

September 12, 2012

The regular meeting of the Town Council of the Town of Newton was held on the above date at 7:00 p.m. Present were Mrs. Becker, Mr. Elvidge, Deputy Mayor Ricciardo, Mr. Flynn, Mayor Diglio, Thomas S. Russo, Jr., Town Manager, and Mark Hontz, Esq., Town Attorney.

Mayor Diglio made the following declaration that "in accordance with the Open Public Meetings Act, notice of this public meeting was given to the two newspapers of record and posted on the official bulletin board on December 31, 2011."

Mayor Diglio led the Pledge of Allegiance to the flag and the Clerk called the roll and upon motion of Mrs. Becker, seconded by Mr. Ricciardo and carried, the minutes of August 27, 2012 (Regular & Special) meeting were approved, as amended.

OPEN TO THE PUBLIC

Mayor Diglio read the following statement:

"At this point in the meeting, the Town Council welcomes comments from any member of the public on any topic. To help facilitate an orderly meeting and to permit the opportunity for anyone who wishes to be heard, speakers are asked to limit their comments to 5 minutes. If reading from a prepared statement, please provide a copy and email a copy to the Clerk's Office after making your comments so it may be properly reflected in the minutes."

There was no public comment at this time.

COUNCIL & MANAGER REPORTS

Mr. Russo announced the hiring of a new employee, Meagan DeJong, as Clerk Typist in the Municipal Clerk's office, Mrs. DeJong was not present at this time.

Mr. Russo announced that there are three scheduled public meetings set for the Vision Plan Update. The sessions are as follows: Thursday October 25, 2012 @ 7 p.m.; Saturday, October 27, 2012 @ 9 a.m. and Monday, November 26, 2012 @ 6 p.m. All sessions will be held at the Newton Municipal Building, 39 Trinity Street, Newton. All members of the public are invited to attend and participate, Mr. Russo concluded.

At this time, Mrs. Millikin explained the reason for the addition of Resolution #193-2012, regarding the water restrictions in the Town of Newton.

Mr. Russo advised Council that the local Legislators are going to assist the Town with the Disruptive Properties Ordinance and they will be attending a meeting together with staff and legal Counsel to discuss same in the near future.

Councilman Flynn advised that he attended the 9/11 ceremony, over the weekend, at the SCCC and was truly impressed with the event. Mr. Flynn indicated that it was well attended, with great speakers and commended Chief Richards and his

team for coordinating this annual event.

ORDINANCES

Mayor Diglio directed the Clerk to read aloud the following Ordinance relative to final adoption.

ORDINANCE #2012-23

AN ORDINANCE ADOPTING AMENDMENTS TO THE MERRIAM GATEWAY REDEVELOPMENT PLAN

WHEREAS, the *Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.* (the "Act"), authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment or areas in need of rehabilitation, as such terms are defined in the Act; and

WHEREAS, on April 23, 2007, the Town of Newton (the "Town"), designated certain properties within its borders as an area in need of rehabilitation in accordance with the Act (the "Rehabilitation Area"); and

WHEREAS, in November 2010, after review and comment by the Planning Board in accordance with the Act, the Town implemented a redevelopment plan (the "Redevelopment Plan") for a portion of the Rehabilitation Area comprised of: Block 18.03, Lot 10 (then Block 1104, Lot 22); Block 22.02, Lots 8, 9 and 10 (then Block 1209, Lots 10, 11, 12.01); Block 18.02, Lots 9, 10, 11, 12, 14, 15, 16 and 17 (then Block 1301, Lots 1, 1.04, 10, 11, 12, 13, 14, 15, 16); and Block 22.04, Lots 1, 2, 3, 4, 5 (portion), 13, 14 and 15 (then Block 1308, Lots 1 (portion), 1.01, 1.02, 10, 11, 12, 13 and 14), together with the public streets and rights-of-way adjacent thereto (collectively, the "Plan Area"); and

WHEREAS, the Town wishes to enlarge the Plan Area to include all of Block 22.04, Lot 5 (then Block 1308, Lot 1), which is within the Rehabilitation Area and which is owned by the Town, and further wishes to modify density requirements and certain bulk standards contained in the Redevelopment Plan; and

