

January 13, 2014

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, 2013."

Mayor Ricciardo led the Pledge of Allegiance to the flag and the Clerk called the roll and upon motion of Mr. Flynn seconded by Mrs. Diglio and carried, the minutes of December 23, 2013 Regular and Executive meeting were approved with minor corrections.

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."

There was no one from the public to be heard.

COUNCIL & MANAGER REPORTS

a.) Budget Hearing Dates

Mr. Russo advised Council that the budget hearings will be held on Saturday, February 8, 2014 at 9:00 a.m. and Wednesday, February 12, 2014 at 6:00 p.m. at Town Hall. The Municipal Clerk will advertise accordingly.

ORDINANCES

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

ORDINANCE #2013-33

AN ORDINANCE TO REVISE THE CODE OF THE TOWN OF NEWTON TO INCLUDE A NEW PROVISION RESTRICTING THE NUMBER OF DOGS PERMITTED

Mayor Ricciardo advised that the Ordinance is TABLED until the next Council meeting.

OLD BUSINESS

Mayor Ricciardo inquired about the amendments to the proposed Ordinance 2013-33. Mrs. Leo reviewed the amendments and advised Council that she and the Municipal Clerk have a meeting set up with those who addressed the Ordinance at the last Council meeting. Mrs. Leo will update Council after said meeting.

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 #1-2014*

AUTHORIZE THE EXECUTION OF AN AGREEMENT FOR CALENDAR YEAR 2014 WITH EDWARD J. BUZAK AS CONFLICT COUNSEL FOR THE TOWN OF NEWTON

WHEREAS, the professional services of Conflict Counsel may be needed by the Town of Newton during calendar year 2014; and

WHEREAS, Edward J. Buzak, Esq. has expressed an interest in serving as Conflict Counsel; and

WHEREAS, an appropriate agreement for said services has been prepared for execution by both parties; and

WHEREAS, legal services are a professional service as defined by the Local Public Contracts Law and is, therefore, exempt from public bidding requirements in accordance with N.J.A.C. 40A:11-5(1)(a)(i) and the candidate complies with all requirements for appointment without public bidding under N.J.S. 19:44A-1 et seq;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that it hereby authorizes the Mayor and Municipal Clerk to execute an agreement, in duplicate, with Edward J. Buzak, Esq., to permit him to perform the services of Conflict Counsel for the Town of Newton during 2014; and

BE IT FURTHER RESOLVED that a fully executed copy of the agreement and a certified copy of this Resolution be forwarded to Edward J. Buzak, Esq., and kept on file in the Municipal Clerk's office for public viewing.

RESOLUTION #3-2014*

AUTHORIZING THE SALE OF BRINE SOLUTION TO MUNICIPALITIES

WHEREAS, the Town of Newton has the equipment necessary to make a brine solution which is used on roadways in preparation for inclement weather; and

WHEREAS, in the past, other municipalities have purchased the brine solution from the Town of Newton; and

WHEREAS, the Newton Town Council desires to authorize the sale of brine solution to other municipalities to the extent it is available, subject to the terms and conditions of this Resolution; and

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WHEREAS, the New Jersey Local Public Contracts Law authorizes the sale of items such as the brine solution to a local government agency in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-36(2), without the need for bids or public auctions;

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Newton, County of Sussex, State of New Jersey, that:

1. The Town of Newton may sell to other municipalities brine solution to the extent that the Town of Newton has the solution available.
2. The DPW Supervisor shall be responsible for monitoring the quantities of brine solution sold and provide the information to the Town of Newton CFO or his/her designee for invoicing purposes.
3. The sale price of the brine solution at the time of this Resolution is \$0.25 per gallon; however, the Town of Newton reserves the right to adjust the sale price in the event that the costs to the Town of Newton increase during the term of this Resolution. Upon receipt of the invoice, the purchasing municipality shall submit a purchase order or voucher to the Town of Newton. Payment of the invoice is expected within 30-45 days of the invoice date.
4. A copy of this Resolution shall be placed on file with the Clerk of the Town of Newton.
5. This Resolution shall take effect immediately and shall remain in effect through December 31, 2014, or as such time as the Town Council modifies or repeals this Resolution.

