

# NEWTON FALLS CITY COUNCIL

## REGULAR MEETING AGENDA

MONDAY, OCTOBER 18, 2021

6:00 P.M.

612 West Broad Street

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### CITY COUNCIL MEMBERS

Adam Zimmermann, Ward 1  
John Baryak, Ward 2  
Tesa Spletzer, Ward 3  
Christopher Granchie, Ward 4  
, At-Large

### MAYOR

Kenneth A. Kline

### CITY MANAGER

Pamela Priddy

### LAW DIRECTOR

A. Joseph Fritz

### CITY CLERK

Kathleen M. King

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## 1. Call to Order

## 2. Pledge of Allegiance/Prayer

## 3. Roll Call

## 4. Special presentations by staff members or invited consultants

## 5. Public Comments (limited to those items as identified on the agenda)

Jim Luonuansuu – Smart Meters

## 6. Reports

Mayor  
Council Members  
Finance Director  
Law Director  
City Manager

Changes to tonight's agenda

## 7. Approval of Previous Minutes

October 4, 2021 - Caucus  
October 4, 2021 - Regular Meeting  
October 11, 2021 - Special Meeting

## **8. Public Hearings:**

## **9. Unfinished Business:**

1. Ordinance 2021-13: An Ordinance to Amend ordinance 2021-02 Newton Falls Electric Rate Reduction Act. (TABLED Until 11-15-2021)
2. Ord. 2021-19: An Ordinance Establishing an annual Cost of Living Adjustment for all Hourly City Employees. (TABLED Until 1<sup>st</sup> mgt 2022)

## **10. New Business:**

1. Ord. 2021-21: An Ordinance amending Ordinance 2010-15, 2010-34 and 2017-13 establishing new rates for water and bulk water hauling on usage beginning January 1, 2022.
2. Ord. 2021-22: An Ordinance requiring the registration of contractors operating within the City of Newton Falls.
3. Ord. 2021-23: An Ordinance establishing sidewalk districts and assessment procedures within the City of Newton Falls.
4. Ord. 2021.24: An Ordinance establishing rates of pay for superintendents appointed after passage of this legislation.
5. Res. 34-2021: A Resolution of appreciation to Charles E. Lane for his years of service to the City of Newton Falls.
6. Motion to orally sanction Mr. Zimmermann for violating Council Rule 121.03 (f)(6). (Spletzer)
7. Motion to appoint Mr. Baryak Vice President of Council. (Spletzer)
8. Motion to accept the resignation of Brian Kropp from the At-Large Council position per his statement at the October 4, 2021 Council meeting. (Zimmermann)
9. Motion to accept the opt out recommendations attached. (Baryak)

## **11. Public Comments:**

## **12. Closing Remarks: Mayor, City Manager and Council**

## **13. Motion to Recess into Executive Session (if necessary)**

Move into executive session, by majority vote, for any of the following reasons with a motion and second.

1. Personnel Matters in reference to the Law Director: To consider one or more, as applicable, of the marked items: (Spletzer)

- Appointment
- Employment
- Dismissal
- Discipline
- Promotion
- Demotion
- Compensation
- Investigation of charges/complaints (unless a public hearing is requested)
- 2. Purchase or Sale of Property
- 3. Pending or Imminent Court Action
- 4. Collective Bargaining Matters
- 5. Matters Required to be Kept Confidential – Contract Negotiations
- 6. Security Matters (National Security)
- 7. Hospital Trade Secrets
- 8. Confidential Business Information of an Applicant for Economic Development Assistance
- 9. Veterans Service Commission Applications

## **14. Adjourn:**

Newton Falls City Council met in Caucus session on Monday, October 4, 2021, at 5:00 p.m. in Council Chambers. Mayor Kline called the meeting to order following the Pledge of Allegiance and opening prayer.

**ALSO PRESENT:**

Pamela S. Priddy, Interim City Manager; A. Joseph Fritz, Law Director; Kathleen M. King, City Clerk; Chuck Lane, Water Distribution, Ken Bodnar, Water Distribution; Jeff Hawkins, Water Plant; Bill George, Electric; Andrea Perkovich, Utility Office.

**ROLL CALL:**

Zimmermann, Spletzer, Granchie, Baryak, Kropp

**ABSENT:**

**UNFINISHED BUSINESS:** None listed

**NEW BUSINESS:**

I. Meter Opt-out Program

Ms. Priddy explained that there will be two separate meters one for water and one for electric. That has been causing some confusion for customers. The proposed Opt Out Cost Analysis sheet was reviewed.

Chuck Lane explained that approximately 500 water meters have been installed.

Priddy asked if he felt we should go back and do another opt out. Mr. Lane stated he did not think we should do an opt out period. He did know why you would opt out.

Mr. Lane explained the current meters and how the reading is obtained and what will take place with the new meters. The new meters will eliminate the meter readers, final reads, rechecks, which will free up people to do EPA mandates. The new meters will transmit less than two minutes in one year's time.

Mr. Lane stated the initial reason to get all new meters was for accuracy. Our current meters are worn out. A lot of communities and Ohio Edison do not offer an opt out.

Spletzer stated a lot of the homes in the East River Gardens area are now one home but have two meters. Will they be charged double? Mr. Lane said if both services are turned on.

Spletzer asked about township residents who have Ohio Edison for electric and City for water. Mr. Lane noted with Ohio Edison they have no choice to opt-out.

Mr. George noted that AMI is the smart meter. If they opt-out of the AMI meter they would get a newer digital meter. The AMI meters are already purchased. He also stated that we have some digital meters in stock. The AMI meters transmit every fifteen minutes which helps with the demand meters.

Mr. George said he is 100% behind the AMI meters. If you do opt out it is hurting us and does not do the program justice.

Ms. Priddy asked how many shut offs are done. Mr. George stated approximately 80 in the last two weeks. With the new meters the Electric Department his employees would not have to go do manual shutoffs and then turn them back on, this process could be done at the office. He also noted that a safety issue would be reduced by not having to pull meters.

Spletzer asked why some apartments had demand meters and other did not. Mr. George explained that back in the day it was better to go with the demand meter, over the years that has changed.

Zimmermann asked if the ultimate decision should be up to the property owner. Mr. George felt it should be up to who is paying the electric until that renter is gone then we change the meter to the AMI meter.

Kropp asked about medical issues. Mr. George explained that we keep a list of households that have medical equipment, and they are on a priority list. Ms. Perkovich explained the steps to get on the list.

Ms. Perkovich also noted to date we have had 23 opt-outs on the meters.

Kropp stated the City Superintendents support the new meters. He explained that the opt-out analysis was not designed to be an incentive to opt-out.

## 2. Sidewalk Program

Ms. Priddy said she has been working on this program with Code Enforcement Officer, Mark Stimpert.

Mr. Stimpert explained the program. He would like to do the program by ward. Once a property owner was notified, they have 30 days to fix the problem. Failure to correct the sidewalk would result in the City making the correction plus \$250.00 administrative fee. The entire cost and fee would be added to the tax bill. Ultimately, we want the homeowner to do the repair.

Ms. Priddy agreed that the program is meant to be a deterrent. The City does not want to be in the sidewalk business. We hope to present this to Council at the next meeting. If you have questions before the next meeting, please contact the City Manager's office or Code Enforcement.

Baryak asked if people could get their own contractor, or could we offer a contractor that would bid on the areas per square foot and fix them all. He also asked if we could get a list of contractors for people.

Kropp also asked about waiving the permit fee for those people that do the work or if charged return the fee once those work was completed. Those that do not do the work would be assessed the fee.

### 3. Water Rate Study

Mr. Hawkins explained that we had a professional rate study that set up rates for six years. The rates were supposed to go into effect in 2021 however that was not started. The idea behind the six-year increases was so that they were smaller for the customer, and we would have a better idea in six years where we were at financially. We structured the rates to take the burden off of the homeowner especially when we found out we were seriously undercharging the water haulers.

The proposed increases were reviewed and discussed on what the effect would be to homeowners and businesses.

#### **ADJOURN:**

**After no further comments or questions Spletzer made a motion seconded by Kropp adjourn at 7:57 p.m.**

**ROLL CALL: Spletzer aye, Granchie, Baryak aye, Kropp aye, Zimmermann aye.  
MOTION PASSED 5-0**

\_\_\_\_\_  
Mayor, Kenneth A. Kline

ATTEST: \_\_\_\_\_  
City Clerk/Clerk of Council

Newton Falls City Council met in Regular session on Monday, October 4, 2021, at 6:00 p.m. in Council Chambers. Mayor Kline called the meeting to order following the Pledge of Allegiance and prayer.

**ALSO PRESENT:**

Pam Priddy, Interim City Manager, Kathleen M. King, City Clerk; A. Joseph Fritz, Law Director.

**ROLL CALL:**

Granchie, Baryak, Kropp, Zimmermann, Spletzer

**ABSENT:** None

**SPECIAL PRESENTATIONS BY STAFF MEMBERS OR INVITED CONSULTANTS:**  
None

**PUBLIC COMMENTS:**

Catie Karl, 128 West Quarry, questioned why number seven was for one Council member but not the other who made a public statement. Mayor Kline stated that was not on the agenda and she has not been convicted of anything yet, it is in the courts.

She also questioned the Opt-out proposal and asked if there was a number for the public.

