



AGENDA
NEWTON TOWN COUNCIL
JANUARY 28, 2013
7:00 P.M.

- I. PLEDGE OF ALLEGIANCE**
- II. ROLL CALL**
- III. OPEN PUBLIC MEETINGS ACT STATEMENT**
- IV. APPROVAL OF MINUTES**
- V. OPEN TO THE PUBLIC**

- DECEMBER 11, 2012 SPECIAL MEETING

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.

VI. COUNCIL & MANAGER REPORTS

- a. TIMBER SALVAGE – MORRIS LAKE

VII. ORDINANCES

- a. INTRODUCTION

ORDINANCE 2013-1	AN ORDINANCE ESTABLISHING CHAPTER 242 TREE PROTECTION OF THE CODE OF THE TOWN OF NEWTON
ORDINANCE 2013-2	AN ORDINANCE AMENDING CHAPTER 240-7, ADDING CHAPTER 241 TREE BANK AND AMENDING CHAPTER 100 FEES AND COSTS OF THE CODE OF THE TOWN OF NEWTON
ORDINANCE 2013-3	AN ORDINANCE TO ESTABLISH A LENGTH OF SERVICE AWARDS PROGRAM (LOSAP) FOR MEMBERS OF THE NEWTON VOLUNTEER FIRST AID SQUAD
ORDINANCE 2013-4	AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN LANDS IN THE TOWN OF NEWTON BY PUBLIC AUCTION

VIII. OLD BUSINESS

IX. CONSENT AGENDA

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.

- a. RESOLUTION #20-2013* AUTHORIZING WAIVING OF WATER AND SEWER UTILITY CHARGES FOR THE NEWTON VOLUNTEER FIRST AID SQUAD

b. RESOLUTION #21-2013*

A RESOLUTION OF THE TOWN OF NEWTON AUTHORIZING THE PURCHASE OF ENERGY GENERATION SERVICES FOR PUBLIC USE VIA AN ONLINE AUCTION WEBSITE

c. RESOLUTION #22-2013*

APPROVE 2012 APPROPRIATION RESERVE TRANSFERS

d. RESOLUTION #23-2013*

APPROVE BILLS AND VOUCHERS FOR PAYMENT

X. INTERMISSION

XI. DISCUSSION

a. ART ALLEY

XII. OPEN TO THE PUBLIC

XIII. COUNCIL & MANAGER COMMENTS

XIV. EXECUTIVE SESSION

a. RESOLUTION #24-2013

A RESOLUTION PROVIDING FOR A MEETING NOT OPEN TO THE PUBLIC IN ACCORDANCE WITH THE PROVISIONS OF THE NEW JERSEY OPEN PUBLIC MEETINGS ACT, N.J.S.A. 10:4-12

1. LITIGATION
2. CONTRACT NEGOTIATIONS/
REAL PROPERTY ISSUES

XV. ADJOURNMENT

TOWN OF NEWTON

ORDINANCE 2013-1

AN ORDINANCE ESTABLISHING CHAPTER 242 TREE PROTECTION

OF THE CODE OF THE TOWN OF NEWTON

WHEREAS, the Mayor and Town Council of the Town of Newton find that the indiscriminate and uncontrolled removal and cutting of Trees upon lots and tracts of land particularly on steep slopes and along stream corridors within the Town has resulted in increased municipal costs to control drainage and repair roads and has caused soil erosion and decreased fertility of the soils as well as dust; and

WHEREAS, the Town of Newton's Shade Tree Advisory Commission (NSTAC) has recommended a Tree Protection Ordinance to help alleviate and mitigate any potential negative impacts resulting from the indiscriminate removal of Trees; and

WHEREAS, the Town Council of the Town of Newton implemented Tree Protection and Replacement for new Site Plan and Subdivision applications in the Town of Newton by adding Tree Protection and Replacement requirements in Chapter 240 Site Plan And Subdivision of the Town Ordinances;

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

Section I: Chapter 242, Tree Protection, is hereby created and made a part of the Code of the Town of Newton.

242-1 Purpose. The purpose of this ordinance is to prevent the indiscriminate and uncontrolled removal and cutting of Trees upon Subdividable Lots and Undeveloped Lots.

242-2 Applicability. Tree Protection applies to all Subdividable Lots and Undeveloped Lots in the Town of Newton, which may be developable pursuant to the Site Plan and Subdivision requirements of Chapter 240.

