

October 6, 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, Mayor Ricciardo and Town Manager, Tom Russo. Mrs. Le Frois was excused.

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 Mr. Elvidge, seconded by Mrs. Unhoch and carried that the minutes of August 25, 2008 (Regular and Work) was approved with an abstention by Mrs. Becker.

Mayor Ricciardo declared the meeting open to the public.

There being no one from the public to be heard, under Council and Manager’s Reports, Mr. Russo indicated the Greater Newton Chamber of Commerce is requesting to hold their annual Holiday Parade on Spring Street on Saturday, November 29, 2008 at 10:00 a.m., which will also require the closing of Spring Street. The Chamber is requesting the names of those Council members that will be participating in the parade.

The Governing Body had no objection to the Greater Newton Chamber of Commerce holding their annual Holiday Parade on November 29<sup>th</sup> and also had no objection to the closing of Spring Street. The Governing Body indicated that all will be in attendance.

The Town Manager read the following Proclamation proclaiming “Put the Brakes on Fatalities Day.”

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## **PROCLAMATION**

### **PUT THE BRAKES ON FATALITIES DAY**

**WHEREAS**, across the nation, traffic crashes caused more than 41,000 fatalities in 2007, and are the leading cause of death for young people ages 15 to 34, and

**WHEREAS**, in New Jersey, 724 individuals lost their lives in traffic crashes in 2007, and

**WHEREAS**, alcohol related crashes accounted for 28 percent of the State's traffic fatalities, while 25 percent of all fatal crashes involved traveling at unsafe speeds, and

**WHEREAS**, motorcyclists, bicycle riders and pedestrians face increased risks on New Jersey's roadways, as people opt for alternative modes of transportation, and

**WHEREAS**, 78 motorcyclists, 12 bicyclists and 144 pedestrians were killed in New Jersey in traffic related crashes in 2007, and

**WHEREAS**, safer driving behaviors such as buckling up, every ride; obeying posted speed limits; avoiding aggressive driving behaviors and aggressive drivers; never drinking and driving; wearing proper safety gear when riding a motorcycle or bicycle; and focusing solely on driving by avoiding distractions, can dramatically reduce the number of traffic related injuries and deaths;

**NOW THEREFORE, WE**, the Mayor and Town Council of the Town of Newton, do hereby proclaim October 10, 2008 as "**PUT THE BRAKES ON FATALITIES DAY**" and call upon everyone to put these lifesaving behaviors into practice to improve safety on the roadways in the Town of Newton and the throughout the State of New Jersey.

Mayor Ricciardo acknowledged the attendance of retired Town Manager, Eileen Kithcart.

Mayor Ricciardo introduced Ross Sheasley, Project Manager and Jennifer Credidio, Redevelopment Counsel, who are in attendance to answer any concerns regarding Ordinance 2008-25.

Mayor Ricciardo indicated a list of comments and recommendations regarding the Paterson Avenue Redevelopment Plan have been submitted from the Planning Board, and one area in need of clarification is home-occupied businesses. After a lengthy discussion and question and answer session, the Governing Body agreed to several amendments to the Paterson Avenue Redevelopment Plan which include location of signage, allowable location of workspaces, and the number of

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businesses generating clientele onsite.

Under Reading of Ordinances, Mayor Ricciardo directed the Clerk to read aloud the following ordinance relative to introduction of same.

**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**

The following RESOLUTION, as AMENDED, 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	Absent
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 October 27, 2008.

The Clerk will advertise the above Ordinance according to law.

Under Old Business, Mayor Ricciardo directed the Clerk to read aloud the following Ordinance relative to final adoption.

**ORDINANCE #2008-20**

**AN ORDINANCE AMENDING CHAPTER 18A, LAND USE PROCEDURES OF THE REVISED GENERAL ORDINANCES OF THE TOWN OF NEWTON, REGARDING DEVELOPMENT FEES (TABLED) TO REMAIN TABLED**

The Town Manager requested a resolution for approval of a Renewal Application for Taxicab Owner's License. (TABLED)

Upon motion made by Mr. Elvidge, seconded by Mrs. Unhoch and carried, the resolution was removed from the TABLE for discussion.

