

May 22, 2017

The regular meeting of the Town Council of the Town of Newton was held on the above date at 7:00 pm. Present were Deputy Mayor Levante, Mr. Flynn, Mr. Elvidge, Mayor Diglio, and Thomas S. Russo, Jr., Town Manager. Ursula Leo, Esq., Town Attorney was also present. Mrs. Le Frois was excused.

Mayor Diglio made the following declaration "in accordance with the Open Public Meetings Act, notice of this public meeting was given to the two newspapers of record and posted on the official bulletin board on December 31, 2016."

Mayor Diglio led the Pledge of Allegiance to the flag and the Clerk called the roll. Upon motion Mr. Flynn, seconded by Deputy Mayor Levante and carried, the minutes for May 8, 2017 Regular meeting were unanimously approved.

### **OPEN TO THE PUBLIC**

Mayor Diglio read the following statement:

*"At this point in the meeting, the Town Council welcomes comments from any member of the public on any topic. To help facilitate an orderly meeting and to permit the opportunity for anyone who wishes to be heard, speakers are asked to limit their comments to 5 minutes. If reading from a prepared statement, please provide a copy and email a copy to the Clerk's Office after making your comments so it may be properly reflected in the minutes."*

Jackie Espinoza, JCP&L representative, reminded Council of the STEM (Science, Technology, Engineering & Math) Grant opportunity for the Newton Public Schools (K-12), which is awarded in September. Council asked Ms. Espinoza to give the grant documentation to Jessica Egner, Vice-President of Newton BOE, who was present at the meeting. Ms. Espinoza noted Newton has received grant monies in the past and looks forward to their submission.

There being no one else from the public to be heard, Mayor Diglio closed the hearing to the public.

### **PROCLAMATIONS**

#### **a. Newton Robotics Team**

At this time, Mayor Diglio recognized the Newton Robotics Team with a Proclamation:

#### **PROCLAMATION**

#### **NEWTON ROBOTICS TEAM**

**WHEREAS**, the Newton High School Robotics Team was established in 2009 to insure students have the opportunity to learn about engineering, science, business, public relations, marketing and industrial safety; and

May 22, 2017

**WHEREAS**, the robotics team "Team Aperture 3142" from Newton High School, won the Underwriters Laboratories Industrial Safety Award at the FIRST Robotics Competition held in St. Louis, Missouri, April 26-29, 2017; and

**WHEREAS**, the Newton High School award winning robotics division has proudly served and contributed to expanding Science, Technology, Engineering & Mathematics (STEM) education; and

**WHEREAS**, this program ensures that students from grades five through twelve are provided with an exploration to 21<sup>st</sup> Century Life and Careers with more hands-on opportunities;

**NOW, THEREFORE, We**, the Mayor and Town Council of the Town of Newton, do hereby proclaim our congratulations to the Newton Robotics' "Team Aperture 3142" for winning the Underwriters Laboratories Industrial Safety Award and recognize their hard work and dedication to the field of robotic engineering.

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

Attest: s/Sandra Lee Diglio  
s/Lorraine A. Read  
Date: May 22, 2017

One of the students explained the details of the award received and noted it is the first international award ever received by Newton Robotics.

The Mayor and Town Council congratulated this group for their hard work and dedication.

## **PRESENTATIONS**

### **a. Police Department Recognition**

Chief Richards made a lengthy presentation to honor Sgt. Steven Benson and Patrolman Michael Wolanski.

Chief Richards began by stating, "Each May around National Police Week, I look to commend Officer performance that illustrates the challenging work that they encounter each day and highlights work that often goes above and beyond. This case certainly meets these criteria since they faced an emotionally disturbed person that was armed with both a large knife and a handgun and was threatening to harm himself. The incident could have easily led to the use of deadly force."

Chief Richards outlined an incident which occurred on January 3, 2017, in which Sgt. Steven Benson and Ptl. Michael Wolanski responded. After a brief struggle with the Officers, the subject was promptly taken into custody and transported to Newton Medical Center for evaluation and treatment. He was not criminally charged.

May 22, 2017

Chief Richards presented each Officer with the Department's Honorable Service Award for "Highly Creditable Accomplishment or Act bringing public acclaim to him or herself, the department, or the police profession as a result of their training, devotion to duty or service to the public."

The Town Council congratulated the officers and thanked them for their dedicated service to the Newton Police Department.

### **COUNCIL & MANAGER REPORTS**

Mr. Russo advised everyone Town Hall will be closed on Monday, May 29<sup>th</sup> in observance of Memorial Day.

Mayor Diglio updated Council on the upcoming annual Memorial Day parade to be held on Monday, May 29, 2017 at 10 am. The parade will proceed down Spring Street to Memory Park for a ceremony and then proceed to the VFW.

### **ORDINANCES**

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

#### **ORDINANCE 2017-10**

#### **AN ORDINANCE ADOPTING A NEW CHAPTER 42 – REGISTRATION OF VACANT AND ABANDONED PROPERTIES**

**WHEREAS**, the Town Council of the Town of Newton finds it shall be in the public's interest to establish a mechanism to identify and track vacant and abandoned residential and commercial properties in the Town, including those in foreclosure, to establish a system of registration of vacant and abandoned properties.

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

**SECTION 1:** A new Chapter 42 "Registration of Vacant and Abandoned Properties" shall be and is hereby established as follows:

#### **Chapter 42: Registration of Vacant and Abandoned Properties**

##### **§ 42-1 Definitions.**

As used in this Chapter, the following terms shall have the meanings indicated:

##### **ABANDONED PROPERTY**

As defined by Newton Town Code §41-3, in accordance with the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-81 and -82.

