

February 22, 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 Mr. Ricciardo, seconded by Mrs. Becker and unanimously carried, that the minutes of January 30, 2010 (Special), February 4, 2010 (Special), February 8, 2010 (Regular as amended) and February 8, 2010 (Executive) meetings were approved as amended.

Mrs. Unhoch noted that she would read the amendment for February 8th into the minutes. “Councilwoman Unhoch noted that there are two reasons for her objection to this resolution. 1) The extension of the Employment Contract to seven (7) years, she feels is “much too long”; and 2) The extension of the vacation to twenty (20) days, she feels should reflect what “all other employees receive.”

PUBLIC

Mayor Elvidge opened the meeting to the public.

Mr. Ray Storm, 202 Main Street, noted that there is only one complete copy of the agenda with attached Ordinances and Resolutions. He requested that additional agendas be available for the public.

Mr. Storm also inquired about the Town’s funding obligation to Main Street Newton (MSN) and asked how the budgeted amount of \$40,000.00 for 2010 would be disbursed. Mr. Ricciardo advised that Main Street Newton will be here this evening to make a presentation and to discuss the Town’s financial support. This presentation will be open to the public

Mr. Neil Flaherty, 154 Sparta Avenue, also agreed that extra copies of the agenda should be available for the public, as well as, placing the ordinances and resolutions, in full, on the website for public view prior to the Council meetings.

Council & Manager Reports

A. MEMORIAL DAY PARADE – Larry Pryduluk

Mr. Larry Pryduluk, Coordinator for the Memorial Day Parade, addressed Council and

requested that Spring Street be closed on Monday, May 31, 2010 from 10 am – Noon in order to host the 2010 Memorial Day Parade. Mr. Pryduluk also advised that the committee plans on having a Newton Memorial Day Parade Benefit Dinner at the American Legion Hall on Saturday, March 27, 2010 at 6:00 p.m. and invited the Council to attend.

The governing body commended Mr. Pryduluk for heading the Parade once again this year. After a brief discussion, the Council unanimously agreed to a financial contribution in the amount of \$575.00 to the Memorial Day Parade, which is the same contribution as last year.

ORDINANCES

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

ORDINANCE #2010-02

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

WHEREAS, the Town of Newton seeks to ensure that all new construction, including reconstruction and rehabilitation, within the Town of Newton is designed and constructed with adequate fire protection capability; and

WHEREAS, there are several national and state guidelines for construction that provide guidance for proper construction design ensuring adequate fire protection capability; and

WHEREAS, the Town of Newton seeks to adopt certain of said national and state guidelines in a manner that ensures review of construction plans for adequate fire protection capability by the Fire Sub-Code Official;

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

1. Chapter 15 of the Newton Revised General Ordinances is hereby amended as follows:
 - a. There shall be a new Section 15-8, to be entitled "Fire Protection", as follows:

15-8 Fire Protection

Subsections:

- 15-8.1 Approval of Plans***
- 15-8.2 Adoption of Referenced Standards***
- 15-8.3 Conflict of Terms and Appeal***

15-8.1 Approval of Plans

In order to ensure the availability of proper fire protection capability, all new construction of any kind shall require written approval by the Fire Sub-Code Official of submitted construction plans. Such plans shall address the following issues:

- A. *sufficiency of available water flow for firefighting;*
- B. *sufficiency, location and distribution of fire hydrants;*
- C. *accessibility of fire apparatus.*

For the purposes of this Ordinance, “new construction” includes, but is not limited to new development, redevelopment, construction and reconstruction.

15-8.2 Adoption of Referenced Standards

In conducting their review of proper water fire capability on new construction, the Fire Sub-Code Official shall implement the methods, practices and recommendations set forth in the following authorities, all of which are hereby adopted and incorporated by reference as enforceable standards in this Ordinance:

- A. *2006 International Fire Code Appendix B: Fire-flow Requirements for Buildings;*
- B. *2006 International Fire Code Appendix C: Fire Hydrant Locations and Distribution;*
- C. *2006 International Fire Code Appendix D: Fire Apparatus Access Roads;*
- D. *NFPA 24 Standard for the Installation of Private Fire Service Mains and Their Appurtenances, 2010 Edition;*
- E. *NFPA 291 Recommended Practice for Fire Flow Testing and Marking of Hydrants, 2010 Edition;*
- F. *NFPA 1142 Standard on Water Supplies for Suburban and Rural Fire Fighting, 2007 Edition;*
- G. *N.J.A.C. 5:21-5.1 through 5.5, New Jersey’s Residential Site Improvement Standards regarding Water Supply, as amended to date.*

