



**AGENDA**  
**NEWTON TOWN COUNCIL**  
**JANUARY 23, 2012**  
**7:00 P.M.**

**I. PLEDGE OF ALLEGIANCE**

**II. ROLL CALL**

**III. OPEN PUBLIC MEETINGS ACT STATEMENT**

**IV. APPROVAL OF MINUTES**

- JANUARY 9, 2012 REGULAR MEETING
- JANUARY 9, 2012 EXECUTIVE SESSION

**V. OPEN TO THE PUBLIC**

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.

**VI. COUNCIL & MANAGER REPORTS**

**VII. ORDINANCES**

**a. 2<sup>ND</sup> READING AND PUBLIC HEARING**

ORDINANCE 2012-1

AN ORDINANCE FOR THE APPOINTMENT OF TOWN ENGINEER FOR CALENDAR YEARS 2012, 2013 AND 2014

- i. OPEN HEARING TO PUBLIC
- ii. CLOSE HEARING TO PUBLIC
- iii. ACT ON ORDINANCE

**b. INTRODUCTION**

ORDINANCE 2012-2

AN ORDINANCE ADOPTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF NEWTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY; PROVIDING FOR THE MAINTENANCE OF SAID CODE; REPEALING AND SAVING FROM REPEAL CERTAIN ORDINANCES NOT INCLUDED THEREIN; ESTABLISHING A PENALTY FOR ALTERING OR TAMPERING WITH THE CODE; AND MAKING CERTAIN CHANGES IN PREVIOUSLY ADOPTED ORDINANCES

**VIII. OLD BUSINESS**

**IX. CONSENT AGENDA**

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.

- a. RESOLUTION #14-2012\* AUTHORIZATION TO PROVIDE FOR THE PURCHASE OF ROAD SALT FOR THE DEPARTMENT OF PUBLIC WORKS FOR THE TOWN OF NEWTON
- b. RESOLUTION #15-2012\* AUTHORIZE CREDITS DUE WATER AND SEWER UTILITY ACCOUNTS
- c. RESOLUTION #16-2012\* AUTHORIZE HAROLD E. PELLOW & ASSOCIATES, INC., TO CREATE A PLAN FOR THE RAILROAD DISTRICT
- d. RESOLUTION #17-2012\* APPROVE BILLS AND VOUCHERS FOR PAYMENT
- e. RESOLUTION #18-2012\* APPOINTMENT OF ROBERT CAFFREY AS A REGULAR MEMBER OF THE NEWTON PLANNING BOARD

**X. HEARING ON THE MILL STREET WATERLINE PROJECT ASSESSMENT**

- 1. OPEN HEARING
- 2. PUBLIC COMMENT
- 3. CLOSE HEARING

**XI. RESOLUTION**

- a. RESOLUTION #19-2012 RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY APPROVING THE MILL STREET WATERLINE PROJECT ASSESSMENT REPORT AND DETERMINING TO ASSESS A PORTION OF THE COST OF THE PROJECT ON PROPERTIES BENEFITTED THEREBY OVER A PERIOD OF 20 YEARS

**XII. INTERMISSION**

**XIII. DISCUSSION**

**XIV. OPEN TO THE PUBLIC**

**XV. COUNCIL & MANAGER COMMENTS**

**XVI. EXECUTIVE SESSION**

**a. RESOLUTION #20-2012**

A RESOLUTION PROVIDING FOR A MEETING NOT OPEN TO THE PUBLIC IN ACCORDANCE WITH THE PROVISIONS OF THE NEW JERSEY OPEN PUBLIC MEETINGS ACT, N.J.S.A. 10:4-12

**1. CONTRACT NEGOTIATIONS**

**XVII. ADJOURNMENT**

**TOWN OF NEWTON  
ORDINANCE NO. 2012-1**

**AN ORDINANCE FOR THE APPOINTMENT OF ENGINEER  
FOR CALENDAR YEARS 2012, 2013 & 2014**

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

**WHEREAS**, municipal engineering services is a professional service as defined by the Local Public Contracts Law and is, therefore, exempt from public bidding requirements in accordance with N.J.A.C. 40A:11-5(1)(a)(i); and

