

June 9, 2008

The regular meeting of the Town Council of the Town of Newton was held on the above date at 7:00 p.m. Present were Mr. Elvidge, Mr. Diglio, Mr. Storm, Mr. Ricciardo, Mayor Unhoch and Town Manager, Eileen Kithcart.

Mayor Unhoch made the following declaration that "in accordance with the Open Public Meetings Act, notice of this public meeting was given to the two newspapers of record and posted on the official bulletin board on December 26, 2007".

Mayor Unhoch 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 by Mr. Ricciardo, seconded by Mr. Elvidge and carried, the minutes of March 24, 2008 (regular & work), April 7, 2008 (work) meetings were approved.

Under Reading of Ordinances, Mayor Unhoch directed the Clerk to read aloud the following Ordinance relative to final adoption.

**ORDINANCE #2008-10**

**ORDINANCE REPEALING CHAPTER 5, SECTION 2, "LOITERING" OF THE REVISED GENERAL ORDINANCES OF THE TOWN OF NEWTON.**

**WHEREAS**, Chapter 5 Section 2, of the Revised General Ordinances of the Town of Newton entitled "Loitering" prohibits certain activities commonly referred to as "loitering." and;

**WHEREAS**, Loitering ordinances, like the ordinance contained in Chapter 5, Section 2 of the Revised General Ordinances of the Town of Newton, were declared invalid by the New Jersey Supreme Court in State v. Crawley, 90 N.J. 241 (1982) and;

**WHEREAS**, The Court invalidated municipal loitering ordinances based on the fact that the New Jersey Code of Criminal Justice had contained a prohibition on loitering which was repealed by the State Legislature; and

**WHEREAS**, This ordinance has not been enforced and was rendered irrelevant by the Court decision.

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

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**Section 1.** Chapter 5, Section 2 of the Revised General Ordinance of the Town of Newton, entitled “Loitering” shall be and is hereby repealed in its entirety.

**Section 2.** If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

**Section 3.** All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

**Section 4.** This Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

Mayor Unhoch declared the hearing on Ordinance #2008-10 open to the public.

There being no one from the public to be heard, upon motion by Mr. Storm, seconded by Mr. Ricciardo and carried, the hearing was closed.

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

Mr. Elvidge	Yes	Mr. Diglio	Yes
Mr. Storm	Yes	Mr. Ricciardo	Yes
Mayor Unhoch	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.

Upon motion by Mr. Storm, seconded by Mr. Diglio and carried, that the Clerk be authorized and directed to advertise the above Ordinance according to law.

There being no Old Business, under New Business, the Town Manager requested a resolution to authorize credits due Water and Sewer Utility Accounts.

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

Mr. Elvidge	Yes	Mr. Diglio	Yes
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Mr. Storm                      Yes                      Mr. Ricciardo                      Yes  
   Mayor Unhoch                      Yes

**RESOLUTION #83-2008**

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

**NOW THEREFORE BE IT RESOLVED** by the town Council of the Town of Newton that the Water and Sewer Collector is hereby authorized to credit the following accounts for amounts billed incorrectly due to the reason stated:

BILLING ERROR – INCORRECT ALTERED READING NOT DISCOVERED UNTIL AFTER BILL PRINTED.

<u>ACCOUNT</u>	<u>ADDRESS</u>	<u>AMOUNT</u>
1117	7 Madison Street	\$4,931.70

The Town Manager requested a resolution to reject Bids for 2 million gallon water tank rehabilitation & cleaning.

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

Mr. Elvidge                      Yes                      Mr. Diglio                      Yes  
Mr. Storm                      Yes                      Mr. Ricciardo                      Yes  
   Mayor Unhoch                      Yes

**RESOLUTION #84-2008**

**WHEREAS**, the Town of Newton publicly accepted bids for 2 Million Gallon Water Tank Rehabilitation & Cleaning on Tuesday, June 3, 2008 at 11:00 a.m. as follows:

<u>Names and Address of Bidder</u>	<u>Bid Amount</u>	<u>Stainless Steel Ventilator</u>	<u>Roof Hatch Security Strap</u>
Natgun Corporation 11 Teal Road Wakefield, MA 01880	\$75,4570.00	\$9,500.00	\$6,000.00 (2)
Alpine Painting & Sand Blasting Contracting 17 Florida Avenue Paterson, NJ 07503	\$42,156.00	\$12,900.00	\$2,000.00
US Tank Painting, Inc. 900 Rike Drive Millstone Township, NJ 08535	\$121,000.00	\$6,000.00	\$2,000.00

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**WHEREAS**, Natgun Corporation failed to supply the required Business Registration Certificate per the Local Public Contracts Laws. Alpine Painting and Sandblasting Contracting was determined not to be prequalified per section 1.3 of the specifications due to lack of experience on pre-stressed concrete tanks conforming to AWWA D110, Type III, with a minimum capacity of 2.0 MG as per the Town Engineer. US Tank Painting Inc. failed to supply any prequalification material per section 1.3 of the specifications;

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that all bids submitted for 2 Million Gallon Water Tank Rehabilitation & Cleaning be rejected.