WHEREAS, in accordance with the Act, the Town prepared proposed amendments to the Redevelopment Plan, which are attached hereto as Exhibit A (the "Proposal"); and

WHEREAS, on August 13, 2012, the Town Council, acting by Resolution, referred the Proposal to the Planning Board for its review and comment in accordance with Section 7 of the Act; and

WHEREAS, at a duly noticed and constituted public meeting of the Planning Board held on August 15, 2012, Jessica Caldwell, P.P., A.I.C.P. (the "Planning Consultant") presented the Proposal and further addressed any questions and comments presented by the Planning Board; and

WHEREAS, after due consideration of the Proposal, testimony regarding the Proposal, and discussion of the foregoing, the Planning Board determined by Resolution dated August 15, 2012 (the "Planning Board Findings", attached hereto as Exhibit B) that the Proposal is consistent with the Town's Master Plan, and recommended that the Town adopt the Proposal as an amendment to the Redevelopment Plan,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, AS FOLLOWS:

Section 1. The Town concurs with the Planning Board's determination that the Proposal is consistent with the Master Plan. The Proposal, as filed in the Office of the Town Clerk, and attached hereto as Exhibit A, is hereby approved.

Section 2. The zoning map of the Town of Newton is hereby amended to incorporate the provisions of the Redevelopment Plan, as amended by the Proposal, and to delineate the boundaries of the Plan Area, as amended by the Proposal.

Section 3. This ordinance shall take effect as provided in law.

Mayor Diglio opened the hearing to the public. There being no one from the public to be heard, upon motion by Mrs. Becker, seconded by Mr. Flynn and unanimously carried, the hearing was closed.

The aforementioned **ORDINANCE** was offered by Mr. Ricciardo, who moved its adoption, seconded by Mrs. Becker and roll call resulted as follows:

Mrs. Becker	Yes	Mr. Elvidge	Yes
Deputy Mayor Ricciardo	Yes	Mr. Flynn	Yes
Mayor Diglio		Yes	

This ordinance will take effect after publication and adoption according to law.

The Clerk will advertise the above Ordinance according to law.

OLD BUSINESS

There was no Old Business to discuss.

CONSENT AGENDA

Mayor Diglio read the following statement:

"All items listed with an asterisk () are considered to be routine and non-controversial by the Town Council and will be approved by one motion. There will be no separate discussion of these items unless a Council member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda."*

Mr. Russo provided a brief overview of the various Resolutions.

RESOLUTION #186-2012*

AUTHORIZE ENTERING INTO AN INTERLOCAL SHARED SERVICES AGREEMENT WITH THE BOROUGH OF NETCONG FOR THE SALE OF EQUIPMENT

WHEREAS, the Town of Newton desires to enter into a shared services agreement with the Borough of Netcong to furnish the Borough of Netcong with a 2003 Mighty Mite Radar Trailer; and

WHEREAS, the parties desire to enter into an Agreement pursuant to the "Uniform Shared Services and Consolidation Act," N.J.S.A. 40A:65-4, et seq., for the furnishing of such services;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton, in the County of Sussex, and State of New Jersey as follows:

1. The Mayor and Town Clerk are hereby authorized and directed to execute the Shared Services Agreement, a copy of which is attached hereto, with the Borough of Netcong for the sale of a 2003 Mighty Mite Radar Trailer.

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2. The Mayor and Clerk are hereby authorized to execute any additional non-substantial amendments and/or modifications to the Agreement without the consent of the Town Council.
3. This Resolution shall take effect immediately.