##### **ACTIVELY MARKETED VACANT PROPERTIES**

Owners of properties meeting the definition of "vacant property" that are being actively marketed for sale in a bona fide manner shall file a registration statement with the Town in accordance with the terms and conditions of this Chapter, but shall be exempt from the payment of a registration fee. The owner of any such property in order to be exempt from the payment of a registration fee shall provide adequate proof to the

Town of the bona fide active marketing of the property for sale by providing such evidence of such bona fide active marketing activities as shall be reasonably required by the Town, including but not limited to, copies of listing agreements and/or pending contracts of sale or other advertising or marketing efforts being made by the property owner directly to promote the sale of the property. Retention of a realtor is not required to actively market a property under this Chapter. Although exempt from the payment of any registration fee, in all other respects, the property owner of any vacant property that is being actively marketed for sale in a bona fide manner shall be required to maintain the property while it is being actively marketed in a bona fide manner in accordance with this Chapter and all other ordinances of the Town of Newton.

#### **EVIDENCE OF VACANCY**

- A. Any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is or has been vacant for three or more months. Such evidence would include, but is not limited to, evidence of the existence of two or more of the following conditions at a property: overgrown or dead vegetation; accumulation of newspapers, circulars, flyers or mail; past-due utility notices or disconnected utilities; accumulation of trash, junk or debris; the absence of window coverings such as curtains, blinds or shutters; the absence of furnishings or personal items consistent with residential habitation; statements by neighbors, delivery agents, or government employees that the property is vacant or abandoned; infestation by insects, vermin, rats or other pests; windows or entrances that are boarded up or closed off; multiple window panes that are damaged, broken or unrepaired; doors that are smashed, broken, unhinged or continuously unlocked; or any uncorrected violation of a municipal building, housing or similar code during the preceding year.
- B. Property determined to be "abandoned property" in accordance with Newton Town Code §41-3, and the Abandoned Properties Rehabilitation Act, N.J.S.A. 55:19-78 et seq., shall also be deemed to be vacant property for the purposes of this Chapter.

#### **OWNER**

Shall include the titleholder, any agent of the titleholder having authority to act with respect to a vacant or abandoned property, any foreclosing entity subject to the provisions of N.J.S.A. 46:10B-51, or any other entity determined by the Town of Newton to act with respect to the property. The term "owner" shall not include any duly licensed real estate agent engaged solely in the sale of the property on behalf of the owner.

#### **PROPERTIES UNDER REPAIR OR RENOVATION**

Owners of properties meeting the definition of "vacant property" that are in the process of being repaired or renovated shall file a registration statement with the Town in accordance with the terms and conditions of this Chapter, but shall be exempt from the payment of a registration fee. The owner of any such property in order to be exempt from the payment of a registration fee shall have obtained all necessary permits and approvals from the Town to repair or renovate the property and shall demonstrate proof to the Town of diligent continuous efforts by the owner to promptly complete the repair or renovation of any such property.

#### **SEASONALLY OCCUPIED PROPERTIES**

Seasonally occupied properties shall be those properties in the Town which are occupied on a limited, part-time or seasonal basis and not on a year-round basis by the owner. Owners of seasonally occupied residences shall be required to file a registration statement with the Town, but shall be exempt from payment of any registration fee and the posting of a placard on the property as otherwise required in this Chapter.

#### **VACANT PROPERTY**

Any building used or to be used as a residence which is not legally occupied or at which substantially all lawful construction operations or residential occupancy has ceased for a period of at least three months, and any commercial property that has not been legally occupied or at which substantially all lawful construction operations have ceased for a period of at least three months, and which exhibits evidence of vacancy such that a reasonable person would believe that the property is vacant. Any property that contains all building systems in working order, is being maintained on a regular basis, has not been cited by the Town for any violation of municipal ordinance within such time and is being actively marketed by its owner for sale or rental shall not be deemed vacant.

**§ 42.2 General Requirements.**

- A. The owner of any vacant or abandoned property as defined herein shall, within 30 days after the building becomes vacant property or within 30 days after assuming ownership of the vacant property, whichever is later, file a registration statement for each such vacant property with the Town of Newton Clerk's office on forms provided by the Town of Newton for such purposes. The registration shall remain valid until the end of the calendar year. The owner shall be required to renew the registration annually, no later than January 31, as long as the building remains vacant property and shall pay a registration or renewal fee to the Town Clerk's office in the amount prescribed in § 42-4 for each vacant property registered. The initial and renewal fees shall be prorated and/or credited accordingly upon legal occupancy.
- B. Any owner of any building that meets the definition of "vacant property" or "abandoned property" prior to [adoption date], shall file with the Town Clerk's office a registration statement for that property on or before [adoption date plus 60 days]. The registration statement shall include the information required under § 42-3, as well as any additional information that the Construction Official may reasonably require. Each vacant or abandoned property having a separate block and lot number by the Town shall be registered separately.
- C. The owner shall notify the Town of Newton Clerk's office within 30 days of any change in the registration information by filing an amended registration statement on a form provided by the Town of Newton for such purpose.
- D. The registration statement shall be deemed prima facie proof of the statement therein contained in any administrative enforcement proceeding or court proceeding instituted by the Town of Newton against the owner or owners of the building.
- E. "Actively Marketed Vacant Properties", "Properties Under Repair or Renovation" and "Seasonally Occupied Properties" as defined in this Chapter shall be required to file a registration statement, but shall be exempt from payment of a registration fee.

**§ 42.3 Registration statement requirements; property inspection.**

- A. After filing a registration statement or a renewal of a registration statement, the owner of any vacant or abandoned property shall provide access to the Town of Newton Construction Official if requested, following reasonable notice, during the period covered by the initial registration or any subsequent renewal. If an inspection is required of the interior of the property due to complaints or other cause, the fee for such inspection shall be the same as that for a certificate of compliance as provided in Newton Town Code §100-21.A, as may be amended.
- B. The registration statement shall include the name, street address, email address, and telephone number of a natural person 21 years of age or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding, on behalf of such owner or owners in connection with the enforcement of any applicable code. The designated agent must have a contact number that will be

available 24 hours per day on an emergency basis. The statement shall also include the name of the person responsible for maintaining and securing the property, if different from the designated agent.

