

September 29, 2008

The special 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, Jr..

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 September 5, 2008”.

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. Le Frois, seconded by Mrs. Unhoch and carried that the minutes of July 7, 2008 (Special Executive) meeting was approved with an abstention by Mayor Ricciardo.

Upon motion made by Mrs. Unhoch, seconded by Mrs. Becker that the minutes of August 4, 2008 (Work), meeting was approved.

Upon motion made by Mrs. Becker, seconded by Mrs. Le Frois, and carried, with correction made by Mayor Ricciardo, the minutes of August 11, 2008 (Regular and Work) meeting was approved.

Mayor Ricciardo declared the meeting open to the public.

Ms. June Bowne, 10 Donald Avenue, Newton, expressed concerns for rescinding Ordinance #2007-23 “establishing residency restrictions for known dangerous sex offenders”. Mayor Ricciardo explained that the Superior Court of New Jersey, Appellate Division has invalidated municipal sex offender residency ordinances and that this rescission will prevent inconsistency between local law and a ruling of the Appellate Division.

Several residences, of Lower Spring Street, voiced their concerns regarding a Taxicab business operating illegally out of a private residence, in a residential zone. Mayor Ricciardo advised that the resolution for a taxicab

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business owner's license on tonight's agenda, is located in a legal business zone and should help alleviate many concerns.

Under Council and Manager's Reports, Mr. Russo indicated the Newton Fire Department is requesting permission to hold their annual Halloween Parade on Friday, October 31, 2008 from 6:00 p.m. to 7:00 p.m. on Spring Street.

The Governing Body had no objection to the Newton Fire Department holding their annual Halloween Parade on October 31<sup>st</sup>.

The Town Manager introduced Mr. Antonio Poccia, Jr., 37 Clinton Street, Newton, who is requesting a Road Opening Permit to install gas service to his home. After a brief question and answer session, the Governing Body has no objection to the Street Opening Permit, with the stipulations that all requirements are met and that a cash bond is posted.

Mr. Russo indicated that a report was released by the State regarding the procurement of Fire Trucks and stated copies are available in the Town Manager's office.

Mr. Russo updated the Governing Body regarding various part-time employees who were given more hours for additional clerical duties.

Mr. Russo updated the Governing Body regarding the Montgomery Watson Harza (MWH) sewer investigation on Spring Street. Mr. Russo noted that during the investigation of the sewer lines, the camera viewed a gas service line and has reached out to Elizabethtown Gas Company to rectify the situation.

Mr. Russo advised that the North Jersey Transportation Planning Authority will have their annual planning session on public infrastructure projects on Thursday, October 2<sup>nd</sup> at 5:30 at Sussex County Technical School.

Mr. Russo updated the Governing Body regarding maintenance of the

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bathrooms at Memory Park. Mr. Russo hired a company from October through November 15, 2008, who will be responsible for cleaning the bathrooms, at Memory Park, every night, seven days a week. This is just a fix through 2008 and funding will have to be implemented for 2009.

Mr. Russo indicated a copy of the Paterson Avenue Redevelopment Plan has been submitted by the Planning Board for Council review and as per legal counsel, the next step in the process is to introduce an ordinance at the October 6<sup>th</sup> meeting and adopt the Redevelopment Plan with amendments. Mr. Russo further explained that if the Council has plans they do not wish to adopt, the recommendation and reasons for rejecting such plans must be specified in the Ordinance.

Mr. Russo advised the Governing Body of legal counsel's final recommendation regarding the poolhouse renovation litigation. After a brief discussion, Council expressed their displeasure with the final outcome but was thankful for final closure and agreed to counsel's recommendation.

Under reading of Ordinances, Mayor Ricciardo directed the Clerk to read aloud the following ordinance relative to final adoption.

**ORDINANCE #2008-23**

**AN ORDINANCE TO AMEND CHAPTER 10, TRAFFIC, OF THE TOWN OF NEWTON'S REVISED GENERAL ORDINANCES, TO REFLECT CHANGES REALTED TO PARKING**

**WHEREAS**, the Newton Parking Authority has requested the Newton Town Council establish certain overnight parking spaces and delete a handicap parking space within the Town of Newton;

**NOW THEREFORE BE IT ORDAINED** by the Town Council of the Town of Newton that Chapter 10 of the Revised General Ordinances be amended as follows:

Section 10-13B.2 to be amended as follows:

**10-13B.2 Permitted Parking Hours at Municipal Building**

Section **b.** to be deleted

Section 10-14.3 to be amended to read as follows:

**10-14.3 Permitted Parking 4:00am-6:00am in Certain Municipal Lots.**

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Vehicles may be parked in metered spaces in any of the above mentioned parking lots between the hours of 6:00am-4:00am; however, vehicles shall be permitted to remain in a limited portion of the parking lots between the hours of 4:00am and 6:00am as listed in schedule IV-B after first obtaining a parking pass and paying the required fee as outline in Chapter 21 Section 1.5.

