ground elevation.
9. All stones shall be set in line with the other stones in same row.
10. All forms for the bases or foundations shall be removed and backfilled within 2 weeks.
11. Foundations are currently only required at Union Cemetery and must be of concrete made of 3 parts sand or gravel to 1 part cement.

Stone Foundations & Stone Setting



City of Newton Council Report

Item: Resolution Authorizing Additional Fund Transfers in FY21/22

Summary: This Action Approves Additional Fund Transfers in FY21/22

Financial Impact:
No Financial Impact as the listed transfers have been approved by previous City Council action



Report Number: 22-215

Date: July 18, 2022

Lead Department:
Administration

Recommendation:
Approval

Background:

Iowa Code section 384.15 was amended in April of 2019 and requires all transfers between City funds to be approved by a Council resolution. In order to meet the requirements of this amendment, the Council must approve a clear statement including the reason or purpose for the transfer, the name of the fund from which the transfer is originating, the name of the fund into which the transfer is received, and the not to exceed dollar amount to be transferred. The budgeted FY21/22 not to exceed transfers were approved by City Council on June 21, 2021 with resolution 2021-166. Since that time, the following additional transfers are recommended:

Fund Transferred From:	Fund Transferred To:	Reason for Transfer:	Amount:
LOST Fund	Emp Benefits	Additional Local Option Tax Receipts for FY22:	73,890
SW TIF	General Fund	Reimburse General Fund Court & Recording FY21	28
SW TIF	General Fund	Reimburse General Fund Court & Recording FY22	2,806
N Central TIF	General Fund	Reimburse General Fund Court & Recording FY21	7,803
N Central TIF	General Fund	Reimburse General Fund Court & Recording FY22	9,155
N Central TIF	General Fund	Reimburse General Fund For Catalyst Dev Grant FY21	10,000
N Central TIF	General Fund	Reimburse General Fund for Best Midwest Grant FY22	25,000
East Mart TIF	Capital Fund	Reimburse Capital Fund for IA Speedway DR Project	74,000
East Mart TIF	General Fund	Reimburse General Fund for Court & Recording FY22	5,648
Cardinal Ridge TIF	General Fund	Reimburse General Fund Court & Recording FY21	654
Cardinal Ridge TIF	General Fund	Reimburse General Fund for Infrastructure/ Entryway FY22	9,933
Fairmeadows N TIF	General Fund	Reimburse General Fund Court & Recording FY21	3,429
1 st Ave E TIF	General Fund	Reimburse General Fund Court & Recording FY21	57
1 st Ave E TIF	General Fund	Reimburse General Fund Court & Recording FY22	9,710
1 st Ave E TIF	General Fund	Reimburse General Fund Grant Hopkins 1801 1 st Ave E	35,000
1 st Ave E TIF	General Fund	Reimburse General Fund Grant Nehring Auto	20,000

Recommendation:

Staff recommends approving the above listed additional transfers between funds for fiscal year 2021/22.

Matt Muckler
City Administrator

RESOLUTION NO. 2022– _____

RESOLUTION APPROVING ADDITIONAL FUND TRANSFERS IN
FY21/22

WHEREAS, Iowa Code section 384.15 was amended in April of 2019; and

WHEREAS, this amendment requires all cities in Iowa to approve by resolution approving all transfers between funds; and

WHEREAS, this resolution must include a clear statement including the reason or purpose for the transfer, the name of the fund from which the transfer is originating, the name of the fund into which the transfer is received, and the not to exceed dollar amount to be transferred; and

WHEREAS, the budgeted FY21/22 not to exceed transfers were approved by City Council on June 21, 2021 with resolution 2021-166; and

WHEREAS, the proposed additional transfers between funds reflect actual activity which occurred during the fiscal year or previous fiscal year:

Fund Transferred From:	Fund Transferred To:	Reason for Transfer:	Amount:
LOST Fund	Employee Benefits	Additional Local Option Tax Receipts required to be used for Property Tax Relief	73,890
SW TIF	General Fund	Reimburse General Fund Court & Recording FY21	28
SW TIF	General Fund	Reimburse General Fund Court & Recording FY22	2,806
N Central TIF	General Fund	Reimburse General Fund Court & Recording FY21	7,803
N Central TIF	General Fund	Reimburse General Fund Court & Recording FY22	9,155
N Central TIF	General Fund	Reimburse General Fund for Catalyst Development Grant FY21	10,000
N Central TIF	General Fund	Reimburse General Fund for Best Midwest Grant FY22	25,000
East Mart TIF	Capital Fund	Reimburse Capital Fund for IA Speedway Dr Project	74,000
East Mart TIF	General Fund	Reimburse General Fund Court & Recording FY22	5,648
Cardinal Ridge TIF	General Fund	Reimburse General Fund Court & Recording FY21	654
Cardinal Ridge TIF	General Fund	Reimburse General Fund for Infrastructure / Entryway FY22	9,933
Fairmeadows N TIF	General Fund	Reimburse General Fund Court & Recording FY21	3,429
1 st Ave E TIF	General Fund	Reimburse General Fund Court & Recording FY21	57
1 st Ave E TIF	General Fund	Reimburse General Fund Court & Recording FY22	9,710
1 st Ave E TIF	General Fund	Reimburse General Fund Grant Hopkins 1801 1 st Ave E	35,000
1 st Ave E TIF	General Fund	Reimburse General Fund Grant Nehring Auto	20,000

NOW THEREFORE, BE IT RESOLVED that the additional fund transfers listed above for FY21/22 be approved.

PASSED this 18th day of July, 2022

APPROVED this _____ day of July, 2022

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

Item: Resolution awarding the purchase of a fire station alerting system.

Summary: Resolution to purchase a station alerting system for the Fire Station.

Financial Impact: A total of \$28,900 from 2021 Building Improvements Bond (307-1050-67229).



Report Number: 22-216

Date: July 18, 2022

Lead Department:
Fire Department

Recommendation:
Approve

Background:

The Fire Department is investing in a station alerting system. The current station alerting system uses an amplified intercom system that can utilize only one volume setting. Studies have shown this type of alerting system has adverse effects on staff. The station alerting system uses a ramping volume and lower level lighting to make the alerting more user friendly. Stations who have used the type of station alerting we are purchasing report less impact to staff as a result of the alerting process. (The Phoenix G2 system pricing does not include the required software installation at the dispatch center. This would cost an additional \$48,000)

<u>Company</u>	<u>Quote</u>
<i>Station Alerting System</i>	
Bryx, Inc.	\$ 28,900
Phoenix G2	\$ 43,000

RECOMMENDATION

City Staff recommends Council award the purchase of station alerting system to Bryx, Inc. of Rochester, New York for the purchase of the Bryx Station Alerting System (\$23,000), Installation (\$3,600), and Annual Service and Maintenance (\$2,300) for one year in the amount of \$ 28,900. Funds from the 2021 Building Improvements Bonds (307-1050-67229) will be used to pay the project cost. Next year, the ongoing annual service and maintenance will be paid from the fire department budget.

Matt Muckler
City Administrator

RESOLUTION NO. 2022-_____

**RESOLUTION AWARDING THE PURCHASE OF A
FIRE STATION ALERTING SYSTEM**

WHEREAS, a system is required to alert on-duty fire and EMS personnel when an emergency call has been made; and

WHEREAS, fire department currently uses a radio system that is transmitted over an amplified intercom system that can utilize only one volume setting; and

WHEREAS, studies have shown this type of alerting system can have adverse health effects for fire and EMS personnel; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Newton, Iowa, that the bid for a station alerting system be accepted from Bryx, Inc. of Rochester, New York in the amount of \$ 28,900 with the project cost to be paid with from the 2021 Building Improvements Bond (307-1050-67229).

PASSED this _____ day of July 2022.

APPROVED this _____ day of July 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report



Item:

Resolution to take part in three FY23 Tourism Co-op advertising opportunities with the Iowa Tourism Office.

Report Number: 22-217

Date:

July 18, 2022

Summary:

The City of Newton and Liebl marketing group have put together a strategy to promote retail in Newton. These two pushes will complement other advertising being done by partner agencies, as well as promote our community as we continue to move forward.

Lead Department:

Community Development

Recommendation:

Approve

Financial Impact:

\$1,475 in budgeted tourism marketing expenses

Background:

The Iowa Tourism Office has four FY23 Communication Goals:

- Increase awareness and consideration of Iowa's tourism industry
- Encourage exploration of the state of Iowa
- Increase visits and associated tourism expenditures within the state
- Boost overnight and weekend stays from out-of-state visitors

In FY23, our Travel Iowa Co-op messaging will continue to focus on Iowa's key lifestyle advantages. Each partner has a unique story that resonates with travelers and will motivate them to experience the following:

Iowa's best-kept secrets and hidden gems

- Awe-inspiring outdoor adventures
- Award-winning cuisines
- Innovative wineries and breweries
- Memorable family fun escapes
- Diverse art exhibits and cultural events
- Quaint shopping experiences
- Large-scale events
- Affordable weekend getaways

In alignment with Iowa's branding and awareness campaign for the out-of-state visitor, the Iowa Tourism Office's FY23 Co-op Program provides opportunities in both traditional and new marketing tactics that the City of Newton can partner with the Iowa Tourism Office on. This is a great way to feature Newton in the story they will tell to the traveler through advertising.

The three opportunities that the Community Marketing Manager was able to sign up for during the reservation period are as follows:

- **Print Opportunity – Nebraska Living:** This opportunity targets women 45+ who enjoy collectible arts, horseback riding, family fun, crafts and domestic travel. The magazine has a circulation of \$42,500 and the co-op ad will be In-Market March/April 2023
 - o This opportunity was chosen based on data analysis of the Arrivalist data that the City's Community Marketing Manager has access to that shows the designated market area region (DMAs) of Omaha has been in the top ten origin markets for day-trippers and overnight visitors in 2019, 2020 and 2021; as well as Lincoln/Hastings/Kearney appearing in the top ten origin markets for out-of-state overnight visitors in 2021.
 - o The content of this ad will be created by the Iowa Tourism Office.
- **Out-of-Home Opportunities – Digital Billboard (Moline):** This opportunity will give us access to an 8 week flight in May-June 2023 on a digital billboard near John Deere & 60th facing east (reaching traffic heading east to I-74).
 - o This opportunity was chosen based on data analysis that shows the Davenport/Rock/Island/Moline DMA being in the top three origin markets for day-trippers in 2021 and 2020; as well as a top five origin market for overnight visitors in 2019, 2020 and 2021.
 - o The content of this billboard design will be in-house and follow specific criteria provided by the Iowa Tourism Office.
- **Travel Iowa Social Media – November 2022 Facebook Post:** This opportunity will feature content posted to Travel Iowa's Facebook Page organically and then amplified with paid support to reach people who like Travel Iowa's Facebook page, their friends and other users who are within Travel Iowa's key markets and who might be interested. Impressions will range from 50,000 – 115,000+.
 - o This opportunity was chosen to share our holiday events in Newton (whether it's shopping local/small, the Courthouse Lighting and/or the Holiday Light Display at Maytag Park).
 - o The content of this Facebook post will be create by designed in-house but following Iowa Tourism criteria.

The total cost of these three tourism co-op opportunities is \$1475.

Recommendation:

Staff recommends approval of the advertising campaign.



Matt Muckler
City Administrator

RESOLUTION NO. 2022– _____

RESOLUTION TO TAKE PART IN THREE FY23 TOURISM CO-OP ADVERTISING OPPORTUNITIES WITH THE IOWA TOURISM OFFICE.

WHEREAS, the City’s Comprehensive Plan calls for the City to create a unique identity and build a new community brand; and

WHEREAS, the City’s Comprehensive Plan calls for the City to build the “Newton Brand” through coordinated public and private marketing efforts, and

WHEREAS, on February 17, 2014, Newton City Council adopted “Get to Know Newton” as the official City of Newton brand, and

WHEREAS, the Community Marketing Manager has been tasked with promoting the Newton brand, attractions, economic development, and community as a whole, and

WHEREAS, the Community Marketing Manager manages the City of Newton’s relationship with the Iowa Tourism Office,

WHEREAS, the Iowa Tourism Office offers provides opportunities in both traditional and new marketing tactics,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newton, Iowa, that the City of Newton hereby authorizes City Staff to spend \$1,475 in budgeted tourism marketing expenses to promote Newton to visitors.

PASSED this _____ day of July, 2022.

APPROVED this _____ day of July, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution approving agreement with the property owner of 109 N 2nd Ave E for non-standard improvements in the city right-of-way.

Report Number: 22-218

Date:

July 18, 2022

Summary:

Approval of an application for a sidewalk patio in the right-of-way at 109 N 2nd Ave E.

Lead Department/Division:

Public Works

Recommendation:

Approve

Financial Impact:

None

Background:

Nostalgia Wine and Spirits, located at 109 N 2nd Ave E, recently submitted a renewal of their application to utilize a portion of the public sidewalk along the north side of their business for a patio seating area. Per the City's "Application for a Sidewalk Patio in the Public Right-of-Way"; the applicant was required to submit information on the proposed improvements, certificate of insurance coverage, outdoor service area authorization if serving alcohol or liquor, and acknowledgement of the rules of said application. City staff has reviewed the application, and recommend it be included as an attachment to the non-standard improvement agreement being considered with this resolution.

Because the applicant is a tenant, this non-standard improvement will require a signature by the property owner if approved. This agreement will be in effect for two years from the date of acceptance, and will require a renewal application to be made, it is recommended this application be made two months prior to the agreement's expiration.

Recommendation:

Staff recommends that the non-standard improvement agreement at 109 N 2nd Ave E for the Nostalgia Wine and Spirits sidewalk patio be approved.

Matt Muckler
City Administrator

RESOLUTION 2022- _____

**RESOLUTION APPROVING AGREEMENT WITH THE PROPERTY OWNER
OF 109 N 2ND AVE E FOR NON-STANDARD IMPROVEMENTS IN THE CITY
RIGHT-OF-WAY.**

WHEREAS, Nostalgia Wine & Spirits, located at 109 N 2nd Ave E, recently submitted a renewal application to utilize a portion of the public sidewalk along the north side of their business for a patio seating area; and

WHEREAS, per the City's "Application for a Sidewalk Patio in the Public Right-of-Way"; the applicant was required to submit information on the proposed improvements, certificate of insurance coverage, outdoor service area authorization if serving alcohol or liquor, and acknowledgement of the rules of said application; and

WHEREAS, City staff has reviewed the application, and recommend it be included as an attachment to the non-standard improvement agreement being considered with this resolution; and

WHEREAS, because the applicant is a tenant, this non-standard improvement will require a signature by the property owner if approved; and

WHEREAS, this agreement will be in effect for two years from the date of acceptance, and will require a renewal application to be made, it is recommended this be completed two months prior to the agreement's expiration.

