

October 12, 2011

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. Becker, Mr. Elvidge, Deputy Mayor Diglio, Mayor Le Frois, Mr. Thomas S. Russo, Jr., Town Manager, and Mark Hontz, Esq., Town Attorney. Mr. Ricciardo was excused.

Mayor Le Frois 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, 2010."

Mayor Le Frois led the Pledge of Allegiance to the flag and the Clerk called the roll and upon motion of Mrs. Becker, seconded by Deputy Mayor Diglio, the minutes of September 26, 2011(Regular) meeting were approved.

### **OPEN TO THE PUBLIC**

Mayor Le Frois 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."*

There was no one from the public to be heard.

### **COUNCIL & MANAGER REPORTS**

Mr. Russo read the following Proclamation honoring Thomas B. Trudgeon, Sr. on his retirement. It was noted that the Proclamation was presented at a celebration on Friday, September 30, 2011 by Deputy Mayor Diglio.

### **PROCLAMATION**

#### **Thomas B. Trudgeon, Sr.**

**WHEREAS**, Thomas B. Trudgeon, Sr., was hired by the Town of Newton on February 13, 1989 as Recreation Supervisor; and

**WHEREAS**, he was commended by the Town Council in 1991 for his successful efforts in the planning and execution of the **Welcome Home Parade** for our soldiers held on September 7, 1991; and

**WHEREAS**, Tom through the years, working with the Recreation Advisory Commission, has brought joy and happiness to a wide range of residents with the planning and implementing of such programs as the Easter Egg Hunt, Spring Senior Luncheon, Fall Senior Dinner, Annual Tree Lighting, and the Miss Newton and Little Mr. and Miss Newton contests; and

**WHEREAS**, Tom has proven to be a valuable asset to the Town of Newton overseeing the use and maintenance of all Newton's beautiful parks and recreational facilities including the Pool at Memory Park, making Newton the envy of surrounding municipalities;

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**NOW, THEREFORE,** we the Mayor and Town Council of the Town of Newton hereby proclaim our appreciation and gratitude to Thomas Trudgeon, Sr., for his dedicated years of service and offer our best wishes to him and his family for good health and happiness during his retirement years.

In witness whereof I have hereunto set my hand and caused this seal to be affixed.

Attest: \_\_\_\_\_  
Date: \_\_\_\_\_ September 30, 2011

**SPARTA GLEN**

Mr. Dave Simmons, PE, Town Engineer, prepared a report and made a presentation to the Governing Body on the damage done by Hurricane Irene and Tropical Storm Lee with respect to Newton’s 20-inch transmission main which runs through Sparta Glen. Mr. Simmons advised that on September 16, 2011 a field inspection was performed at Sparta Glen. The Town representatives present for the field inspection were Deputy Mayor Sandra Diglio; Town Manager, Thomas S. Russo, Jr.; Deputy Town Manager, Debra Millikin; Water & Sewer Superintendent, Paul Baldwin; Water & Sewer Operator, John Madden; Insurance Agent, Keith Mitchell; and David Simmons, Jr. P.E., of Harold Pellow and Associates.

Mr. Simmons outlined and provided photos of the three (3) main areas of impact on Newton’s 20-inch transmission main. 1) Location No. 1 – Paved Access Drive Off Glen Road. 2) Location No. 2 – Stream Crossing No. 1, and 3) Location No. 3 – Stream Crossing No. 2. Mr. Simmons also summarized other areas of the Glen that were impacted by erosion and/or trees falling that need to be addressed, or they could cause problems in the future for the 20-inch transmission main.

Mr. Russo noted that the Town has eighteen (18) months to complete the repairs as outlined by Mr. Simmons and reimbursement from FEMA is 75% of the cost. The Town is obligated to pay the remaining 25%. Mr. Russo noted that an emergency appropriation would be necessary to proceed with this project.

