

April 28, 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 Mrs. Diglio, seconded by Mr. Flynn and carried, the minutes of April 14, 2014 Regular meeting were approved. Mrs. Becker abstained from approval of minutes.

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."

Robert McBride, Esq., Legal Counsel for Sussex County Community College, read a presentation outlining the various reasons for not renovating the Horton House located on the grounds of the College. Mr. McBride advised the estimated cost to renovate would be approximately three to five million dollars which the college cannot afford.

Stanley G. Puszcz, PE of CP Engineers, 35 Sparta Avenue, Newton, made a presentation and provided documentation of the Horton House conditions assessment report. Mr. Puszcz outlined the four page report and submitted photos taken during the inspection of Horton House. Mr. Puszcz advised a master plan dated November 2013 revealed an estimated cost of \$475,000 to remove the building with the exterior stone blocks salvaged for use as landscaping accents throughout the campus. Mr. Puszcz advised the current conditions of the building do not present a reasonable opportunity for renovation and reuse and recommends that the College authorize the removal of Horton House and restore the area for parking.

Wayne McCabe, 125 High Street, addressed the Council and documented the history of the Horton House. He advised this building is a Gothic Building and has

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significant historic value. Mr. McCabe advised the Sussex County Historic Society has requested permission to take over the building and eventually renovate the building over time. This acquisition would be of no cost to the County or the College. Mr. McCabe requested the Town Council remand this issue to the Planning Board for further action.

Mayor Ricciardo requested clarification on the use of the building and was advised by Mr. McCabe it would be used for storing historic artifacts, displays and a reference library for local history.

Nancy Madacsi, 313 East Shore Trail, Sparta, member of the Sussex County Historic Society, believes the funds can be raised here in Sussex County to renovate the Horton House.

Lorraine Parker, Vice Chair of Sussex County Community College Board of Trustees, addressed several concerns with allowing the SC Historic Society to lease the Horton House. Ms. Parker believes the proposal of leasing the Horton House is self-motivated and does not encompass any area of the building for College use. The proposal submitted by Mr. McCabe does not delineate the timeframe, cost estimates, or available funds to renovate. This would be a serious detriment to the College and strongly suggests the Town review all components of this issue.

Dorothy Hartmann, Historic Preservation Consultant, advised of funding sources available through the State of New Jersey. Ms. Hartmann stated Newton is known for reusing their historic buildings and believes restoring the Horton House is important to the College campus. Ms. Hartmann agrees this issue should be referred to the Planning Board for review.

Dr. Paul Mazur, President of the SCCC, stated the Horton House was reviewed by the Historic Society over 20 years ago and still has no financial capital campaign for restoration. Dr. Mazur noted the College recently created a master plan which was developed with all aspects of the College in mind. The master plan was a long process which was developed for the future of the College and the College is now financially stable.

Dennis Becker, 116 Main Street, Chairman for Newton Preservation Advisory Commission, read excerpts from the Department of Environmental Protection letter outlining the criteria for buildings on New Jersey and National Historic Register. Mr.

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Becker stated Horton House meets several of the criteria's for being on the National Historic Register and believes it should not be torn down, but should be renovated.

Theodore Lobbs, 51 East Shore Drive, Vernon, believes historic buildings are important to the foundation, the structure and the history of the community college. Without historic buildings there is no history and the Horton House should be kept and renovated, Mr. Lobbs concluded.

Sally Gibson, 9 West Brook Road, Fredon, has worked at the College and has a vision that includes the Horton House. There is a lot of information which has not been disseminated and this project should be reviewed again by a consortium, she concluded.

Johnathan Andrews, owner of Spring Board Shoppes, Newton, addressed concerns with code enforcement issues throughout the Newton community and asked Council to go back to their zero-tolerance policy.

COUNCIL & MANAGER REPORTS

There were no Council and Manager Reports.

ORDINANCES

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

ORDINANCE #2014-7

BOND ORDINANCE AMENDING BOND ORDINANCE NUMBERED 2008-6 OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY FINALLY ADOPTED NOVEMBER 10, 2008 IN ORDER TO INCREASE THE COSTS FOR ITEMS OF EXPENSE LISTED IN AND PERMITTED UNDER N.J.S.A. 40A:2-20

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section One. Section 6(d) of bond ordinance numbered 2008-26 of the Town of Newton, in the County of Sussex, New Jersey (the "Town") finally adopted November 10, 2008 is hereby amended to read as follows:

(d) An aggregate amount not exceeding \$160,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

Section Two. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Mayor Ricciardo opened the hearing to the public.

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

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The aforementioned **ORDINANCE** was offered by Mr. Flynn, 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 Clerk will advertise the above Ordinance according to law.