- C. An owner who is a natural person and who meets the requirements of this Chapter as to availability of a contact number on a 24 emergency basis may designate himself or herself as agent.
- D. By designating an authorized agent under the provisions of this Chapter, the owner consents to receive any and all notices of code violations concerning the registered vacant property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this Chapter shall be deemed to consent to the continuation of the agent's designation for the purpose of this Chapter until the owner notifies the Town of Newton of a change of the authorized agent or until the owner files a new annual registration statement. The designation of an authorized agent in no way releases the owner from any requirement of this Chapter.

#### **§ 42.4 Fee Schedule.**

The vacant and abandoned property registration fee schedule shall be as follows:

- (1) Initial registration: \$500.
- (2) First renewal: \$1,500.
- (3) Any subsequent renewal up to five years: \$3,000.
- (4) After five years: \$5,000.

#### **§ 42-5 Requirements for owners of vacant and abandoned property.**

The owner of any building that has become vacant or abandoned property, and any person maintaining, operating or collecting rent for any such building that has become vacant or abandoned, shall, immediately:

- A. Post a sign affixed to the inside of the building indicating the name, address and telephone number of the owner, the owner's authorized agent for the purpose of service of process (if designated pursuant to § 42-3), and the person responsible for the day-to-day supervision and management of the building, if such person is different from the owner holding title or authorized agent. The sign shall be of a size and placed in such a location so as to be legible from the nearest public street or sidewalk, whichever is nearer, but shall be no smaller than 12 inches by 12 inches; and
- B. Enclose and secure the building against unauthorized entry as provided in the applicable provisions of the Code of the Town of Newton and maintain the sign required in Subsection A above until the building is again legally occupied or demolished or until repair or rehabilitation of the building is complete; and
- C. Make provision for the maintenance of the lawn and yard, including regular grass cutting as required by the applicable provisions of the Code of the Town of Newton; and
- D. Make provision for the cessation of the delivery of mail, newspapers and circulars to the property, including having the property listed on the exclusion list maintained by the Town of Newton for the delivery of circulars and advertisements to the property; and
- E. Make provision for the winterizing of the property by the cessation of water service to the property and the draining of water lines; other than buildings with a fire sprinkler system; and

- F. Make provision for the cessation of electric or gas utility services to the property; other than buildings with a fire sprinkler system; and
- G. Make provision for the regular maintenance of the exterior of the property.

**§ 42-6 Violations and penalties.**

- A. Any owner who is not in full compliance with this Chapter or who otherwise violates any provision of this Chapter or of the rules and regulations issued hereunder shall be subject to a fine of not less than \$500 and not more than \$1,000 for each offense, payable to the Town of Newton, at the Clerk's office. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this Chapter shall be recoverable from the owner and shall be a lien on the property.
- B. For purposes of this Chapter, failure to file a registration statement in time, failure to provide correct information on the registration statement, and failure to comply with the provisions of § 42-5, shall be deemed to be a violation of this Chapter.

**§ 42-7 Compliance with other provisions.**

Nothing in this Chapter is intended to nor shall be read to conflict or prevent the Town of Newton from taking action permitted by law of Newton Town Code, including buildings found to be unfit for human habitation or unsafe structures as provided in applicable provisions of the Code of the Town of Newton and/or the Uniform Construction Code. Further, any action taken under any such code provision other than the demolition of a structure shall not relieve an owner from its obligations under this Chapter.

**§ 42-8 Request for exemption.**

Any owner having received notice from the Town that their property has been determined to be either vacant or abandoned may make a request in writing to the Town for an exemption from any of the provisions of this Chapter by demonstrating to the Town such special circumstances peculiar to the property that warrants either a temporary or permanent exemption from any of the provisions of this Chapter. In the event of a denial of any such exemption request, the owner shall have the right to file an appeal in accordance with §42-9, below.

**§ 42-9 Appeals.**

Any owner having received notice from the Town that their property has been determined to be either vacant or abandoned shall have the right to appeal any such determination by any Town official directly to the governing body of the Town of Newton. Any such appeal shall be taken within 45 days of the date of the receipt of notice from the Town of such vacant or abandoned property determination. The appeal shall be in writing and served on the Town Clerk with a copy to the Town Zoning Officer. Upon the filing of the appeal, all proceedings against the property shall be stayed pending the appeal process. The governing body shall schedule a hearing on the appeal as soon as practical at a regularly scheduled meeting of the Mayor and Council, at which time the property owner shall have the right to present relevant evidence to the Town Council that the property is neither vacant or abandoned. Any such property owner shall have the right to be represented at any such hearing and shall have the right to call witnesses and present other relevant proof. The Mayor shall preside all such hearings, which shall to the extent applicable, be in accordance with the provisions of N.J.S.A. 40:55D-10.

**SECTION 2. Severability.** If any provision of this Ordinance or the application of this Ordinance to any person or circumstances is held invalid, the remainder of this Ordinance shall not be affected and shall remain in full force and effect.

**SECTION 3. Repealer.** All ordinances or parts of ordinances or resolutions that are inconsistent or in opposition to the provisions of this Ordinance are hereby repealed in their entirety.

**SECTION 4. Effective Date.** This Ordinance will take effect after publication and passage according to law.

Mayor Diglio opened the hearing to the public.

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

Prior to the adoption, Mrs. Leo noted minor amendments to the Ordinance.

The aforementioned **Ordinance 2017-10, as amended**, was offered by Mr. Flynn, who moved its adoption, seconded by Mr. Elvidge and roll call resulted as follows:

Deputy Mayor Levante	Yes	Mr. Elvidge	Yes
Mr. Flynn	Yes	Mrs. Le Frois	Absent
Mayor Diglio		Yes	

This Ordinance will take effect after publication and adoption according to law. The Clerk will advertise the above Ordinance according to law.