NOW THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa, that the non-standard improvement in the right-of-way agreement with the property owner of 109 N 2nd Ave E is hereby approved.

BE IT FURTHER RESOLVED by the City Council of the City of Newton, Iowa, that that the Mayor and City Clerk are hereby directed to execute the said non-standard improvement in the right-of-way agreement with the owner.

PASSED this _____ day of July, 2022.

APPROVED this _____ day of July, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk



**APPLICATION FOR A SIDEWALK PATIO IN THE
PUBLIC RIGHT-OF-WAY**

CITY OF NEWTON, IOWA

Part 1

ESTABLISHMENT INFORMATION

Provide a brief description of the current establishment and the intended use of the area proposed to be located in City

right-of-way: Nostalgia Wine & Spirits (formerly Muse Wine Bar)
is the current establishment. We serve wine & spirits along
with charcuterie & cheese/cracker boards. The sidewalk
is located on the North side of Hotel Maytag - in which
we reside. We propose to continue the sidewalk patio agreement
already in place.

Applicant Name Dan Nieland

Doing Business As: Nostalgia Wine & Spirits Phone # 515-401-7398

Establishment Street Address: 109 N. 2nd Ave E., Newton

Contact Person: Dan Nieland Phone # 515-401-7398

Mailing Address: 109 N. 2nd Ave E. Newton, IA 50208

Property Owner: Maytag Investment, LLC
696 18th St. Des Moines 50314

Part 2
DESIGN SUBMITTAL REQUIREMENTS

A. TYPE OF DELINEATION

Please indicate the type of delineation proposed for the sidewalk patio:

☒ Temporary Fencing

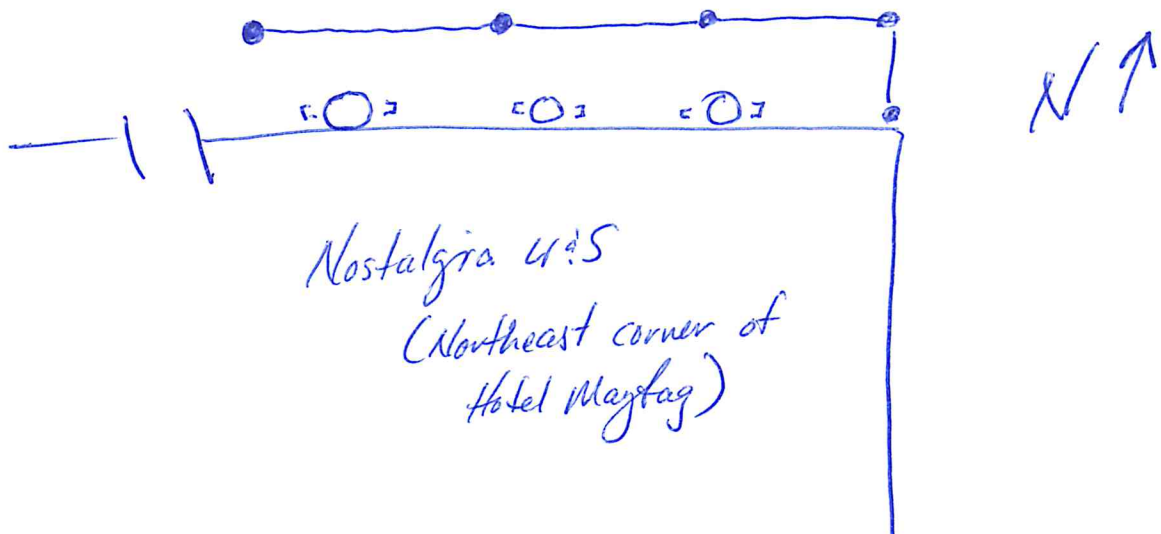
☐ Anchored Fencing - (fencing bolted to pavement/brick/platform surface)

☐ Other - describe type of delineation proposed: _____

B. EXTERIOR DIAGRAM

1. All Delineation Types - Applicant must submit an exterior diagram which contains or addresses the following information or requirements:
 - a. Patio must be contiguous to premise.
 - b. Location of Patio in relation to the premise and area amenities such as buildings, vaults/chutes, bike racks, planters, curb line, trash receptacles, utility poles, etc.
 - c. Dimensions of patio and any openings within patio and premise (i.e. entrances/exits).
 - d. Designation of Pedestrian Walkway on Public Sidewalk: An unobstructed five foot (5') wide public pedestrian walkway around proposed patio must be maintained. The 5 foot wide pedestrian walkway shall be measured from the nearest amenity to the edge of the sidewalk patio. If nearest amenity is a tree, the dimension shall be from the outer edge of the tree ring at the paved surface. The pedestrian path shall be ADA-compliant.
 - e. The sidewalk patio may not encompass any public amenities, with the exception of trees, tree rings and light poles. If trees, tree rings or light poles are encompassed, they may not interfere with the care, maintenance or operation of the items.
 - f. The location of tables and chairs within the sidewalk patio: Placement and dimensions of tables, chairs, serving stands, or other within the patio shall be shown on the diagram so as to determine suitable ingress/egress routes in said patio.
 - g. If patio is located adjacent to an alley, the patio must be placed at least two feet (2') away from the alley. If patio is located on a street corner, the patio shall not be situated beyond the area defined by the building lines extended to the street.
 - h. No blockage of building entrances or exits may occur.
 - i. Sidewalk patios shall not block or restrict visibility in vehicle sight triangles.
2. Temporary Fencing - In addition to the items listed above, the exterior diagram must contain the following information:

- a. Temporary Fencing. Acceptable methods of delineation include, a lowered taut rope/chain or ribbon stanchion. Other methods of delineation will be considered as submitted.
 - b. Delineation must include a detectable barrier located at base of sidewalk patio perimeter which must be shown on diagram. Space between barriers shall not be greater than twelve inches (12"). This delineation is to provide a detectable barrier for those individuals who are visually impaired.
 - c. All other aspects of the proposed delineation shall be ADA-compliant for the visually impaired.
3. Anchored Fencing - The diagram must be drawn to adequately represent the type of materials, anchoring methods, and other pertinent details. In addition to the items listed above, the diagram must contain the following information:
- a. Schematic design of anchored fencing, including proposed type and design of fence material, height of fence (maximum height of 3', excluding finials), anchoring system and location of anchors.
 - b. Detail of proposed gates, if applicable, including location, swing radius, size and design.
 - c. Detail of how anchoring system will be maintained during winter months while fencing is removed to temporarily eliminate holes within the sidewalk which can pose a hazard to pedestrians.



Part 3

OTHER SUBMITTAL REQUIREMENTS

A. CERTIFICATE OF INSURANCE

Along with your application, a Certificate of Insurance must be submitted. The Certificate of Insurance shall contain an endorsement acknowledging and covering use of the public right-of-way as a sidewalk patio and shall contain at least the minimum coverage amounts shown below.

	<u>Per Occurrence</u>	<u>Aggregate</u>
1) Comprehensive General Liability		
Bodily Injury & Property Damage	\$1,000,000	\$2,000,000
2) The City of Newton shall be named an additional insured.		
3) Worker's Compensation Insurance as required by Chapter 85, Code of Iowa.		

B. AMENITY APPROVAL

Provide a complete description of proposed amenities. These submittals should include pictures, illustrations, or complete and accurate descriptions of all proposed furniture, fencing (temporary and/or anchored), any detectable barriers if utilizing temporary fencing and/or planters.

C. OUTDOOR SERVICE AREA AUTHORITY (ESTABLISHMENTS WITH LIQUOR LICENSES)

If the establishment has a Liquor License, it will be necessary to secure authorization from the State of Iowa to utilize an outdoor service area. Application for this authorization is obtained through Alcoholic Beverage Division website. If assistance is needed, please contact the City Clerk's office at 641-792-2787.

Part 4

FEES

A. APPLICATION REVIEW & PERMIT FEE:

Size of Sidewalk Patio: 250 sq. ft. x \$0.90 per sq. ft. = \$ 225

B. DEPOSIT:

Anchored Fencing requires a one-time refundable deposit of \$200 \$ N/A

TOTAL DUE PAYABLE TO CITY OF NEWTON*

\$ 225

*Please submit a check along with the application for the total amount

SIGNATURE

I am an authorized representative of the establishment requesting permission to construct a sidewalk patio within public right-of-way. All information contained within the application is an accurate representation of the establishment's existing conditions and of the proposed sidewalk patio.

Applicant Signature 

Date 

State of _____)
) SS
County) _____

On this ____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____ and _____, to me known to be the identical person(s) named in and who executed the foregoing instrument, and acknowledged that (he) (she) (they) executed the instrument as (his) (her) (their) voluntary act and deed.

Notary Public in and for the State of _____

My commission expires _____, 20____

Part 6

APPLICATION SUBMITTAL CHECKLIST

The following is a summary of items that are to be submitted as part of the Sidewalk Patio Application:

- _____ Establishment Information (See Part 1)
- _____ Design Submittal Requirements and Drawing (See Part 2)
- _____ Certificate of Insurance (See Part 3)
- _____ Amenities Descriptions/Information (i.e. tables, chairs, fencing, barriers, planters) (See Part 3)
- _____ Documentation of Application for Outdoor Service Area Authority from State of Iowa (See Part 3 - Liquor license holders only)
- _____ Check Payable to City of Newton (See Part 4)
- _____ Application Signature (See Part 5)

Please note that if any of the above items are missing or deficient in any manner according to the instructions, the application will be considered incomplete. A letter will be sent to the applicant notifying them of the deficient items.

Each application will be reviewed on its own merit and is site specific.

APPLICATION PROCESS

- Please allow a minimum of 3 weeks for the approval process.
- If additional information/clarification is necessary, a letter will be sent to applicant with conditions and/or requests for further information.
- When the application has met the qualifications and requirements, a Non-Standard ROW Improvement Agreement will be drafted for consideration by City Council. In addition, the Non-Standard ROW Improvement Agreement, if approved, will require the Property Owner's signature should it be different than the applicant.
- Final approval for the improvement does not occur until the City Council approves the Non-Standard ROW Improvement Agreement, and said agreement is signed by all parties.
- After the Agreement is executed by all parties, the installation shall be coordinated with the Public Works Department (641-792-6622).

City of Newton Council Report

**Item:**

Resolution approving a Telecommunications Licensing Agreement with NEXTLINK

Report Number: 22-219

Date:

July 18, 2022

Summary:

An agreement with NEXTLINK to utilize public right-of-way for installing a fiber optic communications network.

Lead Department:

Public Works

Recommendation:

Approve

Financial Impact:

\$25.38 revenue.

Background:

NEXTLINK of Hudson Oaks, Texas is proposing an extension of their fiber optic network in Newton. The proposed underground portion of the route includes 423 lineal feet of improvements in the City of Newton right-of-way. Based on the rates City Council established in Resolution No. 2022-048 passed on February 21, 2022, the licensing fee for the portion of this line in City of Newton right-of-way is \$25.38.

The Public Works Department has reviewed the route of the proposed improvements, and will be working with NEXTLINK and their installation contractor to eliminate conflicts with existing utilities and other possible future improvements. All construction work and surface restoration proposed on this project will be subject to this agreement, along with a separate right-of-way excavation permit issued by the Public Works Department.

Recommendation:

Approval of the telecommunications licensing agreement with NEXTLINK of Hudson Oaks, Texas.

A handwritten signature in black ink, appearing to read "Matt Muckler".

Matt Muckler
City Administrator

RESOLUTION 2022- _____

**RESOLUTION APPROVING A TELECOMMUNICATIONS LICENSING AGREEMENT
WITH NEXTLINK**

WHEREAS, NEXTLINK of Hudson Oaks, Texas is proposing an extension of their fiber optic network in Newton; and

WHEREAS, this extension is shown on the route attachment; and

WHEREAS, the proposed underground portion of the route includes 423 LF of improvements in the City of Newton right-of-way; and

WHEREAS, the City of Newton has prepared a licensing agreement for the construction and maintenance of said telecommunications system based on that portion of said telecommunications system inside the City right-of-way; and

WHEREAS, based on the rates City Council established in Resolution No. 2022-048 passed on February 21, 2022; the licensing fee for the portion of this line in City of Newton right-of-way is \$25.38.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newton, Iowa, that the City hereby authorizes the Mayor and City Clerk to execute the attached Licensing Agreement with NEXTLINK of Hudson Oaks, Texas.

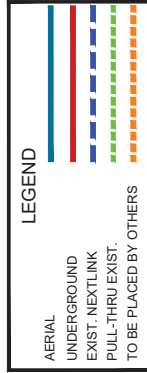
PASSED this _____ day of July, 2022.

APPROVED this _____ day of July, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk



NEXT LINK

LJA TELECOM
ENGINEERING CONTRACTORS

A LICENSE TO UTILIZE PUBLIC RIGHT-OF-WAYS FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF A FIBER OPTIC NETWORK

SECTION 1. DEFINITIONS

- a. "City" shall mean the City of Newton, Iowa and, where appropriate, shall include its officers, employees and agents.
- b. "Public Improvements" shall mean any improvements as defined in Code of Iowa Section 384.95, including but not limited to paving, sidewalks, grass, vegetation, trees, street lights, traffic signals, water mains, sewers, electric transmission lines and equipment related thereto, and in addition public utilities, on Public Property.
- c. "Public Property" shall mean City-owned or controlled public rights-of-way, easements, bridges, squares or commons.
- d. "Licensee" shall mean NEXTLINK and shall include all equipment owned, operated, leased or subleased in connection with the operation of the network, and shall include but not be limited to poles, overhead or underground wires, pipes, overhead or underground cables, underground conduits, ducts, manholes, vaults, fiber optic cables, and other structures or appurtenances.

SECTION 2. BASIC GRANT

Licensee is hereby granted a license to construct, maintain, inspect, protect, repair, replace and retain a communications system in, under, upon, along and across the Public Property shown and identified in Exhibit A hereto, subject to the regulatory powers of the City and subject to the conditions hereinafter set forth.

SECTION 3. TERM OF LICENSE

This License shall consist of two separate duration periods, a construction period and a maintenance period. Both periods commence on the execution of the license by both parties.

Construction – Licensee shall have a period of 18 months to put into place the utilities, which Licensee has provided the details on pursuant to other sections of this License.

Maintenance - Licensee shall have the right under this License, after providing proper notice to the City, to maintain/repair its existing utilities. The expansion of (either in geography or in size/capacity) or upgrading of the utility is not considered maintenance/repair.