Mr. Elvidge	Yes	Mrs. Unhoch	Yes
Mrs. Becker	Yes	Mrs. Le Frois	Absent
Mayor Ricciardo	Yes		

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After a brief discussion, the following RESOLUTION was offered by Mr. Elvidge, who moved its adoption, seconded by Mrs. Unhoch and roll call resulted as follows:

Mr. Elvidge	Yes	Mrs. Unhoch	Yes
Mrs. Becker	No	Mrs. Le Frois	Absent
Mayor Ricciardo	No		

**RESOLUTION #165-2008**

Mrs. Read will confirm with legal Counsel on result of this Resolution.

The Town Manager requested a resolution for approval of a Renewal Application for Taxicab Driver's License. (TABLED)

Upon motion made by Mr. Elvidge, seconded by Mrs. Unhoch and carried, the resolution was removed from the TABLE for discussion.

Mr. Elvidge	Yes	Mrs. Unhoch	Yes
Mrs. Becker	Yes	Mrs. Le Frois	Absent
Mayor Ricciardo	Yes		

After a brief discussion, the following RESOLUTION was offered by Mr. Elvidge, who moved its adoption, seconded by Mrs. Unhoch and roll call resulted as follows:

Mr. Elvidge	Yes	Mrs. Unhoch	Yes
Mrs. Becker	No	Mrs. Le Frois	Absent
Mayor Ricciardo	No		

**RESOLUTION #166-2008**

Mrs. Read will confirm with legal Counsel on the result of this Resolution.

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

Mr. Elvidge	Yes	Mrs. Unhoch	Yes
Mrs. Becker	Yes	Mrs. Le Frois	Absent

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Mayor Ricciardo      Yes

The Town Manager requested a resolution to approve refund of erroneous tax payment.

**RESOLUTION #167-2008**

**WHEREAS**, property taxes for a portion of the 4<sup>th</sup> quarter of 2008 were paid for Block 1205; Lot 8, also known as 8 Gardner Avenue and owned by, and

**WHEREAS**, Thomas J. Clark, Attorney At Law, paid this partial 4<sup>th</sup> quarter 2008 real estate tax payment on behalf of Richard and Stephanie Ghostkeeper, and

**WHEREAS**, Thomas J. Clark, Attorney At Law, is now requesting this payment be refunded to Richard and Stephanie Ghostkeeper stating it was made erroneously, and

**NOW, THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that this Governing Body acknowledges that Richard and Stephanie Ghostkeeper are entitled to a refund in the amount of \$992.88, and

**BE IT FURTHER RESOLVED** that the Tax Collector is hereby authorized to process a refund to Richard and Stephanie Ghostkeeper in the amount of \$ 992.88 for this erroneous tax payment made to Block 1205; Lot 8.

The Town Manager requested a resolution for change of text and title of the Capital Improvement Fund Appropriation in the 2008 Town of Newton Budget, pursuant to N.J.S.A. 40A:4-85.

**RESOLUTION #168-2008**

**WHEREAS**, NJSA 40A:4-85 provides that the Director of the Division of Local Government Services may, at the request of, or with the consent of, the governing body, make such correction of the title, text, or amount of any appropriation appearing in the budgets as may be necessary to make said item of appropriation available for the purpose or purposes required for the needs of any such municipality.

**NOW THEREFORE BE IT RESOLVED** that in accordance with the provisions of NJSA 40A:4-85, the Town of Newton hereby requests the Director of the Division of Local Government Services to make the following corrections in the budget of the year 2008:

**From:** Capital Improvement Fund: Acquisition Fire Turn Out Gear - \$12,000.00

**To:** Capital Improvement Fund: Acquisition of Safety & Personal Protective Fire Equipment - \$12,000.00

**BE IT FURTHER RESOLVED** that the foregoing correction is, in the opinion of the governing body, warranted and authorized by statute above referred

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to, and is necessary for the orderly operation of the Town of Newton for the reasons hereinafter set forth:

The Newton Fire Department has received a directive from the federal government advising that Hi-Visibility Vests need to be acquired and utilized by November 2008.

This mandate supercedes the current need for turn out gear. Additionally, the Town of Newton Fire Department has a need to obtain new air packs for members.

**BE IT FURTHER RESOLVED** that two certified copies of this Resolution be forwarded to the Director of the Division of Local Government Services.

**THIS IS TO CERTIFY** that the above is a true copy of Resolution # 168-2008 adopted by the Town Council of the Town of Newton at a regular meeting held on October 6, 2008.