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

**ORDINANCE 2017-11**

**AN ORDINANCE AMENDING CHAPTER 279 OF THE CODE OF THE TOWN OF NEWTON, ADOPTING A NEW ARTICLE III, REGARDING DISABLED VETERANS TAX REFUNDS**

The aforementioned **ORDINANCE 2017-11** was offered by Deputy Mayor Levante, who moved its introduction, seconded by Mr. Flynn and roll call resulted as follows:

Deputy Mayor Levante	Yes	Mr. Elvidge	Yes
Mr. Flynn	Yes	Mrs. Le Frois	Absent
Mayor Diglio		Yes	

**BE IT RESOLVED** by the Town Council of the Town of Newton that the above Ordinance be introduced for the first reading, with hearing on same to be held on June 12, 2017.

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

**ORDINANCE 2017-12**

**AN ORDINANCE REVISING SECTIONS 250-17, 250-18 and 250-19 OF THE CODE OF THE TOWN OF NEWTON, REGARDING DUMPSTERS**

The aforementioned **ORDINANCE 2017-12** was offered by Mr. Flynn, who moved its introduction, seconded by Deputy Mayor Levante and roll call resulted as follows:

May 22, 2017

Deputy Mayor Levante	Yes	Mr. Elvidge	Yes
Mr. Flynn	Yes	Mrs. Le Frois	Absent
Mayor Diglio		Yes	

**BE IT RESOLVED** by the Town Council of the Town of Newton that the above Ordinance be introduced for the first reading, with hearing on same to be held on June 12, 2017.

**OLD BUSINESS**

There was no old business to discuss.

**CONSENT AGENDA**

Mayor Diglio read the following statement:

*"All items listed with an asterisk (\*) are considered to be routine and non-controversial by the Town Council and will be approved by one motion. There will be no separate discussion of these items unless a Council member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda."*

Mr. Russo reviewed the consent agenda.

**RESOLUTION #84-2017\***

**AWARD OF CLEANING SERVICES BID #7-2017**

**WHEREAS**, the Town has received bids on May 10, 2017 for Bid #7-2017 to wit; Cleaning Services Re-Bid; and

**WHEREAS**, the Town duly advertised for bids which were opened on May 10, 2017 at 10:30am, where the lowest apparent bidder, First Community Development Corporation of New Jersey, Belleville, N.J., provided for a response of the base bid plus options of \$20,975.00; and

**WHEREAS**, the New Jersey Local Publics Contract Law, 40A:11-1 et. Seq., demands bidders and vendors meet the standards of responsive and responsible as indicated in the Local Publics Contract Law; and

**WHEREAS**, the Town of Newton's Qualified Purchasing Agent, Sean P. Canning of the Canning Group, LLC (QPA), has reviewed the bid and concurs First Community Development Corporation of New Jersey has met the standards of responsive and responsible as outlined within law;

**WHEREAS**, the Chief Financial Officer has certified funds are available to support this agreement;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton, Sussex County, NJ, that the recommendation of its QPA is hereby accepted, and the bid provided under Bid #7-2017 by First Community Development Corporation of New Jersey, Belleville, N.J, for Cleaning Services is hereby accepted and to enter into a two (2) year contract for services as per the specifications and services outlined in Bid #7-2017.

**RESOLUTION #85-2017\***

**RESOLUTION AUTHORIZING \$50.00 CREDIT TO THE WATER BILL OF CATHY GULDAN & DEBORAH BROWN**

May 22, 2017

**WHEREAS**, on May 8, 2017, the Newton Department of Public Works performed repairs for a sewer line blockage that required access to a manhole through property located at 28 Clinton Street, Block 5.05, Lot 8, in the Town of Newton (the "Property"), owned by Cathy Guldán and Deborah Brown; and

**WHEREAS**, during the performance of the work, the Department of Public Works caused damage to the lawn on the Property; and

**WHEREAS**, instead of the Department of Public Works repairing the Property, a credit on the water utility bill has been requested by the property owners;

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton authorizes a water utility bill credit of \$50.00 to Cathy Guldán and Deborah Brown, owners of the property known as 28 Clinton Street, Block 5.05, Lot 8, due to the damage caused by the Department of Public Works on the Property; and the Town of Newton is hereby authorized to process the credit.

#### **RESOLUTION #86-2017\***

#### **RESOLUTION AUTHORIZING PROFESSIONAL SERVICE AGREEMENT WITH MAX SPANN REAL ESTATE & AUCTION**

**WHEREAS**, the Town Council desires to use the services of a professional real estate auction company in order to market and auction real property, which professional services are awarded under non-fair and open contracts pursuant to N.J.S.A. 40A:11-5; and

**WHEREAS**, the Town Council desires to hire Max Spann Real Estate & Auction ("Max Spann Auction") to market the Properties and conduct the auction. Max Spann Auction Company shall be paid by the buyers of the property through a 10% buyer's premium to be added to the successful bid amount. However, in the event that the property is sold and the buyer's premium does not equal or exceed \$4,000.00 or the amount actually spent if less than \$4,000.00 was spent by Max Spann Auction for marketing the property, the Town shall be responsible for paying the difference between the auction company's marketing investment of \$4,000.00, or if less than \$4,000.00 was spent, the amount actually spent by Max Spann Auction and the buyer's premium paid. In the event the property does not sell, the Town is not responsible for paying the marketing investment;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton, that the Town Council authorizes the Mayor and Municipal Clerk to execute a professional services agreement with Max Spann Real Estate & Auction Company; and

**BE IT FURTHER RESOLVED**, that this Resolution and a copy of the professional services agreement shall be provided to Max Spann Real Estate & Auction Company, and shall be advertised, and is on file and available for **public** inspection in the office of the Municipal Clerk; and

**BE IT FURTHER RESOLVED** that this Resolution shall take effect immediately and shall be void and of no effect in the event that Max Spann Real Estate & Auction Company does not sign the professional services agreement.