242-3 Definitions, as used in this Chapter only:

"Alter" means to take action by cutting or pruning any Tree, or by filling, surfacing, grading, compacting or changing the drainage pattern of the soil around any Tree in a manner that threatens to diminish the vigor of the Tree; provided that, as used in this chapter, the term "Alter" does not include: normal seasonal trimming, shaping, thinning or pruning of a Tree necessary to its health and growth.

"Dripline" shall mean a line connecting the tips of the outermost branches of a Tree, projected vertically onto the ground.

"Person" shall mean any owner, operator, company, corporation, general agent, forester, or contractor of a property that has Trees.

"Subdividable Lot" shall mean a legally established and existing parcel of land, with boundaries determinable from existing records, which has a building located thereon which is occupied or capable of being occupied, but which has a lot size at least three times the minimum zoning requirements of the Town, with dimensions and setbacks sufficient to allow subdivision into at least three building lots and having the same restrictions as an Undeveloped Lot.

"Tree" shall mean any woody perennial plant, having a diameter of five (5) inches or greater, measured from a point four and one-half (4 1/2) feet above ground (dbh forestry method).

"Tree Replacement Plan" shall mean a specific plan for replacement of removed Trees in accordance with the provisions of this ordinance. See section 240-7.

"Undeveloped Lot" shall mean a legally established and existing parcel of land, with boundaries determinable from existing records, which does not have a building located thereon. Whenever approval is granted by the Planning Board to an application for preliminary major subdivision, each lot shown upon the subdivision plat, which does not have a building, located thereon shall be deemed a separate Undeveloped Lot for the purposes of this Chapter.

242-4 Undeveloped or Subdividable Lots. Prohibited Activities.

- A. No Person shall Alter, injure, deface, poison, damage or remove any Tree located on any Undeveloped Lot or Subdividable Lot within the Town without an approved site plan or subdivision.
- B. No Person shall excavate, remove or place any material, temporary soil deposit, large machinery or equipment that may cause damage to roots or may compact soil, within the Dripline or within six feet of any Tree, whichever distance is greater.
- C. Landscaping Plan. A Person seeking approval for a subdivision or site plan on an Undeveloped Lot or Subdividable Lot shall submit to the Planning Board a Landscaping Plan in accordance with Chapter 240-7 of the Revised General Ordinances of the Town of Newton.
- D. Responsibilities of owner and contract purchaser. No owner or contract purchaser of an Undeveloped Lot or Subdividable Lot who employs any Person to perform any work upon such lot shall permit such Person to violate any provision of this ordinance.
- E. Nothing contained in this section relieves the owner of any private property from the duty to keep all Trees, shrubs or plants on his property or under his control in such condition so as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, pleasure ground, alley or public place within the Town.

SECTION II: PENALTIES FOR NON-COMPLIANCE: The penalty for conducting or allowing conduct prohibited by this section shall be calculated on a Tree-by-Tree basis where damage or removal of each and every Tree constitutes a separate offense. The penalty shall be a fine calculated as \$100 per caliper inch of the affected Tree (measured at the diameter at breast height, or 4.5 feet) up to a maximum of

\$2,000. Where the caliper of the affected tree cannot be determined, the penalty shall not be less than \$350 nor more than \$2,000.

SECTION III: SEVERABILITY AND REPEALER

Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part held invalid.

SECTION IV: EFFECTIVE DATE

This ordinance shall take effect immediately upon adoption and publication in accordance with law.

TAKE NOTICE that the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on Monday, January 28, 2013. It will be considered for adoption, after final reading and public hearing thereon, at a regular meeting of the Newton Governing Body to be conducted at 7:00pm on Monday, February 11, 2013 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect according to law.

Lorraine A. Read, RMC
Municipal Clerk

TOWN OF NEWTON

ORDINANCE 2013-2

AN ORDINANCE AMENDING CHAPTER 240-7, ADDING CHAPTER 241 TREE BANK AND AMENDING CHAPTER 100 FEES AND COSTS OF THE CODE OF THE TOWN OF NEWTON

WHEREAS, the Mayor and Town Council of the Town of Newton find that the indiscriminate and uncontrolled removal and cutting of trees upon large lots and tracts of land particularly on steep slopes and along stream corridors within the Town has resulted in increased municipal costs to control drainage and repair roads and has caused soil erosion and decreased fertility of the soils as well as dust; and

WHEREAS, the Town of Newton's Shade Tree Advisory Commission (NSTAC) has recommended a tree protection ordinance to help alleviate and mitigate any potential negative impacts resulting from the indiscriminate removal of trees; and

WHEREAS, the Town Council of the Town of Newton implemented Tree Protection for new Major Site Plan and Major Subdivision applications in the Town of Newton by adding tree protection and replacement requirements in Chapter 240 Site Plan And Subdivision of the Town Ordinances; and

