

June 9, 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 Mrs. Becker, and carried, the minutes of May 28, 2014 Regular meeting were approved. Deputy Mayor Elvidge abstained.

### **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."*

Harry Dunleavy, 16 Price Road, Augusta, addressed concerns with the proposed demolition of Horton House. Mr. Dunleavy requested the Town Council preserve the Horton House and support the efforts to keep and renovate the Horton House located on the Sussex County Community College property.

Scott Waselik, 173 Spring Street, read from a prepared statement:

"Hello, my name is Scott Waselik, I live at 173 Spring Street. I call Newton my home, but Newton needs help. In a town where 30% of the population is under 24 years of age, and a place where jobs are scarce, our young people are struggling. In many municipalities in NJ, a growing threat to our most vulnerable and young citizens seems to be the threat of marijuana arrest. Past decades have shown us that marijuana arrest can be a cash cow for well-to-do municipalities, but bares the consequences of ruining a young person's future.

In places like Newton, our police have larger problems to deal with than marijuana smokers, the police well know this here, and with a growing heroin epidemic that requires more police attention, amidst a shrinking full time police force (since 2007), which has raised a multitude of crime rates. The problems that come from the heroin problem can be seen all over Spring Street, having economic impacts on small businesses, and thus the community at large. Marijuana arrests are also disproportionately an African American problem in Newton.

For the reasons I have outlined above, in an effort to protect our most young and vulnerable citizens and many more, I believe the residents of Newton agree, it is time to re-prioritize marijuana in Newton. So with the support of several national and regional non-profit organizations, the goal is to introduce an initiative and referendum style,

June 9, 2014

Newton resident initiated ordinance to make marijuana the lowest priority in Newton, and if needed a well-financed effort to publicize and get out the vote if the initiative went to ballot measure.

I ask for your support here today, to input on our rough-sample ordinance (which I have emailed to the council members) outlaying the premise of the measure. We hope the council people can rally behind this logical cause, as they have the opportunity to be the first town in the state to pass such a measure. It's benefit to the community would be immeasurable, and any noble council-people willing to stand behind the cause will certainly be praised publicly.

This needs to be the first priority for Newton, the people agree, and I hope to have an open dialogue with the council members to help me craft this bill to our town and exchange concerns on both sides. We need to do this for Newton where young people, especially African Americans are struggling and are disproportionately arrested for marijuana arrest.

We want this effort to empower police to utilize their time and effort to go after the drugs that are truly destroying this town, drugs like heroin.

Thanks, Scott Waselik, Citizen Representative for Low Priority Newton. 973-570-5610 [mypoodletara@gmail.com](mailto:mypoodletara@gmail.com)"

Neil Flaherty, 154 Sparta Avenue, questioned whether Resolution #108-2014 would require notice to residents within 200 feet of the proposed Hicks Avenue Redevelopment Plan and was advised by legal counsel this Resolution does not require notice to residents. Mr. Flaherty congratulated Deputy Mayor Elvidge and Councilwoman Diglio on their re-election to the Town Council. Mr. Flaherty also wished Mayor Ricciardo the best and commended him on his years of dedicated service to the community.

Nanette Thomas, 7 Orchard Street, addressed an issue of litter which appears on her front lawn every day. She indicated it is from the students leaving Quick Chek. Mrs. Thomas noted the Town has a Shade Tree Commission and also complained of the two trees in Town which are severally decayed and suggested the Town remove them for the safety issue. Mayor Ricciardo suggested Mrs. Thomas speak to Quick Chek regarding the litter issue.

Jonathan Andrews, Owner of Spring Board Shoppes, submitted a proposal to the Governing Body with suggestions for the Special Improvement District (SID). He realizes the proposed SID, recently defeated, has met substantial opposition and he has a "new" plan to move forward toward the same goals at less cost. Mr. Andrews gave copies of the proposal to the Municipal Clerk for distribution. Mr. Andrews also addressed several appearance issues with Town property. He advised he addressed these issues two years ago and has not been resolved to date. "This is broken and

June 9, 2014

needs to be fixed", Mr. Andrews concluded.

**PRESENTATIONS**

At this time, Mayor Ricciardo presented a Proclamation to Steven Kelly for his 1,000 career points in basketball.

**P R O C L A M A T I O N**

**Steven Kelly**

**WHEREAS**, Steven Kelly was born and raised in the Town of Newton, and attended the Newton Public School System; and

**WHEREAS**, early on, Steven became involved in sports, including baseball and most notably, basketball; and

**WHEREAS**, on February 11, 2014, Steven scored his 1,000<sup>th</sup> career point for the Newton Braves basketball team, making him only the 7<sup>th</sup> person in the school's long history to accomplish this feat; and

**WHEREAS**, in addition to scoring over 1,000 points, under his father Dirk's coaching, Steven was awarded Honorable Mention All-League his freshman year, Second Team All-Conference All-Academic his sophomore year, All-Herald All-Conference First Team his junior and senior year, and was named to Muggs' Media's First Team his junior year; and

**WHEREAS**, Steven not only excels in basketball but also academically as a member of the National and Spanish Honor Societies with at GPA of 4.2011;

**NOW THEREFORE, WE**, the Mayor and Town Council of the Town of Newton, hereby congratulate Steven Kelly on his accomplishments and wish him good luck at the College of New Jersey this fall. We wish him a life full of success and happiness.