Mayor Ricciardo directed the Clerk to read aloud the following Ordinance relative to introduction of same.

ORDINANCE #2014-9

AN ORDINANCE AMENDING CHAPTER 204 ENTITLED "LAND SUBDIVISION AND SITE PLAN REVIEW: AND CHAPTER 320 ENTITLED "ZONING: FORM-BASED CODE" OF THE CODE OF NEWTON TO REVISE AND ESTABLISH CERTAIN DEFINITIONS

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

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

BE IT RESOLVED by the Town Council of the Town of Newton that the above Ordinance be introduced for the first reading, with hearing on same to be held on May 28, 2014.

Mayor Ricciardo directed the Clerk to read aloud the following Ordinance relative to introduction of same.

ORDINANCE #2014-10

AN ORDINANCE TO AMEND THE CODE OF THE TOWN OF NEWTON BY REVISING SECTION 166-20 REGARDING EXPIRATION OF PLANNING BOARD APPROVALS

The following **ORDINANCE** was offered by Mrs. Diglio, who moved its introduction, 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	

BE IT RESOLVED by the Town Council of the Town of Newton that the above Ordinance be introduced for the first reading, with hearing on same to be held on May 28, 2014.

OLD BUSINESS

There was no Old Business to be discussed.

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 consent agenda with the Town Council. Mr. Flynn requested Resolution #80-2014 be pulled from Consent Agenda.

RESOLUTION #75-2014*

RESOLUTION SUPPORT THE CONTINUED TAX-EXEMPTION FOR MUNICIPAL BONDS

WHEREAS, the individual States comprising the United States of America, and their political subdivisions (collectively, “State Governments”) undertake essential capital improvements for the benefit of their citizens (including, but not limited to, roads, bridges, airports, schools, hospitals, low cost housing and wastewater systems) (“Capital Improvements”), and finance the costs thereof through the issuance of bonds, notes and other evidences of indebtedness (“Municipal Bonds”); and

WHEREAS, the interest paid on Municipal Bonds has been exempt from federal taxation since the inception of the federal income tax in 1913 (the “Exemption”), thereby providing a mechanism for State Governments to raise private funds in support of much needed Capital Improvements; and

WHEREAS, the Exemption not only enables State Governments to build, and maintain, our nation’s infrastructure at an interest cost savings averaging 25-30% less than obligations subject to federal income taxation, but also results in the creation of jobs as more Capital Improvements are undertaken; and

WHEREAS, in 2010, The National Commission on Federal Responsibility and Reform (the “Simpson Bowles Commission”) recommended that the interest paid on newly issued Municipal Bonds be subject to federal income taxation; and

WHEREAS, President Barack Obama has proposed an aggregate tax-benefit cap of 28% for numerous federal tax deductions (including the Exemption), and to apply such cap to all Municipal Bonds, including those issued prior to this proposed change in federal income tax law; and

WHEREAS, proposals to eliminate or curtail the Exemption rely principally on the theory that the Exemption benefits upper-income taxpayers, although repealing or restricting the Exemption will increase borrowing costs for State Governments because investors will demand a higher interest rate to compensate them for the added taxes that they will now owe; and

WHEREAS, these increased borrowing costs will result in less investment in our nation’s deteriorating infrastructure, and will be passed on to all taxpayers, ratepayers and other users of bond-financed infrastructure;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that maintenance of the tax-exempt status of Municipal Bonds under federal law is essential to allow State Governments to finance necessary Capital Improvements that benefit all of the citizens of the United States at the lowest interest costs possible; and

BE IT FURTHER RESOLVED, that the Town of Newton opposes any and all changes in the federal tax law that would eliminate or curtail the present exemption from federal income taxation interest paid on Municipal Bonds issued, and to be issued, by State Governments; and

BE IT FURTHER RESOLVED, that copies of the this resolution shall be made available to Hon, Cory Booker, U.S. Senator, Hon. Robert Menendez, U.S. Senator, Hon. E. Scott Garrett, U.S. Representative, Hon. Barack Obama, President of the United States and the Sussex County League of Municipalities.

RESOLUTION #76-2014*

RESOLUTION AUTHORIZING DISPOSAL OF SURPLUS PROPERTY

WHEREAS, the Town of Newton is the owner of certain surplus property which is no longer needed for public use; and

WHEREAS, the Town Council is desirous of selling said surplus property in an “as is” condition without express or implied warranties;

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

- 1) The sale of surplus property shall be conducted through GovDeals pursuant to NJ State Contract A-83453/T2581 in accordance with the terms and conditions of the State Contract. The terms and conditions of the agreement entered into with GovDeals are available online at govdeals.com and also available in the Clerk's Office of the Town of Newton.
- 2) The sale will be conducted online and the address of the auction site is govdeals.com.
- 3) The sale is being conducted pursuant to Local Finance Notice 2008-9.
- 4) A list of the surplus property to be sold is as follows:
 1. 2003 Ford Dodge Durango 4x4 Sport
 Vin#: 104HS38N43F569498
 Odometer Reading: 101,012 MILES
 Condition: Fair/Poor
- 5) The surplus property as identified shall be sold in an “as-is” condition without express or implied warranties with the successful bidder required to execute a Hold Harmless and Indemnification Agreement concerning use of said surplus property.
- 6) The Town of Newton reserves the right to accept or reject any bids submitted.