**WHEREAS**, the Town of Newton advertised a Request for Proposals for the services of a qualified Municipal Engineer and received several responses; and

**WHEREAS**, Harold E. Pellow & Associates, Inc., has submitted a proposal outlining the services to be provided; and

**WHEREAS**, after review of all submitted proposals by the RFP Review Committee, and interviews by the Governing Body, the Town Council has determined that Harold E. Pellow & Associates, Inc., is the best firm for the position; and

**WHEREAS**, the anticipated term of this contract is three (3) years ending December 31, 2014;

**NOW, THEREFORE BE IT ORDAINED**, that the Town Council of the Town of Newton hereby authorizes the Mayor and Clerk to execute an agreement with Harold E. Pellow & Associates, Inc., for services as Municipal Engineer for calendar years 2012, 2013 and 2014; and

**BE IT FURTHER ORDAINED** that a fully-executed copy of this agreement be kept on file and available for public inspection in the Municipal Clerk's office.

**PUBLIC NOTICE** is hereby given that the above Ordinance was passed on the first reading by the Town Council of the Town of Newton, Sussex County, New Jersey, at a regular meeting of said Committee, held on January 9, 2012, and that a public hearing regarding the above was held on January 23, 2012 at the Municipal Building 39 Trinity Street, Newton, New Jersey at 7:00p.m. at which time, all persons interested both for and against said Ordinance were given an opportunity to be heard concerning same.

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Lorraine A. Read, RMC  
Municipal Clerk

ORDINANCE 2012-2

AN ORDINANCE ADOPTING A CODIFICATION AND REVISION OF THE ORDINANCES OF THE TOWN OF NEWTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY; PROVIDING FOR THE MAINTENANCE OF SAID CODE; REPEALING AND SAVING FROM REPEAL CERTAIN ORDINANCES NOT INCLUDED THEREIN; ESTABLISHING A PENALTY FOR ALTERING OR TAMPERING WITH THE CODE; AND MAKING CERTAIN CHANGES IN PREVIOUSLY ADOPTED ORDINANCES

Be it ordained and enacted by the Town Council of the Town of Newton, County of Sussex, State of New Jersey, as follows:

**§ 1-1. Adoption of Code.**

Pursuant to N.J.S.A. 40:49-4, the ordinances of the Town of Newton of a general and permanent nature adopted by the Town Council of the Town of Newton, as revised, codified and consolidated into chapters and sections by General Code, and consisting of Chapters 1 through 320, together with an Appendix, are hereby approved, adopted, ordained and enacted as the "Code of the Town of Newton," hereinafter known and referred to as the "Code."

**§ 1-2. Code supersedes prior ordinances.**

This ordinance and the Code shall supersede all general and permanent ordinances codified as the Revised General Ordinances and all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

**§ 1-3. When effective.**

This ordinance shall take effect immediately upon passage and publication according to law.

**§ 1-4. Copy of Code on file.**

A copy of the Code in loose-leaf form has been filed in the office of the Town Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance; and, if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the Town of Newton by impressing thereon the Seal of the Town, as provided by law, and such certified copy shall remain on file in the office of the Clerk of the Town, to be made available to persons desiring to examine the same during all times while said Code is in effect.

**§ 1-5. Amendments to Code.**

Any and all additions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intent of the governing body to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Town of Newton" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be

printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto.

**§ 1-6. Publication; filing.**

The Clerk of the Town of Newton, pursuant to law, shall cause this Adopting Ordinance to be published, in the manner required, in a newspaper of general circulation in the Town. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this Adopting Ordinance, coupled with availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

**§ 1-7. Code book to be kept up-to-date.**

It shall be the duty of the Clerk or someone authorized and directed by the Clerk to keep up-to-date the certified copy of the book containing the Code required to be filed in his or her office for the use of the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

**§ 1-8. Sale of Code book.**

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk, or an authorized agent of the Clerk, upon the payment of a fee authorized by the Town. The Clerk shall also arrange for procedures for the periodic supplementation of the Code.