In witness whereof I have hereunto set my Hand and caused this seal to be affixed.

Attest: \_\_\_\_\_

Date: \_\_\_\_\_ June 9, 2014 \_\_\_\_\_

Deputy Mayor Elvidge presented Joe Rushen with a Proclamation for the 2014 Newton Senior Citizen of the Year.

**P R O C L A M A T I O N**

**Joseph (Joe) Rushen**

**WHEREAS**, Joseph (Joe) Rushen, born on August 30, 1942 in PA, came from a family of 5 with 3 sisters and 2 brothers. His father worked in the mines. He attended Benjamin Franklin in Carbondale, PA; and

**WHEREAS**, Joe was active in baseball in his youth. Joe was stationed in Germany during the Vietnam War. Joe moved to Passaic in 1962 and was a mailman for 25 years. He was a member of St. Claire's Church in Clifton. Joe has run the Boston Marathon 20 times; and

**WHEREAS**, Joe moved to the Town of Newton 10 years ago at the request of his sister Gayle D'Amelio who watched over him until she passed away in January of 2012. Joe is presently active in St. Joseph's Church and attends Mass 4 to 5 times a week. Joe is known for walking all around Town each day, waving to everyone he sees; and

June 9, 2014

**WHEREAS**, over the years, Joe has unselfishly dedicated his life to helping his community, and he continues to set an example to all those who know and love him;

**NOW THEREFORE, WE**, the Mayor and Town Council of the Town of Newton, hereby proclaim our appreciation and gratitude to Joseph (Joe) Rushen for exemplifying the vital role that senior citizens play within their community. In recognition of his military service, his commitment to community, and most of all, his spirit and dedication to our Town, we hereby name Joseph (Joe) Rushen:

**2014 "Newton Senior Citizen of the Year"**

In witness whereof I have hereunto set my Hand and caused this seal to be affixed.

Attest: \_\_\_\_\_

Date: June 9, 2014

Councilwoman Diglio presented a Proclamation to Thea Unhoch for the 2014 Newton Senior Citizen of the Year.

**P R O C L A M A T I O N**

**Thea Unhoch**

**WHEREAS**, Thea Unhoch moved to the Town of Newton in 1960 with her husband Wilhelm "Willie" Unhoch and her 9-month old son Richard. Her daughter Lisa and her son Robert were born in Newton and all three of her children were raised in Town and attended the Newton public school system; and

**WHEREAS**, Thea worked for Don Bosco College from 1973–1982 where she was the Registrar, Financial Aid Officer and also Administrative Assistant to the College President. In 1982, Thea became a Town of Newton Employee working as Zoning Officer, Land Use Administrator for the Planning Board and Zoning Board of Adjustment, Assistant Code Enforcement Officer, and Fair Housing Officer. During her tenure with the Town of Newton, Thea administered a Balanced Housing and Neighborhood Preservation Grant. She was also instrumental in implementing the snow shoveling program for the senior citizens in Town through the Sheriff's Department. Upon her retirement from Newton, Thea was elected to the Newton Town Council and served from July 1, 1998 through June 30, 2010. During her tenure on the Town Council some of her accomplishments were: serving as mayor two terms; keeping County Government in downtown Newton; establishing an Economic Development Advisory Commission; supporting the purchase of several fire apparatus; and involvement with the vision plan and redevelopment plans for the Town; and

**WHEREAS**, since Thea's retirement from the Town she has been a member of Newton's Prime Time Senior group and was president for two years and currently is 1<sup>st</sup> vice president. Thea is also extremely active in the Republican County Committee and currently serves as a member of the Utility Advisory Board for the Town of Newton; and

**WHEREAS**, over the 50 years she has lived in Newton, Thea has unselfishly dedicated her life to helping her community from being a member of St. Joseph's Church, an employee of the Town of Newton, Town Councilwoman, Mayor, Member of the Prime Time Senior Group, and a member of the Newton Utility Advisory Board, she continues to set an example to all those who know and love her;

**NOW THEREFORE, WE**, the Mayor and Town Council of the Town of Newton, hereby proclaim our appreciation and gratitude to Thea Unhoch for exemplifying the vital role senior citizens play within their community. In recognition of her personal and professional accomplishments and volunteer efforts, we commend Thea for her spirit and dedication to our Town and hereby name Thea Unhoch:

June 9, 2014

**2014 "Newton Senior Citizen of the Year"**

*In witness whereof I have hereunto set my Hand and caused this seal to be affixed.*

Attest: \_\_\_\_\_

Date: June 9, 2014

Mrs. Unhoch thanked the Town Council for this recognition and expressed her appreciation for this award.

**COUNCIL & MANAGER REPORTS**

Mr. Russo outlined the itinerary for the upcoming Newton Day which will take place this Saturday, June 14th and hopes to see everyone there.

Mr. Russo read a request from the Newton First Aid Squad to hold a coin-toss at the corner of Diller Avenue and Sparta Avenue on July 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> and August 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup>. It was noted they will obtain permission from the County of Sussex and submit the necessary insurance. The Governing Body gave permission to the Newton First Aid Squad to hold their coin-toss on the dates provided.