RESOLUTION #77-2014*

AWARD BID FOR PROPOSED IMPROVEMENTS TO MORRIS LAKE DAM- PHASE 1

WHEREAS, the Town of Newton publicly accepted and opened bids for Proposed Improvements to Morris Lake Dam – Phase I on Tuesday, April 22, 2014 at 11:00 a.m. as follows:

<u>Name and Address of Bidder</u>	<u>Base Bid</u>	<u>Alternate A</u>	<u>Alternate B</u>
WaterWare Corporation PO Box 3609 Philadelphia, PA 19125	\$57,920.00	\$6,240.00	(\$960.00)
Atlantic Subsea, Inc. PO Box 714 Bridgeport, NJ 08014	\$64,000.00	\$1,900.00	(\$1,900.00)
TNJ Marine, Inc. PO Box 10 Atlantic Highlands, NJ 07716	\$78,230.00	\$650.00	(\$400.00)
Ferraro Construction Corp. 5 Park Drive Franklin, NJ 07416	\$124,800.00	\$215.00	(\$1.00)

WHEREAS, based on review of the bid documents, the Town's Water Engineer David Simmons of Harold E. Pellow and Associates, Inc., recommends the award of the

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Proposed Improvements to Morris Lake Dam – Phase I to WaterWare Corporation in the amount of \$64,160.00 for the base bid and Alternate A and Alternate B if needed, which is a credit for each foot of excavation less than the base bid of six feet; and

WHEREAS, the Chief Financial Officer has certified funds are available based on the attached certification;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the contract for Proposed Improvements to Morris Lake Dam – Phase I be awarded to WaterWare Corporation of Philadelphia, PA in the amount of \$64,160.00.

BE IT FURTHER RESOLVED, that a copy of this resolution and the proposed Contract be forwarded WaterWare Corporation for execution.

RESOLUTION #78-2014*

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

1,013.00	MGL Forms- Systems, LLC.	33432
858.50	Pellow, Harold & Associates, Inc.	33433
177.00	ABCcode Security Inc.	33435
3,392.31	Elizabethtown Gas	33435
1,584.32	G & G Diesel Service Inc	33436
3,219.07	New Jersey Herald, Inc.	33437
314.85	Centurylink Communications, Inc.	33438
3,012.33	Centurylink Communications, Inc.	33439
20.05	Read, Lorraine	33440
30.00	Campbell's Small Engine Inc.	33441
504.00	Neopost Leasing, Inc.	33442
11,600.00	Neopost Leasing, Inc.	33443
164.00	Neopost Leasing, Inc.	33444
212.43	Lock & Key World	33445
52.97	Federal Express	33446
16.55	Hayek's Market Inc.	33447
100.00	First United Methodist Church	33448
240.00	Ambassador Medical Service	33449
200.00	Sisco, James	33450
200.00	Straway, Richard A. Jr.	33451
200.00	Straway, Thomas	33452
719.12	Willco, Inc.	33453
583.33	Sloan, James P, P.C., Inc.	33454
200.00	Smith, William F	33455
200.00	Kithcart, Brock	33456
200.00	Treasurer, State of New Jersey	33457
112.00	T.A. Mountford Company, Inc.	33458
200.00	Hagaman, William	33459
50.00	Registrar's Association of New Jersey	33460
1,361.50	Minisink Press Inc.	33461
160.00	Gann Law Books	33462
14,600.00	Trust Account, Town of Newton	33463
100.00	Sussex County Assessors Assoc.	33464
796.47	Dempsey Uniform & Supply Inc.	33465
98.62	Airgas East	33466
95.00	G.F.O.A. of N.J.	33467
670.38	McGuire, Inc.	33468