SECTION 4. FEES REQUIRED

- a. Licensee shall pay the City an administrative license fee in the amount of \$25.38 (Twenty-Five dollars and Thirty-Eight cents) for locations of new underground infrastructure, payable upon execution of this License, for use of the public property as shown in Exhibit "A" during the term of this License.
- b. If during the term of this License the City enacts an Ordinance requiring

compensation from telecommunications providers on a competitively neutral and nondiscriminatory basis for use of public property Licensee shall within sixty (60) days after request by City pay the fees required by such Ordinance, with the effective date of said ordinance being the starting date for the accrual of fees. Any fees paid during the term of this License, however, shall be credited toward the fees required by the Ordinance. If the Ordinance enacted requires fees for this transaction which are less than \$25.38, the City shall refund the excess of \$25.38 over the fees required under such Ordinance, provided, however, that in no event shall the amount refunded exceed the sum of \$2,000.00.

SECTION 5. PERMIT PROCESS FOR INSTALLATION, REPAIR, EXTENSION OR EXPANSION OF THE NETWORK

Before commencing any extension or expansion of its system, or any major repair work, or the installation of any new system in the City, the Licensee shall file with the Public Works Department of the City a written statement verifying the Public Property under which or upon which it proposes to extend, expand, install or repair its system. The statement shall be accompanied by a map, plan or specifications showing the proposed location of the system components with reference to streets and alleys. If the proposed locations of any facilities shall interfere with the reasonable and proper use, construction, reconstruction and maintenance of any public improvements or any existing public utility system component, or other structure upon or under public property, the Public Works Director shall within 30 days after the filing of such plan, map or specifications, note the changes necessary, eliminate all interference with a public improvement or existing public utility system facility and refer the same back to the Licensee for amendment. Such map, plan or specifications, when properly changed and corrected, shall be filed in the Public Works Department, and after the approval of the same by the Public Works Director, a permit shall be issued authorizing the Licensee to proceed in accordance with the approved maps, plans or specifications. No such excavation, construction or erection shall be commenced before the issuance of the permit herein provided for, unless it is an emergency as described in the Newton City Code, and all work shall be in accordance with the approved maps, plans or specifications.

SECTION 6. CONSTRUCTION AND REPAIR OF NETWORK

In the process of location, construction, reconstruction, replacement, or repair of any system component, the excavation or obstruction made or placed in public property at any time or for any purpose by the Licensee shall, to protect the public and to assure the safe and efficient movement of traffic, be properly barricaded to comply, at a minimum, with requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD). All pavement taken up or damaged or other disturbed areas shall be properly and speedily replaced in accordance with the City's Regulations. As a condition to use of Public Property, the Licensee shall at its own expense repair any private property, utility system component, public improvement or Public Property damaged by such location, construction, reconstruction, replacement or repair work, in a manner reasonably acceptable to City. If the Licensee fails to repair or arrange with the City for the proper repair of any Public Property after excavations have been made, and after seven days' notice in writing to do so is given to its designated representative, the City may make such repairs at the expense of the Licensee.

SECTION 7. EXCAVATIONS

The Licensee is authorized to make excavations in City streets, avenues, alleys and public property for purposes of routine repair, replacement, and maintenance of poles, wires, or other excavations. The Licensee shall obtain a permit pursuant to City Ordinances and Regulations, shall not unnecessarily obstruct the use of streets, avenues, alleys or public places, shall provide the Public Works Director with notice prior to the actual commencement of the work and shall comply with all provisions, requirements, and regulations in accordance with the existing City Ordinance in performing such work. In emergencies which require immediate excavation the Licensee may proceed with the work without first applying for the permit, provided, however, that the Licensee shall apply for and obtain the permit as soon as possible after commencing such emergency work.

If the Licensee fails to comply with the provisions of the City Code the City may repair or restore the public property to a condition as good as the condition of the property prior to the disturbance by the Licensee and the Licensee shall pay the costs of such repair or restoration. The Licensee shall pay to the City its costs and charges for such work within thirty days after receipt of the City's billing.

SECTION 8. WORK BY OTHERS, ALTERATION TO CONFORM WITH PUBLIC IMPROVEMENTS

The City reserves the right to lay, and permit to be laid, wires, pipes, cables, conduits, ducts, manholes and other appurtenances, and to do, or permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the City in, across, along, over or under any public property occupied by the Licensee and to change any curb or sidewalk or the grade of any street. In permitting others to do such work the City shall not be liable to the Licensee for any damages arising out of the performance of such work by other parties. Nothing in this License shall be construed as to relieve any other person or corporation from liability for damage to the Licensee's facilities.

SECTION 9. LICENSEE CONTRACTORS

The requirements of the License shall apply to all persons, firms or corporations performing work for the Licensee under a contract, subcontract or other type of work order.

SECTION 10. CONDITIONS OF STREET OCCUPANCY

This fiber optic cable systems and other components of the facilities erected by the Licensee within the City shall conform to established grades of streets, alleys, and sidewalks, and be so located as to cause minimum interference with other public utilities located in or upon public property, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin public property.

The Licensee shall conduct its work hereunder in such manner as to cause as little interference as possible with pedestrian and vehicular traffic, and shall abide by scheduling directions, if any, given by the Public Works Director.

The Licensee shall, upon reasonable notice and at its sole cost and expense, remove, locate and relocate its facilities in, on, over or under public property in such manner as the

City may at any time require for the purpose of facilitating the construction, reconstruction, maintenance, repair or change in grade of any public improvement on, in or about any such public property, for the purpose of promoting the efficient operation of any such improvement, or for the purposes of facilitating the vacation and/or redevelopment of public right-of-way by the City. In the event the Licensee fails to act within a reasonably allocated time, the City may cause the Licensee facilities to be relocated or removed, and the costs thereof shall be to the Licensee and shall be paid as provided in Section 6 hereof.

The Licensee shall not place its facilities in the public property where the same will interfere with the normal use or maintenance of any public improvement including but not limited to streets, alleys, sidewalks, traffic control devices, sanitary sewers, storm sewers, storm drains or water mains, or electrical transmission lines, or any public utility facility.

Upon request, the Licensee agrees to assist in locating underground facilities which are part of its system. Such assistance will be provided in a timely manner, but not more than forty-eight hours after the time of request. As a condition of this License the Licensee shall enroll as a member of the 'Iowa One-Call System' and shall respond to all requests and notifications placed to the toll free 'One-Call' number.

Installation, repair, or replacement work completed by the Licensee on any facilities requiring excavation of public property or public right-of-way shall require restoration and replacement of surface vegetation.

SECTION 11. POWERS OF CITY

Nothing in this License shall be construed to abridge the right or power of the City to make further regulations relative to the use of the streets, alleys and public grounds by anyone using the same for the erection and maintenance of utility systems.

SECTION 12. PLANS AND COORDINATION

Upon completion of the work the Licensee shall promptly furnish to the City copies of 'as-built' plans related to its facilities located on Public Property.

The Licensee shall keep complete and accurate maps and records on the locations and operations of its facilities in connection with this License.

SECTION 13. VIOLATIONS OF LICENSE

Upon evidence being received by the City that a violation or breach of this License or violation of codes or ordinances lawfully regulating the Licensee in the operation of its facilities, or in the use of public property therefore is occurring or has occurred, (hereinafter referred to as a "default") the City shall cause an investigation to be made. If the City finds that a default exists or has occurred the City may take appropriate steps to secure compliance with the terms of this License or the codes or ordinances.

The City shall notify the Licensee of the default and the Licensee shall cure such default within thirty days after receipt of such notice; provided, however, where any such default cannot reasonably be cured within such thirty (30) day period, if Licensee shall

proceed promptly to cure the same and prosecute such cure with due diligence, the time for curing such default shall reasonably be extended for such period of time as may be necessary to complete such cure, as mutually agreed upon by the parties.

If the Licensee fails to cure a default within the time allowed the City shall have the right to:

- (i) seek specific performance; or
- (ii) remedy the default by doing the act itself, or through a contractor, and charge the costs of such work to the Licensee; or
- (iii) seek damages for such default; or
- (iv) any combination of (i), (ii) and (iii).

SECTION 14. LIABILITY, INDEMNIFICATION AND INSURANCE

The Licensee covenants to indemnify, defend, and save the City and its officers, agents and employees, harmless from any and all damages arising directly from the exercise of the rights granted herein. The Licensee agrees to require contractors and subcontractors engaged in work for the Licensee within the public rights-of-way or on public property to maintain in effect during the term of work liability insurance in comprehensive form and in the amounts to be set by the City. Licensee agrees to accept the risk of having its communications systems and equipment upon the public right-of-way, including the possible risk of damage or injury to its system or equipment, and agrees to release and discharge the City of any liability for damage or injury to Licensee's equipment, except to the extent caused by the City's gross negligence. In no event shall the City be liable for any consequential damages arising out of any damage or injury to Licensee's equipment placed in the right-of-way.

SECTION 15. SEVERABILITY

In the event that a court of competent jurisdiction shall adjudge any provision or provisions hereof invalid or illegal, or direct a change by the Licensee in any matter or thing herein contained, such invalidity or illegality or change shall in no way affect the remaining provisions of this License or their validity or legality, and this License in all other respects shall continue in full force and effect, as if said provision or provisions had not been so adjudged invalid or illegal, or such change had not been directed, or shall at the City's option, cause a termination of this License.

SECTION 16. ASSIGNMENT

Neither party shall assign or otherwise transfer this License or any of its rights and interest to any firm, corporation or individual without the prior written consent of the other party, except either party shall have the right to assign, convey or otherwise transfer its rights, title, interest and obligations under this License, in whole or in part, to any entity controlled by, controlling or under common control with a party hereto, or any entity into which a party may be merged or consolidated or which purchases all or substantially all of the assets of such party, or any lease, sublease, indefensible right of use, or sale or transfer of, conduit, fiber or similar facilities with Licensee's telecommunication system to any third party users of such facilities.

SECTION 17. VACATION OF STREETS AND ALLEY

So long as the Licensee exercises the rights granted to it hereunder the City will not, by ordinance or otherwise, vacate any street, alley or public way in which the Licensee has installed its facilities without reserving such rights as necessary to allow continued use of such property for the said facilities in accordance with the terms of this License, provided that nothing herein shall limit the City's right to require the Licensee to relocate its facilities as provided in Section 10 hereof.

SECTION 18. DELIVERY OF NOTICES

Except as may be expressly provided herein, any notices hereunder shall be in writing and shall be delivered via certified mail and addressed as follows, unless indicated otherwise in the future:

If to City: Public Works Director
403 W 4th St N, Suite 501
Newton, Iowa 50208

If to Licensee: NEXTLINK
95 Parker Oaks Ln
Hudson Oaks, TX 76087

Provided, however, that in the case of an emergency, notices may be given verbally to the above named persons. In such case written confirmation should be provided. Nothing contained herein shall prevent other forms of notice if actually received by the addressee. Notice shall be deemed given on the date of mailing in done by certified mail, or otherwise on the date actual notice is received.

SECTION 19. TELECOMMUNICATIONS ACT

This License is subject to all applicable federal, state and local laws, regulations and orders of governmental agencies as amended, including but not limited to the Communications Act of 1934 as amended, the Telecommunications Act of 1996 as amended and the Rules and Regulations of the FCC. Neither City nor Licensee waive any rights they may have under any such laws, rules or regulations.

This LICENSE is entered into as of the _____ day of _____, 20__.

LICENSEE

CITY OF NEWTON

By: _____

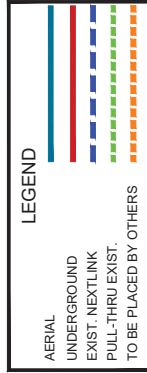
By: _____

Michael L. Hansen, Mayor

Title: _____

Attest: _____

City Clerk



NEXT LINK



LJA TELECOM
ENGINEERING CONTRACTOR

City of Newton Council Report

Item: Resolution Setting Date for Public Hearing on Urban Renewal Plan Amendment for the North Central Urban Renewal Area

Summary: Resolution Setting Date for Public Hearing on Urban Renewal Plan Amendment for North Central Urban Renewal Area

Financial Impact: No Financial Impact, only sets a Public Hearing



Report Number: 22-220

Date: July 18, 2022

Lead Department:
Administration

Recommendation:
Approval

Background:

The City Council of the City of Newton Iowa has created the North Central Urban Renewal Area and has approved an urban renewal plan for the Urban Renewal Area. Chapter 403 of the code of Iowa requires that, before a city approves any new urban renewal projects within an urban renewal area, a city must amend the existing urban renewal plan to describe all new projects.

An amendment to the plan has been prepared which consists of updates to the Downtown Micro-Grant program description, updates the description of the manufactured gas plant remediation project, and describes new urban renewal area projects. It is now necessary that a date be set for a public hearing on the Amendment

Recommendation:

Staff recommends approval of the Resolutions setting a Public Hearing on August 15, 2022 to amend the North Central Urban Renewal Plan.

A handwritten signature in black ink, appearing to read "Matt Muckler", is written over a light blue horizontal line.

Matt Muckler
City Administrator

SET DATE FOR HEARING ON URBAN
RENEWAL PLAN AMENDMENT

504612-51

Newton, Iowa

July 18, 2022

The City Council of the City of Newton, Iowa, met on July 18, 2022, at _____ p.m., at the _____, in the City, for the purpose of setting a date for a public hearing on a proposed urban renewal plan amendment.

The Mayor presided and the roll being called, the following members of the Council were present and absent:

Present: _____

Absent: _____.

The Mayor announced that an amendment to the urban renewal plan for the North Central Urban Renewal Area had been prepared, and that it was now necessary to set a date for a public hearing on the proposed amendment to the urban renewal plan. Accordingly, Council Member _____ moved the adoption of the following resolution entitled "Resolution Setting Date for Public Hearing on Urban Renewal Plan Amendment for the North Central Urban Renewal Area," and the motion was seconded by Council Member _____. Following due consideration, the Mayor put the question on the motion and the roll being called, the following named Council Members voted:

Ayes: _____

Nays: _____.