**Craig Wolters Request Re: Sewer Fees**

Mr. Wolters appeared before the Council to address his sewer fees. Mr. Wolters is attempting to hook up to the Newton sewer system and noted the cost obtained was approximately \$30,000 plus the cost of the hookup fees. Noting this would be a severe hardship, Mr. Wolters has proposed the Town use the \$4,600, which is the cumulative sewer fees he has paid since owning his home, towards the cost of hookup and tap fees. Ms. Leo, Esq. outlined her memo dated June 5, 2014.

Paul Baldwin, Supervisor of Water and Sewer, and Debra Millikin, Deputy Town Manager, were able to provide information requested by the Governing Body.

After a lengthy discussion, upon motion of Deputy Mayor Elvidge, seconded by Mrs. Diglio, the Town Council agreed to allow Mr. Wolters to utilize the fees of \$4,600, already paid by Mr. Wolters, toward the cost of the sewer hookup and tap fee and roll call resulted as follows:

Mrs. Diglio	Yes	Mrs. Becker	No
Deputy Mayor Elvidge	Yes	Mr. Flynn	Yes
Mayor Ricciardo		No	

**ORDINANCES**

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

**ORDINANCE #2014-9**

**AN ORDINANCE AMENDING CHAPTER 240 ENTITLED "LAND SUBDIVISION AND SITE PLAN REVIEW" AND CHAPTER 320 ENTITLED "ZONING: FORM-BASED CODE" OF THE CODE OF THE TOWN OF NEWTON TO REVISE AND ESTABLISH CERTAIN DEFINITIONS**

**WHEREAS**, the Town of Newton has determined that Chapter 240, entitled "Land Subdivision and Site Plan Review" and Chapter 320, entitled "Zoning: Form-Based Code" of the Code of the Town of Newton requires deletions, revisions and/or addition to their definition sections.

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

**Section 1.** §240-2 of the "Land Subdivision and Site Plan Review" Chapter of the Code of the Town of Newton, entitled "Definitions", shall be and is hereby amended.

The definition of "minor subdivision" shall be deleted in its entirety and a new definition shall read as follows:

Minor Subdivision. The division of a tract of land meeting one or more of the following conditions:

- (1) The division of a parcel of land for the purpose of enlarging an adjoining parcel wherein future use or development of the remaining parcel is not adversely affected and no more than two lots plus a remainder (three lots total) are created.
- (2) The division of a tract of land into a maximum of two lots plus the remainder (three lots total) of the tract being subdivided wherein all such lots or parcels meet all of the following requirements:
  - (a) No new streets or roads shall be proposed.
  - (b) The creation of the lots shall not produce an off-tract drainage problem or result in the necessity for off-tract drainage improvements or any other type of off-tract improvement.
  - (c) The creation of the lots will not adversely affect the uniform and comprehensive development of any remaining parcel or adjoining land in terms of:
    - [1] Suitable future road access and desirable future road and lot patterns.
    - [2] Future water and sanitary sewer utility installation and storm drainage improvements.

**Section 2.** §240-3.H(2) of the Land Subdivision and Site Plan Review Chapter of the Code of the Town of Newton, shall be and is hereby amended to read as follows:

- (2) Minor site plan classification criteria. An application may be designated as a minor site plan if the following conditions are met:
  - (a) The proposed site improvements do not exceed, cumulatively over a five year period, a total of 5,000 square feet.
  - (b) The proposed building footprint is not increased, cumulatively over a five year period, by more than 2,000 square feet.
  - (c) No hazardous or toxic materials are involved in business operation.

**Section 3.** §320-3 of the "Zoning: Form-Based Code" Chapter of the Code of the Town of Newton, shall be and is hereby amended as follows:

- A. The definition of "Driveway" shall be deleted in its entirety and a new definition shall read as follows:

**DRIVEWAY** - Any lane, way or privately owned roadway providing direct access from a street or highway to a building or structure, which consists of a paved, rock or gravel base.

- B. The definition of "Private Frontage" shall be deleted in its entirety and a new definition shall read as follows:

**PRIVATE FRONTAGE** - Frontage within a lot that is not public frontage.

- C. The definition of "Public Frontage" shall be deleted in its entirety and a new definition shall read as follows:

**PUBLIC FRONTAGE** - Frontage along a public right-of-way.

- D. The definition of "Public Frontage Type" shall be deleted in its entirety.

- E. The definition of "Rear Yard Setback" shall be deleted in its entirety and a new definition shall read as follows:

**REAR YARD SETBACK** - The required open space extending along the rear line of a lot from side yard to side yard of a building, exclusive of overhanging eaves, gutters, cornices, steps, bay windows, balconies and balconettes. A rear yard setback is not applicable to a yard that fronts on a public street.

- F. The definition of "Side Yard Setback" shall be deleted in its entirety and a new definition shall read as follows:

**SIDE YARD SETBACK** - The required open space extending along the side line of a lot from the front yard to the rear yard of a building, exclusive of overhanging eaves, gutters, cornices, steps, bay windows, balconies and balconettes. A side yard setback is not applicable to a yard that fronts on a public street.

- G. The definition of "Front Yard Setback" shall be deleted in its entirety and a new definition shall read as follows:

**FRONT YARD SETBACK** - The required open space located between the façade of a building and the street line exclusive of overhanging eaves, gutters, cornices, steps, bay windows, balconies and balconettes.

- H. A new definition "Street Line" shall be added to read as follows:

**STREET LINE** - The lines that form the boundary of a right of way or in cases where the right-of-way has not been dedicated, the edge of pavement of a public or private road.