Ms. Karl asked that if there was any decision following the executive session to please let the public know.

Bud Fetterolf, 321 Ridge Road commented on Resolution 33-2021 in reference to the Charter Review Commission. He said he sat on the Charter Review Commission three times. After the commission was done the submissions were condensed down and lost the actual intent as to what the commission wants. He asked if they could put in that what was submitted by the commission goes on the ballot verbatim and not be censored like in the past.

Tim Stintson, 253 Arlington Road said he was in on some of the discussions on the opt-out fee and one point was to make sure the City does not lose any money. Remember that the meter readers can read several meters in one hours' time. He suggested we may want to look at the disconnection fee.

He asked why the DORA map did not include the Covered Bridge and all of Veteran's Park. He also said as written if you purchase a cup in one establishment you can not take it into another establishment.

In reference to Ordinance 2021-19 there is no specific percentage in the Ordinance.

Julie Lemon, 27850 East River Road apologized to Mr. Kropp on her political blog and the things she said stating it was pretty harsh.

In reference to number seven on the agenda Council voted on May 15, 2017, unanimously that Council would submit to a random drug test. She felt this situation could have been handled differently. He could have taken the test the made a motion on the floor to amend or repeal the legislation. That would have been a better option.

Tom Colosimo, 4196 Carson Salt Springs Road commented on the DORA proposal. He said you can't take the cup from one bar to another, but you can take the drink into businesses that agree. The DORA area does not go into Veteran's Park. Bartenders are responsible to make sure patrons do not receive excessive drinks. The proposal is for a wide area with the hope to get more like businesses in the downtown area.

Mark Stimpert, 1023 Paige Court also the Zoning Inspector said he worked on the DORA application with the Interim City Manager. The map for the proposed area only goes to the sidewalk of Veteran's Park so someone could go to the falls. The other end goes to the bridge by Subway. If the City wants to extend the DORA area, we could do that at a later time. He also noted that it is correct, you cannot take cup into another establishment.

Rick Kerlin, 611 North Canal commented on the financial reports that he has not seen specifically but asked about the Attorney fees and paving for the roads. Mayor Kline stated this was not on the agenda.

### REPORTS :

Baryak:

- Attended an Economic Development meeting and talked about Duncan Donuts and they are working on a proposal.
- Had a meeting with the City Manager about the water. We have not done anything with the rates since 2015. It is imperative that we raise rates.

Spletzer:

- Since both she and Mr. Zimmermann were not here for the 9-20 Council meeting, she had the Treasury Investment Board meeting report. Mr. Porea explained to the board that the portfolio is mostly government and corporate bonds. The Federated account is 99% U. S. Government Bonds. She questioned the money moved this year: On 9-26 \$250,000 was moved to the General Fund; on 3-4 another \$250,000 was moved to the General Fund; and on 5-6 \$500,000 was moved to the General Fund. Spletzer stated that is One Million since the beginning of 2021. Additionally \$462,000 came out last year because of Covid and another \$150,000 was taken out and held for the bond at Huntington. The portfolio overall was down \$8,500. Mr. Porea explained that as interest rates go up the value of bonds go down.
- Park & Recreation met on 9-28-2021 followed up on previous discussions including: the Everett Greathouse Park, fertilizer & weed control, replacement of benches throughout town. The commission received a map of the parks, also discussed the boat launch noting



the County was taking care of that project. Also discussed removal of the old playground equipment and noted the old tennis courts had a pole cut off that was of concern. They discussed a possibility of two part-time workers to help with the beautification of the parks. The commission is also working on getting the dimensions to move the soccer fields to the City Park. They received the mold remediation report for the Community Center building.

Additionally the Board has asked for a legal opinion on where their power ends and begins. They would like to have the permits for events go through Park & Rec, then to the administration for final approval.

The baseball league put in 150 tons of dirt plus \$2,549 spent on fence capping.

Granchie:

- Received a lot of calls and messages over the past two weeks.
- Attended a utility board meeting to discuss the proposed water rate increase.

Kropp:

- Attended the Economic Development meeting. The proposal is moving along.
- Discussed proposals, ideas, and concerns on being fiscally responsible to grow our community.
- Attended a meeting with Mike Novotny, Wastewater Treatment Department and the City Manager on the rate study.
- Learns more everyday regarding the financial situation of the community. He is trying to do things right because it ultimately falls on Councils shoulders.
- Sat in on a staff meeting and was impressed with the department heads and city staff and the information shared. The moral seemed better. There is a structure in place, and we are moving forward.

MAYOR:

- Attended the last Farmer's Market in September. Thanked those involved in organizing the event.
- Attended the Music in the Park event last Saturday night. Thanked the Commerce Association and those who proved food and refreshments. Also thanked the individuals who cleaned up the park area.
- Attended a meeting today at the school on the athletic complex. Hoped to still be able to partner with them one way or another after we look at the budget to see what we can do.
- Received a lot of calls, emails and messages, the majority were positive. Thanked those that reached out to him.

LAW DIRECTOR: Nothing

Zimmermann noted at the last meeting the Mayor read a statement requesting a Leave of Absence from a member of council. He had not heard if that was accepted or not, but the person was in attendance tonight. Mayor Kline stated the person did not break any Council Rules.

Attorney Fritz said a vote was never taken on the request for a Leave of Absence. He was not sure Council could allow that. You have the right to excuse or not excuse a member.

CITY MANAGER:

- A written report was provided to Council.
- We received the census numbers, and we are down another 218 so our population is now 4,577 which means we will remain a Village.
- Working on the 2022 budget and have started staff meeting to review their "wish lists".
- Worked on the sidewalk project with Mark.
- Facebook pages have been created for the Electric and Water Departments.
- Implemented a new payroll system. The employees will now clock in and out. This system will be effective November 1<sup>st</sup>.
- Interim Finance Director provided information for review, and you received a breakdown of expenses by department.
- Interim Finance Director sent letter to Council for review. He is unable to make the Council meetings because his in Silver Lake are the same as ours, but if we put him on our agenda first, he could answer any questions by phone. They do not start until 7:00 p.m.

Spletzer stated according to the cash position statement the ending general fund balance in June was \$190,071, in July it was \$78,669 and August it was \$61,585. Do we have any idea what September will be. Ms. Priddy stated not at this time. All the old bills we know of have been paid except for the road paving. The Finance Department is on target to finalize by October 15<sup>th</sup> and close out September. The spending has been excessive, and Sean is trying to shuffle money in the funds as allowed.

Baryak asked if the money to pave the roads was appropriated. Ms. Priddy said it was not. Baryak said he did not know anything about the Treasury Investment Board moving One Million dollars. Attorney Fritz stated the Board meets and makes reports.

Zimmermann noted that there were a lot of expenses for Team Office. Ms. Priddy said that a lot of the invoices were prior to her being here. Zimmermann asked if we have Team Office what was Ms. Smeiles doing additionally for the City. Ms. Priddy said Ms. Smeiles does not do the same work, she is here to assist employees and help them learn the programs and or help with their computers.

Zimmermann said six weeks Mr. Lynch reigned what is the status of the search for a new City Manager. He asked if there have been any committees or publications advertising for the position. Ms. Priddy said no. Zimmermann asked if there was a time frame to publicize for the position. Ms. Priddy said there is no time frame. The Finance Director has indicated that as long as he is here, he would like me to stay.

Spletzer stated tat the report from Mr. Housley indicated that the Council was over budget and asked why, legal was also over budget. Ms. Priddy stated that there were legal bills up to approximately \$100,000 charged to City Council.

Baryak asked if the VerLay proposal would be coming to Council. Ms. Priddy said after talking to the Superintendents she had a tentative agreement with the VerLay representative however; after finding out the cost associated to the Electric Department would be costly to provide lighting, she reached out to the representative again. At this time she has not heard back from them.

Mayor Kline stated in reference to the questions Mr. Zimmermann brought up we have to look at different situations in the community. With legal bills over \$100,000 our population down, road paving costs and the general fund down to \$68,000 that is alarming. Ms. Priddy was put in as Interim City Manager during the transition and to stop the bleeding. They can put together requirements for the position so at some point we get applications. He did not feel we were anywhere near bringing someone else in to the situations that are being dealt with now and getting them up to speed on what took place in our community the last three or four years. He suggested a screening committee to properly look over applicants.

Kropp asked Ms. Priddy when she came in was it smooth sailing, organized, everything in place that should be in place. Did she have everything at her disposal that should be available to her when she needed it. He asked if she had anything explained to her or did she have anyone explain things to her with the transition. Ms. Priddy answered no to all those questions. She stated Kathy has been a help in some instances, but she only knows so much on what was happening. Financially, the City is in trouble. In speaking with Finance Director she told Council they are overbudget. There are some things that will have to happen quickly. It is Sean's call on where the money will have to come from. Mr. Kropp asked her if she felt now would be a good time to create another transition and bring in someone completely new again. Ms. Priddy said no because every day something new comes up that has to be dealt with. Different things that come up, different things happening, different agreement that were made that there are no documents to, so she would have to say no.

Mr. Kropp asked when she came in for clarity what was available to her. Ms. Priddy said the filing cabinets were empty and the computer was wiped clean.

Baryak said he wanted everyone to know we would do the best we can to be transparent and whatever happens, happens. There are some very serious situations that transpired, and we will have to deal with them.