Whereupon, the Mayor declared the resolution duly adopted as follows:

RESOLUTION NO. 2022-_____

Resolution Setting Date for Public Hearing on Urban Renewal Plan Amendment
for the North Central Urban Renewal Area

WHEREAS, the City Council of the City of Newton, Iowa by resolution previously established the North Central Urban Renewal Area (the “Urban Renewal Area”) and adopted an urban renewal plan (the “Plan”) for the governance of initiatives and projects therein; and

WHEREAS, an amendment (the “Amendment”) to the Plan has been prepared which (1) updates the description of the City’s Downtown Micro-Grant Program previously approved by the City Council in the March 18, 2019 Amendment to the Plan, and updated on July 6, 2021; (2) updates the description of the City’s Manufactured Gas Plant Remediation Project previously approved by the City Council in the March 18, 2019 Amendment to the Plan, and updated on July 6, 2021; and (3) authorizes the undertaking of a new urban renewal project in the Urban Renewal Area consisting of using tax increment financing to pay the costs of constructing a pedestrian walkway and parking improvements on, along and adjacent to the 300 block of North 3rd Avenue West in the Urban Renewal Area; and

WHEREAS, it is now necessary that a date be set for a public hearing on the Amendment;

NOW, THEREFORE, Be It Resolved by the City Council of the City of Newton, Iowa, as follows:

Section 1. This City Council will meet at the _____, Newton, Iowa on August 15, 2022, at _____ p.m., at which time and place it will hold a public hearing on the proposed Amendment.

Section 2. The City Clerk shall publish notice of said hearing, the same being in the form attached hereto, which publication shall be made in a legal newspaper of general circulation in the City, which publication shall be not less than four (4) and not more than twenty (20) days before the date set for hearing.

Section 3. Pursuant to Section 403.5 of the Code of Iowa, the City Administrator, the City Clerk and/or the Community Development Director are hereby designated as the City's representatives in connection with the consultation process which is required under that section of the urban renewal law.

Passed and approved this July 18, 2022.

Mayor

Attest:

City Clerk

NOTICE OF PUBLIC HEARING ON PROPOSED URBAN RENEWAL PLAN
AMENDMENT

Notice Is Hereby Given: That at _____ p.m., at the _____, Newton, Iowa, on August 15, 2022, the City Council of the City of Newton, Iowa, will hold a public hearing on the question of amending the urban renewal plan for the North Central Urban Renewal Area (the “Urban Renewal Area”) in order to (1) update the description of the City’s Downtown Micro-Grant Program previously approved by the City Council in the March 18, 2019 Amendment to the Plan, and updated on July 6, 2021; (2) update the description of the City’s Manufactured Gas Plant Remediation Project previously approved by the City Council in the March 18, 2019 Amendment to the Plan, and updated on July 6, 2021; and (3) authorize the undertaking of a new urban renewal project in the Urban Renewal Area consisting of using tax increment financing to pay the costs of constructing a pedestrian walkway and parking improvements on, along and adjacent to the 300 block of North 3rd Avenue West in the Urban Renewal Area. A copy of the amendment is on file for public inspection in the office of the City Clerk.

At said hearing any interested person may file written objections or comments and may be heard orally with respect to the subject matters of the hearing.

Katrina Davis
City Clerk

• • • • •

On motion and vote the meeting adjourned.

Mayor

Attest:

City Clerk

PUBLICATION CERTIFICATE:

STATE OF IOWA
JASPER COUNTY
CITY OF NEWTON

SS:

I, the undersigned, City Clerk of the aforementioned City do hereby certify that pursuant to the resolution of its City Council fixing a date of public hearing on a proposed urban renewal plan amendment, the notice, of which the printed slip attached to the publisher's affidavit hereto attached is a true and complete copy, was published on the date and in the newspaper specified in such affidavit, which newspaper has a general circulation in the City, and copies were sent to the county and school district.

WITNESS my hand this ____ day of _____, 2022.

City Clerk

(Attach here publisher's affidavit of publication of notice.)

(PLEASE NOTE: This certificate must not be dated until the publication has been made and you have reviewed it to be sure that the notice was published on the date indicated in the attached affidavit.)

ATTESTATION CERTIFICATE:

STATE OF IOWA
JASPER COUNTY
CITY OF NEWTON

SS:

I, the undersigned, City Clerk of the aforementioned City, do hereby certify that as such I have in my possession or have access to the complete corporate records of the City and of its officers; and that I have carefully compared the transcript hereto attached with the aforesaid records and that the attached is a true, correct and complete copy of the corporate records relating to the action taken by the City Council preliminary to and in connection with setting a date for public hearing on an urban renewal plan amendment.

WITNESS my hand this ____ day of _____, 2022.

City Clerk



July 13, 2022

VIA E-MAIL

Matt Muckler
City Administrator/City Hall
Newton, IA

Re: North Central Urban Renewal Area (2022 Amendment)
Our File No. 504612-51

Dear Matt:

We have prepared the attached materials which will enable your City Council to act on July 18th to set August 15th as the date for a public hearing on the amendment to the existing urban renewal plan for the North Central Urban Renewal Area .

The notice which is included in the attached resolution must be published once, not less than four (4) and not more than twenty (20) days prior to the date selected for the hearing. The last date on which the notice may effectively be published is August 11, 2022. Please print a copy of the notice for delivery to the newspaper. Please email a copy of the published notice to orngard.severie@dorsey.com.

Also, a “consultation session” must be set up with the local county and school district. Please refer to my separate letter attached for further details.

Please provide one fully executed set of proceedings once all the actions have been taken and contact John Danos, Erin Regan, Severie Orngard or me if you have any questions.

Kind regards,

Amy Bjork

Attachments

cc: Katrina Davis
Lisa Frasier
Erin Chambers



July 13, 2022

VIA E-MAIL

Matt Muckler
City Administrator/City Hall
Newton, IA

Re: North Central Urban Renewal Area Amendment/Consultation Session
Our File Number: 504612-51

Dear Matt:

The Iowa Urban Renewal Law requires that a city provide information concerning a proposed urban renewal plan or amendment to any other governmental bodies which might be affected by the use of tax increment financing within your urban renewal area. Specifically, the City must send a copy of the urban renewal plan amendment and an invitation to attend a meeting to discuss the urban renewal plan amendment to any county or school district whose jurisdiction covers any property which is within the urban renewal area. This consultation must be held at least two weeks prior to the public hearing on August 15, 2022.

It is our understanding that the property within your urban renewal area would affect Jasper County and the Newton Community School District.

Attached is a draft letter which you may use in order to provide notification to these governmental entities of the date, time and place of a meeting at which they may discuss your urban renewal plan amendment. The law does not require that this be a meeting of the City Council, and you may use your discretion about who represents the City at the meeting.

Along with the letter, you should send a copy of the urban renewal plan amendment and a copy of the notice of the public hearing on the urban renewal plan amendment.

According to our records, here are the mailing addresses for the individuals who should receive the notification letter and the enclosures:

Board of Supervisors
c/o Jasper County Auditor
Jasper County Courthouse
P.O. Box 944
101 1st Street North, Room 202
Newton, Iowa 50208

Superintendent
Newton Community School District
1302 First Avenue West
Newton, Iowa 50208

Please call John Danos, Erin Regan, Severie Orngard or me if you have questions.

Kind regards,

Amy Bjork

cc: Katrina Davis
Lisa Frasier
Erin Chambers

[City letterhead]

DATE: _____

TO: Board of Supervisors, Jasper County
Superintendent, Newton Community School District

FROM: City Council
City of Newton, Iowa

RE: North Central Urban Renewal Area Plan Amendment

The City of Newton is in the process of amending the urban renewal plan for the North Central Urban Renewal Area , and, pursuant to Section 403.5 of the Code of Iowa, the City is sending you the enclosed copy of its urban renewal plan amendment and scheduling a meeting at which you will have the opportunity to discuss this amendment.

The meeting to discuss our urban renewal plan amendment has been set for _____, 202__, at _____ .m. at the _____ in Newton. If you are unable to send a representative to the meeting, we invite your written comments. In addition, Section 403.5 gives your designated representative the right to make written recommendations concerning the urban renewal plan amendment no later than seven days following the date of the meeting.

The City will also hold a public hearing on this urban renewal plan amendment at _____ o'clock ____ .m. on August 15, 2022, and a copy of the notice of hearing is enclosed for your information.

Please call our City Administrator at (641) 792-2787 if you have questions.

Enclosure

CITY OF NEWTON, IOWA

URBAN RENEWAL PLAN AMENDMENT
NORTH CENTRAL URBAN RENEWAL AREA

August, 2022

The Urban Renewal Plan (the “Plan”) for the North Central Urban Renewal Area (the “Urban Renewal Area”) for the City of Newton, Iowa (the “City”) is being amended for the purposes of (1) updating the descriptions of certain urban renewal projects referenced herein; and (2) identifying new urban renewal projects to be undertaken within the Urban Renewal Area.

1) Update Description of the Downtown Micro-Grant Project. The City approved the Downtown Micro-Grant Project in the March 18, 2019 Amendment to the Plan and updated such description on July 6, 2021. It is now necessary to update the description of the Downtown Micro-Grant Project as follows:

Name of Project: Downtown Micro-Grant and Downtown Housing Grant Programs

Date of Council Approval of Programs: March 18, 2019, and updated on July 6, 2021 and August 15, 2022

Description of Downtown Micro-Grant Program: The City acknowledges the importance of the success of local businesses and the alleviation of blighted conditions to the promotion of economic development in the City and in the Urban Renewal Area. The Downtown Micro-Grant Program is designed to provide public support to the development and improvement of local businesses in the Urban Renewal Area. The City will provide fiscal support to the Downtown Micro-Grant Program through the provision of economic development grants (the “Grants”) to qualifying local businesses in the Urban Renewal Area.

The Grants will be targeted to assist local business owners with building (i) façade improvement projects; (ii) interior building improvements; and (iii) other projects approved by the City staff. The City staff will develop appropriate materials, including agreements and applications, for the administration of the Downtown Micro-Grant Program.

Description of Downtown Housing Grant Program: The City acknowledges the importance of the rehabilitation of residential units and the alleviation of blighted conditions to the promotion of economic development in the City and in the Urban Renewal Area. The Downtown Housing Grant Program is designed to provide public support to the rehabilitation of residential units in the Main Street District situated in Urban Renewal Area. The City will provide fiscal support to the Downtown Housing Grant Program through the provision of economic development grants (the “Housing Grants”) to qualifying local property owners within the Main Street District situated in the Urban Renewal Area.

The Housing Grants will be targeted to assist local property owners with undertaking certain improvements to residential units located in existing buildings including (i) window rehabilitation or replacement; (ii) plumbing, electrical and mechanical work, fixtures and units; (iii) the installation of basic household appliances; (iv) flooring or rehabilitation of historic flooring; (v) the installation of interior drywall, plaster and wood improvements; and (vi) other projects approved by the City staff. The City staff will develop appropriate materials, including agreements and applications, for the administration of the Downtown Housing Grant Program.

Description of Use of TIF: The economic development grants for the Downtown Micro-Grant Program and the Downtown Housing Grant Program will be funded with borrowed funds and/or with the proceeds of internal advances of City funds on-hand. In any case, the City's obligations, plus any interest expense incurred by the City on such obligations, will be repaid with incremental property tax revenues derived from the Urban Renewal Area. It is anticipated that the City's total commitment of incremental property tax revenues with respect to the Downtown Micro-Grant and Downtown Housing Grant Programs will not exceed \$850,000 (increased from \$650,000 in the July 6, 2021 Amendment to the Plan), over the course of the City's 2020 through 2025 fiscal years.

2) Update Description of the Manufactured Gas Plant Remediation Project. The City approved the Manufactured Gas Plant Remediation Project in the March 18, 2019 Amendment to the Plan and updated such description on July 6, 2021. It is now necessary to update the description of the Manufactured Gas Plant Remediation Project as follows:

Name of Project: Manufactured Gas Plant Remediation Project

Date of Council Approval of Project: March 18, 2019, and updated on July 6, 2021 and August 15, 2022

Description of the Project and Project Location: The City owns certain real property (the "Gas Plant Property") situated near W. 3rd Street North and 6th Avenue West that previously served as the site of a manufactured gas plant. The Manufactured Gas Plant Remediation Project will include (1) the hiring of professional consultants to undertake certain monitoring, testing and assessment activities to determine the level of contamination of the Gas Plant Property; and (2) the remediation of contamination of the Gas Plant Property.

The Manufactured Gas Plant Remediation Project will contribute to the alleviation of conditions of blight in the Urban Renewal Area and the promotion of economic development on the real property situated adjacent to the Gas Plant Property.

Description of Use of TIF: It is anticipated that the City will pay for the Manufactured Gas Plant Remediation Project with borrowed funds and/or the proceeds of an internal advance of City funds on-hand. In any case, the City's obligations, plus any interest expense incurred by the City on such obligations, will be repaid with incremental property tax revenues derived from the Urban Renewal Area. It is anticipated that the City's use of

incremental property tax revenues for the Manufactured Gas Plant Remediation Project will not exceed \$770,000 (increased from \$600,000 in the July 6, 2021 Amendment to the Plan).

3) Identification of Projects. By virtue of this amendment, the list of authorized urban renewal projects in the Plan is hereby amended to include the following project description:

Name of Project: Pedestrian Walkway Beautification and Parking Improvements Project

Date of Council Approval of Project: August 15, 2022

Description of Project and Project Site: The Pedestrian Walkway and Parking Improvements Project (the “Pedestrian Walkway Project”) will consist of the construction of a pedestrian walkway on certain real property situated on, along and adjacent to the 300 block of North 3rd Avenue West (the “Property”), located to the north of the existing Best Western hotel. The City will also construct improvements to an existing parking lot on the Property.

The City acknowledges that the Pedestrian Walkway Project will enhance the quality of life in the City thereby resulting in residential and commercial growth.

Description of Properties to be Acquired in Connection with Project: The City will acquire the Property from the owner of the Best Western hotel and will acquire such easement territory and rights-of-way as are necessary to successfully undertake the Pedestrian Walkway Project.

Description of Use of TIF: It is anticipated that the City will pay for the Pedestrian Walkway Project with either borrowed funds and/or the proceeds of an internal advance of City funds on-hand. In any case, the City’s obligations will be repaid with incremental property tax revenues derived from the Urban Renewal Area. It is anticipated that the City’s use of incremental property tax revenues for the Pedestrian Walkway Project will not exceed \$500,000, plus any interest expense incurred by the City on any borrowing undertaken for the funding of the Pedestrian Walkway Project.

4) Required Financial Information. The following information is provided in accordance with the requirements of Section 403.17 of the Code of Iowa:

Constitutional debt limit of the City:	<u>\$ 46,229,400</u>
Outstanding general obligation debt of the City:	<u>\$ 30,699,462</u>
Proposed maximum indebtedness to be incurred in connection with this August, 2022 Amendment:	<u>\$ 870,000*</u>

*It is anticipated that some or all of the debt incurred hereunder will be subject to annual appropriation by the City Council.