WHEREAS, Chapter 240, Section 7, subsection B.(6) provides for a developer to pay into a Tree Bank, if they choose not to or do not have adequate space to replace the required amount of trees on their property; and

WHEREAS, the Town Council of the Town of Newton would like to establish such a Tree Bank for developers to contribute to in lieu of planting the required trees such that trees may be replaced somewhere in the Town but preferably in the same general area of Town where the trees were removed; and

WHEREAS, the Tree Bank may also be an account where the Town of Newton may accept donations for those interested in providing for trees to be planted within the Town of Newton;

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

SECTION I: Chapter 240-7.B(6)(d) Landscaping, Tree Protection and Replacement shall be amended to read:

- (d) Tree protection and replacement must be undertaken as part of the site plan. All existing trees over three inches in dbh shall be surveyed and shown on the site plan with the dbh and removal status. Trees that are surveyed shall be marked in the field for verification by the Planning Board Engineer. Trees shown to be removed shall be replaced with trees that will equal fifty percent of the total dbh at the time of planting to replace the trees proposed for removal. For example, if a 10 inch dbh tree is proposed to be removed the developer should propose to replace it with a 5 inch dbh tree. Where a developer cannot or does not wish to replace all trees on the site, that developer shall pay a fee per tree into the Town of Newton Tree Bank at a fee as established in Chapter 100 Fees and Costs.

Section II: Chapter 241, Tree Bank, is hereby created and made a part of the Revised General Ordinances of the Town of Newton.

241-1 The purpose of this ordinance is to provide a fund for the planting of trees within the Town of Newton. More specifically, when an applicant for a Major Site Plan or Major Subdivision cannot or does not wish to fulfill the tree replacement requirements of Chapter 240-7.B(6), then the applicant must contribute to the Tree Bank. Additionally, public or private entities that wish to donate to the Town of Newton to provide for trees to be planted may donate to the Tree Bank for said purpose.

241-2 Definitions, as used in this ordinance:

"Subdividable Lot" shall mean a legally established and existing parcel of land, with boundaries determinable from existing records, which has a building located thereon which is occupied or capable of being occupied, but which has a lot size at least twice the minimum zoning requirements of the Town, with dimensions and setbacks sufficient to allow subdivision into at least two building lots and having the same restrictions as an undeveloped lot.

"Tree" shall mean any woody perennial plant, having a diameter of five (5) inches or greater, measured from a point four and one-half (4 1/2) feet above ground (dbh forestry method).

"Undeveloped Lot" shall mean a legally established and existing parcel of land, with boundaries determinable from existing records, which does not have a building located thereon. Whenever approval is granted by the Planning Board to an application for preliminary major subdivision, each lot shown upon the subdivision plat, which does not have a building, located thereon shall be deemed a separate undeveloped lot for the purposes of this ordinance.

241-3 Applicability.

The Tree Bank applies to all Subdividable Lots and Undeveloped Lots in the Town of Newton, which may be developable pursuant to the Major Site Plan and Major Subdivision requirements of Chapter 240.

241-4 Town Tree Bank.

- A. The Town shall establish and maintain a Tree Bank where fees collected from developer contribution pursuant to Section 240-7.B(6)(d) paid shall be kept. The fund shall be utilized by the Town Manager, or his designee, for Tree planting in the Town of Newton. The Town's Shade Tree Commission (NSTAC) shall provide recommendations at least once annually for consideration by the Town Manager, or his designee, for use of the fund.
- B. Funds within the Tree Bank shall be allocated to at least one Tree planting event per year subject to fund availability. Members of the NSTAC shall provide recommendations to the Town Manager, or his designee, in the selection of species and location of planting.
- C. Trees planted by Tree Bank funds should be located as closely as possible to the areas where Tree removal occurred that generate payments to the Tree Bank.
- D. The Town Tree Bank Fund may also accept donations and/or funds from other sources for the express purpose of planting Trees at locations selected by the Town Manager or his designee.

SECTION III: Chapter 100 Fees and Costs is amended as follows:

Section 100-24 Miscellaneous Fees and Charges

100-24-L. Tree Protection and Replacement (Chapter 241)

- (1) Tree Bank Fee for Trees (as defined by Chapter 241) proposed for removal that are not replaced on site: \$50.00 per caliper inch of Tree removed as measured at the diameter at breast height (4 ½ feet).

SECTION IV: SEVERABILITY AND REPEALER

Should any part or provision of this ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof other than the part held invalid.

SECTION V: EFFECTIVE DATE

This ordinance shall take effect immediately upon adoption and publication in accordance with law.