Kropp stated to Mr. Fritz that they have spoken, and a City employee came up and spoke at the last meeting and he has had people reach out to him and ask questions in reference to his personal situation and the item on the agenda this evening. Per our drug policy he asked if the Law Director was the Designated Employee Representative for the Village. Attorney Fritz said no. Kropp asked if he knew if the City Clerk was the designated representative. Attorney Fritz said no, he did not know. Kropp stated that the Drug Policy says that the only person eligible or able to authorize the release of confidential drug records, whether it be testing records, all drug records not just result. The only person authorized to do that in specific situations is by the Designated Employee Representative. Attorney Fritz said he was aware of that. Kropp asked if he authorized the release of those documents when they were requested. Attorney Fritz stated

they were public record, there were no drug test records released. Kropp said the testing results or when council members or staff who received drug testing those aren't drug test records, testing dates, locations those things. Attorney Fritz stated the drug testing records are the results. If we have the date, location it has to be kept as a separate record for purposes of paying who conducted the test. We redact any specific information; any specific health information and it can go out for public record. Kropp asked if he could be provided with something that says that, that is just the test results itself. Kropp and the Law Director discussed what was public record. Kropp read from the policy and noted it says clearly the only person able to release any confidential records is the designated employee representative.

CHANGES TO TONIGHT'S AGENDA: None at this time.

**APPROVAL OF PREVIOUS MINUTES:**

**Kropp made a motion seconded by Granchie to adopt the September 20, 2021 Regular Meeting minutes as submitted by the Clerk.**

**ROLL CALL:** Baryak aye, Kropp aye, Zimmermann abstain, Spletzer abstain, Granchie aye.  
**MOTION PASSED:** 3 aye 0 nays 2 abstentions

**PUBLIC HEARINGS:** None at this time.

**UNFINISHED BUSINESS:**

**Ordinance 2021-13: An Ordinance to Amend Ordinance 2021-02 Newton Falls Electric Rate Reduction Act. (TABLED Until 11-15-2021)**

**Resolution 25-2021: A Resolution to cancel the smart meter form and rate previously set by the Village Manager.**

**Spletzer made a motion seconded by Baryak to adopt this Resolution.**

Spletzer stated she knew the previous City Manager was outside the bounds of his authority and power when this was done. She asked if they should do away with this then create a new form. Attorney Fritz stated that was entirely up to council. Mayor Kline asked Ms. Spletzer what she hoped to accomplish. She said in the beginning she was one of the people that wanted to opt out because she did not like the way the whole program got shoved down our throats. But she did not sign up to opt out because she did not like the price. As a homeowner she would like more time to think about it now that there was a more reasonable price in place.

Council discussed with the Law Director the best way to handle this Resolution and their options to bring it back to Council in the future.

Zimmermann noted that tonight we heard from a couple of our Superintendents that there should not even be an opt out.

**ROLL CALL:** Kropp aye, Zimmermann nay, Spletzer aye, Granchie aye, Baryak aye.  
**MOTION PASSED:** 4 ayes, 1 nay

Baryak made a motion seconded by Spletzer to discuss a donation to the school for the purposed sports complex.

**ROLL CALL:** Zimmermann aye, Spletzer aye, Granchie aye, Baryak aye, Kropp aye.  
**MOTION PASSED:** 5 – 0

Baryak stated in light of what is coming to bear he thought we should table this till we know what kind of money we have. This was like putting the cart before the horse.

Mayor Kline noted that they would not be making a decision on this today. He informed Council that the school has already secured a low interest loan and is moving forward. He informed the school that we would need to look at our budget before we could do anything. The loan that the school secured would not require a payment for fourteen months.

**NEW BUSINESS:**

**Ordinance 2021-19:** An ordinance establishing an annual cost of living adjustment for all hourly city employees.

**Granchie made a motion seconded by Kropp to adopt this Ordinance.**

Granchie suggested this be tabled now. At the last meeting it looked like the finances were getting better, so it seemed like it was a good time to put in a minimal impact, high moral but now is not the time to do this.

**Granchie made a motion seconded by Spletzer to table this until the first meeting in 2022.**

**Vote on Motion To Table:**

**ROLL CALL:** Spletzer aye, Granchie aye, Baryak aye, Kropp aye, Zimmermann aye.  
**MOTION PASSED:** 5 – 0

**Ordinance 2021-20:** An ordinance to amend Ordinance 2020-39 repealing the sewer rates enacted in the 2021 budget appropriations.

**No motion was made.**

**Resolution 32-2021:** A resolution authorizing the City of Newton Falls to dispose of unneeded equipment/property by sale to employees, public auction, on internet auction, or salvage pursuant to section 721.15 of the Revised Code.

Spletzer asked what happened to number five on the agenda. Mayor Kline stated we were under number three on new business. He asked if she meant number two under new business. Ms. Spletzer apologized and stated she wrote her note under the wrong one.

**Kropp made a motion seconded by Baryak to adopt this Resolution.**

Kropp read the resolution and explained that the items listed on Exhibit A were no longer of use the City and this was a requirement to dispose of the property.

**ROLL CALL:** Granchie aye, Baryak aye, Kropp aye, Zimmermann aye, Spletzer aye.  
**MOTION PASSED:** 5 – 0

Spletzer asked if item number two was the one that didn't get a first or second. Mayor Kline stated yes. Spletzer apologized and said she was writing notes and skipped down. She said she needed to discuss this because when she submitted this to Clerk, she submitted this as a resolution. No one called her to say it needed to be an Ordinance. She submitted it to the Clerk on Wednesday at 2:48 in the afternoon. She got an agenda packet on Friday, and it comes out as an Ordinance. Mayor Kline asked if she wanted it put back on.

Spletzer said she had a problem with this, she asked why it went from her sending an email to the Clerk saying she would like this as a Resolution and then it shows up in the packet as an Ordinance. Attorney Fritz read the email that stated, "I would like to have a Resolution to Repeal the Sewer Rate on the agenda for the 10-4-21 meeting." Spletzer noted that she said Resolution. Attorney Fritz said he was assuming that she did not want to repeal all the sewer rates, so we were not paying for sewers anymore correct. Spletzer stated that is correct. Attorney Fritz stated if he did exactly what she put in the email we would have removed every sewer rate out there. So what we do is get the information from Council and one of our jobs is to put it in proper form. Because we have the rate set it should be by Ordinance and we assume you don't want to just give everybody free sewer.

Kropp stated we have gone back and forth with submitting legislation then basically a final approval. He was curious why there was never any kind, assumptions should never be made, and she should have been reached out to. He felt there was a breakdown in communication, and she should have been able to authorize the final. Clerk noted that you can't amend an Ordinance with a Resolution. Rates are set by Ordinance a Resolution would not have done it. Spletzer stated rates should not have been stuck in a budget on page 379. The Clerk noted the budget was passed by Ordinance.

Mayor Kline asked if we would be able to add to the agenda now under new business. Ms. Priddy stated before we go backwards on this, she had a lengthy conversation with Mike Novotny and about the balances and the rates. At this point they did their rate study which cost them between \$20,000 and \$25,000. The last increase in sewer rates was 2015. If you repeal the increase in sewer rates at this time, he will not be able to make his debt payment March 1<sup>st</sup>. That payment is about \$420,000. She also stated we have an opportunity to refinance the Wastewater Treatment Plant which has a debt of approximately \$5.7 million. Right now we have an interest rate of 4.37% and can refinance at a rate of 1.5% which would equate to a saving of about \$163,000 for that department. She asked that they consider that before they act on anything because if we fault on that debt payment she was not sure what will happen.

Mayor Kline noted that we do not have anything on the floor right now. Spletzer said she noticed it when her utility bill showed up and she called the utility office. The utility office told her she was instructed to implement the rate. Spletzer said she knew it was on page 379 of the budget. She did not like the way he went about it because he stuck it in something called the 2021 budget. That budget has its own ordinance number the sewage rate increase did not get its own ordinance number. Ms. Priddy agreed and did not say it was done properly; she was not here to determine that. The study done had rates that were to go into effect January 1, 2021. Spletzer said that was another thing that bothered her they were supposed to go into effect January 1, 2021, why did it not happen until September.

Spletzer said she was fine with leaving it die. She would get the study.

**Resolution 33-2021: A Resolution submitting to the electors a proposed amendment to the Newton Falls City Charter in reference to Article XI Charter Review.**

**Kropp made a motion seconded by Granchie to adopt this Resolution.**

Granchie stated one of the biggest complaints is issues with the Charter. That it is convoluted, confusing and clashing in parts. Right now the Charter Review Commission meets every five years. He felt every two years would be better even if no changes were recommended.

Baryak noted that four members of Council could submit items to be placed on the next elections without going through a Charter Review Commission at any time. He was not against the amendment but suggested maybe every three or four years not two.

Granchie said he was open to every three years.

Baryak stated this would have to go to the electors. He also stated in the past we have had problems with people wanting to be on the board.

Kropp said he thought this was a great idea. Changes on Council bring new ideas, and this would give them the opportunity to address what was proposed. He felt it was long overdue and has to be done.

Spletzer agreed that every three years would be adequate. She asked if they could incorporate Mr. Fetterolf's suggesting and make sure issues were submitted verbatim.