The Following Schedules in Chapter 10 be amended to read as follows:

**Schedule IV-B**

**Permitted Parking 4:00am-6:00am in Municipal Lots**

<b><u>Parking Lot Name</u></b>	<b><u>Portion of Lot</u></b>	<b><u>Hours</u></b>
Adams Street	8 Spaces, Beginning Northeast corner of the lot and extending 106 feet West.	4:00am-6:00am
Eastern Plaza	No designated spaces	
Central Plaza	Spaces located on the easterly side and westerly of the lot	4:00am-6:00am
Western Plaza	34 Spaces Beginning at the northeast corner of the lot and extending 325 feet West	4:00am-6:00am

Schedule XVII be amended as follows:

Hamilton Street – to be deleted.

Mayor Ricciardo declared the hearing on Ordinance #2008-23 open to the public.

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

The following RESOLUTION was offered by Mr. Elvidge, 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.

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

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**ORDINANCE #2008-24**

**AN ORDINANCE RESCINDING ORDINANCE 2007-23 THAT ESTABLISHED RESIDENCY RESTRICTIONS FOR KNOWN DANGEROUS SEX OFFENDERS**

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
Mayor Ricciardo	No		

**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 requested 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.**

**TO REMAIN TABLED**

Mayor Ricciardo requested the Clerk to read aloud the following ordinance relative to final adoption.

**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.**

Mayor Ricciardo indicated Ordinance #2008-21 will remain TABLED at this time and directed the Clerk to advertise Ordinance #2008-21 in preparation of final adoption on Monday, October 27, 2008.

Under New Business, the Town Manager requested a resolution

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determining the form and other details of a \$1,000,000 General Obligation Assessment Bond of the Town of Newton, in the County of Sussex, New Jersey and providing for the sale of such Bond to the United States of America.

The following RESOLUTION was offered by Mr. Elvidge 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		

**RESOLUTION #157-2008**

**BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, AS FOLLOWS:**

**Section 1.** A \$1,000,000 General Obligation Assessment Bond of the \$1,600,000 General Obligation Bonds authorized by the Town of Newton, in the County of Sussex, New Jersey (the "Town"), referred to and described in bond ordinance #2007-3 adopted by the Town Council on February 26, 2007, as amended in its entirety by bond ordinance #2008-6 adopted by the Town Council on April 28, 2008, and entitled, "Bond Ordinance Providing for the Trinity/Mill Street Waterline Project in and by the Town of Newton, in the County of Sussex, New Jersey, Appropriating \$2,000,000 Therefor, including a \$400,000 Small Cities Public Facilities Grant, Authorizing the Issuance of \$1,600,000 Bonds or Notes of the Town for Financing Part of the Cost Thereof and Directing the Special Assessment of Part of the Cost Thereof" shall be sold to the United States of America on the following terms:

Designation: \$1,000,000 General Obligation Assessment Bond,

Date: A date (the "Closing Date") to be selected by the chief financial officer of the Town and the United States of America

Interest Rate: Four and twenty-five hundredths per centum (4.25%) per annum payable semiannually, or such lower rate as may be established by the Office of the United States Department of Agriculture Rural Development

Principal and

Interest Payments: \$26,111 payable semiannually beginning the day of the month six months after the month the Bond is dated and terminating if not sooner paid, in the fortieth year on the day and the month on which the Bond is dated except that the eightieth payment

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will be in an amount equal to the unpaid principal plus accrued interest thereon and the amount may be adjusted with the Interest Rate as set forth herein

Place of Payment: Office of the United States Department of Agriculture Rural Development, Mount Laurel, New Jersey

**Section 2.** There shall be issued one Bond in the amount of \$1,000,000 or such additional bonds as may be required and the details concerning the payment of principal and interest on such Bond shall be specified in the form of Bond, which shall be in substantially the following form: No. 2008-R2 \$1,000,000