The Town Manager requested a resolution of the Town of Newton, in the County of Sussex, New Jersey authorizing the sale of certain property known as the Newton Armory.

#### **RESOLUTION #169-2008**

**WHEREAS**, certain real property commonly known as the Newton Armory and identified on the Official Tax Map of the Town as Block 803, 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**, it is anticipated that the State will transfer the Property to the Town within the next sixty days; and

**WHEREAS**, the Town Council has hereby determined the Property is not needed for public use and is consequently desirous of providing for the subsequent public sale of the same in accordance with the provisions of the *Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq.* (the "**Act**"); and

**WHEREAS**, the Town Council further desires for the Town's administration (the "**Administration**") to administer the planned public sale of said real property including the advertisement and conduct of said sale consistent with the provisions of the Act,

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

**Section 1.** The public sale of the Property, which has been determined not to be needed for public use, is hereby authorized and directed, in accordance with the provisions of the Act.

**Section 2.** The minimum price for the sale of the Property shall be (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.

**Section 3.** The Town Administration is hereby authorized to administer the public sale as authorized herein.

**Section 4.** The Town Administration and the Town's professional consultants are hereby authorized and directed to take all necessary action(s), including, but not limited to, the execution of any documents and other writings, all in furtherance of implementing the provisions of this authorizing Resolution and affecting the sale of the above-referenced real property.

**Section 5.** The Town Council reserves the right to reject all bids where the highest bid is not accepted.

**Section 6.** This Resolution shall take effect immediately.

The Town Manager requested a resolution to approve Bills and Vouchers for payment.

**RESOLUTION #1780-2008**

**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 such vouchers.

**TOWN BILLS**

2,721.44	Delta Dental	24406
2,434.57	Delta Dental	24407
785.48	Vision Service Plan	24408
1,530.47	John and Beverly Moore	24409
78,393.75	Bank of New York	810077
77,630.00	Depository Trust Company	810078
160,035.58	Payroll Account	810079
952.70	E.A. Moore & Company	24410
207.90	Montague Tool & Supply	24411
90.00	S K Office Supply	24412
29.12	Harold Pellow & Associates Inc.	24413
340.00	Decker's Fire & Safety	24414
118.36	Freedom Business Machines	24415
376.29	G & H Service Inc.	24416
3,614.06	JCP&L	24417
523.69	New Jersey Herald	24418
144.48	SCMUA	24419
1,800.00	B & G Elevator Inc.	24420
35.00	EMBARQ	24421
140.00	Hollander,Hontz,Hinkes&Pasculli LLC	24422

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235.00	Rectifier Auto Electric	24423
112.75	Lock & Key World	24424
6.37	Hayek's Market, Inc.	24425
591.16	Newton Citgo	24426
570.00	Minisink Press Inc.	24427
2,530.08	Diamond Sand & Gravel, Inc.	24428
5.52	Sebring Auto Parts	24429
210.00	Rutgers Center for Government Serv.	24430
40.00	Rutgers Center for Government Serv.	24431
115.00	Accurate Door, Inc.	24432
2,142.04	Dell Marketing L.P.	24433
374.89	Walmart	24434
940.02	Nextel Communications	24435
606.64	The Phillips Companies	24436
100.14	The Home Depot	24437
532.64	Moore-Wallace North America	24438
80.88	Excelsior Lumber Company	24439
292.00	Treasurer, State of NJ	24440
87.00	Thomson West	24441
9,034.02	Creative Networking Concepts, Inc.	24442
148.68	Paint Spot	24443
436.18	Tritec Office Equipment, Inc.	24444
163.76	Lowe's	24445
999.93	Spectrum Communications	24446
50.00	Dominick's Pizza	24447
175.00	R & S Business Machine Co.	24448
1,491.67	Andrews & Company, LLC	24449
6,709.69	Pinnacle Wireless, Inc.	24450
62.75	Polowy Stone Mason & Landscape Supp	24451
1,286.10	Rachles/Michele's Oil Company	24452
349.00	Ennis Paint Inc.	24453
239.00	Condor Creations	24454

**CAPITAL**

54.75	New Jersey Herald	7239
1,837.50	VOID	7240
1,595.00	AB Michaels Fence Co., LLC	7241
751.56	Denville Line Painting Inc.	7242
600.00	Gates Flag & Banner Co., Inc.	7243