- I. A new definition "Yard" shall be added to read as follows:

**YARD** - An open space between a building and the adjoining street line, side and/or rear lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the rear yard, the minimum horizontal distance between the lot line or street line (whichever is less) and any buildings shall be used.

**Section 4.** §320-23.E.(2), of the "Zoning: Form-Based Code" Chapter of the Code of the Town of Newton, shall be revised to read as follows:

(2) Off-street parking on areas other than driveways is prohibited within the front yard setback of single-family detached and duplex residential dwellings.

**Section 5. Severability.** If any provision of this Ordinance or the application of this Ordinance to any person or circumstances is held invalid, the remainder of this Ordinance shall not be affected and shall remain in full force and effect.

**Section 6. Repealer.** All ordinances or parts of ordinances or resolutions that are inconsistent or in opposition to the provisions of this Ordinance are hereby repealed in their entirety.

**Section 7. Notice.** The Town Clerk is directed to give notice at least ten days prior to the hearing on the adoption of this ordinance to the Sussex County Planning Board and to all others entitled pursuant to the provisions of N.J.S.A. 40:55D-15. The Town Clerk is further directed to refer this Ordinance to the Town Land Use Board, pursuant to N.J.S.A. 40:55D-64. Upon the adoption of this ordinance, after public hearing, the Town Clerk is further directed to publish notice of the passage and to file a copy of this ordinance, as finally adopted, with the Sussex County Planning Board, as required by N.J.S.A. 40:55D-16.

**Section 8. Effective Date.** This Ordinance will take effect after publication and passage according to 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.

The aforementioned **ORDINANCE** was offered by Mr. Flynn, who moved its adoption, 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	

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 final adoption.

**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**

**WHEREAS**, the Mayor and Town Council of the Town of Newton find that Section 166-20 of the Newton Town Code requires revisions to set forth specified expiration time periods.

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

**Section 1.** Section 166-20 shall be and is hereby revised to read as follows:

166-20 Expiration of Planning Board Approvals.

a. Any variance granted by the Planning Board permitting the erection or alteration of any structure or structures, or permitting a specified use of any property shall expire one (1) year from the adoption of the resolution memorializing the Board's decision unless:

1. Construction has commenced and is presently proceeding or completed, or unless such permitted use has actually commenced within one (1) year; or

2. An appeal has been filed from a Board action to a Court of competent jurisdiction, in which case the one (1) year expiration period shall resume running upon the signing of a Court Order concluding the appeal; or

3. A variance approved in conjunction with and related to a subdivision or site plan application shall expire at the expiration period of the related site plan or subdivision approval, if such expiration period is later.

b. Any preliminary major site plan, major subdivision or minor subdivision approval granted by the Planning Board shall expire three (3) years from the date of the adoption of the Resolution memorializing the Board's approval unless:

1. The application receives an extension pursuant to the MLUL; or

2. An appeal has been filed from a Board action to a Court of competent jurisdiction, in which case the three (3) year time period shall resume running upon the signing of a Court Order concluding the appeal.

c. Any minor site plan, final major subdivision or final major site plan approval granted by the Planning Board shall expire within two (2) years from the date of the adoption of the resolution memorializing the Board's approval unless:

1. The application received an extension pursuant to the MLUL; or

2. An appeal has been filed from a Board action to a Court of competent jurisdiction, in which case the two (2) year time period shall resume running upon the signing of a Court Order concluding the appeal.

**Section 2.** Should any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason by any Court of competent jurisdiction, such provision(s) shall be deemed severable and the remaining portions of this Ordinance shall remain in full force and effect.

**Section 3.** All ordinances or parts of ordinances or resolutions that are inconsistent with the provisions of this Ordinance are repealed to the extent of such inconsistency.

**Section 4.** The Town Clerk is directed to give notice at least ten days prior to the hearing on the adoption of this ordinance to the County Planning Board and to all others entitled pursuant to the provisions of N.J.S.A. 40:55D-15. The Town Clerk is further directed to refer this Ordinance to the Newton Planning, pursuant to N.J.S.A. 40:55D-64. Upon the adoption of this ordinance, after public hearing, the Town Clerk is further directed to publish notice of the passage and to file a copy of this ordinance, as finally adopted, with the Sussex County Planning Board, as required by N.J.S.A. 40:55D-16.

**Section 5.** This Ordinance shall take effect after publication and passage according to law.

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:

June 9, 2014

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 #2014-12**

**REFUNDING BOND ORDINANCE OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, PROVIDING FOR THE REFUNDING OF ALL OR A PORTION OF THE OUTSTANDING CALLABLE GENERAL OBLIGATION REFUNDING BONDS OF THE TOWN, DATED FEBRUARY 1, 2004, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF \$2,775,000. AND/OR ALL OR A PORTION OF THE OUTSTANDING CALLABLE GENERAL IMPROVEMENT BONDS OF THE TOWN DATED APRIL 1, 2006, ISSUED IN THE ORIGINAL PRINCIPAL AMOUNT OF \$4,041,000. APPROPRIATING THE ISSUANCE OF \$4,250,000 REFUNDING BONDS OF THE TOWN FOR FINANCING THE COST THEREOF**

The following **ORDINANCE** was offered by Deputy Mayor Elvidge, 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 June 23, 2014.

