

August 26, 2013

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. Diglio, Mrs. Becker, Deputy Mayor Elvidge, Mr. Flynn, Mayor Ricciardo, Thomas S. Russo, Jr., Town Manager, and Ursula Leo, Esq., Town Attorney.

Mayor Ricciardo 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, 2012."

Mayor Ricciardo led the Pledge of Allegiance to the flag and the Deputy Clerk called the roll and upon motion of Mr. Flynn, seconded by Deputy Mayor Elvidge and carried, the minutes of August 12, 2013 Regular Meeting and August 12, 2013 Special Meeting were approved.

### **OPEN TO THE PUBLIC**

Mayor Ricciardo 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."*

Karen Hardon Kitchel, 58 West End Avenue, came forward to update the Council on her daughter that she reported missing five (5) days before Hurricane Sandy. Her daughter is now at "Real House" in Bloomfield, NJ. She went on further to say that there are no facilities like Real House in Sussex County and wished there were. Mrs. Kitchel also stated she has been going door to door in the Liberty Street, Church Street and Division Street area asking people to mow their lawns. Lastly, Mrs. Kitchel informed the Council about the deplorable living conditions of a house on High Street owned by Herb Fraser. She questioned whether there were any programs that assist renters with basic needs like washing machines or lawn mowers. Mayor Ricciardo advised that he did not believe there were any programs, but Mrs. Kitchel should register her complaints with the Zoning Officer regarding tall grass.

Brian McKenna, 20 Thompson Street, spoke about the drainage issue in his neighborhood. He has two issues he wanted to bring to the Council's attention. The first is the curbing in his neighborhood are very old and in many spots they have heaved up. In the winter this causes water to drain into the street causing icing issues. His second comment is that the water table in his house and his neighbors is extremely

high, he has done everything possible on his end and asked if there was something the Town could do.

John Craddock, 92 Main Street, a member of the Shade Tree Commission came forward and said in order for the Town to maintain its Tree City USA designation we need to have an Arbor Day celebration each year. Mr. Craddock went on to request the Town Council do a proclamation for an Arbor Day celebration tentatively scheduled for October 9, 2013. They would like to plant a tree at the north western corner of the pool area to replace the one that was removed. All Council members were in favor, Mayor Ricciardo directed Mr. Russo to prepare the proclamation.

Steven Sherwood, 31 Hamilton Street, spoke regarding an issue he has been experiencing regarding the parking on his street. When his neighbors park on the other side of the street opposite his driveway he has to turn hard and this causes him to drive over the water pipe on his property. His concern is the pipe will eventually break. It is a narrow street. Chief Richards advised that the neighbors are not parking illegally, so the police cannot issue any summonses. After a brief discussion, Mr. Russo advised that he will have the Town Engineer look into the matter.

Anwar Qarmout, 45 Woodside Avenue, voiced his concerns about the Fire Museum. He supports the Fire Museum and the Historic District but he feels the façade is not worth saving. He did not believe the State could regulate if the Town wanted to take down the building. Mayor Ricciardo went on to say that no final decisions have been made and work on the building is a matter of economics.

William Hall, 159 Main Street, came forward to inquire about clarification on the definition of commercial vehicle in the ordinance that is proposed for tonight. Ursula Leo, Esq., advised that commercial vehicle is any vehicle with advertising matter by definition of the DMV, but this ordinance refers to any commercial vehicle with a gross weight over 15,000 lbs. Mr. Hall thanked her for the clarification.

#### **COUNCIL & MANAGER REPORTS**

There were no Council & Manager Reports at this time.

#### **ORDINANCES**

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

**ORDINANCE #2013-22**

**AN ORDINANCE TO AMEND SECTION 320-23 "PARKING AND DRIVEWAY STANDARDS" OF THE NEWTON TOWN CODE TO PROHIBIT CERTAIN FRONT YARD PARKING AND PARKING OF CERTAIN VEHICLES ON RESIDENTIAL PROPERTY AND AMENDING SECTION 320-3 TO ADD DEFINITIONS FOR AGE RESTRICTED HOUSING AND COMMERCIAL VEHICLES AND AMENDING SECTION 320-27 REGARDING GRANDFATHER CLAUSE**

Mayor Ricciardo opened the hearing to the public.