**Total TOWN BILLS \$365,622.11**

**WATER AND SEWER ACCOUNT**

104,415.00	Bank of New York	860044
501.66	State of New Jersey – PWT	860045
35,522.07	Payroll Account	860046
183.70	Montague Tool & Supply	10346
15.25	Albertsons Inc.	10347
10,000.39	JCP&L	10348
125.00	Keller Welding Company	10349
424.08	SCMUA	10350
452.59	Sussex County Plumbing	10351
36.00	Paul Baldwin	10352

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36.00	Paul M. Havens	10353
11,794.77	Coyne Chemical Corp., Inc.	10354
25.46	EMBARQ	10355
297.50	Hollander,Hontz,Hinkes&Pasculli, LLC	10356
146.00	Rectifier Auto Electric	10357
648.00	Hamburg Plumbing Supply Co., Inc.	10358
169.95	Lou's Glass	10359
24.00	Joseph Carr	10360
179.17	One Call Systems	10361
101.63	Airgas East	10362
36.00	Ervin Lasso	10363
3,315.58	State Chemical	10364
3,960.00	Passaic Valley Sewerage Comm.	10365
4,235.48	Main Pool & Chemical Company	10366
14,951.00	Selective Insurance Company	10367
112.31	The Home Depot	10368
1,171.62	Airmatic Compressor Systems, Inc.	10369
890.00	Process Tech Sales & Service	10370
347.20	Huffman's Shirts & Signs, LLC	10371
420.00	Test America	10372
60.00	Eric Tompkins	10373
1,283.33	Andy Matt, Inc.	10374
17,976.00	National Water Main Cleaning Co.	10375

**Total WATER & SEWER BILLS \$213,856.74**

### **DISCUSSION (WORK SESSION)**

### **CANCELLATION OF NOVEMBER 3<sup>RD</sup> MEETING**

Mr. Russo indicated that the November 3<sup>rd</sup> Town Council meeting is the day before Election Day and asked Council to consider cancelling this meeting. After a brief discussion, the Governing Body had no objection to the cancellation of the November 3<sup>rd</sup> Council meeting.

### **DAY OFF-PRESIDENTIAL ELECTION DAY AND/OR DAY AFTER CHRISTMAS**

Mr. Russo requested Council's permission to close Town Hall for Presidential Election Day, November 4, 2008 and for their consideration on the day after Christmas, Friday, December 26, 2008. After a brief discussion, the Governing Body had no objection to granting the Presidential Election Day off as well as the day after Christmas, December 26<sup>th</sup>.

### **TOWN-WIDE GARAGE SALE**

Councilwoman Unhoch had a question regarding the Town-wide Garage

Sale which was held this past weekend and was addressed by Lorraine Read, Town Clerk.

**SOLICITOR PERMIT**

Councilwoman Becker had a question regarding hot dog carts within the Town of Newton which was addressed by Town Clerk, Lorraine Read.

**OPEN TO THE PUBLIC**

Mayor Ricciardo declared the meeting open to the public. There was no one from the public to be heard.

**COUNCIL AND MANAGER COMMENTS**

Council expressed their disappointment with the Armory Building concept plan design. After a brief discussion Council made several recommendations and directed Ross Sheasley to revisit the plan and resubmit with design changes.

Mr. Russo congratulated the Governing Body, Ms. Eileen Kithcart, Mrs. Debra Millikin and professional staff for their work on the Paterson Avenue Redevelopment Plan adopted this evening.

Mayor Ricciardo opened the meeting to the public.

There being no one from the public to be heard, and no further regular business at this time, upon motion of Mr. Elvidge, seconded by Mrs. Unhoch and carried, the Town Council went into executive session at 8:02 p.m. and roll call resulted as follows:

Mr. Elvidge	Yes	Mrs. Unhoch	Yes
Mrs. Becker	Yes	Mrs. Le Frois	Absent
	Mayor Ricciardo	Yes	

**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

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**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 personnel.

**PERSONNEL**

Mayor Ricciardo discussed a personnel issue.

Upon motion of Mrs. Becker, seconded Mrs. Unhoch and carried, the Town Council left executive session at 8:12 p.m.

Upon motion of Mrs. Becker, seconded by Mrs. Unhoch and carried, the meeting was adjourned at 8:14 p.m.

Respectfully submitted,

Lorraine A. Read, RMC  
Municipal Clerk