

November 10, 2008

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 Mr. Elvidge, Mrs. Unhoch, Mrs. Becker, Mrs. Le Frois Mayor Ricciardo and Town Manager, Tom Russo.

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 26, 2007”.

Mayor Ricciardo led all present in the Lord’s Prayer and the Pledge of Allegiance to the flag. The Clerk called the roll and upon completion of same, upon motion made by Mrs. Unhoch, seconded by Mrs. Becker and carried that the minutes of October 6, 2008 (Regular) were approved (Mrs. LeFrois abstained).

Mayor Ricciardo declared the meeting open to the public.

Ms. Jessica Egner, 16 Windsor Drive, Newton, being new to the area, questioned what is proposed to be built in the Paterson Avenue Redevelopment Area and was advised by Mayor Ricciardo that the Town of Newton has proposed single family residential units in this Redevelopment Area. Mayor Ricciardo advised that there is no developer who is interested at this time.

Mr. Jan Brody, a representative of Newton #213, LLC, addressed Council to advise that his client bid on the Newton Armory and he is present to address any questions the governing body may have regarding the bid. Mayor Ricciardo advised that when the consent agenda is addressed, any member of the Town Council may request this resolution be removed from the consent agenda in order to discuss.

Council & Manager Reports

Mr. Russo advised of a water main break which occurred on Mill Street

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on Saturday, November 8th. In addition, another water main break today on Linmor Avenue / Layne Place intersection, which should be restored by this evening. On Saturday, Mayor Ricciardo reported to the water main break site and expressed his disappointment with the response time from Embarq, who was called to mark out their fiber optic lines. Mayor Ricciardo, suggesting a two-hour window response time, requested a letter be sent to Embarq Representatives, noting the Town's disappointment with their response time on Saturday, November 7, 2008.

Mr. Russo advised that the Town of Newton has RFP's advertised for a Zoning Board Attorney which is due by December 4, 2008 at 4:30 p.m.

The Town of Newton will be closed tomorrow, November 11th, in honor of Veterans Day.

Mr. Russo and Ms. Babcock, CFO, will be meeting with each department head for budget hearing at the end of this week.

Mr. Russo also reported that on November 17th the Redevelopment Team will be meeting at 5:00 p.m. to discuss the Thorlabs initiative.

ORDINANCES

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

Mayor Ricciardo noted that this Ordinance has been amended to eliminate any streets pertaining to Castle Ridge Development.

ORDINANCE #2008-21

AN ORDINANCE TO ACCEPT THE DEDICATION OF PORTIONS OF PATERSON PLACE, WINDSOR DRIVE, BUCKINGHAM COURT, STRATFORD LANE, DOUMA DRIVE, BABBET COURT, VALLEY VIEW COURT, DOUMA COURT AND RYERSON AVENUE BY THE TOWN OF NEWTON IN THE COUNTY OF SUSSEX

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

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WHEREAS, certain streets in the Town of Newton, hereinafter more particularly described on **Schedule A** attached hereto, have been dedicated to public use by virtue of the filing of a certain map in the Sussex County Clerk’s Office showing “Final Plat, Section 1, Greenville, Town of Newton, Sussex County, New Jersey” filed in the Sussex County Clerk’s Office on September 10, 1987, as registered Map No. 905; and

WHEREAS, the Town Council deems it in the public interest to accept the dedication of said streets shown on said map for public use.

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

Section 1. The Town of Newton does hereby accept the dedication of the streets more particularly described on **Schedule A** attached hereto.

Section 2. The aforesaid streets shall continue to be known and designated by the names and designations shown on the filed maps hereinbefore referred to.

Section 3. This Ordinance shall take effect after publication and passage according to law.

PUBLIC NOTICE is hereby given that the above Ordinance was passed on the first reading by the Town Council of the Town of Newton, Sussex County, New Jersey, at a regular meeting of said Council, held on August 25, 2008, amended at a regular meeting of said Council on October 27, 2008 and that a public hearing regarding the above will be held on November 10, 2008 at the Municipal Building 39 Trinity Street, Newton, New Jersey at 7:00p.m. at which time, all persons interested both for and against said Ordinance shall be given an opportunity to be heard concerning same.

Joseph Ricciardo
Mayor

Lorraine A. Read
Municipal Clerk/Registrar

Mayor Ricciardo declared the hearing on Ordinance #2008-21 open to the public.

