

May 14, 2018

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 Elvidge, Mr. Flynn, Mrs. Le Frois, Mrs. Diglio, Mayor Levante, and Thomas S. Russo, Jr., Town Manager. Ursula Leo, Esq., Town Attorney was also present.

Mayor Levante 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 January 8, 2018."

Mayor Levante led the Pledge of Allegiance to the flag and the Deputy Clerk called the roll. Upon motion of Mrs. Diglio, seconded by Deputy Mayor Elvidge and unanimously carried, the minutes for April 23, 2018 Regular and Special meetings were approved, with minor corrections.

OPEN TO THE PUBLIC

At this time, Mayor Levante 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 take one turn at the microphone and please limit their comments to 5 minutes. The Clerk will keep time. 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."

Mayor Levante opened the meeting to the public.

Neil Flaherty, 154 Sparta Avenue came forth to state two things. First, he is in favor of keeping the election in May. He appreciates the cost savings and increased voter turnout, however he feels moving it will make it more political and Newton issues would get lost under County, State and Federal issues. Secondly, with regards to the proposed Food Truck ordinance, he would like it to be looked at again and give more specifics on the number of trucks and the location at events to ensure public safety.

Ludmilla Mecaj, 9 Madison Street came forth with regards to the petition submitted asking the election be moved from May to November. She stated if Council does not agree she hopes they respect the thoughts of the voters.

Ralph Porter, 12 Pine Street stated he encourages the Council to not take action on the election and to let it go to the voters. He stated he believes 300 signatures does not represent the Town as a whole.

Karen Hardin Kitchell, Hampton Township. Ms. Kitchell stated everyone in Town has been very welcoming as she was "stomping" around recently. Her mother is a

May 14, 2018

resident of Liberty Towers and she believes the proposed shared service agreement is a great idea. She thanked the Housing Authority Board and the Chairperson Maria Fiedorczyk for all their work. She also asked for peace amongst the Council going forward.

Rick Bitondo, of 216-218 Spring Street, home of Maxwell & Molly's Closet and Housing Authority Commissioner. Mr. Bitondo asked on behalf of the Housing Authority for the Council to table the proposed agreement on tonight's agenda so the Board may discuss it further.

Maureen Snellen, Plainfield Avenue, said she disagrees with previous statements regarding the petition, they were able to gather about 400 signatures in one week. She asks for the Council to pass the petition ordinance to move the election.

Jim Hoffmann, 37 Douma Drive, he advised the Council of an opportunity he was made aware of a few weeks ago. A company named "Microcenter" is looking to create 25 new locations throughout the country. He described this company as Walmart of computers. It would be great to have them in our backyard. With Thorlabs and Picatinny Arsenal nearby, it seems Newton would be a good place to locate to. He encouraged the Council to reach out to the company.

Anwar Qarmout, 45 Woodside Avenue. Mr. Qarmout congratulated the winners of the election and wished them luck. He went on to ask for the oath of office which each Councilmember takes be read at every meeting so they can remember what they are sworn to do. He went on to complain about the narrow aisle where the microphone is placed. Mr. Qarmout continued, stating he recently received a postcard in the mail which stated "the Town Council is too busy fighting with each other, they are forgetting the taxpayers". He believes this reflects poorly on the Town for future investors. This is the reason he filed a complaint. He also stated he is in full support of moving the election. More people vote in the November election. This will give the opportunity for more voters to vote. Mr. Qarmout stated he believes the Town is lagging behind because the Council decided not to let a business into Town and they are trying to control what Newton looks like. He believes business should be allowed to flourish or fail on their own. He believes that is why Newton is not flourishing.

Dee Talty, 47 Park Avenue. Ms. Talty stated she is definitely not in favor of moving the election. She believes it will blur the lines and keeping it in May will keep the focus

May 14, 2018

on local issues. She went on to say she disagrees with the statements made about Newton not flourishing. In the 20 years she has lived in Newton she has seen the Town change and flourish and that is due to many of the members that are currently on the Council. Ms. Talty thanked Mr. Elvidge for his many years of service to the Town, she state she thinks he is amazing.

Suzanne Kimble, Orchard Street is one of the petitioners. She is in favor of moving the election to November. It will save the Town money which can be used for other things. It will remain non-partisan, the ballot will not have a "D" or "R". She wants to leave it non-partisan but see a lot more voters. This election had a higher turnout, but she believes it is because there were seven candidates for three positions.

Frank Sebastiano, 12 Barrett Ave. Resident of Newton for over 25 years, current business owner for past nine years. Mr. Sebastiano is responding to articles in late fall early winter about Food Trucks possibly coming to Town. After reading articles, he purchased a food truck. He believes permits should be for a full year and be allowed anywhere in Town even on private property. He applied for a permit in Andover Township, and was welcomed. He said the fee for Andover's permit was \$250 for a year. He already had the Fire and Health department permits. He hopes the Town of Newton considers allowing Food Trucks.

COUNCIL & MANAGER REPORTS

- a. **Mayor Levante** – nothing to report.
- b. **Deputy Mayor Elvidge** – stated he was glad the election was over. He thanked everyone he has worked with over the years and has voted for him over the past twenty years. A special thanks to Sandy, he is sure she will continue to do a great job. Mr. Elvidge stated he trusts the voters and is excited for the new Council. He went on to say it was not a fluke who the top vote getters were, they went door-to-door and campaigned hard. He offered his 100% support and stated he is always available to help.
- c. **Councilwoman Le Frois** – thanked the Newton Fire Department for inviting her to their May 5th dinner. It is a reminder of the wonderful work Newton's volunteers do. Mrs. Le Frois went on to thank all the candidates for their hard work in their campaigns. She is optimistic about the future of Newton and anxious to get back to the business at hand looking toward positive wonderful things going forward. In closing,

Mrs. Le Frois wanted to acknowledge the good work being done with the CLEAR Program which is led by the Center for Prevention and Counseling and our Police Chief. She stated, she knows first-hand that we need to keep in front of the Opioid issue, having experienced a family member loss due to an opioid overdose recently.

d. **Councilman Flynn** – thanked all seven candidates, and offered his congratulations to the winners. Mr. Flynn stated he is looking forward to moving forward with a clean slate and getting things done.

e. **Councilwoman Diglio** – offered congratulations to Matt and Jason and is looking forward to working with them. She thanked the residents that voted for her and stated she is dedicated to continuing to serve the voters with honesty and integrity. She also stated she will continue her open-door policy. She went on to say she recently attended the kickoff of the Safe Street Campaign which is a program to educate the public on pedestrian laws pertaining to both drivers and pedestrian. She offered thanks to the Newton Fire Department for the invite to their recent dinner. She recently attended the Greater Newton Chamber of Commerce meeting and the Memorial Day and Newton Day preparations were discussed. She asked all the Councilmembers to let her know if they will be attending the Memorial Day Parade. Mrs. Le Frois stated she will be there. Mrs. Diglio offered an invitation for the public to attend and share in honoring our veterans at the parade and memorial service at Memory Park. The Newton First Aid Squad had a meeting recently, they discussed the Coin Toss dates, they also have a new member and there seems to be growing interest in the squad. Lastly, Mrs. Diglio clarified that at a recent Town Council meeting issues concerning the RPM building were brought forth regarding the ambulance and elevators. She stated, the ambulance does fit under the building and the stretcher does fit in the elevator. She along with the Town Engineer went to the building and measured and did their due diligence. Rules regarding the building are governed by the State of New Jersey. The Squad will be consulted in the future for input on construction.

f. **Town Manager Russo** – offer condolences to Councilwoman Le Frois on her loss of a family member. He offered congratulations to Sandy on her re-election and to Matt and Jason on their election win and looks forward to working with them. He wanted to recognize all the candidates, Alex and Ludmilla included for their efforts and hard work. He stated he would be remiss if he didn't thank Kevin and Wayne for

everything this past year and for their hard work through the years. People should not underestimated the amount of time Wayne has put forth in the past four years and Kevin the past twenty years. They will be recognized at a future Council meeting. Mrs. Diglio mentioned the Memorial Day parade and ceremony, and he just wants to recognize the service men and woman that made the ultimate sacrifice to defend our freedom. Finally, because of the Memorial Day holiday our next Council meeting will be Wednesday, May 30, 2018.