**UNITED STATES OF AMERICA  
STATE OF NEW JERSEY  
COUNTY OF SUSSEX**

**TOWN OF NEWTON**

**GENERAL OBLIGATION ASSESSMENT BOND**

\* \* \* \* \*

**TOWN OF NEWTON**, a municipal corporation of the State of New Jersey, situate in the County of Sussex, hereby acknowledges itself indebted and for value received promises to pay to the United States of America, or its registered assigns, the principal sum of One Million Dollars (\$1,000,000) plus interest on the unpaid principal sum from the date of this Bond until it matures, unless sooner paid as herein provided, at the rate of four and twenty-five hundredths per centum (4.25%) per annum. Such principal and interest shall be paid semiannually in the amount of \$26,111 on the 27th day of each April and October, commencing April 27, 2009 and terminating on October 27, 2048 (except that the eightieth payment shall be in the amount equal to the unpaid principal plus accrued interest thereon), unless the principal amount of the Bond is sooner paid as provided herein.

Payments made on the indebtedness evidenced by this instrument, regardless of when made, shall be applied first to interest due through the date of payment and next to principal.

This Bond shall be subject to redemption without penalty at any time prior to maturity at the option of the Town of Newton by the payment of all the unpaid principal then due plus interest due to the date of redemption.

Upon the surrender of this Bond and the written request of the registered holder thereof satisfactory to the Town, this Bond will be transferred to a new registered owner. No transfer of this Bond shall be valid unless recorded on books of the Town kept for this purpose in the office of its Chief Financial Officer and noted on the back of this Bond.

This Bond is issued pursuant to the Local Bond Law of the State of New Jersey, bond ordinance #2007-3 of the Town of Newton finally adopted February 26, 2007, as amended by ordinance #2008-6 finally adopted April 28, 2008, and authorizing obligations in the aggregate principal amount of \$1,600,000 and a resolution of its governing body adopted September 29, 2008.

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The full faith and credit of the Town are hereby irrevocably pledged for the punctual payment of the principal of and the interest on this Bond according to its terms.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or the statutes of the State of New Jersey to exist, to have happened or to have been performed precedent to or in the issuance of this Bond exist, have happened and have been performed and that this Bond, together with all other indebtedness of the Town, is within every debt and other limit prescribed by such Constitution or statutes.

**IN WITNESS WHEREOF**, the **TOWN OF NEWTON** has caused this Bond to be executed in its name by the manual or facsimile signatures of its Mayor and its Chief Financial Officer, its corporate seal to be hereunto imprinted or affixed, this Bond and the seal to be attested by its Town Clerk and this Bond to be dated the \_\_\_\_ day of \_\_\_\_\_, 2008.

ATTEST:

By: \_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk

By: \_\_\_\_\_  
Chief Financial Officer

**ASSIGNMENT**

FOR VALUE RECEIVED \_\_\_\_\_  
hereby assigns to

\_\_\_\_\_  
(Please Print or Type Name and Address of Assignee)

the within Bond and irrevocably appoints \_\_\_\_\_, as Attorney, to transfer this Bond on the registration books of the Town, with full power of substitution and revocation.

\_\_\_\_\_  
NOTE: The signature of this assignment must correspond with the name as it appears on the face of the within note in every particular.

Dated: \_\_\_\_\_

Signature Guarantee:  
\_\_\_\_\_

**TRANSFER CERTIFICATE**

It is hereby certified that upon the request of the registered owner the within Bond is transferred to and registered as to principal and interest as follows:

<u>Date and Transfer</u> <u>and Registry</u>	<u>Name of New</u> <u>Registered Owner</u>	<u>Registered By</u>
_____		

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**Section 3.** The Bond shall be executed by the manual or facsimile signatures of the Mayor and the Chief Financial Officer, under the official seal, affixed and attested by the Town Clerk. Such officials are authorized to execute such replacement bonds in registered or coupon form as may be necessary from time to time and are authorized to execute all certificates, agreements and other documents required by the United States of America in connection with such Bond.

**Section 4.** All other details or requirements of the Local Bond Law of New Jersey, including any changes in the terms of the Bond otherwise set forth herein, shall be determined by the Chief Financial Officer of the Town.

**Section 5.** This resolution shall take effect immediately.

The Town Manager requested a resolution of the Town Council of the Town of Newton authorizing and providing for the incurrence of indebtedness for the purpose of providing a portion of the cost of acquiring, constructing, enlarging, improving, and/or extending its Mill Street Waterline Project.