**ORDINANCES**

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

**ORDINANCE 2011-19**

**AN ORDINANCE AMENDING CHAPTER 17, TREES AND SHRUBS, AT SECTION 17-7.1**

**WHEREAS**, the Town Council of the Town of Newton has, in the interest of public safety, investigated the process for notice to property owners for the removal of any tree or shrub along a public highway that is dangerous to the public safety; and

**WHEREAS**, the present Ordinance Section 17-7.1 provides for the provision of written notice to property owners for the removal of trees or shrubs along a public highway that pose a public safety danger "in the same manner as a summons may be served in accordance with the New Jersey Rules of Court", which process must include an attempt at personal service by certain individuals, followed by certain mailings; and

**WHEREAS**, the Town Council's recent experiences with storm damage and power outages dictate that trees and/or shrubs that pose a public safety danger along highways must be more expeditiously removed to protect the public safety, while still affording property owners the opportunity to responsibly and independently cure such public safety dangers on their properties;

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

1. Ordinance Section 17-7.1 is amended to read in its entirety as follows:

**17-7.1** Removal required; Notice. In case any tree or shrub or any part thereof along the public highway shall become dangerous to the public safety, the owner of the property in front of which such tree or shrub is located shall remove the same, or the required part thereof, forthwith upon service of a written directive to that effect from the director of public works or his designee. The notice shall be sufficient if sent to the owner by regular and certified mail.

2. If any provision of this ordinance or the application of this ordinance to any person or circumstances is held invalid, the remainder of this ordinance shall not be affected and shall remain in full force and effect.
3. All ordinances or parts of ordinances or resolutions that are inconsistent or in opposition to the provisions of this ordinance are hereby repealed in their entirety.
4. This ordinance will take effect after publication and passage according to law.

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

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

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

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

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

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**ORDINANCE 2011-20**

**AN ORDINANCE TO AMEND CHAPTER 10 "TRAFFIC" OF NEWTON'S REVISED GENERAL ORDINANCES**

**NOW, THEREFORE BE IT ORDAINED**, by the Town Council of the Town of Newton, in the County of Sussex and State of New Jersey, that Chapter 10, entitled Traffic of the Revised General Ordinances of the Town of Newton be amended to include the following:

**SCHEDULE III**

**PARKING TIME LIMITED ON CERTAIN STREETS**

<u>Name of Street</u>	<u>Sides</u>	<u>Time Limit</u>	<u>Hours</u>	<u>Location</u>
Jefferson St.	West	15 minutes	All Times	Beginning 38 feet from South West corner of Jefferson Street and Spring Street and extending 37 feet South.
Spring Street	South	15 minutes	All Times	Beginning 53 feet from the South West corner of Spring Street and Main Street and extending 23 feet West.

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

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

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

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

**OLD BUSINESS**

There was no Old Business for discussion.

**CONSENT AGENDA**

Mayor Le Frois 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 the resolutions on the Consent Agenda.

**RESOLUTION #209-2011\***

**DESIGNATE OFFICIAL TO SIGN THE NORTH JERSEY MUNICIPAL EMPLOYEE BENEFITS FUND PLAN DOCUMENT AND SUMMARY PLAN DESCRIPTION FOR THE TOWN OF NEWTON**

**BE IT RESOLVED** by the Town Council of the Town of Newton that the Town Manager is hereby designated as the official authorized to sign the North Jersey Municipal Employee Benefits Fund Plan Document and Summary Plan Description with regards to Employee Health Benefits, Version 3, 10/2011, for the Town of Newton.

**RESOLUTION #210-2011\***

**AMEND AGREEMENT WITH MWH AMERICAS, INC. FOR GENERAL CONSULTING SERVICES FOR THE NEWTON WATER AND SEWER UTILITY FOR 2011**

**WHEREAS**, the Town of Newton requires the services of a qualified Engineering Consultant for the Newton Water and Sewer Utility on an annual basis; and

**WHEREAS**, the Town Council appointed MWH Americas, Inc., as Engineering Consultant for the Newton Water and Sewer Utility for calendar year 2011 by the adoption of Resolution #1-2011 at their meeting on January 10, 2011; and

**WHEREAS**, said contract stipulated that the amount expended during the term of the contract is not to exceed \$25,000; and

**WHEREAS**, due to circumstances beyond the Town's control the costs for consulting engineering will exceed the \$25,000.00 allocated; and

**WHEREAS**, both parties have agreed to increase the amount of the original contract to be increased by \$10,000.00 to a new amount not to exceed \$35,000.00; and

**WHEREAS**, the Chief Financial Officer has certified funds are available based on the attached certification;

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton authorizes the Mayor and Municipal Clerk to amend the agreement with MWH Americas, Inc. as the Town of Newton's Engineering Consultant for the Newton Water and Sewer Utility for the remainder of calendar year 2011 for an amount not to exceed \$35,000.00; and

**BE IT FURTHER RESOLVED** that a fully executed copy of said amended agreement be provided to MWH Americas, Inc. and filed in the Office of the Municipal Clerk.