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800.93	Vision Service Plan	33469
53,775.32	Statewide Insurance Fund	33470
25.00	Sussex & Warren Tax Col. Assoc.	33471
192.23	Verizon Wireless, Inc.	33472
1,847.06	Verizon Wireless, Inc.	33473
1,296.40	Petro-Mechanics, Inc.	33474
72.93	Walmart	33475
76.30	Mr. John, Inc.	33476
3,000.00	Prime Time Newton Seniors	33477
812.50	Alternate Power Inc.	33478
176.32	Cooper Electric Supply Co.	33479
200.00	Jaekel, Kenneth	33480
33.83	Teresa Ann Oswin	33481
64.85	Linda Roth	33482
705.00	Vogel, Chait, Collins, Schneider, PC	33483
158.02	Home Depot, Inc.	33484
294.00	RR Donnelley	33485
274.62	Staples Business Advantage, Inc.	33486
96.00	CSS Test Inc.	33487
88.17	Nestle Waters, Inc.	33488
200.00	Steve Estler	33489
160.65	Skylands Area Fire Equip & Training	33490
240.00	MCAA of NJ- Spring Conference	33491
5.00	Treasurer, State of NJ- Burial	33492
4,384.13	Rachles/Michele's Oil Company, Inc.	33493
2,308.50	Taylor Oil Co., Inc.	33494
300.00	Firefighter One, LLC.	33495
2,250.00	Laddey, Clark & Ryan, LLP	33496
200.00	Adam Vough	33497
200.00	Joseph White	33498
1,345.50	JMC Environmental Consultants, Inc.	33499
456.66	W.B. Mason, Inc.	33500
885.00	Garden State Highway Products, Inc.	33501
200.00	William Oswin III	33502
847.15	Jersey Central Power & Light, Inc.	33503
564.75	Penteledata	33504
134,130.50	NJMEBF	33505
1,770.00	Chelbus Cleaning Co., Inc.	33506
200.00	Roy Leyman	33507
525.00	NJ Homicide Investigator's Assoc.	33508
3,283.56	Woodruff Energy US, Inc.	33509
50.00	Edward J Buzak	33510
145.47	Harter Equipment Inc.	33511
200.00	Clear Channel Radio, Inc.	33512
390.96	Ocean Place Resort	33513
287.50	J. Caldwell & Associates, LLC.	33514
33.59	Sussex Bike & Sport	33515
1,494.00	E-Z Facility, Inc.	33516
55.00	Team Life, Inc.	33517
205.00	USA Hoistco., Inc.	33518
330.00	Leda C Gonzalez	33519
71.80	Cintas Fire Protection	33520
1,262.16	American Coachworks LLC.	33521
95.00	Central Jersey TCTA Scholarship Sem	33522
29,020.55	Bruce J Stavitsky, Esq.	33523
65.93	Hummingbird House	33524
189,443.99	Payroll Account	141026
527,189.00	Payroll Agency	141025
258,307.00	Payroll Agency	141024
200.00	Town of Newton Electronic Fees	141023

CAPITAL

603.75	Pellow, Harold & Assoc, Inc.	8258
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100.20	New Jersey Herald, Inc.	8259
1,822.57	Lock & Key World	8260
17,166.45	Major Police Supply	8261
1,060.37	Structural Metal Fabricators, Inc.	8262
2,304.00	Laddey, Clark & Ryan, LLP	8263
2,656.25	J. Caldwell & Associates, LLC.	8264
2,100.00	Kings Construction	8257

Total TOWN BILLS \$1,302,364.22

WATER AND SEWER ACCOUNT

2,067.75	Pellow, Harold & Assoc, Inc.	14171
294.45	Andres & Mooney Electric Inc.	14172
1,397.34	Elizabethtown Gas	14173
200.00	Madden, John	14174
60.00	New Jersey Herald, Inc.	14175
4,900.00	Pumping Services, Inc.	14176
157.13	Sussex County P & H, Inc.	14177
200.00	Baldwin, Paul	14178
200.00	Havens, Paul M.	14179
36.34	Centurylink Communications, Inc.	14180
1,251.63	Centurylink Communications, Inc.	14181
5,000.00	Neopost Leasing, Inc.	14182
2,859.00	Garden State Laboratories Inc.	14183
492.78	Hamburg Plumbing Supply Co Inc.	14184
14,630.77	Sparta Township Tax Collector	14185
86.50	Minisink Press Inc.	14186
200.00	Carr, Joseph	14187
20,000.00	Trust Account, Town of Newton	14188
400.80	Dempsey Uniform & Supply Inc	14189
39.45	Airgas East	14190
200.00	Lasso, Ervin	14191
211.90	Vision Service Plan	14192
48,915.15	Statewide Insurance Fund	14193
559.97	JCI Jones Chemicals, Inc.	14194
2,390.59	Grinnell Recycle, Inc.	14195
154.04	Verizon Wireless, Inc.	14196
91.00	Environmental Resource Assoc.	14197
6,040.00	Passaic Valley Sewerage Comm.	14198
482.50	Alternate Power Inc.	14199
22.36	Advance Auto Parts	14200
28.92	Home Depot, Inc.	14201
776.00	Kistler O'Brien Fire Protection, In	14202
3,000.00	Pall Corporation	14203
200.00	Eric Tompkins	14204
719.20	Accurate Waste Removal Inc.	14205
119.90	Penteledata	14206
26,135.50	NJMEBF	14207
200.00	Dustin McGarry	14208
147.86	One Call Concepts, Inc.	14209
1,372.52	Woodruff Energy US, Inc.	14210
250.00	A.P. Certified Testing, LLC.	14211
525.00	Kozdeba & Son LLC.	14212
172.50	J. Caldwell & Associates, LLC.	14213
74.80	Braen Stone Sparta	14214
2,500.00	Community Resource Partners, LLC	14215
472.08	Toyota Motor Credit Corp.	14216
33,932.32	Payroll Account	146013
14,000.00	Payroll Agent	146013
10,189.93	Current Account	146011