TAKE NOTICE that the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on Monday, January 28, 2013. It will be considered for adoption, after final reading and public hearing thereon, at a regular meeting of the Newton Governing Body to be conducted at 7:00pm on Monday, February 11, 2013 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect according to law.

Lorraine A. Read, RMC
Municipal Clerk

TOWN OF NEWTON

ORDINANCE #2013-3

AN ORDINANCE TO ESTABLISH A LENGTH OF SERVICE AWARD PROGRAM (LOSAP) FOR MEMBERS OF THE NEWTON VOLUNTEER FIRST AID SQUAD

WHEREAS, the Town Council of the Town of Newton deems it appropriate and necessary to act to ensure the retention of volunteer members of the Newton First Aid Squad by rewarding such members for their loyal, diligent, and devoted service to the residents of the Town of Newton; and

WHEREAS, the Town Council of the Town of Newton has determined that the creation of a Length of Service Award Program (“LOSAP”) as authorized by State law will enhance the ability of the municipality to recruit and retain volunteer first aid squad members;

NOW, THEREFORE, BE IT ORDAINED, by the Town Council of the Town of Newton, as follows:

1. A Length of Service Award Program (“LOSAP”) is hereby created in accordance with the “Emergency Services Volunteer Length of Service Award Program Act,” N.J.S.A. 40A:14-183 to 194 (hereinafter referred to as “the Act”), to reward members of the Newton Volunteer First Aid Squad for their loyal, diligent, and devoted service to the residents of the Town of Newton.
2. The LOSAP shall provide for annual contributions on behalf of each eligible member to a deferred income account within a plan to be established by the Town of Newton and administered in accordance with the Act and all applicable State and Federal laws.
3. To be eligible for LOSAP contributions on his or her behalf, a member must meet the following criteria, to be determined each calendar year:
 - a. A member must accumulate at least fifty (50) points for activities as set forth in the annexed Schedule “A” during a calendar year to be eligible for the LOSAP contribution for that calendar year. There shall be no carry over from year to year.
 - b. The annual contribution for each eligible member shall be between a minimum of \$115.00 and a maximum of \$1,150.00.

- c. A member shall be eligible for participation in the LOSAP immediately upon commencement of service with the Newton Volunteer First Aid Squad. Five years of service, as determined by N.J.S.A. 40A:14-188, shall be required for each individual member to vest in contributions made on his or her behalf.
4. There shall be no credit for prior years of service, except for a point award as set forth in the annexed Schedule "A".
5. The estimated cost of the program is \$34,500 per year.
6. Each active volunteer member shall be credited with points for volunteer service in accordance with the activities described in the annexed Schedule "A".
7. **Effective Date.** This Ordinance shall not take effect unless it is approved by the voters as a public question at the next General Election to be held after publication and passage of the Ordinance according to law.
8. **Severability.** If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this ordinance shall not be affected thereby and shall remain in full force and effect.
9. **Repealer.** All ordinances or parts of ordinances or resolutions inconsistent or in opposition to the provisions of this Ordinance are hereby repealed in their entirety.

SCHEDULE "A"

Schedule of Points

Each active volunteer member shall be credited with points for volunteer services provided to the Newton Volunteer First Aid Squad in accordance with the following schedule:

A. Town of Newton Volunteer First Aid Squad Members

1. One hundred points (100) are required for a member to be eligible for 100% of the annual contribution. If a member achieves fewer than 100 points, the following table shall be used in determining the contributions:

<u>Number of Points</u>	<u>Contribution</u>
100	100%
90 through 99	75%
80 through 89	50%
70 through 79	25%
50 through 69	10%
0 through 49	0%

2. Points earned for first aid calls.

<u>Percent</u>	<u>Number of Points</u>
60% to 100%	60
45% to 59%	50
30% to 44%	40
20% to 29%	30
10% to 19%	20
1% to 9%	10
0%	0

3. Elected Officers

a. President	20 Points
b. Vice President	15 Points
c. Secretary	15 Points
d. Treasurer	15 Points

4. Miscellaneous Committees.

Two Points will be credited for participating in activities which are deemed official by the Captain or President, such as:

- a. Vehicle Committees.
- b. First Aid Informational Activities.
- c. Wakes and Memorial Services.
- d. Local Relief Association meetings as delegate or trustee.
- e. Local exempt Association Member.
- f. Attendance as Delegate to County or State Association Meetings.
- g. Parades and Other Special Events.
- h. Attendance at outside First Aid Activities not previously covered.

