

April 27, 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, Mayor Ricciardo and Town Manager, Thomas Russo, Jr. Mr. Elvidge was excused.

Mayor Ricciardo 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”.

Rev. Thomas Diamond of Redeemer Lutheran Church, Andover, led the invocation.

Mayor Ricciardo led the Pledge of Allegiance to the flag. The Clerk called the roll and upon completion of same, upon motion made by Mrs. Unhoch seconded by Mrs. Le Frois and carried that the minutes of March 23, 2009 (Regular) and April 13, 2009 (Regular) were unanimously approved.

Mayor Ricciardo declared the meeting open to the public.

**PUBLIC**

Mr. Neil Flaherty, 154 Sparta Avenue, questioned the purpose of Resolution #80-2009 and was advised by Mayor Ricciardo that this will allow the Town to have a mechanism in place in order to facilitate the redevelopment of the Sparta Avenue property, if it becomes necessary to acquire the Property, via eminent domain.

Mr. Ray Storm, 202 Main Street, questioned what date the sewer treatment plant will be paid off. Mr. Storm noted that in 2007 the water rates were increased and approximately six (6) months later were raised again. “This second increase was a temporary increase until the sewer treatment plant was paid off”, Mr. Storm advised and questioned whether the rates would be going down after final payment

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of the filtration plant. Mayor Ricciardo advised that the information will be obtained and will advise accordingly.

### **Council & Manager Reports**

Mr. Russo noted that the Spring Brush Cleanup will take place during the month of May. This new schedule is based on the Recycling pickup schedule and was referenced in the Town's Spring Newsletter.

Mr. Russo advised that Main Street Newton is holding their first annual Golf Outing on Wednesday, May 20<sup>th</sup> with a rain date of May 21<sup>st</sup>. Interested parties should contact Mr. Jim Sheldon, Executive Director of Main Street Newton.

Councilwoman Le Frois advised Council that the April Historic Commission Meeting was held last Monday with one application and will be forwarded to the Planning Board for their review.

Councilwoman Becker commended the Town Manager and staff for a successful event which took place Thursday, April 23<sup>rd</sup>, "Take Your Daughters and Sons to Work Day" at Town Hall. Mr. Russo thanked Mrs. Becker for her participation as well. Councilwoman Unhoch also noted the enthusiasm of all the children who participated in this inaugural event.

### **ORDINANCES**

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

#### **ORDINANCE # 2009-7**

#### **AN ORDINANCE CONCERNING THE FEEDING OF DEER AND AMENDING CHAPTER 5, SECTION 5-21 OF THE MUNICIPAL CODE OF THE TOWN OF NEWTON**

**WHEREAS**, the Town of Newton is concerned about the significant impact of the growth of the white-tailed deer population inhabiting the Newton community, including deer/vehicle collisions, Lyme disease, the reduction and/or elimination of native plant materials and habitat for other wild animals and the erosion of stream banks, and damage to ornamental plantings within our community; and

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**WHEREAS**, the feeding of deer has been shown to increase the concentration of deer in the area of feeding, thereby increasing the likelihood of deer/vehicle collisions in the vicinity, increasing the local number of nymphal deer ticks, and increasing damage to vegetation and landscaping nearby, and is therefore counterproductive to the Town's goals of reducing the impact of deer on our community; and

**WHEREAS**, the feeding of deer can be detrimental to the overall health and well-being of the deer.

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

1. Chapter 5, Section 5-21 of the Newton Revised General Ordinances, is hereby amended as follows:

a. Sec. 5-21, "Wildlife Feeding," shall become entitled "Wildlife and Deer Feeding."

b. Section 5-21.2, "Prohibited Conduct," shall be amended so that the existing paragraph prohibiting feeding of wildlife in public property shall be designated as "a," and there shall be a new subparagraph "b" as follows:

Sec. 5-21.2b. No person shall purposely or knowingly, as said terms are defined in Title 2C of the New Jersey Statutes, feed wild white-tailed deer (*Odocoileus virginianus*) in the Town of Newton, on lands either publicly or privately owned. It shall be presumed that a person is purposely or knowingly feeding deer unless the feed is placed on a platform that is raised at least four feet off the ground and has a lip around the edge of the platform, or is placed on a platform that is raised at least five feet off the ground, or is placed in a feeder whose opening is sufficiently restricted so as to prevent deer from accessing the feed. Nothing in this section shall apply to (1) any agent of the Town authorized to implement an alternative control method set forth in any approved community-based deer-management plan and possessing a special deer-management permit issued by the New Jersey Division of Fish and Wildlife in accordance with the provisions of P.L. 2000, c.46, or (2) any hunter engaging in baiting for the purpose of hunting pursuant to a valid hunting license issued in accordance with the provisions of Title 23 of the New Jersey Statutes.

2. Section 5-21.3 "Violations and Penalties" shall be amended so that the fine for first offense shall be "\$100.00" and the fine for second and subsequent offenses shall be "\$200.00".

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

Mayor Ricciardo declared the hearing on Ordinance #2009-7 open to the public.

Ms. Karen Frisbie, 15 Orchard Street, voiced her approval of the proposed Ordinance, which shall prohibit the feeding of deer.

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Dr. Sandy Dudek, 16 Orchard Street, also expressed her approval of adopting this Ordinance and outlined the negativities of feeding deer.

Mr. Ken Hardmeyer, 70 Pine Street, also expressed his support of this Ordinance.

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

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

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

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.

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

**ORDINANCE #2009-8**

**AN ORDINANCE OF THE TOWN OF NEWTON ESTABLISHING REGULATIONS AND PERMIT REQUIREMENTS FOR THE PLACEMENT AND USE OF CHARITABLE CLOTHING BINS THROUGHOUT THE TOWN**

**WHEREAS**, this ordinance is established pursuant to P.L. 2007, c.209 (NJSA 40:48-2.60 et seq.) approved by the NJ Legislature on December 20, 2007;

**NOW THEREFORE BE IT ORDAINED**, by the Town Council of the Town of Newton in the County of Sussex as follows:

**Section 1.** Chapter 6, "Licensing General" of the Revised General Ordinances of the Town of Newton is hereby supplemented and amended by the creation of new Section 6-16 to be entitled "Charitable Clothing Bins" to read as follows:

**SECTION 6-16 CHARITABLE CLOTHING BINS**

**6 -16.1 Definitions.**

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For the purposes of this Section only, the terms “solicitation” or “solicit” shall mean the request, directly or indirectly, for money, credit, property, financial assistance, or other thing of any kind or value. Solicitation shall include, but not be limited to, the use or employment of canisters, cards, receptacles or similar devices for the collection of money or other thing of value. A solicitation shall take place whether or not the person making the solicitation receives any contribution.

**6-16.2 Requirements for placement, use of clothing bins for solicitation purposes.**

Notwithstanding any other provision of law to the contrary, no person shall place, use, or employ a donation clothing bin within the Town of Newton, for solicitation purposes, without obtaining a permit from the Municipal Clerk. Prior to the issuance of said permit by the Municipal Clerk, the applicant must first obtain a Zoning Permit. Permits are renewable on an annual basis during the month of January.

**6-16.3 Permit Fee.**

The initial application fee and annual renewal fee for a charitable clothing bin permit shall be as set forth in subsection 21-1.1r.

**6-16.4 Application Requirements.**

The application for obtaining a permit shall include:

- a. The location where the bin would be situated, as precisely as possible;
- b. The manner in which the person anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent;
- c. The name and telephone number of the bona fide office of any person or entity which may share or profit from any clothing or other donations collected via the bin, at which such person can be reached during normal business hours. For the purposes of this subsection, an answering machine or service unrelated to the person does not constitute a bona fide office; and
- d. Written consent from the property owner to place the bin on his property.

**6-16.5 Renewal Application Requirements.**

In addition to the above application requirements, 6-16.4, renewal applications must **also** include:

- a. A statement on the manner in which the person has used, sold, or dispersed any clothing or other donation collect via the bin, the method by which the proceeds of collected donations have been allocated or spent, and any changes the person anticipate it may make in this process during the period covered by the renewal;
- b. The name and telephone number of the bona fide office of any entity which shared or profited from any clothing or other donations collected via the bin, and of any entities which may do so during the period covered by the renewal; and

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- c. If the location of the bin is to be moved, the new location where the bin is to be situated, as precisely as possible and written consent from the property owner of the new location.

#### **6-16.6 Placement of Bins.**

Town of Newton shall not grant an application for a permit to place, use, or employ a donation clothing bin if it determines that the placement of the bin could constitute a safety hazard. Such hazards shall include, but not be limited to, the placement of a donation clothing bin within 100 yards of any place which stores large amounts of, or sells, fuel or other flammable liquids or gases; or the placement of a bin where it interferes with vehicular or pedestrian circulation. The person placing, using or employing a donation clothing bin shall maintain the bin and the area surrounding the bin such that there shall be no accumulation of clothing or other donations outside the bin.

#### **6-16.7 Display of Permit.**

The following information shall be clearly and conspicuously displayed on the exterior of the donation clothing bin:

- a. The permit number and its date of expiration;
- b. The name and address of the registered person who owns the bin, and of any other entity which may share or profit from any clothing or other donations collected via the bin;
- c. The telephone number of the owner's bona fide office, and, if applicable, the telephone number of the bona fide office of any other entity which may share or profit from any clothing or other donations collected via the bin. For the purposes of this subsection, an answering machine or service unrelated to the person does not constitute a bona fide office;
- d. In cases when any entity other than the person who owns the bin may share or profit from any clothing or other donations collected via the bin, a notice, written in a clear and easily understandable manner, indicating that clothing or other donations collected via the bin, their proceeds, or both, may be shared, or given entirely to, an entity other than the person who owns the bin, and identifying all such entities which may share or profit from such donations; and
- e. A statement, consistent with the information provided to the Town in the most recent permit or renewal application, indicating the manner in which the owner anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent.

#### **6-16.8 Receipt, investigation of complaints relative to donation clothing bin.**

- a. The Code Enforcement Officer shall receive and investigate, within thirty (30) days, any complaints from the public about the bin. Whenever it appears to the Code Enforcement Officer that a person has engaged in, or is engaging in any act or practice in violation of this Section 16.6, the person who placed the bin shall be issued a warning, stating that if the violation is not rectified or a hearing with the appropriate municipal agency is not requested within forty five (45) days, the bin will be seized or removed at the expense of the person who

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placed the bin, and any clothing or other donations collected via the bin will be sold at public auction or otherwise disposed of. In addition to any other means used to notify the person who placed the bin, such warning shall be affixed to the exterior of the bin itself.

b. In the event that the person who placed the bin does not rectify the violation, or request a hearing within forty five (45) days of the posting of the warning, the Town of Newton may seize the bin, remove it, or have it removed, at the expense of the person who placed the bin, and sell at public auction or otherwise dispose of any clothing or other donations collected via the bin. Any proceeds from the sale of the donations collected via the bin shall be paid to the chief financial officer of the Town.

### **6-16.9 Additional penalties, remedies.**

In addition to any other penalties or remedies authorized by the laws of this State, any person who violates any provision of this Section or the provisions of P.L.2007, c.209 (C. 40:48-2.60, *et seq.*) which results in seizure of the donation clothing bin shall be:

- a. Subject to a penalty of up to \$20,000 for each violation. The Town may bring this action in the Newton Municipal Court or the Superior Court of New Jersey as a summary proceeding under the Penalty Enforcement Law of 1999, P.L.1999, c.274 (C.2A:58-10 *et seq.*), and any penalty monies collected shall be paid to the chief financial officer of the Town; and
- b. Deemed ineligible to place, use, or employ a donation clothing bin for solicitation purposes pursuant to this Section and P.L.2007, c.209 (C.40:48-2.61). A person disqualified from placing, using, or employing a donation clothing bin by violating the provisions of P.L.2007, c.209 (C.40:48-2.60 *et seq.*) may apply to the Town Council to have that person's eligibility restored. The Town Council may restore the eligibility of a person who:
  - (1) Acts within the public interest; and
  - (2) Demonstrates that he made a good faith effort to comply with the provisions of this Section and P.L.2007, c.209 (C.40:48-2.60 *et seq.*), and all other applicable laws and regulations, or had no fraudulent intentions.

**Section 2.** Chapter 21, "Fees and Costs\*" of the Revised General Ordinances of the Town of Newton is hereby supplemented and amended to include:

### **21-1 Licensing General (Relating to Chapter VI)**

- r. **Charitable Bins (6-16.3)**
- |                       |                |
|-----------------------|----------------|
| <b>Initial Permit</b> | <b>\$25.00</b> |
| <b>Renewal Permit</b> | <b>\$25.00</b> |

**Section 3.** If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect, and to this end the provisions of this ordinance are hereby declared severable.

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**Section 4.** All other ordinances in conflict or inconsistent with this ordinance are hereby repealed, to the extent of such conflict or inconsistency. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Town of Newton, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the *General and Land Use Ordinances of the Town of Newton* are hereby ratified and confirmed, except where inconsistent with the terms hereof.

**Section 5.** This ordinance shall take effect immediately upon adoption and publication in accordance with the laws of the State of New Jersey.

Mayor Ricciardo declared the hearing on Ordinance #2009-8 open to the public.

Mr. Tom Lawler, 41 Condit Street, questioned whether the charitable clothing bins will be marked as profit organization/non-profit organization, in order for the public to know who they are donating their clothing to.

Mr. Neil Flaherty, 154 Sparta Avenue, expressed the importance of “labeling” the bins, of the bona fide office or entity, for public awareness.

Mr. Ray Storm, 202 Main Street, addressed his concern with having the bins throughout residential areas and was advised that a Zoning Permit is also required therefore bins would not be allowed in residential areas.

Mayor Ricciardo addressed his concerns regarding not limiting this to organizations with an official IRS 501(c)(3) designation.

Mr. Russo reiterated that Counsel advised that the 501(c)(3) stipulation may potentially limit smaller, local non-profit groups from participating.

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

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

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

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**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.

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

**ORDINANCE #2009-9**

**BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS AND ACQUISITIONS OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF \$1,262,000 AND AUTHORIZING THE ISSUANCE OF \$1,028,300 BONDS OR NOTES**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY** (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the Town of Newton, New Jersey as general improvements. For the improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$1,262,000, including the aggregate sum of \$120,000 of funds to be received from the Township of Andover for certain projects described below and including the aggregate sum of \$113,700 as the down payments for the improvements or purposes required by the Local Bond Law. The down payments have been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the improvements or purposes not covered by application of the down payments or Andover Township's contributions, negotiable bonds are hereby authorized to be issued in the principal amount of \$1,028,300 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. The improvements hereby authorized and the purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

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<u>Purpose</u>	<u>Appropriation and Estimated Cost</u>	<u>Down Payment</u>	<u>Estimated Maximum Amount of Bonds or Notes</u>	<u>Period of Usefulness</u>
a) Resurfacing of Adams Street, Jefferson Street, Washington Street, Lincoln Place, Sussex Street (from Pine Street to Sparta Avenue), Jefferson Street (from Washington Street to Halsted Street), Hamilton Street, North Park Drive, and Mill Street Firehouse parking lot and improvements to the sidewalks and aprons at Mill Street Firehouse and sidewalks on Trinity Street (on the west side from Moran Street to the property owned by the County of Sussex), and mapping of drainage issue from Liberty Street to Fairview Avenue.	\$550,000	\$28,100	\$521,900	10 years
b) Acquisition of a pump, tank and fuel management system for a new gas/diesel distribution system including the cleaning and proper disposal of two existing tanks.	100,000	5,000	95,000	15 years
c) Acquisition of a Department of Public Works truck wash facility to be undertaken jointly with the Township of Andover.	120,000 (including \$60,000 contribution from the Township of Andover)	3,000	57,000	20 years
d) Acquisition of a brine system and distribution system to be undertaken jointly with the Township of Andover.	120,000 (including \$60,000 contribution from the Township of Andover)	3,000	57,000	5 years
e) Acquisition of a light tower and safety equipment for the Department of Public Works.	31,000	1,550	29,450	5 years
f) Acquisition of a paver.	125,000	15,000	110,000	5 years
g) Acquisition of a fire tank containment/booster pump, tools, ID card system and fire fighting equipment.	27,000	1,400	25,600	10 years
h) Improvements to the municipal building including renovations, electrical upgrades, furniture and equipment, card reader access and design for council chamber renovations.	74,000	3,700	70,300	20 years
i) Acquisition of police equipment including a generator, police property and evidence management program and rifle equipment upgrades.	48,000	4,000	44,000	5 years
j) Energy audit for the municipal building.	20,000	20,000	0	
k) Acquisition of park and playground equipment.	19,000	950	18,050	15 years
l) Acquisition of office equipment.	28,000	28,000	0	
TOTALS	\$1,262,000	\$113,700	\$1,028,300	

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The excess of the appropriation made for each of the improvements or purposes aforesaid and the Andover Township's contribution over the estimated maximum amount of bonds or notes to be issued therefor, as above stated, is the amount of the down payment for each purpose. The improvements and purposes include all costs necessary therefore or incidental thereto, including installation where applicable.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The Town hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Town is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The purposes described in Section 3 of this bond ordinance are not current expenses. They are improvements that the Town may lawfully undertake as general improvements, and no part of the costs thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 10.61 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Town as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$1,028,300, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

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(d) An aggregate amount not exceeding \$250,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated costs indicated herein for the purposes or improvements.

Section 7. The Town hereby declares the intent of the Town to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

Section 8. Any grant moneys received for the purposes described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Town is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Town and to execute such disclosure document on behalf of the Town. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Town pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Town and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Town fails to comply with its undertaking, the Town shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Town are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Town, and the Town shall be obligated to levy ad valorem taxes upon all the taxable real property within the Town for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

Mayor Ricciardo declared the hearing on Ordinance #2009-9 open to the public.

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

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

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

**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.

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

**ORDINANCE #2009-10**

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 18A-7 HOUSING TRUST FUND OF THE NEWTON REVISED GENERAL ORDINANCES WITH AN UPDATED HOUSING TRUST FUND ORDINANCE**

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

Mr. Elvidge	Absent	Mrs. Unhoch	Yes
Mrs. Becker	Yes	Mrs. Le Frois	Yes
	Mayor Ricciardo	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 May 11, 2009.

The Clerk will advertise the above ordinance according to law.

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

**ORDINANCE #2009-11**

**AN ORDINANCE TO AMEND IN ITS ENTIRETY CHAPTER 21 “FEES AND COSTS” OF NEWTON’S REVISED GENERAL ORDINANCES**

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

Mr. Elvidge	Absent	Mrs. Unhoch	Yes
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Mrs. Becker	Yes	Mrs. Le Frois	Yes
	Mayor Ricciardo	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 May 11, 2009.

The Clerk will advertise the above ordinance according to law.

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

**ORDINANCE #2009-12**

**AN ORDINANCE TO AMEND CHAPTER 10, TRAFFIC, OF THE REVISED GENERAL ORDINANCES**

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

Mr. Elvidge	Absent	Mrs. Unhoch	Yes
Mrs. Becker	Yes	Mrs. Le Frois	Yes
	Mayor Ricciardo	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 May 11, 2009.

The Clerk will advertise the above ordinance according to law.

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

**ORDINANCE #2009-13**

**AN ORDINANCE AMENDING ARTICLE 20-15 C-2 RETAIL SERVICE DISTRICT OF THE TOWN OF NEWTON'S REVISED GENERAL ORDINANCES.**

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

Mr. Elvidge	Absent	Mrs. Unhoch	Yes
Mrs. Becker	Yes	Mrs. Le Frois	Yes

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Mayor Ricciardo 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 May 11, 2009.

The Clerk will advertise the above ordinance according to law.

### **OLD BUSINESS**

There was no Old Business to come before the Council.

### **CONSENT AGENDA**

Mayor Ricciardo 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 #73-2009\***

#### **REAPPOINTMENT OF MR. GEORGE KAISER AND MS. CAROLE LEONARDO TO THE NEWTON HOUSING AUTHORITY.**

**BE IT RESOLVED** by the Town Council of the Town of Newton that Mr. George Kaiser and Ms. Carole Leonardo are hereby reappointed to a full five-year term each on the Newton Housing Authority, effective May 1, 2009 and continuing through April 30, 2014 based on the recommendation of the Housing Authority Executive Director, Kimberly Woodhull.

### **RESOLUTION #74-2009\***

#### **AUTHORIZE AN AGREEMENT WITH HOLZHAUER & HOLENSTEIN, LLC FOR APPRAISAL SERVICES FOR DEFENSE OF 2009 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 for calendar year 2009;

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**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. Holenstien's proposal dated January 16, 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 #75-2009\***

**CERTIFY SELF-EXAMINATION OF 2009 BUDGET**

**WHEREAS**, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

**WHEREAS**, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

**WHEREAS**, pursuant to N.J.A.C. 5:30-7.2 through 7.5, the Town of Newton has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the local government meets the necessary conditions to participate in the program for the 2009 budget year.

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officer's certification, the Town Council has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:

- a. Payment of interest and debt redemption charges
- b. Deferred charges and statutory expenditures
- c. Cash deficit of preceding year
- d. Reserve for uncollected taxes
- e. Other reserves and non-disbursement items
- f. Any inclusions of amounts required for school purposes.

2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).

3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.

4. That pursuant to the Local Budget Law:

April 27, 2009

- a. All estimates of revenue are reasonable, accurate and correctly stated.
- b. Items of appropriation are properly set forth.
- c. In itemization, form, arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.

5. The budget and associated amendments (if any) have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.

6. That all other applicable statutory requirements have been fulfilled.

**BE IT FURTHER RESOLVED** that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

**RESOLUTION #76-2009\***

**CANCELLATION AMENDMENT TO 2009 TEMPORARY OPERATING BUDGET**

**WHEREAS**, the Town Council of the Town of Newton adopted the 2009 Temporary Operating Budget and Temporary Water and Sewer Utility Budget by Resolution #244-2008 dated December 22, 2008; and

**WHEREAS**, N.J.S.A. 40A:4-20 provides that the governing body, by resolution adopted by a 2/3 vote of the full membership, may make amendments to temporary budgets in an amount not to exceed one-twelfth (1/12) of the preceding year's Budget (2008 Budget \$8,175,285 x 1/12 = \$681,273) and that a copy of this resolution be filed forthwith with the director; and

**WHEREAS**, amounts that were provided for in either the Temporary 2009 budget or by 2009 Amendments will not be included in the 2009 Budget to be finally adopted May 11, 2009;

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that the 2009 Temporary Operating Budget be hereby amended to cancel amounts as follows:

**TOWN OF NEWTON  
2009 TEMPORARY BUDGET AMENDMENT CANCELLATIONS**

<u>Current Account</u>	<u>Account No.</u>	<u>Amt of Amendment</u>
Worker's Compensation Ins. OE	1067200	\$ < 7,480 >
Surety Bond Premiums OE	1068200	< 400 >
Parking Meters SW	1075100	< 9,400 >
Emergency Management OE	1078200	< 200 >
Occupational Health OE	1085200	< 4,400 >
Length of Service Awards OE	1094500	< <u>22,550</u> >
Total Current Temp Amendment		\$ < 44,430 >

**2008 TOWN OF NEWTON BUDGET**

April 27, 2009

**CURRENT**

\$9,796,010  
 1,043,690  
 182,800  
394,235  
 \$8,175,285  
 x 1/12  
 \$ 681,273

Total 2008 General Appropriations  
 Less: Debt service  
       Capital Improvements  
       Reserve for Uncollected Taxes  
 Total Amount to calculate upon  
 Allowable 2009 Temporary Budget Amendment

**WATER/SEWER**

\$4,142,000  
 1,475,000  
 285,000  
- 0 -  
 \$2,382,000  
 x 1/12  
 \$ 198,500

**RESOLUTION #77-2009\***

**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 reason 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 stated:

**ACCOUNT OVER-ESTIMATED 1<sup>ST</sup> QUARTER 2009**

<b><u>Account</u></b>	<b><u>Address</u></b>	<b><u>Amount</u></b>
19322	29 ½ Mill Street	\$718.20
18103	24 Hicks Avenue	\$167.25
25319	63-B Trinity Street	\$ 69.62

**RESOLUTION #78-2009\***

**SUPPORT SUBMISSION OF A SUSTAINABLE JERSEY SMALL GRANT APPLICATION**

**WHEREAS**, the Town of Newton is applying for funding to complete a grant application for Sustainable Jersey Small Grants to help fund the energy audit to be completed by Metro Energy Solutions;

**WHEREAS**, this grant application will be in the amount of \$10,000 to help fund the energy audit;

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that it hereby supports the submission of the grant application to the Sustainable Jersey Small Grant program.

**RESOLUTION #79-2009\***

**AMENDMENT TO 2008 TEMPORARY OPERATING BUDGET**

**WHEREAS**, the Town Council of the Town of Newton adopted the 2009 Temporary Operating Budget and Temporary Water and Sewer Utility Budget by Resolution #244-2008 dated December 22, 2008; and

April 27, 2009

**WHEREAS**, N.J.S.A. 40A:4-20 provides that the governing body, by resolution adopted by a 2/3 vote of the full membership, may make amendments to temporary budgets in an amount not to exceed one-twelfth (1/12) of the preceding year's Budget (2008 Budget \$8,175,285 x 1/12 = \$681,273) and that a copy of this resolution be filed forthwith with the director;

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that the 2009 Temporary Operating Budget be hereby amended as follows:

**TOWN OF NEWTON  
2009 TEMPORARY BUDGET AMENDMENT**

<u>Current Account</u>	<u>Account No.</u>	<u>Amt of Amendment</u>
Collection of Taxes OE	1056223	\$ 2,000
Building & Grounds OE	1061255	10,000
Planning Board OE	1062216	2,000
Zoning Board OE	1062316	2,000
Fire Prevention OE	1071239	1,000
Inspection of Building OE	1077226	1,000
Road Repair SW	1080101	20,000
Gypsy Moth OE	1086200	5,000
Stormwater	1082216	2,000
Shared Svc – Parking Auth. SW	1094710	5,000
Social Security	1098298	<u>10,000</u>
Total Current Temp Amendment		\$ 60,000
<u>Water Sewer Utility Account</u>		
Water Misc – Taxes	6066263	<u>\$ 20,000</u>
Total Water Sewer Temp Amendment		\$ 20,000

**2008 TOWN OF NEWTON BUDGET**

<u>CURRENT</u>		<u>WATER/SEWER</u>
\$9,796,010	Total 2008 General Appropriations	\$4,142,000
1,043,690	Less: Debt service	1,475,000
182,800	Capital Improvements	285,000
<u>394,235</u>	Reserve for Uncollected Taxes	<u>- 0 -</u>
\$8,175,285	Total Amount to calculate upon	\$2,382,000
<u>x 1/12</u>		<u>x 1/12</u>
\$ 681,273	Allowable 2009 Temporary Budget Amendment	\$ 198,500

**RESOLUTION #80-2009\***

**RESOLUTION OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, AUTHORIZING THE ACQUISITION OF REAL PROPERTY IDENTIFIED AS BLOCK 1104, LOT 21 AND COMMONLY KNOWN AS 56 SPARTA AVENUE, THE EXECUTION OF A LETTER AGREEMENT WITH RESPECT TO SAME, AND THE ENGAGEMENT OF PROFESSIONAL REAL ESTATE APPRAISAL SERVICES**

**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

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**WHEREAS**, on April 25, 2005, after investigation by the Planning Board, public hearing and review of the findings of the Planning Board, all in accordance with the Act, the Town designated Block 1104, Lot 21, commonly known as 56 Sparta Avenue, 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**, after referral to and review by the Planning Board in accordance with Section 7 of the Act, on March 23, 2009, the Town approved an Ordinance adopting a redevelopment plan for the Plan Area (the "Redevelopment Plan"); and

**WHEREAS**, among other things, the Redevelopment Plan established permitted uses and development standards for redevelopment within the Plan Area, and identified Block 1104, Lot 21 as property that may be acquired by the Town in order to carry out the Redevelopment Plan (the "Property"); and

**WHEREAS**, in order to facilitate redevelopment of the Redevelopment Area the Town may need to acquire the Property; and

**WHEREAS**, pursuant to *N.J.S.A. 40A:12A-8(b)* and *-8(c)*, and *N.J.S.A. 40A:12A-22(i)*, the Town is empowered to acquire by contribution, gift, grant, bequest, devise, purchase, condemnation or otherwise, real property or any interest therein that is required for the redevelopment of the Redevelopment Area; and

**WHEREAS**, if it is necessary to acquire the Property pursuant to the Act, the Town will need to have an appraisal of the Property; and

**WHEREAS**, the Town has received a proposal from Integra Realty Resources, Whippany, New Jersey (the "Appraiser") to perform an appraisal of the Property; and

**WHEREAS**, the Town has reviewed the Appraiser's proposal and found it to be reasonable; and

**WHEREAS**, pursuant to *N.J.S.A. 40A:11-5*, the Town may enter into contracts for professional services as necessary to pursue redevelopment projects; and

**WHEREAS**, the Town is negotiating with Thorlabs, Inc., Newton, New Jersey (the "Prospective Redeveloper"), who has agreed to reimburse any costs incurred by the Town in having an appraisal of the Property performed; and

**WHEREAS**, the Act, including but not limited to Sections 8, 22 and 39 thereof, confers broad powers upon the municipality to enter into contracts and agreements and take other official actions in order to effectuate an adopted redevelopment plan; and

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**WHEREAS**, the Town wishes to enter into a letter agreement with the Prospective Redeveloper with respect to certain matters concerning the potential acquisition of the Property, including the funding thereof,

**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. AUTHORIZATION TO ACQUIRE THE PROPERTY**

The Town Council hereby authorizes the Town Manager, in consultation with Redevelopment Counsel, to: undertake actions necessary for the acquisition, by voluntary transfer or otherwise, of Block 1104, Lot 21, more commonly known as 56 Sparta Avenue; enter into negotiations with the owner of the Property; and undertake an appraisal of the Property for the purpose of determining the fair value that can be offered and paid by the Town. The Town Manager, on behalf of the Town, is further authorized to undertake all actions authorized and required under the Eminent Domain Act to effectuate the condemnation of the Property.

**III. RETENTION OF APPRAISAL SERVICES**

The Town Council hereby authorizes the Town Manager to execute a contract with the Appraiser in an amount not to exceed \$10,000.00 to have an appraisal of the Property performed for use in the negotiation of the purchase of the Property or condemnation proceedings, if necessary, the costs of which appraisal shall be reimbursed from an escrow account to be funded by the Prospective Redeveloper.

**IV. AUTHORIZATION TO EXECUTE LETTER AGREEMENT**

The Town Council hereby authorizes the Town Manager, in consultation with Redevelopment Counsel, to execute a letter agreement with the Prospective Redeveloper with respect to the acquisition of the Property, in the form attached hereto as Exhibit A, together with such additions, deletions and modifications determined by the Town Manager, in consultation with Redevelopment Counsel, as being necessary to effectuate the purposes and intent of this resolution (the "Letter Agreement").

**V. 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.

**VI. AVAILABILITY OF THE RESOLUTION**

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

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**VII. EFFECTIVE DATE**

This Resolution shall take effect upon final passage.

**RESOLUTION #81-2009\***

**AUTHORIZE AN AGREEMENT WITH WILLIAM GRENNILLE, LLC  
FOR GENERAL CONSULTING SERVICES FOR THE NEWTON WATER  
AND SEWER UTILITY FOR 2009**

**WHEREAS**, the Town of Newton requires the consulting services of a licensed operator for the Wastewater Treatment Plant and Water Filtration 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**, William Grennille, LLC has submitted a proposal for services of licensed operator for the Wastewater Treatment Plant and Water Filtration Plant, and possesses the following licenses: S-4, C-4, W-3, and T-3; and

**WHEREAS**, the Chief Financial Officer has certified that funds are available to support an agreement with William Grennille, LLC, for General Consulting services on a weekly basis for \$1,800 and not to exceed more than 8 weeks in the calendar year for 2009 through the Water and Sewer Utility Operating Budget;

**NOW THEREFORE BE IT RESOLVED** that the Town Council of the Town of Newton hereby authorizes an agreement with William Grennille, LLC for General Consulting services as outlined in his proposal.

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

**RESOLUTION #82-2009\***

**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**

177,569.48	Payroll Account	910036
70.43	Quill Corporation	25306
119.40	Montague Tool & Supply	25307
3,085.92	Harold Pellow & Assoc., Inc.	25308

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3,000.00	Municipal Software, Inc.	25309
36.00	Alpine spring Water Company	25310
162.50	Sussex Car Wash, Inc.	25311
6,061.70	NUI Corporation	25312
165.70	G & H Service, Inc.	25313
459.20	Roy Company	25314
2,041.65	SCMUA	25315
2,773.01	EMBARQ	25316
6,624.00	Hollander,Hontz,Hinkes&Pasculli LLC	25317
54.14	Campbell's Small Engine	25318
219.00	Neopost Leasing	25319
87.94	Federal Express	25320
20.00	Sussex County League of	25321
151.75	Newton Trophy	25322
75.00	Treasurer, State of New Jersey	25323
30.00	Gall's Inc.	25324
1,410.00	Minisink Press, Inc.	25325
237.50	Gann Law Books	25326
296.63	Zee Medical	25327
722.00	Treasurer, State of NJ DCA	25328
61.75	Mobile-Vision, Inc. L-3 Comm.	25329
204.73	Sirchie Finger Print Labs	25330
244.33	Boonton Tire Supply	25331
896.00	Weiner Lesniak	25332
28.00	Grinnell Recycle	25333
1,309.85	Verizon Wireless	25334
72.27	Mr. John	25335
356.80	Cooper Electric Supply Co.	25336
400.00	Wildflowers with Tami	25337
158.00	Fred Pryor Seminars	25338
449.83	Vogel,Chait,Collins,Schneider,PC	25339
360.33	The Home Depot	25340
90.50	International Code Council, Inc.	25341
9.76	Excelsior Lumber Company	25342
763.45	Sussex County Mailing Service	25343
1,958.69	Creative Networking Concepts, Inc.	25344
52.00	Seely Brothers	25345
82.25	Tritec Office Equipment Inc.	25346
272.54	Staples Business Advantage	25347
6.80	Language Line Services	25348
103.84	Lowe's	25349
130.00	Treasurer, State of NJ – Burial	25350
1,535.49	Taylor Oil co.	25351
2,000.00	Laddey, Clark & Ryan, LLP	25352
658.80	Ricciardi Brothers, Inc.	25353
2,006.54	BSNCP	25354
1,863.17	Joseph & Arlene Mullins	25355

**CAPITAL**

3,569.89	Harold Pellow & Assoc., Inc.	7311
1,150.00	Applied Service Corp.	7312
2,685.00	Vogel, Chait, Collins, Schneider, PC	7313

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4,331.13                      A. Nelessen & Associates, Inc.                      7314

**Total TOWN BILLS    \$233,284.69**

**WATER AND SEWER ACCOUNT**

30,689.50	Payroll Account	960015
327,655.25	Bank of New York	960016
889.95	Harold Pellow & Assoc., Inc.	10708
2,857.61	Montgomery Watson Harza	10709
72.90	Aurora Electrical Supply	10710
2,132.28	NUI Corporation	10711
152.00	SCMUA	10712
42.00	Paul Baldwin	10713
30.00	Paul M. Havens	10714
8,771.18	Coyne chemical Corp., Inc.	10715
1,331.73	EMBARQ	10716
27.71	EMBARQ	10717
558.00	Hollander,Hontz,Hinkes&Pasculli LLC	10718
11,657.74	Sparta Township Tax Collector	10719
10,147.84	William H. Wilson Contracting, Inc.	10720
54.00	Ervin Lasso	10721
1,250.00	John Smalley	10722
148.95	The Home Depot	10723
455.00	Scarinci & Hollenbeck, LLC	10724
88.69	Creative Networking Concepts, Inc.	10725
564.76	Infilco Degremont	10726
3,477.50	National Water Main Cleaning co.	10727
26,110.00	U.S.D.A. / FHA	960017
65,429.00	U.S.D.A. / FHA	960018

**CAPITAL**

509.24                      Harold Pellow & Associates, Inc.                      2135

**Total WATER & SEWER BILLS    \$495,102.83**

**TRUST ACCOUNT**

1,594.35	Payroll Account	971009
995.28	Harold Pellow & Associates, Inc.	2636
144.00	Hollander,Hontz,Hinkes&Pasculli LLC	2637
688.00	Weiner Lesniak	2638
375.00	Vogel, Chait, Collins, Schneider, PC	2639
145.50	International Code Council, Inc.	2640
413.12	Teresa Covell	2641
344.80	Pinnacle Graphic Communications	2642

**Total TRUST BILLS    \$8,599.24**

A motion was made by Mrs. Becker to approve the **COMBINED ACTION**

**RESOLUTIONS**, seconded by Mrs. Le Frois and roll call resulted as follows:

April 27, 2009

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

**Intermission (10 minutes)**

**DISCUSSION (WORK SESSION)**

**a. Senior Citizen of the Year**

Mayor Ricciardo made a nomination of Mr. John Frank as “Senior Citizen of the Year” for calendar year 2009. Councilwoman Unhoch noted she also had the same recommendation, therefore would second the nomination of Mr. Frank. There being no further names to be submitted, Council directed Mr. Russo to proceed in order to honor Mr. Frank at the next Council meeting on May 11, 2009.

**b. Abandoned Property Rehabilitation Act**

Mrs. Jessica Caldwell, Newton’s Town Planner, outlined the State of New Jersey’s Abandoned Property Rehabilitation Act (NJSA 55:19-78 et seq.). Mrs. Caldwell advised that this Ordinance would allow the Town to continue progressive development and revitalization.

After much discussion, it was the consensus of the governing body that incorporating this Act would be a true benefit to the Town of Newton. Mr. Russo noted that he will forward this draft to legal counsel for their review it and will be presented for first reading at a regular meeting in May. Mayor Ricciardo requested a copy of State Law NJSA 55:19-78 from Mrs. Caldwell.

**c. Hours of Operation**

Mr. Russo read the following memorandum into the minutes.

**TO: Town Council**  
**FROM: Thomas S. Russo, Jr., Town Manager**  
**DATE: April 17, 2009**  
**SUBJECT: Hours of Operation**

*“For the last several weeks I have undertaken a comprehensive review of our current Personnel Manual. It is my understanding from Terri that it has been*

April 27, 2009

*several years since the document has been reviewed and modified. As part of my review, several areas of note have caught my attention. Many of these areas will need to be updated and become a part of Chapter 4, Personnel, of our Revised General Ordinances; several areas are extremely deficient and will need to be created under my direction and the recommendations of our HR Coordinator and Legal Counsel.*

*One area of particular interest to our 16 non-union employees is the Hours of Work/Holidays, Article V, Section 5.1 (a) (3). Currently, Newton's full-time office staff works a 37-hour work week within the hours of Monday-Thursday, 8:30am-5:00pm, and Friday 8:30am-4:30pm. Additionally, as part of Article X, Additional Information, Section 10.1 Group Insurance (a), health benefits kick in when a full-time employee "works a minimum of thirty-seven (37) hours per week."*

*In lieu of across-the-board raises for non-union staff in calendar years 2009 and 2010, I would like to implement a revision to the aforementioned policies and respectfully recommend a 35-hour work week with office hours of Monday-Friday, 8:30am-4:30pm.*

*Though the prospect of working without raises may disappoint some, I believe:*

- 1.The retraction of 2 working hours per week (net salary increase on an hourly basis) is a tangible benefit;*
- 2.Financially, it enables us to watch our budgetary dollars more closely, with the goal of maintaining current staffing levels without layoffs or furloughs;*
- 3.This change puts us more in line with the office hours of neighboring municipalities in both Sussex and Morris Counties;*
- 4.The consistency of the same hours Monday-Friday is easily understandable and marketable to our customers;*
- 5.These hours would ultimately provide a morale boost to our full-time staff;*
- 6.This would further enhance our reputation as an Employer of Choice in Sussex County; and*
- 7.This would allow us to attract high caliber personnel to our organization when vacancies arise.*

*Health benefits, therefore, would be available to full-time staff with minimum work hours of thirty-five (35). There are no staffing changes at this time that would encompass an increase in health care expenditures due to this change.*

*In conclusion, it is, in my estimation, a fairly simple, straightforward opportunity to decrease salary and wage expenses, cut electricity and other costs, boost morale, demand more efficiency and productivity, while maintaining exceptional customer service and consistent and understandable office hours that are in line with neighboring municipalities.*

*I would like your feedback on this matter as this will be discussed at our April 27, 2009 Council meeting. If you are in concurrence, I would look to authorize Bill*

April 27, 2009

*Hinkes to draft the appropriate ordinance for the hours of operation change and the appropriate consent agenda resolution for the revision of health insurance eligibility. Ultimately, both changes will become a part of the new Personnel Manual and Chapter 4 of our Revised General Ordinances.*

*Thank you in advance for your consideration".*

After a brief discussion, Council unanimously agreed to the terms and conditions of the memo from Mr. Russo dated April 17, 2009, related to Hours of Operation and Health Benefits. Mr. Russo advised that the new hours would not begin until Monday, July 6, 2009.

### **OPEN TO THE PUBLIC**

There was no one from the public to be heard.

### **COUNCIL & MANAGER COMMENTS**

Mayor Ricciardo asked the Council their opinion on how the Town should handle the following two issues as they relate to the negotiations with Thorlabs: COAH fee (\$500,000) and the COAH housing obligation of 20 units or \$3.2 million dollars.

After much discussion, it was the consensus of the governing body that the Pilot Program for Thorlabs should take into account the \$500,000 COAH (non-residential development fee) commitment. Additionally, it was also the consensus of the governing body that the housing obligation of twenty (20) COAH units, \$3.2 million dollars, should be handled by the Town and should not derail any progress in the Thorlabs negotiations.

There being no further business to conduct, upon motion of Mrs. Le Frois, seconded by Mrs. Unhoch and carried, the meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Lorraine A. Read, RMC  
Municipal Clerk