#### **RESOLUTION #87-2017\***

#### **APPOINTMENT OF THOMAS BUTTERFIELD AS A REGULAR MEMBER OF THE PLANNING BOARD**

**WHEREAS**, there is currently a vacancy for a Regular member on the Town of Newton Planning Board due to the May 15, 2017 resignation of Joseph Ricciardo; and

**WHEREAS**, Thomas Butterfield currently serves as an Alternate Member on the Planning Board;

May 22, 2017

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton, that Thomas Butterfield is hereby appointed to an unexpired four-year term as a Regular member on the Planning Board, effective immediately with said term continuing to December 31, 2019.

**RESOLUTION #88-2017\***

**AUTHORIZING THE PUBLIC SALE OF REAL PROPERTY PURSUANT TO N.J.S.A. 40A:12-13**

**WHEREAS**, the Town of Newton is the owner of property set forth in Schedule "A" which property is no longer needed or required for municipal use; and

**WHEREAS**, the Newton Town Council deems it in the best interest of the Town of Newton to sell the property by public auction sale in accordance with the provisions of N.J.S.A. 40A:12-13(a) et seq.; and

**WHEREAS**, the Town of Newton is utilizing the services of Max Spann Real Estate & Auction Company, an auction company in order to market the property. A condition of the sale as reflected below is that the successful bidder shall be responsible for paying the "Buyer's Premium" to Max Spann Real Estate & Auction Company equal to ten percent (10%) of the sales price, this fee shall be added to the successful bidder's bid;

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

1. The Town of Newton shall sell, pursuant to the provisions of N.J.S.A. 40A:12-13(a), the property listed on Schedule "A". If a minimum sale price is set for the property it is reflected in Schedule "A", which sum is not less than the fair market value.
2. The sale shall be conducted as an auction and shall take place as published per paragraph 3 below (hereinafter referred to as "sale date") at the Town of Newton Municipal Building, 39 Trinity Street, Newton, New Jersey 07860.
3. A copy of this resolution shall be posted on the bulletin board or other conspicuous place in the Municipal Building. Notice of the public sale shall be published in the official Town of Newton newspaper by two insertions at least once a week during two consecutive weeks, the last publication shall be within seven (7) days prior to the sale date.
4. In the event any of the properties being sold are less than the minimum size required for development under the Town of Newton Zoning Ordinance and are without any capital improvements, contiguous property owner(s) shall have the right of first refusal as provided for in N.J.S.A. 40A:12-13.2. In order to exercise the right of first refusal, the contiguous property owner(s) must appear at the public sale and exercise their right of first refusal by bidding on the property. For properties subject to N.J.S.A. 40A:12-13.2, a copy of this Resolution shall be mailed to the contiguous property owners at their last known address as reflected on the tax duplicates. The Resolution shall be mailed at the time that Notice is first published as provided for in paragraph three of this Resolution.
5. The property shall be sold subject to the following terms and conditions:
  - (a) The descriptions of the property are intended as a general guide only and may not be accurate. No representations of any kind are made by the Town of Newton as to the conditions of the property; the premises are being sold in the present condition "as is".
  - (b) The property shall be sold for not less than the amount, if any set forth in Schedule "A".
  - (c) The Town of Newton does not warrant or certify title to the property and in no event shall the Town of Newton be liable for any damages to the purchaser/successful bidder if title is found unmarketable and the purchaser/successful bidder waives any and all right in damages or by way of liens against the Town of Newton. The sole remedy being the right to receive a refund, prior

to closing, of the deposit paid in the event title is found unmarketable. It shall be the obligation of the successful purchaser to examine title to the premises prior to the closing. In the event of closing and later finding of defect of title, the Town of Newton shall not be responsible for the same nor shall it be required to refund money or correct any defect in title or be held liable for damages.

- (d) Acceptance of the highest bid shall constitute a binding agreement of sale, and the purchaser shall be deemed to agree to comply with the terms and conditions of the sale contained in this resolution.
- (e) Bidder shall deposit with the Town cash, check or money order in the amount of not less than 10% of the bid price at the time of sale. In the event the successful bidder fails to deposit 10% of the bid price at the time of the sale, the Town of Newton will re-auction the property at the same public sale. If the successful bidder fails to pay the deposit, the bidder shall be responsible for any difference between their bid and the final sale bid in the event such bid is lower than the bid of the original bidder.
- (f) The Purchaser must pay the balance of the purchase price, plus (1) the sum of \$450 for the legal services incurred by the Town, (2) a Buyer's Premium directly to the auctioneer, Max Spann Real Estate & Auction Company, which is equal to ten percent (10%) of the successful bidder's bid, (3) the Town of Newton's advertising and recording fees within thirty (30) days after the date the Council adopts a resolution confirming the winning bid(s). and (4) realty transfer fees, if any. The balance shall be paid by certified funds. Once the purchase price has been paid, a Quitclaim Deed without covenants will be prepared by the Town Attorney and, after execution by the Town Officials, shall be recorded with the Sussex County Clerk's Office by the Town Attorney. Additional work performed by the Town Attorneys beyond the standard preparation of the sale resolutions, Deed and closing statement shall be billed at the rate charged by the Town Attorney's and shall be the responsibility of the purchaser, which fees must be paid prior to the Deed being recorded.
- (g) The Deed will be subject to all matters of record which may affect title, including what an accurate survey may reveal, as well as the requirements of the Ordinances of the Town of Newton. The Town of Newton reserves an easement for all natural or constructed drainage systems or waterways on the premises and the continued right of maintenance and flow.  