City of Newton Council Report

Item:

Resolution ordering bids, approving plans, specifications and form of contract and notice to bidders, and ordering clerk to publish notice and fixing a date for receiving same, and for a public hearing on plans, specifications, form of contract and estimate of costs for the 2022 Union Cemetery Paving Project.

Summary:

Accept plans and order bids for the 2022 Union Cemetery Paving Project.

Financial Impact:

\$75,000.00 from the General Fund Budget.



Report Number: 22-221

Date:

July 18, 2022

Lead Department:

Community Services

Recommendation:

Approve

Background:

The recent platting of new Veterans Section 3 (V-3) at Union Cemetery requires the construction of roads around said section before it is opened for burials. As part of this proposed project, some minor pavement is being included at the center of V-3 for the planned memorial area, along with a small area of pavement repair near V-2.

Plans and specifications have been prepared by the Community Services Department and are ready to be placed out for bid. The project will include the construction of new full-depth PCC or HMA pavement on the west, north, and east sides of the new V-3 section.

The proposed bid opening for the project will occur on August 4, 2022; and the public hearing to accept bids and award the work will take place at the regularly scheduled council meeting on August 15, 2022.

The engineer's estimate of construction cost is \$75,000.00. The project will be paid for using programmed funds in the FY-23 General Fund budget.

Recommendation:

City staff recommends approval to accept the plans, set dates for the public hearing and bid opening, and obtain bids for the 2022 Union Cemetery Paving Project.

A handwritten signature in black ink, appearing to read "Matt Muckler".

Matt Muckler
City Administrator

RESOLUTION NO. 2022 – _____

RESOLUTION ORDERING BIDS, APPROVING PLANS, SPECIFICATIONS AND FORM OF CONTRACT AND NOTICE TO BIDDERS, AND ORDERING CLERK TO PUBLISH NOTICE AND FIXING A DATE FOR RECEIVING SAME, AND FOR A PUBLIC HEARING ON PLANS, SPECIFICATIONS, FORM OF CONTRACT AND ESTIMATE OF COSTS FOR THE 2022 UNION CEMETERY PAVING PROJECT.

WHEREAS, the recent platting of new Veterans Section 3 (V-3) at Union Cemetery requires the construction of roads around said section before it is opened for burials; and

WHEREAS, the City of Newton Community Services Department has prepared plans and specifications for the proposed 2022 Union Cemetery Paving Project; and

WHEREAS, said plans and specifications are ready to be placed out for bid.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newton, Iowa, that the 2022 Union Cemetery Paving Project in the City of Newton, Iowa is hereby ordered to be advertised for bids. The estimated project cost of \$75,000.00 will be paid by using funds in the FY-23 General Fund budget.

BE IT FURTHER RESOLVED, that the detailed plans and specifications as prepared by the Community Services Department for the 2022 Union Cemetery Paving Project in the City of Newton, Iowa, and the form of contract and Advertisement for Bids and Notice of Hearing, be and the same are hereby approved, subject to hearing thereon, and are hereby ordered placed on file in the office of the Clerk for public inspection; and

That the Clerk is hereby directed to advertise for bids for the construction of said improvements. Bids will be received and opened at the office of the Community Services Director at 10:00 am on the 4th day of August 2022. Thereupon the bids will be referred to the City Council for action upon said bids at a future meeting to be held at the Council Chambers, Newton, Iowa. Notice to Bidders is to be published not less than thirteen (13) calendar days nor more than forty five (45) days prior to the date fixed for said bid opening in the following: 1) a relevant contractor plan room service with statewide circulation, 2) a relevant construction lead generating service with statewide circulation and 3) the City of Newton website; and

That the Council hold a public hearing on the matter of the adoption of proposed plans, specifications and form of contract for the making of said improvements, which documents are now on file in the office of the Clerk, said hearing to be held at the Council Chambers in the City Hall, Newton, Iowa, on the 15th day of August 2022, at 6:00 pm, and that the City Clerk give notice of said hearing by publication once in a local legal newspaper, printed wholly in English language, not less than four (4) clear days nor more than twenty (20) days prior to the date fixed therefore.

PASSED this _____ day of July, 2022.

APPROVED this _____ day of July, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Disbursements 7-19-22

Vendor	Department	Description	Amount
Acushnet Company	Golf	Merchandise	\$ 2,908.80
Aerzen USA Corp	Water Pollution Control	Supplies	\$ 1,008.25
AESSEAL Midwest Inc	Water Pollution Control	Supplies	\$ 1,141.30
Airgas USA LLC	Fire	Service	\$ 114.70
All Star Pro Golf	Golf	Merchandise	\$ 591.50
Alliant Energy/IPL	All	Utilities	\$ 62,588.14
Amazon Capital Services	All	Supplies	\$ 3,383.50
American Business Phones	Administration	Service	\$ 155.00
Amerigroup Iowa Inc	Fire	Reimbursement	\$ 736.83
Baker Electric Inc	Traffic Control	Service	\$ 1,775.00
BARCO Municipal Product	Traffic Control	Supplies	\$ 397.80
Beck's	Landfill	Supplies	\$ 254.00
Bob's Septic	Golf/Parks	Service	\$ 630.00
Bound Tree Medical LLC	Fire	Supplies	\$ 402.60
Brick Gentry P.C.	Legal Services/D&D/WPC	Service	\$ 16,715.00
Bruening Rock Products Inc	Landfill	Supplies	\$ 273.47
Caldwell Brierly & Chalupa PLLC	D&D Program	Service	\$ 1,400.50
Callaghan, Meg	Maytag Pool	Training	\$ 100.00
Callaway Golf	Golf	Merchandise	\$ 245.10
Cappy's Tire & Auto Service	Cemetery	Service	\$ 1,487.20
Card Services	All	Supplies	\$ 4,542.36
Cardinal Trophies	Fire	Supplies	\$ 27.50
Carolina Software	Landfill	Service	\$ 500.00
Central Iowa Farm Store	Parks	Supplies	\$ 392.62
Chamber of Commerce	Parks	Supplies	\$ 200.00
Cintas	All	Supplies	\$ 637.93
Clapsaddle-Garber Assoc	Airport RESO 2020-111	Service	\$ 25,532.54
Command Presence LLC	Police	Training	\$ 537.00
Computer Resource Specialists	Administration	Service	\$ 585.00
Con-Struct Inc	Airport RESO 2021-134	Service	\$ 663,687.76
Dannen, Shannon	D&D Program	Service	\$ 422.00
Diamond Vogel Inc	Parks	Supplies	\$ 299.08
Dodd Trash Hauling & Recycling	Solid Waste	Service	\$ 2,025.75
Eckert, Bernard	Police	Reimbursement	\$ 51.18
EZ Lease	Fire/WPC	Service	\$ 245.01
Fair Manufacturing	Snow Removal	Supplies	\$ 7,797.50
Fire Dept Training Net	Fire	Service	\$ 60.00
Forbes Office Solutions	All	Supplies	\$ 3,667.35
Galls LLC	Fire	Supplies	\$ 371.99
Gregg Young Auto Center	Police	Service	\$ 1,462.52
Hawkins Water Treatment	Water Pollution Control	Supplies	\$ 637.80
Henderson Products Inc	Snow Removal	Supplies	\$ 219.55
Hillyard / Des Moines	Fire	Supplies	\$ 477.20
HLW Engineering Group	Landfill	Service	\$ 412.00
Home Depot Pro	Landfill/ Parks	Supplies	\$ 227.24
Hornung's	Golf	Merchandise	\$ 200.77
Houser, Emma	Maytag Pool	Training	\$ 100.00
Hoya Vision - Dept 2454	Administration	Supplies	\$ 157.00
Hy-Vee Inc	Fire	Supplies	\$ 23.96
Image Trend Inc	Fire	Service	\$ 15,216.86
IMWCA	All	Service	\$ 26,759.89
International Assoc of Chiefs of Police	Police	Training	\$ 870.00

Iowa Inspections	Fire	Service	\$ 3,000.00
Iowa Prison Industries	Cemetery/Street	Service	\$ 3,748.80
Iowa Pump Works	Maytag Pool RESO 2022-117/131	Service	\$ 26,184.13
Iowa Regional Utilities Assoc	Community Beautification	Supplies	\$ 381.00
Jasper County Environmental Health	Maytag Pool	Service	\$ 493.00
JETCO Inc	Water Pollution Control	Service	\$ 139.30
Johnson Aviation	Airport	Reimb	\$ 48.14
Karsten, Matthew	Maytag Pool	Training	\$ 100.00
Key Cooperative	All	Supplies	\$ 20,926.89
Keystone Labs	Landfill	Service	\$ 6,508.90
Krivachek Janitorial Supply	Water Pollution Control	Supplies	\$ 283.21
Lands' End Business Outfitters	Engineering	Clothing	\$ 156.79
Lawson Products Inc	City Garage	Supplies	\$ 30.17
Lexipol LLC	Police RESO 2022-203	Service	\$ 10,204.82
Liberty Tire Services LLC	Landfill	Supplies	\$ 1,461.55
Logan Contractors Supply	Street	Supplies	\$ 4,247.82
Lyman, Rick	Parks/Police	Service	\$ 1,342.70
Magnum Automotive	Police	Service	\$ 1,289.86
Mahaska Bottling Co	Golf	Concessions	\$ 958.10
Manatts - D.M.	Street	Supplies	\$ 5,917.20
Martin Marietta Materials	Parks	Supplies	\$ 481.24
Maxim Advertising	Administration	Service	\$ 210.00
McMaster-Carr	Water Pollution Control	Supplies	\$ 459.07
Mediacom	Golf	Utility	\$ 109.95
Menards-Altoona	Parks	Supplies	\$ 177.81
MercyOne Occupational Health Clinic	Fire	Service	\$ 900.00
MG Laundry Corporation	City Center	Service	\$ 85.85
Mid-American Research Chemical	Water Pollution Control	Supplies	\$ 1,402.50
Mid-Iowa Assoc of Local Gov	Executive	Service	\$ 600.00
Miller, Ben	Parks	Service	\$ 240.00
MTI Distributing Inc	Golf/Parks	Supplies	\$ 391.12
MyGov	Administration	Service	\$ 9,828.00
NAPA Auto Parts	All	Supplies	\$ 1,637.50
News Printing Company	All	Advertising	\$ 3,575.91
Northwestern University	Police	Training	\$ 1,000.00
O'Reilly Auto Parts	Parks	Supplies	\$ 9.99
Parkview Animal Hospital	Animal Control	Service	\$ 2,825.00
Premier Office Equipment	Police	Service	\$ 278.62
Quill Corporation	All	Supplies	\$ 738.90
RACOM Corporation	Police	Equipment	\$ 1,508.28
Ray, Randy	D&D/SSMID	Service	\$ 1,995.00
Riney, Alexandra	Maytag Pool	Clothing	\$ 50.00
Sea Turtle Ice Cream Company LLC	Parks	Supplies	\$ 68.00
Shomo-Madsen-Woythaler Insurance	Tort Liability	Service	\$ 16,017.00
Spahn & Rose Lumber Co	All	Supplies	\$ 553.66
Springer Professional Home Services	City Center/Golf	Service	\$ 174.90
Streichers	Police	Equipment	\$ 879.00
Theisen's	All	Supplies	\$ 1,417.35
Theisen's Marshalltown	Parks/Street	Supplies	\$ 296.23
Town & Country Wholesale Co	Golf/Maytag Pool	Concessions	\$ 3,381.31
Truck Equipment	Parks	Supplies	\$ 1,095.76
True Value Hardware	All	supplies	\$ 452.54
Turfwerks	Golf	Supplies	\$ 784.78
Two Rivers Cooperative	All	Fuel	\$ 16,908.94
United States Cellular	All	Utilities	\$ 1,412.11
Unplugged Wireless Communications LLC	Landfill/Street	Service	\$ 3,482.18

USABlueBook	Water Pollution Control	Supplies	\$ 7,522.96
Van Maanen Electric Inc	Maytag Pool	Service	\$ 1,721.81
Warnick & Reeves Mechanical	City Center/Fire	Service	\$ 539.92
Washer Systems of Iowa Inc	City Garage	Supplies	\$ 422.40
Water Department	All	Utilities	\$ 11,145.27
Zimco Supply Company	Golf/Parks	Supplies	\$ 1,700.00
Total			\$ 1,040,559.29

Pre-Authorized Payments

AT & T Mobility	Landfill/Police	Utilities	\$ 1,033.99
Beverage Distributors of Iowa	Golf	Concessions	\$ 295.56
Determan Christopher	Parks	Service	\$ 800.00
Doll Distributing LLC	Golf	Concessions	\$ 1,306.48
Iowa Beverage Systems	Golf	Concessions	\$ 554.40
Iowa Communities Assurance Pool	All RESO 2022-190	Service	\$ 305,795.00
Johansen Ray	Parks	Service	\$ 400.00
Johnson Brothers of Iowa	Golf	Concessions	\$ 554.40
Trojan Technologies Group ULC	WPC RESO 2021-231	Service	\$ 39,901.93
United Parcel Service	Fire	Service	\$ 13.62
Total			\$ 350,655.38

ACH Payments from Great Southern Bank

Advantage Credit Union	All	Insurance	\$ 14,500.00
Bank Iowa	All	Insurance	\$ 5,220.00
Great Southern Bank	All	Insurance	\$ 290.00
Kabel	All	Insurance	\$ 50.00
Mutual of Omaha	All	Insurance	\$ 4,180.62
Great Southern Bank	Golf	Fees	\$ 1,423.68
Met Life Dental	All	Insurance	\$ 10,445.83
State of Iowa	General	Sales Tax	\$ 7,953.41
Wellmark BC/BS	All	Insurance	\$ 184,316.36
Total:			\$ 228,379.90

City of Newton Council Report

Item: Resolution Adopting the Jasper County Multi-Jurisdictional Hazard Mitigation Plan 2022-2027.

Summary: This plan identifies multi-jurisdictional hazards in Jasper County and identifies mitigation strategies.

Financial Impact: Adoption of this document will allow for application to grants in areas of emergency management and disaster preparedness.



Report Number: 22-222

Date: July 18, 2022

Lead Department: Fire

Recommendation:
Approval of Resolution

Background:

The Jasper County Emergency Management Agency (EMA) worked in conjunction with local governments to create a mitigation plan that identifies potential hazards and the actions that need to be taken to reduce or eliminate the long-term risks to human life and property from those hazards for the residents of Jasper County and the City of Newton. A Local Mitigation Plan, as defined in 44 CFR Section 201.6, is required for local jurisdictions that elect to participate in FEMA hazard mitigation programs as a sub-applicant or sub-grantee. Jasper County contracted with the East Central Iowa Council of Governments to assist the local Hazard Mitigation Planning Committee to prepare the new plan. The plans are typically developed for a five-year period and are updated as new information comes available.