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3,955.50	Pellow, Harold & Associates, Inc.	2342
42.60	New Jersey Herald, Inc.	2343

Total WATER & SEWER BILLS \$3,998.10

TRUST ACCOUNT

1,312.50	Pellow, Harold & Associates, Inc.	3235
720.00	Hollander, Strelzik, Pasculli, Hinkes	3236
750.00	Sloan, James P, P.C., Inc.	3237
390.00	Vogel, Chait, Collins, Schneider, PC	3238
1,686.00	Payroll Account	147108

Total TRUST ACCOUNT BILLS \$4,858.50

DEVELOPERS ESCROW ACCOUNT

702.50	Pellow, Harold & Assoc, Inc.	1176
60.00	Vogel, Chait, Collins, Schneider, PC	1177
449.15	Edward J Buzak	1178

Total DEV. ESCROW BILLS \$1,211.65

FEDERAL/ STATE GRANTS

2,500.00	Greater Newton Chamber of Comm.	1200
2,675.00	Payroll Account	141103
2,075.00	Current Account	141102

Total FEDERAL/ STATE GRANTS \$7,250.00

SUI ACCOUNT

967.38	S/NJ Employer Accounts	1098
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Total SUI ACCOUNT \$967.38

RESOLUTION #79-2014*

RESOLUTION RECOGNIZING MAY 4-10, 2014 AS MUNICIPAL CLERKS' WEEK

WHEREAS, a Municipal Clerk is a professional who provides continuity in government from administration to administration, seeing to it that the business of local government continues uninterrupted while providing experienced and dedicated public service to the governing body, colleagues and residents; and

WHEREAS, one of the oldest positions of public servants in local government, the Municipal Clerk's Office was established when the early colonists came to America and began setting up forms of local government; and

WHEREAS, the functions of a Municipal Clerk necessitate a thorough knowledge of law procedure, administration and interpersonal relations; and

WHEREAS, a Municipal Clerk has core duties prescribed by State Statute, including but not limited to:

1. Acting as Secretary to the Municipal Corporation;
2. Acting as Secretary to the Governing Body;
3. Serving as Chief Administrative Officer in all elections;
4. Serving as Chief Registrar of voters in their municipality;
5. Serving as the Administrative Officer responsible for accepting and issuing various licenses and permits;
6. Serving as Coordinator of Records Manager;

7. Performing other such duties as are imposed by statute, regulation of municipal ordinance or resolution; and

WHEREAS, in recognition of Municipal Clerks' Week, May 4-10, 2014, the Town Council of the Town of Newton wishes to recognize its Municipal Clerk and her staff for their outstanding services with which they provide to our community;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that while recognizing the importance of its role and functions of the Municipal Clerks' Office and the impact it has on the public, that it salutes its Municipal Clerk, Lorraine A. Read; Deputy Municipal Clerk, Teresa A. Oswin, and staff members Janien Roberts and Jennifer Fratangelo, for their dedication and commitment to the Town of Newton's local government; and

BE IT FURTHER RESOLVED, that the Town Council of the Town of Newton recognizes all of New Jersey's Municipal Clerks and their staff members for their service to the respective local governments and calls upon other communities to join them in recognizing their Municipal Clerks and staff members during Municipal Clerks' Week, May 4-10, 2014.

