

October 25, 2010

The regular meeting of the Town Council of the Town of Newton was held on the above date at 7:05 p.m. Present were Mr. Elvidge, Mr. Ricciardo, Mrs. Diglio, Mrs. Le Frois, Mayor Becker, Mr. Thomas Russo, Jr., Town Manager and Mark Hontz, Esq., Town Attorney.

Mayor Becker 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 Becker led the invocation and Pledge of Allegiance to the flag. The Clerk called the roll and upon completion of same, upon motion of Mr. Ricciardo seconded by Mrs. Le Frois, the minutes of October 13, 2010 (Special, Regular and Executive) meetings were approved as presented. Mrs. Diglio abstained.

**OPEN TO THE PUBLIC**

Mayor Becker 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 limit their comments to 5 minutes. 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."

Mr. John Andrews, owner of Springboard Shops, 145 Spring Street, Newton, expressed his displeasure with the pending Business Improvement District (BID) proposal by Main Street Newton (MSN), which would tax the store owners of Spring Street. Mr. Andrews believes there are other avenues instead of a BID and suggested that on an interim basis the Greater Newton Chamber of Commerce could oversee Main Street Newton. Mr. Andrews noted the general guidelines, outlined in the 2009 Letter of Agreement between MSN and Main Street New Jersey, for minimal operating budget costs:

Small Town Programs:	\$30,000 annually;
Mid-size Communities Programs:	\$45,000 annually;
Urban Neighborhood Programs:	\$80,000 annually.

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The proposed BID for Main Street Newton is \$130,000 which is excessive, Mr. Andrews concluded.

Mr. Neil Flaherty, 154 Sparta Avenue, addressing Ordinance 2010-26, indicated that if a disaster were to happen to a place of business, they would not be able to rebuild according to the Ordinance and suggested that an exception be placed in the Ordinance.

Mr. Flaherty recently attending a meeting and noted that the Town received a compliment on the signage throughout Newton.

### **COUNCIL & MANAGER REPORTS**

Mr. Russo indicated that the Council members have been asked to be judges at the annual Halloween Parade to be held on Sunday, October 31, 2010 at 6 p.m.

Mr. Russo reminded Council of the Greater Newton Chamber of Commerce Dinner on Wednesday, October 27, 2010.

Mr. Russo reminded Council of the School Board meeting to be held this Thursday, October 28, 2010 at 57 Trinity Street, Newton at 7:00 p.m.

Mr. Russo acknowledged Lt. Michael Richards as our next Chief of Police. Mr. Richards will be sworn in on Friday, November 5<sup>th</sup> at 4 p.m.

### **ORDINANCES**

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

#### **ORDINANCE #2010-24**

#### **AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, ADOPTING AMENDMENTS TO THE SPARTA AVENUE REDEVELOPMENT PLAN**

**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 "Study Area" or the "Area") 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 "Plan Area"); and

**WHEREAS**, on March 23, 2009, after the review and comment of the Planning Board in accordance with the Act, the Town finally adopted Ordinance 2009-6 implementing a redevelopment plan for the Plan Area (the "Initial Redevelopment Plan"); and

**WHEREAS**, on January 11, 2010, after the review and comment of the Planning Board in accordance with the Act, the Town finally adopted Ordinance 2009-33 implementing amendments to the Initial Redevelopment Plan (as amended, the "Redevelopment Plan"); and

**WHEREAS**, by Resolution 232-2009 adopted November 9, 2009, the Town designated Thorlabs, Inc. ("Thorlabs") as Redeveloper for the Plan Area and authorized the execution of a redevelopment agreement (the "Redevelopment Agreement") with respect to the development of a mixed-use facility within the Plan Area, incorporating research and development, office space, manufacturing, ancillary parking, and infrastructure improvements (collectively, the "Project"); and

**WHEREAS**, the Redeveloper requested certain amendments to the Redevelopment Plan (the "Proposed Amendments"), which are attached hereto as Exhibit A; and

**WHEREAS**, by Resolution 159-2010 adopted September 15, 2010, the Town requested that the Planning Board review and comment on the Proposed Amendments to the Redevelopment Plan; and