Mr. Fred Judge came forward to ask for exceptions to the ordinance. First he would like to allow for residents to park temporary vehicles they wish to sell in their front yard. Also, to allow people to park in the front yard if a resident had a party and parking on the street is limited.

Mrs. Kitchel came forward to inquire if the 15,000 will change. Mayor Ricciardo advised that we have increase the commercial vehicle size from 6,000 to 15,000 and he doesn't anticipate it changing.

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

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

This Ordinance will take effect after publication and adoption according to law. The Deputy Clerk will advertise the above Ordinance according to law.

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

**ORDINANCE #2013-23**

**AN ORDINANCE OF THE TOWN OF NEWTON AUTHORIZING THE LEASE BETWEEN THE TOWN OF NEWTON AND NEWTON FIRE MUSEUM, INC., IN ACCORDANCE WITH THE NEW JERSEY LOCAL LANDS AND BUILDING LAW N.J.S.A. 40a: 12-14 ET SEQ.**

Mayor Ricciardo opened the hearing to the public.

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

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

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

This Ordinance will take effect after publication and adoption according to law.  
 The Deputy Clerk will advertise the above Ordinance according to law.

**OLD BUSINESS**

Under Old Business, Mr. Russo advised that Tom Kosten, Town Architect, is still working on obtaining updated quotes for renovations of the Newton Fire Museum as requested. Mr. Russo stated he anticipates quotes will be available for the September 11<sup>th</sup> meeting. Mayor Ricciardo noted that a stop work order is still in effect.

**CONSENT AGENDA**

Mayor Ricciardo 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 reviewed the various resolutions on the Consent Agenda.

**RESOLUTION #145-2013\***

**TO CANCEL CURRENT APPROPRIATION BALANCES – UNEXPENDED EMERGENCY APPROPRIATION – POOL REPAIRS**

**WHEREAS**, the Town of Newton received approval from the Division of Local Government Services on June 19, 2013 of an Emergency Application – NJSA 40A:4-46 in the amount of \$43,000.00 for Pool Repairs, as requested per Resolution #88-2013, which was adopted by the Newton Governing Body on the regular meeting held May 29, 2013; and

**WHEREAS**, the Town of Newton appropriated capital funds per (fully funded) Bond Ordinance #2013-18 for Replastering of the Town Pool and any related work in an amount sufficient to include the \$43,000 previously appropriated by the emergency, and the charges for the repairs to the pool have been transferred to the capital bond ordinance; and

**WHEREAS**, per NJSA 40A:4-60 any unexpended balances of appropriations may, by resolution of the Governing Body, be canceled prior to the end of the fiscal year to operations (which then gets closed to fund balance);

**NOW, THEREFORE BE IT RESOLVED**, by a majority of the full membership of the Town Council of the Town of Newton, that the full amount of the \$43,000 emergency is hereby an unexpended balance in the Current Fund and is canceled to Current Operations.

**RESOLUTION #146-2013\***

**AUTHORIZE REFUND OF REDEMPTION MONIES TO OUTSIDE LIEN HOLDER FOR BLOCK 14.02, LOT 8**

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**WHEREAS**, at the Municipal Tax Sale held on October 19, 2011 a lien was sold on Block 14.02, Lot 28 (formerly known as Block 610, Lot 10), also known as 80 Madison Street, for 2010 delinquent real estate taxes; and

**WHEREAS**, this lien, known as Tax Sale Certificate #1356, was sold to Lawrence & Helen Earl Family, LLC for 0% redemption fee with a premium of \$2,900.00; and

**WHEREAS**, Ridgeview Title and Settlements, LLC., the title company for said property has effected redemption of Certificate #1356 in the amount of \$23,327.12;

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Newton that this Governing Body acknowledges that Lawrence & Helen Earl Family, LLC., is entitled to the redemption in the amount of \$23,327.12 along with the premium of \$2,900.00; and

**BE IT FURTHER RESOLVED**, that the Tax Collector is hereby authorized to issue a check in the amount of \$23,327.12 for the redemption of Certificate #1356 as well as a check in the amount of \$2,900.00 for the return of the premium payable to Lawrence & Helen Earl Family, LLC, Box 42, Stillwater, NJ 07875.