The aforementioned authorities are hereby adopted and incorporated as fully as if set forth at length herein, pursuant to N.J.S. 40:49-5.1. At least three copies of the aforementioned authorities have been placed on file in the office of the Fire Subcode Official and shall remain on file there for the examination of the general public.

15-8.3 Conflict of Terms

In the event of a conflict of terms between the adopted authorities set forth in Section 15-8.2, above, and the terms of this Ordinance, the terms of this Ordinance shall govern. Any new construction applicant under this section who is denied approval of its plans may appeal such denial through the mechanisms set forth in Ordinance Section 13-2.

2. This Ordinance shall take effect upon its passage and publication, as provided for by law.

Mayor Elvidge declared the hearing on Ordinance #2010-02 open to the public.

There being no one from the public to be heard, upon motion by Mrs. Unhoch, seconded by Mrs. Becker and unanimously carried, the hearing was closed.

Mr. Mark Hontz, Esq. and Mr. Joseph Inga were present to answer questions regarding Ordinance 2010-2. Mr. Hontz outlined the purpose of the Ordinance and indicated that this would establish guidelines to ensure adequate fire protection for any construction in Town.

Councilman Ricciardo expressed his severe reservations regarding this Ordinance due to the unknown water flow at each fire hydrant. Mrs. Millikin advised that, after speaking to the Town Engineer, all of the fire hydrants will be flow tested by the end of this year. She noted that half will be done in the Spring and half in the Fall. Mrs. Millikin also advised that one of the capital expenditures will be to update the Water and Sewer Master Plan and continue that every ten (10) years, which shall include the water flows of all fire hydrants.

Mr. Inga explained that he already uses the guidelines and standards outlined in the proposed Ordinance as a tool to ensure that all new construction, including reconstruction and rehabilitation, is designed and constructed with adequate fire protection capability.

Mayor Elvidge allowed Mr. Ray Storm, 202 Main Street, to ask a question. Mr. Storm inquired whether existing homes would be in jeopardy of fire safety issues and Mr. Inga advised that the possibility is there. Mr. Inga felt that it is very important to move forward by addressing the proper standards with the adoption of this Ordinance.

After a lengthy discussion, the following **ORDINANCE** was offered by Mrs. Becker, who moved its adoption, seconded by Mrs. Le Frois and roll call resulted as follows:

Mrs. Unhoch	Yes	Mrs. Becker	Yes
Mrs. Le Frois	Yes	Mr. Ricciardo	No
	Mayor Elvidge	No	

BE IT RESOLVED by the Town Council of the Town of Newton that the above Ordinance be adopted in its entirety according to law.

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.”

RESOLUTION #25-2010*

APPROVE CHANGE ORDER NO. 2 FOR THE 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. in the amount of \$404,397.14 for the Resurfacing of Various Streets Project; and

WHEREAS, the Newton Town Council approved Change Order No. 1 reducing the original contract amount by \$6,473.90, by the adoption of Resolution #194-2009 on September 28, 2009 in accordance with the recommendations of the Town Engineer; and

WHEREAS, as part of the final paperwork to close out the project, Harold E. Pellow & Associates, Inc., has recommended approval of Change Order No. 2 which will increase the adjusted contract amount by \$2,885.00 to the new contract total of \$400,808.24; and

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

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NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that approval of Change Order No. 2 to the contract with Tilcon New York, Inc. for the Resurfacing of Various Streets Project is hereby affirmed, and that the Mayor is authorized to execute said Change Order No. 2 in triplicate to ensure that Harold E. Pellow & Associates, Inc., Tilcon New York, Inc., and the Town of Newton each have originals with original signatures; and

BE IT FURTHER RESOLVED THAT a copy of Change Order No. 2 be attached to and made part of this Resolution.