RESOLUTION #4-2014*

ACCEPTANCE OF PROPOSED STREETScape IMPROVEMENTS TO LOWER SPRING STREET PROJECT AS COMPLETE

WHEREAS, the Town Council of the Town of Newton awarded a contract for the Proposed Streetscape Improvements to Lower Spring Street Project to V & K Construction Co., Inc. in the amount of \$292,937.00 by Resolution #214-2012 adopted on October 10, 2012; and

WHEREAS, the Town Council approved Change Order No. 1 which increased the contract amount by \$1,947.00 to adjust the contract total to \$294,884.00 by Resolution #92-2013 adopted on June 10, 2013; and

WHEREAS, the Town Council approved Change Order No. 2 which decreased the new contract amount by \$9,682.00 to adjust the contract total to \$285,202.00 by Resolution #133-2013 adopted on July 22, 2013; and

WHEREAS, Harold E. Pellow and Associates, Inc., the Project Engineer, has recommended the project be accepted as complete by the Town Council so the one (1) year Maintenance Bond may be secured by the contractor;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton, that it hereby accepts the Proposed Streetscape Improvements to Lower Spring Street Project as complete based on the recommendation of Harold E. Pellow & Associates, Inc., so that the final paperwork can be started and the one (1) year Maintenance Bond be secured by the contractor, V & K Construction Co., Inc.

RESOLUTION #5-2014*

AUTHORIZATION TO EXECUTE AMENDMENT TO MASTER LISTING OF DEED RESTRICTION AND PARKING EASEMENT

WHEREAS, Punctuated Equilibrium, LLC ("Punctuated"), is the owner of real property located at 55 Diller Avenue, Block 22.04, Lot 4 f/k/a Block 1308, Lot 1.01; 55

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Diller Avenue, Block 22.04, Lot 3 f/k/a Block 1212, Lot 1.02; 83 Sparta Avenue, Block 22.04, Lot 15 f/k/a Block 1212, Lot 2; and 87-89 Sparta Avenue, Block 22.04, Lot 14 f/k/a Block 1212, Lot 3, all located within the Town of Newton, County of Sussex, State of New Jersey; and

WHEREAS, Merriam Gateway Apartments, Inc. ("Merriam"), is the owner of real property located at 69 Sparta Avenue, Block 18.02, Lot 15 f/k/a Block 1211, Lot 2; and 75 Sparta Avenue, Block 18.02, Lot 14 f/k/a Block 1211, Lot 2.01, all located within the Town of Newton, County of Sussex, State of New Jersey; and

WHEREAS, by Master List of Deed Restriction dated March 27, 1996, and recorded in the Sussex County Clerk's Office on April 30, 1996 in Deed Book 2141, Page 292 (the "Deed Restriction"), certain parking restrictions, rights and easements were created that burdened the property owned by Punctuated, listed above, and benefited the property owned by Merriam, listed above; and

WHEREAS, the Town of Newton, Sussex County, New Jersey, also benefitted from the Deed Restriction, and was named as an additional grantee in the Deed Restriction; and

WHEREAS, the Town of Newton has no further need for any parking rights and easements on the above-referenced properties; and

WHEREAS, Merriam, Punctuated, and the Town of Newton, desire to amend the Deed Restriction by terminating the current rights, restrictions and easements contained therein and supplanting them with the new parking easements and restrictions; and

WHEREAS, the parties desire to amend the original language in the March 27, 1996 deed;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the Mayor and Municipal Clerk are hereby authorized to execute an Amendment to Master Listing of Deed Restriction and Parking Easement.