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
Mayor Ricciardo	Yes		

### **RESOLUTION #158-2008**

**WHEREAS**, it is necessary for the Town of Newton (therein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of One Million and xx/100 Dollars (\$1,000,000.00) pursuant to the provisions of N.J.S.A. 40A:2-1 et seq.

**WHEREAS**, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association.

**NOW THEREFORE**, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are

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required by State statutes and as are agreeable and acceptable to the Government.

2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333 © of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983©).

3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause." Which clause is to be incorporated in, or attached as a rider to each construction contract and subcontract involving in excess of \$10,000.

4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.

5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the government to constitute default hereunder.

6. Not to sell, transfer, lease, or otherwise encounter the facility or any portion thereof, or interest therein, or permit other to do so, without the prior written consent of the Government.

7. Not to defease the bonds or to borrow money, enter into any contractor agreement or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.

8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.

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9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.

10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service, and services may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility by USDA. No free service or use of the facility will be permitted.

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.

12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.

13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.

14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the government is obtained. Also, with the prior written approval of the government, funds may be withdrawn and used for such things as emergency maintenance extensions to facilities and replacement of short lived assets.

15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.

16. to comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.

17. To accept a grant in an amount not to exceed \$400,000.00 under the terms offered by the Government, that the Mayor and Chief Financial Officer of the Association are hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically

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provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The Town Manager requested a resolution to approve refund of duplicate tax payment for Block 1206, Lot 18.

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
Mayor Ricciardo	Yes		

**RESOLUTION #159-2008**

**WHEREAS**, property taxes for the third quarter of 2008 were paid for Block 1206; Lot 18, also known as 34 Pine Street and owned by John and Beverly Moore by First American Real Estate Tax Service, and

**WHEREAS**, First Choice Search & Abstract, Inc. also paid the third quarter 2008 real estate taxes on behalf of John and Beverly Moore and are requesting a refund of this erroneous third quarter payment be made to John and Beverly Moore;

**NOW, THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that this Governing Body acknowledges that John and Beverly Moore are entitled to a refund in the amount of \$1,530.47, and

**BE IT FURTHER RESOLVED** that the Tax Collector is hereby authorized to process a refund to John and Beverly Moore in the Amount of \$1,530.47 for this erroneous tax payment made to Block 1206; Lot 18.

The Town Manager requested a resolution to approve Sussex County Tax Appeal refund for Block 1209, Lot 11.

The following RESOLUTION was offered by Mrs. Le Frois 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		

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**RESOLUTION #160-2008**

**WHEREAS**, Merriam Gateway Apartments, Inc., Block 1209; Lot 11 also known as 78 Sparta Avenue has been granted an appeal to their 2008 taxes by Sussex County Board of Taxation, and

**WHEREAS**, as a result of said County Tax Appeal, Block 1209; Lot 11 has a credit balance due for the tax year 2008, and

**WHEREAS**, Merriam Gateway Apartments, Inc. is requesting a refund of said overpayment, and

**NOW, THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that this Governing Body acknowledges that Merriam Gateway Apartments, Inc. is entitled to a refund in the amount of \$ 1,297.06 and

**BE IT FURTHER RESOLVED** that the Tax Collector is hereby authorized to process a refund to Merriam Gateway Apartments, Inc. in the amount of \$ 1,297.06 on Block 1209; Lot 11.

The Town Manager requested a resolution to authorize credits and refund due Water and Sewer Utility Accounts.

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
Mayor Ricciardo	Yes		

**RESOLUTION #161-2008**

**WHEREAS**, the Water and Sewer Collector has determined that the following Water and Sewer Utility Accounts are due credit and refund 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 and/or refund the following accounts due to the reason stated:

**UTILITY BOARD RECOMMENDS REFUND PER REQUEST FOR ADJUSTMENT OF WATER BILL:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
10400	46 West End Avenue	\$226.00

**UTILITY BOARD RECOMMENDS A CREDIT OF \$250.00 TO SEWER PORTION OF WATER BILL:**

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<u>Account</u>	<u>Address</u>	<u>Amount</u>
2270	21 Kelsey Avenue	\$250.00

The Town Manager requested a resolution for the appointment of Mr. Kevin Phalon as an Alternate Member of the Planning Board as the Second Alternate.