RESOLUTION #81-2014*

RESOLUTION OF THE TOWN OF NEWTON, COUNTY OF SUSSEX, NEW JERSEY AUTHORIZING AN ESCROW AGREEMENT WITH JADE LAND CO., LLC

WHEREAS, Jade Land Co., LLC (the "**Entity**") is the contract purchaser of certain real property located at Hicks Avenue, Newton, New Jersey (the "**Property**"); and

WHEREAS, the Property has been designated by the municipality as an area in need of redevelopment pursuant to Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (the "**Redevelopment Law**"), and a redevelopment plan has been adopted for the Property; and

WHEREAS, the Entity and the Town desire to explore the potential for the redevelopment of the Property, and the Entity recognizes the Town will incur costs and expenses in connection therewith, and is willing to defray those costs, with no assurance of a particular result from the Town; and

WHEREAS, the Entity has agreed to deposit funds with the Town to be administered in accordance with the terms of the form of escrow agreement set forth at Exhibit A hereto,

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

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. The Town hereby authorizes the execution of the Agreement in substantially the form attached hereto as Exhibit A and by this reference incorporated herein. The Mayor is hereby authorized to execute the Agreement in substantially the form attached hereto.

Section 3. If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.

Section 4. A copy of this resolution shall be available for public inspection at the offices of the Town Clerk.

Section 5. This Resolution shall take effect immediately.

EXHIBIT A

**FORM OF ESCROW AGREEMENT
ESCROW AGREEMENT**

THIS ESCROW AGREEMENT ("Agreement") is made as of the ____ day of April, 2014 by and between **JADE LAND CO., LLC**, a limited liability company formed under the laws of the State of New Jersey (the "**Entity**"), with an address at 16 Wolfe Run Court, Long Valley, New Jersey 07853 and **THE TOWN OF NEWTON**, a municipal corporation of the State of New Jersey (the "**Town**" and together with the Entity, the "**Parties**"), with an address at 39 Trinity Street, Newton, New Jersey 07860.

WITNESSETH:

WHEREAS, the Entity is the contract purchaser of certain real property located at Hicks Avenue, Newton, New Jersey (the "**Property**"); and

WHEREAS, the Property has been designated by the municipality as an area in need of redevelopment pursuant to Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "**Redevelopment Law**"), and a redevelopment plan has been adopted for the Property; and

WHEREAS, the Parties desire to explore the potential for the redevelopment of the Property, and the Entity recognizes the Town will incur costs and expenses in connection therewith, and is willing to defray those costs, with no assurance of a particular result from the Town; and

WHEREAS, the Entity has agreed to deposit with the Town the amount of **SIXTEEN THOUSAND and 00/100 (\$16,000.00) DOLLARS** (the "**Escrow Deposit**"), to be deposited in an escrow account and disbursed in accordance with the provisions of this Agreement to defray certain costs and expenses incurred by or on behalf of the Town arising out of or in connection with, among other things, consideration of the Entity's proposed development plans and concepts and alternatives thereto, including but not limited to, if and as appropriate, the development and adoption of amendments to the redevelopment plan for the Property, the negotiation and preparation of a development agreement, redevelopment agreement, or agreement for financial assistance (collectively, the "**Municipal Undertakings**"),

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, and intending to be legally bound hereby, the Parties hereto agree as follows:

1. Escrow Deposit. The Escrow Deposit is separate from and in addition to all other application fees and escrow deposits that may be required by the Town pursuant to the Municipal Land Use Law, *N.J.S.A. 40:55D-1 et seq.*, as and to the extent applicable.

2. Scope of Reimbursable Services.

(a) The Town shall be entitled to be reimbursed for all professional charges incurred in connection with the Municipal Undertakings defined above, the preparation and review of all related documents and materials, including but not limited to correspondence, meetings and all communications (including by telephone and e-mail) with the Entity, the Entity's professionals, Town staff or retained professional(s) with respect to the Municipal Undertakings (collectively, the "**Reimbursable Activities**"). **Reimbursement may include charges incurred in connection with Reimbursable Activities prior to the date of this Agreement, and is not contingent upon the outcome of any negotiations between the Parties.**

(b) Properly reimbursable professional charges shall be reasonable and necessary and shall relate to Reimbursable Activities performed by outside

consultants and professionals. Annexed hereto as **Schedule 1** is a schedule of rates to be charged by outside professionals and consultants retained by the Town as of the date of this Agreement.

3. Deposit and Administration of Escrow Funds. The Escrow Deposit and all additions thereto shall be held by the Town in a banking institution or savings and loan association in the State of New Jersey insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the State of New Jersey, in a segregated, non-interest bearing account (the "**Escrow Account**") referenced to this Agreement.

4. Payments from the Escrow Funds.

(a) The Town shall use such funds to pay reimbursable professional charges.

(b) Professional charges paid out of the Escrow Account shall include professional charges in connection with the Reimbursable Activities. The Entity shall not be charged for any costs and expenses not associated with the Reimbursable Activities. The only costs that shall be added shall be actual out-of-pocket expenses of such professionals or outside consultants, including normal and typical expenses incurred in connection with such Reimbursable Activities.