ORDINANCES

Mayor Levante directed the Deputy Clerk to read aloud the following Ordinance relative to final adoption of same.

ORDINANCE #2018-7

A FULLY FUNDED GENERAL CAPITAL IMPROVEMENT ORDINANCE IN THE AMOUNT OF \$220,000.00 FOR VARIOUS ACQUISITION AND IMPROVEMENTS IN THE TOWN OF NEWTON, COUNTY OF SUSSEX, NEW JERSEY

BE IT ORDAINED by the Town Council of the Town of Newton, in the County of Sussex, New Jersey as follows:

Section 1. \$220,000.00 is hereby appropriated in the General Capital Fund for the following various improvements in the Town of Newton, including all costs necessary therefore or incidental thereto:

Road Improvements/Resurface/Curbing/Sidewalks	\$125,000.00
Acquisition of Street Signs	\$ 35,000.00
4 X 4 / AWD Vehicle (OEM)	\$ 30,000.00
4 X 4 / AWD Vehicle (Town)	<u>\$ 30,000.00</u>
TOTAL	<u>\$220,000.00</u>

Funding Sources:

NJ DOT Grant Receivable – Church Street	\$ 90,000.00
General Capital Fund Balance	<u>\$130,000.00</u>
TOTAL	<u>\$220,000.00</u>

Section 2. The General Capital Budget of the Town of Newton is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

Section 3. This ordinance shall take effect as provided by the law.

Mayor Levante asked for a motion to open the hearing to the public. Mrs. Diglio made a motion to open the hearing to the public, Mrs. Le Frois seconded it. All in favor.

Mayor Levante opened the meeting to the public.

Anwar Qarmout, 45 Woodside Ave, asked what improvements are to be done with this ordinance. He asked if when an ordinance like this is presented can there be a way to list the projects. Mr. Russo explained the list of items are stated in the ordinance, but he did advise Mr. Qarmout of the 4 items included in the ordinance. Road improvements, Street Signs and two vehicles. There being no one from the public to be heard, upon motion of Mrs. Le Frois, seconded by Mr. Flynn and unanimously carried, the hearing was closed.

The aforementioned **ORDINANCE** was offered by Deputy Mayor Elvidge, who moved its adoption, seconded by Mr. Flynn and roll call resulted as follows:

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

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

OLD BUSINESS

- a. **Spring Street Parking Analysis – (May 30th)**

RESOLUTION

RESOLUTION #95-2018

RESOLUTION AUTHORIZING A SHARED SERVICES AGREEMENT BETWEEN THE TOWN OF NEWTON AND THE NEWTON HOUSING AUTHORITY FOR THE USE OF VARIOUS TOWN ENGINEERING AND EMPLOYEE SERVICES

Mayor Levante asked his fellow Councilmembers if they wished to honor the request presented earlier to table this Resolution. Mrs. Le Frois made a motion to table **Resolution #95-2018**, seconded by Mr. Flynn. Deputy Mayor Elvidge recused himself, as his sister is on the Housing Authority. All were in favor.

CONSENT AGENDA

Mayor Levante 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 Resolutions on the consent agenda.

RESOLUTION #96-2018*

May 14, 2018

AUTHORIZE REFUND OF TAXES FOR BLOCK 16.02, LOT 21, 20 DONALD AVENUE FOR A 100% DISABLED VETERAN EXEMPTION

WHEREAS, Douglas Focht owns Block 16.02, Lot 21, also known as 20 Donald Ave., Newton, New Jersey; and

WHEREAS, the Municipal Tax Assessor has granted a 100% Disabled Veteran Tax Exemption effective January 16, 2018 for the property owned by Douglas Focht; and

WHEREAS, the property taxes for Block 16.02, Lot 21, are paid through the 2nd quarter of 2018, therefore, a refund is necessary; and

WHEREAS, the Tax Collector has determined the amount to be refunded for a portion of the 1st quarter and the entire 2nd quarter of 2018 is \$3,768.31;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the Governing Body acknowledges that a refund is due to Douglas Focht in the total amount of \$3,768.31 which is retroactive to January 16, 2018 and this refund is the result of a 100% Disabled Veteran Tax Exemption; and

BE IT FURTHER RESOLVED, the Treasurer be authorized to issue a check in the total amount of \$3,768.31 to Douglas Focht, 20 Donald Ave., Newton, NJ 07860.

RESOLUTION #97-2018*

REFUND OF REDEMPTION MONIES TO OUTSIDE LIEN HOLDER FOR BLOCK 6.01, LOT 12, ALSO KNOWN AS 22 DOUMA DRIVE, NEWTON

WHEREAS, at the Municipal Tax Sale held on November 5, 2014 a lien was sold on Block 6.01, Lot 12, also known as 22 Douma Drive, for 2013 delinquent taxes; and

WHEREAS, this lien, known as Tax Sale Certificate #1393 was sold to Sunshine St Cert V/Bankunited TTE for a 0% redemption fee and a premium of \$35,000.00; and

WHEREAS, Wm. Haggerty, Esq., the attorney representing the owners, Walter & Helen Lehmer, has effected the redemption of Certificate #1393 in the amount of \$81,312.89;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that this Governing Body acknowledges Sunshine St Cert V/Bankunited TTE is entitled to a redemption in the amount of \$81,312.89 as well as the return of the premium in the amount of \$35,000.00; and

BE IT FURTHER RESOLVED, that the Town Council of the Town of Newton confirms and acknowledges the Tax Collector shall issue a check, in the amount of \$81,312.89 for the redemption and a check in the amount of \$35,000.00 for the return of the premium for Certificate #1393 to Sunshine St Cert V/Bankunited TTE, Miami Lakes, FL.

RESOLUTION #99-2018*

APPOINTMENT OF DR. NANCY CRADDOCK TO THE ADVISORY SHADE TREE COMMISSION

WHEREAS, there is currently a vacancy on the Town of Newton Advisory Shade Tree Commission; and

WHEREAS, Dr. Nancy Craddock has expressed interest in serving on the Commission;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that Dr. Nancy Craddock is hereby appointed to an unexpired five-year term as a member of the Advisory Shade Tree Commission, effective immediately with said term continuing to May 31, 2021.

RESOLUTION #100-2018*

REAPPOINTMENT OF JACK DURKIN TO THE NEWTON HOUSING AUTHORITY

May 14, 2018

BE IT RESOLVED by the Town Council of the Town of Newton that Jack Durkin is hereby reappointed to a full five-year term on the Newton Housing Authority, effective May 1, 2018 and continuing through April 30, 2023.