Attorney Fritz stated it did not matter how they worded it the Board of Elections would put on the ballot what they wanted and what they have room for. He did not know of any good mechanism to accomplish what they were asking for.

Zimmermann agreed that review was always necessary. He questioned if every two years would give enough time to truly evaluate the effectiveness of a change. He also agreed that Council had the ability to submit something to the ballot if a change was needed.

**Baryak made a motion seconded by Spletzer to amend Section I to every three years.**

**Vote on Motion to Amend:**

**ROLL CALL:** Baryak aye, Kropp aye, Zimmermann abstain, Spletzer aye, Granchie aye.

**MOTION PASSED:** 4 ayes 0 nays 1 abstention

**Vote on Motion as Amended:**

**ROLL CALL:** Kropp aye, Zimmermann aye, Spletzer aye, Granchie aye, Baryak aye.

**MOTION PASSED:** 5-0

Baryak made a motion to discuss and/or authorize costs associated with broadcasting of NFHS Basketball games. No second to the motion.

**Kropp made a motion seconded Baryak to authorize the City Manager to accept RFQ's to hire a Consultant/Engineer for Dam Inspections.**

Ms. Priddy stated that ODNR called to ask about a dam inspection report. This is not something a City employee can do. Along with the inspection report we need to complete the maintenance manual. A brief discussion was held on who was responsible if the dam was unsafe.

**ROLL CALL:** Zimmermann aye, Spletzer aye, Granchie aye, Baryak aye, Kropp aye

**MOTION PASSED:** 5-0

**Zimmermann made a motion seconded by Baryak to hold Mr. Kropp in contempt of council and orally sanction him for violation of Council Rule Section 7 (#10) for this first violation.**

Granchie asked Attorney Fritz if he was able to look at the Supreme Court ruling and does it apply to us in Ohio. If it does apply, does it make the entire ordinance requiring a drug test an illegal ordinance. Attorney Fritz asked what case law he was referring to. Granchie stated it was a 1997 case from Georgia.

Baryak said he put this ordinance on to have elected officials drug tested. He did that because he leads by example and would not ask anyone to do anything he would not do himself. He personally liked Mr. Kropp and he asked him if he would consider taking the test. Mr. Kropp said it was principle. Baryak said it is hard to hurt a fellow councilman and he has had City employees say they were not taking a drug test either. For the amount of negativity and bumping heads he would take the test, but he is not Mr. Kropp. He would put a motion on tonight to table this to get a legal opinion until Mr. Fritz could look this up to make sure it's legal.

Kropp had several people ask him his position and wanted people to understand. He was appointed on July 4<sup>th</sup> and sworn in on July 5<sup>th</sup> and did not physically receive anything from the City in the form of policy and there is not really a protocol or process. There is no organized process as far as transition. He was a sworn in Council person before he had a chance to read the policy. As far as the policy is concerned it is very clear it is Council prerogative to reprimand and do what they want Council disciplines their own. He stated he was a man of principle and has given his explanation to anyone who would listen to him. He respects Council's decision, but he is a man of principle and will hold his ground when it comes to this. He did not apologize



for it and has been open and honest about it. He has issues that this was even brought up as was address earlier.

Spletzer said she understood Mr. Kropp's position and commended him for standing on his principles. She to did not agree with the way the policy was written or the way the previous City Manager went about imposing it. She was certified by the Board of Elections on November 18 and was sworn in on the same day, picked up paperwork from Kathy and the Finance Director on November 18<sup>th</sup>. She had her employment check done. However her big problem was when the City Manager summonsed her at 10:00 p.m. on Wednesday night the day before Thanksgiving and said get to the building. Which she did. She stated she did not receive an employee handbook until sometime in April. That is water under the dam. She felt the entire policy as far as it concerns Council needs to be looked at.

Zimmermann stated as a member of Council he would not begin to think he was higher or above any other City employee that we have. He would not ask anybody to do what he would not be prepared to do himself. Drug test is mandatory in order to take a position, it is written, passed by Council. We require it of every hire here in the Village. Why would anyone expect Council to be different.

Mayor Kline stated he thinks Mr. Kropp does a really good job as a Councilman. He spoke to him about this, he appointed him so the things that he does go down on him. He looked at the way the policy is written, handled and administered. He does not agree with a lot of it but as Mayor on Council it is a different issue. As soon as he found out it was not taken care of, he called Mr. Kropp and Mr. Fritz to see what happens. It does not matter what happened in Georgia, Alabama or what Mr. Lynch did. What matters is that council took a vote that we would take a drug test and that is rule number ten of Council and we are to follow the rules.

Kropp said he would like to alleviate the Mayor of any of his knowledge what his stance would be once he was appointed. Kropp said his stance should not reflect in any way on the Mayor. Kropp said there are distinct differences between a suspicious, warrantless drug test of a member of a public body such as himself and other members of Council. They are not the same. He clarified that what he meant was he was not in a bucket truck, digging a hole, he was not in physical risk of injuring someone. He is one fifth of this body when making a vote. Nothing he can do as a single individual that would pass anything or make anything happen to the Village.

Baryak suggested to alleviate all avenues he would put a motion on to table till the next meeting until they got an opinion from Mr. Fritz.

Granchie stated the case was Chandler v Miller. Attorney Fritz stated that would not apply in this case. He was aware of that case, and it involved a candidate for a position not someone who was already in the position and knows what the conditions of the position would be.

Zimmermann stated we are here to serve employees of the Village. We are also the example of the Village. Decisions they make on Council and in our personal lives are put in the spotlight whether we want that or not. We need to be the example of how we expect everyone else to be and to do.

Mayor Kline said he wanted to make clear what we were looking at and the boundaries. This is not guarded by the Fourth Amendment, which is what he came up with, individuals who he spoke to and we have had the opportunity to talk to Mr. Fritz on this. Council rules what pertains is pre-employment. He did not agree on the procedure but felt and needed cleared up. The only thing the individuals up here are to answer to are Council Rules.

**ROLL CALL:** Spletzer aye, Granchie aye, Baryak aye, Kropp abstain, Zimmermann aye.  
**MOTION PASSED:** 4 ayes, 0 nays, 1 abstention

Mayor Kline stated the first violation was an oral sanction. What would take place is he has till the next meeting, and it could be written into record.

**Zimmermann made a motion seconded by Granchie to appoint Terry Wentworth to the unexpired term on the Fire Board commencing immediately expiring December 31, 2023.**

Zimmermann and Baryak acknowledged Mr. Wentworth and his prior service to the City and commitment to the community.

**ROLL CALL:** Granchie aye, Baryak aye, Kropp abstain, Zimmermann aye, Granchie aye.  
**MOTION PASSED:** 4 ayes, 0 nays, 1 abstention

**Spletzer made a motion seconded by Baryak to approve the opt out cost analysis for the water and electric meters as proposed.**

Spletzer asked if that meant they were approving the hand out presented to Council with the cost analysis. Ms. Priddy said yes. Spletzer felt they also needed a new form that could also be sent to the people and let them make a decision.

Ms. Priddy said they have to realize what the guys said about no further opt outs. Originally there were twenty some people who opted out. There have been 500 meters already installed. So if you send those out again, they will have to go back and redo that. It is Council's decision, but that is one of the things to think about. If you open it to everyone again the twenty some number could increase.

Baryak asked how they know whether they were going to put all those suggestions in place. Ms. Priddy said they are looking at the cost at this point. The rest of the questions are up to Council to decide. The bottom of the sheet are just suggestions to think about. If we can get the rate structure in place, then we know what that is.

Spletzer asked if when they met with the Finance Director was this something they could discuss. Ms. Priddy said if it was made part of the agenda. If you approve the cost analysis portion of it then we know the fees.

Zimmermann stated the Superintendents tonight stated they did not feel there should be an opt out. We have one in place so why change it.

**ROLL CALL:** Baryak aye, Kropp aye, Zimmermann nay, Spletzer aye, Granchie aye.  
**MOTION PASSED:** 4 – 1

**Granchie made a motion seconded by Kropp to approve the DORA (Designated Outdoor Refreshment Area)**

Granchie stated this does not legalize public intoxication. You need to exercise personal accountability, that is on them not the DORA. He spoke to other communities that have established DORA's they have seen a huge spike in small businesses being patronized. We cannot legislate what ifs. He felt there were far more positives to having a DORA then negatives.

Baryak asked if something went wrong could we cancel it by putting it back on the floor. Attorney Fritz explained that all Council is doing is approving the application. The application goes to the state for their review. We have to have a public hearing. You are not passing this to accept it. Council still has to pass all the legislation all your doing is asking for the application to be approved not accepted. Baryak asked if there was any liability to us. Attorney Fritz said not at all.

Zimmermann expressed concern on the other businesses in the area and felt they should be considered before this was approved.

Kropp noted this was not passing the legislation and felt people would have ample time to as questions. He also stated that the businesses who wished to participate did so by choice. There would also be specific time constraints.

Zimmermann also noted that you were not allowed to take alcohol in our City parks, but the Four Corner Parks and Gazebo were in the designated area. He suggested they look at the designated areas.

Mayor Kline said he did not see the benefit in this. He felt the public hearing would be important to hear citizens thoughts.