(c) Each payment for professional services charged to the Escrow Account shall be pursuant to a voucher from the professional, identifying the personnel performing the Reimbursable Activities, each date the services were performed, the hours spent in not greater than one-tenth hour increments, the hourly rate, and specifying properly reimbursable expenses. All professionals shall submit the required vouchers or statements to the Town on a monthly basis in accordance with the schedule and procedures established by the Town. The professional shall simultaneously send an informational copy of each voucher or statement submitted to the Town to the Entity.

5. Accounting and Additional Deposits. As reasonably requested by the Entity, the Town shall prepare and send to the Entity a statement which shall include an accounting of funds listing all deposits, interest earnings, disbursements and the cumulative balance of the Escrow Account.

6. Close Out Procedures. Upon termination of negotiations, or upon the execution of a development or redevelopment agreement, the Entity may send written notice by certified mail to the Town, the Town Manager, the Town's Chief Financial Officer and to the relevant municipal professional(s), requesting that the remaining balance of the Escrow Deposit be refunded, or otherwise transferred to another escrow account if and as appropriate under the circumstances. After receipt of such notice, the professional(s) shall render a final bill to the Town within 30 days, and shall send a copy simultaneously to the Entity. Within 30 days of receipt of the final bill the Town shall pay all outstanding bills and render a written final accounting to the Entity detailing the uses to which the escrow funds were put. The Entity will not be responsible for any additional charges once the final accounting has been rendered by the Town in accordance with this section.

7. Disputed Charges.

(a) The Entity may dispute the propriety or reasonableness of professional charges paid out of the Escrow Deposit by written notice to the Town. A copy of such notice shall be sent simultaneously to the professional(s) whose charges or estimated costs are the subject of the dispute. Such written notice of a disputed charge shall be given within 45 days from the Entity's receipt of the informational copy of the professional's voucher, except that if the professional has not supplied the Entity with an informational copy of the voucher, then the Entity shall send notice within 60 days from receipt of the first statement of activity against the escrow account containing the disputed charge. Failure to dispute a charge in writing within the prescribed time shall constitute the Entity's acceptance of the

charge and a waiver by the Entity of all objections to the charge and to payment thereof out of the escrow account.

(b) During the pendency of a dispute the Town may continue to pay undisputed charges out of the Escrow Account. If a dispute over a charge is resolved in the Entity's favor after having been paid, the Town shall reimburse the Escrow Account in the amount determined to be properly disputed.

8. Governing Law. This Escrow Agreement shall be governed, construed and enforced according to the laws of the State of New Jersey, without regard to its conflicts of laws principles. Any action hereunder shall be brought exclusively in a court of the State of New Jersey sitting in Sussex County, New Jersey or in a United States Court having jurisdiction in the District of New Jersey, sitting in Essex County, New Jersey, and the Entity hereby waives all objections to such venue.

9. Successors and Assigns. This Escrow Agreement shall be binding upon, and inure to the benefit of, the parties hereto and upon each party's successors and assigns.

10. Entire Agreement; No Modification Unless in Writing. This Escrow Agreement contains the entire agreement of the parties relative to the subject matter hereof. Any amendment hereto or modification or variation hereof shall be ineffective unless in writing signed by each of the parties hereto.

11. Effective Date. This Agreement shall not become effective unless and until the Escrow Deposit is made.

IN WITNESS WHEREOF, the parties have executed this Agreement the date and year first above written.

Witness or Attest: **TOWN OF NEWTON**

By: _____

JADE LAND CO., LLC

_____ By: _____

Schedule 1

1. **McManimon, Scotland & Baumann, LLC:** Redevelopment Counsel. \$325.00 per hour.
2. **J. Caldwell & Associates, LLC:** Town Planner. \$115.00 per hour.
3. **Harold E. Pellow & Associates, Inc.:** Town Engineer. \$120.00 per hour.

The Municipal Clerk presented three applications for membership into the Newton Fire Department as a Junior Firefighter as follows: 1) Andrew Ghaleb, 24 Ryerson Avenue; 2) Ryan D. Razzano, 2 Harrison Street; and 3) Robert M. Caton, 6 Dogwood Drive. It was noted that the applications were in order and signed by the Fire Chief.