#### **RESOLUTION #147-2013\***

##### **AUTHORIZE PREMIUM PAYMENT TO BE TURNED OVER TO THE TREASURER**

**WHEREAS**, Tax Sale Certificate #1240 was issued at the Newton Tax Sale held on October 4, 2007 with a zero percent redemption and a premium of \$5,100.00 on Block 14.01 Lot 17 (formerly Block 611, Lot 1), also known as 131 Main Street; and

**WHEREAS**, N.J.S.A. 54:5-33 states that if a redemption is not made within five years from the date of the Tax Sale, the premium payment shall be turned over to the Treasurer of the Municipality; and

**WHEREAS**, Tax Sale Certificate #1240 was five years from the date of Tax Sale on October 4, 2012, therefore the premium in the amount of \$5,100.00 is to be turned over to the Town of Newton Treasurer;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that this Governing Body acknowledges that the premium for Tax Sale Certificate #1240 in the amount of \$5,100.00 be turned over to the Treasurer of the Town of Newton; and

**BE IT FURTHER RESOLVED**, that the Tax Collector be authorized to issue a check in the amount of \$5,100.00 for said premium to the Town of Newton.

#### **RESOLUTION #148-2013\***

##### **Concur with the Town Manager's Appointment of School Crossing Guards**

**WHEREAS**, New Jersey Statute 40A:9-154.1 states *"The governing body, or the chief executive, or the chief administrative officer, as appropriate to the form of government of any municipality, may appoint adult school crossing guards for terms not exceeding one year..."*;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that this Governing Body concurs with the Town Manager's appointment of the following individuals as School Crossing Guards for the 2013-2014 school year:

Deborah A. Alger  
Lisa Banta  
Diane Bell  
Carol E. Blanchard  
June Bowne  
Phillip Coleman  
Louise Cort  
Carolyn Dippel

Betty Francis  
Christine Howard  
Peter J. Kays  
Gleanord I. Kinney  
Thomas Lawler  
Debra McCarthy  
Karen Mokrzycki  
Martha Morris

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Raymond L. Natoli  
Dawn L. Rude  
Janet Simpson  
Wallace Smith

Steven A. Stoll  
Donna VanNieuwland  
Nancy Zdanek

**RESOLUTION #149-2013\***

**Appointment of Meghan Gill as an Alternate Member of the Newton Planning Board**

**WHEREAS**, there is currently a vacancy on the Town of Newton Planning Board for Alternate Position #1; and

**WHEREAS**, Meghan Gill has expressed an interest in serving on the Planning Board as an Alternate Member;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that Meghan Gill is hereby appointed to an unexpired two-year term as Alternate Member #1 of the Newton Planning Board, effective immediately with said term continuing to December 31, 2014.

**RESOLUTION #150-2013\***

**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.

**TOWN BILLS**

135.78	Quill Corporation	32399
139.95	Montague Tool & Supply, Inc.	32400
254.00	M G L Printing Solutions, LLC	32401
732.50	Pellow, Harold & Asso, Inc.	32402
112.00	Decker's Fire & Safety Equipt Inc	32403
50.49	Aurora Electrical Supply, LLC	32404
130.00	Sussex Car Wash Inc.	32405
619.27	NUI Corporation	32406
81.00	New Jersey Herald, Inc.	32407
192.23	Centurylink Communications, Inc.	32408
248.40	Centurylink Communications, Inc.	32409
2,966.24	Centurylink Communications, Inc.	32410
15.00	Campbell's Small Engine Inc.	32411
356.00	Fire Fighters Equipment Co. Inc.	32412
129.00	McManimon, Scotland & Baumann, LLC	32413
773.30	Galls Incorporated	32414
536.19	Weldon Asphalt Company Inc	32415
22.40	Microsystems-NJ Com, LLC	32416
278.66	Zee Medical, Inc.	32417
936.18	Dempsey Unifrom & Supply Inc.	32418
323.47	Airgas East	32419
266.00	Major Police Supply	32420
98.26	F.W. Bennett & Son, Inc.	32421
3,357.56	Boonton Tire Supply Inc.	32422
1,934.85	Verizon Wireless, Inc.	32423
2,800.00	Accurate Door, Inc.	32424
1,595.06	Petro-Mechanics, Inc.	32425
75.95	Mr. John, Inc.	32426
96.60	Cooper Electric Supply Co	32427
39.55	Teresa Ann Oswin	32428
822.77	Home Depot, Inc.	32429
2,203.95	Buckman's Inc.	32430