RESOLUTION #6-2014*

RESOLUTION BY THE TOWN COUNCIL OF THE TOWN OF NEWTON AUTHORIZING AN AGREEMENT FOR CERTAIN LEGAL SERVICES

WHEREAS, there exists a need for specialized legal services in connection with the redevelopment program and the authorization and the issuance of bonds, notes or other obligations of the Town of Newton (the "Town") in the County of Sussex, State of New Jersey, including the review of such procedures and the rendering of approving legal opinions acceptable to the financial community; and

WHEREAS, such special legal services can be provided only by an experienced law firm and recognized Bond Counsel firm, and the law firm of McManimon, Scotland & Baumann, L.L.C., Roseland, New Jersey has the experience and is so recognized by the financial and legal community; and

WHEREAS, the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq., requires that notice with respect to contracts for Professional Services awarded without competitive bids must be publicly advertised;

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

1. The law firm of McManimon, Scotland & Baumann, L.L.C., Roseland, New Jersey is hereby retained to provide the specialized legal services necessary in connection with the redevelopment program and the authorization and the issuance of bonds, notes or other obligations by the Town in accordance with an Agreement dated January 13, 2014 and submitted to the Town (the "Contract").

2. The Contract is awarded without competitive bidding as a "Professional

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Service" in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-5(1)(a), because it is for services performed by persons authorized by law to practice a recognized profession.

3. A copy of this resolution as well as the Contract shall be placed on file with the Clerk of the Town.

4. A notice in accordance with the Local Public Contracts Law of New Jersey in the form attached hereto shall be published in the *New Jersey Herald*.

RESOLUTION #7-2014*

APPOINTMENT OF EXCEL ENVIRONMENTAL RESOURCES, INC. AS ENVIRONMENTAL ENGINEER FOR CALENDAR YEAR 2014

WHEREAS, the Town of Newton has a need for a qualified Environmental Engineer to provide consulting and engineering services throughout the year as matters arise; and

WHEREAS, engineering services is a professional service as defined by the Local Public Contracts Laws and is, therefore, exempt from public bidding requirements in accordance with for certain specific matters under non-fair and open contracts pursuant to provisions of N.J.S.A 40A:11-5(1)(a); and

WHEREAS, the Newton Town Council appointed Excel Environmental Resources, Inc., in 2013 to provide environmental engineering on some specific parcels in the Town of Newton, and said professional services may be needed by the Town of Newton during calendar year 2014; and

WHEREAS, Excel Environmental Resources, Inc., has submitted a proposal for environmental engineering services; and

WHEREAS, the anticipated term of this contract is one (1) year ending December 31, 2014; and

WHEREAS, this contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5(1)(a)(i) of the Local Public Contracts law, because Excel Environmental Resources, Inc., is a licensed Environmental Engineering Firm in the State of New Jersey and, as such, is duly qualified as a professional to carry out the subject services which are expressly exempt from the Local Public Contracts bidding requirements;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton, that it authorizes the Mayor and Municipal Clerk to execute an agreement in duplicate with Excel Environmental Resources Inc.; and

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to Excel Environmental Resources, Inc., and that a notice of this award be published in the newspaper of record published in accordance with the Local Public Contracts Law.

RESOLUTION #8-2014*

APPROVE 2013 APPROPRIATION RESERVE TRANSFER

BE IT RESOLVED by the Town Council of the Town of Newton that the following 2013 appropriation reserve transfers be approved effective this date:

<u>From</u>	<u>To</u>	<u>Amount</u>
<u>CURRENT</u>		
Senior Citizen SW 1093100A	Human Resource SW 1053103A	\$160.00

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Court SW 1059100A	Cencom SW 1094734A	\$2,360.00
Swimming Pool SW 1090100A	Cencom SW 1094734A	\$250.00
Parks & Playground SW 1091100A	Cencom SW 1094734A	\$2,100.00
Vehicle Maintenance OE 1083300A	Cencom SW 1094734A	\$3,600.00
Clerk SW 1051100A	Inspection of Buildings SW 1077100A	\$60.00
Election OE 1051500A	Police SW 1074100A	\$4,000.00
Group Insurance OE 1066200A	Police SW 1074100A	\$9,000.00
TOTAL CURRENT TRANSFERS		\$21,530.00