**§ 1-9. Altering or tampering with Code; penalties for violation.**

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Town of Newton to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to one or more of the following: a fine of not more than \$2,000, imprisonment for not more than 90 days or a period of community service not exceeding 90 days, in the discretion of the Judge imposing the same.

**§ 1-10. Severability of Code provisions.**

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

**§ 1-11. Severability of ordinance provisions.**

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

**§ 1-12. Inconsistent ordinances repealed.**

Except as provided in § 1-13, Ordinances saved from repeal, below, all ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Town of Newton which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

**§ 1-13. Ordinances saved from repeal.**

The adoption of this Code and the repeal of ordinances provided for in § 1-12 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to 8-24-2011.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered, prior to the effective date of this ordinance, brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing of grade, changing of name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance or resolution appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the Town's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract, agreement or obligation.

- I. The levy or imposition of taxes, assessments or charges or the approval of the municipal budget.
- J. The dedication of property or approval of preliminary or final subdivision plats.
- K. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- L. Any ordinance adopting or amending the Zoning Map.
- M. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- N. Chapter 19 of the Revised General Ordinances Code, known as the “Land Subdivision Ordinance.”

**§ 1-14. Changes in previously adopted ordinances.**

- A. In compiling and preparing the ordinances for adoption and revision as part of the Code pursuant to N.J.S.A. 40:49-4, certain grammatical changes and other minor changes were made in one or more of said ordinances. It is the intention of the Town Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.
- B. The following nomenclature changes have been made throughout the Code:
  - (1) All references to “State Department of Health” have been changed to “State Department of Health and Senior Services.”
  - (2) All references to “Magistrate” have been changed to “Judge.”
  - (3) All references to “Building Inspector” have been changed to “Construction Official.”
  - (4) Pursuant to Ordinance No. 2010-17, all references to “Board of Adjustment,” “Zoning Board of Adjustment,” “Planning Board or Zoning Board of Adjustment” and “Planning Board and Zoning Board of Adjustment” have been changed to “Planning Board.”
- C. In addition, the changes, amendments or revisions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)

ORDINANCE 2012-2  
**C E R T I F I C A T I O N**  
**T O W N O F N E W T O N**

**Office of the Town Clerk**

I, **Lorraine Read**, Town Clerk of the Town of Newton, New Jersey, hereby certify that the chapters contained in this volume are based upon the original legislation of a general and permanent nature of the Town Council of the Town of Newton, and that said legislation, as revised and codified, renumbered as to sections and rearranged into chapters, constitutes the Code of the Town of Newton, County of Sussex, State of New Jersey, as adopted by ordinance of the Town Council on February 13, 2012.

Given under my hand and the Seal of the Town of Newton, County of Sussex, State of New Jersey, this \_\_\_\_\_ day of \_\_\_\_\_, at the municipal offices of the Town of Newton.

**s/Lorraine Read**

\_\_\_\_\_  
Town Clerk

**Town of Newton  
Code Adoption Ordinance****Schedule A  
Specific Revisions at Time of Adoption of Code****Penalties Revisions.**

Throughout the Code, the following sections are added (or amended) to provide that violations of the applicable chapter/article shall be punishable as provided in Chapter 1, Article III, General Penalty:

- § 45-13
- § 49-8
- § 49-20
- § 53-8A
- § 53-14
- § 53-31
- § 57-8
- § 57-12
- § 57-19E
- § 105-6
- § 109-4
- § 115-9
- § 125-3
- § 133-42
- § 139-15D
- § 144-17
- § 156-9
- § 171-14
- § 175-8
- § 187-8
- § 206-10
- § 206-20
- § 222-9