**WHEREAS**, at a duly noticed and constituted public meeting of the Planning Board held on September 22, 2010, the Planning Board considered the Proposed Amendments; and

**WHEREAS**, after due consideration of the Proposed Amendments, the Planning Board unanimously recommended to the Town Council that it adopt the Proposed Amendments, as evidenced by correspondence from the Secretary to the Planning Board delineating the vote on the measure, a copy of which is attached hereto as Exhibit B (the "Planning Board Correspondence"); and

**WHEREAS**, the Planning Board Correspondence constitutes the Planning Board's Report for the purposes of Section 7 of the Act;

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

Section 1. The Town hereby finds the Proposed Amendments to be consistent with the Town's Master Plan.

Section 2. The Proposed Amendments, as filed in the Office of the Town Clerk, and attached hereto as Exhibit A, are hereby approved. All other provisions of the Redevelopment Plan not expressly amended by the Proposed Amendments shall remain intact and in full force and effect.

Section 3. The zoning map and the zoning code of the Town of Newton are hereby amended to incorporate the provisions of the Proposed Amendments.

Section 4. This ordinance shall take effect as provided in law.

EXHIBIT A

PROPOSED AMENDMENTS

1. Section 6.3: The requirement for a minimum of 2.0 floors for Office/R&D/Manufacturing to be deleted.
2. Section 6.4.5: This subsection shall be amended to read in its entirety: "Story Heights: Floor heights shall vary."

EXHIBIT B

PLANNING BOARD CORRESPONDENCE

Mayor Becker opened the hearing to the public. There being no one from the public to be heard, upon motion by Mrs. Le Frois, seconded by Mr. Ricciardo and unanimously carried, the hearing was closed.

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

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

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

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

**ORDINANCE #2010-25**

**AN ORDINANCE TO CREATE A TECHNICAL REVIEW COMMITTEE OF THE PLANNING BOARD**

The following **ORDINANCE** was offered, by Mr. Ricciardo, who moved its

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introduction, seconded by Mrs. Diglio and roll call resulted as follows:

Mr. Elvidge	Yes	Mr. Ricciardo	Yes
Mrs. Diglio	Yes	Mrs. Le Frois	Yes
Mayor Becker	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 Monday, November 8, 2010.

The Clerk will advertise the above Ordinance according to law.

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

**ORDINANCE #2010-26**

**AN ORDINANCE ADOPTING A REDEVELOPMENT PLAN FOR CERTAIN PROPERTIES ON SPARTA AVENUE, MERRIAM AVENUE, DILLER AVENUE, SUSSEX STREET AND RAILROAD PLACE**

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

Mr. Elvidge	Yes	Mr. Ricciardo	Yes
Mrs. Diglio	Yes	Mrs. Le Frois	Yes
Mayor Becker	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 Monday, November 8, 2010.

The Clerk will advertise the above Ordinance according to law.

Mr. Russo noted that Mr. Ross Sheasley, PP and Ms. Jen Credidio, Esq. will be in attendance on November 8, 2010 to review the Plan and answer any questions.

**OLD BUSINESS**

There was no Old Business to be discussed.

**CONSENT AGENDA**

Mayor Becker 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 provided an overview of all the resolutions on the consent agenda.

**RESOLUTION #184-2010\***

**APPOINTMENT OF MEMBERS OF NEW LAND USE BOARD FOR 2011**

**WHEREAS**, the Newton Governing Body adopted Ordinance 2010-17 on September 27, 2010; and

**WHEREAS**, with the adoption of Ordinance 2010-17 the powers of the Zoning Board of Adjustment are vested into a single Land use Board "Planning Board"; and

**WHEREAS**, the Planning Board will now have nine regular members consisting of the following four classes:

Class I. The mayor.

Class II. One of the officials of the Town other than a member of the Town Council, to be appointed by the Mayor.

Class III. A member of the Town Council, to be appointed by it.

Class IV. Six other citizens of the Town, to be appointed by the Town Council.

The Class IV members shall hold no other office in Town.

There shall also be four alternate members appointed to the Planning Board in the same manner as Class IV members who shall be designated by the Chair of the Planning Board as "Alternate No. 1" through "Alternate No. 4."