RESOLUTION #26-2010*

AUTHORIZE REDUCTION OF FUNDS DEPOSITED AS A PERFORMANCE GUARANTEE BY ACQUIRING ENTERPRISES, LLC

WHEREAS, Acquiring Enterprises, LLC posted a \$250,000 letter of credit as a performance guarantee with Columbia Bank in favor of the Town of Newton in connection with the development of Block 803, Lot 1.02, located at 2-10 East Clinton Street in the Town of Newton; and

WHEREAS, the Newton Town Council on the recommendation of the Town Engineer, David B. Simmons, Jr., PE of the engineering firm of Harold E. Pellow & Associates, Inc. reduced the performance guarantee to \$50,798.40 by the adoption of Resolution #207-2008 on December 8, 2008; and

WHEREAS, in a letter dated January 15, 2010, Acquiring Enterprises, LLC requested the release of said performance guarantee; and

WHEREAS, in a letter dated February 9, 2010, the Town Engineer, has recommended that the performance guarantee be reduced to maintain a balance of \$13,620.00;

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Newton that it hereby authorizes the reduction of the performance guarantee to \$13,620.00 by Acquiring Enterprises, LLC related to the development of Block 803, Lot 1.02, located at 2-10 East Clinton Street based on the recommendation of the office of the Town Engineer.

RESOLUTION #27-2010*

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

1,282.11	NJSHBP	1010007
203,669.07	Payroll Account	1010008
887,294.00	Newton Board of Education	1010009
486.25	Harold Pellow & Associates, Inc.	26584
125.00	Sussex Car Wash, Inc.	26585
9,193.87	NUI Corporation	26586
764.14	SCMUA	26587
390.00	B & G Elevators	26588
377.23	Centurylink Communications, Inc.	26589
35.00	Centurylink Communications, Inc.	26590
24.44	Centurylink Communications, Inc.	26591
4,104.00	Hollander, Hontz, Hinkes & Pasculi LLC	26592
206.39	Rowe & Company, Inc.	26593

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5,197.68	Delta Dental	26594
129.75	Campbell's Small Engine	26595
12.00	Tri-State Rentals, Inc.	26596
71.82	Federal Express	26597
125.00	Sussex County Economic	26598
306.00	Hamburg Plumbing Supply Co., Inc.	26599
450.00	Office Equipment corporation	26600
10,000.00	Dog Reserve Account	26601
37.00	Peter J. Kays	26602
37.00	James Sisco	26603
37.00	Richard A. Straway, Jr.	26604
37.00	Thomas Straway	26605
105.00	Willco, Inc.	26606
2,997.00	Mitchell Agency	26607
37.00	William F. Smith	26608
37.00	Brock Kithcart	26609
37.00	William Haganan	26610
605.12	Dempsey Uniform & Supply, Inc.	26611
46.92	Airgas East	26612
746.85	Tellurian Networks	26613
478.95	Sirchie Finger Print Labs	26614
459.63	Boonton Tire Supply	26615
36.58	McGuire	26616
32.00	Weiner Lesniak	26617
2,000.00	Treasurer, State of New Jersey	26618
837.92	Vision Service Plan	26619
600.00	Sussex Co. Assoc. – Chiefs Police	26620
60.00	Public Works Assn. of NJ	26621
1,511.69	Verizon Wireless	26622
45.00	MCAA of New Jersey	26623
1,009.29	Dell Marketing L.P.	26624
73.50	Mr. John	26625
125.00	Gold Type Business Machines	26626
200.00	NJSACOP	26627
315.00	Vogel, Chait, Collins, Schneider, PC	26628
2,668.94	Fire & Safety Services, LTD	26629
895.40	Guardline Fire & Safety Co., Inc.	26630
17,270.54	Access Control Technology	26631
27,197.50	Lincoln Financial Group	26632
366.95	Draeger Safety Diagnostics, Inc.	26633
82.78	AW Direct Inc.	26634
120.80	Lowe's	26635
257.64	Sussex County Engineering Division	26636
37.00	Steve Estler	26637
2,491.67	Andrews & Company, LLC	26638
2,490.21	Rachles/Michele's Oil Company	26639
4,012.62	Taylor Oil Co.	26640
406.62	Inactive: Skylands Area Fire Equip.	26641
578.00	Firefighter One	26642
2,250.00	Laddey, Clark & Ryan, LLP	26643
37.00	Adam Vough	26644
40.00	R & R Radar, Inc.	26645
37.00	Joseph White	26646
30.00	Sprint	26647
1,200.00	Spartech Solutions, LLC	26648
848.94	Penteledata	26649
1,832.44	Jenson & Mitchell, Inc.	26650
30.00	North Jersey Court Admin. Assoc.	26651
39.00	Francisco Perez	26652
37.00	Roy Leyman	26653