**ROLL CALL:** Kropp aye, Zimmermann nay, Spletzer aye, Granchie aye, Baryak aye.  
**MOTION PASSED:** 4 – 1

**PUBLIC COMMENTS:**

Rick Zamecnik, 242 Oak Knoll Avenue heard a lot today and was amazed how much money we went through. Over a million dollars, how did that happen. He urged Council to put something in place so that does not happen again. He suggested a forensic audit or to bring in the FBI, BCI or auditor to investigate and let the chips fall where they may.

Mr. Eby 59 West 9<sup>th</sup> Street Commented on the water and electric meters. The electric meters were not installed yet and the form sent out.

Tom Colosimo, 4196 Carson Salt Spring Road clarified in reference to the DORA that you cannot go into a business with the DORA cup unless you have the DORA sticker on you window. The DORA hours would only be certain hours of the day. It is also up to the bartender to decide if they sell a DORA cup to someone to take outside. This program has been successful in other communities and the goal was to attract likeminded businesses.

Catie Karl, 128 West Quarry Street stated MS Consultants was used in the past. The cost was roughly \$20,000.

Tonya Kline, 19 East Quarry We have been handed a mess and there was a lot to clean up. She said we got into this mess because we did not have a majority. She hoped everyone worked together because there is a lot of work to do, and the people deserve better.

Julie Lemon, 2750 East River Road made a request on September 16<sup>th</sup> and still has not heard anything. She questioned a charge on the Zoning Administrators credit card. She called the company herself and found out it was June 8<sup>th</sup> of this year. Mr. Lynch also had two other accounts under the City administration number. There has been more frivolous spending than she has ever seen. There needs to be transparency and when people put in a request there need to be answers. She did get an answer to one. She asked for four personnel records. One thing she notice is privacy is not being followed, information that should not be released to citizens is being released. Under Chapter 149.45 of the Ohio Revised Code states you are not allowed to release driver's license. She tried to bring this to administration attention, and she got that you follow the sunshine laws. Ms. Lemon stated sunshine laws are based off the Ohio Revised Code they will not go against what the law is. She checked the Sunshine Law, and it is not in there. You have to protect your employees, but you have to remain transparent. They need to be held accountable for it.

Tim Stintson, 253 Arlington. Stated the finance situation was not good at all. This is what he has been saying about transparency. We are not charging the right fees for our services. We have the ability to upcharge for a service we are providing and make sure we are covering our costs. We might have to increase our shut-off charges.

He commented on the sidewalk program and understood the fees and the means to an end.

He was glad they held off on some spending. Maybe we need to put a freeze on spending until we get a better idea on finances.

Anna Eby 50 West 9<sup>th</sup> Street said they moved here from Fairlawn. They were assessed for the roads and paid for your frontage and paid for half of the road. That was on top of the taxes you paid. If you did not pay it outright, they put it on your property taxes and charged interest.

Chelsea Harper, 128 West Quarry asked where the park equipment was going when it was removed. Ms. Priddy said it would be moved up front if possible. Ms. Harper asked why they would charge for a pavilion that was a family park area.

In reference to the Georgia statement the federal law protects the State of Ohio then the City Charter protects the City from whatever laws they lay down, because it is regarded as a private sector. Regardless of what Georgia or the State it is the City Charter that is to be used and up to Council to decide what they want to do because you are considered the private sector in the area. But what you do with one you have to do with all. How many employees have taken the drug test that are not in safety. How many have been let go because of a positive drug test.

DORA, Garrettsville does wonderful with it. All bartenders will not allow you to take a drink when you are intoxicated. This is not the right to be intoxicated in public, attack a police officer, get drunk in Faces or be drunk when I am rolling my kids in a stroller. They make very strict rules.

Laura Neiheisel, 227 North Center Street addressed concerns brought up. The park equipment is planned to be moved to the new location by the new equipment. That would open up the area for soccer fields. To clarify the reservation fee it was more reservation then to prevent people from double booking. Now it is first come first serve. The fee would be minimal. This has been put on hold right now.

Mark Stimpert 1023 Paige Court, Zoning Inspector. There was a question on his credit card. The charge was for the moving of a conference table from the Community Center to here. No one was here to pay for them when they did it so in order to not be charged every fifteen minutes until they were paid someone had to pay that.

#### **CLOSING REMARKS: MAYOR, CITY MANAGER AND COUNCIL:**

Baryak commented on the water and sewer departments. The sewer department is in bad shape and has been for a while and he did not know why we did not institute the rates in January like they were supposed to be. He was surprised to find out how cheap the county was getting our water. He was glad we were making it fair for our people in the Village.

Spletzer reminded everyone about the Pluck a Duck event November 7<sup>th</sup>.

Granchie thanked everyone who came out tonight and the department heads in attendance.

Kropp, we went through a lot of things this evening and had a lot of discussions. He was a little disappointed in Council position and did not want to disappoint people but as of this evening he would tender his resignation from Council. He hated to disappoint people but would not hold Council hostage. He thanked the Mayor for the opportunity to be on Council He did not want to make Council to make the decision to hold him responsible, he would do that on his own. He firmly believed the principle his position and stance. He could not make a law that supersedes our constitution, could not make an ordinance that goes against a protected class or group of people. He personally believed his rights as a U S Citizen; he was a person of principle and would not hold Council hostage. He wished them good luck going forward. With a heavy heart he would tender his resignation as soon as we were through and would not be attending the executive session.

Mayor Kline addressed Mr. Kropp and said it was with heavy heart. He respected him as a member of Council and would say that he was still the best person for the job and stands behind that. He hoped he would reconsider; we are in a difficult time. All he looked at was Council rules and is a fair individual and would treat everyone the same. If not, it has been his pleasure serving with him.

He agreed with Mr. Zamecnik, Mrs. Kline different individuals that brought up the situation with our finances here. He was hoping for maybe a town hall where people could ask questions. We wonder about the process, he said for two years "let's do things the right way, slow down" and that did not take place. We had people in positions that put their head in the ground and went along with everything. People in the community talk to him who were concerned with the community. He said our community is in good shape and we will clean this up. We are not going to make excuses we will bind together. State auditors, FBI, BCI anyone who will listen we are reaching out and will get to the bottom of this. It has been like this for a long time here. He asked everyone not be defined by what divides us but by what unites us. That is what makes us a community.

**MOTION TO RECESS INTO EXECUTIVE SESSION:**

Motion to adjourn into executive session for the purpose of personnel matters in reference to the Finance Director and City Manager for employment, discipline, dismissal.

No motion was made.

**ADJOURN:**

After no further comments or questions Spletzer made a motion seconded by Granchie to adjourn at 8:58 p.m.

**ROLL CALL: Kropp aye, Granchie aye, Baryak aye  
MOTION PASSED 3-0**

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Mayor, Kenneth A. Kline

ATTEST: \_\_\_\_\_  
City Clerk/Clerk of Council

Newton Falls City Council met in Special session on Monday, October 11, 2021, at 6:00 p.m. in Council Chambers. Mayor Kline called the meeting to order following the Pledge of Allegiance and opening prayer.

**ALSO PRESENT:**

Pamela S. Priddy, City Manager; A. Joseph Fritz, Law Director; Kathleen M. King, City Clerk

**ROLL CALL:**

Spletzer, Granchie, Baryak, Zimmermann, (Ward 4 vacant)

**ABSENT:**

**PUBLIC COMMENTS:**

Julie Lemon, 2750 East River Road as a member of the community she felt we had the best Finance Director that could be found with Ms. Musson. During her time without our community she obtained two CAFR awards and prior to her the books were unauditable. She felt Ms. Musson has received the short end of the stick. First, she was suspended then on administrative leave without pay. Since then our finances have been in a downward spiral. She stated former City Manager, Lynch lied to Council and the media and violated HIPAA. Ms. Lemon received a copy of Ms. Musson's personnel file, city employee handbook. Ms. Lemon also had Facebook posts that had remarks from current city employees. She questioned the City Social Media Policy and if it was being followed. She felt the comments were slanderous and ridiculous. She did research on some of the information she found. Ms. Lemon asked if Ms. Musson was so bad why was she offered a contract, why reward bad behavior.

Ms. Lemon asked that Council do the right thing and return Ms. Musson to her full duties immediately.

Bud Fetterolf, 321 Ridge Road questioned as a taxpayer the One and a half million dollars transferred out of the Treasury Investment fund and where it went. Either it was theft or put in the wrong place. People who work for the City are under a bond. He asked that this be figured out and what happens happens.

**MOTION TO RECESS INTO EXECUTIVE SESSION:**

**Baryak made a motion seconded by Zimmermann to adjourn into executive session for the purpose of personnel in reference to the Finance Director to discuss employment and possible discipline, possible action taken following the executive session.**

Spletzer noted that the public meeting notice and agenda motion were not the same wording. She saw this as two different purposes for going into executive session. According open meetings act and the Sunshine Laws of Ohio you can only go into executive session with one purpose and

discussion in executive session should be limited to the specific statutory reason for the executive session. She asked if we were going to have two executive sessions.

Attorney Fritz stated no. He explained the difference between the notification to the public is a different standard than how we go into executive session. The public notice is a different standard we have to go by than the executive session notification. The public notice is what department we are going to deal with for purposes of going into executive session, under certain rules we are talking about personnel, most specifically department heads, we have to specify which department head it is. If it is not a department head, we should not specify. In this case the information gathered that you indicate are two different things, he believed are under the same umbrella. The one enhances and explains the second. He did not believe what we have was a violation of the Sunshine Law.