Property in Schedule "A", the real property located at 24 Lawnwood Ave, Block 13.05, Lot 13 (formerly Block 1005, Lot 11).
- (h) The property will be sold subject to the current year taxes, pro rated from the date of sale.
- (i) The Town Council reserve the right to withdraw this offer to sell, or upon completion of the bidding to accept or reject any or all bids for the property or to waive any informality.
- (j) All bidders currently owning property within the Town of Newton must have their taxes, as well as sewer and water charges, paid to date in order to be a qualified bidder. In the event the bidder's taxes or sewer or water charges are delinquent, the bidder shall be deemed unqualified and such bid shall be rejected.
- (k) This sale is made subject to all applicable laws, statutes, regulations and ordinances of the United States, State of New Jersey and the Town of Newton.
- (l) No employee, agent or officer of the Town of Newton has any authority to waive, modify or amend any of the conditions of sale.

- (m) The purchaser must abide by appropriate zoning, subdivision, health and building regulations and code and agrees that this sale will not be used as grounds to support any variance from or realization of the regulations.
  - (n) The failure of the Purchaser to close on title within the time provided for in Subsection 5(f) of this Resolution shall constitute a breach of this Agreement unless the Town agrees in writing prior to that date to extend the time of the closing. In the event the Purchaser fails to close within the dates provided for in Section 5(f) or such date as maybe extended by the Town, the deposit paid by the Purchaser shall be retained by the Town as liquidated damages. The Town of Newton is entitled to retain the Purchaser's deposit to the extent of any expenses and/or losses it incurs including but not limited to advertising costs, attorneys fees, lost tax revenues from the date of the required closing as well as additional cost of resale and the difference in the sales price, to the extent the property is sold for a lower price and any subsequent sale. The only exception to this section is in the event that the Purchaser fails to close as a result of the title being unmarketable, in which case the Purchaser shall be entitled to a refund of their deposit as provided for in Section 5(c) of this Resolution.
  - (o) The purchase shall not be used for any County Board of Taxation, Tax Court of New Jersey, or in any Courts of the State as grounds to support a challenge of the existing assessments with regard to other properties.
  - (p) The sale shall be subject to final approval by the Newton Town Council who may accept or reject any bid in their absolute discretion.
  - (q) Acceptance of the highest bid by the Town shall constitute a binding agreement of sale and purchaser shall be deemed to agree to comply with the terms and conditions of this resolution.
  - (r) In the event the property being sold to a contiguous property owner is less than the minimum size required for development under the municipal zoning ordinances and is without capital improvements, it shall merge with the successful bidder's existing adjoining property. The deeded conveyance shall contain a restriction that there shall be no subdivision of the merged lot or lots created by this sale and no structure or improvements shall be built on or under such property. The successful bidder shall provide a copy of their existing property Deed to the Town Attorney within seven (7) days of their being notified that they are the successful bidder of the sale.
6. If any section, subsection, sentence, clause or phrase of this resolution is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this resolution.
7. Potential Bidders are advised:
- (a) To conduct all necessary title searches prior to the date of sale.
  - (b) No representations of any kind are made by the Town of Newton as to the conditions of the Property, including habitability or usability; the Property is being sold in its present conditions "as is".
  - (c) The Property will be conveyed by a Quit Claim Deed and such conveyance shall be subject to all covenants, restrictions, reservations and easements established of record or by prescription and without representation as to character of title of the Property to be conveyed.
  - (d) The highest bidder for the Property shall have the right, at its sole cost and expense, to obtain a new survey of the Property. Provided such survey depicts the Property and is certified to be correct to the Town of Newton, the Town of Newton shall utilize the legal description drawn in accordance with such survey in the

Deed of conveyance, provided the highest bidder provides such legal description and a copy of the certified survey to the Town of Newton not less than one week prior to the date set for closing of title.

8. Additional Terms the Successful Bidder must comply with:
  - (a) To abide by appropriate zoning, subdivision, health and building regulations and codes and stipulate that this sale will not be used as grounds to support any variance from the regulations.
  - (b) That the failure to close title as agreed shall forfeit to the Town of Newton any and all money deposited with the Town.
9. This resolution shall take effect immediately.

**SCHEDULE "A"**

<b>Block/Lot</b>	<b>Street Address</b>	<b>Status of Property</b>
<b>Block 13.05, Lot 13</b>	<b>24 Lawnwood Avenue</b>	<b>Uninhabitable building</b>

**RESOLUTION #89-2017\***

**A RESOLUTION OF THE TOWN OF NEWTON AUTHORIZING THE PURCHASE OF GENERAL ELECTRICITY SUPPLY SERVICES FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE**

**WHEREAS**, Town of Newton has determined to move forward with the EMEX Reverse Auction in order procure electricity for the Town of Newton; and

**WHEREAS**, the Local Unit Technology Pilot Program and Study Act (P.L. 2001, c. 30) (the "Act") authorizes the purchase of electricity supply service for public use through the use of an online auction service; and

**WHEREAS**, Town of Newton will utilize the online auction services of EMEX, LLC, an approved vendor pursuant to the Act, waiver number EMEX LLC-1, located at [www.energymarketexchange.com](http://www.energymarketexchange.com); and

**WHEREAS**, EMEX, LLC is compensated for all services rendered through the participating supplier that a contract is awarded to; and

**WHEREAS**, the auction will be conducted pursuant to the Act; and

**WHEREAS**, if the auction achieves a price of \$0.0869/kWh or less for a 12-month term, a price of \$0.0874/kWh or less for an 18-month term, or a price of \$0.0869/kWh or less for a 24-month term; Town of Newton may award a contract to the winning supplier for the selected term;

**NOW, THEREFORE BE IT RESOLVED**, that the Town Manager or Mayor of the Town of Newton be hereby authorized to execute on behalf of the Town of Newton any electricity contract proffered by the participating supplier that submits the winning bid in the EMEX Reverse Auction if the auction achieves a price of \$0.0869/kWh or less for a 12-month term, a price of \$0.0874/kWh or less for an 18-month term, or a price of \$0.0869/kWh or less for a 24-month term; the Town of Newton may award a contract to the winning supplier for the selected term.