CAPITAL

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3,903.28	Harold Pellow & Associates, Inc.	7489
180.00	Hollander, Hontz, Hinkes & Pasculli LLC	7490
1,592.56	Timmerman Company	7491
3,291.45	McManimon & Scotland	7492
71.44	Petro-Mechanics, Inc.	7493
13,788.36	Tilcon New Jersey	7494
636.64	Robert Wogisch	7495

Total TOWN BILLS \$1,224,334.98

WATER AND SEWER ACCOUNT

28,149.19	Payroll Account	106004
86.00	Harold Pellow & Associates, Inc.	11317
9,763.58	MWH Americas, Inc.	11318
3,881.18	NUI Corporation	11319
101.85	SCMUA	11320
7,262.06	Coyne Chemical Corp., Inc.	11321
18.00	Hollander, Hontz, Hinkes & Pasculli, LLC	11322
715.68	Delta Dental	11323
1,425.00	Garden State Laboratories, Inc.	11324
39.00	Joseph Carr	11325
239.76	Dempsey Uniform & Supply, Inc.	11326
77.30	One Call Systems	11327
4,480.00	R & D Trucking Inc.	11328
105.35	Airgas East	11329
30.00	Ervin Lasso	11330
843.97	Limecrest Quarry Developers	11331
180.00	Tellurian Networks	11332
21,705.74	Treasurer, State of New Jersey	11333
143.94	Vision Service Plan	11334
1,250.00	John Smalley	11335
48.00	Eric Tompkins	11336
1,687.25	Basic Chemical Solutions	11337
478.40	Accurate Waste Removal	11338
9,578.00	Siemens Water Technologies Corp.	11339
1,000.00	William Grenville, LLC	11340

CAPITAL

4,045.00	Harold Pellow & Associates, Inc.	2145
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Total WATER & SEWER BILLS \$97,334.25

TRUST ACCOUNT

2,227.75	Payroll Account	107104
1,791.43	Harold Pellow & Associates, Inc.	2744
5,943.23	Harold Pellow & Associates, Inc.	2745
3,200.59	Harold Pellow & Associates, Inc.	2746
531.50	Hollander, Hontz, Hinkes & Pasculli, LLC	2747
1,125.00	James P. Sloan, P.C.	2748
384.00	Weiner Lesniak	2749
2,220.00	Vogel, Chait, Collins, Schneider, PC	2750
2,356.55	EM Signs	2751
1,913.22	EM Electrical Contractors, LLC	2752

Total TRUST ACCOUNT BILLS \$21,693.27

DOG RESERVE ACCOUNT

395.00 Inactive: Newton Veterinary Hospital 8509

Total DOG RESERVE BILLS \$395.00

A motion was made by Mrs. Le Frois 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	

INTERMISSION (10 minute)

DISCUSSION

A. MAIN STREET NEWTON

Mr. Kevin Kelly, Esq., President of Main Street Newton and Mr. Jim Sheldon, Executive Director, were present to make a presentation and update the Town Council on the progress of Main Street Newton (MSN). Mr. Kelly noted that MSN has relatively new Board members in place and is making great strides but fundraising is not doing as well because of the economic times. Mr. Kelly and Mr. Sheldon reviewed budget figures with the Town Council. Mr. Kelly indicated that for 2010, MSN plans on targeting, through personal contacts, specific potential donors from the original mailing list of 600 prospectives.

Council had a lengthy discussion regarding the outlined budget and noted the discrepancies within the budget. Councilwoman Le Frois, who works in a non-profit organization, outlined the necessary steps in creating a budget for their organization. Mr. Kelly thanked Mrs. Le Frois for the information.

Mr. Kelly indicated that MSN continues to implement and use the list of suggestions made by the Town Council on October 26, 2009.