The draft of the plan is available at the following website:

<https://www.talkto.ecicog.org/jasper-hazmit>

Once adopted by Jasper County, the plan will be accessible on the Jasper County website. We also plan to place a link to the plan on our website under Emergency Management on the Fire Department page.

Recommendation

Staff recommends adopting the Jasper County Multi-Jurisdictional Hazard Mitigation Plan 2022 - 2027.

A handwritten signature in black ink, appearing to read "Matt Muckler", is written over a light blue horizontal line.

Matt Muckler
City Administrator

Attachments

RESOLUTION NO 2022 - _____

RESOLUTION ADOPTING THE JASPER COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN 2022-2027

WHEREAS, the City Council of the City of Newton has heretofore deemed it necessary and desirable to have a Hazard Mitigation Plan that identifies potential hazards and the actions that need to be taken to reduce or eliminate the long-term risks to human life and property from those hazards for the residents of the City of Newton; and

WHEREAS, a Local Mitigation Plan, as defined in 44 CFR Section 201.6 is required for local jurisdictions that elect to participate in FEMA hazard mitigation programs as a sub-applicant or sub-grantee; and

WHEREAS, the East Central Iowa Council of Governments (ECICOG) with the help of the Hazard Mitigation Planning Committee has prepared the hazard mitigation plan that will be placed on file in City Administration Offices for public inspection upon approval of the plan by FEMA; and

WHEREAS, a public hearing has been held in accordance with published notice of the same as by law provided; and

WHEREAS, the Jasper County Emergency Management Coordinator has recommended approval of the same,

NOW, THEREFORE, BE IT RESOLVED by the City Council of City of Newton, Iowa, that the above-referenced Jasper County Multi-Jurisdictional Hazard Mitigation Plan 2022-2027 be and the same is hereby approved.

PASSED this _____ day of July 2022.

APPROVED this _____ day of July 2022.

Michael L. Hansen, Mayor

(SEAL)

ATTEST:

Katrina A. Davis, City Clerk

City of Newton Council Report

**Item:**

An ordinance adding Title XI, Chapter 120 - Natural Gas Franchise to the Newton Code of Ordinances 2016, granting to Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, its successors and assigns, a nonexclusive twenty-five year franchise to construct, operate, maintain, and extend a natural gas distribution system in the City of Newton, Iowa.

Report Number: 22-206**Date:**

July 5, 2022

Lead Department:

Community Services

Summary:

Adding Chapter 120 - Natural Gas Franchise with Black Hills Energy to Title XI of the Newton City Code.

Recommendation:

Approve

Financial Impact:

none

Background:

Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy recently requested that the City of Newton enact an ordinance granting Black Hills Energy a new nonexclusive twenty-five year franchise agreement to construct, operate, maintain, and extend a natural gas distribution system in the City of Newton, Iowa. This agreement would define the rights and responsibilities of both the City and Black Hills Energy as it relates to Black Hills Energy's natural gas distribution system within Newton.

Following reviews by staff and the City Attorney, this proposed ordinance granting Black Hills Energy a 25-year, non-exclusive natural gas franchise is presented for City Council's consideration. Some of the key points in this natural gas franchise include:

- Limited rights of cancellation added at the 8th and 16th year anniversaries' of the franchise approval.
- Defining the responsibilities for the relocation of Black Hills Energy's infrastructure due to public and private improvement projects.
- Construction and restoration standards in the public right-of-way.

Recommendation:

Staff recommends approval of the ordinance, which would replace Ordinance No. 1883 approved on August 18, 1997.

Matt Muckler
City Administrator

ORDINANCE NO. _____

AN ORDINANCE ADDING TITLE XI, CHAPTER 120 - NATURAL GAS FRANCHISE TO THE NEWTON CODE OF ORDINANCES 2016, GRANTING TO BLACK HILLS/IOWA GAS UTILITY COMPANY, LLC D/B/A BLACK HILLS ENERGY, ITS SUCCESSORS AND ASSIGNS, A NONEXCLUSIVE TWENTY-FIVE YEAR FRANCHISE TO CONSTRUCT, OPERATE, MAINTAIN, AND EXTEND A NATURAL GAS DISTRIBUTION SYSTEM IN THE CITY OF NEWTON, IOWA.

SECTION 1. Purpose. Adding Chapter 120 - Natural Gas Franchise to Title 11 of the Newton City Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON, IOWA:

SECTION 1. Title 11, Chapter 120 - Natural Gas Franchise is hereby added as follows:

§ 120.001 FRANCHISE GRANTED - The City of Newton, Iowa (hereinafter referred to as "Grantor"), hereby grants a non-exclusive franchise to Black Hills/Iowa Gas Utility Company, LLC d/b/a Black Hills Energy, a Delaware limited liability corporation (hereinafter called "Grantee"), its lessees, successors and assigns. Grantee is hereby granted the right, privilege, franchise, permission and authority to lay, construct, install, maintain, operate and extend in, along, over, above or across the present and future streets, alleys, avenues, bridges, public rights-of-way and public easements as are now within the present or future limits of said Grantor, a natural gas distribution system and all facilities necessary for the purpose of supplying natural gas or processed gas and other operations connected therewith or incident thereto for all purposes to the inhabitants of said Grantor and consumers in the vicinity thereof, and for the distribution of natural gas from or through said Grantor to points beyond the limits thereof. Such facilities shall include, but not be limited to, all mains, services, pipes, poles, communication devices, conduits and all other apparatus and appliances necessary or convenient for transporting, distributing and supplying natural gas for all purposes for which it may be used, and to do all other things necessary and proper in providing natural gas service to the inhabitants of Grantor and in carrying on such business.

§ 120.002 TERM - The rights and privileges granted hereunder shall remain in effect for a period of twenty-five (25) years from the effective date of this Ordinance. Grantor shall have the right to review and if it in its sole discretion deems appropriate, terminate the franchise granted by this ordinance. The right to review and terminate the franchise may be exercised by Grantor on the following dates: Eight (8) years from the date of enactment of the ordinance, sixteen (16) years from the date of this ordinance. In the event, Grantor elects to terminate the franchise Grantor through its Clerk, shall notify the Grantee in writing at least one hundred and eighty (180) days before the effective date of termination.

§ 120.003 FRANCHISE FEES OR TAXES - Grantor may, during the term of this franchise, in its discretion, in compliance with and as authorized by state law, after public hearing and upon a majority vote of a majority of the members of the Grantor's City Council then present, pass an ordinance imposing a franchise fee on Grantee's customers located within Grantor's corporate limits; provided, however, that the franchise fee shall not be effective, and Grantee shall not be obligated to collect and pay same, unless and until: (1) it is satisfactory to Grantee with respect to its compatibility with Grantee's billing system; (2) the form of assessment and collection of the franchise fee is based on either: (a) a percentage of Grantee's gross receipts of regulated sales or transportation revenues collected from Grantee's customers within Grantor's corporate limits; (b) a volumetric fee based upon Grantee's delivery of energy within Grantor's corporate limits; or (c) a flat fee collected on a nondiscriminatory basis from each of Grantee's customers within Grantor's corporate limits; and (3) Grantor has imposed a franchise fee on all other parties supplying energy within Grantor's corporate limits, calculated in the same manner as the franchise fee imposed on Grantee's customers.

§ 120.004 GOVERNING RULES AND REGULATIONS - The franchise granted hereunder is subject to all conditions, limitations and immunities now provided for, or as hereafter amended, and applicable to the operations of a public

utility, by state or federal law. The rates to be charged by Grantee for service within the present or future corporate limits of Grantor and the rules and regulations regarding the character, quality and standards of service to be furnished by Grantee, shall be under the jurisdiction and control of such regulatory body or bodies as may, from time to time, be vested by law with authority and jurisdiction over the rates, regulations and quality and standards of service to be supplied by Grantee. Provided however, should any judicial, regulatory or legislative body having proper jurisdiction take any action that precludes Grantee from recovering from its customers any cost associated with services provided hereunder, then Grantee and Grantor shall renegotiate the terms of this Ordinance in accordance with the action taken. In determining the rights and duties of the Grantee, the terms of this Ordinance shall take precedence over any conflicting terms or requirements contained in any other ordinance enacted by the Grantor.

§ 120.005 PROVISION FOR INADEQUATE ENERGY SUPPLIES - If an energy supplier is unable to furnish an adequate supply of energy due to an emergency, an order or decision of a public regulatory body, or other acts beyond the control of the Grantee, then the Grantee shall have the right and authority to adopt reasonable rules and regulations limiting, curtailing or allocating extensions of service or supply of energy to any customers or prospective customers, and withholding the supply of energy to new customers, provided that such rules and regulations shall be uniform as applied to each class of customers or prospective customers, and shall be non-discriminatory as between communities receiving service from the Grantee.

§ 120.006 CONSTRUCTION AND MAINTENANCE OF GRANTEE'S FACILITIES - Any pavements, sidewalks or curbing taken up and any and all excavations made shall be done in such a manner as to cause only such inconvenience to the inhabitants of Grantor and the general public as is reasonably necessary, and repairs and replacements shall be made promptly by Grantee, leaving such properties in as good as condition as existed immediately prior to excavation. Grantee shall comply with all city ordinances regarding paving cuts, placement of facilities and restoration of pavement and other public infrastructure. Grantee shall replace the surface, restoring the condition as existed prior to the Grantee's excavation, but shall not be required to improve or modify the public right of way unless said improvement is necessary to meet a SUDAS (statewide urban design and specifications) standard, a requirement of the Americans with Disabilities Act, or any other standard mandated by state or federal law, provided however, if any improvement is requested or required for aesthetic, cosmetic or similar purposes not mandated by state or federal law, Grantor shall reimburse Grantee the incremental cost of such improvements.

Grantee agrees that for the term of this franchise, it will use its best efforts to maintain its facilities and equipment in a condition sufficient to meet the current and future energy requirements of Grantor, its inhabitants and industries. While maintaining its facilities and equipment, Grantee and Grantee's contractors shall obtain permits as required by ordinance and will fix its excavations within a commercially reasonable time period, except that in emergency situations Grantee shall take such immediate unilateral actions as it determines are necessary to protect the public health, safety, and welfare; in which case, Grantee shall notify Grantor as soon as reasonably possible. Within a reasonable time thereafter, Grantee shall request and Grantor shall issue any permits or authorizations required by Grantor for the actions conducted by Grantee during the emergency situation.

Grantor will give Grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved that affects Grantee's facilities. The notice shall contain the nature and character of the improvements, the rights-of-way upon which the improvements are to be made, the extent of the improvements, and the time when the Grantor will start the work, and, if more than one right-of-way is involved, the order in which the work is to proceed. The notice shall be given to the Grantee as soon as practical in advance of the actual commencement of the work, considering seasonable working conditions, to permit the Grantee to make any additions, alterations, or repairs to its facilities.

§ 120.007 EXTENSION OF GRANTEE'S FACILITIES - Upon receipt and acceptance of a valid application for service, Grantee shall, subject to its own economic feasibility criteria as approved by the Iowa Utilities Board make reasonable extensions of its distribution facilities to serve customers located within the current or future corporate limits of Grantor.

§ 120.008 RELOCATION OF GRANTEE'S FACILITIES - If Grantor elects to change the grade of or otherwise alter any street, alley, avenue, bridge, public right-of-way or public place for a public purpose, unless otherwise reimbursed by federal, state or local legislative act or governmental agency, Grantee, upon reasonable notice from Grantor, shall remove and relocate its facilities or equipment situated in the public rights-of-way, at the cost and expense of Grantee, if such removal is necessary to prevent interference with Grantor's facilities.

If Grantor orders or requests Grantee to relocate its facilities or equipment for the primary benefit of a commercial or private project, or as a result of the initial request of a commercial or private developer or other non-public entity, and such removal is necessary to prevent interference with such project, then Grantee shall receive payment for the cost of such relocation as a precondition to relocating its facilities or equipment.

Grantor shall consider reasonable alternatives in designing its public works projects and exercising its authority under this section so as not to arbitrarily cause Grantee unreasonable additional expense. If alternative public right-of-way space is available, Grantor shall also provide a reasonable alternative location for Grantee's facilities. Grantor shall give Grantee written notice of an order or request to vacate a public right-of-way; provided, however, that its receipt of such notice shall not deprive Grantee of its right to operate and maintain its existing facilities in such public right-of-way until it (a) if applicable, receives the reasonable cost of relocating the same and (b) obtains a reasonable public right-of-way, dedicated utility easement, or private easement alternative location for such facilities.

§ 120.009 CONFIDENTIAL INFORMATION - Grantor acknowledges that certain information it might request from Grantee pursuant to this Ordinance may be of a proprietary and confidential nature, and that such requests may be subject to the Homeland Security Act or other confidentiality protections under state or federal law. If Grantee requests that any information provided by Grantee to Grantor be kept confidential due to its proprietary or commercial value, Grantor and its employees, agents and representatives shall maintain the confidentiality of such information, to the extent allowed by law. If Grantor is requested or required by legal or administrative process to disclose any such proprietary or confidential information, Grantor shall promptly notify Grantee of such request or requirement so that Grantee may seek an appropriate protective order or other relief.

§ 120.010 FORCE MAJEURE - It shall not be a breach or default under this Ordinance if either party fails to perform its obligations hereunder due to force majeure. Force majeure shall include, but not be limited to, the following: 1) physical events such as acts of God, landslides, lightning, earthquakes, fires, freezing, storms, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery, equipment or distribution or transmission lines; 2) acts of others such as strikes, work-force stoppages, riots, sabotage, insurrections or wars; 3) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, executive order, or regulation promulgated by a governmental authority having jurisdiction; and (4) any other causes, whether of the kind herein enumerated or otherwise not reasonably within the control of the affected party to prevent or overcome. Each party shall make reasonable efforts to avoid force majeure and to resolve such event as promptly as reasonably possible once it occurs in order to resume performance of its obligations hereunder; provided, however, that this provision shall not obligate a party to settle any labor strike.

§ 120.011 HOLD HARMLESS - Grantee, during the term of this Ordinance, agrees to indemnify, defend and save harmless Grantor from and against all claims, demands, losses and expenses (including, but not limited to, court costs, fines, penalties, and reasonable attorney's fees) arising directly out of the negligence or omissions of Grantee, its employees or agents, in constructing, operating, and maintaining its distribution and transmission facilities or equipment; provided, however, that Grantee need not save Grantor harmless from claims, demands, losses and expenses arising out of the negligence of Grantor, its employees or agents.