RESOLUTION #101-2018*

AUTHORIZING A PURCHASE OF TWO (2) 2018 DODGE DURANGO VEHICLES THROUGH CRANFORD POLICE COOPERATIVE PURCHASING SYSTEM

WHEREAS, a need exists for the acquisition of two (2) 2018 Dodge Durango vehicles for the Office of Emergency Management and Town of Newton; and

WHEREAS, the Town of Newton may, without advertising for bids, purchase such vehicles under contract through the Cranford Police Cooperative Purchasing System ID # 47-CPCPS, pursuant to N.J.S.A. 40A:11-11; and

WHEREAS, the two (2) 2018 Dodge Durango vehicles are being purchased through the Cranford Police Cooperative contract #47-CPCPS, in the amount of \$28,821.00 each for a total of \$57,642.00;

WHEREAS, the Chief Financial Officer hereby certifies funds are available from the General Capital Fund – Ord. #2018-7 Various Acquisition and Improvements, 4 X 4 / AWD Vehicle (OEM) a/c# 30918073 \$28,821.00 and 4 X 4 / AWD Vehicle (Town) a/c #30918074 \$28,821.00 upon effective ordinance date; and

NOW, THEREFORE BE IT RESOLVED, by the Newton Town Council that it designates and authorizes the Town Manager and Chief Financial Officer to execute, attest, and deliver this Municipal Purchase through Cranford Police Cooperative Purchasing Contract 47-CPCPS.

RESOLUTION #102-2018*

REAPPOINTMENT OF RONALD BIEDERMAN TO THE ADVISORY SHADE TREE COMMISSION

BE IT RESOLVED by the Town Council of the Town of Newton that Ronald Biederman is hereby reappointed to a five-year term on the Newton Advisory Shade Tree Commission, effective immediately and continuing through May 31, 2023.

RESOLUTION #103-2018*

TO CANCEL GRANT RECEIVABLE AND APPROPRIATED RESERVE BALANCE IN THE FEDERAL AND STATE GRANT FUND – COMMUNITY POLICING – DETECTIVE TARENTINO GRANT IN THE AMOUNT OF \$10.92

WHEREAS, the Town of Newton received a grant in the amount of \$10,000.00 from the State of New Jersey, Department of Law and Safety for the Detective Matthew L. Tarentino Community Policing Grant; and

WHEREAS, these amounts were appropriated as special items of revenue in the 2017 Current Municipal Budget by Resolution #158-2017 on August 14, 2017 and transferred into the Federal and State Grant Fund in the same year; and

WHEREAS, the Town has completed the program and made final payment dated 12/27/17; and

WHEREAS, the Town received payment in the amount of \$9,989.08 on January 12, 2018; and

WHEREAS, there remains an unexpended balance in the grant fund of \$10.92; and

WHEREAS, it is necessary to formally cancel the grant appropriated reserve balance.

NOW, THEREFORE BE IT RESOLVED, by a majority of the full membership of the Town Council of the Town of Newton, that we hereby cancel the following:

May 14, 2018

Federal & State Grant Fund

Grant Receivable – Community Policing-Tarentino Grant #110147	\$10.92
Appropriated Reserves – Comm. Police-Tarentino Grant #111247	\$10.92

RESOLUTION #104-2018*

CONCUR WITH THE TOWN MANAGER’S APPOINTMENT OF A SCHOOL CROSSING GUARD

WHEREAS, New Jersey Statute 40A:9-154.1 states *“The governing body, or the chief executive, or the chief administrative officer, as appropriate to the form of government of any municipality, may appoint adult school crossing guards for terms not exceeding one year...”*;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that this Governing Body concurs with the Town Manager’s appointment of the following individual as a School Crossing Guard for the 2018-2019 school year:

Curtis Balmer

RESOLUTION #105-2018*

RESOLUTION AUTHORIZING ADOPTION OF THE LOCAL STRATEGIC NATIONAL STOCKPILE PLAN

WHEREAS, the Town of Newton desires to adopt a Local Strategic National Stockpile Plan to annex to the Town of Newton Emergency Operations Plan, in order to be utilized by the Town to operate a Closed Point of Distribution during a public health emergency; and

WHEREAS, the Town of Newton desires to adopt the Closed Point of Distribution Local Strategic National Stockpile Plan to facilitate the quick and efficient distribution of preventive medication from the Strategic National Stockpile to Town essential personnel and their immediate family members, to support the continuity of municipal operations, in partnership with the Sussex County Department of Health and Human Services, Division of Health.

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the Local Strategic National Stockpile Plan is hereby adopted; and

BE IT FURTHER RESOLVED, that the Local Strategic National Stockpile Plan may be amended, upon agreement by all listed signatories, as documented on the Record of Changes.

RESOLUTION #106-2018*

AUTHORIZING COMPUTER, SOFTWARE AND PERIPHERAL PURCHASES THROUGH NEW JERSEY STATE CONTRACT PURCHASING AND PROPERTY M-0483, EXPIRING MARCH 31, 2020

WHEREAS, a need exists for the acquisition of computer software, supplies and peripherals for the daily operations of the Town of Newton; and

WHEREAS, the Town of Newton may, without advertising for bids, purchase such materials through the New Jersey State Purchase and Property State Contract M-0483 pursuant to N.J.S.A. 40A:11-10 and N.J.A.C. 5:34-7.29 et. Seq.; and

WHEREAS, under the State Contract award, the vendors contained therein may participate in said purchases under State Contract as approved by the Qualified Purchasing Agent;

NOW, THEREFORE BE IT RESOLVED, by the Newton Town Council that it authorizes, without bidding pursuant to N.J.S.A. 40A: 11-10, State Contract M-0483 and the vendors

May 14, 2018

approved therein for the supply of computers, software and peripherals as approved by the Qualified Purchasing Agent in accord with the New Jersey Local Publics Contract Law, N.J.S.A. 40A:11-1 et. Seq.

RESOLUTION #107-2018*

**ACCEPT BUILDING DEMOLITION AND SITE CLEARING AT NEWTON FIREHOUSE NO. 2
PROJECT AS COMPLETE**

WHEREAS, the Town of Newton awarded the contract for the Building Demolition and Site Clearing at Newton Firehouse No. 2 Project in the amount of \$96,000 to IBN Construction Corp. 49 Hermon Street, Newark, NJ 07105 by the adoption of Resolution #233-2017 on November 20, 2017; and

WHEREAS, Cory L. Stoner, P.E., C.M.E. of Harold E. Pellow & Associates, Inc., in a memo dated April 26, 2018 recommends the project be accepted as complete so the final paperwork can be processed and IBN Construction Corp. may obtain their required one-year Maintenance Bond;

NOW, THEREFORE BE IT RESOLVED, that the Town Council of the Town of Newton hereby accepts the Building Demolition and Site Clearing at Newton Firehouse No. 2 Project as complete so the final paperwork can be processed and IBN Construction Corp. may obtain their required one-year Maintenance Bond.