5. Miscellaneous

- a. Captain 30 Points
- b. 1st Lieutenant 25 Points
- c. 2nd Lieutenant 20 Points
- d. Trustee Chairman 20 Points
- e. Equipment Engineer 15 Points
- f. Mechanical Engineer 15 Points
- g. Trustee 15 Points
- h. Chairman of Committee 10 Points
- i. First Aid Advisor 5 Points
- j. Training or Drills One Point Each
- k. Special details One Point Each
- l. Schooling Four Points Each Class
- m. Committee Meetings One Point Each
- n. Squad Meetings One Point Each
- o. Stand-by's One Point Each

6. Longevity Point System

<u>Number of Years Completed</u>	<u>Number of Points</u>
5 to 10	5
11 to 20	10
21 to 30	15
31 to 40	20
Over 40	25

TAKE NOTICE that the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on January 28, 2013. It will be considered for adoption, after final reading and public hearing thereon, at a meeting of the Newton Governing Body conducted at 7:00 p.m. on February 11, 2013, in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect according to law.

Lorraine A. Read, RMC
Municipal Clerk

**TOWN OF NEWTON
MUNICIPAL PUBLIC QUESTION**

Shall the Town of Newton be authorized to establish a Length of Service Award Program (“LOSAP”) for the Newton Volunteer First Aid Squad members serving the Town, pursuant to standards established by State Law and Town Ordinance?

Explanatory Statement: A LOSAP program enhances the ability of the Town of Newton to attract and retain members of the Newton Volunteer First Aid Squad. Under the program, the Town, as sponsoring agency, would make annual contributions on behalf of each eligible volunteer member, to a deferred income account administered under State law. To be eligible, a volunteer member must earn at least 50 points, in a calendar year for participation in various emergency service activities as established by Town Ordinance, and have five years vested. The LOSAP Program documents are available for public view in the office of the Newton Municipal Clerk, 39 Trinity Street, Newton, New Jersey. A contribution of \$1,150.00 per year would be made by the Town on behalf of each eligible member. The estimated cost of the program has been calculated to be \$34,500.00, which would be equivalent to approximately a ½ tax point or an increase of approximately \$10.00 on a house assessed at \$220,000 for the first year taxes and reduced thereafter, based on the actual contributions made to the plan.

YES

NO

TOWN OF NEWTON

AN ORDINANCE AUTHORIZING THE SALE OF CERTAIN LANDS IN THE TOWN OF NEWTON BY PUBLIC AUCTION

ORDINANCE #2013-4

WHEREAS, the Town of Newton has determined that certain municipally owned property, located at Block 18.02, Lot 2 (formerly Block 1301, Lot 1.02), as shown on the Town of Newton Tax Map ("Property"), is no longer necessary for municipal purposes and as such shall be sold at public auction sale in accordance with N.J.S.A. 40A:12-13; and

WHEREAS, the Local Lands and Building Law, N.J.S.A. 40A:12-1, et seq., authorizes the sale by municipalities of any real property, capital improvement, or personal property no longer needed for public use by public sale; and

WHEREAS, the Town of Newton has determined that the public interest is best served by reserving easements on this Property in favor of the Town of Newton, as set forth in Schedule "A", attached hereto ("Easements").

NOW, THEREFORE, BE IT ORDAINED by the Newton Town Council that the Property shall be sold at public auction, subject to Easements and terms and conditions set forth, pursuant to N.J.S.A. 40A:12-13.

BE IT FURTHER ORDAINED, the following terms and conditions shall apply:

1. The Town Council reserves the right to reject all bids.
2. The minimum bid the Town will consider is \$120,000.00 plus the cost of recording deeds, which deeds shall be recorded on behalf of the purchaser by the Town Attorney; costs of notice for publication; and \$450 for Town attorney fees related to the Property transfer.
3. The Property shall be sold at public auction, to the highest bidder, on March 27, 2013, at 3:00 p.m.
4. The governing body hereby appoints and designates the Newton Town Manager or such other person as the governing body shall designate, to conduct the sale of the Property on behalf of the governing body.