§ 120.012 SUCCESSORS AND ASSIGNS - All rights, privileges and authority granted to Grantee hereunder shall inure to the benefit of Grantee's lessees, successors and assigns, subject to the terms, provisions and conditions herein contained, and all obligations imposed upon Grantee hereunder shall be binding upon Grantee's lessees, successors and assigns.

§ 120.013 NO THIRD PARTY BENEFICIARIES - This Ordinance constitutes a franchise agreement between the Grantor and Grantee. No provision of this Ordinance shall inure to the benefit of any third person, including the public at large, so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action for any person not a party hereto.

§ 120.014 NON WAIVER - Any waiver of any obligation or default under this Ordinance shall not be construed as a waiver of any future defaults, whether of like or different character.

§ 120.015 EFFECT AND INTERPRETATION OF ORDINANCE - The captions that precede each section of this Ordinance are for convenience and/or reference only and shall not be taken into consideration in the interpretation of any of the provisions of this Ordinance.

SECTION 2: Repealer Clause. This Ordinance, when accepted by Grantee as provided below, shall constitute the entire agreement between the Grantor and the Grantee relating to the franchise granted by Grantor hereunder, and the same shall supersede all prior ordinances relating thereto, and any terms and conditions of such prior ordinances or parts of ordinances in conflict herewith are hereby repealed. Ordinance No. 1883 of the City of Newton, Iowa, is hereby repealed as of the effective date hereof.

SECTION 3: Severability Clause. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4: Effective Date and Acceptance. This Ordinance shall become effective and be a binding contract between the Grantor and Grantee upon its final passage and approval by Grantor, in accordance with applicable laws and regulations, and upon Grantee's acceptance by written instrument, within sixty (60) days of passage by the city council, and filing with the Clerk of the City of Newton, Iowa. The Clerk of the City of Newton, Iowa shall sign and affix the community seal to acknowledge receipt of such acceptance, and return one copy to Grantee. If Grantee does not, within sixty (60) days following passage of this Ordinance, either express in writing its objections to any terms or provisions contained therein, or reject this Ordinance in its entirety, Grantee shall be deemed to have accepted this Ordinance and all of its terms and conditions.

APPROVED this ____ day of _____, 2022.

PASSED this ____ day of _____, 2022.

(SEAL)

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

I, Katrina Davis, City Clerk of the City of Newton, Iowa, do hereby certify that the foregoing Ordinance was passed and approved by the City Council of the City of Newton, Iowa, on the ____ day of _____, 20__, and was published in the *Newton Daily News*, a newspaper of general circulation in the said City of Newton on the ____ day of _____, 20__.

Signed: _____
Katrina Davis, City Clerk

City of Newton Council Report

Item: An ordinance vacating and disposing of the full width of the east-to-west South 7th Avenue East roadway located between the 600 and 700 blocks of East 27th Street South, City of Newton, Jasper County, Iowa.

Summary: The proposal is to vacate the public roadway and attach it to the abutting property on the north side.

Financial Impact: No Cost.



Report Number: 22-207

Date: July 5, 2022

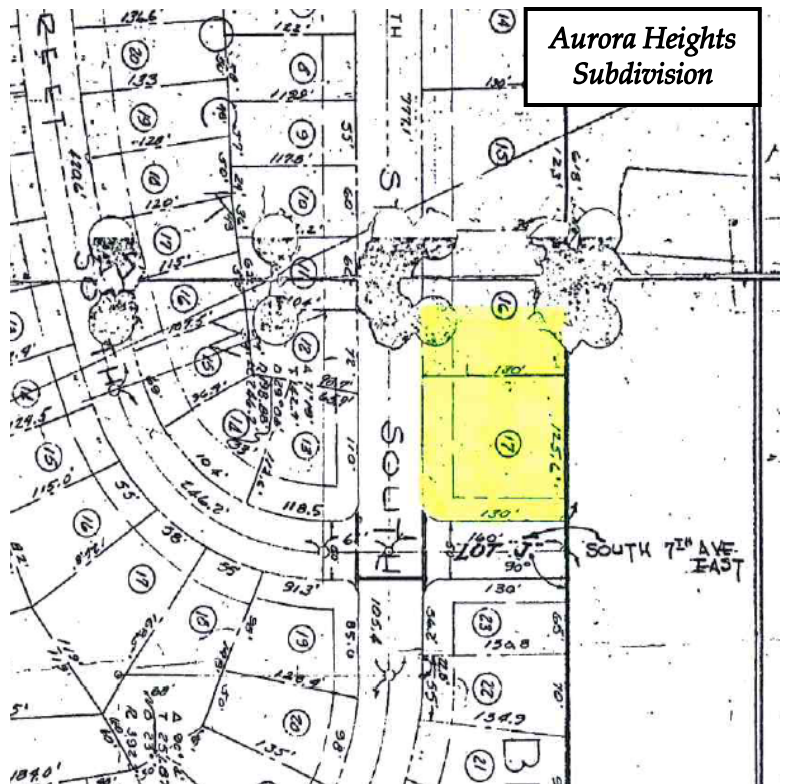
Lead Department:
Community Development
Department

Recommendation:
Approve

Summary: The proposal is to vacate the full width of the east-to-west South 7th Avenue East roadway located between the 600 and 700 blocks of East 27th Street South. The subject roadway was originally platted (Aurora Heights Subdivision, 1954) to serve as a future connection of South 7th Avenue East to extend eastward into what is now developed as single family homes in Eastgate Meadows Phase I subdivision (1998).

The subject roadway to be vacated is indicated by a yellow outline on the aerial image below, and the property to the north (receiving the land from the street vacation) is highlighted in yellow on the clipping of the Aurora Heights Subdivision found below.

Other than underground utilities which are to be protected by easement, the land serves no public purpose. The proposed vacation will not pose a circulation problem for the block or neighborhood and would assign the full width of the roadway to the property to the north.



Planning and Zoning Commission: At their meeting on June 7, 2022, the Planning and Zoning Commission unanimously approved a motion to recommend approval of the proposed South 7th Avenue East street vacation and assign the full width of the roadway to the property adjacent and to the north of the subject roadway subject to the following conditions:

- Newton Public Works shall no longer be responsible for maintenance of the stub street (all pavement extending beyond the east curb line of E. 27th St. S.), as it will now be recognized as a private driveway approach. Any improvements or alterations made by the property owner shall bring the approach into compliance with current city standards.
- A permanent access and maintenance easement shall be acquired for the city-owned sanitary and storm sewers located in the general area. The use of the land shall meet all established minimum city code requirements.

Notice of Proposal: The abutting property owners received a letter notification via USPS mail in advance of the Planning and Zoning Commission meeting held on June 7, 2022 and the City Council meeting on July 5, 2022. Notice was also published in the Newton Daily News in advance of the June 7th Planning and Zoning Commission meeting on May 31st as well as in advance of the July 5th City Council meeting (published on June 28th).

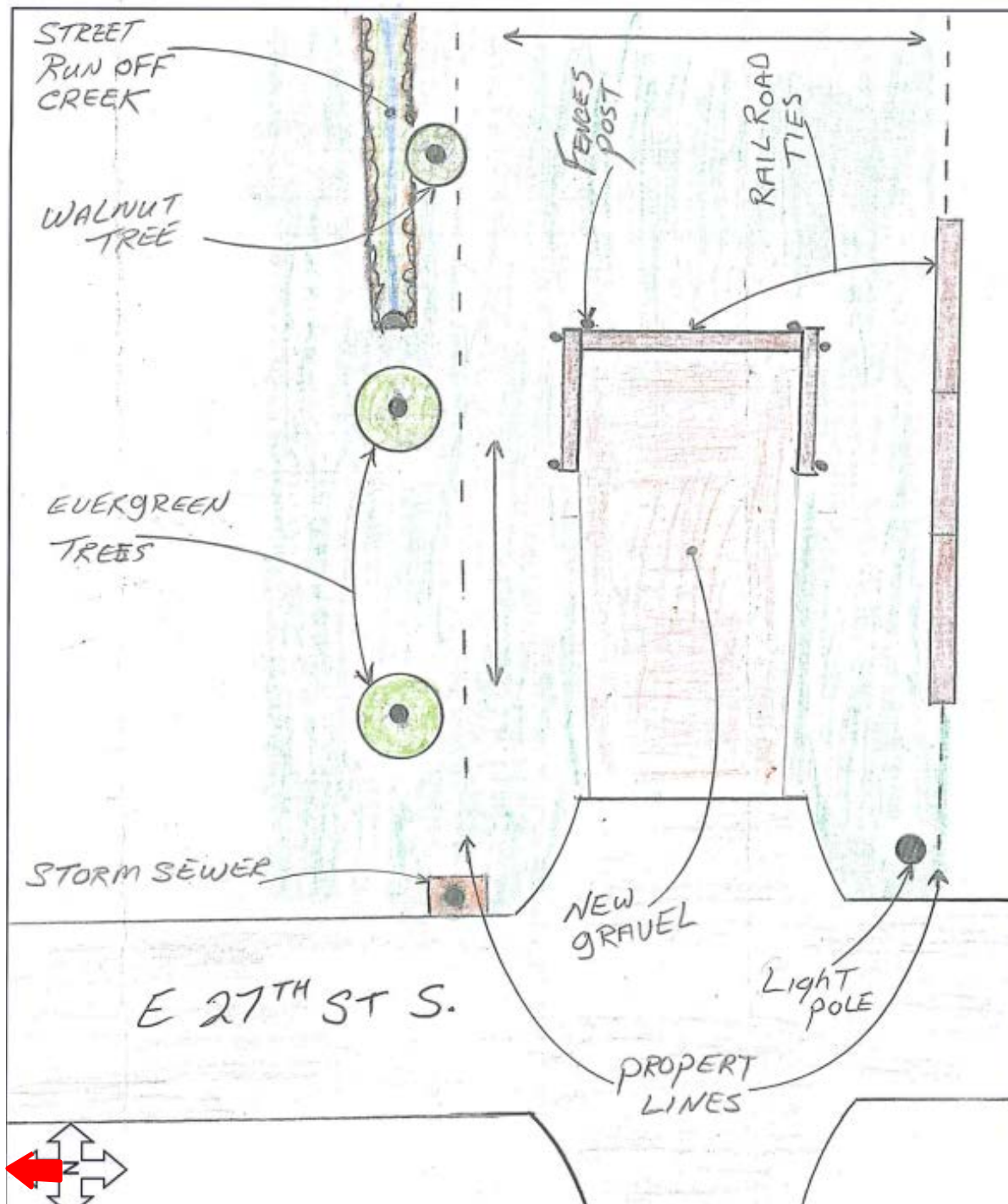
City Council Review: Street and alley vacations are adopted by ordinance, so this action is subject to 3 readings.

Recommendation: Staff recommends approval.

A handwritten signature in black ink, appearing to read "Matt Muckler". The signature is fluid and cursive, with the first name "Matt" and last name "Muckler" clearly distinguishable.

Matt Muckler
City Administrator

Sketch Layout by abutting owner for proposed use of unimproved roadway:



Prepared by: City of Newton, 101 W 4th St S, Newton, Iowa 50208-0339, 641-792-2787
Return to: City Clerk, 101 W 4th St S, Newton, Iowa 50208-0339, 641-792-2787
Address Tax Statements to:
Vincent R. Haydon, 604 East 27th Street South, Newton, Iowa 50208

ORDINANCE NO. _____

AN ORDINANCE VACATING AND DISPOSING OF THE FULL WIDTH OF THE EAST-TO-WEST SOUTH 7TH AVENUE EAST ROADWAY LOCATED BETWEEN THE 600 AND 700 BLOCKS OF EAST 27TH STREET SOUTH, CITY OF NEWTON, JASPER COUNTY, IOWA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NEWTON, IOWA:

Section 1. Disposal of Real Estate. Following public hearing and having given careful study to the proposal, the City Council determines that city-owned right-of-way described as follows:

LOT "J" BETWEEN BLOCK "Y" AND BLOCK "N" IN AURORA HEIGHTS SUBDIVISION IN THE CITY OF NEWTON, JASPER COUNTY, IOWA, AS APPEARS IN PLAT BOOK D, AT PAGE 201 IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

is of no benefit to the public and should be vacated and conveyed by the City of Newton, Iowa under authority of Iowa Code § 354.23.

Section 2. Real Estate Conveyed. Pursuant to Iowa Code § 354.23, the City Council declares the City right-of-way described in Section 1 above is hereby vacated, conveyed, and quitclaimed as follows:

Vincent R. Haydon (604 East 27th Street South, Newton, Iowa 50208): The full width of the east-west South 7th Avenue East roadway located between the 600 and 700 blocks of East 27th Street South as described above in Aurora Heights Subdivision Plat Number Five, City of Newton, Jasper County, Iowa;

Section 3. Recording. The City Clerk is directed to deliver this ordinance to the County Recorder according to Iowa Code § 354.23. This writing is exempt from transfer tax fees pursuant to Iowa Code § 428A.2(6).

Section 4. Exemption. This writing is exempt from transfer tax fees pursuant to Iowa Code § 428A.2(6).

Section 5. Repealer Clause. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. Severability Clause. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 7. Effective. This ordinance shall be effective from and after the final passage, approval and publication as provided by law.

PASSED this _____ day of August 2022.

APPROVED this _____ day of August 2022.

(SEAL)

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

First Consideration: _____
Public Hearing: _____
Second Consideration: _____
Third Consideration: _____

I, Katrina Davis, City Clerk of the City of Newton, Iowa, do hereby certify that the forgoing Ordinance was passed and approved by the City Council of the City of Newton, Iowa on the ____ day of _____, 2022, and was published in the Newton Daily News, a newspaper of general circulation in the said City of Newton on the ____ day of _____, 2022.

Dated this ____ day of _____, 2022.

Katrina Davis, City Clerk

STATE OF IOWA)
) SS
COUNTY OF JASPER)

On this ____ day of _____, 2022 before me, the undersigned, a Notary Public in and for the County of Jasper, personally appeared Michael L. Hansen and Katrina Davis, to me personally known, who being by me sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Newton, Iowa; that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of said City of Newton, Iowa, by authority of the City Council; and that said Michael L. Hansen and Katrina Davis, as such officers, acknowledged the execution of said instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it and by them voluntarily executed.