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

The following RESOLUTION was offered by Mrs. Unhoch who moved its adoption, seconded by Mr. Elvidge and roll call resulted as follows:

| | | | |
|-------------|-----|---------------|-----|
| Mr. Elvidge | Yes | Mrs. Unhoch | Yes |
| Mrs. Becker | Yes | Mrs. Le Frois | Yes |

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Mayor Ricciardo Yes

BE IT RESOLVED by the Town Council of the Town of Newton that the above Ordinance be adopted in its entirety 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 #2008-25

AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, ADOPTING A REDEVELOPMENT PLAN FOR PROPERTIES WITHIN THE PATERSON AVENUE REDEVELOPMENT AREA

WHEREAS, the *Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.*, (the "Redevelopment Law" or the "Act") authorizes municipalities to determine whether certain parcels of land within the municipality constitute an area in need of redevelopment, pursuant to Sections 5 and 6 of the Redevelopment Law, and to prepare and adopt a redevelopment plan therefore, pursuant to Section 7 of the Redevelopment Law; and

WHEREAS, to determine whether certain areas within the Town of Newton, in the County of Sussex, New Jersey (the "Town") constitute areas in need of redevelopment, the Town Council, by way of Resolution #125-2007 adopted July 9, 2007, authorized and directed the Planning Board (the "Planning Board") of the Town of Newton to conduct a preliminary investigation and public hearing to determine whether Block 1201.02, Lot 2 & 2.01 in the Town (the "Study Area" or the "Area") met the criteria set forth in *N.J.S.A. 40A:12A-5* and should be designated as an area in need of redevelopment; and

WHEREAS, as part of this investigation, the Planning Board requested A. Nelessen Associates, Inc. (the "Planning Consultant") to examine the Study Area and to prepare a report of its findings in connection with the investigation of the Study Area; and

WHEREAS, the Planning Consultant produced a report regarding the study and investigation of the Study Area entitled "Redevelopment Investigation of Block 1201.02, Lot 2, and Lot 2.01" (the "Report"); and

WHEREAS, at a duly noticed public hearing held on December 5, 2007, the Planning Board reviewed the Report and heard testimony from the Planning Consultant that the Study Area satisfies the criteria in *N.J.S.A. 40A:12A-5* to be designated as an area in need of redevelopment, including subsections (d) and (h), and that all properties within the Study Area were necessary to the effective redevelopment of the Study Area, as contemplated by *N.J.S.A. 40A:12A-3*; and

WHEREAS, at the public hearing, all those who were interested in or would be affected by a finding that the Study Area is an area in need of

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redevelopment were given the opportunity to ask questions, provide testimony, and question the Planning Consultant; and

WHEREAS, on December 6, 2007, the Planning Board Secretary forwarded to the Town Council a Resolution of the Planning Board indicating that on December 5, 2007 the Planning Board adopted a resolution at the conclusion of the public hearing recommending that the Town Council designate the Study Area as an area in need of redevelopment; and

WHEREAS, on December 10, 2007, the Town Council, acting by resolution, did so designate the Study Area as an area in need of redevelopment (hereinafter, the "Redevelopment Area"); and

WHEREAS, in accordance with the Act, the Town, in consultation with the Planning Consultant, prepared a proposed Redevelopment Plan for the Redevelopment Area, which is attached hereto as Exhibit A (the "Proposal"); and

WHEREAS, on July 28, 2008, the Town Council, acting by Resolution, referred the Proposal to the Planning Board for its review and comment in accordance with Section 7 of the Act; and

WHEREAS, at a duly noticed and constituted public meeting of the Planning Board held on August 27, 2008, the Planning Consultant presented the Proposal and further addressed any questions and comments presented by the Planning Board; and

WHEREAS, the members of the public were given the opportunity to provide their own testimony regarding the proposed Redevelopment Plan; and

WHEREAS, in order to afford additional time for due consideration, the Planning Board continued the meeting to September 10, 2008; and

WHEREAS, after due consideration of the Proposal, the testimony of the Planning Consultant, and the testimony of the public, the Planning Board determined by Resolution dated September 10, 2008, attached hereto as Exhibit B (the "Planning Board Resolution"), that the Proposal is consistent with the Town's Master Plan, and recommended to the Town Council that it adopt a modified version of the Proposal, with such changes as summarized at Exhibit C to the Planning Board Resolution, as the redevelopment plan for the Area (as revised and attached hereto as Exhibit C, the "Planning Board Proposal"); and

WHEREAS, the Planning Board Resolution recommended the addition of certain standards for the establishment of home based businesses within the Area; and

WHEREAS, upon introduction of this ordinance on October 6, 2008, the Mayor and Town Council supplemented that standard as follows: (i) that only one business that generates customers on site may be maintained in conjunction with any dwelling; (ii) that there shall be a maximum of one sign permitted for each dwelling, which shall be no larger than two square feet, and which shall be located in proximity to the residence address numbers; and (iii) that workspace

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may be located inside of the home as well as in space constructed above the garage (the "Home Business Amendments"); and

WHEREAS, the Planning Board recommended the clarification of certain language with respect to the provision of affordable housing within the Area, specifically at Section 9.5 of the Redevelopment Plan; and

WHEREAS, upon introduction of this ordinance on October 6, 2008, the Mayor and Town Council revised Section 9.5, subsection entitled "Affordable Housing", first paragraph to read as follows:

"The redevelopment area is zoned for inclusionary development and the redeveloper shall construct affordable housing on the site pursuant to N.J.A.C. 5:97-6.4 and 5:97-6.6. Incentives have been built into the redevelopment plan to provide for the construction of affordable housing including increased density and reduced setbacks pursuant to N.J.A.C. 5:97-6.4.b.4. The maximum set aside of affordable units pursuant to N.J.A.C. 5:97-6.4.b.2.ii shall be provided with the specific number of units detailed in the developer's agreement with the Town of Newton." (the "COAH Amendments"); and

WHEREAS, the Town wishes to adopt the Planning Board Proposal, as amended by the Home Business Amendments and the COAH amendments, which is attached hereto as Exhibit D as the Redevelopment Plan for the Area,

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, AS FOLLOWS:

Section 1. The Redevelopment Plan, as filed in the Office of the Town Clerk, attached hereto as Exhibit D, is hereby approved.