5. Notice of the auction sale of the Property shall be advertised in the New Jersey Herald newspaper at least once a week during two consecutive weeks, the last publication being no earlier than seven days prior to the date of such sale.
6. **Potential Bidders are advised:**
 - A. To conduct all necessary title searches prior to the date of the sale.
 - B. That the description of the Property is intended as a general guide only and may not be accurate. No representations of any kind are made by the Town of Newton as to the conditions of the Property, including habitability or usability; the Property is being sold in its present condition "as is".
 - C. That the sale is made subject to all applicable laws, statutes, regulations and ordinances of the United States, State of New Jersey and the Town of Newton.
 - D. That no employee, agent or officer of the Town of Newton has any authority to waive, modify or amend any of the conditions of the sale.
 - E. That offers for the Property must be made for a sum equal or greater to the minimum bid price listed in Section 2 of this Ordinance.
 - F. The Property will be conveyed by a Quit Claim Deed and such conveyance shall be subject to all covenants, restrictions, reservations and easements established of record or by prescription, and as set forth herein, and without representation as to character of title of the Property to be conveyed.
 - G. The highest bidder for the Property shall have the right, at its sole cost and expense, to obtain a new survey of the Property. Provided such survey depicts the Property and is certified to be correct to the Town of Newton, the Town of Newton shall utilize the legal description drawn in accordance with such survey in the Deed of conveyance, provided the highest bidder provides such legal description and a copy of the certified survey to the Town of Newton not less than one week prior to the date set for closing of title.

7. Additional Terms the Successful Bidder must comply with:

- A. Bidder shall deposit cash, bank check or cashier's check or money order in the amount of not less than 10% of the bid price at the time of sale. In the event the successful bidder fails to deposit 10% of the bid price at the time of the sale, the Town will re-auction the Property at the same sale. If the successful bidder fails to pay the deposit, the bidder shall be responsible for any difference between their bid and the final sale bid in the event such bid is lower than the bid of the original bidder.
- B. Pay at the time of closing, no later than May 27, 2013, at the office of the Town of Newton, or at such other location as mutually agreed upon, via cash or certified check:
 - (1) The balance of the purchase price;
 - (2) The cost of recording deeds, which deeds shall be recorded on behalf of the purchaser by the Town Attorney; costs of notice of publication; and \$450 for Town attorney fees related to the Property transfer.
- C. To pay prorated real estate taxes for the balance of the current year as of the date of closing.
- D. To abide by appropriate zoning, subdivision, health and building regulations and codes and stipulate that this sale will not be used as grounds to support any variance from the regulations.
- E. That the failure to close title as agreed shall forfeit to the Town of Newton any and all money deposited with the Town.
- F. That the purchase price shall not be used before any County Board of Taxation, Tax Court of New Jersey, or in any court of this State as grounds to support a challenge of the existing assessments with regard to other properties.
- G. That the title shall close on or before May 27, 2013, and that date shall be considered time of the essence. The Town reserves the right to require that two or more pieces of contiguous property be merged and treated as one piece of property.

- H. The Town reserves the right to withdraw the offer of sale and reject any and all bids.
 - I. All sales are subject to final approval by the Town Council.
 - J. Parties interested in submitting bids and who require additional information, should contact Thomas S. Russo, Jr., Town Manager, Town of Newton, Municipal Building, 39 Trinity Street, Newton, New Jersey 07860.
 - K. Execution of Acceptance of Offer to Sell Property by the Town of Newton, in the form attached hereto.
8. The Town does not warrant or certify title to the Property and in no event shall the Town of Newton be liable for any damages to the purchaser/successful bidder if title is found unmarketable for any reason, and the purchaser/successful bidder waives any and all right in damages or by way of liens against the Town, the sole remedy being the right to receive a refund, prior to closing, of the deposit paid in the event title is found unmarketable. It shall be the obligation of the successful purchaser to examine title to the Property prior to the closing. In the event of closing and later finding of defect of title, the Town shall not be responsible for the same, and shall not be required to refund money or correct any defect in title or be held liable for damages.
9. Acceptance of the bids shall constitute a binding agreement of sale, and the purchaser shall be deemed to agree to comply with the terms of conditions of the sale herein contained.
10. The sale is subject to all of the terms and conditions as provided for in the Notice of Sale.

This Ordinance shall take effect upon final passage, approval and publication as required by law.

ATTEST:

Sandra Lee Diglio, Mayor

Lorraine A. Read, Municipal Clerk

NOTICE is given that this ordinance was introduced and passed upon first reading at a meeting of the Mayor and Town Council of the Town of Newton, in the County of Sussex, New Jersey, held on January 28, 2013. It will be further considered for final passage with the proposed ordinance after public hearing at a meeting of the Mayor and Town Council to be held in the Newton Town Municipal Building, 39 Trinity Street, Newton, New Jersey 07860, February 11, 2013, at 7:00 o'clock P.M., and copies of the ordinance will be made available at the Clerk's office in the Municipal Building to members of the general public.