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that the following people are appointed to the Planning Board in accordance with Ordinance 2010-17:

<u>Name</u>	<u>Class</u>	<u>Classification</u>	<u>Term Expiration</u>
Mayor Becker	Regular	Class I	June 30, 2011
Town Manager	Regular	Class II	June 30, 2011
Dep. Mayor Le Frois	Regular	Class III	June 30, 2011
Neil Flaherty	Regular	Class IV	December 31, 2012
Daniel Flynn	Regular	Class IV	December 31, 2011
Greg Le Frois	Regular	Class IV	December 31, 2013
Gary Marion	Regular	Class IV	December 31, 2014
Margaret McCabe	Regular	Class IV	December 31, 2014

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William Tharp	Regular	Class IV	December 31, 2014
Bob Caffrey	Alternate 1		December 31, 2012
Kent Hardmeyer	Alternate 2		December 31, 2011
Ed Smith	Alternate 3		December 31, 2012
Vacant	Alternate 4		December 31, 2011

**BE IT FURTHER RESOLVED**, that the above named appointments are effective January 1, 2011.

**RESOLUTION #185-2010\***

**AUTHORIZE APPOINTMENT OF CHIEF OF POLICE AND EXECUTION OF AN EMPLOYMENT AGREEMENT WITH MICHAEL S. RICHARDS**

**WHEREAS**, Mr. John Tomasula has notified the Governing Body of his intention to retire as Newton's Chief of Police; and

**WHEREAS**, Mr. Tomasula's last active working day in the Police Department will be November 5, 2010, when he will commence approved terminal leave until December 31, 2010, his official last day of employment with Town of Newton; and

**WHEREAS**, the Town Council has determined that Lt. Michael S. Richards is the most suitable replacement for Mr. Tomasula and has offered the position of Newton Chief of Police to Lt. Michael S. Richards based on the terms and conditions set forth in a form of an Employment Agreement after review and recommendation by the Town Attorney and Town Manager; and

**WHEREAS**, said Employment Agreement has been accepted and executed by Michael S. Richards;

**NOW, THEREFORE BE IT RESOLVED** that Michael S. Richards is hereby appointed as Acting Police Chief effective Friday, November 5, 2010 through December 31, 2010, during Mr. Tomasula's terminal leave; and

**BE IT FURTHER RESOLVED** that Michael S. Richards is hereby appointed as Police Chief of the Town of Newton, effective January 1, 2011, and Mr. Richards will become the 10<sup>th</sup> Chief of Police of Newton in that department's history; and

**BE IT FURTHER RESOLVED** that the Town Manager and Municipal Clerk are hereby authorized to execute the aforementioned written Employment Agreement with Michael S. Richards on behalf of the Town of Newton, said Agreement being attached to and made part of this Resolution, and said Agreement to govern the terms of Mr. Richard's service as Chief of Police beginning November 5, 2011.

**RESOLUTION #186-2010\***

**APPOINTMENT OF MR. DAVID STEINBERG AS A CLASS A, REGULAR MEMBER, OF THE HISTORIC PRESERVATION ADVISORY COMMISSION**

**WHEREAS**, Mr. Raymond Storm has resigned from his term as a Class A, Regular Member, of the Historic Preservation Advisory Commission; and

**WHEREAS**, Mr. David Steinberg has expressed interest in serving as a Regular Member and meets the requirements for a Class A member as outlined in the Town of Newton Revised General Ordinances, Chapter 20A-8(b);

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that Mr. David Steinberg is hereby appointed to fill Mr. Storm's unexpired four (4) year term as a Class A, Regular Member, of the Historic Preservation Advisory Commission, effective immediately with said term continuing to December 31, 2011.