**RESOLUTION #90-2017\***

**A RESOLUTION OF THE TOWN OF NEWTON AUTHORIZING THE PURCHASE OF ELECTRICITY SUPPLY SERVICES FOR LIGHTING FOR PUBLIC USE ON AN ONLINE AUCTION WEBSITE**

**WHEREAS**, Town of Newton has determined to move forward with the EMEX Reverse Auction in order procure electricity for the Town of Newton; and

May 22, 2017

**WHEREAS**, the Local Unit Technology Pilot Program and Study Act (P.L. 2001, c. 30) (the "Act") authorizes the purchase of electricity supply service for public use through the use of an online auction service; and

**WHEREAS**, Town of Newton will utilize the online auction services of EMEX, LLC, an approved vendor pursuant to the Act, waiver number EMEX LLC-1, located at [www.energymarketexchange.com](http://www.energymarketexchange.com); and

**WHEREAS**, EMEX, LLC is compensated for all services rendered through the participating supplier that a contract is awarded to; and

**WHEREAS**, the auction will be conducted pursuant to the Act; and

**WHEREAS**, if the auction achieves a price of \$0.0565/kWh or less for a 12-month term, a price of \$0.0579/kWh or less for an 18-month term, or a price of \$0.0565/kWh or less for a 24-month term; Town of Newton may award a contract to the winning supplier for the selected term;

**NOW, THEREFORE BE IT RESOLVED**, that the Town Manager or Mayor of the Town of Newton be hereby authorized to execute on behalf of the Town of Newton any electricity contract proffered by the participating supplier that submits the winning bid in the EMEX Reverse Auction if the auction achieves a price of \$0.0565/kWh or less for a 12-month term, a price of \$0.0579/kWh or less for an 18-month term, or a price of \$0.0565/kWh or less for a 24-month term; the Town of Newton may award a contract to the winning supplier for the selected term.

#### **RESOLUTION #91-2017\***

#### **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 2016 and 2017 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**

31.46	ADVANCE AUTO PARTS	38233
457.82	ARF RENTAL SERVICES, INC.	38234
81.91	AW DIRECT INC	38235
539.98	B & H INC.	38236
1,925.00	BLACK LAGOON	38237
556.71	BOONTON TIRE SUPPLY INC.	38238
144.20	CAMPBELL'S SMALL ENGINE INC.	38239
177.82	CENTURYLINK COMMUNICATIONS, INC.	38240
3,521.35	CENTURYLINK COMMUNICATIONS, INC.	38241
133.86	CINTAS CORPORATION NO. 2	38242
46.62	CINTAS CORPORATION NO. 2	38243
159.00	CIVIL SERVICE COMMISSION	38244
756.03	DEMPSEY UNIFORM & SUPPLY INC	38245
150.00	DLS HEALTH WORKS, LLC.	38246
291.20	E.A. MORSE COMPANY, INC.	38247
8,000.00	FERRAIOLI, CERULLO & CUVA	38248
90.00	G.F.O.A. OF N.J.	38249
191.69	GALLS, LLC	38250
500.00	GREATER NEWTON CHMBR OF COMM.	38251
2,039.95	HAMPTON BODY WORKS, INC.	38252
61.68	HOME DEPOT, INC.	38253
1,246.50	J. CALDWELL & ASSOCIATES, LLC.	38254
555.89	JCP&L	38255
2,916.67	JOHN MULHERN	38256

May 22, 2017

2,462.50	LADDEY, CLARK & RYAN, LLP	38257
150.00	MACHESTER TOWNSHIP POLICE FOUNDATI	38258
144.48	MONTAGUE TOOL & SUPPLY, INC.	38259
1,067.92	ELIZABETHTOWN GAS	38260
685.00	OFFICE BUSINESS SYSTEMS INC	38261
390.00	PELLOW, HAROLD & ASSOC., INC.	38262
949.60	PENTELEDATA	38263
2,236.84	PETRO-MECHANICS, INC.	38264
1,529.15	PUBLIC ENGINES, INC.	38265
2,533.21	RACHLES/MICHELE'S OIL COMPANY, INC.	38266
6,539.78	SCHENCK, PRICE, SMITH, & KING, LLP	38267
56.98	SERVICE ELECTRIC CABLE TV	38268
106.25	SLOAN, JAMES PPC.	38269
225.00	SPARTA POSTMASTER	38270
937.13	STAPLES BUSINESS ADVANTAGE, INC.	38271
105.00	SUSSEX CAR WASH INC.	38272
1,218.41	TAYLOR OIL CO., INC.	38273
52.75	TERESA ANN OSWIN	52.75
62.06	TIMMERMAN COMPANY, INC.	38275
472.08	TOYOTA MOTOR CREDIT CORP.	38276
1,700.00	TRIMBOLI & PRUSINOWSKI, LLC.	38277
321.23	UNIVERSAL SUPPLY GROUP INC.	38278
88.38	V.E. RALPH & SON, INC.	38279
1,480.27	VERIZON WIRELESS, INC.	38280
1,275.00	VOGEL, CHAIT, COLLINS, SCHNEIDER, PC,	38281
625.89	W.B. MASON, INC.	38282
190,084.62	PAYROLL ACCOUNT	171037
3,674.79	COUNTY OF SUSSEX	38232
51,315.21	COUNTY OF SUSSEX	38231
10,985.41	COUNTY OF SUSSEX	38230
818,388.80	COUNTY OF SUSSEX	38229
7,875.00	BNY MELLON	171036
200,920.00	BNY MELLON	171035
130.54	ELAVON	171034