RESOLUTION #108-2018*

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 2017 and 2018 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

39865	ADVANCE AUTO PARTS	77.97
39866	AIRGAS EAST	345.07
39867	AMBASSADOR MEDICAL SERVICE	120.00
39868	AMERICAN COACHWORKS LLC	426.41
39869	ARF RENTAL SERVICES, INC.	95.76
39870	ATLANTIC TRAINING CENTER	20.00
39871	BENNETT SAND & GRAVEL LLC	436.28
39872	BOONTON TIRE SUPPLY INC.	1,351.60
39873	CAMPBELL'S SMALL ENGINE INC.	2,046.02
39874	CAMPBELLS SUPPLY OF SUSSEX COUNTY L	1,113.34
39875	CAPITAL ACCOUNT	12,000.00
39876	CENTURYLINK COMMUNICATIONS, INC.	125.85
39877	CENTURYLINK COMMUNICATIONS, INC.	2,716.14
39878	CHELBUS CLEANING CO., INC.	1,813.75
39879	CINTAS CORPORATION NO. 2	114.07
39880	CINTAS FIRE PROTECTION	3,031.12
39881	CLIFFSIDE BODY CORP.	644.83
39882	COOPER ELECTRIC SUPPLY CO.	359.70
39883	COUNTY OF SUSSEX	51,546.53
39884	COUNTY OF SUSSEX	3,662.77
39885	COUNTY OF SUSSEX	835,894.74
39886	CSS TEST INC.	2,664.99
39887	D & E SERVICE CENTER, INC.	985.29
39888	DEMPSEY UNIFORM & SUPPLY INC	4,469.43
39889	DOMINICK'S PIZZA LLC	18.45
39890	E-Z FACILITY, INC.	2,278.56

May 14, 2018

39891	E-Z PASS	4.50
39892	E-Z PASS	0.75
39893	E.A. MORSE & COMPANY, INC.	1,635.84
39894	ELECTRONIC FEES -OTHER	319.00
39895	ESTREMERA, MICHELLE	127.53
39896	EXTEL COMMUNICATIONS	99.00
39897	EXTRA TECH DATA SERVICES, LLC.	400.00
39898	FARMSIDE LANDSCAPE & DESIGN INC	1,710.00
39899	FASTENAL COMPANY, INC.	110.03
39900	FEDERAL EXPRESS	73.25
39901	FIRE & SAFETY SERVICES, LTD., INC.	1,309.76
39902	FIRST UNITED METHODIST CHURCH	100.00
39903	GRAMCO BUSINESS COMMUNICATIONS INC.	109.82
39904	GRAND HOTEL OF CAPE MAY	453.00
39905	GREATER NEWTON CHMBR OF COMM.	6,000.00
39906	HAYDEE BALLESTER	165.00
39907	HOME DEPOT, INC.	2,905.97
39908	IAMRESPONDING.COM	810.00
39909	J. CALDWELL & ASSOCIATES, LLC.	930.00
39910	JACKI SHACKLETON	513.60
39911	JCP&L	5,313.56
39912	JMC ENVIRONMENTAL CONSULTANTS, INC.	525.00
39913	KKPR MARKETING & PUBLIC RELATIONS,	13.99
39914	LADDEY, CLARK & RYAN, LLP	5,072.00
39915	LAFAYETTE AUTO PARTS	599.30
39916	LOU'S GLASS	170.00
39917	MAILFINANCE INC.	529.41
39918	MCGUIRE, INC.	2,840.57
39919	MICROSYSTEMS-NJ COM, LLC.	17.73
39920	USA HOIST CO., INC.	225.00
39921	MINISINK PRESS INC	1,425.00
39922	L-3 COMM. MOBILE-VISION	53.85
39923	MONTAGUE TOOL & SUPPLY, INC.	834.71
39924	NEW JERSEY HERALD, INC.	1,505.54
39925	NJMVC	46.50
39926	NJMEBF	173,150.00
39927	Olivo, Christopher	108.25
39928	PELLOW, HAROLD & ASSO, INC.	4,170.73
39929	PENTELEDATA	769.70
39930	PETRO-MECHANICS, INC.	400.44
39931	PHYSIO-CONTROL INC. MEDTRONIC PHYSI	99.50
39932	PRINTING CENTER, INC	2,860.00
39933	QUILL CORPORATION	100.74
39934	R.S. PHILLIPS STEEL LLC	376.00
39935	RACHLES/MICHELE'S OIL COMPANY, INC.	8,922.09
39936	READY REFRESH BY NESTLE	77.61
39937	RR DONNELLEY	367.50
39938	RUTGERS, CENTER FOR GOVERNMENT SERV	632.00
39939	S/NJ TOXICOLOGY LABORATORY	90.00
39940	SARAH GRUB	16.79
39941	SCHENCK, PRICE, SMITH, & KING, LLP	4,714.51
39942	SCMUA	1,294.54
39943	SCREEN CREATION PLUS	987.00
39944	SEBRING AUTO PARTS, INC.	182.99
39945	SHERWIN-WILLIAMS, INC.	39.87
39946	SHOP RITE, INC.	25.48
39947	SOME'S WORLD WIDE UNIFORMS, INC.	85.00
39948	SPECTROTEL	571.60
39949	STAPLES BUSINESS ADVANTAGE, INC.	172.38
39950	STAPLES CREDIT PLAN, INC.	679.96
39951	STATE TREASURER	25.00
39952	STATEWIDE INSURANCE FUND	59,838.42
39953	SUSSEX CAR WASH INC	259.00

May 14, 2018

39954	SUSSEX COUNTY CLERK'S ASSN	50.00
39955	SUSSEX COUNTY MAILING SERVICE	1,381.77
39956	TAYLOR OIL CO., INC.	6,125.26
39957	TEAM LIFE, INC.	120.00
39958	THE CANNING GROUP, LLC.	625.00
39959	THYSSENKRUPP ELEVATOR CORP.	227.07
39960	TILCON NEW YORK, INC.	400.25
39961	TIMMERMAN COMPANY, INC.	5,309.62
39962	TIRE KING, INC.	810.00
39963	TOYOTA/SUBARU/SCION OF MORRISTOWN I	138.99
39964	TREASURER, STATE OF NEW JERSEY	275.00
39965	TREASURER, STATE OF NJ	258.00
39966	TREASURER, STATE OF NJ -BURIAL	5.00
39967	TRI-STATE RENTALS, INC.	190.94
39968	TRIMBOLI & PRUSINOWSKI, LLC.	1,830.00
39969	TROPICANA ATLANTIC CITY CORP	240.00
39970	UNITED TELEPHONE/CENTURY LINK	127.77
39971	VCI EMERGENCY VEHICLE SPECIALISTS	1,176.47
39972	VISION SERVICE PLAN	1,440.51
39973	W.B. MASON, INC.	697.16
39974	WALMART	9.84
39975	WILEY PROPERTIES LLC	75.00
39976	ZAPPA, MARK J	214.70
39864	THRIVE PROMOS, LLC.	1,925.00
181034	FEDERAL & STATE GRANT	2,000.00
181033	ELAVON	194.88
181025	PUBLIC EMPLOYEE RETIRE SYSTEM	0.01
181032	PAYROLL ACCOUNT	195,919.41
181031	BNY MELLON	209,270.00
181030	BNY MELLON	7,875.00
181029	ELAVON	205.24
181028	JP MORGAN CHASE BANK	110,362.50
181027	PAYROLL ACCOUNT	208,566.39

CAPITAL

8706	CURRENT ACCOUNT	7,265.00
8707	FKA ARCHITECTS INC.	1,697.36
8708	NEW JERSEY HERALD, INC.	151.20
8709	PELLOW, HAROLD & ASSO, INC.	5,547.40