The Town Manager requested a resolution to authorize contracts for the paving of Ryerson Avenue and other various Streets projects and traffic striping on roadways based on Bid Awards through the Morris County Cooperative Pricing Council.

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

Mr. Elvidge	Yes	Mr. Diglio	Yes
Mr. Storm	Yes	Mr. Ricciardo	Yes
Mayor Unhoch	Yes		

**RESOLUTION #85-2008**

**WHEREAS**, the Governing Board of the Town of Newton adopted Resolution #205-2007 on December 10, 2008 in an effort to save budgeted monies and improve services for itself by participating in the Morris County Cooperative Pricing Council, and

**WHEREAS**, Owl Contracting, 21 Gill Avenue, Rockaway, New Jersey was the low bidder on the Morris County Co-op portion for municipalities with regard to resurfacing of roads, and

**WHEREAS**, Denville Line Painting, Inc., 2 Green Road, Rockaway, new Jersey was the low bidder on the Morris Co-op portion for municipalities with regard to traffic striping on roadways, and

**WHEREAS**, by memo dated June 4, 2008, the Town Engineer, Harold E. Pellow, has recommended that Owl Contracting and Denville Line painting be retained to resurface various streets and line stripe within the Town of Newton, based on bid awards through the Morris County Cooperative Pricing Council as follows:

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County Item No	Contractor	Description	Unit Measure	Quantity	Unit Price	Amount
6.	Owl Contracting	Milling 2"Thick	Sq.Yd.	33,407	\$2.50	\$85,517.00
6.	Owl Contracting	Hot Mix Asphalt. 2" Thick Mix 1-5	Ton	4,686	\$52.70	\$293,812.20
36.	Denville Line Paint	Traffic Stripes Stop Bars Crosswalks				\$1,428.07
Total Contract:						\$378,757.77

**WHEREAS**, the Chief Financial Officer has certified that funds are available to support these projects as per the attached certification;

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that the contracts for the Paving of Ryerson Avenue project and the paving of various streets project (Barrett, Donald, Emmons, Clinton, Center, Cherry, Harrison, Barry and Carriage Lane) are hereby authorized to Owl Contracting of Rockaway, New Jersey in the total amount of \$377,329.70 and the contract for Traffic Striping on roadways be authorized to Denville Line Painting, Inc. of Rockaway, New Jersey in the amount of \$1,428.07 based on bid awards through the Morris County Cooperative Pricing Council.

The Town Manager requested a resolution to authorize execution of a Municipal Services Agreement with the Township of Andover.

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

Mr. Elvidge	Yes	Mr. Diglio	Yes
Mr. Storm	Yes	Mr. Ricciardo	Yes
Mayor Unhoch	Yes		

### **RESOLUTION #86-2008**

**WHEREAS**, the Town of Newton desires to enter into a Municipal Services Agreement with the Township of Andover to mutually provide specialized municipal equipment, and

**WHEREAS**, it is agreed by both municipalities that there will be no monetary consideration for the specialized equipment services exchanged between the Town of Newton and the Township of Andover, and

**WHEREAS**, said Agreement is to be for a term of one (1) year and automatically renews unless either municipality gives written notice within 60 days of renewal term;

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**NOW THEREFORE BE IT RESOLVED** by the Town Council of the town of Newton that the Mayor and the Municipal Clerk are hereby authorized to execute a Municipal Services Agreement with the Township of Andover for mutual provision of specialized equipment services;

**BE IT FURTHER RESOLVED** that a copy of said Agreement be attached to and made part of this resolution.

The Town Manager requested a resolution to award Contract for material various streets.