Section 2. The zoning map of the Town of Newton is hereby amended to incorporate the provisions of the Redevelopment Plan and delineate the boundaries of the Paterson Avenue Redevelopment Area.

Section 3. This ordinance shall take effect as provided in law.

Mayor Ricciardo declared the hearing on Ordinance #2008-25 open to the public.

Mr. Tom Lawler, 41 Condit Street, Newton, questioned the "next step" for development, for the Paterson Avenue Redevelopment Area and was advised by Mayor Ricciardo that this Ordinance has set the criteria and zoning, not the development. All developers interested, in the redevelopment area, would have to meet all the criteria's which are established in redevelopment plan.

There being no one else from the public to be heard, upon motion by

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Mrs. Becker, seconded by Mrs. Le Frois and carried, the hearing was closed.

The following RESOLUTION was offered by Mrs. Le Frois, who moved its adoption, seconded by Mayor Ricciardo and roll call resulted as follows:

| | | | |
|-------------|-----------------|---------------|-----|
| Mr. Elvidge | Yes | Mrs. Unhoch | Yes |
| Mrs. Becker | Yes | Mrs. Le Frois | Yes |
| | Mayor Ricciardo | Yes | |

BE IT RESOLVED by the Town Council of the Town of Newton that the above Ordinance be adopted in its entirety 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 #2008-26

BOND ORDINANCE PROVIDING FOR THE ACQUISITION OF THE NEWTON ARMORY IN AND BY THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING \$500,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$476,000 BONDS OR NOTES OF THE TOWN TO FINANCE PART OF THE COST THEREOF

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 1. The improvement described in Section 3 of this bond ordinance is hereby authorized to be undertaken by the Town of Newton, New Jersey as a general improvement. For the improvement or purpose described in Section 3, there is hereby appropriated the sum of \$500,000, including the sum of \$24,000 as the down payment required by the Local Bond Law. The down payment is now available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the improvement or purpose not covered by application of the down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$476,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the acquisition of real property known as the Newton Armory and described on the Town tax map as Block 801, Lot 49.01 (the "Armory Property"), or any remaining outstanding

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rights therein, including all costs necessary therefor or incidental thereto.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The capital budget of the Town of Newton is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3 of this bond ordinance is not a current expense. It is an improvement or purpose that the Town may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this ordinance, is 40 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Town as defined in the Local Bond Law is increased by the authorization of

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the bonds and notes provided in this bond ordinance by \$476,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$20,000 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.

(e) Pursuant to the Local Lands and Buildings Law, N.J.S.A. 40A:12-3 *et seq.*, the Mayor, the Town Administrator, the Chief Financial Officer, the counsel for the Town and other appropriate representatives of the Town (the "Town Representatives") are hereby authorized to acquire the real property described in Section 3 hereof on behalf of the Town, by purchase, gift, condemnation or otherwise. The Town Council hereby determines that it is necessary to acquire all outstanding interests in the property described in Section 3 in order to quiet title and make the property available for productive use. The Town Representatives are hereby authorized to proceed with the acquisition of such real property through negotiations with the property owner or owners or other organizations or entities that may be involved. The Mayor of the Town is further authorized to execute the contract or contracts necessary therefor, and the Town Clerk is authorized to attest such execution in forms recommended by the counsel. The signatures thereon shall provide conclusive evidence that the forms of the contracts have been so approved. The Town Representatives are authorized to do all things necessary and to execute any such documents as may be reasonably necessary to effectuate the closing, to provide payment for the acquisition and to implement such contracts.

(f) Once all outstanding interests in the Armory Property are obtained, the Town Council has determined that the Armory Property will no longer be needed for public use by the Town and has determined to provide for the public sale of the property in accordance with the Local Lands and Buildings Law, N.J.S.A. 40A:12-13 *et seq.* and resolutions of the Town Council heretofore or hereinafter adopted in order to return the property to productive use and to encourage the development of the property for the public benefit. The Town Representatives are hereby authorized to proceed with the public sale of the real property in accordance with the requirements of law. The Mayor of the Town is further authorized to execute any contracts necessary therefore, and the Town Clerk is authorized to attest such execution in forms recommended by the counsel. The signatures thereon shall provide conclusive evidence that the forms of the contracts have been so approved. The Town Representatives are authorized to do all things necessary and to execute any such documents as may be reasonably necessary to effectuate the closing and to implement such contracts.