**RESOLUTION #187-2010\***

**ACCEPTANCE OF THE ALLEY SEWER REPLACEMENT PROJECT AS COMPLETE**

**WHEREAS**, the Town Council of the Town of Newton awarded a contract for the Alley Sewer Replacement Project to Earth-Tec Associates, Inc. in the amount of \$72,758.00 by Resolution #195-2009 adopted on September 28, 2009; and

**WHEREAS**, the Town Council approved Change Order No. 1 which reduced the contract amount by \$7,700.44 to adjust the contract total to \$65,057.56 by Resolution #22-2010 adopted on February 8, 2010; and

**WHEREAS**, the Town Council approved Change Order No. 2 and Change Order No. 3 which increased the contract amount by \$7,644.88 to adjust the contract total to \$72,702.44 by Resolution #178-2010 adopted on October 13, 2010; and

**WHEREAS**, Harold E. Pellow and Associates, Inc., the Project Engineer, has recommended the project be accepted as complete by the Town Council so the one (1) year Maintenance Bond may be secured by the contractor;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton, that it hereby accepts the Alley Sewer Replacement Project as complete based on the recommendation of Harold E. Pellow & Associates, Inc., so that the final paperwork can be started and the one (1) year Maintenance Bond be secured by the contractor, Earth-Tec Associates, Inc.

**RESOLUTION #188-2010\***

**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 reason(s) stated:

**Account overestimated 3<sup>rd</sup> Quarter:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
201	118 Spring Street	\$450.28

**Credit penalty due to error in billing:**

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<u>Account</u>	<u>Address</u>	<u>Amount</u>
18696	45 Diller Avenue	\$13.96

**Utility Board recommends credit of 3<sup>rd</sup> quarter penalty:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
13955	2 Dogwood Drive	\$44.65

**Utility Board recommends waiver of portion of 3<sup>rd</sup> quarter sewer charge:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
13779 \$19.34	24 Pine Street	

**Utility Board recommends credit of minimum charges paid while meter was stuck:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
9780	4 Barry Lane	\$1,575.00

**RESOLUTION #189-2010\***

**APPROVE CHANGE ORDER NO. 1 FOR THE PAVING OF VARIOUS STREETS PROJECT AND NORTH PARK DRIVE SUBPROJECT**

**WHEREAS**, the Town Council of the Town of Newton awarded a contract for the Paving of Various Streets Project to Top Line Construction Corp., in the amount of \$441,283.76 by Resolution #141-2010, which was adopted on August 23, 2010; and

**WHEREAS**, Harold Pellow & Associates, Inc. has prepared two Change Order No. 1 for said project, one for the Various Streets portion and one for the North Park Drive portion which is a subproject and a State Aid Project from the New Jersey Department of Transportation, and recommended approval of the following:

<u>Change Order No. 1</u>	<u>Amount</u>
<i>Academy Street; Ashford Street; Central Plaza Parking Lot;</i>	\$15,588.35 Extra
<i>Dunn &amp; Clarkson Streets; Franklin, Thompson &amp; Williams Streets;</i>	\$4,750.00
	Supplemental
<i>Pine Street Parking Lot; Resurfacing Memory Park Basketball Court</i>	<u>\$(18,145.08)</u>
	Reduction
<b>Total</b>	<b>\$ 2,193.27 Increase</b>
 <u>Change Order No. 1- Subproject</u>	
<i>North Park Drive</i>	\$ 2,138.50 Extra
	<u>\$(2,885.86)</u> Reduction
<b>Total</b>	<b>\$(747.36) Decrease</b>
 Overall Total for both Change Orders	 <b>\$ 1,445.91 Increase</b>

**WHEREAS**, the adjusted contract amount will be increased by \$1,445.91 by both Change Orders to the new contract total of \$442,729.67;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that it hereby approves both Change Order No. 1 for the Paving of Various Streets Project and the North Park Drive subproject based on the recommendation of the Town Engineer, and that the Mayor is authorized to

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execute both Change Order No. 1 resulting in a new contract total of \$442,729.67; and

**BE IT FURTHER RESOLVED** that a copy of the Engineer's certification detailing the change order be attached and made part of this resolution.