**CAPITAL**

3,950.00	FKA ARCHITECTS INC.	8617
----------	---------------------	------

**Total TOWN BILLS \$ 1,339,314.62**

**WATER AND SEWER ACCOUNT**

4,824.00	ACCURATE WASTE REMOVAL INC.	16317
11.01	AIRGAS EAST	16318
3,885.48	AIRMATIC COMPRESSOR SYSTEMS, INC.	16319
825.00	AMERICAN AQUATIC TESTING, INC.	16320
1,225.00	APPALACHIAN FORESTRY SERVICE	16321
602.72	CCP INDUSTRIES, INC.	16322
39.07	CENTURYLINK COMMUNICATIONS, INC.	16323
1,198.03	CENTURYLINK COMMUNICATIONS, INC.	16324
83.19	CINTAS CORPORATION NO. 2	16325
286.50	DEMPSEY UNIFORM & SUPPLY INC	16326
13,000.00	FERRAIOLI, CERULLO & CUVA	16327
668.55	HACH COMPANY	16328
320.54	HOME DEPOT, INC.	16329
675.00	KKPR MARKETING & PUBLIC RELATIONS	16330
664.00	MINISINK PRESS INC	16331
1,780.47	MOTT MACDONALD	16332
519.96	ELIZABETHTOWN GAS	16333
243.75	ONE CALL CONCEPTS, INC.	16334
219.90	PENTELEDATA	16335
3,334.12	SCHMIDT'S WHOLESALE, INC.	16336

May 22, 2017

1,250.00	SMALLEY, JOHN H	16337
225.00	SPARTE POSTMASTER	16338
3,443.52	SUBURBAN PROPANE, LP.	16339
223.31	VERIZON WIRELESS, INC.	16340
48.00	WALMART	16341
37,481.35	PAYROLL ACCOUNT	176018

**Total WATER & SEWER Bills \$ 77,077.47**

**TRUST ACCOUNT**

1,290.00	J. CALDWELL & ASSOCIATES, LLC.	3609
1,762.25	PELLOW, HAROLD & ASSO, INC.	3610
1,125.00	SLOAN, JAMES PPC.	3611
600.00	VOGEL, CHAIT, COLLINS, SCHNEIDER, PC,	3612
2,551.50	PAYROLL ACCOUNT	177108

**Total TRUST ACCOUNT Bills \$ 7,328.75**

**SUI (FUND 73) ACCOUNT**

1,624.66	S/NJ EMPLOYER ACCOUNTS	1111
----------	------------------------	------

**Total SUI (FUND 73) ACCOUNT Bills \$ 1,624.66**

**FEDERAL/STATE GRANTS ACCOUNT**

105.65	DOMINICK'S PIZZA LLC	1364
601.80	E.A. MORSE & COMPANY, INC.	1365
115.70	WEIS MARKETS, INC.	1366
436.95	PAYROLL ACCOUNT	171110

**Total FEDERAL/STATE GRANTS ACCOUNT Bills \$ 1,260.10**

The Clerk presented an application for a permit for a social affair from the Newton Fire Department, to be held on Saturday, June 3, 2017 from 4:00 pm to 7:00 pm at the Newton Fire House Station 2, 56 Woodside Avenue, Newton. It was noted the application was in order.

The Clerk presented an application for an on-premise raffle (50-50) from the Pride Foundation, Inc., to be held on September 15, 2017 at 7:00 pm; September 29, 2017 at 7:00 pm; October 6, 2017 at 7:00 pm; October 20, 2017 at 7:00 pm; November 2, 2017 at 7:00 pm; November 10, 2017 at 7:00 pm; November 17, 2017 at 7:00 pm; December 5, 2017 at 6:00 pm; December 12, 2017 at 6:00 pm; and December 19, 2017 at 6:00 pm at 44 Ryerson Avenue, Newton. It was noted the application was in order and accompanied by the prescribed fees.

A motion was made by Mr. Flynn to approve the updated **COMBINED ACTION RESOLUTIONS**, seconded by Deputy Mayor Levante and roll call resulted as follows:

Deputy Mayor Levante	Yes	Mr. Elvidge	Yes
Mr. Flynn	Yes	Mrs. Le Frois	Absent

May 22, 2017

Mayor Diglio

Yes

**INTERMISSION** – None

**DISCUSSION** – None

**OPEN TO THE PUBLIC**

At this time, Mayor Diglio opened the meeting to the public.

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

**COUNCIL & MANAGER COMMENTS**

Mr. Russo noted there is one item for executive session.

Deputy Mayor Levante congratulated Dr. Ken Greene, Newton Board of Education Superintendent, who was recently recognized in 2017 Insider NJ, for his ideas which have formed the basis for much of the debate in Trenton over the schools funding formula debate.

Councilman Flynn addressed his concerns with the condemning of abandoned properties which was addressed by the Town Attorney. After a brief discussion, Mr. Russo indicated he would address Council's concerns with the Police Chief.

Mayor Diglio thanked Councilman Flynn and Jackie Espinoza for reinstating the New Jersey League of Municipalities (NJLOM) in Sussex County. Mr. Flynn indicated this group will have quarterly meetings with members in Sussex County to address issues surrounding the local municipalities.

Councilman Elvidge questioned the property on Lawnwood Avenue, owned by the Town, which was addressed by Mr. Russo.

Councilman Elvidge addressed a few concerns which was addressed by Mr. Russo.

**EXECUTIVE SESSION**

Upon motion of Deputy Mayor Levante, seconded by Mr. Flynn and unanimously carried, Council entered Executive Session at 7:37 pm.

Upon motion of Deputy Mayor Levante, seconded by Mr. Flynn and unanimously carried, Council left Executive Session at 8:00 pm.

There being no further business to be conducted, upon motion of Mr. Flynn, seconded by Deputy Mayor Levante and unanimously carried, the meeting was adjourned at 8:01 pm.

May 22, 2017

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lorraine A. Read". The signature is written in a cursive style with a large initial 'L' and 'R'.

Lorraine A. Read, RMC  
Municipal Clerk