Baryak asked how we could go in and discuss the Finance Department without discussing the Finance Director or visa versa. He believed it was all the same. Attorney Fritz said the hundred percent agreed with him.

**ROLL CALL: Granchie aye, Baryak aye, Zimmermann aye, Spletzer aye.  
MOTION PASSED 4-0**

Baryak made a motion seconded by Granchie to adjourn the executive session and reconvene at 6:15 p.m.

**ROLL CALL: Baryak aye, Zimmermann aye, Spletzer aye, Granchie aye.  
MOTION PASSED 4-0**

**UNFINISHED/NEW BUSINESS:**

Baryak made a motion seconded by Granchie to terminate Anna Musson as Finance Director.

**ROLL CALL: Zimmermann aye, Spletzer nay, Granchie aye, Baryak aye.  
MOTION PASSED 3-1**

**Baryak made a motion seconded by Zimmermann to immediately have the City Manager, Law Director, City Clerk to go out to advertise for a new Fiscal Officer.**

**ROLL CALL: Spletzer aye, Granchie aye, Baryak aye, Zimmermann aye.**

**PUBLIC COMMENTS:**

Julie Lemon, 2750 East River Road felt the termination was a mistake. She hoped the issues she brought to the administration wo do not follow the rules meet the same fate.

**ADJOURN:**



**After no further comments or questions Baryak made a motion seconded by Spletzer adjourn at 8:36 p.m.**

**ROLL CALL: Granchie aye, Baryak aye, Zimmermann aye, Spletzer aye.  
MOTION PASSED 4-0**

\_\_\_\_\_  
Mayor, Kenneth A. Kline

ATTEST: \_\_\_\_\_  
City Clerk/Clerk of Council

**ORDINANCE 2021- 13**

**AN ORDINANCE TO AMEND ORDINANCE 2021 - 02 NEWTON FALLS ELECTRIC  
RATE REDUCTION ACT**

WHEREAS, City Council passed Ordinance 2021 - 02 titled Newton Falls Electric Rate Reduction act,

WHEREAS, No final contract has been executed,

WHEREAS, No service agreement has been finalized,

WHEREAS, City Council believes the negotiations have stalled and not been negotiated in a timely manner,

WHEREAS, City Council believes at this later date a greater mandatory minimum is fair value of the property offered for sale, and

WHEREAS, City Council sets the mandatory minimum for the sales of the listed property as ten million dollars (\$10,000,000.00)

**COUNCIL FOR THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY RESOLVES:**

**SECTION I:** No property as described in Ordinance 2021 -02 shall be sold for any amount less than ten million dollars.

**SECTION II:** Any ordinance or parts of ordinance in conflict with the context of this ordinance are hereby repealed.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2021.

\_\_\_\_\_  
Mayor Kenneth A. Kline

ATTEST: \_\_\_\_\_  
Kathleen M. King, City Clerk

AJF

**SPONSOR: GRANCHIE**

**ORDINANCE: 2021-19**

**AN ORDINANCE ESTABLISHING AN ANNUAL COST OF LIVING ADJUSTMENT  
FOR ALL HOURLY CITY EMPLOYEES.**

WHEREAS, Newton Falls City Council acknowledges that there is an annual recommended cost of living adjustment; and

WHEREAS, The cost for all goods and services, including vital ones such as food, shelter, and medical care, continues to rise. Earnings used to pay for the necessities of life need to also rise, otherwise many people could not afford the cost of living; and

WHEREAS, City Council wishes to make sure all hourly employees receive the recommended cost of living adjustment to their wages.

COUNCIL FOR THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY ORDAINS:  
SECTION I: Newton Falls City Council hereby authorizes an annual cost of living adjustment to all hourly employees' wages as determined by the Consumer Price Index in October of each year.

SECTION II: The cost-of-living adjustment shall be applied to all hourly employee's wages on the first full pay starting January following the October determination.

SECTION III: Any ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2021.

\_\_\_\_\_  
Mayor, Kenneth A. Kline

ATTEST: \_\_\_\_\_  
City Clerk/Clerk of Council, Kathleen M. King

**SPONSOR: BARYAK**

**ORDINANCE 2021-21**

**AN ORDINANCE AMENDING ORDINANCE 2010-15, 2010-34 AND 2017-13  
ESTABLISHING NEW RATES FOR WATER AND BULK WATER HAULING ON  
USAGE BEGINNING JANUARY 1, 2022.**

WHEREAS, Newton Falls City Council established rates and percentage increases for water and bulk water through 2015; and

WHEREAS, A water rate study and a cost of service analysis was completed in December 2020; and

WHEREAS, An increase in the current rates is necessary in order to meet annual operating expenses, maintenance costs and prepare for necessary capital improvements; and

WHEREAS, City Council has reviewed the water rate study and cost of service analysis and has determined that an increase is necessary to meet future budgetary needs of the City.

COUNCIL FOR THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY ORDAINS:

SECTION I: Newton Falls City Council hereby adopts "Exhibit A" attached hereto as if fully rewritten herein.

SECTION II: Newton Falls City Council hereby establishes January 1, 2022 as the effective date said percentage increase begins as outlined in "Exhibit A".

SECTION III: Newton Falls City Council shall review the water rates annually to determine if any additional rate adjustments are needed.

SECTION IV: Any ordinance or parts of ordinances in conflict with the context of this ordinance are hereby repealed.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2021.

\_\_\_\_\_  
Mayor, Kenneth A. Kline

ATTEST: \_\_\_\_\_  
Clerk of Council/City Clerk, Kathleen M. King

**EXHIBIT A**

**ORDINANCE**

**2021-21**

<b>TIER</b>	<b>EXISTING RATES</b>	<b>FY 2022 RATES</b>	<b>% INCREASE</b>
<b>INSIDE THE CITY</b>			
0-8,000 GAL	\$5.01	\$5.20	3.70%
NEXT 9,000 GAL	\$4.44	\$5.18	16.50%
17,000 GAL	\$4.33	\$5.14	18.70%
<b>OUTSIDE THE CITY</b>			
0-8,000 GAL	\$7.02	\$7.28	3.70%
NEXT 9,000 GAL	\$6.21	\$7.24	16.50%
17,000 GAL	\$6.05	\$7.19	18.70%
<b>WATER HAULER</b>			
50,000 GAL	\$7.48	\$10,00	33.70%
<b>ALL OVER 50,000 GAL</b>	<b>\$6.40</b>	<b>\$8.56</b>	<b>33.80%</b>

**SPONSOR: Mayor Kline**

**ORDINANCE 2021- 22**

**AN ORDINANCE REQUIRING THE REGISTRATION OF CONTRACTORS  
OPERATING WITHIN THE CITY OF NEWTON FALLS.**

WHEREAS, Numerous persons and groups of persons provide services, labor, services and material and/or labor and materials as contractors within the City of Newton Falls; and

WHEREAS, City Council desires to regulate such contractors for the protection of the residents of the City, and both public and private property within the City.

THE COUNCIL OF THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY  
ORDAINS:

SECTION 1: Newton Falls City Council hereby adopts the following requirements for contractors working within the City of Newton Falls as attached as "Exhibit A."

SECTION II: Any ordinance or parts of ordinances in conflict with the context of this ordinance are hereby repealed.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2021.

\_\_\_\_\_  
Mayor Kenneth Kline

ATTEST: \_\_\_\_\_  
Clerk of Council/City Clerk

EXHIBIT A  
Ordinance 2021-22

CONTRACTOR REGISTRATION

DEFINITIONS.

For the purposes of this chapter, certain words are defined as follows:

- (a) "Contractor" means any person, firm, or corporation contracting to supply and perform work or labor for another person, firm or corporation for a stipulated sum of money.
- (b) "Sub-contractor" means any person, firm, or corporation assuming by secondary contract some or all of the obligations of an original contractor.
- (c) "City" means the City of Newton Falls, Ohio.
- (d) "Building Inspector" means the Zoning Compliance Officer of the City.

LICENSE REQUIRED.

No person, firm or corporation, either as contractor or sub-contractor, shall construct, alter, remove, demolish, or commence the construction, alteration, removal or demolition of any building or structure or shall install any equipment for the operation of a building or structure without first filing with the Building Inspector, an application in writing and obtaining a formal license in conformity with this chapter. An exception to this license requirement shall be a homeowner and/or a landlord performing their own labor on property owned and/or occupied by said owner.

EXCEPTIONS

Exceptions from registration shall be as follows:

- (a) Home Owners. No provision of this chapter shall be construed to require that a fee simple owner of a parcel(s) of real estate be registered, who personally will perform work or assist in the performance of work upon the real estate. Real estate owners shall be required to obtain all necessary permits. Such work shall be performed in accordance with the Building Code and according to plans and specifications filed with the application for a permit.

(b) Government Agencies, Public Utilities, Private Organizations. Provisions of registration shall not apply to Federal, State, County or Municipal governmental agencies, public utilities furnishing services to the City under Municipal-utility franchise agreements or to industrial, commercial or institutional organizations. A maintenance department, doing work within the provisions of the Building Code, is provided for except that should work covered by the Building Code be contracted to outside concerns, then such contractors shall be registered with the City as provided herein.

(c) Minors. No provision of this chapter shall be construed to require a minor to be registered.