RESOLUTION #187-2012*

AUTHORIZE REFUND OF REDEMPTION MONIES TO OUTSIDE LIEN HOLDER FOR BLOCK 15.01, LOT 8 (FORMERLY BLOCK 801, LOT 8)

WHEREAS, at the Municipal Tax Sale held on October 19, 2011, a lien was sold on Block 15.01, Lot 8 (Formerly Block 801, Lot 8), also known as 20 Townsend Street, for 2010 delinquent utility charges; and

WHEREAS, this lien, known as Tax Sale Certificate #1360, and was sold to US Bank cust for Pro Capital I, LLC for 18% redemption fee; and

WHEREAS, Core Logic, who represents the owner's mortgage company, has effected the redemption of Certificate #1360 in the amount of \$463.46;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that this Governing Body acknowledges that US Bank cust for Pro Capital I, LLC is entitled to a redemption in the amount of \$463.46; and

BE IT FURTHER RESOLVED, that the Tax Collector be authorized to issue a check, in the amount of \$463.46 for the redemption of Certificate #1360 to US Bank cust for Pro Capital I LLC, 50 S. 16th Street, Suite 1950, Philadelphia, PA 19102.

RESOLUTION #188-2012*

AFFIRM THE ISSUANCE OF A \$950,000 BOND ANTICIPATION NOTE

WHEREAS, when Bond Ordinances are adopted by the Town Council of the Town of Newton, the Chief Financial Officer is authorized to issue Bond Anticipation Notes (BAN) to provide temporary financing for the Town; and

WHEREAS, the Town of Newton needed to finance the debt authorized by Ordinance #2012-13 adopted April 9, 2012; and

WHEREAS, the Town had already issued refunding bonds in the calendar year 2012 in excess of \$10,000,000 which made this BAN issue non-bank qualified and therefore not attractive to local banks, and also the larger financial institutions consider this a small issue and therefore not attractive to them, therefore the Town's bond counsel recommended having a negotiated sale; and

WHEREAS, the Chief Financial Officer and McManimon, Scotland and Baumann, bond counsel for the Town of Newton negotiated the sale with RBC Capital Markets for a Bond Anticipation Note totaling \$950,000.00 at an interest rate of 1.25%, and a yield of .8506%; and

WHEREAS, the appropriate Town Officials have executed said Note in the amount of \$950,000.00 dated August 29, 2012 and maturing August 29, 2013 ; and

WHEREAS, to comply with N.J.S.A. 40A:2-28 of the Local Bond Law, which requires that the Chief Financial Officer report certain information in writing to the Mayor and Council at the next Town Council meeting, herewith attached is the Certificate of Determination and Award;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that it does hereby affirm the issuance of a \$950,000 Bond Anticipation Note issued August 29, 2012 and maturing August 29, 2013 bearing an interest rate of 1.25% by the

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Chief Financial Officer and the execution of said note by the appropriate Town Officials.

RESOLUTION #189-2012*

TO AUTHORIZE EXECUTION OF A BANKING SERVICES AGREEMENT WITH LAKELAND BANK

WHEREAS, the Town of Newton prepared a request for proposals for banking services and received several responses; and

WHEREAS, Lakeland Bank has offered a variable rate, which is the Fed Funds Rate less .5% with a floor of .15% with payroll costs included, for a two year period, with an option to extend for a third year; and

WHEREAS, the Chief Financial Officer and the Qualified Purchasing Agent recommend the Governing Body accept the two year proposal offered by Lakeland Bank;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that it hereby authorizes and directs the Chief Financial Officer and Town Manager to execute an agreement with Lakeland Bank to secure a variable rate, which is the Fed Funds Rate less .5% with a floor of .15% with payroll costs included, for a two year period beginning October 1, 2012 continuing until September 30, 2014: and

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to Lakeland Bank, and a copy of said agreement be kept on file in the Municipal Clerk's office for public viewing.