Total TOWN BILLS \$1,999,032.72

WATER AND SEWER ACCOUNT

16860	AIRMATIC COMPRESSOR SYSTEMS, INC.	4,468.09
16861	CENTURYLINK COMMUNICATIONS, INC.	39.74
16862	CENTURYLINK COMMUNICATIONS, INC.	1,206.01
16863	CINTAS CORPORATION NO. 2	67.78
16864	COYNE CHEMICAL CORP., INC.	3,398.82
16865	DEMPSEY UNIFORM & SUPPLY INC	1,903.43
16866	FRANK SEMERARO CONSTRUCTION, INC.,	750.00
16867	GARDEN STATE LABORATORIES INC	7,174.50
16868	HOME DEPOT, INC.	481.46
16869	J. CALDWELL & ASSOCIATES, LLC.	90.00
16870	JCP&L	16,361.05
16871	JK HVAC SERVICE, LLC.	542.50
16872	KKPR MARKETING & PUBLIC RELATIONS,	675.00
16873	LADDEY, CLARK & RYAN, LLP	1,360.00
16874	MOTT MACDONALD	22,262.96
16875	NEW JERSEY HERALD, INC.	335.10
16876	ONE CALL CONCEPTS, INC.	65.00
16877	PASSAIC VALLEY SEWERAGE COMM.	6,784.00

May 14, 2018

16878	PELLOW, HAROLD & ASSO, INC.	3,014.01
16879	PENTELEDATA	399.85
16880	PUMPING SERVICES, INC.	2,956.22
16881	SCMUA	702.68
16882	STATEWIDE INSURANCE FUND	54,359.83
16883	SUSSEX COUNTY P & H, INC.	138.06
16884	TIRE KING, INC.	522.00
16885	TRACTOR SUPPLY	184.48
16886	VISION SERVICE PLAN	525.00
16887	WATER & SEWER CAPITAL ACCOUNT	75,000.00
16888	WATER & SEWER CAPITAL ACCOUNT	130,000.00
16889	WILLIAM GRENNILLE, LLC.	2,800.00
186018	ELAVON	183.98
186017	PAYROLL ACCOUNT	34,173.32
186016	ELAVON - ON LINE FEES	102.45
186015	ELAVON - ON LINE FEES	228.75
186014	JP MORGAN CHASE BANK	359,641.81
186013	PAYROLL ACCOUNT	35,906.24

CAPITAL

2478	MOTT MACDONALD	4,493.64
2479	PELLOW, HAROLD & ASSO, INC.	146.85
2480	WATER & SEWER OPERATING ACCT	50,000.00

Total WATER & SEWER Bills \$ 823,444.61

TRUST

3728	19 MERRIAM AVE LLC	828.00
3729	GRUBER, COLABELLA & LIUZZA	200.00
3730	HOLLANDER, STRELZIK, PASCULLI, HINKES	686.00
3731	LAKELAND BUS LINES, INC.	850.00
3732	PELLOW, HAROLD & ASSO, INC.	1,759.95
3733	SIGN-A-RAMA, INC.	3,130.00
3734	TREASURER, TOWN OF NEWTON	50.00
187109	PAYROLL ACCOUNT	1,134.00
3727	SCHIFANO CONSTRUCTION	173.00
3682	SCHIFANO CONSTRUCTION	-173.00
187108	PAYROLL ACCOUNT	1,377.00

Total TRUST ACCOUNT Bills \$ 10,014.95

DEVELOPERS ESCROW (FUND 72) ACCOUNT

1308	FERRIERO ENGINEERING INC.	412.97
1309	PELLOW, HAROLD & ASSO, INC.	325.00

Total DEVELOPERS ESCROW (FUND 72) Bills \$ 737.97

FEDERAL/STATE GRANTS

1399	AUTHENTIC PIZZA	184.00
1400	BLUE DIAMOND DISPOSAL	4,799.80
1401	CURRENT ACCOUNT	368.00
1402	DANIELSON, DEBORAH	32.32
1403	E.A. MORSE & COMPANY, INC.	130.80
1404	GREATER NEWTON CHMBR OF COMM.	8,000.00
1405	HOME DEPOT, INC.	364.22
1406	MONTAGUE TOOL & SUPPLY, INC.	95.10
1407	SCREEN CREATION PLUS	600.00
1408	SWANK MOTION PICTURES	423.00
1409	WALMART	154.46

May 14, 2018

1410	WEIS MARKETS, INC.	91.77
181109	PAYROLL ACCOUNT	267.40
181108	PAYROLL ACCOUNT	368.78

Total FEDERAL/STATE GRANT Bills \$ 15,879.65

RESOLUTION #109-2018*

AUTHORIZE CREDITS DUE WATER AND SEWER UTILITY ACCOUNTS

WHEREAS, the Water and Sewer Collector has determined the following Water and Sewer Utility Account is due credit for the reason stated:

CREDIT FOR CHARGES BILLED IN ERROR WHEN WATER WAS OFF:

<u>Account</u>	<u>Address</u>	<u>Amount</u>
1942	71 TRINITY STREET	\$165.00

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 aforementioned account for the amount billed incorrectly due to the reason stated.

Mr. Russo stated there is an add-on item, for a Special Permit for a Social Affair by Karen Ann Quinlan Memorial Foundation to be held on June 3, 2018, from 6:00pm to 10:00pm at Krave Café and Caterers, 102 Sparta Avenue, Newton, NJ.

Mr. Flynn asked for Resolution #98-2018 be pulled for discussion.

A motion was made by Mr. Flynn to approve the **COMBINED ACTION RESOLUTIONS**, with the add-on Social Affair permit and the pulling of Resolution #98-2018 seconded by Mrs. Diglio and roll call resulted as follows:

Deputy Mayor Elvidge	Yes	Mr. Flynn	Yes
		(with recusal on Check #1308)	
Mrs. Le Frois	Yes	Mrs. Diglio	Yes
	Mayor Levante	Yes	

RESOLUTION

Mr. Flynn asked for clarification on the Resolution. He asked if we are canceling because the project is complete. Mr. Russo explained there were certain things the Town did not do as part of the project, but we had estimated for them. Mr. Flynn questioned if this is money we have to return or we haven't received. Mr. Russo explained the money has not been received, this cancels out the grant.

RESOLUTION #98-2018

TO CANCEL GRANT RECEIVABLE AND APPROPRIATED RESERVE BALANCE IN THE FEDERAL AND STATE GRANT FUND – TDR STUDY GRANT IN THE AMOUNT OF \$9,705.90

WHEREAS, the Town of Newton received a grant in the amount of \$40,000.00 from the State of New Jersey Highlands Water Protection and Planning Council for a Transfer of Development Rights (TDR) Feasibility Grant Program; and

May 14, 2018

WHEREAS, this amount was appropriated as special items of revenue in the 2014 Current Municipal Budget by Resolution #83-2014 on May 28, 2014 and transferred into the Federal and State Grant Fund in the same year; and

WHEREAS, the Town has completed the study and payments totaling \$30,294.10 have been made; and

WHEREAS, the Town received payments of \$20,545.50 on 10/13/2016, \$6,998.60 on 2/17/17, and \$2,750.00 on 1/19/2018 totaling \$30,294.10; and

WHEREAS, there remains a receivable and an unexpended balance in the grant fund of \$9,705.90; and

WHEREAS, it is necessary to formally cancel the grant appropriated reserve balance.