**RESOLUTION #211-2011\***

**AUTHORIZE REFUND OF REDEMPTION MONIES TO OUTSIDE LIEN HOLDER FOR BLOCK 803, LOT 1.03**

**WHEREAS**, at the Municipal Tax Sale held on June 24, 2009 a lien was sold on Block 803, Lot 1.03, also known as 67 Water Street, for 2008 delinquent water and sewer charges; and

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**WHEREAS**, this lien, known as Tax Sale Certificate #1306, and was sold to Park Finance, LLC for 0% redemption fee with a premium of \$100.00; and

**WHEREAS**, David Artler, the owner of said property, has effected the redemption of Certificate #1306 in the amount of \$6,389.50;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that this Governing Body acknowledges that Park Finance, LLC is entitled to a redemption in the amount of \$6,389.50 as well as the premium of \$100.00; and

**BE IT FURTHER RESOLVED**, that the Tax Collector be authorized to issue two checks, one in the amount of \$6,389.50 for the redemption of Certificate #1306 and one for the premium of \$100.00 to Park Finance, LLC, PO Box 109, Cedar Knolls, NJ 07927.

**RESOLUTION #212-2011\***

**REJECT BIDS FOR PROPOSED NEWTON POOL CONCESSION STAND**

**WHEREAS**, the Town of Newton publicly opened and read bids for the Proposed Newton Pool Concession Stand on Tuesday, October 4, 2011 at 10:00am as follows:

<u>Name and Address of Bidder</u>	<u>Amount Bid</u>
T.M. Brennan Contractors 3505 Route 94 Hamburg, NJ 07419	\$135,000.00
Zinno Construction, LLC PO Box 333 Vernon, NJ 07462	\$197,149.00
Salazar & Associates, Inc. a.k.a R&A Advanced Plumbing 625 Rahway Avenue, Suite 1A Union, NJ 07083	\$248,000.00

**WHEREAS**, the Town of Newton's Qualified Purchasing Agent, Debra J. Millikin, recommends the rejection of all bids received as they exceed the budgeted amount;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that the bids submitted for the Proposed Newton Pool Concession Stand be rejected; and

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be provided to T.M. Brennan Contractors, Zinno Construction, LLC. And Salazar & Associates, Inc.

**RESOLUTION #213-2011\***

**AWARD PURCHASE OF SINGLE AXLE DUMP TRUCK WITH PLOW AND TAILGATE SPREADER**

**WHEREAS**, the Town of Newton publicly opened and read bids for the purchase of a Single Axle Dump Truck with Plow and Tailgate Spreader on Tuesday, August 16, 2011 at 11:00 a.m. as follows:

<u>Name and Address of Bidder</u>	<u>Bid Price</u>
Campbell Freightliner, LLC. 145 Talmadge Road Edison, NJ 08818-0770	\$146,217.00

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Browns Hunterdon International, LLC.  
963 Route 173  
PO Box 98  
Bloomsbury, NJ 08804  
\$138,499.00

**WHEREAS**, the Department of Public Works Supervisor, Kenneth Jaekel, of the Town of Newton, has drafted a letter dated October 3, 2011(copy attached) regarding the bids advising of two exceptions by the low bidder that are not acceptable for reasons stated in the letter, which exceptions are:

Section 5: Front Axle: 18,000 lb. Meritor MFS-18-133A, Set Back 41"

Campbell Freightliner, LLC. 18,000 lb. Meritor MFS-18-133A, Set Back 41"  
Browns Hunterdon International, LLC. 18,000 lb. Meritor MFS-18-133D, Set Forward

Section 13: Cab: Aluminum Conventional Cab 106" BBC Minimum

Campbell Freightliner, LLC. Aluminum Conventional Cab 106" BBC  
Minimum  
Browns Hunterdon International, LLC. Galvanized Steel Fiberglass Hood