The following RESOLUTION was offered by Mrs. Le Frois 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		

#### **RESOLUTION #162-2008**

**WHEREAS**, there is currently a vacancy on the Newton Planning Board for a Second Alternate Member due to Mark Vandyk being appointed as a Regular Member of the Planning Board, and

**WHEREAS**, Mr. Kevin Phalon has expressed an interest in serving on said Board;

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the town of Newton that Mr. Kevin Phalon is hereby appointed to an unexpired two-year term on the Newton Planning Board serving as a Second Alternate, effective immediately with said term continuing to December 31, 2009.

The Town Manager requested a resolution to approve Change Order No. 1 for the Paving Various Streets Project.

The following RESOLUTION was offered by Mrs. Le Frois 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
Mayor Ricciardo	Yes		

#### **RESOLUTION #163-2008**

**WHEREAS**, the Town Council of the Town of Newton awarded a contract for the Paving of Various Streets Project to Owl Contracting through the Morris County Co-op in the amount of \$377,329.20 by Resolution #85-2008, which was adopted on June 9, 2008, and

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**WHEREAS**, Harold Pellow & Associates, Inc. has prepared Change Order No. 1 for said project and recommends approval for the following purpose:

<u>Supplemental &amp; Extra</u>	<u>Amount</u>
Traffic Flaggers	
Construction Signs	
Water Box Risers	
Concrete Curb Repair	
Extra Paving (19.53 tons)	\$ 22,217.53
<u>Reductions</u>	
Paving (401.82 tons)	<u>\$ (25,194.12)</u>
Total Change Order No. 1	\$ (2,976.58)

**WHEREAS**, the adjusted contract amount will be decreased by Change Order No. 1 to the new contract total of \$374,353.12;

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that it hereby approves Change Order No. 1 for the Paving of Various Streets Project based on the recommendation of the Town Engineer, and that the Mayor is authorized to execute said Change Order No. 1 resulting in a new contract total of \$374,353.12.

**BE IT FURTHER RESOLVED** that a copy of the Engineer's certification detailing the change order be attached and made part of this resolution.

The Town Manager requested a resolution to approve bills and vouchers for payment.

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 (Abstained P.O. 31682)	Yes
Mrs. Becker	Yes	Mrs. Le Frois	Yes
Mayor Ricciardo	Yes		

**RESOLUTION #164-2008**

**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

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where unexpended balances exist in said appropriation accounts for the payment of such vouchers.

**TOWN BILLS**

172,269.86	Payroll Account	810072
3,019.71	Payroll Account	810073
59.98	Payroll Account	810074
1,030,892.00	Newton Board of Education	810075
1,400,000.00	Lakeland Bank	810080
42,219.00	U.S.D.A. / FHA	810079
29.98	Staples Credit Plan	24324
890.70	Montague Tool & Supply	24325
2,603.99	Harold Pellow & Associates, Inc.	24326
4,247.00	Municipal Software, Inc.	24327
322.00	Decker's Fire & Safety	24328
120.00	ABCCode Security	24329
1,732.43	Airmark Pools	24330
24.00	Alpine Spring Water Company	24331
118.75	Sussex Car Wash, Inc.	24332
1,148.74	NUI Corporation	24333
2,195.26	G & G Diesel Service, Inc.	24334
414.40	G & H Service, Inc.	24335
16,364.95	JCP&L	24336
905.00	Keller Welding Company	24337
145.75	New Jersey Herald	24338
1,163.05	SCMUA	24339
350.00	B & G Elevator, Inc.	24340
2,497.96	EMBARQ	24341
16.18	EMBARQ	24342
7.82	EMBARQ	24343
2,590.00	Hollander,Hontz,Hinkes&Pasculli LLC	24344
2,319.48	Thea Unhoch	24345
302.70	Beaver Run Farms	24346
95.00	D & E Service Center	24347
396.00	Neopost Leasing	24348
39.26	Tri-State Rentals, Inc.	24349
40.00	Sussex County Economic	24350
7,536.75	Ray's Sport Shop	24351
7,500.00	Newton First Aid Squad	24352
643.00	JRF Tire Inc.	24353
138.75	Thomas Trudgeon	24354
150.00	Scott Holzhauser	24355
1,093.68	Newton Citgo	24356
95.00	NJLM	24357
20.00	Sussex County League of	24358
1,710.00	Minisink Press Inc.	24359
973.10	Good Year	24360
282.44	Sebring Auto Parts	24361
4.30	Sherwin-Williams	24362
554.22	Dempsey Uniform & Supply, Inc.	24363
93.75	Debra Millikin	24364
9.46	Airgas East	24365
36.00	Service Electric Cable TV	24366
50.00	Sussex County Fire Academy	24367