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

**ORDINANCE #2014-13**

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

The following **ORDINANCE** was offered by Deputy Mayor Elvidge, who moved its introduction, 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	

**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 June 23, 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.

**RESOLUTION #101-2014\***

**RESOLUTION ESTABLISHING A FUND BALANCE POLICY**

**WHEREAS**, the Mayor and Council (the “Governing Body”) of the Town of Newton acknowledge the maintenance of fiscal stability is important to the prudent operation of government and in determining its creditworthiness; and

**WHEREAS**, the ability to adjust local government revenues during the budget year and from year to year may be limited to meet unanticipated expenditures resulting from, inter alia, natural disasters, unforeseen increases in operating costs, unexpected capital expenditures; and

**WHEREAS**, changes in federal and state government spending policies can also impact local government revenues, particularly if reductions in such spending force local governments to increase their own spending to make up for the loss in federal and state government revenue; and

**WHEREAS**, fund balance represents an available resource that can be used to meet working capital requirements, emergency expenditures and afford transition due to systemic changes in revenues and expenditures; and

**WHEREAS**, sufficient levels of unreserved fund balance can assure the continued orderly operation of government and the provision of services to taxpayers and the stability of the tax structure; and

**WHEREAS**, drawdown of fund balance, without the reasonable expectation of regenerating such amount drawn down during the budget year, is evidence of a structural imbalance; and

**WHEREAS**, local governments frequently utilize a percentage of the municipality's total budget as the means of determining the appropriate level of an unreserved fund balance; and

**WHEREAS**, maintaining the stability of sufficient levels of unreserved fund balance will be equally important for the Town of Newton, so that the fund balance policy will be meaningful and effective;

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NEWTON**, a fund balance policy is hereby established and the following shall be used as guidelines:

1. The Town of Newton shall establish or maintain fund balance whereby the percentage of fund balance anticipated to the total budget will not exceed 9%.
2. The Town of Newton hereby establishes the policy of maintaining an end of the calendar year fund balance which is between 3% - 10% of the prior year tax levy.

3. The Governing body will not anticipate more fund balance than the statutory excess of fund balance of the prior year (amount collected). If the fund balance anticipated will exceed the statutory excess of the prior year a reason must be stated at an open budget meeting. A plan shall be developed to restore fund balance within a three-year period.
4. Amounts appropriated in the ensuing budget which reduce the fund balance below the policy guidelines for the purpose of reducing the ensuing year's property tax levy, may be made only upon a specific vote of the Governing Body.
5. The Governing Body, by vote, can declare a fiscal emergency and withdraw any amount of General Fund balance for purposes of addressing the fiscal emergency. Any such action must also provide a plan to restore fund balance to the Target policy level within a five-year period.
6. This policy will be reviewed by the Governing Body every three years following adoption or sooner at the direction of the Governing Body.

**RESOLUTION #102-2014\***

**RESOLUTION AUTHORIZING THE APPLICATION FOR A TREATMENT WORKS APPROVAL THROUGH THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**WHEREAS**, it is required that the Town of Newton execute or endorse an application to the New Jersey Department of Environmental Protection for a Treatment Works Approval (TWA) in connection with extensions of the Town's sanitary sewer system by developers in the Town; and

**WHEREAS**, by Resolution No. 63-2014 dated April 14, 2014 the Town Council of the Town of Newton concurred with the recommendation of the Utility Advisory Board and conditionally approved allocating water and sewer gallonage for Martorana Enterprises, LLC for the Grande Villaggio project on Lots 5 and 5.03 in Block 1201 in the Town of Newton;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that the Town Council authorizes and directs Thomas S. Russo, Jr., Town Manager, to execute or endorse the TWA Application required for the Grande Villaggio project.

**RESOLUTION #103-2014\***

**AUTHROIZING THE TOWN OF NEWTON TO ENTER INTO AN AGREEMENT WITH PHOENIX ADVISORS, LLC IN CONNECTION WITH THE ISSUANCE OF BONDS AND/OR ANTICIPATION NOTES**

**WHEREAS**, the Town of Newton ("Town") needs to engage the professional services of a financial advisory firm to advise the Town in connection with the issuance of Bonds and/or Notes and other matters relating to fiscal management; and

**WHEREAS**, Phoenix Advisors, LLC ("Phoenix"), 4 West Park Street, Bordentown, NJ, 08505, provides such professional advisory services, is a Registered Municipal Advisor with the Securities and Exchange Commission and the Municipal Securities Rulemaking Board, and has heretofore been appointed by the Town to provide the same until the expiration of the Agreement as defined in Section 3 of the Agreement; and

**WHEREAS**, Phoenix will perform, as Financial Advisor, tasks more fully described in the proposal dated May 6, 2014, and attached to the Agreement as Exhibit "A"; and

**WHEREAS**, the Town will compensate Phoenix for Financial Advisory Services, in accordance with the Agreement dated May 6, 2014, as set forth in Section 2 of said Agreement; and

June 9, 2014

**WHEREAS**, the parties desire hereby to set forth the full terms and conditions under which Phoenix will provide professional advisory services to the Town, as set forth in the Agreement attached hereto;

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Newton, County of Sussex, State of New Jersey that the Town Manager is hereby authorized to execute an Agreement with Phoenix Advisors, LLC in Connection with the Issuance of Bonds and/or Anticipation Notes.