- § 228-30
- § 234-9
- § 250-7
- § 250-13
- § 250-29A
- § 262-2
- § 266-20
- § 266-34
- § 266-41
- § 266-45
- § 273-5A
- § 283-13
- § 283-20
- § 289-11
- § 294-6
- § 299-10
- § 303-2
- § 320-124I

## **Chapter 1, General Provisions.**

### **Article II, Construction; Definitions.**

- A. Original Sec. 1-1, Short title, is deleted.
- B. Section 1-16 is revised to read as follows:

#### ***§ 1-16. Construction.***

*For the purpose of this Code and any other ordinances heretofore or hereafter adopted, except as the context may otherwise require:*

- A. *The present tense includes the past and future tenses, and the future, the present.*
- B. *The masculine gender includes the feminine and neuter.*
- C. *The singular number includes the plural, and the plural, the singular.*
- D. *"Shall" is mandatory and "may" is permissive.*
- E. *The time within which an act is to be done shall be computed by excluding*

*the first and including the last day, and if the last day be a Sunday, a legal holiday, or a day on which the offices of the Town are closed, that day shall be excluded.*

- F. *"Writing" and "written" shall include printing, typewriting and any other mode of communication using paper or similar material which is in general use, as well as legible handwriting.*
- G. *Whenever a specific time is used in this Code, it shall mean the prevailing and established time in effect in the State of New Jersey during any day in any year.*

### **Article III, General Penalty.**

Section 1-17 is revised to read as indicated: "For violation of any provision of this article, any other chapter of this ~~revision~~ Code, or of any other ordinance of the Town where no specific penalty is provided regarding the section or sections violated, the maximum penalty shall, upon conviction of a violation, be one or more of the following: a fine not exceeding \$500 \$2,000 or imprisonment for a period not exceeding 90 days or ~~both~~ a period of community service not exceeding 90 days."

### **Chapter 3, Administrative Code.**

- A. Section 3-14 is revised to read as indicated: "There shall be an office of the Clerk, the head of which shall be the Town Clerk. The Clerk shall be appointed by the Council and prior to his appointment shall be qualified by training and experience to perform the duties of his the office and must hold a registered municipal clerk certificate. ~~The Clerk~~ He shall serve for a term of three years ~~one year~~ and receive such compensation as shall be provided by ordinance."
- B. Section 3-22C is revised to read as indicated: "Issue certificates as to approval of land subdivisions by the Planning Board or the Council, pursuant to N.J.S.A. 40:55D-56 ~~the State Municipal Planning Act (1953) (N. J. Laws of 1953, Ch. 433, as amended, N.J.S.A. 40:55-1.24).~~"
- C. Section 3-26B(5) is amended by changing "Health Board" to "Board of Health."
- D. Section 3-39 is revised to read as indicated: "There shall be a Department of Tax Assessments, the head of which shall be the Tax Assessor. Prior to his appointment, the Assessor shall be qualified by training or experience, or a combination thereof, in the valuation and assessment of real and personal property. ~~On or after July 1, 1971, such qualifications, prior to appointment, shall include the holding of~~ and shall hold a certificate pursuant to N.J.S.A. 54:1-35.30."
- E. In §§ 3-61 and 3-62B, "Chapter 264 of the 1948 Laws of New Jersey" is changed to "N.J.S.A. 2B:12-1 et seq."
- F. In §§ 3-63 and 3-64, "Clerk" is changed to "Administrator."