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191.19	BCI Burke Comp, LLC.	32431
572.42	Staples Business Advantage, Inc.	32432
48.00	Screen Creation Plus	32433
44.52	Nestle Waters, Inc.	32434
2,646.05	Rachles/ Michele's Oil Company, Inc.	32435
3,192.44	Taylor Oil Co., Inc.	32436
2,250.00	Laddey, Clark & Ryan, LLP	32437
681.43	Cutting Edge Landscape Equip.	32438
247.50	JMC Environmental Consultants, Inc.	32439
272.00	Sign-A-Rama, Inc.	32440
1,096.00	Tire King, Inc.	32441
200.00	Back Thru The Future	32442
168.00	Jersey Central Power & Light, Inc.	32443
564.75	Penteledata	32444
6,582.17	Direct Energy Business, Inc.	32445
150.58	Woodruff Energy US, Inc.	32446
116.90	Go2Guides, LLC.	32447
1,183.42	Widmer Time Recorder Co.	32448
261.91	Harleysville Life Insurance Company	32449
267.50	E-S Press Inc.	32450
472.08	Toyota/Subaru/Scion of Morristown	32451
286.67	Discount School Supply	32452
550.00	Team Life, Inc.	32453
18.00	Thomas S. Russon Jr	32343
131,298.00	NJMEBF	32342
196,056.79	Payroll Account	131060

**CAPITAL**

419.26	Montague Tool & Supplu, Inc.	8149
15,666.75	Pellow, Harold & Asso., Inc.	8150
118.00	R.S. Phillips Steel Company	8151
75,000.00	KML Technology Inc.	8152
5,295.00	Wilfred Macdonald, Inc.	8153
15.58	Home Depot, Inc.	8154
329.50	Staples Business Advantage, Inc.	8155
265.05	Lowe's, Inc.	8156
75.50	Sussex County Rental Center, LLC.	8157
1,172.00	Laddey, Clark & Ryan, LLC	8158
1,154.36	FKA Architects Inc.	8159
3,164.00	J. Caldwell & Associates, LLC.	8160
33,047.56	Edge Property Maintenance, Inc.	8161
2,435.08	Blue Ridge Lumber	8162
253.05	Payroll Account	133007

**Total TOWN BILLS \$510,151,62**

**WATER AND SEWER ACCOUNT**

1,851.75	Pellow, Harold & Asso., Inc.	13726
209.96	Hach Company	13727
4,190.63	JCP&L	13728
9,529.44	Coyne Chemical Corp., Inc.	13729
125.85	Centurylink Communications, Inc.	13730
1,241.60	Centurylink Communications, Inc.	13731
1,160.00	Garden State Laboratories Inc.	13732
21.32	Sebring Auto Parts, Inc.	13733
4,560.00	R&D Trucking Inc.	13734
194.58	Vision Service Plan	13735
4,735.47	Grinnell Recycle, Inc.	13736
6,960.00	Passaic Valley Sewerage Comm.	13737
3,652.00	Main Pool & Chemical Company, Inc.	13738
464.00	Laddey, Clark & Ryan, LLP.	13739

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529.00	Accurate Waste Removal Inc.	13740
2,005.72	William Grennille, LLC.	13741
3,715.14	Direct Energy Business Inc.	13742
135.00	Extra Tech Data Services LLC	13743
1,773.38	Hatch Mott Macdonald	13744
325.00	El Media Group	13745
162.50	Countryside Title Agency, Inc.	13746
33,278.37	Payroll Account	136027

**CAPITAL**

3,060.75	Pellow, Harold & Asso, Inc.	2293
34,571.46	Tony's Concrete Constr Co, Inc.	2294
23,534.70	HD Supply Waterworks LTD 61	2295

**Total WATER & SEWER BILLS \$141,987.62**

**TRUST ACCOUNT**

121.25	Pellow, Harold & Asso, Inc.	3154
1,458.00	Hollander, Strelizik, Pasculli, Hinkes	3155
418.84	Walmart	3156
18.92	Home Depot, Inc.	3157
222.12	Foremost Promotions	3158
145.95	Simon Peter Sport	3159
1,508.31	Country Club Ice Cream, LLC.	3160
9,521.91	Payroll Account	137117