**RESOLUTION #104-2014\***

**FY2014 CLEAN COMMUNITIES GRANT FUNDING**

STATE OF NEW JERSEY  
DEPARTMENT OF COMMUNITY AFFAIRS  
DIVISION OF LOCAL GOVERNMENT SERVICES

Pursuant to N.J.S.A. 40A:4-87 I hereby certify that the following resolution has been duly adopted by the governing body of: TOWN OF NEWTON

Name of Municipality  
Clerk's Signature

I hereby certify the TOWN OF NEWTON has realized or is in receipt of written notification

Name of Municipality

of the state or federal monies cited in the following resolution, which meets all statutory requirements and will be included in the 2014 municipal budget.

Year

Signature,  
Chief Financial Officer

Resolution Number:

Date of Adoption: JUNE 9, 2014

Revenue Title: Pub.& Priv. Revenue Offset: FY2014 Clean Community Grant  
Amount: \$13,519.66

Appropriation Title: Pub.& Priv. Program Offset: Clean Community Grant  
FY2014 Amount: \$13,519.66

Local Match - Source: N/A  
Amount: \$ 0.00

Approval is hereby given to the cited resolution adopted by the governing body pursuant to N.J.S.A. 40A: 4-87

For Director, Division of  
Local Government Services  
by: \_\_\_\_\_

Duly Appointed Designee Date Certified

**RESOLUTION #105-2014\***

**APPOINTMENT OF J. CALDWELL & ASSOCIATES, LLC TO COMPLETE TDR FEASIBILITY STUDY**

**WHEREAS**, the Town of Newton has a need for a qualified Planner to provide consulting services related to the TDR Feasibility Study; and

**WHEREAS**, planning 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**, J. Caldwell & Associates, LLC, has submitted a proposal for planning services related to the TDR Feasibility Study; and

**WHEREAS**, the total cost will be \$22,000 for the planner portion of the TDR Feasibility Study; 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 J. Caldwell & Associates, LLC, is a licensed Planner 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; and

**WHEREAS**, the Chief Financial Officer has certified funds are available to support this project as per the attached certification;

**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 J. Caldwell & Associates, LLC; and

**BE IT FURTHER RESOLVED** that a certified copy of this resolution be forwarded to J. Caldwell & Associates, LLC, and that a notice of this award be published in the newspaper of record published in accordance with the Local Public Contracts Law.

**RESOLUTION #106-2014\***

**AUTHORIZE CREDITS DUE WATER AND SEWER UTILITY ACCOUNTS**

**WHEREAS**, the meter was changed on the below account on January 17, 2014 by the Water department and upgraded to a radio meter; and

**WHEREAS**, the first quarter billing was paid in full; and

**WHEREAS**, upon receipt of the second quarter, billing the homeowner questioned the usage on said bill. Upon investigation by the Water department, it was determined the meter was adding 3 gallons extra for each gallon used due to the fact it was a 1" meter versus a ¾" meter; and

**WHEREAS**, the meter was changed and is now recording the correct usage;

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

<u>Account</u>	<u>Address</u>	<u>Amount</u>
24280	25 Douma Drive	\$909.98

**RESOLUTION #107-2014\***

**RESOLUTION ESTABLISHING A WATER SEWER UTILITY FUND BALANCE POLICY**

**WHEREAS**, the Mayor and Council (the "Governing Body") of the Town of Newton acknowledge the maintenance of fiscal stability has been determined by the State to be a best practice, is important to the prudent operation of government, and is important in determining its creditworthiness; and

**WHEREAS**, the ability to adjust local government revenues during the budget year and from year to year may be limited to meet unanticipated expenditures resulting from,

inter alia, natural disasters, unforeseen increases in operating costs, unexpected capital expenditures; and

**WHEREAS**, fund balance represents an available resource that can be used to meet working capital requirements, emergency expenditures and afford transition due to systemic changes in revenues and expenditures; and

**WHEREAS**, sufficient levels of unreserved fund balance can assure the continued orderly operation of government and the provision of services to utility users and the stability of the rate structure; and

**WHEREAS**, drawdown of fund balance, without the reasonable expectation of regenerating such amount drawn down during the budget year, is evidence of a structural imbalance; and

**WHEREAS**, local governments frequently utilize a percentage of the municipality's total budget as the means of determining the appropriate level of an unreserved fund balance; and

**WHEREAS**, the Governing Body has determined the need for a fund balance policy that will be meaningful and effective and maintain the fiscal stability of Town funds;

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NEWTON**, a water sewer utility fund balance policy is hereby established and the following shall be used as guidelines:

1. The Town of Newton shall establish or maintain fund balance whereby the percentage of water sewer utility fund balance anticipated to the total budget will not exceed 9%.
2. The Town of Newton hereby establishes the policy of maintaining an ending water sewer utility fund balance which is between 10% - 25% of the prior year levy.
3. The Governing Body will not anticipate more fund balance than the statutory excess of fund balance of the prior year (amount collected). If the fund balance anticipated will exceed the statutory excess of the prior year a reason must be stated at an open budget meeting. A plan shall be developed to restore fund balance to the policy level within a three-year period.
4. Amounts appropriated in the ensuing budget which reduce the fund balance below the policy guidelines, may be made only upon a specific vote of the Governing Body.
5. The Governing Body, by vote, can declare a fiscal emergency and withdraw any amount of Utility Fund balance for purposes of addressing the fiscal emergency. Any such action must also provide a plan to restore fund balance to the Target policy level within a five-year period.
6. This policy will be reviewed by the Governing Body every three years following adoption or sooner at the direction of the Governing Body.