Section 7. The Town hereby makes the following covenants and declarations with respect to obligations determined to be issued by the Chief Financial Officer on a tax-exempt basis. The Town hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exemption from taxation of interest on the notes, including, if necessary, the requirement to rebate all net investment earnings on the gross proceeds above the yield on the notes. The Chief Financial Officer is hereby authorized to act on behalf of the

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Town to deem the obligations authorized herein as bank qualified for the purposes of Section 265 of the Code, when appropriate. The Town hereby declares the intent of the Town to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

Section 8. Any grant moneys received for the purpose described in Section 3 hereof or the proceeds of the sale of the property authorized in Section 6(e) hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used. Such proceeds in the amount of the down payment appropriated herein and in excess of the obligations authorized herein shall be reimbursed to the capital improvement fund.

Section 9. The chief financial officer of the Town is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Town and to execute such disclosure document on behalf of the Town. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Town pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Town and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Town fails to comply with its undertaking, the Town shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Town are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Town, and the Town shall be obligated to levy ad valorem taxes upon all the taxable real property within the Town for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. 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 declared the hearing on Ordinance #2008-26 open to the public.

Mr. Tom Lawler, 41 Condit Street, questioned this Ordinance and was advised by Mayor Ricciardo that this Ordinance gives the Town the financing to

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purchase this property.

There being no one else from the public to be heard, upon motion by Mr. Elvidge, seconded by Mrs. Le Frois and carried, the hearing was closed.

The following RESOLUTION was offered by Mrs. Unhoch, who moved its adoption, seconded by Mrs. Becker and roll call resulted as follows:

| | | | |
|-----------------|-----|---------------|-----|
| Mr. Elvidge | Yes | Mrs. Unhoch | Yes |
| Mrs. Becker | Yes | Mrs. Le Frois | Yes |
| Mayor Ricciardo | Yes | | |

BE IT RESOLVED by the Town Council of the Town of Newton that the above Ordinance be adopted in its entirety according to law.

The Clerk will advertise the above Ordinance according to law.

Under Old Business, Ordinance 2008-20 is currently on the table and will remain on the table at this time.

CONSENT AGENDA

Mayor Ricciardo inquired whether any Councilmember would like to remove any Resolution from the consent agenda. Councilwoman Unhoch requested #187-2008 be removed from the consent agenda.

RESOLUTION #181-2008

Awarding a Contract to Spacesaver Systems for Record Filing and Archiving

WHEREAS, the Town of Newton received notice from the New Jersey Department of State, Division of Archives and Records Management and the State Records Committee of its eligibility to receive a PARIS Grant for the completion of the Records Reorganization and Inventory Continuation in the amount of \$34,196.00; and

WHEREAS, Town Council of the Town of Newton accepted the Paris grant monies totaling \$34,196.00 for grant programs to meet the strategic records management, preservation, and storage needs of the Town of Newton by the adoption of Resolution #163-2007 at their meeting on September 10, 2007; and

WHEREAS, the Town of Newton solicited proposals from two vendors listed on the New Jersey Division of Archive Records Management website as

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participants in the PARIS grant program for the purpose of organizing and optimizing the Town's current archiving filing system; and

WHEREAS, Spacesaver Systems, who is also a member of the Somerset County Co-op Agreement (CC-04-07) which the Town of Newton is a party of submitted a proposal dated September 22, 2008 and revised on October 3, 2008, that best fits the needs of the Town with regard to its filing system; and

WHEREAS, the Chief Financial Officer has certified that funds are available to support a contract with Spacesaver Systems in an amount not to exceed \$30,000.00.

NOW THEREFORE, BE IT RESOLVED by the Town Council of the Town of Newton that we hereby authorize the Mayor and Municipal Clerk to execute a contract with Spacesaver Systems for an amount not to exceed \$30,000.00 for the purpose of organizing and optimizing the Town's current archival filing system.

RESOLUTION #182-2008

Ratify a Change in the Percentage of Dependent Coverage Under State Health Benefits to be Paid by the Town of Newton for Certain Union Employees

BE IT RESOLVED by the Town Council of the Town of Newton:

1. In accordance with Ch. 62, PL 2007, the Town of Newton, in the County of Sussex, participating employer # 0144-00 under the New Jersey State Health Benefits Program, may elect to differentiate between health benefit premium obligations based on binding, negotiated union contracts.
2. The Town of Newton, through negotiated union contracts, authorized a change in the percent of dependent coverage to be paid by the employer for employees who are members of the **Policemen's Benevolent Association Local No. 138** and **Policemen's Benevolent Association Local No. 138 – Superior Officers Association** under said State Health Benefits Plan to the amount of **ninety-two and one-half percent (92.5%)** of dependent coverage payable by the Town for all eligible Local 138 and Local 138- Superior Officer members as stipulated in their respective contracts, which was adopted August 11, 2008 and put in force as of September 1, 2008.
3. In accordance with N.J.S.A. 52:14-17.38, the Town has remitted to the State Treasury all contributions to premiums on account of said union employee and dependent coverage.
4. The Town Treasurer shall re-solicit all eligible employees for completion of health benefit enrollment applications to be submitted to the New Jersey Health Benefits Bureau within the prescribed time limit.