**Total TRUST ACCOUNT BILLS \$13,415.30**

**FEDERAL/ STATE GRANTS**

957.35	Sussex County Mailing Service	1153
1,510.95	Atlantic Tactical Inc.	1154
70.49	Shop Rite, Inc.	1155
132.23	Kerry Deckert	1156
250.00	Joe Mate	1157

**Total FEDERAL/ STATE GRANTS \$5,502.47**

The Deputy Clerk presented an application for membership into the Newton Fire Department from Omar S. Leak, 16 Woodside Avenue, Newton.

The Deputy Clerk presented an application for membership into the Newton Fire Department as a Junior Firefighter from Haylie Coombs, 78 West End Avenue, Newton.

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

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

**INTERMISSION** – 5 Minutes

**DISCUSSION**

**a. Water Conservation Ordinance Draft**

Mr. Russo noted that as part of the Town's Plan Endorsement process and approval, water conservation measures are required. Mr. Russo asked Debra J. Millikin, Jessica Caldwell, P.P., A.I.C.P., Town Planner and Ursula Leo, Esq. to draft an ordinance for Council's consideration. Ms. Caldwell stated the DEP is looking for water conservation measures to be in place even when there are not drought conditions present. The draft ordinance limits the watering of lawns to 3 days per week depending on your address and limits the hours of the day, so watering is not done at the hottest times in turn, minimizing evaporation. A discussion ensued with the Town Council feeling as it stands the ordinance is too strict. Mayor Ricciardo requested sample ordinances from other municipalities that have enacted such measures. Ms. Caldwell and Mrs. Millikin will provide them at the next meeting in September.

**b. Drainage Study**

Mr. Russo noted that Mr. Harold E. Pellow, the Town Engineer is here to present the drainage study that the Town Council authorized as part of the budget process. Mr. Pellow stated that the area in review was from Ridgeview Road to Liberty Street down to in front of the courthouse. For the past thirty (30) to forty (40) years there have been complaints about the drainage. In looking to solve the problem it was very difficult to find the drainage pipes as many of the metal pipes are buried as well as the inlets. Mr. Pellow went on to say this would be a three (3) to four (4) phase project. It will be really important to meet with the residents affected by the drainage to determine where the problems are and the Town will need easements from all of the property owners. This would be very difficult to get since there are no drainage easements in the area. The Town would have to get together with the County because the County drains all their water down into the lower areas. Mr. Pellow advised that this is a very expensive project, costing approximately \$665,000. Hopefully, we could get a grant or have the County contribute. A discussion ensued. Mr. Pellow suggested that before we move further a meeting should be set up with the County to discuss the possibility of their contribution to the project; Council was in agreement. Mr. Pellow will reach out to the County to set up a meeting.

**c. Inoperable Vehicle Ordinance**

Mr. Russo stated that he asked Chief Richards to attend tonight's meeting to

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discuss the proposed ordinance. Mr. Russo directed Mrs. Leo to walk the Council through the proposed ordinance. Mrs. Leo stated that our previous ordinance provide for the removal or towing of an inoperable or junked vehicle after reasonable notice. When the ordinances were recodified, this did not make it into the ordinance book. She discussed the matter with the Chief. It is typically a property maintenance issue, but that can be a lengthy process. If the vehicle in question poses a public safety risk, then at the police discretion and proper notice the vehicle may be towed. Council had several questions, which the Chief addressed. The Mayor polled the Council on whether they wished to move forward with this ordinance. The Council all agreed. The Mayor advised Mr. Russo that the proposed ordinance should be introduced at the next Town Council meeting.

**OPEN TO THE PUBLIC**

Mayor Ricciardo opened the hearing to the public.

There was no one from the public to be heard.

**COUNCIL & MANAGER COMMENTS**

There were no Council & Manager comments.

There being no further business to be conducted, upon motion of Mrs. Becker, seconded by Mrs. Diglio and unanimously carried, the meeting was adjourned at 8:20 p.m.

Respectfully submitted,

Teresa Ann Oswin  
Deputy Municipal Clerk