- G. The second sentence of § 3-65 is revised to read as indicated: “Applicants requesting representation by a Municipal Public Defender shall pay an application fee of not more than \$200 as provided in Chapter 100, Fees and Costs.”
- H. Original Sec. 2-19, Board of Assistance, is deleted.
- I. Article XX, consisting of §§ 3-71 and 3-72, is amended by changing “Health Board” to “Board of Health.”
- J. Section 3-78 is revised to read as indicated: “There shall be a Parking Authority consisting of five members appointed by the Council. ~~Of the original appointees, one member shall be appointed for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Thereafter,~~ All appointments shall be for a term of five years. The members shall serve until their respective successors are appointed and qualify.”
- K. Section 3-80 is revised to read as indicated: “~~Pursuant to the provisions of the Local Housing Authorities Law of the State of New Jersey, There shall be a Housing Authority of the Town of Newton to be operated in accordance with the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. is hereby created and established.~~ The Housing Authority shall consist of six members, five of which shall be appointed by the Council. ~~Of the members first appointed, one shall serve for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years. Thereafter,~~ All members shall be appointed for five-year terms. All vacancies shall be filled for the unexpired term only. Members shall serve until their successors are appointed. A sixth member of the Housing Authority shall be appointed by the State Director of Housing pursuant to law.”
- L. Section 3-81 is revised to read as indicated: “There is hereby created and established a Citizens Committee for Community Improvement, to consist of 37 members appointed by the Council. ~~Of the original appointees, 12 shall be appointed for a term of two years, 12 for a term of three years, and 13 for a term of four years. Thereafter,~~ All appointments shall be for a term of four years. The members shall serve until their respective successors are appointed and qualify.”
- M. Original Sec. 2-31, Interlocal Services, is deleted.
- N. Section 3-92 is amended to read as follows:
- § 3-92. Members; terms.**
- A. *With the exception of one member of the Town Council, who shall be designated on an annual basis, and the Community Development Director, both of whom will be nonvoting members, the Commission members*

*appointed by the governing body shall be appointed for three-year terms, and vacancies shall be filled for the unexpired term only.*

- B. *The terms of office of each appointee shall commence on the first day of January and shall expire on the 31st day of December of the appropriate year.*
  - C. *In addition, the Commission may consist of no less than seven members who represent a cross section of the business and residential community.*
- O. Article XXXII is added to read as follows:

*ARTICLE XXXII*  
*Advisory Shade Tree Commission*

**§ 3-103. Establishment; membership.**

*There shall hereby be created an Advisory Shade Tree Commission, which shall be known as the "Advisory Shade Tree Commission of the Town of Newton." Said Commission shall consist of five residents of the Town who shall be appointed by the Town Council.*

**§ 3-104. Powers and duties.**

*The Advisory Shade Tree Commission shall be responsible for recommending to the Town Council of the Town of Newton the adoption of ordinances that pertain to the regulation and control of shade and ornamental trees.*

**§ 3-105. Terms; meetings; organization.**

- A. *The initial five members shall be appointed for terms of one, two, three, four and five years, respectively. Subsequent terms shall be for five years.*
- B. *The Commission shall meet on a schedule devised by its members, but shall not meet less than six times per year.*
- C. *To constitute a quorum, at least three members must be present at meetings.*
- D. *The Commission shall organize within 30 days after the appointment of its membership for the remainder of the then calendar year. Thereafter, the Commission shall reorganize annually by the appointment of a Secretary and the election of one of its members as Chairman.*

**Chapter 25, Personnel.**

- A. Section 25-5 is amended as follows:

- (1) In Subsection A, "Title IIA" is changed to "N.J.S.A. 11A:1-1 et seq."
- (2) Subsection B(1) is revised to read as indicated: "Enumerated in N.J.S.A. 11A:1-1 et seq., N.J.S.A. 11:4-4 and 11:22-2 or placed in the unclassified service by any other statute."

- (3) Subsection B(3) is revised to read as indicated: “For which the Commission may so determine to be unclassified pursuant to N.J.S.A. 11A:1-1 et seq. N.J.S.A. 11:7-11 to 11:7-13 and 11:22-52. The lists shall include the citation authorizing the unclassified status of the office or position.”
- B. Section 25-13A is revised to read as indicated: “~~Effective April, 2008~~, All personnel ~~are~~ shall be paid biweekly on Thursdays, or the closest day thereto if said payday falls on a holiday. All payments ~~are~~ shall be made by check, accompanied by a check stub which shows detailed deductions from employee wages.”
- C. Section 25-20D is added to read as follows: “Seniority is measured with time with the Town of Newton rather than time in title as per N.J.A.C. 4A:8-2.4(a).”

