

November 9, 2009

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 Mrs. Unhoch, Mrs. Becker, Mrs. Le Frois, Mr. Ricciardo, Mayor Elvidge and Town Manager, Mr. Thomas Russo, Jr.

Mayor Elvidge 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 22, 2008.”

Reverend Kim of Harmony Hill Church, Stillwater, led the Invocation. Mayor Elvidge led the Pledge of Allegiance to the flag. The Clerk called the roll and upon completion of same, upon motion made by Mrs. Becker, seconded by Mrs. Le Frois and carried, that the minutes of October 26, 2009 (Regular) were approved as presented.

**PUBLIC**

Mr. Harold “Chip” Storm, 289 Spring Street, addressed Council with two issues. Mr. Storm indicated that the first issue is being addressed by the Newton Police therefore he will wait on their response. The second issue Mr. Storm addressed is the parking of commercial vehicles. Mr. Storm explained that he was required to conform to the zoning regulations for his taxicab business and complained that there is a box truck parking at the Town Right of Way near the Moose Lodge, which only permits tractor trailers. Mr. Storm requested that the Town stop issuing any permits allowing any commercial vehicles on that site.

Mayor Elvidge indicated that a permit was issued, in error, to the owner of the box truck. Mayor Elvidge indicated that because it was issued for a thirty day period, it will be allowed due to the oversight of the Town. The Mayor indicated that this issue will be addressed later in the evening.

Mr. Jeff Babcock, 16 Stuart Street, addressed Council and indicated that the box truck Mr. Storm is referring to is his truck and asked for a clarification between box trucks and commercial vehicles. Mayor Elvidge explained that when this Ordinance was adopted there was only a consensus to allow tractor trailers.

Mr. Russo summarized the current scenario and asked Council for direction for formulating a solution for the parking of commercial vehicles currently located on Diller Avenue. Mayor Elvidge indicated a discussion will be held later in the meeting.

Mr. Neil Flaherty, 154 Sparta Avenue, questioned the improvements to be made with the Bond Ordinance which is being introduced this evening and Mr. Russo indicated that this Bond Ordinance is for the financing of the Sparta Avenue project. Mr. Flaherty indicated that

normally he is not a fan of taking on debt, but supports this project because it will be a long term benefit for the Town of Newton.

The governing body also expressed their excitement with regard to the adoption of Resolution #232-2009, designating a redeveloper and authorizing the execution of a redevelopment agreement with respect to the Sparta Avenue Plan Area.

**Council & Manager Reports**

**a. Rich Dayermanjian – Appeal of Utility Advisory Board Decision**

Mr. Rich Dayermanjian, 1 Woodridge Court, Newton, addressed Council and outlined his letter of appeal he submitted to the governing body. Mr. Dayermanjian indicated that he appeared before the Utility Board to appeal his water and sewer bill and was denied. His appeal was asking for a reduction in the sewer portion of the bill, since the water did not flow through the sewer system, but had gone into the ground. Mr. Dayermanjian indicated that he came up with a formula and requested a credit of \$168.50. After a brief discussion, it was the Council's consensus that due to past practice, the Town would grant a credit based on the formula created by the Water and Sewer Department.

Upon motion of Mrs. Becker, seconded by Mr. Ricciardo and unanimously carried, that the appeal be granted and a credit be issued to the Dayermanjian's next water and sewer bill.

Mr. Russo noted that the Town of Newton received from the New Jersey League of Municipalities an "Honorable Mention" for the "2009 Innovation in Governance Awards" competition. We received this award in recognition of our efforts in the issuance of Bonds through the Morris County Improvement Authority.

Mr. Russo noted that the Town is in receipt of a letter from Hon. B. Theodore Bozonelis, Superior Court Judge, Morris-Sussex Vicinage, granting approval of the Council Chambers Renovation Project.

Mr. Russo reviewed correspondence from the Boy Scouts, who are celebrating their 100<sup>th</sup> Anniversary in 2010. The Boy Scouts are requesting closure of Spring Street on Monday, February 8, 2010 to hold a candlelit precession beginning at 7:00 p.m. After a brief discussion, Council requested more details regarding the ceremony and amount of people in attendance. Mr. Russo will obtain more information and address this request at the next Council meeting.

Mr. Russo introduced Mr. Brian T. Giblin, owner of 11 Halsted Street. Mr. Giblin addressed Council to request permission to open the road in order to convert his oil to natural gas service. Permission is necessary from the Governing Body since there is a five (5) year

moratorium on the road opening. Mr. Giblin explained that the oil burner is in disrepair and there is currently no heat for the tenants. Mr. Giblin understands that there is a \$2,000 bond needed to be posted as well as \$240 engineering cost, which he is willing to provide to the Town. After a brief discussion, Council granted permission to open the road with the necessary conditions. Mr. Russo will send Mr. Giblin a letter of approval.

Mr. Russo announced that an additional public Circulation Plan meeting has been scheduled for Saturday, November 14<sup>th</sup> from 9:00 a.m. to 11:00 a.m. in the Council Chambers. Councilman Ricciardo and Councilwoman Unhoch indicated that they will not be able to attend this meeting due to prior commitments.

**ORDINANCES**

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

**ORDINANCE # 2009-27**

**AN ORDINANCE TO AMEND CHAPTER 20 OF THE REVISED GENERAL ORDINANCES OF THE TOWN OF NEWTON**

The following **ORDINANCE** was offered by Mrs. Le Frois, who moved its introduction, seconded by Mrs. Becker and roll call resulted as follows:

Mrs. Unhoch	Yes	Mrs. Becker	Yes
Mrs. Le Frois	Yes	Mr. Ricciardo	Yes
	Mayor Elvidge	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 November 23, 2009.

The Clerk will advertise the above Ordinance according to law.

**ORDINANCE # 2009-28**

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

The following **ORDINANCE** was offered by Mrs. Unhoch, who moved its introduction, seconded by Mrs. Becker and roll call resulted as follows:

Mrs. Unhoch	Yes	Mrs. Becker	Yes
Mrs. Le Frois	Yes	Mr. Ricciardo	Yes
	Mayor Elvidge	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 November 23, 2009.

The Clerk will advertise the above Ordinance according to law.

November 9, 2009

**ORDINANCE # 2009-29**

**BOND ORDINANCE PROVIDING FOR CERTAIN IMPROVEMENTS WITHIN THE SPARTA AVENUE PLAN AREA IN THE TOWN OF NEWTON, COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING \$4,660,000 THEREFOR, AND AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$4,660,000 BONDS OR NOTES OF THE TOWN FOR FINANCING THE COST THEREOF**

The following **ORDINANCE** was offered by Mr. Ricciardo, who moved its introduction, seconded by Mrs. Becker and roll call resulted as follows:

Mrs. Unhoch	Yes	Mrs. Becker	Yes
Mrs. Le Frois	Yes	Mr. Ricciardo	Yes
	Mayor Elvidge	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 December 14, 2009.

The Clerk will advertise the above Ordinance according to law.

**OLD BUSINESS**

There was no Old Business to discuss.

**CONSENT AGENDA**

Mayor Elvidge 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.”

Upon motion of Mr. Ricciardo, seconded by Mr. Elvidge, and carried, that Resolution #232-2009 be removed for separate discussion.

Councilwoman Le Frois recognized that Resolution #227-2009 is for the appointment of Ralph Carchia to the Zoning Board of Adjustment. Mrs. Le Frois thanked Mr. Carchia, who was in attendance, for his volunteerism and feels he will be an asset to the Zoning Board.

**RESOLUTION #219-2009\***

**RESOLUTION PROVIDING FOR FINANCIAL SUPOPRT TO THE MAIN STREET NEWTON, INC. ORGANIZATION FOR THE REMAINDER OF CALENDAR YEAR 2009**

**WHEREAS**, the Town of Newton continues to recognize the importance of the downtown as it relates to the economic health and quality of life of the entire community; and

**WHEREAS**, the improvement, revitalization and development of the downtown is a critical municipal goal; and

**WHEREAS**, a local Main Street Program organization, known as Main Street Newton, Inc., comprised of private and public community leaders, was formed to stimulate economic development and preservation of the downtown, thereby lessening the burden of municipal government; and

**WHEREAS**, the Town Council of the Town of Newton had originally committed,

November 9, 2009

through Resolution #35-2009, to providing financial support in the 2009 municipal budget to the Main Street Newton, Inc. organization, without any matching fund restrictions, in a total amount not to exceed \$40,000; and

**WHEREAS**, partial funding in a lump sum payment of \$20,000 was provided in the spring to the Main Street Newton, Inc. organization after adoption of Resolution #35-2009 for purposes restricted to the payment of salary of the Main Street Newton Executive Director; and

**WHEREAS**, the Town Council continued its financial support for 2009 via adoption of Resolution #134-2009; and

**WHEREAS**, the Town Council discussed continuing its financial support for 2009 at its regularly scheduled meeting of October 26, 2009;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Council of the Town of Newton:

1. Agrees to provide immediate financial support for the Main Street Newton, Inc. organization by making the final \$10,000 payment towards fulfillment of the Town's 2009 pledge commitment of \$40,000.

**RESOLUTION #220-2009\***

**CONTINUATION OF HEALTH BENEFITS FOR FULL-TIME NON-UNION  
EMPLOYEES WHO ARE NOT MEMBERS OF A COLLECTIVE NEGOTIATING  
ASSOCIATION**

**WHEREAS**, the Town of Newton provides medical health insurance benefits to employees who are not members of a collective negotiating association; and

**WHEREAS**, the Town of Newton is a member of the State Health Benefits Program; and

**WHEREAS**, on October 14, 2009, the Town Council of the Town of Newton, via Resolution #209-2009, voted in the affirmative to terminate the Town's participation in the State Health Benefits Program; and

**WHEREAS**, also on October 14, 2009, via Resolution #202-2009, the Town Council of the Town of Newton voted in the affirmative to join the North Jersey Municipal Employee Benefits Fund, effective January 1, 2010;

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

1. The Town of Newton will continue to provide medical health insurance coverage to its full-time employees who are not members of a collective negotiating association.
2. The Town of Newton shall continue to provide coverage that is consistent with the coverage it has provided such employees in the past.
3. The Town of Newton reserves the right to change medical insurance providers and modify the provisions and levels of coverage it provides such employees.

**RESOLUTION #221-2009\***

**AUTHORIZE AN AMENDMENT TO THE DEVELOPERS AGREEMENT WITH  
ROUTE 519 AND NORTH PARK DRIVE, LLC, DATED JUNE 23, 2008, FOR BLOCK  
303, LOT 26.05 FOR KOHL'S DEPARTMENT STORE, EXTENDING THE  
COMPLETION DATE TO JANUARY 31, 2010.**

**WHEREAS**, the Town of Newton entered into a Developer's Agreement with Route 519 & North Park Drive, LLC, on June 23, 2008, to construct a Kohl's Department Store on property known as Block 303, Lot 26.05, on the tax map of the Town of Newton, located on North Park Drive, pursuant to Resolution #101-2008 adopted by the Newton Town Council on June 23, 2008; and

November 9, 2009

**WHEREAS**, Route 519 & North Park Drive, LLC, requested and was granted a ninety (90) day extension for completion by the adoption of Resolution #155-2009 on July 27, 2009 making the new completion date September 30, 2009; and

**WHEREAS**, Route 519 & North Park Drive, LLC in their letter dated October 22, 2009 has requested additional time for completion of the remaining work; and

**WHEREAS**, the Newton Town Engineer has no objection to such request;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Council of the Town of Newton authorizes an Amendment to the June 23, 2008, Developer's Agreement with Route 519 & North Park Drive, LLC, extending the completion date until January 31, 2010; and

**BE IT FURTHER RESOLVED**, that Route 519 & North Park Drive, LLC, shall be provided with a certified copy of this Resolution; and

**BE IT FURTHER RESOLVED**, that a fully executed copy of this Resolution be kept on file and available for public inspection in the Municipal Clerk's office.

**RESOLUTION #222-2009\***

**APPROVE CHANGE ORDER NO. 1 FOR THE VEHICLE WASH FACILITY PROJECT**

**WHEREAS**, the Town Council of the Town of Newton awarded a contract for the Vehicle Wash Facility Project to Ranco Mechanical, Inc., in the amount of \$28,489.00 by Resolution #156-2009, which was adopted on July 27, 2009; and

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

	<u>Amount</u>
<u>Supplemental &amp; Extra</u>	
Heavy Duty Trench Drain Cast Iron Frame	\$1,980.00

**WHEREAS**, the adjusted contract amount will be increased by Change Order No. 1 to the new contract total of \$30,469.00; and

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

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that it hereby approves Change Order No. 1 for the Vehicle Wash Project based on the recommendation of the Town Engineer, and that the Mayor is authorized to execute said Change Order No. 1 resulting in a new contract total of \$30,469.00.

**RESOLUTION #223-2009\***

**FINAL ACCEPTANCE OF THE VEHICLE WASH FACILITY PROJECT**

**WHEREAS**, the Town Council of the Town of Newton awarded a contract for the Vehicle Wash Facility Project to Ranco Mechanical, Inc., in the amount of \$28,489.00 by Resolution #156-2009, which was adopted on July 27, 2009; and

**WHEREAS**, the Newton Town Council approved Change Order No. 1 by adoption of Resolution #222-2009 on November 9, 2009 in accordance with the recommendations of the Town Engineer; and

**WHEREAS**, in a memo to the Town Manager dated October 8, 2009, the Town Engineer states that said project has been completed and recommends the project be accepted as final and complete;

November 9, 2009

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that it hereby concurs with the Town Engineer’s recommendation and accepts the Vehicle Wash Facility Project as final and complete;

**BE IT FURTHER RESOLVED**, that certified copies of this Resolution be forwarded to the Town Engineer and the contractor Ranco Mechanical Inc. so the one (1) year Maintenance Bond may be secured.

**RESOLUTION #224-2009\***

**FINAL ACCEPTANCE OF THE VEHICLE WASH FACILITY PROJECT**

**WHEREAS**, the Town Council of the Town of Newton awarded a contract for the Recycling Treatment System for the Vehicle Wash Facility to J&D Sales and Service, in the amount of \$33,551.10 by Resolution #157-2009, which was adopted on July 27, 2009; and

**WHEREAS**, in a memo to the Town Manager dated October 8, 2009, the Town Engineer states that said project has been completed and recommends the project be accepted as final and complete;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that it hereby concurs with the Town Engineer’s recommendation and accepts the Recycling Treatment System for the Vehicle Wash Facility as final and complete; and

**BE IT FURTHER RESOLVED**, that certified copies of this Resolution be forwarded to the Town Engineer and the contractor J&D Sales and Service so the one (1) year Maintenance Bond may be secured.

**RESOLUTION #225-2009\***

**AUTHORIZE CREDITS DUE WATER AND SEWER UTILITY ACCOUNTS**

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

**Account should have been in Inactive & not charged**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
20462	17 York Road	\$150.00

**RESOLUTION #226-2009\***

**RESOLUTION FO THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, AUTHORIZING APPLICATION TO THE LOCAL FINANCE BOARD PURSUANT TO N.J.S.A. 40A:12A-37 AND N.J.S.A. 40A:12A-67(d)**

**WHEREAS**, the Town of Newton, in the County of Sussex, New Jersey (the “Town”) desires to make application to the Local Finance Board in the Division of Local Government Services, Department of Community Affairs (the “Board”) for its review and/or approval of a proposed bond ordinance (the “Proposed Ordinance”) authorizing the issuance of not to exceed \$4,660,000 general obligation bonds in order to finance certain project improvements, including infrastructure improvements, in the Plan Area defined by the Sparta Avenue Redevelopment Plan finally adopted by the Town on March 23, 2009 by Ordinance No. 2009-6; and

**WHEREAS**, in addition to said bonds or other obligations being secured under the provisions of the Local Bond Law, N.J.S.A. 40A:2-1 et seq., the bonds or other obligations will be secured by a certain financial agreement for payments in lieu of tax paid by Thorlabs Urban Renewal, LLC in connection with a redevelopment project to be undertaken within the Plan Area; and

**WHEREAS**, the Town believes that:

- (a) it is in the public interest to accomplish such purpose;
- (b) said purpose or improvements are for the health, welfare, convenience or betterment of the inhabitants of the local unit or units;
- (c) the amounts to be expended for said purpose or improvements are not unreasonable or exorbitant;
- (d) the proposal is an efficient and feasible means of providing services for the needs of the inhabitants of the local unit or units and will not create an undue financial burden to be placed upon the local unit or units;

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

**Section 1.** The application to the Board is hereby approved, and the Town's Bond Counsel and financial advisor, along with other representatives of the Town, are hereby authorized to prepare such application and to represent the Town in matters pertaining thereto.

**Section 2.** The Municipal Clerk is hereby directed to prepare and file a copy of this resolution and a copy of the Proposed Ordinance with the Board as part of such application.

**Section 3.** The Board is hereby respectfully requested to consider such application and to record its findings, recommendations and/or approvals as provided by the applicable New Jersey Statute.

Recorded Vote

AYE

NO

ABSTAIN

ABSENT

**RESOLUTION #227-2009\***

**APPOINTMENT OF MR. CARCHIA TO THE ZONING BOARD OF ADJUSTMENT**

**WHEREAS**, Mr. Paul McAdam has resigned from his term as a Regular Member of the Zoning Board of Adjustment; and

**WHEREAS**, Mr. Ralph Carchia has expressed interest in serving as a member of the Zoning Board of Adjustment;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that Mr. Ralph Carchia is hereby appointed to an unexpired four-year term which was vacated by Mr. Paul McAdam on the Zoning Board of Adjustment, effective immediately with said term continuing to December 31, 2010.

**RESOLUTION #228-2009\***

**RESOLUTION AND AGREEMENT FOR PROFESSIONAL SERVICES –**

**LABOR RELATIONS**

**SPECIAL COUNSEL FOR LABOR RELATIONS**

**WHEREAS**, there exists a need for special counsel to be appointed to represent the Town of Newton with respect to municipal matters, specifically labor relations; and

**WHEREAS**, the Town of Newton has provided funds in the Municipal Budget for expenditures pertaining to said municipal matters, and the funds have been certified as being available by the Chief Financial Officer; and

**WHEREAS**, Fredric Knapp, Esq. has indicated that all such services will be rendered to the Town of Newton on the basis of a \$150.00 per hour charge, which the Newton Town Council deems fair and equitable for said professional services; and

November 9, 2009

**WHEREAS**, the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) requires that the Resolution authorizing the award of contracts for “professional services” without competitive bids, and the contracts themselves, must be available for public inspection; and

**WHEREAS**, Mr. Knapp agrees to incorporate into this contract the mandatory language of subsection 3.4(a) of the Regulations promulgated by the Treasurer pursuant to P.L. 1975, c.127, as amended and supplemented from time to time and agrees to comply with the terms, provisions, and obligations of said subsection 3.4(a) provided that said subsection shall be applied subject to the terms of subsection 3.4(a) of said Regulations; and

**WHEREAS**, the Town and Mr. Knapp agree to incorporate into this contract the mandatory language of section 5.3 of the Regulations promulgated by the Treasurer pursuant to P.L 1975, c.127 as amended and supplemented from time to time and agree to comply with the terms, provisions and obligations of said section 5.3.

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

1) The Mayor and Clerk of the Town of Newton are hereby authorized and directed to execute a duplicate of this Resolution which shall act as the authorization and agreement between the Town of Newton and Fredric Knapp, Esq., providing for his retention as Special Counsel for Labor Relations for the Town of Newton for calendar year 2009.

2) The services to be rendered by Mr. Knapp shall be on an hourly basis, on an “as needed” requirement, as sought by the Town of Newton at a rate of \$150.00 per hour not to exceed \$10,000.00.

3) This contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-1(1) (a) of the Local Public Contracts Law, because Mr. Knapp is a licensed attorney of the State of New Jersey and, as such, is duly qualified as a professional to carry out the subject services which are expressly exempt from the Local Public Contracts bidding requirements.

4) Political Contribution Disclosure. This contract has been awarded to Fredric Knapp, Esq. based on the merits and abilities of Mr. Knapp to provide the goods or services as described herein. This contract was not awarded through a “fair and open process” pursuant to N.J.S.A. 19:44-20.4 et seq. As such, the undersigned does hereby attest that he and all those who control in excess of 10% of the law firm in which he is a member has neither made a contribution that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A., 19:44a-8 or 19:44a-16, in the one (1) year period preceding the award of the contract that would, pursuant to P.L. 2004, c.19, affect its eligibility to perform this contract, nor will it make a reportable contribution during the term of the contract to any political party committee in the Town of Newton, County of Sussex if a member of that political party is serving an elective public office of that Town when the contract is awarded, or to any candidate committee of any person serving in an elective public office of the Town when the contract is awarded.

5) Notice of this action shall be published once in the New Jersey Herald.

**ATTEST:**

**TOWN OF NEWTON**

\_\_\_\_\_  
Lorraine A. Read, RMC, Municipal Clerk

\_\_\_\_\_  
E. Kevin Elvidge, Newton Mayor

I hereby acknowledge executing this duplicate Resolution and agree to be bound by its terms, covenants and conditions for the year 2009.

Date: \_\_\_\_\_

\_\_\_\_\_  
Fredric Knapp, Esq.  
Knapp, Trimboli & Prusinowski, LLC

**RESOLUTION #229-2009\***

**APPROVE 2009 APPROPRIATION TRANSFERS**

November 9, 2009

**BE IT RESOLVED** by the Town Council of the Town of Newton that the following 2009 appropriation transfers be approved effective this date:

<u>From</u>	<u>To</u>	<u>Amount</u>
<b><u>CURRENT</u></b>		
Mosquito/Gypsy Moth – OE 1086200	Human Resource – OE 1053226	1,025.
Surety Bond Premiums – OE 1068200	Planning Board – OE 1062216	1,500.
Other Insurance – OE 1069202	Zoning Board – OE 1062316	1,000.
O/S CAPS-Note Principal 1096220	O/S CAPS-Note Interest 1096240	24,575.
Recycling – Other Expenses 1083226	O/S CAP Recycling Tax – OE 1094550	50.
TOTAL CURRENT TRANSFERS		<u>\$ 28,150.</u>
<b><u>WATER SEWER UTILITY</u></b>		
W/S Sewer Plant – S & W 6051171	W/S Adm & Fin – Other Expenses 6051216	\$ 62,400.

**RESOLUTION #230-2009\***

**AUTHORIZE AN AGREEMENT WITH MWH AMERICAS, INC. FOR AN AMMONIA EVALUATION FOR THE POSSIBLE MODIFICATIONS TO THE WASTEWATER TREATMENT PLANT**

**WHEREAS**, the Town of Newton requires the services of a qualified Engineering Consultant to conduct an Ammonia Evaluation for the possible modifications to the Newton Wastewater Treatment Plant; and

**WHEREAS**, consulting service is a professional service as defined by the Local Public Contracts Law and is, therefore, exempt from public bidding requirements in accordance with N.J.A.C. 40A:11-5(1)(a)(i); and

**WHEREAS**, MWH Americas, Inc. has submitted a proposal dated October 27, 2009 for conducting an evaluation on the ammonia limits for the Wastewater Treatment Plan for a contract amount not to exceed \$39,800.00; and

**WHEREAS**, the Chief Financial Officer has certified that funds are available to support an agreement with MWH Americas, Inc. for the Ammonia Evaluation in an amount not exceed an \$39,800;

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton hereby authorizes an agreement with MWH Americas, Inc. for an Ammonia Evaluation as outlined in their proposal dated October 27, 2009; and

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be forwarded to MWH Americas, Inc. and that a notice of this agreement be in the newspaper of record published in accordance with the Local Public Contracts Law.

**RESOLUTION #231-2009\***

**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 2008 and 2009 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**

887,294.00	Newton Board of Education	910078
190,178.04	Payroll Account	910079
6,000.00	Federal & State Grant	910080
156.72	Harold Pellow & Associates, Inc.	26099
3,565.65	Partac Peat Corporation	26100
197.00	ABCCode Security	26101
81.76	G & H Service	26102
16,408.69	Jersey Central Power & Light	26103
492.62	New Jersey Herald	26104
823.80	Pumping Services	26105
36.20	Sussex County Plumbing	26106
365.35	Century Link – EROC Scanning	26107
121.83	Century Link – EROC Scanning	26108
209.93	Rowe & Company, Inc.	26109
425.92	Capital Account	26110
696,527.08	County Purpose Tax	26111
17,510.17	County Health Tax	26112
48,922.74	County Library Tax	26113
2,639.28	Delta Dental	26114
2,568.40	Delta Dental	26115
138.65	Lock & Key World	26116
1,560.15	Willco, Inc.	26117
965.00	Miami Systems	26118
1,410.00	Minisink Press Inc.	26119
72.61	Sebring Auto Parts	26120
8.60	Sherwin Williams	26121
48.20	Zee Medical	26122
90.00	Greater Newton Chamber of Commerce	26123
828.02	Vision Service Plan	26124
199.00	Rutgers Center for Government Serv.	26125
185.14	Verizon Wireless	26126
1,621.16	Verizon Wireless	26127
2,655.85	County Open Space Tax	26128
525.00	North Jersey Portable Toilets	26129
250.24	Cooper Electric Supply Co.	26130
2,145.00	Vogel, Chait, Collins, Schneider, PC	26131
1,590.00	Fire & Safety Services, LTD	26132
31.73	AW Direct Inc.	26133
849.07	Staples Business Advantage	26134
199.03	Lowe's	26135
142.51	Nestle Waters	26136
122.00	R & S Business Machine Co.	26137
1,927.57	Rachles/Michele's Oil Company	26138
2,604.06	JMC Environmental Consultants, Inc.	26139
54.53	Sprint	26140
99.95	Gormley's Auto Center	26141
168.00	Jersey Central Power & Light	26142
4,395.00	Knapp, Trimboli & Prusinowski, LLC	26143
411.96	Safe Tech Inc.	26144
44.90	Dash Medical Gloves	26145
1,500.00	Envirosight	26146
2,547.75	Dolan & Dean Consulting Eng., LLC	26147

**CAPITAL**

10,000.00	Federal & State Grant	930018
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November 9, 2009

7,500.00	Ferraioli, Cerullo & Cuva	7443
994.02	Water & Sewer Operating Account	7444
1,940.40	Ranco Mechanical, Inc.	7445
125,000.00	Construction & Industrial Equipment	7446

**Total TOWN BILLS \$2,049,350.28**

**WATER AND SEWER ACCOUNT**

26,111.00	U.S.D.A. / FHA	960038
65,429.00	U.S.D.A./FHA	960039
23,991.26	Payroll Account	960040
372.75	Schmidt's Wholesale, Inc.	11099
1,096.59	Lee Company	11100
17,219.91	Jersey Central Power & Light	11101
381.79	Sussex County Plumbing	11102
1,600.00	Township of Sparta	11103
11,631.57	Coyne Chemical Corp., Inc.	11104
125.85	Centurylink – EROC Scanning	11105
781.36	Delta Dental	11106
119,954.75	Current Account	11107
48.00	Joseph Carr	11108
4.21	McGuire	11109
144.67	Vision Service Plan	11110
707.50	alternate Power Inc.	11111
393.80	Dan's Auto	11112
8,460.82	National Water Main Cleaning Co.	11113
442.50	Accurate Waste Removal	11114
959.63	Current Account	1040

**Total WATER & SEWER BILLS \$279,856.96**

**TRUST ACCOUNT**

1,634.05	Payroll Account	981073
2,002.63	Harold Pellow & Assoc., Inc.	2708
494.00	Hollander, Hontz, Hinkes & Pasculli LLC	2709
435.00	Vogel, Chait, Collins, Schneider, PC	2710

**Total TRUST ACCOUNT BILLS \$4,565.68**

A motion was made by Mrs. Le Frois to approve the **COMBINED ACTION RESOLUTIONS**, seconded by Mrs. Becker and roll call resulted as follows:

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

Prior to the adoption of Resolution #232-2009, Mr. Ricciardo expressed his excitement with the adoption of this Resolution. Mr. Ricciardo noted that this project planning has been in the making for the past two and one-half (2½) years and would like to thank all those who contributed to this outcome. Thanks to Amy Eskilson, Director of Business Development of Thorlabs; to the County Administrator John Eskilson and County Board of Freeholders; as well as the Redevelopment Team and the Governing Body members. Mr. Ricciardo noted that this project will produce jobs and stimulate our economy in our community. Mayor Elvidge also

thanked those who were involved and most importantly thanked Thorlabs for staying in our community and area.

**RESOLUTION #232-2009**

**RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF  
NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, DESIGNATING A  
REDEVELOPER AND AUTHORIZING THE EXECUTION OF A REDEVELOPMENT  
AGREEMENT WITH RESPECT TO THE SPARTA PLAN AREA**

**WHEREAS**, the *Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.* (the "Act"), authorizes municipalities to determine whether certain parcels of land in the municipality constitute areas in need of redevelopment; and

**WHEREAS**, to determine whether certain areas within the Town of Newton, in the County of Sussex, New Jersey (the "Town") constitute areas in need of redevelopment, the Town Council, by way of Resolution #56-2004 adopted April 26, 2004, authorized and directed the Planning Board (the "Planning Board") of the Town of Newton to conduct a preliminary investigation and public hearing to determine whether Block 1104, Lot 21 in the Town (the "Property") met the criteria set forth in *N.J.S.A. 40A:12A-5* and should be designated as an area in need of redevelopment; and

**WHEREAS**, on April 25, 2005, after review of the findings of the Planning Board in accordance with the Act, the Town designated Block 1104, Lot 21 as an "area in need of redevelopment" under the Act (the "Redevelopment Area"); and

**WHEREAS**, on April 23, 2007, the Town designated a portion of the Town, including the public streets and rights-of-way of Sparta Avenue, Merriam Avenue and Pine Street adjacent to the Redevelopment Area as an "area in need of rehabilitation" in accordance with the Act (the "Rehabilitation Area", and together with the Redevelopment Area, the "Sparta Avenue Plan Area"); and

**WHEREAS**, the Town developed a proposed redevelopment plan for the Sparta Avenue Plan Area (the "Proposal") and referred the same to the Planning Board for its review in accordance with the Act; and

**WHEREAS**, at a public meeting duly noticed and held on March 4, 2009, the Planning Board reviewed the Proposal, and recommended its adoption with certain modifications (the "Revised Proposal"); and

**WHEREAS**, by Ordinance 2009-6 finally adopted on March 23, 2009, the Town, acting on the Planning Board's recommendation, approved the Revised Proposal as the redevelopment plan for the Sparta Avenue Plan Area (the "Redevelopment Plan"); and

**WHEREAS**, the Town has engaged in negotiations with Thorlabs Urban Renewal, LLC, Newton, New Jersey ("Thorlabs URE") with respect to the potential development of a mixed-use facility within the Sparta Avenue Plan Area, incorporating research and development, office space, manufacturing, ancillary parking, and infrastructure improvements (collectively, the "Project"); and

**WHEREAS**, during this negotiation period the Town undertook extensive due diligence in financial and project-related matters, and held a number of negotiation sessions with Thorlabs URE to satisfy itself as to (i) the consistency of Thorlabs URE's concept and vision with the vision and objectives of the Town, and the best interests of the citizens and taxpayers of the Town; (ii) the desirability of the proposed Project; and (iii) the qualifications, experience and financial ability of Thorlabs URE and its principals to undertake and see redevelopment of the Sparta Avenue Plan Area through to completion; and

**WHEREAS**, the Town has determined that Thorlabs URE possesses the proper qualifications, financial resources and capacity to implement and complete the Project in accordance with the Redevelopment Plan, and all other applicable laws, ordinances and regulations; and

**WHEREAS**, the Town believes the Project to be in the vital and best interests of the Town, and that it promotes the redevelopment of the Sparta Avenue Plan Area and the health, safety, morals and welfare of the Town’s residents,

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, AS FOLLOWS:**

**Section 1. Execution of Redevelopment Agreement Authorized.** (a) The Mayor and the Town Council hereby authorize the execution of a Redevelopment Agreement with Thorlabs URE in substantially the form attached hereto as Exhibit A and by this reference incorporated herein (the "Redevelopment Agreement").

(b) The Town Manager is hereby authorized to execute the Redevelopment Agreement in substantially the form attached hereto, with such additions, deletions and modifications as may be necessary in consultation between the Town Manager, the Town Attorney and Redevelopment Counsel.

**Section 2. Designation of Redeveloper.** Thorlabs Urban Renewal, LLC, Newton, New Jersey is hereby designated as redeveloper pursuant to the Act, of such parcels within the Sparta Avenue Plan Area as are identified within the Redevelopment Agreement attached hereto.

**Section 3. Severability.** If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.

**Section 4. Availability of Resolution.** A copy of this Resolution shall be available for public inspection at the offices of the Municipal Clerk.

**Section 5. Effective Date.** This Resolution shall take effect upon final passage.

Upon motion of Mr. Ricciardo, seconded by Mayor Elvidge and carried, that **Resolution #232-2009** be adopted and roll call resulted as follows:

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

**INTERMISSION**

**OPEN TO THE PUBLIC**

Mayor Elvidge opened the meeting to the public.

Mrs. Amy Eskilson, Director of Business Development for Thorlabs, extended her true appreciation to the Town of Newton for their support, vision and understanding of the proposed project. Mrs. Eskilson thanked the Town for their partnership created this evening and believes that this project will produce a long standing relationship as well as an economic benefit to this community. “We are ready to go and here to stay,” Mrs. Eskilson concluded.

Councilwoman Le Frois thanked Thorlabs for their commitment to this community. This is an affirmation of the long term vision that the Town of Newton is working toward and she believes this is a giant step in the overall plan.

Ms. Eileen Kithcart, 14 Parson Road, Former Town Manager, congratulated the Town

November 9, 2009

and Thorlabs for the adoption of this Resolution this evening. Ms. Kithcart stated she is extremely proud of the Newton Town Council and was truly glad to be a part of the initiation of this whole partnership.

**COUNCIL & MANAGER COMMENTS**

Mr. Russo requested a discussion and direction on the issue of parking of commercial vehicles.

Mayor Elvidge first noted that the parking lot in question may be eliminated due to the potential development in that area but in the meantime would request an amendment to the current Ordinance in place in order to include box trucks. Councilman Ricciardo asked that the amendment include not only the box trucks but also address the idling of trucks. Mr. Ricciardo indicated that a plan for the future is also necessary when re-visiting the Ordinance.

After a brief discussion, Council directed Mr. Russo to work with the Town Attorney and Town Engineer on amending the Ordinance related to parking of commercial vehicles in this area.

Mrs. Le Frois noted that she will be meeting with the Fire Chiefs as well as the fourth fire truck vendor on Saturday and will keep Council informed.

Deputy Mayor Becker commended Mr. Russo on the Town receipt of the “2009 Innovation in Governance Award” and thanked him for being the Town’s fiscal watchdog.

There being no further business to be conducted, upon motion of Mayor Elvidge, seconded by Mrs. Becker and unanimously carried, the meeting was adjourned at 7:57 p.m.

Respectfully submitted,

Lorraine A. Read, RMC  
Municipal Clerk