RESOLUTION #9-2014*

ADOPTION OF THE TEMPORARY OPERATING BUDGET AND TEMPORARY WATER AND SEWER BUDGET FOR 2014

WHEREAS, funds are needed to operate the Municipal Government and the Water and Sewer Utility for the first ninety (90) days of calendar year 2014; and

WHEREAS, N.J.S.A. 40A:4-19 provides for adoption of a Temporary Budget, not to exceed twenty-six and one-quarter percent (26.25%) of the preceding year's Budget;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the 2014 Temporary Operating Budget and the 2014 Temporary Water and Sewer Utility Budget be and are hereby approved, pending adoption of the 2014 Annual Municipal Budget and the 2014 Water and Sewer Utility Budget.

RESOLUTION #10-2014*

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 2013 and 2014 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

472.08	Toyota Financial Svc's	32966
304.88	Advance Commercial Parts	32967
176.28	Greg LeFrois	32968
3.84	Electronic Fee- Tax	131334
1,002.28	Cashier	131435
28.58	Tax Lien Trust	131501
170.05	Tax Lien Premium	131601
23.17	P/R Agency	138233
54.91	Payroll	138176
16.34	Housing Rehab Revolving Trust	137401
4.56	Health FSA	138510

CAPITAL

2,320.00	Wade Associates	8227
18,345.67	Edge Property Maintenance	8228
1,494.48	M. Sky Construction	8229
1,810.22	Capital	133011

Total TOWN BILLS \$26,227.34

WATER AND SEWER ACCOUNT

46.93	W/S Utility Trust Assessment	136405
3.72	W/S Electronic Fee	136323
2,500.00	Community Resource	13979

CAPITAL

1,850.92	W/S Capital	126117
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Total WATER & SEWER BILLS \$4,401.57

TRUST ACCOUNT

7,955.44	Trust Account	137129
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Total TRUST ACCOUNT BILLS \$7,955.44

DEVELOPERS ESCROW ACCOUNT

21.20	Developer's Escrow	137202
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Total DEV. ESCROW BILLS \$21.20

FEDERAL/STATE GRANTS

57.50	Grant	131108
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Total FEDERAL/ STATE GRANTS \$57.50

DOG ACCOUNT

22.69	Dog	122105
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Total DOG ACCOUNT \$22.69

An application for an off-premise raffle (Merchandise Raffle) from the Catholic Academy of Sussex County, Inc. to be held on Thursday, May 15, 2014 from 6:00 p.m. at St. Joseph's Regional School, 20 Jefferson Street Newton. It was noted that the application was in order and accompanied by the prescribed fees.

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

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

RESOLUTIONS

RESOLUTION #2-2014

AUTHORIZING WAIVING OF WATER AND SEWER UTILITY CHARGES FOR THE NEWTON VOLUNTEER FIRST AID SQUAD FOR CALENDAR YEAR 2014

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 2014.

A motion was made by Mrs. Becker to approve the Resolution #2-2014, seconded by Mr. Flynn and roll call resulted as follows:

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

INTERMISSION - None

DISCUSSION

a.) Food and Beverage Production- Draft Ordinance- J. Caldwell

Deputy Town Manager, Debra Millikin and Jessica Caldwell, Town Planner, reviewed a draft ordinance with the Governing Body regarding the potential micro-brewing establishment within the Town of Newton.

After a brief discussion, the Council had no objection to introducing the draft ordinance at the next Council meeting.

OPEN TO THE PUBLIC

There was no one from the public to be heard.

COUNCIL & MANAGER COMMENTS

Mr. Russo advised the Council that the Municipal Building will be closed on Monday, January 20, 2014 in observation of Dr. Martin Luther King Jr. Day.

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There being no further business to be conducted, upon motion of Mrs. Diglio, seconded by Mrs. Becker and unanimously carried, the meeting was adjourned at 7:20 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Lorraine A. Read". The signature is written in black ink and is positioned below the text "Respectfully submitted,".

Lorraine A. Read, RMC
Municipal Clerk