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

Mr. Elvidge	Yes	Mr. Diglio	Yes
Mr. Storm	Yes	Mr. Ricciardo	Yes
	Mayor Unhoch	Yes	

**RESOLUTION #87-2008**

**WHEREAS**, price quotes were received on June 5, 2008 at 11:00 a.m. for furnishing (26) twenty-six 8" "B" Inlet Heads, Type "N" and (24) twenty-four 6" "B" Inlet Heads, Type "N", to the Newton town Garage, and

**WHEREAS**, the Town Engineer, Harold E. Pellow has reviewed all of the quotes submitted and recommends the award of the contract to Hamburg Plumbing & Supply Co., Inc. with the lowest price quote as follows:

Hamburg Plumbing & Supply Co., Inc. 180 Route 23 S. P.O. Box 217 Hamburg, NJ 07419	Campbell Foundry Co. 800 Bergen St. Harrison, NJ 07029	Precast Manufacturing 187 Stryers Road Phillipsburg, NJ 08865
\$6,800.00	\$7,450.00	\$8,750.00

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

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that the contract for the (26) twenty-six, 8" "B" Inlet Head, Type "N" and (24) twenty-four, 6" Inlet Head, Type "N" is hereby awarded to Hamburg Plumbing & Supply co., Inc. of Hamburg New Jersey in the amount of \$6,800.00 based on the recommendation of Harold E. Pellow & Associates, Inc., after their review of the submission of price quotes described above.

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

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

Mr. Elvidge	Yes	Mr. Diglio	Yes
Mr. Storm	Yes	Mr. Ricciardo	Yes
	Mayor Unhoch	Yes	

### **RESOLUTION #88-2008**

**BE IT RESOLVED** by the Town Council of the Town of Newton that payment is hereby approved for all vouchers that have been properly authenticated and presented for payment, representing expenditures for which appropriations were duly made in the 2007 and 2008 Budgets adopted by this local Governing Body, including any emergency appropriations, and where unexpended balances exist in said appropriation accounts for the payment of such vouchers.

### **TOWN BILLS**

122.00	Rutgers Center for Gov't Serv.	23724
2,637.12	Delta Dental	23725
2,434.57	Delta Dental	23726
761.82	Vision Service Plan	23727
5,221.50	American Arbitration Association	23728
105.74	Montague Tool & Supply	23820
3,296.30	Printing Center, Inc.	23821
46.75	Harold Pellow & Assoc., Inc.	23822
416.00	Decker's Fire & Safety	23823
187.00	Alpine Spring Water Company	23824
825.28	G & G Diesel Service Inc.	23825
8,749.12	JCP&L	23826
500.00	SCMUA	23827
2,386.19	SCMUA	23828
227.20	Sussex County Plumbing	23829
585.30	B & G Elevator, Inc.	23830
325.00	EMBARQ	23831
120.71	EMBARQ	23832
150,000.00	Capital Account	23833
342.00	West Group	23834
90.00	Federal Express	23835
80.00	Sussex County Economic	23836
29.84	Ray's Sport Shop	23837
50.00	Newton First Aid Squad	23838
45.00	VOID	23839
9,625.00	Ferraioli, Cerullo & Cuva	23840
18.00	Peter J. Kays	23841
95.92	Newton Citgo	23842
2,344.56	Sears Hardware	23843

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40.00	Sussex County League of	23844
158.82	Newton Trophy	23845
12.00	William F. Smith	23846
59.18	Galls Incorporated	23847
1,055.00	Minisink Press, Inc.	23848
106.00	Ann M. Rosellen	23849
199.00	Tri-County Audio	23850
502.04	Good Year	23851
13,000.00	Trust Account, Town of Newton	23852
24.94	Sussex County Clerk	23853
321.33	Sebring Auto Parts	23854
120.00	VOID	23855
20,000.00	SUI Account	23856
509.79	Dempsey Uniform & Supply Inc.	23857
104.00	Efinger	23858
1,713.00	Newton Soccer Club	23859
2,280.65	Boonton Tire Supply	23860
559.21	McGuire	23861
30,594.00	Statewide Insurance Fund	23862
78.75	Grinnell Recycle	23863
195.14	Verizon Wireless	23864
376.00	North Jersey Portable Toilets	23865
29.32	Walmart	23866
75.00	Francis M. Avilla	23867
75.00	Anne S. Kosusko	23868
75.00	Patricia A. McClelland	23869
75.00	Helen A. Pelt	23870
87.50	Linda M. Steele	23871
177.84	Cooper Electric Supply Co.	23872
98.00	Wildflowers with Tami	23873
87.50	Roy Orcutt	23874
923.44	Nextel Communications	23875
112.00	NJ Municipalities	23876
385.00	Alva Plastic Printing Co.	23877
570.00	Vogel, Chair, Collins, Schneider, PC	23878
17.83	Advance Auto Parts	23879
12.50	Bowens Bluelines	23880
75.00	David H. Goble	23881
75.00	Anne Bozek	23882
87.50	Linn Clouse	23883
87.50	Irene E. Blauvelt	23884
75.00	Bulah Morris	23885
94.85	Newton Electrical Services, Inc.	23886
142.00	Draeger Safety Diagnostics, Inc.	23887
11.77	Paint Spot	23888
205.45	Tritec Office Equipment, Inc.	23889
3,523.74	Staples Business Advantage	23890
75.00	Hyla J. Fellner	23891
75.00	Stanley Larsen	23892
75.00	Claudia Yuelling	23893
33.84	Lowe's	23894
110.00	Screen Creation Plus	23895
13.92	Easylink Services Corporation	23896
19.16	Nestle Waters	23897
57.63	Pinnacle Wireless, Inc.	23898