**RESOLUTION #190-2010\***

**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 2009 and 2010 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**

112.42	Quill Corporation	27708
331.09	Montague Tool & Supply	22709
255.00	ABCCode Security	27710
690.03	NUI Corporation	27711
1,841.64	G & G Diesel Service, Inc.	27712
256.92	G & H Service, Inc.	27713
6,938.73	JCP&L	27714
928.55	SCMUA	27715
390.00	B & G Elevator Inc.	27716
29.93	Centurylink Communications, Inc.	27717
2,952.45	Centurylink Communications, Inc.	27718
11,448.00	Hollander, Strelzik, Pasculli, Hinkes	27719
128.82	Campbell's Small Engine	27720
345.25	Lock & Key World	27721
60.50	Federal Express	27722
11,952.90	McManimon & Scotland	27723
108.11	Newton Citgo	27724
1,575.00	Minisink Press Inc.	27725
143.00	Ann M. Rosellen	27726
1,860.07	Good Year	27727
81.21	Sebring Auto Parts	27728
487.35	Sherwin-Williams	27729
32.57	Zee Medical	27730
64.00	Kenneth A. Teets	27731
640.44	Dempsey Uniform & Supply, Inc.	27732
4,775.00	Greater Newton Chamber of Comm.	27733
850.80	Airgas East	27734
248.81	Boonton Tire Supply	27735
40.00	Sussex & Warren Tax Col. Assoc.	27736
73.67	Mr. John	27737
1,620.00	Gold Type Business Machines	27738
130.68	Cooper Electric Supply Co.	27739
110.00	Wildflowers with Tami	27740
1,260.00	Vogel, Chait, Collins, Schneider, PC	27741
23.94	Excelsior Lumber Company	27742
682.50	Scarinci & Hollenbeck, LLC	27743
706.35	Staples Business Advantage	27744
17.00	Language Line Services	27745
589.51	Lowe's	27746

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460.50	Screen Creation Plus	27747
1,160.00	NJPSAC	27748
5,167.54	Rachles/Michele's Oil Company	27749
3,990.83	Taylor Oil Co.	27750
2,250.00	Laddey, Clark & Ryan, LLP	27751
80.00	Northern Rain	27752
1,506.09	JMC Environmental Consultants, Inc.	27753
2,556.00	Grass Roots	27754
227.20	Tony Sanchez, LTD	27755
1,512.00	Tire King	27756
35.00	NJLM Educational Foundation	27757
564.00	Atlantic Tactical	27758
1,200.00	Spartech Solutions, LLC	27759
469.80	Penteledata	27760
1,460.00	Chelbus Cleaning Co., Inc.	27761
1,502.11	Direct Energy Business	27762
495.00	Photographs	27763
318.71	Woodruff Energy	27764
395.00	New Jersey Conference of Mayors	27765
795.00	KW Applications, Inc.	27766
250.00	Morris County Police Chief Assoc.	27767
922,786.00	Newton Board of Education	1010058

**CAPITAL**

4,403.00	VOID	7575
990.00	Hollander, Strelzik, Pasculli, Hinkes	7596
1,185.00	McManimon & Scotland	7597
1,268.00	Level G Associates, LLC	7598
227,701.96	Top Line Construction Corp.	7599
126,033.03	Top Line Construction Corp.	7600
81,500.00	Janney Montgomery Scott, LLC	7601

**Total TOWN BILLS \$1,488,238.01**

**WATER AND SEWER ACCOUNT**

112.42	Quill Corporation	11759
99.68	Montague Tool & Supply	11760
120.00	Schmidt's Wholesale, Inc.	11761
739.43	CCP Industries	11762
117.74	Lee Company	11763
252.34	NUI Corporation	11764
1,012.52	JCP&L	11765
250.00	Keller Welding Company	11766
353.16	SCMUA	11767
14.00	Paul M. Havens	11768
6,936.20	Coyne Chemical Corp., Inc.	11769
1,344.44	Centurylink Communications, Inc.	11770
28.01	Centurylink Communications, Inc.	11771
3,190.00	Beaver Run Farms	11772
129.58	Campbell's Small Engine	11773
3,185.00	Garden State Laboratories, Inc.	11774
13,361.08	Sparta Township Tax Collector	11775
365.00	Lubrication Engineers Inc.	11776
279.88	Dempsey Uniform & Supply, Inc.	11777
116.50	Airgas East	11778
14.00	Ervin Lasso	11779

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407.50	Rutgers Center for Gov't Serv.	11780
8,028.00	Passaic Valley Sewerage Comm.	11781
1,250.00	John Smalley	11782
3,036.00	Main Pool & Chemical Company	11783
2,260.82	Scarinci & Hollenbeck, LLC	11784
77.99	Staples Business Advantage	11785
14.00	Eric Tompkins	17786
1,062.00	Andy Matt	17787
139.90	Penteledata	17788
163.71	One Call Concepts	17789
133.30	Woodruff Energy	17790

**CAPITAL**

5,039.16	Earth-Tec Associates, Inc.	2159
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**Total WATER & SEWER BILLS \$53,633.36**

**TRUST ACCOUNT**

9,928.25	Payroll Account	107125
90.00	Hollander, Strelzik, Pasculli, Hinkes	2821
1,125.00	James P. Sloan, P.C.	2822
150.00	Daniel Colfax, Esq.	2823
1,125.00	Vogel, Chait, Collins, Schneider, PC	2824
280.11	Amsterdam Printing	2825

**Total TRUST ACCOUNT BILLS \$12,698.36**

**DEVELOPMENT ESCROW ACCOUNT**

4,622.00	Harold Pellow & Assoc., Inc.	1055
144.00	Hollander, Strelzik, Pasculli, Hinkes	1056
1,440.00	Vogel, Chait, Collins, Schneider, PC	1057

**Total DEVELOPMENT ESCROW ACCOUNT BILLS \$6,206.00**

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

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

Ms. Jen Credidio, Esq. provided an overview of add-on Resolution #192-2010.

Mr. Russo read the Resolution aloud for public information.

**RESOLUTION #192-2010**

**RESOLUTION CLARIFYING INTENT OF CERTAIN PROVISIONS OF AGREEMENT RELATING TO SPARTA AVENUE REDEVELOPMENT AND FINANCING**

**WHEREAS**, the Mayor and Town Council (the "Governing Body") of the Town, acting by resolution on April 25, 2005, after review of the findings of the Planning Board in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 *et seq.* (the "Redevelopment Law") designated Block 1104, Lot 21 as an "area in need of redevelopment" under the Redevelopment Law (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 Redevelopment Law (the "Rehabilitation Area"); and

**WHEREAS**, on March 23, 2009, after referral to and incorporation of comments received from the Planning Board, the Town adopted Ordinance No. 2009-6 implementing a redevelopment plan (as thereafter amended, the "Redevelopment Plan") for the Redevelopment Area and a portion of the Rehabilitation Area adjacent thereto (collectively, the "Sparta Avenue Plan Area"); and

**WHEREAS**, the Town has executed an agreement with Thorlabs, Inc. dated November 30, 2009 (as amended, the "Redevelopment Agreement"), which Redevelopment Agreement has been assigned pursuant to the terms thereof by Thorlabs, Inc. to Thorlabs Urban Renewal, LLC (the "Redeveloper"), effective December 2, 2009; and

**WHEREAS**, the Redevelopment Agreement provides for the construction of a mixed-use facility within the Sparta Avenue Plan Area, composed of not to exceed 125,000 square feet of research and development, office and light manufacturing space and approximately 300 surface parking spaces (collectively, the "Series A Project"), together with certain ancillary road and water improvements (collectively, the "Series B Project", and together with the Series A Project, the "Project"); and

**WHEREAS**, the Town and the Redeveloper have entered into that certain financial agreement dated September 6, 2010 with respect to the Project (the "Financial Agreement") requiring payments in lieu of taxes to be made by the Redeveloper to the Town; and

**WHEREAS**, the Financial Agreement anticipates the issuance of general obligation redevelopment area bonds in an amount not to exceed \$4,660,000 (the "RABs", as defined further below); and

**WHEREAS**, the Financial Agreement recognizes the potential for the issuance of not to exceed \$6,175,000 Recovery Zone Facility Bonds (the "RZFBs", as defined further below); and

**WHEREAS**, Section 5.03 of the Financial Agreement provides in relevant part that if both the RABs and the RZFBs are issued by the Town, then the proceeds of the RABs and the RZFBs shall be applied on a pro-rata, *pari passu* basis; and

**WHEREAS**, the Town is expected to issue the following series of bonds on or about October 28, 2010:

(a) \$4,000,000 General Obligation Redevelopment Area Bonds, Series 2010A (Federally Taxable) (the "Series A RABs") to fund the Series A Project;

(b) \$350,000 General Obligation Redevelopment Area Bonds, Series 2010B (Tax-Exempt) (the "Series B RABs") to fund the Series B Project; and

(c) \$6,175,000 Recovery Zone Facility Bonds (the "RZFBs") to fund the Series A Project; and

**WHEREAS**, the Town wishes to clarify the intent of Section 5.03 of the Financial Agreement,

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

I. **GENERAL**

The aforementioned recitals are incorporated herein as though fully set forth at length.

II. **INTENT OF FINANCIAL AGREEMENT**

The Mayor and Town Council hereby clarify and declare their intent that Section 5.03 of the Financial Agreement be construed to require the application of the Series A RABs and the RZFBs to the Series A Project on a pro-rata, pari passu basis. The Series B RABs are tax-exempt obligations of the Town that will be used for public purposes, and should not therefore be included in this pro-rata analysis.

III. **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.

IV. **AVAILABILITY OF THE RESOLUTION**

A copy of this resolution shall be available for public inspection at the offices of the Town.

V. **EFFECTIVE DATE**

This Resolution shall take effect upon final passage.

The aforementioned **RESOLUTION** was offered by Mrs. Le Frois, who moved its adoption, seconded by Mrs. Diglio and roll call resulted as follows:

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

**INTERMISSION**

**DISCUSSION – 7:35 p.m.**

a. **Main Street Newton**

Mr. Jim Sheldon, Executive Director of Main Street Newton and Rick

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Bitondo, Board Member and Business Owner, appeared before the Council to give an overview of the Newton Business Improvement District (BID) prior to the public presentation to be held on Wednesday, November 3, 2010. Mr. Bitondo feels that the establishment and success of a Business Improvement District is not only important to the businesses but to the property values and the quality of life in Newton.

Mr. Ricciardo commended the lengthy BID report but feels it is incomplete. Mr. Ricciardo suggested that a map of the district as well as a list of the properties be included in the report. Mr. Ricciardo questioned what programs the BID will provide to Newton and Mr. Sheldon outlined programs that he would like to develop, if the BID is successful.

Mr. Sheldon outlined the proposed business district boundary and noted that it is not set in stone and could be adjusted.

Deputy Mayor Le Frois, directing a question to Mr. Bitondo, asked what the benefits would be to him as a business owner. Mr. Bitondo is looking for improvement to the business district image, bringing quality businesses within the district, as well as addressing safety issues.

Councilman Elvidge and Councilman Ricciardo concurred that the timing on this potential tax increase to the business owners is simply not a good time with the current economy. Mr. Ricciardo also feels that this presentation should have been implemented long before this time, knowing that the BID was to be in effect by January 1, 2011.

In closing, Mr. Sheldon stated that "Main Street Newton is a strong help for downtown Newton" and feels that a "managed District is far better than an unmanaged District".

#### **OPEN TO THE PUBLIC**

Mayor Becker opened the meeting to the public.

Mrs. Thea Unhoch, 17 Condit Street, stated that the Greater Newton Chamber of Commerce should not be merged with Main Street Newton and

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feels that they should be two separate entities. Noting that Newton is a college town, Mrs. Unhoch suggested that perhaps one of the vacant businesses could be used as a classroom, in order to bring the college students to the downtown district.

**COUNCIL & MANAGER COMMENTS**

There were no items to be discussed.

Mr. Russo read Resolution #191-2010 and Council entered into Executive Session at 8:57 p.m.

The Town Council returned from Executive Session at 9:40 p.m.

A lengthy discussion ensued among the Governing Body members on the Main Street Newton presentation and concluded that the presentation was very disappointing and felt that there was a lack of information presented this evening. Mr. Russo noted that the Town has spent an enormous amount of money on Main Street Newton in the past four years.

There being no further business to be conducted, upon motion by Mrs. Le Frois, seconded by Mr. Ricciardo and unanimously carried, the meeting was adjourned at 10:30 p.m.

Respectfully submitted,

Lorraine A. Read, RMC  
Municipal Clerk