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- 5. This resolution shall take effect retroactively to September 1, 2008 and the change in percent of dependent premium to **92.5%** paid by the employer for said employees who are members of Local 138 and Local 138 – Superior Officers Association has properly been remitted since September 1, 2008 pursuant to the statutes and regulations of the State of New Jersey.

Certified copies of this resolution shall be provided to the State Health Benefits Plan, Local 138 and Local 138 – Superior Officers.

RESOLUTION #183-2008

Approve 2008 Appropriation Transfers

#BE IT RESOLVED by the Town Council of the Town of Newton that the following 2008 appropriation transfers be approved effective this date:

| <u>From</u> | <u>To</u> | <u>Amount</u> |
|------------------------------------|------------------------------------------|-------------------|
| Note Principal 1096220 | Fire Truck Loan Principal 1096217 | 22,154. |
| Note Principal 1096220 | Fire Truck Loan Interest 1096237 | 11,582. |
| Road – Other Expenses 1080259 | Snow Removal – Other Expenses 1081239 | 7,000. |
| Police Salaries & Wages 1074112 | Police Other Expenses 1074226 | 7,000. |
| TOTAL TRANSFERS | | <u>\$ 47,736.</u> |

RESOLUTION #184-2008

Authorize Credits Due Water and Sewer Utility Accounts

#WHEREAS, the Water and Sewer Collector has determined that the following Water and Sewer Utility Accounts are due credits for the reason stated;

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 accounts for amounts billed incorrectly due to the reason stated:

3RD QUARTER BILLING ERROR: (water turned off – should not have a charge:

| <u>Account</u> | <u>Address</u> | <u>Amount</u> |
|----------------|--------------------|---------------|
| 2689 | 25 Townsend Street | \$82.50 |

RESOLUTION #185-2008

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Authorization to Provide for the Purchase of Road Salt for the Department of Public Works for the Town of Newton

WHEREAS, the County of Sussex advertised and received bids for road salt; and

WHEREAS, the bids received allowed for vendors to extend their pricing to municipalities within the County of Sussex through a State regulated County Contract Purchasing System Identification Number CK03-SXC; and

WHEREAS, the following vendor was awarded a contract for road salt and has extended their pricing to municipalities, thereby affording the Town of Newton the opportunity of direct purchase without competitive bidding:

1. International Salt Company, 655 Northern Boulevard, Clarks Summit, PA., 18411

WHEREAS, the manufacturer has been awarded the County contract at the price of \$68.85 per tonnage of road salt, with such price good through May 2009.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Newton does hereby award a contract for the purchase of road salt from International Salt Company at the County price of \$68.85 per ton through May 2009; and

BE IT FURTHER RESOLVED that the Town of Newton does authorize the execution of the necessary purchase orders for Budget Year 2008 in the total amount of up to **\$7,000.00** by the Department of Public Works to permit the purchase of road salt as specified and priced to the County of Sussex; and

BE IT FURTHER RESOLVED that upon receipt, inspection and approval of vouchers therefore by the using agency, payment pursuant to said purchase orders is hereby authorized with the same to be charged against funds established in the appropriate accounts for said purpose in Budget Year 2008; and

BE IT FURTHER RESOLVED that purchases of road salt in Budget Year 2009 at the guaranteed price pursuant to this award will be as authorized by Resolution(s) to be enacted in 2009.

RESOLUTION #186-2008

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 2007 and 2008 Budgets adopted by this local Governing Body, including any emergency appropriations, and where unexpended balances exist in said appropriation accounts for the payment of

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such vouchers.

TOWN BILLS

| | | |
|--------------|-------------------------------------|--------|
| 1,030,890.00 | Newton Board of Education | 810085 |
| 165,225.27 | Payroll Account | 810086 |
| 2,629.28 | Delta Dental | 24537 |
| 2,434.57 | Delta Dental | 24538 |
| 777.58 | Vision Service Plan | 24539 |
| 10,273.03 | William Wagner | 24540 |
| 21,595.95 | Payroll Account | 810087 |
| 10,273.03 | VOID | 24540 |
| 1,820.69 | Virginia Raftery | 24541 |
| 59,377.83 | NJSHBP | 810088 |
| 27,637.79 | NJSHBP | 810089 |
| 52.54 | Quill Corporation | 24542 |
| 1,818.68 | Harold Pellow & Assoc., Inc. | 24543 |
| 135.00 | Decker's Fire & Safety | 24544 |
| 228.41 | G & G Diesel Service, Inc. | 24545 |
| 54.46 | G & H Service, Inc. | 24546 |
| 8,907.12 | JCP&L | 24547 |
| 760.85 | New Jersey Herald | 24548 |
| 237.92 | SCMUA | 24549 |
| 35.00 | EMBARQ | 24550 |
| 126.68 | EMBARQ | 24551 |
| 411.00 | EMBARQ | 24552 |
| 70.00 | Hollander,Hontz,Hinkes&Pasculli LLC | 24553 |
| 839,825.89 | County of Sussex | 24554 |
| 18,530.20 | County of Sussex | 24555 |
| 68,948.82 | County of Sussex | 24556 |
| 1,810.86 | Willco, Inc. | 24557 |
| 100.34 | Newton Citgo | 24558 |
| 212.17 | Miami Systems | 24559 |
| 4,327.00 | Mitchell Agency | 24560 |
| 108.00 | Treasurer, State of New Jersey | 24561 |
| 188.96 | Galls Incorporated | 24562 |
| 202.00 | John Tomasula | 24563 |
| 1,494.00 | Office Business Systems, Inc. | 24564 |
| 13.18 | Sebring Auto Parts | 24565 |
| 450.00 | Greater Newton Chamber of Comm. | 24566 |
| 286.81 | Boonton Tire Supply | 24567 |
| 330.78 | McGuire | 24568 |
| 875.00 | National Fire Protection Assoc. | 24569 |
| 70.00 | Grinnell Recycle | 24570 |
| 40.99 | Verizon Wireless | 24571 |
| 310.00 | Accurate Door, Inc. | 24572 |
| 29.25 | Robert Bittle | 24573 |
| 45,875.21 | County of Sussex | 24574 |
| 92.00 | North Jersey Portable Toilets | 24575 |
| 577.20 | Dell Marketing, L.P. | 24576 |
| 383.44 | Tilcon New Jersey | 24577 |
| 198.04 | Cooper Electric Supply Co. | 24578 |
| 25.00 | Municipal Court Admin. Cert Bd. | 24579 |