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4,888.93	Rachles/Michele's Oil Company	23899
3,100.00	Laddey, Clark & Ryan, LLP	23900
3,800.00	Government Management Advisors, LLC	23901
693.00	Andy Matt, Inc.	23902
87.50	Colleen Russell	23903
87.50	Robert V. Aumick	23904
75.00	Mikhail Mazuryk	23905
75.00	Barbara E. Schwarz	23906
75.00	Lona L. Grisi	23907
75.00	Elizabeth T. Mussolini	23908
75.00	Dewitt T. Budd	23909
75.00	Hiam Frangieh	23910
176,172.01	Payroll Account	810042
16,543.44	Payroll Account	810043
54,220.36	NJSHBP	810044
26,976.98	NJSHBP	810045+*****

**CAPITAL**

20,581.00	McManimon & Scotland	7155
2,730.00	Current Account	7156
169.45	Lou's Glass	7157
600.00	Vogel, Chait, Collins, Schneider, PC	7158

Total TOWN BILLS \$582,250.23

**WATER AND SEWER ACCOUNT**

566.60	Newton Postmaster	10115
865.68	Delta Dental	10116
165.05	Vision Service Plan	10117
22,596.08	Payroll Account	860027
3,538.04	Payroll Account	860027
500.00	Frank Semeraro Construction, Inc.	2097
697.18	Montague Tool & Supply	10118
88.95	Hach Company	10119
508.77	CCP Industries	10120
301.46	Lee Company	10121
16,101.24	JCP&L	10122
2,568.00	Pumping Services	10123
981.15	SCMUA	10124
268.20	Sussex County Plumbing &	10125
32.00	Paul Baldwin	10126
12.00	Paul M. Havens	10127
7,016.85	Coyne Chemical Corp., Inc.	10128
119.06	EMBARQ	10129
843.00	Garden State Laboratories, Inc.	10130
492.18	Hamburg Plumbing Supply Co., Inc.	10131
1,750.00	Ferraioli, Cerullo & Cuva	10132
10,269.87	Current Account	10133
322.00	American Water Works Assoc.	10134
15,000.00	Trust Account, Town of Newton	10135
24.00	Ervin Lasso	10136
261.22	Verizon Wireless	10137
8,136.00	Passaic Valley Sewerage Comm.	10138

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1,476.80	Main Pool & Chemical Company	10139
4,944.00	Selective Insurance Company	10140
2.58	Advance Auto Parts	10141
890.00	Process Tech Sale and Services	10142
420.00	Test America	10143
450.00	Joan Meltzer	10144

**CAPITAL**

673.61	Sussex County Plumbing	2098
73,643.87	Underground Utility Corp.	2099

Total WATER & SEWER BILLS \$176,525.44

**TRUST**

5,861.45	Payroll Account	871011
3,294.13	Harold Pellow & Associates, Inc.	2509
910.00	Hollander,Hontz,Hinkes,&Pasculli LLC	2510
95.00	Boonton Tire Supply	2511
300.00	Daniel Colfax, Esq.	2512
15.00	Vogel Chait Collins Schneider, PC	2513
750.00	Kenneth A. Wentink & Assoc.	2514
1,500.00	Colleen Cunningham, Esq.	1515

Total TRUST ACCOUNT \$12,725.58

The Town Manager requested a Resolution of Intent to appeal COAH Regulations.