RESOLUTION #190-2012*

AUTHORIZE CREDITS DUE WATER AND SEWER UTILITY ACCOUNTS

WHEREAS, the Water and Sewer Collector has determined that the following Water and Sewer Utility Accounts are due credits for the reasons stated;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the Water and Sewer Collector is hereby authorized to credit the following accounts for amounts billed incorrectly due to the reason(s) stated:

Credit for Incorrect Meter Reading:

<u>Account</u>	<u>Address</u>	<u>Amount</u>
17170	5 Woodside Ave.	\$935.00

RESOLUTION #191-2012*

TO CANCEL GRANT RECEIVABLE AND APPROPRIATED RESERVE AND CURRENT PUBLIC & PRIVATE REVENUE AND OFFSETTING APPROPRIATION FOR UNREALIZED CLEAN COMMUNITY GRANT IN THE AMOUNT OF \$209.32

WHEREAS, the Town of Newton used the Division of Local Government Services website listing the *Estimated Distribution for Municipalities of 2012 Clean Communities Grant* amount of \$12,488.61 when preparing the 2012 Municipal Budget; and

WHEREAS, the amount received from the State on May 11, 2012 was \$12,279.29; and

WHEREAS, the Clean Communities grant is reflected in the accounting records of both the Current Account and the Grant Account; and

WHEREAS, there is a grant receivable balance of \$209.32 *Due from State of New Jersey Clean Communities* on the Federal and State Grant balance sheet and an unrealized revenue of the same amount on the Current Fund balance sheet; and

WHEREAS, it is necessary to formally cancel the receivable balances and the offsetting appropriation balance;

NOW, THEREFORE BE IT RESOLVED, by a majority of the full membership of the Town Council of the Town of Newton, that we hereby cancel the following receivable and offsetting appropriation balances:

Current Fund

3. Miscellaneous Revenues – Section F: Special Items of Revenue Anticipated with Prior Written Consent of DLGS – Public & Private Revenues Offset with Appropriations: Clean Communities Program	\$209.32
8. General Appropriations (A) Operations – Excluded from “Caps” – Public & Private Programs Offset by Revenues: Clean Communities Programs	\$209.32

Federal & State Grant Fund

Grant Receivable – Clean Communities	\$209.32
Appropriated Reserves – Clean Communities Grant	\$209.32

RESOLUTON #192-2012*

APPROVE BILLS AND VOUCHERS FOR PAYMENT

TOWN BILLS

180.00	Harold Pellow & Associates, Inc.	30849
360.00	Harold Pellow & Associates, Inc.	30849
163.23	G & G Diesel Service, Inc.	30850
8,704.81	JCP&L	30851
35.00	Centurylink Communications, Inc.	30852
3,832.00	Mitchell Agency	30853
133.00	Galls Incorporated	30854
213.00	Galls Incorporated	30854
524.16	Police Vehicle Repairs	30855
840.11	Vision Service Plan	30856
50.00	Wildflowers with Tami	30857
305.96	Buckman's Inc.	30858
280.08	Staples Business Advantage	30859
175.45	Staples Business Advantage	30859
740.40	Hampton Body Works	30860
2,832.77	Rachel's/Michele's Oil Company	30861
2,990.33	Taylor Oil Company	30862
2,261.13	CDW Government, Inc.	30863
150.00	NJLM	30864
50.00	NJLM	30865
345.00	Knapp, Trimboli & Prusinowski, LLC	30866
118,667.00	NJMEBF	30867
2,010.00	Chelbus Cleaning Company, Inc.	30868
15,686.35	Direct Energy Business	30869
279.63	Jesco Inc.	30870
185.00	Thyssenkrupp Elevator Corp.	30871
475.00	D. Lovenberg's Portable Toilet Rent	30872
150.00	Hampton Body Works Towing LLC	30873
780.00	Emergency Reporting	30874
50.00	NJLM	30875
339,700.00	Bank of New York	121052

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183,645.78 Payroll Account 121051

CAPITAL

3,978.00 Harold Pellow & Associates, Inc. 7976
540.00 Harold Pellow & Associates, Inc. 7976
10,324.25 Harold Pellow & Associates, Inc. 7976
12,302.00 Access Control Technology 7977
833.00 Firefighter One 7978