**RESOLUTION #108-2014\***

**RESOLUTION OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY  
DIRECTING THE TOWN PLANNING BOARD TO REVIEW A PROPOSED AMENDMENT TO THE  
HICKS AVENUE REDEVELOPMENT PLAN PURSUANT TO LOCAL REDEVELOPMENT AND  
HOUSING LAW**

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

**WHEREAS**, after investigation of a delineated area and recommendation of the Planning Board in accordance with the Act, on December 10, 2007, the Town Council, acting by resolution, designated the area then identified on the official tax map of the Town as Block 1309, Lots 1, 1.01, 2, 6, 8, 9, 41 and 42, along with all public roadways and right of ways appurtenant thereto as an area in need of redevelopment (collectively, the "Redevelopment Area"); and

**WHEREAS**, on December 22, 2008, after review and comment by the Town's Planning Board in accordance with the Act, the Town, acting by Ordinance, enacted a redevelopment plan for the Redevelopment Area (the "Initial Redevelopment Plan"); and

**WHEREAS**, due to changes in the national, regional and local economies occurring since the time of adoption of the Initial Redevelopment Plan, the Town wishes to consider the addition of alternative uses and standards to the Redevelopment Plan in order to provide additional options for the revitalization of the Redevelopment Area; and

**WHEREAS**, in accordance with the Act, the Town has prepared a proposed amendment to the Redevelopment Plan, which is attached hereto as Exhibit A (the "Proposed Amendment"); and

**WHEREAS**, the Town Council desires to utilize the Planning Board's expertise and experience in considering the Proposed Amendment;

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

I. **GENERAL**

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

II. **PLANNING BOARD DIRECTED TO REVIEW PROPOSED AMENDMENT**

The Town Council hereby authorizes and directs the Planning Board to review the Proposed Amendment attached hereto as Exhibit A, and to transmit its comments to the Town Council within 45 days, as required by N.J.S.A. 40A:12A-7(e).

III. **SEVERABILITY**

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.

IV. **AVAILABILITY OF THE RESOLUTION**

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

V. **EFFECTIVE DATE**

This Resolution shall take effect immediately.

**RESOLUTION #109-2014\***

**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**

376.43	Staples Credit Plan, Inc.	33662
1,009.50	Pellow, Harold & Assoc., Inc.	33663
1,749.59	G & G Diesel Service Inc.	33664
17,437.94	JCP&L	33665
132.90	New Jersey Herald, Inc.	33666
1,041.98	SCMUA	33667
125.85	Centurylink Communications, Inc.	33668
35.00	Centurylink Communications, Inc.	33669
11.76	Read, Lorraine	33670
172.64	Campbell's Small Engine Inc.	33671
4,036.76	Timmerman Company, Inc.	33672
27.10	Federal Express	33673
6.29	Hayek's Market Inc.	33674
150.00	Willco, Inc.	33675
340.00	Galls Incorporated	33676
98.48	Sherwin-Williams, Inc.	33677
1,560.66	Greater Newton Chamber of Comm.	33678
403.70	Boonton Tire Supply Inc.	33679
100.00	Office of Weights & Measures	33680
192.23	Verizon Wireless, Inc.	33681
1,450.00	Accurate Door, Inc.	33682
812.50	Alternate Power Inc.	33683
46.30	Cooper Electric Supply Co.	33684
65.00	Wildflowers with Tami	33685
133.00	NJ Municipalities	33686
510.46	Home Depot, Inc.	33687
177.15	Matthew Bender & Co., Inc.	33688
371.66	Staples Business Advantage, Inc.	33689
24,490.18	First Hope Bank Inc.	33690
31.75	Krave Café	33691
66.00	Dominick's Pizza LLC	33692
94.15	Nestle Waters, Inc.	33693
3,910.90	Rachles/ Michele's Oil Company, Inc.	33694
5,641.46	Taylor Oil Co., Inc.	33695
44.24	Dawn Babcock	33696
495.00	Kieffer Electric, Inc.	33697
323.00	Porter Lee Corporation	33698
134,259.50	NJMEBF	33699
1,770.00	Chelbus Cleaning Co., Inc.	33700
198.65	Thyssenkrupp Elevator Corp.	33701
200.00	Extra Tech Data Services, LLC.	33702
155.58	Cartridge World	33703
121.90	Town and Country	33704
475.00	D. Lovenberg's Portable Toilet Rent	33705
537.50	Kozdeba & Son LLC.	33706
3,028.95	Public Engines, Inc.	33707
377.00	Tape-Tel Electronics Inc.	33708
183,282.77	Payroll Account	141039
5,000.00	Federal & State Grant	141038
150.00	PA AAP	33661
981,859.18	Newton Board of Education	141037
-150.00	PA AAP	33650

**CAPITAL**

2,237.01	Pellow, Harold & Assoc., Inc.	8283
131.94	Aurora Electrical Supply, LLC.	8284
4,709.59	Dell Marketing L.P.	8285
7,200.00	Code 96 LLC	8286
2,015.00	J. Caldwell & Associates, LLC.	8287
4,696.17	Edge Property Maintenance, Inc.	8288

June 9, 2014

1,000.00	Wade Associates	8289
11,544.40	Cypreco Industries, Inc.	8290
12,776.33	National Flooring Removal, LLC	8291