NOW, THEREFORE BE IT RESOLVED, by a majority of the full membership of the Town Council of the Town of Newton, that we hereby cancel the following:

Federal & State Grant Fund

Grant Receivable – Transfer of Devel. Rights Study	#110142	\$9,705.90
Appropriated Reserves – TDR Feasibility Study Grant	#111242	\$9,705.90

A motion was made by Mr. Flynn to approve **RESOLUTION #98-2018**, seconded by Deputy Mayor Elvidge and roll call resulted as follows:

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

INTERMISSION – None

DISCUSSION

a. Fee Ordinance Draft

Mr. Russo reviewed the ordinance draft section by section, saving the planning/zoning items for last so Kathy Citterbart may speak. Council had a brief discussion on reinstating the Food Handler’s late fee. They all agreed it was okay to reinstate the fee in an effort for the Clerk’s Office to gain compliance from the numerous restaurants in Town. Establishing the annual Bulk Permit was approved with no discussion. Mr. Russo requested the Food Truck fee be discussed later in the meeting.

At this time Kathy Citterbart, Zoning Officer and Land Use Administrator gave a brief presentation on certain fees she would like established and reinstated. A brief discussion by the Council ensued. Mr. Flynn stated he welcome the “D” variance change, but felt the bulk “C” variance should remain as is. Mayor Levante stated he spoke to some realtors in Town and they were not aware of the elimination of the fees. He stated we need to do a better job of marketing this to the public and realtors. Mr.

Flynn did not think the elimination of fees have been in effect long enough to gauge if it has made an impact. Deputy Mayor Elvidge said he agrees with Mr. Flynn and does not think the elimination of fees have been in effect long enough.

After a lengthy discussion, Mayor Levante directed Mr. Russo to move forward with the proposed ordinance for the next meeting without any of the proposed Planning and Zoning fee changes.

b. Food Truck Ordinance Draft

Mr. Russo reviewed each section of the proposed Food Truck ordinance for the Council. Some of the items noted were: \$500 annual fee, four locations being Pine Street Park, Memory Park, Newton Pool and Park-n-Ride lot; timeframe will be during park hours as outlined in our ordinances and allowed April 1st through November, a weekly schedule to coordinate and maximize opportunity for various food trucks. Lastly there will be a maximum allowance of six trucks. Mr. Russo is looking for guidance from Council. Mayor Levante asked for some clarification on Section C. 3 with the weekly schedule. Mr. Russo stated he discussed this with Debbie Danielson and the idea was to create a schedule so one particular food truck does not monopolize one location. Mayor Levante stated he feels this schedule will be very difficult to enforce. Mrs. Le Frois stated we have received a lot of input from the public and we don't want to try and over regulate. Mr. Flynn inquired about private property. Mr. Russo stated this ordinance would just pertain to Town properties. A brief discussion ensued. Mrs. Le Frois questioned setting specific times. Mrs. Debbie Danielson, Recreation Director stated this is a learning process. Currently we offer pizza at the pool which we have to order from a local restaurant. It would be nice to have a variety for families to be able to choose from while visiting the pool. Mr. Flynn believes it should be left as open ended as possible, and then be revisited more in a while. After a discussion amongst the Council and Mrs. Danielson in which she stated a map with be created and all safety issues will be addressed, Mrs. Le Frois requested the ordinance be moved forward without Section C, number 3, so as the Town is not dictating when a Food Truck is open for business. Mayor Levante did not feel comfortable with making changes after someone paid for a permit. Mr. Russo stated any changes to be made to the adopted ordinance would go into effect for next year. Mr. Russo will make the changes and have it ready for

introduction at the next Council meeting and hopefully it will be in place for the July 4th weekend.

c. Certification of Municipal Petition

Mrs. Leo stated a petition was submitted on April 18th and the Town Clerk has certified there were 369 valid signatures, which was more than 15% of the votes cast in the last election of the General Assembly. The Clerk is required to certify the petition at the next regular Town Council meeting. The Clerk is not here tonight, but she has provided the certification to the Council in their meeting packet. Mrs. Leo went on to explain at this point the Council has twenty (20) days to decide what they want to do at this point. If the Council does not act on the ordinance or fails to pass the ordinance within the 20 days, then the Clerk shall submit it to the voters as provided in statutory law. So the considerations are: consider the ordinance tonight or at the next municipal meeting on May 30th, which is within the 20-day window or the Council takes no action either way on the ordinance. Mrs. Leo continued to explain because this petition has over 15% of the number of votes cast in the last November election, it is required that the Governing Body, since there is no election within 90-days shall provide for a special election, which is pursuant to the Statutory Law. The petition submitted states within it they want it to be considered on the November 6, 2018 ballot, but since the statutory language is State law that prevails and a special election must be held. If the Council does not act, the Clerk must put it to the voters, and it will be a special election. So the timeframe from today is: the Council has 20 days to consider, if the Council fails to take action or, if the Council takes adverse action the petitions have a 10 day period to withdraw their petition. If they fail to withdraw, it shall be put to the voters. Mr. Flynn questioned when the special election would be held. Mrs. Leo responded the election would have to be held no less than 40 and no more than 60 days from the end of the withdrawal period. Mrs. Leo reviewed the process again and stated the latest date for withdrawal by the petitioners is June 13th. The only action left the petitioners can take is withdrawal, and that would require four of the five the committee members. Deputy Clerk Oswin explained the 10-day withdrawal period starts from the day either Council takes adverse action or the end of the 20-day window.

Mayor Levante stated he doesn't think the petition should be deemed valid because the people who signed this petition specifically were requesting it be part of

May 14, 2018

the General election. Mrs. Leo stated the intent of moving the election from May to November is clear. Unfortunately a special election is part of the process and she does not think the request to put it on the November ballot is enough to invalidate the petition. The petitioners have the option to withdraw the petition. Mrs. Le Frois questioned what the Clerk actually certifies. Mrs. Leo explained the Clerk certifies the number of signatures and the content of the ordinance, not the introductory statement at the top of the page. Mr. Flynn questioned Mayor Levante, asking if he believed the petitioners do not want to pay for a special election. Mayor Levante said "exactly". Mrs. Le Frois stated it is an unintended consequence because they didn't fully evaluate the ramifications of their actions. Mrs. Leo explained if the petition had between 10%-15% we would not be having this discussion, it would go to the November election. Since the petition was submitted with over 15%, the statute language says "shall" and it is her opinion we "shall" hold special election. As for the interpretation of the date, she thinks the intention is clear on what they want the question to be, so in her opinion we shouldn't invalidate the ordinance. Mayor Levante asked Mrs. Leo to again state why in her opinion we shouldn't invalidate the petition. Mrs. Leo stated the intent of the ordinance is clear. Holding up the petition, Mrs. Leo points to the petition and explains in the box where the proposed ordinance is, and what people signed in support of, it is clear the intention is whether to move the Newton Municipal Election from May to November and that is the ordinance to be considered. Mayor Levante went on to say he believes Mrs. Leo has much more legal knowledge than he does, but in his dealings with signing contracts he believes the petitioners signed thinking this would go to the November election so he doesn't know how we can say it's a valid petition. Mayor Levante then asked Mrs. Leo how the Council can honor what he believes is the petitioners wishes to put this on the November election and who has the legal standing to force us to have a special election. Mrs. Leo stated if the petitioners withdraw the petition then the Governing Body would not be considering this petition. Mayor Levante went on to question what if they don't want to withdraw and the Council wants to grant them the request to put it to the November election, do we have the right to grant that request? Also, if we do grant the request who has the legal standing to force us to go against that decision? Mrs. Leo advised it would have to be an action that is filed with the Superior Court by any interested party to seek a declaratory

judgement. Mrs. Leo went on to say she has conferred with others since there is no case law on this happening and the statutory language says "shall", which is why she is giving this advice. Mrs. Le Frois confirmed Mrs. Leo consulted with the League of Municipalities and others. Mrs. Leo went on to say there is case law governing the language where the ordinance submitted has to be substantially similar, where there were revisions to proposed ordinances and the Appellate Division has struck those down because they weren't the intent of the voters. Mrs. Leo has not been able to find anything in reference to a proposed date so she is going with the statutory language of "shall hold a special election". Mrs. Le Frois stated because of the timing and the number of signatures, if Council takes no action State statute comes into play and causes it to go to special election.