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

Mr. Elvidge	Yes	Mr. Diglio	Yes
Mr. Storm	Yes	Mr. Ricciardo	Yes
Mayor Unhoch	Yes		

**RESOLUTION # 89-2008**

**WHEREAS**, the new Jersey Council on Affordable Housing has adopted new Third Round Affordable Regulations, and

**WHEREAS**, those regulations will impose an unreasonable burden, which will adversely impact the property taxpayers of this municipality,

**WHEREAS**, various municipalities have gathered together for the purpose of exploring common litigation challenging the validity of the regulations;

**NOW THEREFORE, BE IT RESOLVED** that the Town Council of the Town of Newton does hereby express its intent to join in such litigation

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for the common welfare, subject to entry into and inter-local services for such purpose.

The Deputy Clerk presented an application for a Special Permit for Social Affair from the Newton VFW Post #5360, Men's Auxiliary, P.O. Box 125, 85 Mill Street, Newton, New Jersey to be held on July 19, 2008 from 4:00 p.m. to 7:00 p.m. at the Newton Memorial VFW Post 5360, 85 Mill Street, Newton. It was noted that the application was in order, accompanied by the prescribed fee and signed by the Chief of Police.

Upon motion made by Mr. Storm, seconded by Mr. Ricciardo and carried that the Governing Body had no objection to the issuance of a special permit for a social affair by the Division of Alcoholic Beverage Control, to Newton Fire Department for July 19, 2008.

The Deputy Clerk presented an application for a Special Permit for a social Affair from the Sussex County Community College, One College Hill Road, Newton, New Jersey to be held on June 21, 2008 from 11:00 a.m. to 5:00 p.m. on the Connor Green / Pavilion, One College Hill Road, Newton. It was noted that the application was in order, accompanied by the prescribed fee and signed by the Chief of Police.

Upon motion made by Mr. Storm, seconded by Mr. Diglio and carried that the Governing Body had no objection to the issuance of a special permit for a social affair by the Division of Alcoholic Beverage Control, to the Sussex County Community College for June 21, 2008.

Under Managers reports, Ms. Kithcart indicated she received a request from Columbia University film students requesting permission to shoot a film on Slate Hill Road in early August. After a brief discussion, Council had no objection to the students filming on Slate Hill Road in early August and waived the filming fees.

Ms. Kithcart updated Council regarding the Newton Day festivities

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which will take place Saturday, June 14, 2008. Ms. Kithcart also advised the Newton Pool will hold an open house on Newton Day.

Ms. Kithcart indicated the Miss Newton and Little Mr. & Miss Newton Contests will be held Friday, June 13, 2008 at Halsted School and the winners will be in attendance at Newton Day.

The Town Manager advised she and Mayor Unhoch attended four Ribbon-cutting ceremony's this week for the new owners of the Lockwood Agency and the Bula Restaurant, as well as new stores on Spring Street, Trailworks Gallery and Ala Mode.

The Town Manager updated the Governing Body regarding the second draft of the Master Plan Update.

Ms. Kithcart indicated that our DPW foreman is set to meet with Harold Pellow's office on-site at the Donald Avenue Cul-de-sac in preparation for paving.

Ms. Kithcart indicated bids for the slope mower are due on June 11, 2008 and bids for the new T-Ball field are due in on June 17, 2008.

The Town Manager indicated the Landscaping for Newton Municipal Building and Summit Tank are delayed due to the weather.

Ms. Kithcart updated the Governing Body regarding the interior painting of #2/3 Firehouses performed by the S.L.A.P. Crew.

Ms. Kithcart updated the Governing body regarding the Mill Street waterline project.

Ms. Kithcart announced that Morris Lake is 1" below spillway.

Mayor Unhoch indicated the Town held an auction for the sale of a fire-truck prior to tonight's Council meeting. Mayor Unhoch stated the firetruck was sold for \$40,000 and the money will be used by the Newton Fire Department.

Mayor Unhoch indicated that Mr. Bill Joseph, Newton's Town Crier,

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recently attended a “Town Crier” Competition in Canada and has invited Mr. Joseph to speak to the Governing Body at a later date.

Mayor Unhoch declared the meeting open to the public.

Mr. Art Frisbie, Homosassa, Florida, stated it was a pleasure serving on the Town Council and wished everyone well in the upcoming election.

There being no one else from the public to be heard, upon motion of Mr. Storm, seconded by Mr. Ricciardo and carried, the meeting was adjourned at 7:20 p.m.

Respectfully submitted,

Lorraine A. Read, RMC  
Municipal Clerk