All other exceptions in both bids were acceptable to the Department of Public Works Supervisor; and

**WHEREAS**, based on the non-conformance of the low bidder to essential specifications as stated above, the Department of Public Works Supervisor, and the Town's Qualified Purchasing Agent, Debra J. Millikin, recommend rejection of the low bid as non-responsive and to award a contract for a Single Axle Dump Truck with Plow and Tailgate Spreader to Campbell Freightliner, LLC in the amount of \$146,217.00; and

**WHEREAS**, Chief Financial Officer has certified funds are available based on the attached certification;

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that the bid submitted for the purchase of Single Axle Dump Truck with Plow and Tailgate Spreader be awarded to Campbell Freightliner, LLC, 145 Talmadge Road, Edison, NJ 08818-0770 in the amount of \$146,217.00. Along with a certified copy of this resolution, a contract shall be forwarded to Campbell Freightliner, LLC for execution.

**RESOLUTION #214-2011\***

**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:

**Adjustment for meter read incorrectly:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
12292	6 ½ Walker Street	\$5,100.00

**RESOLUTION #215-2011\***

**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 2010 and 2011 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**

173.25	Montague Tool & Supply	29323
1,260.00	Pellow, Harold & Assoc., Inc.	29324
3,158.90	G & G Diesel Service, Inc.	29325
8,176.52	JCP&L	29326
2,306.40	SCMUA	29327
35.00	Centurylink Communications, Inc.	29328
50.00	State Treasurer	29329
131.25	Willco, Inc.	29330
794.24	Newton Citgo	29331
32.00	Newton Trophy	29332
1,285.00	Galls Incorporated	29333
62.99	R & R Radar, Inc.	29334
375.68	Solar Tire	29335
4,241.09	Boonton Tire Supply	29336
839.62	Vision Service Plan	29337
188.72	Verizon Wireless	29338
886.00	Accurate Door, Inc.	29339
202.00	Medtronic Physio-Contrl Corp.	29340
198.00	Institute Professional Develop.	29341
380.00	North Jersey Portable Toilets	29342
1,181.69	Dell Marketing L.P.	29343
85.00	Morris County Police Academy	29344
495.35	The Home Depot	29345
187.50	Moore-Wallace North America	29346
562.88	Staples Business Advantage	29347
213.63	Lowe's	29348
33.44	Nestle Waters	29349
2,955.00	Pinnacle Wireless, Inc.	29350
259.72	Municipal Graphics Inc.	29351
3,038.87	Rachel's/Michele's Oil Company	29352
4,426.38	Taylor Oil Company	29353
275.00	Sussex County Chamber of Commerce	29354
2,800.00	Tire King	29355
168.00	Jersey Central Power & Light	29356
3,202.50	Knapp, Trimboli & Prusinowski, LLS.	29357
106,602.60	NJMEBF	29358
1,770.00	Chelbus Cleaning Co., Inc.	29359
185.00	Rutgers, Center for Government Serv.	29360
209.30	Janien N. Roberts	29361
306.95	Action Data Services, Inc.	29362
292.77	Action Data Services, Inc.	29363
187.66	Country Club Ice Cream	29364
345.00	Van Meter & Assoc's Inc.	29365
385.00	The NJ Shade Tree Federation	29366
62.00	Some's World Wide Uniforms, Inc.	29367
30.00	EAS By Ads	29368
920,408.00	Newton Board of Education	111049
49,219.00	U.S.D.A. /FHA	111050
178,140.97	Payroll Account	111051
40,600.00	Bank of New York	111052
69,030.00	Chase Bank	111053
2,940.00	Capital Account	111054

**CAPITAL**

32,038.00	Warnock Fleet & Leasing	7792
23,403.42	Pellow, Harold & Assoc. Inc.	7793
50.14	SCMUA	7794

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4,056.12	McManimon & Scotland	7795
1,051.00	Current Account	7796
831.20	The Home Depot	7797
1,175.00	Absolute Fire Protection Co., Inc.	7798
3,243.00	North Jersey Seal Coating & Asphalt	7799