A motion was made by Deputy Mayor Elvidge to approve the **COMBINED ACTION RESOLUTIONS minus Resolution #80-2014**, seconded by Mrs. Becker and roll call resulted as follows:

April 28, 2014

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

RESOLUTION #80-2014

AUTHORIZE THE EXECUTION OF A DEVELOPER'S AGREEMENT DATED APRIL 29, 2014 IN CONNECTION THE DEVELOPMENT OF PROPERTY KNOWN AS BLOCK 22.05, LOT 13, NEWTON, NJ (GRANDE VILLAGIO)

WHEREAS, Martorana Enterprises, LLC ("Martorana") received approval to construct 54 townhomes, 6 low and moderate income apartments and associated improvements on property formally known as Block 22.05, Lot 13, located at 104 Sparta Avenue, Newton, New Jersey; and

WHEREAS, Martorana is required to enter into a Developer's Agreement with the Town of Newton setting forth the rights, duties and obligations of the parties in connection with the Development; and

WHEREAS, on February 10, 2014, the Town Council adopted Resolution #24-2014 authorizing the execution of a Developer's Agreement dated February 11, 2014; and

WHEREAS, on April 14, 2014, the Town Council adopted Resolution #63-2014 adopting the recommendations of the Utility Advisory Board in Allocating Water and Sewer Gallonage for Martorana Enterprises for Grande Villagio; and

WHEREAS, as a result of the recommendations of the Utility Advisory Board, paragraph 12 of the February 11, 2014 Developer's Agreement had to be revised; and

WHEREAS, paragraph 20 of the February 11, 2014 Developer's Agreement has also been revised so the timing of the construction of the development is consistent with the resolutions of approval adopted by the Planning Board; and

WHEREAS, there has been prepared a revised Developer's Agreement by and between Martorana and the Town of Newton dated April 29, 2014; and

WHEREAS, the Town desires to authorize the execution of the Developer's Agreement subsequent to its execution by Martorana.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Newton, County of Sussex, State of New Jersey, they being the Governing Body thereof as follows:

1. All the terms and conditions of a certain Developer's Agreement dated April 29, 2014 by and between the Town of Newton and Martorana Enterprises, LLC are hereby approved, ratified and confirmed by the Town of Newton. The February 11, 2014 Developer's Agreement, which was previously authorized by the Town Council is now superseded by the April 29, 2014 Developer's Agreement, which is authorized herein.
2. The Mayor and Clerk are hereby authorized to execute said Developer's Agreement subsequent to the execution by the Developer and together with other appropriate officers and employees of the Town are hereby authorized to take all steps necessary to effectuate the purposes of this Resolution.
3. The Town hereby authorizes and approves any non-substantive modifications to the Developer's Agreement as may be recommended and approved by the Town Manager and Town Attorney prior to execution.
4. This Resolution shall take effect immediately.

A motion was made by Mrs. Diglio to approve Resolution #80-2014, seconded by

Mrs. Becker and roll call resulted as follows:

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

DISCUSSION

a.) Horton House

Ursula Leo, Esq. outlined her memo dated April 28, 2014 and advised of the steps the Governing Body needs to take with regard to the Horton House.

Deputy Mayor Elvidge summarized the comments he heard this evening regarding the Horton House. After a brief discussion, Deputy Mayor Elvidge recommends the Council forward to the Newton Planning Board for their review and recommendation.

Councilwoman Diglio noted she was a part of the Horton House study several years ago and recalls the roof being replaced and the porches being fixed at that time. She was asked, at that time, to take photos of the inside of Horton House which she will share with the Council. Mrs. Diglio would prefer Horton House be renovated and not torn down and would like the Planning Board to review and recommend.

Mayor Ricciardo noted the owner of the building does not want to participate in registering the house as a Historic Site and does not want to save the Horton House due to the excessive cost. Mayor Ricciardo is opposed to saving the building and forwarding the issue to the Planning Board.

Councilman Flynn believes our Community College needs to continue to provide education at a reasonable cost. Mr. Flynn addressed several points of interest and noted he is opposed to approving an Ordinance which would support keeping the Horton House. He is not in favor of forwarding this to the Planning Board.

Councilwoman Becker noted that, although she believes in the restoration of old structures, she feels education comes first and it is more important to put the money into education. She is not in favor of forwarding to the Planning Board.

Based on the 3 – 2 vote, Mr. Russo noted he will have legal counsel prepare an Ordinance to reject the proposal to forward the Horton House to the Planning Board. The Ordinance will be placed on the May 28, 2014 meeting agenda.

OPEN TO THE PUBLIC

There was no one from the public to be heard.

April 28, 2014

COUNCIL & MANAGER COMMENTS

Mr. Russo advised the May 12, 2014 Council meeting has been cancelled due to the Municipal Election to be held on May 13, 2014. Mr. Russo wished all the candidates the best of luck in the Municipal Election.

Mayor Ricciardo reminded everyone to "vote" on Tuesday, May 13, 2014 and wished all candidates luck in the upcoming election.

There being no further business to be conducted, upon motion of Mrs. Becker, seconded by Mr. Flynn and unanimously carried, the meeting was adjourned at 8:21 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Lorraine A. Read".

Lorraine A. Read, RMC
Municipal Clerk