Mayor Levante stated he thinks it's foolish to have a special election and he challenges anyone to take it up in court to stop us from having it at the General election.

Deputy Mayor Elvidge spoke to say it would be the petitioners call on that. He went on to say he has been outspoken on not being a fan of moving the elections for multiple reasons.

Mrs. Le Frois stated the petitioners got the signatures and it has been set up so the voters get to have their say, they should decide. The unintended consequence is the State statute which is State law says we can't just let it sit until the next General election. Mayor Levante stated if that is the case he thinks we should declare the petition invalid because petitioners signed thinking it would go the November election. Mrs. Le Frois reiterated it is not our Clerk's place to invalidate the petition; she is to simply certify the number of signatures so they can move forward with the petition.

Mr. Flynn stated it was his intention to let the voters decide after reading his packet and having all the information in front of him. It sounds like this is not possible for that to happen without it having to be a special election. Deputy Mayor Elvidge stated from the time the petition started there was always a question as to when the actual voting on this would be. It went to review by our attorney and State statute dictates how it is processed by the Council and the unfortunate fall-out with having more than 10 to 15 percent brought up a different timeline.

May 14, 2018

Mrs. Diglio questioned if the petitioners could withdraw this petition and submit a new petition? Mrs. Leo responded yes. Mrs. Diglio went on to question whether the new petition could be considered at the November election based on the timeline. Mrs. Leo answered yes, based on the timeline and the percentage of voters. Mayor Levante questioned if they could withdraw the actual petition and submit the same petition at a later date that would allow for it to go to the General Election? Mrs. Leo explained that would not be allowed. They would have to submit a new petition. Deputy Clerk Oswin stated the petition submitted is a public document and cannot be returned to the petitioners. Mrs. Le Frois stated we do not have to take action tonight, we have another meeting to take action. That will give the petitioners time to consider alternatives. Mr. Flynn asked Mrs. Le Frois to explain the options of the petitioners. Mrs. Le Frois explained, to avoid the unintended consequences of having to have a special election, if we wait until the next meeting this will give the petitioners' time to consider withdrawing their petition and then resubmitting a different petition with a fuller understanding of the ramifications of said petition.

Mayor Levante stated he believes these Statutes are in place to protect the petitioners so we can't delay on this. If the public overwhelmingly signs a document with over 15%, that forces the Council to act promptly not foolishly and have a special election which is going to be costly. Mrs. Le Frois reiterated it is an unintended consequence of them filing the petition in the manner it was filed. Mayor Levante stated we were given a legal opinion on this and if we vote no tonight, he thinks we should put it the November election and let someone try and stop us from having it on the November election. Deputy Mayor Elvidge offered another way is to follow the Statute and let someone challenge it, if they don't desire a special election. Mrs. Le Frois questioned Mayor Levante asking if he is suggesting the Council not follow State statute and basically go against the law. Mayor Levante responded State statute is there to protect the petitioners not the other way around and that is his interpretation of it. He went on to say there is no case law on this, but case law has to start with the first case. Mrs. Diglio questioned whether we should be the first case and have to spend taxpayers money debating this when we are trying to save taxpayers money? Mayor Levante responded that is his question, who is going to debate this? If we decide we want it on the November election and the petitioners want it also, who is going to

May 14, 2018

come out and challenge it. Mrs. Leo stated she thinks there is danger in that; what we have to do under statutory law is consider the ordinance. The ordinance in this case states "Newton municipal election shall be moved from May to November". That is the ordinance, and statutory law says we shall hold a special election if there is not a General election within time period, that is the advice I have to give you. Deputy Clerk Oswin asked Mrs. Leo to clarify if the petitioners can withdraw at any time, even if the 20-day window hasn't expired. Mrs. Leo responded yes, and four of the five petitioners must request the withdrawal.

The Council consensus was to not act on this tonight.

OPEN TO THE PUBLIC

Anwar Qarmout, 45 Woodside Avenue came forth with a legal question he thinks the counsel can answer. He asked if statute dictates the percentage of signatures, can the petitioners withdraw signatures to amend the petition to avoid the special election. Mrs. Leo responded no, the Clerk has already certified the 369 signatures. Mr. Qarmout went on to then state, in the petition it clearly states the word "or" in the petition. The petitioners requested it be moved to November or be put to the November ballot. He states it is two legal petitions in one, and not acting on both of them is injustice. He believes if the Council is just looking at the first part of the petition and not the second it is a legal liability. The petitioners gave Plan A and Plan B and they should not be separated. Mr. Qarmout asked Mayor Levante to read the petitioner's request.

Mayor Levante read the following:

**PETITION OF INITIATIVE PURSUANT TO N.J.S.A.
40:69a-1 *et seq***

Under the provisions for Initiative under the Optional Municipal Charter Law/Faulkner Act (N.J.S.A. 40:69A-1 *et seq*) we, the undersigned duly registered voters of the Town of Newton, County of Sussex, State of New Jersey, hereby take the initiative to petition the Newton Mayor and Council to pass the below ordinance or cause it to be placed on the General Election Ballot for November 6, 2018 with the question to be put to the voters in this manner:

Shall the Town of Newton, NJ change the date of the municipal elections from May to November thereby increasing voter participation and saving tax monies?

Mr. Qarmout stated he believes the Council is only addressing the first part of the petition and ignoring the second part. Mrs. Le Frois respectively disagreed and pointed out what it says is "to pass the below ordinance..." and what the ordinance says is:

ORDINANCE OF THE TOWN OF NEWTON, COUNTY OF SUSSEX, NEW JERSEY

Ordinance To Move The Municipal Election From May to November

Now therefore be it ordained by the Town of Newton, County of Sussex, State of New Jersey, that the Newton municipal elections under the Optional Municipal Charter Law/Faulkner Act be moved from May to November pursuant to N.J.S.A. 40:45-7.1

Mrs. Le Frois stated she respectively disagrees because it does not say "or" in the ordinance. Mr. Flynn stated the first part of the petition is a description of the purpose of the ordinance. Mrs. Le Frois said the ordinance is the language in the box, and it does not have the word "or". Mayor Levante respectfully disagrees reiterating what he has said earlier, the petitioners signed the document stating either pass the ordinance or place it on the General election. The Clerk certified the petition, that is what is before us, but it should have been declared an illegal or invalid petition because we can't do the "or". Mr. Qarmout went on to say, he was asking for legal interpretation not the Council opinion and if they choose to table it tonight, he asks it is done to with a legal interpretation of what we submitted. Mrs. Le Frois stated we did get a legal interpretation of the petition, that is what was presented.