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2,179.11	Boonton Tire Supply	24368
784.00	Weiner Lesniak	24369
330.00	Rutgers Center for Government Serv.	24370
630.00	Rutgers Center for Government Serv.	24371
394.00	Rutgers Center for Government Serv.	24372
2,072.00	Grinnell Recycle	24373
288.06	Verizon Wireless	24374
195.19	Verizon Wireless	24375
428.00	Dell marketing L.P.	24376
77.35	Mr. John	24377
2,195.48	Tilcon New Jersey	24378
525.53	Cooper Electric Supply Co.	24379
56.95	Fred Pryor Seminars	24380
2,140.00	Guardline Fire & Safety Co., Inc.	24381
180.00	Professional Gov't Educators Inc.	24382
78.50	Thomson West	24383
5,000.00	Office Furniture 2000	24384
1,720.11	Scarinci & Hollenbeck, LLC	24385
52.95	Ward's Flowers & Gifts	24386
2,873.21	Staples Business Advantage	24387
5.95	Easylink Services Corporation	24388
5,310.00	Main Street Newton, Inc.	24389
17.22	Nestle Waters	24390
112.50	Jeff Schiffner	24391
134.50	Municipal Graphics Inc.	24392
5,420.33	Rachles/Michele's Oil Company	24393
2,914.91	Taylor Oil Co.	24394
37.50	Innovative Data Solutions	24395
1,550.00	Laddey, Clark & Ryan, LLP	24396
262.00	Sussex County Chamber of Commerce	24397
112.50	Derek J. Wechtler	24398
763.50	Kieffer Electric, Inc.	24399
100.00	Andy Matt, Inc.	24400
100.00	Sussex County Firemen's Association	24401
87.45	Crystal Graphics	24402
2,700.00	General Code, LLC	24403
1,000.00	Thomas S. Russo, Jr.	24404
75.00	Joann Coan	24405
17,883.40	Payroll Account	24406

**CAPITAL**

2,568.55	Harold Pellow & Assoc., Inc.	7214
117.87	Sussex County Plumbing	7215
12,323.63	McManimon & Scotland	7216
110.00	Art Frisbie's Airworx	7217
4,494.09	West Chester Machinery	7218
2,912.50	Tony's Concrete Constr. Co., Inc.	7219
7,931.40	Tilcon New Jersey	7220
645.00	Vogel,Chait,Collins,Schneider,PC	7221
1,754.88	A. Nelessen & Associates, Inc.	7222
34,771.83	Ferraro Construction Corp.	7223
18,071.00	Structural Metal Fabrication	7224
2,610.00	Wayne Tile Company	7225
2,740.32	Denville Line Painting, Inc.	7226

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1,591.00	QC Laboratories	7227
31,195.36	Robert Wogisch	7228
704.60	Cutting Edge Landscape Equip.	7229

Total TOWN BILLS \$2,902,760.63

**WATER AND SEWER ACCOUNT**

35,779.33	Payroll Account	860042
8,263.06	Harold Pellow & Assoc., Inc.	10322
2,500.00	Municipal Software, Inc.	10323
462.51	NUI Corporation	10324
10,699.98	JCP&L	10325
47.63	John Madden	10326
18,795.00	Pumping Services	10327
12.00	Paul Baldwin	10328
7,584.72	Coyne Chemical Corp., Inc.	10329
1,286.74	EMBARQ	10330
192.50	Hollander,Hontz,Hinkes&Pasculli LLC	10331
1,315.00	Garden State Laboratories, Inc.	10332
1,435.85	McManimon & Scotland	10333
12.00	William F. Smith	10334
47.90	Sebring Auto Parts	10335
262.60	Dempsey Uniform & Supply Inc.	10336
5,350.00	R&D Trucking Inc.	10337
36.00	Ervin Lasso	10338
330.00	Rutgers Center for Government Serv.	10339
105.00	Rutgers Center for Government Serv.	10340
1,250.00	John Smalley	10341
381.88	Staples Business Advantage	10342
226.00	Jeremiah Lawler	10343
807.84	Delta Dental	10344
157.15	Vision Service Plan	10345
5,609.20	Payroll Account	860043