(d) Handyman type sole proprietor, having zero employees.

#### REGISTRATION PERIOD.

(a) Term. All registration certificates shall expire one year from the date on which the certificate was issued.

(b) Initial Application. Initial application for registration may be made at any time during regular business hours by applying with the City Building Official and providing such information as required by Section \_\_\_\_\_.

#### APPLICATION AND ISSUANCE; FEE; CERTIFICATION.

No person, firm or corporation, either as a contractor or sub-contractor shall perform any of the services set forth in Section 2 above without first obtaining a license from the Building Inspector to perform such work within the City.

No license shall be issued by the Building Inspector until the contractor or sub-contractor has first submitted the following requirements:

(a) Payment of a fee in the amount of one hundred dollars (\$100.00) the first year, which year shall commence on the day the license is issued, then renewed upon payment of fee in the amount of fifty dollars (\$50.00) for subsequent years

(b) Certification from the City Income Tax Department that such person, firm or corporation, either as contractor or sub-contractor, is registered with such department, including its partners, employees, agents or servants of such contractor or subcontractor performing work or labor within the City;

(c) Proof of liability insurance by certificate of insurance in an amount not less than one hundred thousand and no/100 dollars (\$100,000) per occurrence. In the event the insurance policy expires prior to the expiration date of the license, the contractor or sub-contractor, must guarantee and acknowledge in writing that he



will maintain said liability insurance coverage for the full term of the license (i.e. one year). Any lapse in liability insurance coverage will result in an automatic revocation of license.

(d) Upon the request of the issuance of a license, it is required that proof of Worker's Compensation for the applicant's employees be provided before the issuance of the license

#### SUSPENSION OF REVOCATION OF REGISTRATION.

(a) Registration may be suspended by the Building Inspector or his designee(s) for any of the following reasons:

- (1) Violation of any provision of this chapter or any part of the Building Code;
- (2) Misrepresentation of material fact in order to become registered, or in the removal of registration;
- (3) Failure to secure permits, inspections and approvals required by the Building Code;
- (4) Use of registration to obtain a permit for another;
- (5) Failure or refusal to correct a violation of the Building Code within a prescribed period of time or to correct incompetent work as ordered by the City Building Inspector or their designee(s);
- (6) For any other reason that is determined to be adverse to the health, safety and welfare of the residents of the City;
- (7) Repeated and continued violations of the Building Code; or
- (8) Failure to maintain coverage under the Ohio Worker's Compensation Laws.
- (9) Failure to comply with the City of Newton Falls Income Tax Laws.
- (10) Failure to maintain the Liability Insurance as herein required.

(b) Notice of suspension shall be by written notice to the contractor and shall state the grounds upon which the findings are based. The notice shall specify a reasonable period of time within which to remedy the findings. If the contractor fails to remedy the findings, the Building Inspector or their designee(s) shall proceed with a stop work order and revocation of the Registration subject to the appeal procedure set forth by the Board of Zoning Appeals in §1159.04 of the City of Newton Falls, Ohio Zoning Regulations, as upon an Administrative Appeal.

#### PENALTY.

(a) Failure to Register. Failure to register with the City Building Official as set forth in this chapter shall result in termination of all work on the project or projects under violation and/or an assessment amounting to double the cost of the registration fee for each offense. A separate offense shall be deemed committed on

each day during or on which a violation occurs or continues until such registration is completed.

(b) Failure to Maintain Minimum Requirements. Failure to maintain the minimum registration requirements of this chapter shall result in termination of all work on the project or projects under violation and/or a fine of fifty dollars (\$50.00) for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues until proof of such requirements are presented.

**SPONSOR: Baryak**

**ORDINANCE 2021- 23**

**AN ORDINANCE ESTABLISHING SIDEWALK DISTRICTS AND ACCESSMENT  
PROCEDURE WITHIN THE CITY OF NEWTON FALLS.**

WHEREAS, City Council desires sidewalks within the entire City for public use; and

WHEREAS, City Council acknowledges that safe sidewalks provide for the health, safety and welfare of the entire community; and

WHEREAS, City Council wants to provide an opportunity to decrease the expense of sidewalk costs to property owners by creating sidewalk districts and seeking lower costs through one or more construction provider; and

WHEREAS, City Council wants to create an assessment method to assure property owner payment of cost of sidewalk creation or repairs.

THE COUNCIL OF THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY  
ORDAINS:

SECTION 1: Newton Falls City Council hereby adopts the following requirements to create Sidewalk District(s) and Assessments methods within the City of Newton Falls as attached as "Exhibit A."

SECTION II: Any ordinance or parts of ordinances in conflict with the context of this ordinance are hereby repealed.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2021.

\_\_\_\_\_  
Mayor Kenneth Kline

ATTEST: \_\_\_\_\_  
Clerk of Council/City Clerk

## EXHIBIT A

### Ordinance 2021-23

#### 907.01 DISTRICTS ESTABLISHED; COST ASSESSMENT.

When, in the opinion of City Council, the repair or replacement of sidewalks on any streets, lanes or public roadways, or parts thereof, will be of general benefit within the City, Council may, by resolution, declare such street, lane or public roadway, or the territory including such street, lane or public roadway, or part thereof, or intersecting or connecting streets, lanes or public roadways, or parts thereof, or all such streets, lanes or public roadways within the City, a district or districts within which sidewalk abutting on such streets, lanes or public roadways or part thereof shall be repaired or replaced within a period named in the resolution not to exceed one year. Such portion of the cost thereof as is deemed just by City Council shall be assessed by the abutting foot on the property abutting the street, lanes or public roadways so improved in such district and the remainder of such cost shall be paid by the City.

#### 907.02 PROPERTY OWNERS' PETITION.

Upon written petition signed by the owners of a majority of the abutting feet of property on a street, lane or public roadway, or part thereof, or of connecting or intersecting streets, lanes or public roadways, or parts thereof, presented to Council praying that sidewalks be repaired or replaced on the streets, lanes or public roadways within the territory described, and for the assessment of the whole or any designated portion of the cost thereof on the property abutting such streets, lanes or public roadways, City Council may, by resolution, declare such territory a district within which sidewalk shall be repaired or replaced abutting on such streets, lanes or public roadways within the period named in the petition, not to exceed one year, and the cost thereof shall be assessed by the abutting foot upon the property abutting the streets, lanes or public roadways so improved.

#### 907.03 NOTICE OF ASSESSMENT OF PROPERTY.

When a portion of the cost of the repair or replacement of sidewalks abutting on streets, lanes or public roadways under Section 907.01 or Section 907.02 is to be assessed against private property, notice to the owners thereof shall be given by publishing, once each week for two weeks in a newspaper published and of general circulation in the Village, the resolution establishing a sidewalk repair or replacement district and setting forth the portion of the cost to be assessed.

#### 907.04 APPEALS.

If an owner objects to an assessment, he shall file his objections in writing with the Clerk of Council within ten days after the last publication of the resolution as provided in Section

907.03. Thereupon, City Council shall consider such objections and if they are found to be well taken, may remit such portion of the assessment against the property of the objecting owner as deemed just or may determine by resolution that a portion or portions of the work described in the resolution adopted pursuant to Section 907.01 or 907.02 shall not be done. Any deficiency arising from such remitter may be made up from any fund of the City available for the public improvement of streets or by contributions from the owners desiring that the work be done.

#### 907.05 PROCEEDING WITH REPAIR OR REPLACEMENT.

After the expiration of the time within which objections may be filed under Section 907.04 and the disposition of objections, the City may proceed with the work described in Sections 907.01 or 907.02, or if proceeding by contract, the legislative authority shall authorize the City Clerk to advertise and take bids for the awarding of the necessary contracts, subject to any determination by City Council that a portion of such work shall not be done pursuant to Section 907.04.

#### 907.06 COLLECTION OF ASSESSMENTS.

When any portion of the cost of work done under this chapter is to be assessed, City Council shall, after the completion of such work, adopt an ordinance levying an assessment by the abutting foot on the property abutting the streets, lanes and public roadways so improved in the district to pay such portion of the cost as was determined in the resolution of necessity. The assessment for the cost thereof may be payable in full within thirty days from the levy thereof in the office of the Director of Finance. All assessments remaining unpaid at the expiration of such thirty days shall be certified by the Director of Finance to the County Fiscal Officer, to be placed upon the tax duplicate and collected in the number of annual installments established by City Council in the assessment ordinance, not exceeding ten.

#### 907.07 CERTIFICATION OF RESOLUTION.

A copy of the resolution shall be certified to the County Auditor by the Clerk of Council within twenty days of its passage.

#### 907.08 PUBLIC SIDEWALK REPAIR, REPLACEMENT AND CONSTRUCTION.

(a) Upon the enactment of this section, periodically thereafter, or when conditions warrant immediate action, the City may require the owner of any property to repair and/or replace existing public sidewalks which meet or qualify under the following, and City Council from time to time may provide for a program of assessment in accord with the following:

- (1) Any block which has multiple cracks; or any block which has any single crack which is irregular, has raveled edges or is wider than ½ inch (indicating movement), or has opened up so that part of the block has settled.
- (2) Adjoining sections of block, or portion thereof, whose edges differ vertically by 5/8 inch or more.
- (3) Blocks having depressions that impound water to a depth of ½ inch or more.