**Total TOWN BILLS \$1,425,398.03**

**WATER AND SEWER ACCOUNT**

106.60	Montague Tool & Supply	14270
76.19	Schmidt's Wholesale, Inc.	14271
10,284.25	Pellow, Harold & Assoc., Inc.	14272
880.23	G & G Diesel Service Inc.	14273
12,258.04	JCP&L	14274
1,763.82	Pumping Services, Inc.	14275
327.12	SCMUA	14276
243.72	Sussex County P & H, Inc.	14277
15.00	Campbell's Small engine Inc.	14278
930.00	Garden State Laboratories Inc.	14279
50.97	Federal Express	14280
750.00	Frank Semeraro Construction, Inc.	14281
32.00	Lasso, Ervin	14282
5,917.00	Instrumentation Tech Systems, Inc.	14283
6,080.00	Passaic Valley Sewerage Comm.	14284
1,335.00	Alternate Power Inc.	14285
416.03	Home Depot, Inc.	14286
541.24	Airmatic Compressor Systems, Inc.	14287
39.97	Staples Business Advantage, Inc.	14288
31.75	Krave Café	14289
26,135.50	NJMEBF	14290
142.59	Capitol Supply Const Products, Inc.	14291
2,994.06	Hatch Mott Macdonald	14292
284.40	Braen Stone Sparta	14293
21,556.08	Waterware Corporation	14294
33,853.27	Payroll Account	146019
942.43	Sparta Postmaster	14269

**CAPITAL**

4,108.75	Pellow, Harold & Assoc., Inc.	2348
1,261.21	Hatch Mott Macdonald	2349

**Total WATER & SEWER BILLS \$133,357.22**

**TRUST ACCOUNT**

3,951.75	Pellow, Harold & Assoc., Inc.	3250
1,686.00	Payroll Account	147111

**Total TRUST ACCOUNT BILLS \$5,637.75**

**DEVELOPERS ESCROW ACCOUNT**

316.50	Pellow, Harold & Assoc., Inc.	1182
172.50	J. Caldwell & Associates, LLC.	1183

**Total DEV. ESCROW BILLS \$489.00**

**FEDERAL/ STATE GRANTS**

2,730.50	Pellow, Harold & Assoc., Inc.	1205
150.00	Center for Prevention & Counseling	1206
2,357.50	J. Caldwell & Associates, LLC.	1207
250.00	Movies in Motion	1208

June 9, 2014

374.00	Swank Motion Pictures	1209
1,089.00	Fairview Lake Camp, Inc.	1210
700.00	Green Township	1211

**Total FEDERAL/ STATE GRANTS \$7,651.00**

The Clerk presented an application for an off-premise raffle (50-50 and Raffle) from HSA Camp Auxilium Learning Center, 14 Old Swartswood Road, Newton to be held on Saturday, December 13, 2014 from 11:00 a.m. to 1:00 p.m. at Newton High School, 44 Ryerson Avenue, Newton. It was noted 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 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 (8:00 p.m.-8:11 p.m.)**

**DISCUSSION**

**1) Gardner Avenue Well Study- David Simmons, PE**

Dave Simmons, PE, Town Engineer, made a lengthy presentation with regard to the Gardner Avenue Well Study. The Town tasked Harold E. Pellow and Associates with evaluating alternatives in order to help utilize the Gardner Avenue Well facility more effectively in the future.

After reviewing the prepared Gardner Avenue Well Study, Mr. Simmons provided three options investigated with their costs as follows:

Option 1) Re-commissioning the Gardner Avenue well without any major modification is preliminarily estimated at \$52,000.00.

Option 2) Recovering the Gardner Avenue well and adding a pre-filter cartridge system is preliminarily estimated at \$40,000.00.

Option 3) Recovering the Gardner Avenue well and constructing a new membrane filtration is preliminarily estimated at \$866,965.00.

Mr. Baldwin, W/S Supervisor and Mrs. Millikin, Deputy Town Manager were in attendance and addressed questions of the Town Council.

After a lengthy discussion, Mr. Simmons advised the Town has requested an increase in water allocation and suggested the Town wait until they hear from the State regarding same. Mr. Russo advised the recommendations will be duly considered as

part of the 2015 budget process.

**2) Firearms Ordinance- Draft**

Mrs. Leo outlined the proposed draft Ordinance under Chapter 109 entitled "Firearms". It was noted the Police Chief also provided input in the proposed Ordinance.

**OPEN TO THE PUBLIC**

Nanette Thomas, 7 Orchard Street, questioned what the Town's water allocation is per day which was addressed by Mrs. Millikin. Mrs. Thomas suggested the Town Council explore all possibilities for utilizing Gardner Avenue Well.

**COUNCIL & MANAGER COMMENTS**

Councilwoman Diglio noted she is looking forward to seeing everyone at Newton Day on Saturday.

Deputy Mayor Elvidge noted Newton Day will begin at 11:00 am with a full day of scheduled events and will conclude with fireworks which will take place at approximately 9:00 p.m.

Mayor Ricciardo reminded the public the Town is celebrating its 150<sup>th</sup> Anniversary as well on Saturday.

There being no further business to be conducted, upon motion of Deputy Mayor Elvidge, seconded by Mrs. Becker and unanimously carried, the meeting was adjourned at 9:22 p.m.

Respectfully submitted,



Lorraine A. Read, RMC  
Municipal Clerk