**CAPITAL**

534.79	Harold Pellow & Assoc., Inc.	2112
437.50	Hollander,Hontz,Hinkes&Pasculli LLC	2113

Total WATER & SEWER BILLS \$103,922.18

**TRUST**

61,976.10	PAYROLL ACCOUNT	871019
2,708.28	Harold Pellow & Assoc., Inc.	2554
12,997.25	NUI Corporation	2555
560.00	Hollander,Hontz,Hinkes&Pasculli LLC	2556
300.00	James P. Sloan, PC	2557
992.00	Weiner Lesniak	2558
421.70	Judge John E. Mulhern	2559
600.00	Daniel Colfax, Esq.	2560
5,581.50	Owl Contracting, Inc.	2561
14,716.50	Skoda Contracting Co.	2562
810.00	Kenneth A. Wentink & Assoc.	2563

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Total TRUST ACCOUNT \$101,663.33

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

The following RESOLUTION, was TABLED for further investigation, upon motion by Mrs. Le Frois, seconded by Mr. Elvidge and roll call resulted as follows:

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

**RESOLUTION #165-2008**

**TABLED**

The Town Manager requested a resolution for approval of a renewal application for Taxicab Driver's License.

The following RESOLUTION, was TABLED for further investigation, upon motion by Mayor Ricciardo, seconded by Mrs. Le Frois and roll call resulted as follows:

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

**RESOLUTION #166-2008**

**TABLED**

Council agreed that Resolution #165-2008 and Resolution #166-2008, which were tabled, are in need of additional information from Harold R. Storm, Jr., owner and operator of Chip's Taxi and Limo. Mrs. Read will advise Mr. Storm to correct these deficiencies on the applications, which were questioned by Council.

The Clerk presented an application for an on-premise raffle (50-50) from the Pride Foundation, Inc., 44 Ryerson Avenue, Newton for December

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13, 2008 from 9:00 a.m. to 4:00 p.m., to be held at 44 Ryerson Avenue, Newton.

The Clerk presented an application for an on-premise raffle (Tricky-Tray & 50-50) from the Pride Foundation, Inc., 44 Ryerson Avenue, Newton to be held on November 14, 2008 from 3:00 p.m. to 12:00 a.m. at 44 Ryerson Avenue, Newton.

It was noted that the applications were in order and accompanied by the prescribed fee.

The Governing Body has no objection to the issuance of raffle licenses to the Pride Foundation, Inc. on the above dates.

Mayor Ricciardo requested a ten minute intermission.

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

Mr. Mark Hontz, Esq., updated Council on the current status of the Cable Franchising process, which our report is due in by April 19, 2009. Mr. Hontz outlined the items completed and reviewed some amendments made by some of the participants. Mr. Hontz advised that the Town is still ahead of the process. Mr. Hontz will return again in December this year for an update.

Mayor Ricciardo open the meeting to the public.

There being no one from the public to be heard, Council closed meeting to the public.

Under Council and Manager Comments, Mayor Ricciardo commented on the disgrace of uncleanliness of Memory Park. Several teams/groups utilize the fields at Memory Park and are in need of being reminded to please clean up after they use of the park facilities. Mr. Russo will relay the message to the groups using Memory Park through the Newton Junior Athletic League.

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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 negotiation and potential land acquisition;

There being no further regular business at this time, upon motion of Mrs. Le Frois, seconded by Mrs. Unhoch and carried, the Town Council went into executive session at 8:40 p.m. and roll call resulted as follows:

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

**CONTRACT NEGOTIATION**

Mrs. Jessica Caldwell, Newton Planner, addressed the Council on the potential contract negotiations regarding potential use at Morris Lake.

**POTENTIAL LAND ACQUISITION**

Mr. Russo and Mrs. Millikin updated Council on the potential land acquisition for the Town of Newton.

Upon motion of Mayor Ricciardo, seconded Mrs. Le Frois and carried, the Town Council left executive session at 9:09 p.m.

Mayor Ricciardo declared the meeting opened to the public.

There being no one from the public to be heard, upon motion of Mayor Ricciardo, seconded by Mrs. Unhoch and carried, the meeting was adjourned at 9:09 p.m.

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Respectfully submitted,

Lorraine A. Read, RMC  
Municipal Clerk