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| | | |
|------------|--------------------------------|--------|
| 31.71 | Advance Auto Parts | 24580 |
| 45.75 | Bowens Bluelines | 24581 |
| 7,793.43 | Fire & Safety Services, LTD. | 24582 |
| 189.62 | ROGO Fastener Co., Inc. | 24583 |
| 38.64 | Excelsior Lumber Company | 24584 |
| 9,260.00 | Enforsys NJ, Inc. | 24585 |
| 209.50 | Thomson West | 24586 |
| 247.50 | Voss Sings, LLC | 24587 |
| 59.00 | New Jersey Planning Officials | 24588 |
| 1,215.02 | VOID | 24589 |
| 79.80 | Tritec Office Equipment | 24590 |
| 63.50 | Dominick's Pizza | 24591 |
| 1,491.67 | Andrews & Company, LLC | 24592 |
| 1,067.12 | Rachel's/Michele's Oil Company | 24593 |
| 3,947.19 | Taylor Oil Company | 24594 |
| 250.00 | Murch Auto Body, Inc. | 24595 |
| 2,125.00 | Innovative Data Solutions | 24596 |
| 180.00 | Rutgers | 24597 |
| 147,250.00 | Capital Account | 810090 |

CAPITAL

| | | |
|------------|--------------------------------|------|
| 16,062.86 | Harold Pellow & Assoc., Inc. | 7252 |
| 750.00 | Lou's Glass | 7253 |
| 1,125.00 | Key-Tech | 7254 |
| 2,450.00 | Alternate Power, Inc. | 7255 |
| 1,499.50 | Denville Line Painting, Inc. | 7256 |
| 128,861.67 | Statewide Striping Corporation | 7257 |

Total TOWN BILLS \$2,647,098.27

WATER AND SEWER ACCOUNT

| | | |
|-----------|-------------------------------------|--------|
| 65,429.00 | U.S.D.A. / FHA | 860050 |
| 31,576.31 | Payroll Account | 860051 |
| 873.52 | Delta Dental | 10415 |
| 165.05 | Vision Service Plan | 10416 |
| 7,939.72 | Payroll Account | 860052 |
| 31.80 | Montague Tool & Supply | 10417 |
| 238.03 | Harold Pellow & Associates | 10418 |
| 790.64 | CCP Industries | 10419 |
| 8,575.28 | JCP&L | 10420 |
| 22,823.44 | Pumping Services | 10421 |
| 231.06 | SCMUA | 10422 |
| 106.30 | Sussex County Plumbing | 10423 |
| 14,258.72 | Coyne Chemical Corp., Inc. | 10424 |
| 134.66 | EMBARQ | 10425 |
| 190.00 | American Water Works Assoc. | 10426 |
| 1,500.00 | Cosper Environmental Services, Inc. | 10427 |
| 14.00 | Joseph Carr | 10428 |
| 6,516.00 | Passaic Valley Sewerage Comm. | 10429 |
| 715.79 | Dell Marketing L.P. | 10430 |

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| | | |
|----------|------------------------------|-------|
| 1,569.00 | Main Pool & Chemical Company | 10431 |
| 438.84 | Infilco Degremont | 10432 |
| 550.00 | PEMCO | 10433 |

CAPITAL

| | | |
|--------------|-------------------------------------|--------|
| 2,165.63 | Harold Pellow & Associates, Inc. | 2115 |
| 243.00 | VOID | 2116 |
| 125.00 | Keller Welding Company | 2117 |
| 280.00 | Hollander,Hontz,Hinkes&Pasculli LLC | 2118 |
| 1,300,000.00 | JP Morgan Chase Bank | 861003 |