Total TOWN BILLS \$714,772.44

WATER AND SEWER ACCOUNT

2,649.61 Harold Pellow & Associates, Inc. 13088
2,564.94 JCP&L 13089
96.86 Sussex County Plumbing & Heating 13090
12,660.43 Coyne Chemical Corp., Inc. 13091
125.85 Centurylink Communications, Inc. 13092
161.71 Vision Service Plan 13093
6,426.00 Passaic Valley Sewerage Comm. 13094
2,261.13 CDW Government, Inc. 13095
21,190.00 NJMEBF 13096
8,882.90 Direct Energy Business 13097
1,000.00 Cit-E-Net, LLC 13098
1,275.82 Hanson Pipe & Precast 13099
1,319.80 Hatch Matt MacDonald 13100
11,358.88 Pure Soil Technologies 13101
539.06 State of New Jersey – PWT 126027
902.52 Sparta Postmaster 13087

CAPITAL

2,703.75 Harold Pellow & Associates, Inc. 2244
325.58 Sussex County Plumbing & Heating 2245

Total WATER & SEWER BILLS \$76,444.84

TRUST ACCOUNT

30.00 Harold Pellow & Associates, Inc. 3052

Total TRUST ACCOUNT BILLS \$30.00

FEDERAL/STATE GRANT ACCOUNT

7,952.61 Current Account 1103

Total FEDERAL/STATE GRANT BILLS \$7,952.61

A motion was made by Mrs. Becker to approve the **COMBINED ACTION RESOLUTIONS**, seconded by Mr. Ricciardo and roll call resulted as follows:

Mrs. Becker	Yes	Mr. Elvidge	Yes
Deputy Mayor Ricciardo	Yes	Mr. Flynn	Yes
Mayor Diglio	Yes		

Upon motion of Mr. Ricciardo, seconded by Mr. Flynn and unanimously carried, that Resolution #193-2012 be added to the agenda.

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RESOLUTION #193-2012

WATER RESTRICTIONS FOR TOWN OF NEWTON

WHEREAS, the Town of Newton imposed a drought alert requesting water customers to take water conservation measures on August 21, 2012; and

WHEREAS, the Town of Newton's reservoir at Morris Lake, Sparta, New Jersey is currently 27 inches below the spillway; and

WHEREAS, due to the continued drop in water at Morris Lake, water restrictions will be implemented and take effect on September 13, 2012;

WHEREAS, §228-22. Prohibited water use of the Code of the Town of Newton prohibits the following:

1. Water customers are prohibited from watering their lawns or gardens; and
2. Washing cars, trucks, boats, or any recreational vehicles;
3. Washing public or private driveways, walkways, or sidewalks; and
4. Filling swimming pools and ornamental reflecting pools or fountains;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that we hereby impose water restrictions for the Town of Newton and authorize the Town Manager, through the Chief of Police and the Police Department, to enforce the provisions of Chapter 228, Article VI, Water Restrictions; Water Bans, of the Code of the Town of Newton.

A motion was made by Mr. Ricciardo to approve **RESOLUTION #193-2012**, seconded by Mrs. Becker and roll call resulted as follows:

Mrs. Becker	Yes	Mr. Elvidge	Yes
Deputy Mayor Ricciardo	Yes	Mr. Flynn	Yes
Mayor Diglio		Yes	

INTERMISSION – None

DISCUSSION

a. Tree Bank Ordinance – Jessica Caldwell

Jessica Caldwell, Town Planner, made a presentation to the Town Council on creating a Tree Bank Ordinance for the Town of Newton. Mrs. Caldwell provided sample Ordinances as well as a sample of a Tree Replacement Matrix. After a lengthy discussion, Council agreed that more research was needed and directed Mrs. Caldwell to revise the current draft ordinance.

OPEN TO THE PUBLIC

Mr. Kent Hardmeyer, 70 Pine Street, a member of the Shade Tree Commission, feels that the Tree Bank Ordinance is an important tool for the municipality and offered

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his services as well as those of the Shade Tree Commission to assist Mrs. Caldwell with the revision of the Tree Bank Ordinance.

There being no one else to be heard, Mayor Diglio closed the hearing to the public.

COUNCIL & MANAGER COMMENTS

There being further business to be conducted, upon motion of Mr. Ricciardo, seconded by Mr. Flynn and unanimously carried, the meeting was adjourned at 8:04 p.m.

Respectfully submitted,

Lorraine A. Read, RMC
Municipal Clerk