Lorraine A. Read, RMC
Municipal Clerk

SCHEDULE "A"

EASEMENTS:

Parade Staging Easement; Bike Path Easement; and Utilities Easement

Parade Staging Easement:

The Town of Newton hereby reserves and dedicates unto itself an easement burdening the entirety of the Property and benefitting the Town of Newton for public purposes as follows:

The Town of Newton shall have the right to utilize the entirety of the Property as a staging area for public parades. On such days as the Town of Newton, from time to time and in its sole discretion, hosts, approves, facilitates, and/or permits a parade through its streets, the Town of Newton and/or its approved parade sponsor shall have the right to utilize the entirety of the Property. This use of the Property as a parade staging area shall include, but not be limited to:

- a. Parking of vehicles, floats and/or parade vehicles;
- b. Assembly of parade participants and supporting persons and groups;
- c. Exclusion of all vehicles and/or persons not affiliated with the parade;
- d. Staging area for emergency services related to the parade;
- e. Distribution of beverages, food and/or supplies to parade participants and supporting persons and groups;
- f. A thoroughfare for vehicular and/or pedestrian traffic;
- g. Parking of motor vehicles and/or non-motorized vehicles;
- h. Pick-up and drop-off of persons, animals and vehicles;
- i. Holding area for animals involved in or related to parade, including, but not limited to, oxen, cattle, horses, donkeys, mules, burros, llamas, alpacas, swine, sheep, goats, dogs, cats, rabbits, ferrets, guinea pigs, hamsters, gerbils, rodents and fowl;
- j. Storage of supplies, clothing, costumes, instruments, food, fodder, cages and other materials incidental to a parade;
- k. Creation of noise incidental to a parade, including but not limited to bands, music, traffic, amplified voices and/or voices, cheers, applause and related sounds.

This use of the Property as a parade staging area shall be subject to the following limitations:

- a. There shall be no more than twelve parades in any twelve-month period that involve the Town of Newton's active exercise of this easement;
- b. The Town of Newton shall provide advance written notice to the Property's current owner (as reflected in Town records) not less than 48 hours prior to exercising its rights under this easement;
- c. Within 12 hours following the conclusion of the parade, the Town of Newton or its designated agent or party responsible for the parade, shall sweep and/or otherwise render the Property clean of any waste, garbage and/or debris introduced or deposited onto the Property as a direct result of the parade's use of the Property.

Bike Path Easement:

The Town of Newton hereby reserves and dedicates unto itself an easement burdening the entirety of the Property and benefitting the Town of Newton for public purposes as follows:

The Town of Newton shall have the right to locate and maintain across the Property a bike path for the sole purpose of facilitating bicycle and walking traffic through the said Property as part of the Town of Newton portion of the Sussex Branch Trail that begins east of Hicks Avenue and terminates west of Trinity Street. The bike path easement shall generally follow the existing paved area through the Property until such time as the Property is developed. At the time the Property is developed, the developer will be responsible for constructing a new bike path through the Property in a manner that adheres to the following guidelines:

- a. Path shall have a width of a minimum of 8 feet and a maximum of 10 feet;
- b. Path shall have a cross slope of 2 percent;
- c. Path shall have a typical section consisting of 4 inches of dense graded aggregate base and 2 inches of hot mix asphalt surface course;
- d. Path shall be constructed per AASHTO bicycle facilities guidelines.

Any development plans for the Property by the Owner shall include said path centered within a 20 foot wide easement which shall be dedicated specifically to the Town as part of any development application. Until such time as the Property is developed, the Town shall retain rights over the currently paved area on the Property for purposes of bicycle and pedestrian access from Lower Spring Street to the existing bike path easement on Block 18.02, Lot 18 (formerly known as Block 1301, Lot 1.03) to the East.

The Town also retains the right to construct a connection between the existing paved area on the Property and the existing bike path easement located on Block 18.02, Lot 18. This right shall allow the Town to enter the Property with machinery and labor necessary to construct a bike path to connect these areas until such time as the Property is developed.

Utilities Easement:

The Town of Newton hereby reserves and dedicates unto itself an easement burdening the entirety of the Property and benefitting the Town of Newton for public purposes as follows:

The Town of Newton shall have the right, but not the obligation, to enter the Property for purposes of maintaining, repairing, replacing and reconstructing utilities or other municipal improvements that may exist on the Property. These utilities consist of but may not be limited to:

- a. 12-inch ductile iron sanitary sewer force main owned by the Town;
- b. Drainage improvements, including stormwater rain garden, constructed or planned by the Town along Lower Spring Street;
- c. Streetscape improvements constructed or planned by the Town along Lower Spring Street;
- d. Other underground drainage and underground / aerial utilities that may exist on the Property.