Total WATER & SEWER BILLS \$1,467,237.79

TRUST

| | | |
|----------|-------------------------------------|--------|
| 7,031.22 | Payroll Account | 871022 |
| 151.45 | B & R Uniform | 2570 |
| 1,661.05 | Harold Pellow & Associates, Inc. | 2571 |
| 70.00 | Hollander,Hontz,Hinkes&Pasculli,LLC | 2572 |
| 875.00 | New Jersey Fence & guardrail | 2573 |
| 94.00 | Walmart | 2574 |
| 2,623.38 | JMC Environmental Consultants, Inc. | 2575 |
| 1,184.00 | Charles Ferruggia | 2576 |

Total TRUST BILLS \$13,690.10

DOG RESERVE ACCOUNT

| | | |
|-----------|---------------------|------|
| 12,650.00 | Township of Wantage | 8499 |
|-----------|---------------------|------|

Total DOG BILLS \$12,650.00

The Clerk presented an Application from Mr. Douglas J. Ward, 47 Rhea Run, Newton (Hampton Township); David A. Gunderman, 16 Pelican Point, Newton (Hampton Twsp.); Kevin McKenna, 4 Windsor Drive, Newton; and Christopher Struening, 73 Oneida Avenue, Landing for membership in the Newton Fire Department. It was noted that the applications were in order and had been approved by the Chief of the Fire Department.

The following RESOLUTION, excluding Resolution #187-2008, was offered by Mrs. Becker, who moved its adoption, seconded by Mr. Elvidge and roll call resulted as follows:

| | | | |
|-------------|-----|-------------|-----|
| Mr. Elvidge | Yes | Mrs. Unhoch | Yes |
|-------------|-----|-------------|-----|

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| | | | |
|-------------|-----------------|---------------|-----|
| Mrs. Becker | Yes | Mrs. Le Frois | Yes |
| | Mayor Ricciardo | Yes | |

BE IT RESOLVED by the Town Council of the Town of Newton that Mr. Douglas J. Ward, 47 Rhea Run, Newton; Mr. David A. Gunderman, 16 Pelican Point, Newton; Mr. Kevin T. McKenna, 4 Windsor Drive, Newton; and Mr. Christopher Struening, 73 Oneida Avenue, Landing, be and is hereby appointed a member of the Newton Fire Department, effective immediately.

A motion was made by Mrs. Unhoch to approve the **COMBINED ACTION RESOLUTIONS**, which was seconded by Mrs. LeFrois and carried and roll call resulted as follows:

| | | | |
|-------------|-----------------|---------------|-----|
| Mr. Elvidge | Yes | Mrs. Unhoch | Yes |
| Mrs. Becker | Yes | Mrs. Le Frois | Yes |
| | Mayor Ricciardo | Yes | |

The Mayor and Council then discussed Resolution 187-2008. Ms. Jennifer Credido, Esq. outlined the reasons for rejecting the one bid submitted.

Mr. Broddie, Esq., representative of the bidder, disagreed with the governing body decision to reject the bid. Mayor Ricciardo advised that upon our Counsel's recommendation, the Town is rejecting the bid.

RESOLUTION #187-2008

RESOLUTION REJECTING ALL BIDS IN CONNECTION WITH THE PROPOSED SALE OF THE NEWTON ARMORY

WHEREAS, certain real property commonly known as the Newton Armory and identified on the Official Tax Map of the Town as Block 801, Lot 49.01 (the "Property") is currently owned by the State of New Jersey, subject to a reversionary interest to the Town upon a finding by the State that the Property is no longer needed for armory purposes; and

WHEREAS, the State has determined that the Property is no longer needed for armory purposes; and

WHEREAS, a transfer of the Property from the State to the Town is therefore expected; and

WHEREAS, by resolution adopted on October 6, 2008 (the "Resolution"), the Town Council determined the Property is not needed for public use and authorized the Town's administration (the "Administration") to administer the planned public sale of said Property in accordance with the

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provisions of the *Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq.* (the "Act"); and

WHEREAS, the Resolution established at Section 2 thereof a minimum bid price of "(a) FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$550,000) plus (b) the construction, at the bidder's sole cost and expense, in accordance with the specifications contained in the invitation to bid attached hereto as Exhibit A, and for the exclusive benefit of the Town, of a community center upon certain Town-owned property located at 15 South Park Drive Extension, identified as Block 801, Lot 29."; and

WHEREAS, the Administration solicited bids for the Property pursuant to the Act; and

WHEREAS, the Town Manager held a public bid opening on November 6, 2008; and

WHEREAS, one submission was received from Newton 213 L.L.C. in the amount of "\$565,000 plus \$160,000 in lieu of constructing a Community Center" (the "Newton 213 L.L.C. Submission"); and

WHEREAS, the Town hereby determines the Newton 213 L.L.C. Submission to be nonconforming with the terms set by the Resolution, including the minimum bid price.

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

Section 1. The Newton 213 L.L.C. Submission is hereby rejected, as it does not conform to the bid terms.

Section 2. This resolution shall take effect immediately.