Ludmilla Mecaj, Madison Street came forward at this time. She stated if she is hearing correctly Laddey Clark & Ryan represents the Town, but unfortunately these lawyers have a history of nonsensical litigation at the expense of taxpayers in Sparta. So, why should we take their advice on this case. She went on to say the Council should negotiate with the petitioners. She went on to say more than 400 people signed the petition. They do not want a special election, but if Council forces it they will prepare themselves to go before a judge. She just doesn't understand why the Council would listen to these lawyers when they have already lost taxpayers money in another town. Mr. Flynn asked Ms. Mecaj to cite what case she is referring to. Ms. Mecaj stated she is referring to the case she read in the newspapers involving Jesse Wolosky. So for that reason she would not take their opinion or consideration and cost our taxpayers money. Again she asked the Council negotiate directly with the petitioners. Mrs. Le Frois stated Mrs. Leo & Laddey Clark and Ryan are our Town attorneys. Mrs. Mecaj interjected she is giving permission to them to over-ride their opinion because they don't have a good reputation. Mrs. Le Frois went on to say in Mrs. Leo's presentation she stated she consulted not only State statute, but also the League of Municipalities and

others in rendering her decision. The option for negotiating with the petitioners lies with the petitioners to see if they would like to withdraw and resubmit their application based on what we have been presented as legal case and what the next steps are. Mrs. Mecaj stated they are not going to withdraw their petition. She is sure of that. Mrs. Mecaj asked Council to give thought to whether they want to waste taxpayers monies. She closed with saying she thinks the people should decide in November.

Karen Hardin Kitchell, Hampton Township. Her question is if her understanding is correct the reason we are in the dilemma we are in is because people didn't understand if they submitted over 15% it creates a conundrum, correct? Then she asked if any "fudging" of numbers could be done. She went on to question if they resubmitted they would have to strategically plan to get it under 15%, then the vote would go to November, is that correct. Mrs. Leo stated it is not just the percentage of signatures but also the timeline that has to be taken into account. If there is over 15% but a General election is held within 90-days, then there would not have to be a special election. So it is the percentage and the date of submission that are the two factors. Mrs. Leo went on to say the 90-day window for the next General election would begin on August 8th. Mrs. Kitchell asked if the petitioners were given any advice from Mrs. Leo or anyone on this. Members of the audience were advised by Mayor Levante they can not shout out answers. Next, Mrs. Kitchell stated she thought the Food Truck ordinance was a good idea as long as it doesn't affect the local sporting area so as not to conflict with the Booster Club trying to raise money. Mrs. Kitchell questioned a previous speaker on his request to table the Housing Authority resolution for shared services on tonight's agenda. Mayor Levante stated she can't direct questions to the audience and she would have to take it up with the Mr. Bitondo directly.

Suzanne Kimble, Orchard Street came forth to question if there is a General election within the 90-days what are they voting on. Mrs. Leo advised it is whatever ordinance is submitted as part of the petition. Ms. Kimble questioned if the State can force us to have a special election. Mayor Levante stated he disagrees with what Mrs. Le Frois stated earlier about Mrs. Leo making a decision. He believes Ursula states an opinion and the Council makes the decision, and he would be willing to honor the request of the petitioners and put it to the November election and then let someone challenge us on it, because he feels it would be foolish to hold a special election

May 14, 2018

especially when it is clear the petitioners state they want the November election. Ms. Kimble went on to say she believes the State is stepping in where they don't have to.

Ben Egner, 16 Windsor Drive, stated he would appreciate if the Council listened to the Town Attorney on the petition. She is probably the most creditable person in the room and she has given her interpretation on the legality of it. Mr. Egner went on to say those speaking out against this tonight, Mr. Levante and Mr. Qarmout were advised (at this time Mr. Qarmout began interrupting Mr. Egner several times). Mr. Egner asked the Mayor if he was going to let this keep happening. Mayor Levante asked Mr. Qarmout to hold his comments. Mr. Egner continued stating the two individuals were actually advised of this very thing happening, and they told people not to listen to others and they knew best and not to worry about. Jason and Matt also tried to advise people in their campaign not to go over the 15% or wait and see what the new Council makeup was so maybe there could be an open discussion. The two people in this room thought they knew more than our attorney so that is why we are where we are at. Mayor Levante stated he wasn't a petitioner. Mr. Egner stated the Mayor was at Hayek's one day when they were giving away free ice-cream, saying he had a petition and for people to come sign it. Mr. Egner said he actually agrees with the petition but did not sign this petition for this reason. Now the Council is going to backtrack against legalities and go against the one person in this room that we are paying for her advice. We should listen to Mrs. Leo and hopefully the petitioners will take a moment and decide to pull it back and wait to discuss this with the new Council. Sandy, Matt and Jason all ran their campaigns on moving the election, so none of this is even necessary. Or they can line up the timeline like our lawyer is suggesting and get it put on the November ballot.

Margaret Baldini, Barry Lane came forward and stated she just wanted to point out even if we had to have a special election, \$18,000 would still be cheaper in the next 10 years than the \$100,000 cost of having municipal elections every two years.

Frank Sebastiano, 12 Barrett Avenue, wanted to give an opinion on business in Town. It is very hard to run a business in Newton, although we are the County Seat we are still in the country, and the amount of people here compared to the city makes it hard to earn a living. He appreciates starting to allow Food Trucks but he disagrees that other towns are looking to us. He highly doubts we will have many if any trucks given the limitations presented. He believes it's a great start but thinks the Council is out of

May 14, 2018

reality of having it actually happen. It is unreasonable to not be able to have a Food Truck on private property as well as limiting locations.

Ralph Porter, 12 Pine Street stated he came to the last meeting and told the Council about having art work hung in businesses in Town. He wants to advise the Council there is art in three more building including Cornwell Clocks, 4Chicks Café and Crawdaddy's.

Erin Louglas, 5 Franklin Street and owner of Between the Bread on Spring Street wanted to say thank you to Kimberly (Williams) she is fantastic and has really done a lot for the Town and the merchants really appreciate her.

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

COUNCIL & MANAGER COMMENTS

None.

EXECUTIVE SESSION

RESOLUTION #110-2018

A Resolution Providing for a Meeting Not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12

WHEREAS, the Town Council of the Town of Newton is subject to certain requirements of the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq.; and

WHEREAS, the Open Public Meetings Act, N.J.S.A. 10:4-12, provides that an Executive Session, not open to the public, may be held for certain specific purposes when authorized by Resolution; and

WHEREAS, it is necessary for the Town Council of the Town of Newton to discuss in a session not open to the public certain matters relating to the items authorized by N.J.S.A. 10:4-12b and designated below:

- i. Attorney Client Privilege – Utilities
- ii. Personnel – Daniel Flynn

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Newton, assembled in public session on May 14, 2018, that an Executive Session closed to the public shall be held on May 14, 2018 at 9:05PM in the Town of Newton Municipal Building, 39 Trinity Street, Newton, NJ, for the discussion of matters relating to the specific items designated above.

It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Town Council that the public interest will no longer be served by such confidentiality.

Upon motion of Mrs. Le Frois, seconded by Mr. Elvidge and unanimously carried, Council entered Executive Session at 9:05pm.

Upon motion of Mrs. Le Frois, seconded by Mr. Flynn and unanimously carried, Council left Executive Session at 10:27pm.

May 14, 2018

There being no further business to be conducted, upon motion of Mrs. Le Frois seconded by Mrs. Diglio and unanimously carried, the meeting was adjourned at 10:28pm.

Respectfully submitted,



Teresa Ann Oswin, RMC
Deputy Municipal Clerk