**Total TOWN BILLS \$1,481,224.65**

**WATER AND SEWER ACCOUNT**

710.44	Montague Tool & Supply	12446
4,038.00	Schmidt's Wholesale, Inc.	12447
376.50	M G L Printing Solutions	12448
225.00	Pellow, Harold & Assoc., Inc.	12449
3,297.18	MWH Americas, Inc.	12450
5,158.23	JCP&L	12451
551.54	SCMUA	12452
551.34	Sussex County Plumbing &	12453
3,749.76	Coyne Chemical Corp., Inc.	12454
125.85	Centurylink Communications, Inc.	12455
22.00	Rectifier Auto Electric	12456
608.75	Hamburg Plumbing Supply Co. Inc.	12457
250.00	Cosper Environmental Services, Inc.	12458
292.40	Carr, Joseph	12459
1,150.80	Diamond Sand & Gravel, Inc.	12460
163.92	Vision Service Plan	12461
8,316.00	Passaic Valley Sewerage Comm.	12462
33.03	Cooper Electric Supply Co.	12463
523.90	The Home Depot	12464
1,470.00	Kistler O'Brien Fire Protection	12465
99.98	Staples Business Advantage	12466
1,732.25	Taylor Oil Co.	12468
14,986.40	NJMEBF	12468
4,439.39	Direct Energy Business	12469
33,001.80	Payroll Account	116031
91,993.75	Bank of New York	116032
41,313.57	Payroll Account	116033
-33,001.80	VOID	117118

**CAPITAL**

9,485.50	Pellow, Harold & Asso. Inc.	2190
112.30	Payroll Account	116108
1,195.09	Payroll Account	116109

**Total WATER & SEWER BILLS \$196,972.87**

**TRUST ACCOUNT**

6,112.73	Pellow, Harold & Asso. Inc.	2934
282.50	Pellow, Harold & Asso. Inc.	2935
264.00	Payroll Account	117118
4,323.00	Payroll Account	117119

**Total TRUST ACCOUNT BILLS \$10,982.23**

The Clerk presented an application for an off premise raffle (Tricky Tray and 50-50) from the Pride Foundation, Inc. 44 Ryerson Avenue, Newton to be held on November 11, 2011 from 6:00 p.m. to 11:00 p.m. at Merriam Avenue School, 81 Merriam Avenue. It was noted that the application was in order and accompanied by the

prescribed fee.

A motion was made by Mr. Elvidge to approve the **COMBINED ACTION RESOLUTIONS**, seconded by Deputy Mayor Diglio and roll call resulted as follows:

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

**INTERMISSION** – None

**DISCUSSION**

**a. Outdoor Furnace Ordinance**

Mark Hontz, Esq. submitted and reviewed a draft Ordinance on outdoor furnaces with the Governing Body. The Governing Body engaged in conversation regarding outdoor furnaces and Mr. Russo outlined the feelings of Mr. Ricciardo who was absent. Mr. Russo noted that the Administration’s recommendation is to ban the outdoor furnaces but a variance may be applied for if an applicant requests same.

After a lengthy discussion, Council unanimously agreed to leave the draft ordinance as submitted with the minor addition of adding the word “wood boiler” in the definitions. Mr. Hontz will make the minor change and resubmit for Council’s review.

**OPEN TO THE PUBLIC**

Mr. Anwar Qarmout, 45 Woodside Avenue, advised Council of his findings with regard to the outdoor furnaces/wood boilers. He disagreed with Council on eliminating them under the outdoor structures and was advised that his recourse would be to apply for a variance. Council noted that if technology changes and there are increased numbers of applicants applying for outdoor furnaces/wood boilers applications then the Council would then revisit the Ordinance.

**COUNCIL & MANAGER COMMENTS**

Mr. Russo noted that the personnel manual will be on the next Council agenda for introduction.

Mr. Russo also noted that a resolution will be on for the next meeting pertaining to the health care contributions paid by the non-union employees. The Town’s 7½% and 50% provisions shall be eliminated due to the Chapter 78 provisions adopted by the State of New Jersey this year.

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Mayor Le Frois noted that the Plaza Restaurant will be reopening on Monday, October 17<sup>th</sup> at 7 a.m.

There being no further business to be conducted, upon motion of Mrs. Becker, seconded by Mr. Elvidge and unanimously carried, the meeting was adjourned at 8:03 pm.

Respectfully submitted,

Lorraine A. Read, RMC  
Municipal Clerk