Any development plans for the Property shall preserve all underground utilities on the Property as they exist today or move said utilities to a new location on the Property, at the sole cost of the developing party. All construction activities related to the utilities on this Property shall conform to the standards of the Town and the utility company which has jurisdiction over those specific utilities.



TOWN OF NEWTON

RESOLUTION #20-2013

January 28, 2013

“Authorizing Waiving of Water and Sewer Utility Charges for the Newton Volunteer First Aid Squad”

WHEREAS, the Newton First Aid Squad, “NFAS”, is a not-for-profit entity, comprised solely of volunteers that provide emergency assistance to the Newton community; and

WHEREAS, the “NFAS” owns Block 22.01, Lot 24 also known as 66 Sussex Street, which houses their vehicles, equipment, and provides for a meeting place; and

WHEREAS, the “NFAS” operating expenses are funded through donations and fundraising efforts; and

WHEREAS, the Newton Town Council supports the efforts of the “NFAS” and would like to assist, so they may continue to provide this valuable emergency service to the people of Newton;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that it hereby waives the water and sewer utility charges incurred at Block 22.01, Lot 24 by the Newton First Aid Squad for calendar year 2013.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, January 28, 2013.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #22-2013

January 28, 2013

“Approve 2012 Appropriation Reserve Transfers”

BE IT RESOLVED by the Town Council of the Town of Newton that the following 2012 appropriation reserve transfers be approved effective this date:

<u>From</u>	<u>To</u>	<u>Amount</u>
<u>CURRENT</u>		
Community Development OE 1064216A	Cencom SW 1094734A	\$1,100.00
Inspection of Buildings OE 1077226A	Fire OE 1070202A	\$120.00
TOTAL CURRENT TRANSFERS		<u>\$1,220.00</u>

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, January 28, 2013.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #21-2013

January 28, 2013

“A Resolution of the Town of Newton Authorizing the Purchase of Energy Generation Services for Public Use Via an Online Auction Website”

WHEREAS, the Town of Newton has determined to move forward with the EMEX Reverse Auction in order procure electricity for the Town of Newton; and

WHEREAS, the Local Unit Technology Pilot Program and Study Act (P.L. 2001, c. 30) (the “Act”) authorizes the purchase of energy generation service for public use through the use of an online auction service; and

WHEREAS, the Town of Newton will utilize the online auction services of EMEX, LLC, an approved vendor pursuant to the Act, waiver number EMEX LLC-1, located at www.energymarketexchange.com; and

WHEREAS, EMEX, LLC is compensated for all services rendered through the participating supplier that a contract is awarded to; and

WHEREAS, the auction will be conducted pursuant to the Act;

NOW THEREFORE BE IT RESOLVED, that we the Mayor and Town Council do hereby authorize the utilization the online auction services of EMEX, LLC, in order procure electricity for the Town of Newton through www.energymarketexchange.com.

Sandra Lee Diglio, Mayor

Lorraine A. Read, Municipal Clerk

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, January 28, 2013.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #23-2013

January 28, 2013

“Approve Bills and Vouchers for Payment”

BE IT RESOLVED by the Town Council of the Town of Newton that payment is hereby approved for all vouchers that have been properly authenticated and presented for payment, representing expenditures for which appropriations were duly made in the 2012 and 2013 Budgets adopted by this local Governing Body, including any emergency appropriations, and where unexpended balances exist in said appropriation accounts for the payment of such vouchers.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, January 28, 2013.

Lorraine A. Read, RMC
Municipal Clerk



TOWN OF NEWTON

RESOLUTION #24-2013

January 28, 2013

“A Resolution Providing for a Meeting Not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12”

WHEREAS, the Town Council of the Town of Newton is subject to certain requirements of the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq.; and

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-12, provides that an Executive Session, not open to the public, may be held for certain specific purposes when authorized by Resolution; and

WHEREAS, it is necessary for the Town Council of the Town of Newton to discuss in a session not open to the public certain matters relating to the items authorized by N.J.S.A. 10:4-12b and designated below:

- (1) Litigation
- (2) Contract Negotiations/Real Property Issues

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Newton, assembled in public session on January 28, 2013, that an Executive Session closed to the public shall be held on January 28, 2013, at _____ PM in the Town of Newton Municipal Building, 39 Trinity Street, Newton, NJ, for the discussion of matters relating to the specific items designated above.

It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Town Council that the public interest will no longer be served by such confidentiality.

CERTIFICATION

THIS IS TO CERTIFY that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a public meeting of said Governing Body conducted on Monday, January 28, 2013.

Lorraine A. Read, RMC
Municipal Clerk