- (4) Any block with disintegrated, deteriorated, shattered or severely spalled areas or missing pieces or missing particles of aggregate.
- (5) Blocks pushed up due to tree roots that cause an abrupt change in the longitudinal grade of the sidewalk.
- (6) Any foreign material such as asphalt concrete covering that changes the contour of the existing sidewalk to be in need of replacement or repair as deemed necessary by the Code Enforcement Officer.
- (7) Trees, bushes or shrubs that overhang the sidewalk. Tree limbs should be trimmed to at least ten feet above the sidewalk. Bushes or shrubs should be trimmed so as not to overhang the sidewalk even after a rain.
- (8) Any block which the Code Enforcement Officer determines to be in need of replacement or repair regardless of whether it has any of the characteristics set forth in subparagraphs (1) through (7).
- (9) The above specifications are determined to be that point from which public sidewalks should remain in sufficiently good repair over a period of years, before the next repair or replacement is initiated, given usual deterioration over time. Such specifications are not an expression of standards for the determination of a public nuisance, and are not an expression of any assumed duty by the City of Newton Falls.

(b) The following specifications shall apply to both existing sidewalks under subsection (a) above and new construction:

- (1) All sidewalks within the City shall be laid on a grade rising  $\frac{1}{2}$  inch to the foot from the established curb grade line to the street line, unless an exception is granted by the Code Enforcement Officer.
- (2) The minimum width of all sidewalks constructed within the City shall be four feet. The Code Enforcement Officer may increase the minimum width of sidewalk construction at his discretion.
- (3) All sidewalks shall be constructed or repaired with Portland cement concrete, unless an exception is granted by the Code Enforcement Officer.
- (4) The above specifications are determined to be that point from which public sidewalks should remain in sufficiently good repair over a period of years, before the next repair or replacement is initiated, given usual deterioration over time. Such specifications are not an expression of standards for the determination of a public nuisance, and are not an expression of any assumed duty by the City of Newton Falls.

(c) In the event any owner fails, within a reasonable time, to repair or replace the sidewalk as ordered by the Code Enforcement Officer, then the City may undertake the repair or replacement of the sidewalk and subsequently file a lien against the property for the cost thereof with the County Recorder.

#### 907.09 SIDEWALK REMOVAL.

(a) The owner of a premises upon which a public sidewalk is situated may petition the City Council for removal of such sidewalk. City Council may approve such removal based upon the following:

- (1) The existing sidewalk is not contiguous to any other existing sidewalk.

- (2) The existing sidewalk is not on a through street.
- (3) The existing sidewalk is not incorporated in a City plan for the location of present and future sidewalks adopted by City Council.

(b) If approved by Council, all costs associated with removal and restoration shall be the responsibility of the owner of the premises. Such owner shall obtain a right-of-way permit from the Code Enforcement Officer before such work commences.



## Highlights on Sidewalk program

- **30-day Violation letter Sent  
(No Extensions)**
- **Notice of when city will repair with estimate  
(10-day grace period)**
- **Send invoice give 15 days to pay**
- **If individual wants to pay, then \$50.00 fee would  
be assessed**
- **After 15 days no payment give to Finance  
Director wo file with Trumbull County (\$250.00  
assessment charged**

**Adjustments to the fee schedule in ordinance are as follows**

**\$15.00 Permit Fee**

**\$50.00 Assessment Fee**

**\$250.00 Assessment for no payment**



**SPONSOR: Baryak**

**ORDINANCE 2021-24**

**AN ORDINANCE ESTABLISHING RATES OF PAY FOR SUPERINTENDENTS  
APPOINTED AFTER PASSAGE OF THIS LEGISLATION.**

WHEREAS, Newton Falls City Council recognizes that a salary range is needed for employees who will be appointed to a Superintendents position;

WHEREAS, Current employees in the Superintendents positions receive a set salary; and

WHEREAS, Upon retirement and/or change of Superintendent a salary range is needed dependent on experience in the department; and

WHEREAS, Council authorizes the City Manager to establish pay for each newly appointed Superintendent, dependent upon qualifications, within the approved pay scale.

COUNCIL FOR THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY ORDAINS:

SECTION I: All employees hired and/or promoted to the position of Superintendent shall receive a salary between \$30.00 to \$34.85 per hour x 2080 hours yearly. This salary includes overtime, longevity, CDL and any/all licenses required or obtained while in the position during their employment.

SECTION II: City Manager shall establish pay for newly appointed Superintendents, dependent upon qualifications, within the approved pay scale.

SECTION III: Current salaried employees are not affected by this Ordinance.

PASSED IN COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2021.

\_\_\_\_\_  
Mayor, Kenneth A. Kline

ATTEST: \_\_\_\_\_  
City Clerk/Clerk of Council, Kathleen M. King

**SPONSOR: Baryak**

**RESOLUTION 34-2021**

**A RESOLUTION OF APPRECIATION TO CHARLES E. LANE FOR HIS YEARS OF SERVICE TO THE CITY OF NEWTON FALLS.**

*WHEREAS, Charles Lane began his career with the City of Newton Falls as a Maintenance Relief Operator with the City of Newton Falls Water Department on April 9, 1990; and*

*WHEREAS, Chuck Lane was promoted to Crew Chief in 2014; and*

*WHEREAS, In 2018 Chuck took the position of Water Distribution Superintendent; and*

*WHEREAS, During his time with the City, Chuck Lane also served as AFSCME Union President; and*

*WHEREAS, Charles Lane has served in the Water Distribution Department of the City of Newton Falls for over 30 years and will retire the end of October 2021; and*

*WHEREAS, Chuck has demonstrated his dedication to and interest in the community by his commitment to serving the residents and improving the quality of life of its residents; and*

*WHEREAS, during the years Chuck has shown his knowledge of the City and dedication to the Citizens and the City of Newton Falls which has been sincerely appreciated by the City Council and its residents.*

**COUNCIL FOR THE CITY OF NEWTON FALLS, STATE OF OHIO, HEREBY RESOLVES:**

*SECTION I: Special recognition and appreciation is hereby given to Charles El Lane for his thirty plus years of service to the City of Newton Falls.*

*SECTION II: The Newton Falls City Council and City residents, by way of this Resolution wish to express their sincere appreciation to Charles Lane for his service to the community and wish him the best in the future.*

*PASSED IN COUNCIL THIS 18<sup>th</sup> DAY OF OCTOBER 2021.*

\_\_\_\_\_  
*Mayor, Kenneth A. Kline*

*ATTEST:* \_\_\_\_\_  
*City Clerk/Clerk of Council, Kathleen M. King*

## Water and Electric Meter Opt-Out Recommendations

The recommendations listed below are as noted in the Notes & Suggestions section of the previous documents provided to council on October 4, 2021.

1. My recommendation to council would be there that be no further opt-out opportunity. The individuals that currently opted out would be grandfather to this recommendation. Given the fact that there have been approximately 700 water meters installed would cause great confusion to individuals that have already had the meters installed. If we allow another opt-out then our water department could be inundated with reinstallations of the MTU units.
2. My recommendation for the opt-out time table of payment would be 6 months. Every month the individual would have a charge on their billing for the cost of both meters.
3. My recommendation would be that the Homeowner should be responsible for the cost of the opt-out. It would be then up to them to collect the fees through their rental agreements if they so desire.
4. My recommendation would be that the opt-out program that has already taken place would be the individuals that opted out – give them the choice of considering if they want the electric meter give the fact that there has been more information provided. If they want to still opt-out of both, then the appropriate fees would be accessed.
5. My recommendation would be no that we do not allow the additional opt-out
6. My recommendation would be not to allow an additional opt-out for the electric meters.
7. My recommendation would be that if someone would want to pay the fees up front that there should be a discount give. I would recommend a 20% discount. Total charge for the equipment would be \$355.00 the discount would be \$71.00 for a total net payment amount of \$284.00.
8. Obviously, any changes or amendments would have to go through the law director.

### Additional recommendations

1. My recommendation moving forward is that any new construction or an individual that has already opted out moves out that the meters be placed/replaced with the new meters.
2. My recommendation would be that there be no further opt-outs.

This program got off to a very rocky start. It appears that things are moving forward at a progressive pace now. To change and go backward is not advisable. You are going to add more confusion and dissatisfaction within the community.

# OPT OUT COST ANALYSIS

## ELECTRIC METER

AMI Meter	\$165.00
Digital Meter	\$ 30.00
Related Meter Reading Costs	\$ 10.00
<b>TOTAL ONE TIME COST</b>	<b>\$205.00</b>

## WATER METER

Cost of MTU	\$140.00
Related Meter Reading Costs	\$ 10.00
<b>TOTAL ONE TIME COST</b>	<b>\$150.00</b>

A single flat rate fee of \$5.50 per month will be charged to each household that opts out of the smart meter program.

## NOTES & SUGGESTIONS

1. OPT out notifications to be resent with new timeline
2. Time table for opt out payments  3 mos.  6 mos.  12 mos.
3. Should landlords pay if renters do not?
4. OPT out- Do separately or combined?
5. Do we allow households that have already had meters installed the opportunity to opt out?
6. Installation of electric meters is slated to begin in July of 2022, should the opt out period begin in January?
7. Can we offer a discount if households pay all the opt out fees up front?
8. Changes/amendments will have to go through the Law Director for review