Notary Public in and for the State of Iowa

Prepared By/Easement Grantee: Joe Grife - City of Newton – 403 W 4th St N, Suite 501 - Newton, IA 50208 - phone: 641-792-6622

Taxpayer/Easement Grantor: Vincent Haydon – 604 E 27th St S – Newton, IA 50208

Legal Description: LOT 17 AND THE SOUTH HALF OF LOT 16 IN BLOCK Y IN AURORA HEIGHTS SUBDIVISION IN THE CITY OF NEWTON, JASPER COUNTY, IOWA, AS APPEARS IN PLAT BOOK D, AT PAGE 201 IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

AND

LOT "J" BETWEEN BLOCK "Y" AND BLOCK "N" IN AURORA HEIGHTS SUBDIVISION IN THE CITY OF NEWTON, JASPER COUNTY, IOWA, AS APPEARS IN PLAT BOOK D, AT PAGE 201 IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

Parcel No: 0835430007

Easement No: 2022-02

REAL ESTATE EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS:

That I, the undersigned, Vincent Haydon (hereinafter called "Property Owner") in consideration of the sum of One Dollar (\$1.00) to be paid by the City of Newton, Iowa upon final approval and acceptance of this Easement by the Newton City Council, do hereby convey unto the CITY OF NEWTON, IOWA, a municipal corporation, (hereinafter called "City") an EASEMENT on, under, over, through and across the following described real estate, subject to the terms and conditions specified herein:

PERMANENT MUNICIPAL UTILITY EASEMENT

1. GRANT OF EASEMENT. A permanent easement is hereby granted on, under, over, through and across the following described property:

THE SOUTH 70.00 FEET OF THE FOLLOWING DESCRIBED REAL ESTATE IN JASPER COUNTY, IOWA:
LOT 17 AND THE SOUTH HALF OF LOT 16 IN BLOCK Y IN AURORA HEIGHTS SUBDIVISION IN THE CITY OF NEWTON, JASPER COUNTY, IOWA, AS APPEARS IN PLAT BOOK D, AT PAGE 201 IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

AND

THE NORTH 25.00 FEET OF THE FOLLOWING DESCRIBED REAL ESTATE IN JASPER COUNTY, IOWA:
LOT "J" BETWEEN BLOCK "Y" AND BLOCK "N" IN AURORA HEIGHTS SUBDIVISION IN THE CITY OF NEWTON, JASPER COUNTY, IOWA, AS APPEARS IN PLAT BOOK D, AT PAGE 201 IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

hereinafter called "Permanent Easement Property."

2. COVENANT RUNNING WITH THE LAND. This grant of easement shall be a covenant running with the land, and the rights granted herein shall be assignable by City and its successors in interest, in whole or in part. The terms of this easement shall be binding upon the heirs, legal representatives, successors in interest and assigns of both Property Owner and City.
3. TERM OF EASEMENT. The rights granted herein shall be possessed and enjoyed by City, its successors and assigns, so long as the municipal utilities and appurtenances constructed pursuant thereto shall be maintained and operated by City, its successors and assigns.
4. PURPOSE OF EASEMENT. This grant of easement shall be for purposes including but not limited to constructing, reconstructing, repairing, enlarging and maintaining municipal utilities, together with necessary appurtenances thereto, on, under, over, through and across said Permanent Easement Property.
5. ERECTION OF STRUCTURES PROHIBITED. Property Owner shall not erect any structure on, over, under, through, across or within the Permanent Easement Property during the term of the easement without obtaining the prior written consent of the City Engineer.
6. PERMANENT IMPROVEMENTS. Property Owner agrees that no permanent improvement shall be built or placed upon the Permanent Easement Property during the term of the easement, nor shall Property Owner permit any change of grade, elevation or contour of any part of the Permanent Easement Property during the term of the easement or easements, and that if such improvements are built or constructed or changes made in violation of this grant of easement, said improvements or changes shall be promptly removed or eliminated by Property Owner at Property Owner's expense; provided, however, that Property Owner may install single level surface parking lot facilities involving no structures.
7. RIGHT OF ACCESS. City shall have the right of ingress and egress over and across Property Owner's remaining property to and from the Permanent Easement Property for any and all purposes necessary or convenient to construct,

reconstruct, inspect, repair, operate, maintain and service any and all municipal utilities and all appurtenances thereto, together with the right to use and operate said municipal utilities and appurtenances as it deems necessary.

8. REPRESENTATION OF OWNERSHIP. Property Owner does hereby covenant with the City that Property Owner holds title to said Permanent Easement Property in fee simple; that Property Owner has good and lawful authority to convey the same; and said Property Owner covenants to warrant and defend the said Permanent Easement Property against, and to defend and hold City harmless from, any and all claims of all third parties whomsoever.

9. RESTORATION OF LAND. City shall restore the Permanent Easement Property to substantially the same condition it was in prior to City's entry.

GENERAL PROVISIONS

A. APPROVAL BY CITY COUNCIL. The easement granted herein shall not be binding until final approval and acceptance by the Newton City Council by RESOLUTION, whereupon the Mayor and Clerk shall be authorized to show such approval and acceptance by execution of said easement.

B. DOWER RIGHTS. Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share, if any, in and to the interests granted and conveyed hereby.

C. RULES OF CONSTRUCTION. Words and phrases herein including acknowledgment hereof shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

Signed this 24 day of June, 2022.

INDIVIDUAL FEE TITLE PROPERTY OWNER

Vincent Haydon 6-24-22
Vincent Haydon DATE
604 E 27th St S - Newton, IA 50208
Address

STATE OF IOWA :

:SS

JASPER COUNTY:

On this 24 day of June, 2022, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Vincent Haydon, (single), to me known to be the identical person named in and who executed the foregoing instrument, and acknowledged that he/she executed the same as his/her voluntary act and deed.



Brandon Schakel
Notary Public in and for the State of Iowa
(Typed Name) Brandon Schakel
My Commission Expires: 1-19-24

ACCEPTANCE, APPROVAL AND EXECUTION BY CITY

CITY OF NEWTON

Dated: _____ By: Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

STATE OF IOWA :

:SS

JASPER COUNTY:

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Michael L. Hansen to me personally known, who being by me duly sworn, did say that he is the Mayor of said corporation; that the seal affixed thereto is the seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of the City Council; and that the said Michael L. Hansen as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.

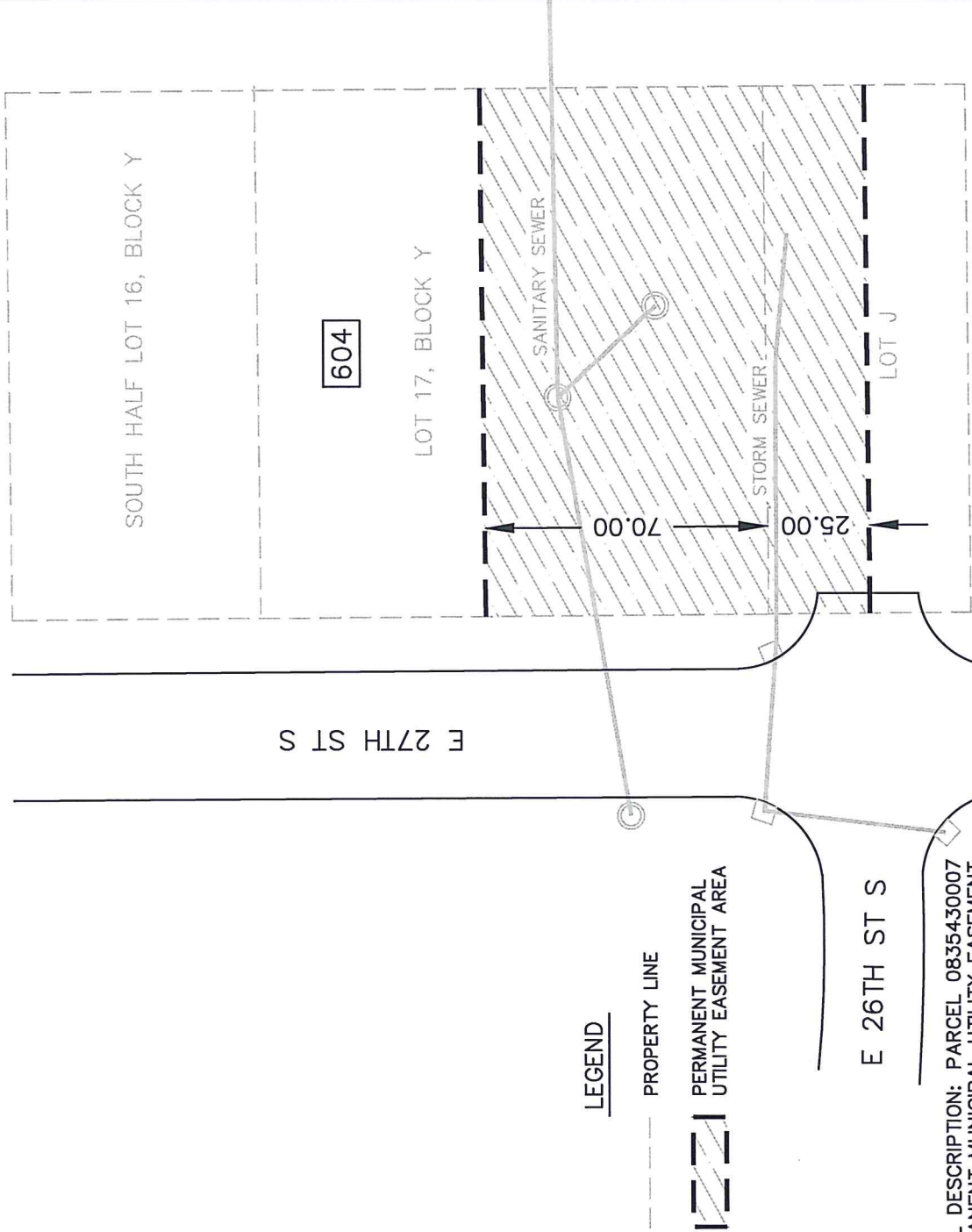
(Printed Name)

Notary Public in and for the State of Iowa
My Commission Expires: _____

EXHIBIT 'A'

LOT 17 AND THE SOUTH HALF OF LOT 16 IN BLOCK Y IN AURORA HEIGHTS SUBDIVISION IN THE CITY OF NEWTON, JASPER COUNTY, IOWA, AS APPEARS IN PLAT BOOK D, AT PAGE 201 IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

LOT "J" BETWEEN BLOCK "Y" AND BLOCK "N" IN AURORA HEIGHTS SUBDIVISION IN THE CITY OF NEWTON, JASPER COUNTY, IOWA, AS APPEARS IN PLAT BOOK D, AT PAGE 201 IN THE OFFICE OF THE RECORDER OF SAID COUNTY.



LEGAL DESCRIPTION: PARCEL 0835430007
PERMANENT MUNICIPAL UTILITY EASEMENT

THE SOUTH 70.00 FEET OF THE FOLLOWING DESCRIBED REAL ESTATE IN JASPER COUNTY, IOWA: LOT 17 AND THE SOUTH HALF OF LOT 16 IN BLOCK Y IN AURORA HEIGHTS SUBDIVISION IN THE CITY OF NEWTON, JASPER COUNTY, IOWA, AS APPEARS IN PLAT BOOK D, AT PAGE 201 IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

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CONTAINING 12,350 SQUARE FEET MORE OR LESS.

EASEMENT GRANTOR(S): VINCENT HAYDON 604 E 27TH ST S NEWTON, IA 50208	EASEMENT GRANTEE: CITY OF NEWTON	PREPARED BY: City of Newton Public Works Dept. 403 W 4th St N, Suite 501 Newton, Iowa 50208	 NOT TO SCALE
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City of Newton Council Report

**Item:**

Resolution accepting a Prairie Meadows Community Betterment Grant for the Proposed Sunset Dog Park.

Report Number: 22-223

Date:

July 18, 2022

Summary:

Accept the \$20,000 grant award to offset costs of constructing a dog park in Sunset Park.

Lead Department:

Community Services

Recommendation:

Approve

Financial Impact:

\$20,000 in funding to apply to the project.

Background:

Included in the September 13, 2022 park bond referendum approved by City Council (per Resolution 2022-050) is a dog park in Sunset Park. To help offset costs of this project and the other three projects included in the referendum should the ballot issue pass on September 13th, staff has sought out possible grant funding. An application was submitted to Prairie Meadows for a Community Betterment Grant, with said application requesting \$48,900 in funding towards the dog park project. Staff has received word that Prairie Meadows has approved the award of \$20,000 in funding towards the project.

In accepting this funding, the City commits to the following:

- Use the grant award by July 1, 2023 on project expenses only.
- Repay any portion of the grant not used for this project.
- Complete a grant evaluation report by August 7, 2023 stating how the funds were spent.
- Recognize and publicly thank Prairie Meadows for said grant.
- Allow Prairie Meadows to audit project files if requested.

Recommendation:

Staff recommends approval of the resolution accepting the \$20,000 Community Betterment Grant from Prairie Meadows for the Sunset Park Dog Park Project.

Matt Muckler
City Administrator

RESOLUTION NO. 2022 – _____

**RESOLUTION ACCEPTING A PRAIRIE MEADOWS
COMMUNITY BETTERMENT GRANT FOR THE PROPOSED
SUNSET DOG PARK**

WHEREAS, included in the September 13, 2022 park bond referendum approved by City Council (per Resolution 2022-050) is a dog park in Sunset Park; and

WHEREAS, to help offset costs of this project and the other three projects included in the referendum should the ballot issue pass on September 13th, staff has sought out possible grant funding; and

WHEREAS, an application was submitted to Prairie Meadows for a Community Betterment Grant, with said application requesting \$48,900 in funding towards the dog park project; and

WHEREAS, Staff has received word that Prairie Meadows has approved the award of \$20,000 in funding towards the project; and

WHEREAS, in accepting this funding, the City commits to the following:

- Use the grant award by July 1, 2023 on project expenses only
 - Repay any portion of the grant not used for this project
 - Complete a grant evaluation report by August 7, 2023 stating how the funds were spent
 - Recognize and publicly thank Prairie Meadows for said grant
 - Allow Prairie Meadows to audit project files if requested
- ; and

WHEREAS, Staff recommends approval of the resolution accepting the \$20,000 Community Betterment Grant from Prairie Meadows for the Sunset Park Dog Park Project.

NOW, THEREFORE, BE IT RESOLVED, that the City of Newton accepts the \$20,000 Community Betterment Grant from Prairie Meadows for the Sunset Park Dog Park Project.

BE IT FURTHER RESOLVED, that Community Services Director shall be directed to complete all required grant submittals, acknowledgements, and close-out documentation to assure compliance with Prairie Meadows' grant award stipulations.

PASSED this _____ day of July, 2022.

APPROVED this _____ day of July, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk