

January 25, 2010

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 31, 2009.”

Mayor Elvidge led the invocation as well as the Pledge of Allegiance to the flag. The Clerk called the roll and upon completion of same, upon motion of Mrs. Becker, seconded by Mrs. Le Frois and unanimously carried, that the minutes of January 11, 2010 (Regular) meeting were approved as presented.

PUBLIC

Mayor Elvidge opened the meeting to the public.

There was no one from the public to be heard.

Council & Manager Reports

Mr. Russo offered condolences to Jeff Schiffner and his family for the recent loss from the Landmark West Apartments fire. Mr. Russo noted that a report from the Office of Emergency Management (OEM) was created and will be provided to Town Council.

Mr. Russo congratulated Sussex County Freeholder Hal Wirths for his recent nomination, by the Governor, to head the Labor Department. Mr. Russo expressed his best wishes to Freeholder Wirths on his new endeavor.

Mr. Russo indicated that the budget hearings will begin on Saturday, January 30, 2010 at 9 a.m. and continue on Thursday, February 4, 2010 at 6:00 p.m. Mr. Russo dispersed the budget document to the Town Council.

Mr. Russo outlined the agenda for the January 30th and February 4th budget hearings.

ORDINANCES

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

ORDINANCE #2010-01

AN ORDINANCE TO EXCEED THE 2010 MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A:4-45:14)

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

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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 February 8, 2010.

The Clerk will advertise the above Ordinance according to law.

Prior to the introduction of Ordinance #2010-2, Joe Inga, Fire Sub-Code Official, provided an overall outline of the purpose and need for this Ordinance. After a lengthy discussion, the consensus of the Town Council was to table the final reading of this Ordinance until February 22, 2010. Council agreed that the Ordinance be amended to eliminate the second approval of plans by Chief of the Newton Fire Department. Council felt that approval by the Fire Sub-Code Official was sufficient.

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

ORDINANCE #2010-02

AN ORDINANCE CONCERNING FIRE PROTECTION CAPABILITY AND AMENDING CHAPTER 15 OF THE MUNICIPAL CODE OF THE TOWN OF NEWTON

The following **ORDINANCE** was offered by Mr. Ricciardo, who moved its introduction, seconded by Mrs. Le Frois 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 February 22, 2010.

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.”

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RESOLUTION #06-2010*

**AUTHORIZE THE EXECUTION OF AN AGREEMENT FOR CALENDAR YEAR 2010
WITH THE DEPUTY MUNICIPAL PUBLIC DEFENDER**

WHEREAS, the professional services of a Deputy Municipal Public Defender may be needed by the Town of Newton during calendar year 2010; and

WHEREAS, Daniel A. Colfax, Esq. has expressed an interest in serving as Deputy Municipal Public Defender; and

WHEREAS, an appropriate agreement for said services has been prepared for execution by both parties; and

WHEREAS, legal services 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 the candidate complies with all requirements for appointment without public bidding under N.J.S. 19:44A-1 et seq;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that it hereby authorizes the Mayor and Municipal Clerk to execute an agreement, in duplicate with Daniel A. Colfax, Esq. to permit him to perform the services of Deputy Municipal Public Defender during 2010;

BE IT FURTHER RESOLVED that a fully executed copy of the agreement and a certified copy of this Resolution be forwarded to Daniel A. Colfax, Esq. and Municipal Judge John E. Mulhern.

RESOLUTION #07-2010*

**AUTHORIZE AN AGREEMENT WITH HOLZHAUER & HOLENSTEIN, LC FOR
APPRAISAL SERVICES FOR DEFENSE OF STATE LEVEL TAX APPEALS**

WHEREAS, various tax appeals have been filed with the State of New Jersey related to several real properties within the Town of Newton; and

WHEREAS, Michael Holenstein of Holzhauer & Holenstein, LLC has submitted a proposal for his continued appraisal services to defend such tax appeals, which is acceptable to the Newton Governing Body; and

WHEREAS, appraisal 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, the Chief Financial Officer has certified that funds are available to support an agreement with Holzhauer & Holenstein, LLC, for appraisal services in an amount not exceed \$17,500;

NOW, THEREFORE BE IT RESOLVED, that the Town Council of the Town of Newton hereby authorizes the execution of an agreement with Holzhauer & Holenstein, LLC, for appraisal services as outlined in Mr. Holenstein's proposal dated December 17, 2009;

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to Holzhauer & Holenstein, LLC and that a notice of this agreement be in the newspaper of record published in accordance with the Local Public Contracts Law.

RESOLUTION #08-2010*

AUTHORIZE THE RELEASE OF EXECUTIVE SESSION MINUTES TO THE PUBLIC

WHEREAS, the Newton Mayor and Council met in Executive Session on certain occasions; and

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WHEREAS, as a result of these Executive Sessions, minutes were prepared and approved by the Mayor and Council although the minutes were not released to the public; and

WHEREAS, the Town Attorney, Town Clerk, and Town Manager have reviewed such approved minutes and recommend the release of certain meeting minutes to the public.

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Newton, in the County of Sussex, and State of New Jersey that the minutes of the following Executive Sessions be released to the public:

1/12/2009, 1/26/2009, 2/9/2009, 2/23/2009, 5/11/2009, 6/8/2009,
6/22/2009, 7/27/2009, 8/10/2009, 8/24/2009, 9/16/2009, 9/28/2009

BE IT FURTHER RESOLVED, that these specified minutes may be released to the public upon request.

RESOLUTION #09-2010*

**APPROVE FINAL ACCEPTANCE OF THE PROPOSED RESURFACING OF
VARIOUS STREETS PROJECT**

WHEREAS, on July 13, 2009, by way of adoption of Resolution #140-2009, the Newton Town Council awarded a contract to Tilcon New York, Inc. for the Proposed Resurfacing of Various Streets Project; and

WHEREAS, in his memo dated December 24, 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 recommendations and authorizes the acceptance of the Proposed Resurfacing of Various Streets Project as final and complete;

BE IT FURTHER RESOLVED, that certified copies of this Resolution be forwarded to Tilcon New York, Inc. and the Town Engineer.

RESOLUTION #10-2010*

**RESOLUTION OF 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-29(a)(3)**

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 authorization to issue not to exceed \$6,175,000 Recovery Zone Facility Bonds at private sale pursuant to N.J.S.A. 40A:12A-29(a)(3); 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 Town Clerk is hereby directed to prepare and file a copy of this resolution 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 #11-2010*

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:

Utility Board recommends credit of 1st, 2nd & 3rd Quarters and penalty due to frozen meter (billed \$88.60 for 1st Quarter, \$75.00 for 2nd Quarter, \$75.00 for 3rd Quarter and \$112.70 penalty):

<u>Account</u>	<u>Address</u>	<u>Amount</u>
15053	19 Linmor Avenue	\$351.30

RESOLUTION #12-2010*

APPROVE 2009 APPROPRIATION TRANSFERS

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>
Utility – Gas/Diesel 1089229A	Dog Regulations OE 1087200A	\$5,000.
Employee Group Insurance OE 1066200A	Tax Assessor OE 1055200A	\$16,300.
Finance SW 1054100A	Finance Audit 1054300A	\$ 2,000.
Finance OE 1054200A	Finance Audit 1054300A	\$ 1,100.
Town Clerk SW 1051100A	Finance Audit 1054300A	\$ 1,500.
Planning/Zoning SW 1062100A	Town Manager 1050251	\$ 30.

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Community Devel SW 1064100A	Zoning Board OE 1062300	\$ 300.
TOTAL		\$26,230.

RESOLUTION #13-2010*

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

41.96	Dunkin Donuts	26480
634.92	Staples Credit Plan	26481
827.70	E.A. Morse & Company	26482
725.89	Harold Pellow & Associates, Inc.	26483
60.00	ABCCode Security	26484
8,898.42	NUI Corporation	26485
2,712.81	JCP&L	26486
344.75	New Jersey Herald	26487
258.54	SCMUA	26488
390.00	B & G Elevator	26489
289.13	Centurylink Communications, Inc.	26490
1,764.00	Hollander, Hontz, Hinkes & Pasculli LLC	26491
54.41	Federal Express	26492
5.29	Scott Holzhauer	26493
654.36	Vital Computer Resources, Inc.	26494
634.00	NJLM	26495
50.00	Sussex County League of	26496
41.96	John Tomasula	26497
120.00	Minisink Press Inc.	26498
693.45	Dempsey Uniform & Supply Inc.	26499
46.92	Airgas East	26500
1,108.69	Boonton Tire Supply	26501
108.00	Sussex & Warren Tax Col. Assoc.	26502
175.00	IAAO	26503
1,488.31	Verizon Wireless	26504
435.00	Accurate Door, Inc.	26505
5,522.10	Dell marketing L.P.	26506
73.50	Mr. John	26507
529.00	Kay Printing	26508
1,323.00	Universal Uniform	26509
201.75	AW Direct Inc.	26510
944.38	Staples Business Advantage	26511
29.86	Lowe's	26512
22.67	Monroe Systems for Business	26513
1,338.84	Rachles/Michele's Oil Company	26514
1,905.05	Taylor Oil Co.	26515
2,250.00	Laddey, Clark & Ryan, LLP	26516
105.00	AG Pizza	26517
69.92	Sprint	26518
580.00	Tire King	26519
1,500.00	Civic Plus	26520
168.00	Jersey Central Power & Light	26521
3,262.50	Sparctech Solutions, LLC.	26522
9,275.82	Atlantic Salt, Inc.	26523
88,108.00	NJMEBF	26524

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9,745.45	Treasurer, State NJ/727 Fund	1010001
8,820.11	Payroll Account	1010002
196,529.99	Payroll Account	1010002
184,852.34	Payroll Account	1010003
887,294.00	Newton Board of Education	1010004

CAPITAL

661.32	Global	7485
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Total TOWN BILLS \$1,427,676.11

WATER AND SEWER ACCOUNT

28,653.34	Payroll Account	106001
2,191.98	Payroll Account	106001
27,867.90	Payroll Account	106002
169.85	Montague Tool & Supply	11259
8,427.21	MWH Americas, Inc.	11260
1,143.99	Lee Company	11261
3,016.90	NUI Corporation	11262
4,203.68	JCP&L	11263
494.50	Keller Welding Company	11264
37.34	New Jersey Herald	11265
236.68	SCMUA	11266
14.00	Paul M. Havens	11267
8,897.46	Coyne Chemical Corp., Inc.	11268
8.41	Centurylink Communications, Inc.	11269
1,078.45	Hollander, Hontz, Hinkes & Pasculli LLC	11270
4,243.00	Garden State Laboratories, Inc.	11271
12,204.69	Sparta Township Tax Collector	11272
1,500.00	Cosper Environmental Services, Inc.	11273
239.76	Dempsey Uniform & Supply Inc.	11274
119.40	One Call Systems	11275
10,990.00	R & D Trucking Inc.	11276
166.17	Airgas East	11277
14.00	Ervin Lasso	11278
1,273.50	Univar USA Inc.	11279
1,250.00	John Smalley	11280
1,970.00	Alternate Power, Inc.	11281
4,327.22	Suburban Energy Services	11282
210.00	Scarinci & Hollenbeck, LLC	11283
20.26	Staples Business Advantage	11284
30.00	Eric Tompkins	11285
1,500.00	Civic Plus	11286
986.29	Basic Chemical Solutions	11287
12,118.00	NJMEBF	11288

Total WATER & SEWER BILLS \$139,603.97

TRUST ACCOUNT

2,268.38	Payroll Account	107101
1,303.00	Payroll Account	107102
1,445.94	Harold Pellow & Associates, Inc.	2741
1,125.00	James P. Sloan, P.C.	2742

Total TRUST ACCOUNT BILLS \$6,142.32

DOG RESERVE ACCOUNT

707.96	New Jersey Herald	8508
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Total DOG RESERVE BILLS \$707.96

FEDERAL STATE GRANT ACCOUNT

487.92	Payroll Account	101101
449.86	Payroll Account	101102

Total FEDERAL STATE GRANT BILLS \$937.78

DEVELOPERS ESCROW ACCOUNT

259.11	Holiday Inn Express	1040
4,103.79	Mr. Timothy Voss	1041
847.38	Applebee's	1042
844.46	RJB Newton, LLC	1043
1,475.90	Station House	1044

Total DEVELOPER'S ESCROW BILLS \$7,530.64

The Municipal Clerk presented an application for a Special Permit for a Social Affair from Newton Memorial Post 5360 Veterans of Foreign Wars, 85 Mill Street, Newton, New Jersey to be held on July 18, 2010 from 8:00 a.m. to 4:00 p.m. at the Newton VFW Post #5360, Newton, New Jersey.

A motion was made by Mr. Ricciardo to approve the **COMBINED ACTION RESOLUTIONS**, seconded by Mrs. Unhoch and roll call resulted as follows:

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

DISCUSSION

Mr. Russo reviewed, in detail, the proposed contract with Public Service Electric and Gas Company (PSE&G), as well as the letter of advice from our Town Attorney, Sanford L. Hollander, Esq. Mr. Hollander's memo addressed the potential burdens to the Town as follows:

1. The public relations impact of Newton bargaining away its rights to oppose this Project.
2. The language of the Contract is ambiguous to how Newton would be paid.
3. The actual amount to be paid to the Town of Newton will be determined by use of the formula set forth in Appendix A. It was noted that the cost of reviewing the application and formula by Newton's Engineer and/or other professionals would be a cost borne solely by the Town.
4. If the Contract was able to be negotiated, Mr. Hollander would request that an indemnification paragraph be placed in the Agreement.

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After a brief discussion, the Council directed Mr. Russo to send a letter to PSE&G, summarizing all of the comments from our Town Attorney. Mr. Russo will keep Council informed of any response.

Mr. Russo reviewed a memo dated January 20, 2010 regarding the potential consolidation of the Zoning Board and the Planning Board into one Land Use Board. Mr. Russo noted that a referendum is not required, simply an ordinance rescinding those sections of the Town Code establishing and empowering the Zoning Board of Adjustment, amending other sections referencing same, and consolidating all land use powers into the Planning Board. The new board would have 9 members and 4 alternates. The Mayor and Council member who sit on the new board would have to step down when a "d" variance is to be considered.

After a lengthy discussion, the majority of the Council agreed to pursue the next step, which would be to gather statistics regarding the 2009 applications as well as the running time frame of the meetings held by both Zoning and Planning Boards.

Mr. Russo noted that as a result of joining the Middlesex Regional Services Education Commission and going out on the open market for electricity, the Town has secured an 18% savings. In hopes for more savings, the Town has inquired about natural gas on the open market and Mr. Russo will keep Council informed of same.

Mr. Russo reviewed the memo dated January 12, 2010, SWOT Analysis. This brainstorming session was conducted on Wednesday, January 6, 2010 at the Hardyston Municipal Building, which allowed our organization to assess its current state of affairs as well as plan for future improvement. Mr. Russo indicated that this productive meeting provided a snapshot in time of the Town of Newton municipal organization. Mr. Russo requested Council's review of the outlined results and comment at a future meeting.

Mr. Russo updated Council on the modification to the Boy Scouts of America candle light ceremony to be held on Monday, February 8, 2010 at the County Park and will begin at 6:30 p.m. This event has been scaled down from the initial plan and Spring Street will not be closed. The Newton Police will assist with this event, which should conclude at approximately 7:00 p.m.

Mr. Russo reviewed the draft letter and shade tree reimbursement form for the property owners in the Castle Ridge at Newton subdivision. The Council reviewed and approved the draft letter and reimbursement form as presented.

OPEN TO THE PUBLIC

Mayor Elvidge opened the meeting to the public.

Mr. Neil Flaherty, 154 Sparta Avenue, expressed his approval of consolidating the Zoning Board and Planning Board into one Land Use Board, noting that it would provide a greater efficiency for the residents as well as the staff.

COUNCIL & MANAGER COMMENTS

Councilman Ricciardo noted that the brick crosswalks throughout the Town are deteriorating and Mrs. Millikin advised that she recently met with the vendor who created the brick crosswalks and will be returning in the spring to repair same.

Mr. Ricciardo also noted that a water main valve cover has been missing on Douma Court. Mrs. Millikin will address this with Paul Baldwin, Water & Sewer Supervisor.

The Town Council entered into Executive Session at 8:27 p.m. under Resolution #14-2010.

The Town Council returned from Executive Session at 9:36 p.m.

There being no further business to be conducted, upon motion of Mrs. Le Frois, seconded by Mrs. Becker and unanimously carried, the meeting was adjourned at 9:37 p.m.

Respectfully submitted,

Lorraine A. Read, RMC
Municipal Clerk