Mrs. Le Frois noted that this is the third year of Main Street Newton and feels it is a critical year for this organization because at the end of the fifth year, the MSN must become a Business Improvement District (BID) program. A BID program will eliminate the need for subsidy from the Town and the County.

Mr. Ricciardo strongly suggested that the MSN created a plan so that the information is available when MSN becomes a BID program.

Mr. Kelly noted that the next MSN Board meeting is Thursday, February 25, 2010 and discussion will be held regarding the budget and the questions that were addressed this evening.

Mr. Kelly and Mr. Sheldon will return at the next Council meeting on Monday, March 8, 2010 to update Council on their progress.

Council inquired whether the Town funds are needed tonight and was advised by Mr. Sheldon that their organization has enough money to survive until the end of March.

B. RYERSON AVENUE PARKING

Traffic Officer Steve Van Nieuwland and Mrs. Debra Millikin made a presentation to the Town Council regarding the draft Ordinance which shall restrict parking on Ryerson Avenue. Mrs. Millikin advised that a meeting was held with the Newton High School officials, Officer Van Nieuwland, Mrs. Millikin and Mr. Cory Stoner, Town Engineer. It was noted that the school officials were receptive to the Ordinance as well as enforcement of same. Officer Van Nieuwland outlined the results of the traffic study as well as his recommendations as proposed in the draft ordinance.

After a brief discussion, Council agreed with this Ordinance but feels that it is a temporary solution to a long-standing problem. Councilman Ricciardo expressed his frustration noting that the school will not deal with their own parking problem which stems from the high school students. Ordinance on for introduction will be presented at the next Council meeting.

Mr. Russo read correspondence from Mr. Kevin J. Phalon, Newton Fire Department member, dated February 12, 2010, requesting permission to hold a 5K run through Newton on Saturday June 12th, which is also Newton Day Festival. Mr. Russo outlined details of the event which will begin at 9:30 a.m. Council unanimously gave approval to hold the 5K race on Saturday, June 12, 2010 with the stipulation that they must work with the Newton Chamber of Commerce.

Mr. Phalon also submitted correspondence to request permission to conduct a fundraiser coin toss on the corner of Diller Avenue and Sparta Avenue. The event will run from 4:00 p.m. to 7:30 p.m. on Friday, March 26, 2010; Friday, May 14, 2010; Friday, July 16, 2010 and Friday, September 24, 2010. The Council unanimously agreed to approve the coin toss on the dates submitted.

At Councilman Ricciardo's request, Mr. Russo advised those in attendance that Town Officials recently attended the Local Finance Board (LFB) meeting in Trenton and are happy to report that the LFB has approved both the RAB financing for the Thorlabs project as well as the private financing via ARRA. Mr. Russo noted that it was a nice affirmation on what the Town

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Council has worked hard to accomplish.

Councilman Ricciardo commended Governor Chris Christie on his recent enactment to dramatically reform or abolish the way in which Council On Affordable Housing (COAH) is provided. Mr. Russo advised that today a “stay” was issued, so at this point COAH is still existing.

OPEN TO THE PUBLIC

Mrs. Sandra Diglio, 5 Paterson Place, asked the governing body if they have changed the policy which allowed DPW employees to respond to EMT calls during the day. Mayor Elvidge and Councilman Ricciardo advised that they are not aware of any changes to the policy. Mr. Russo advised that he does not encourage this approved practice because the employees would then be taken away from the duties of their department. Mr. Russo noted that he has a meeting with the Newton First Aid Squad and area squads to discuss the issue of response time. Mr. Russo said that he will be making recommendations to the Town Council within the next few weeks.

Mr. Ray Storm, 202 Main Street, expressed his opinion that he does not believe the Main Street Newton is working for the Town and felt that the \$40,000.00 committed by the Town could be used elsewhere. The Council believes that the new Board members will make a difference and truly hopes that Main Street Newton succeeds.

COUNCIL & MANAGER COMMENTS

There being no further business to be conducted, upon motion of Mr. Ricciardo, seconded by Mayor Elvidge and unanimously carried, the meeting was adjourned at 8:50 p.m.

Respectfully submitted,

Lorraine A. Read, RMC
Municipal Clerk