The following RESOLUTION was offered by Mr. Elvidge, who moved its adoption, seconded by Mrs. Le Frois and roll call resulted as follows:

| | | | |
|-------------|-----------------|---------------|---------|
| Mr. Elvidge | Yes | Mrs. Unhoch | Abstain |
| Mrs. Becker | Yes | Mrs. Le Frois | Yes |
| | Mayor Ricciardo | Yes | |

Intermission (10 minutes)

DISCUSSION (WORK SESSION)

a. Request for Proposals for Firehouse Renovations

At this time, there are three proposals submitted for the firehouse renovations. A representative of each firm was present to review their proposal.

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HOW- Mr. Seregion Chavaria made a presentation for the renovations at #1 Firehouse & Firehouse on Lawnwood Avenue and submitted a conceptual plan. Mr. Chavaria reviewed the fees and costs related to the submitted proposal.

USA - Mr. Armand Christopher, AIA, made a power point presentation for the renovations #1 Firehouse and Firehouse on Lawnwood Avenue. Mr. Christopher reviewed his proposed fees and costs.

FOX - Mr. Ken Fox, reviewed his proposal for a long term and short term fix for the #1 Firehouse renovation and reviewed his submitted proposal for the firehouse located on Lawnwood Avenue. Mr. Fox reviewed his fees and costs.

Mayor and Council thanked all three architectural firms for their presentations.

b. Gypsy Moth Spraying

Mr. Russo addressed a letter from Joseph Zoltowski, Chief, New Jersey Department of Agriculture regarding gypsy moth survey completed within the Town of Newton. The survey results showed the heavy outbreaks, of 46 acres, of the pest and the DOA will be requesting financial assistance up to 50% reimbursement to the municipality for spray costs. After a brief discussion, the Town Council would like additional statistics on the total acres in Town and the proposed cost to spray the whole Town. Council would prefer to provide this service to the entire Town if cost allows.

c. Shared Services with Andover - Truck Washing; Cencom

Mr. Russo advised that Andover Township had contacted Newton regarding the possibility of shared service for vehicle (truck) washing services as well as for dispatching services. It was noted that the Town must meet the mandated state regulation for vehicle washing by the end of February, 2009. Mr. Russo noted that he has forwarded some preliminary numbers to the

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Andover Administrator for shared dispatching services with Andover.

Mrs. Millikin advised that she has been working with Andover Township on the shared services for the vehicle washing mandate. In order to be in compliance by February 28, 2009, Mrs. Millikin advised that she is working with G & H Service, Inc., to utilize their truck washing facility until such time as the Town has theirs in place. Mayor Ricciardo had several questions regarding the new regulations for the new facility, potentially to be housed at the DPW garage, which was addressed by Mrs. Millikin. It was noted that Mr. Cory Stoner, P.E. of Harold Pellow and Associates is working on this project with the Town.

Mrs. Millikin reported that the Water/Sewer Department has just finished the water main break on Linmor / Layne Place intersection.

Mayor Ricciardo declared the meeting open to the public.

Mr. Tom Lawler, 41 Condit Street, Newton, had questions on water main break and firehouse renovation which was addressed by Mayor Ricciardo. Mr. Lawler questioned the truck washing system potentially being placed at the DPW garage which was addressed by Mrs. Millikin.

COUNCIL & MANAGER COMMENTS

Councilwoman Becker informed Council that the cigarette disposals were installed on Spring Street today and “hopes they are utilized”.

Mayor Ricciardo reported on a house on Paterson Place (Castle Ridge) which he was told is sinking. Mayor Ricciardo noted the excavation equipment and inquired whether an excavation permit was obtained prior to work being completed. Mr. Russo will check on permit. Mrs. Millikin believes that the wetlands are to blame for the sinking and advised that the property owners have reach out to their homeowners insurance.

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EXECUTIVE SESSION

WHEREAS, the Town Council of the Town of Newton (hereinafter referred to as the “Town Council”), convened a meeting in full compliance with the New Jersey Open Public Meetings Act, set forth in N.J.S.A. 10:4-12, and

WHEREAS, N.J.S.A. 10:4-12 allows a public body to enter executive session during a public meeting to discuss certain matters, and

WHEREAS, it has become clear to the Town Council that there is a need to enter executive session to discuss one or more of the exceptions to the New Jersey Open Public Meetings Act, as set forth in N.J.S.A. 10:4-12, and

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Newton that it will enter executive session to discuss issues related to contract negotiations.

CONTRACT NEGOTIATIONS

Mr. Russo and the governing body members discussed items related to contract negotiations.

Upon motion of Mr. Ricciardo, seconded by Mr. Elvidge and carried, the Town Council left executive session at 10:26 pm

The Council discussed the submitted proposals for the firehouse renovation and after a brief discussion, upon motion of Mr. Elvidge, seconded by Mrs. Le Frois and carried, Council agreed to accept HQW Architects proposal for the firehouse renovations.

OPEN TO THE PUBLIC

Mayor Ricciardo declared the meeting open to the public. There was no one from the public to be heard, upon motion of Mrs. LeFrois, seconded by Mrs. Becker and carried, the meeting was adjourned at 10:29 p.m.

Respectfully submitted,

Lorraine A. Read, RMC
Municipal Clerk

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