### **Chapter 30, Police Department.**

In the second sentence of § 30-5, “18 years” is changed to “21 years.”

### **Chapter 45, Alarms.**

- A. The last sentence of § 45-3G(2) is revised to read as indicated: “A late fee of \$25 ~~as outlined in Chapter A325, Fines~~, may be assessed if the renewal is more than 30 days late.”
- B. Section 45-7A is revised to read as indicated:
- A. An alarm user shall be subject to fines, depending on the number of false alarms within a calendar-year period (January to December), ~~based upon the schedule outlined in Chapter A325, Fines~~ as follows:*
- (1) First false alarm: warning issued.*
  - (2) Second false alarm: \$50.*
  - (3) Third false alarm: \$75.*
  - (4) Fourth false alarm: \$100.*
  - (5) Fifth and subsequent false alarms: \$200 each.*
- C. The first sentence of § 45-7B is revised to read as indicated: “Any person operating a nonregistered alarm system will be subject to a fine of \$100, ~~as outlined in Chapter A325, Fines~~, in addition to any other fines, for each false alarm.”

- D. The first sentence of § 45-7D is revised to read as indicated: “The alarm installation company may be assessed a fine of \$100 ~~as outlined in Chapter A325, Fines~~, if the officer responding to the false alarm determines that an on-site employee of the alarm installation company directly caused the false alarm.”
- E. The first sentence of § 45-9C(1) is revised to read as indicated: “The applicant, alarm user, alarm installation company or the monitoring company may file a written request for a review by paying an appeal fee of \$50 ~~as set forth in Chapter A325, Fines~~, and setting forth the reasons for the appeal within 20 business days after the date of notification of the decision from the Alarm Administrator.”
- F. Section 45-10A is revised to read as indicated: “Submits a new application or required renewal information and pays the required reinstatement fee of \$50 ~~as outlined in Chapter A325, Fines~~.”

## **Chapter 49, Alcoholic Beverages.**

### **Article III, Licensing.**

Section 49-13 is revised to read as indicated: “This article is enacted to regulate the sale ~~and transportation~~ of alcoholic beverages in the Town of Newton in accordance with the provisions of ~~an act of the legislature of the State of New Jersey entitled "An Act Concerning Alcoholic Beverages," comprising Chapter 436 of the Laws of 1933, its supplements and amendments, and also comprising~~ N.J.S.A. 33:1-1 et seq., and in accordance with the rules and regulations of the State Director of Alcoholic Beverage Control.”

## **Chapter 53, Amusements.**

### **Article III, Pool and Billiard Parlors.**

The first sentence of § 53-30 is revised to read as indicated: “No pool or billiard parlor or place where billiards or pool are played for hire shall be operated unless there is in force a public liability insurance policy to cover any injuries as a result of the use of the equipment or the operation of the billiard or pool parlor or place where billiards or pool are played for hire in the amount of ~~\$50,000~~ \$500,000 for any one occurrence and ~~\$25,000~~ \$500,000 for injury to any one person.”

## **Chapter 57, Animals.**

### **Article I, Keeping and Housing of Animals and Fowl.**

In § 57-7B, “Dog Warden” is changed to “Animal Control Officer.”

### **Article III, Licensing of Dogs and Cats.**

- A. Section 57-13 is amended as follows:
- (1) The definition of “shelter” is revised to read as indicated: “Any establishment where dogs are received, housed and distributed ~~without charge~~.”

- (2) The definition of “vicious dog” is amended to read as follows: “See N.J.S.A. 4:19-18.”
- B. Section 57-14 is amended as follows:
- (1) Subsection A(1)(c) is revised to read as indicated: “Any dog or cat attaining licensing age (~~six months~~) during the course of the calendar year.”
  - (2) Original Sec. 8-2.1f, pertaining to fines, is deleted.
  - (3) Subsection G is revised to read as indicated: “Exceptions. The provisions of this section shall not apply to any dog or cat licensed under § 57-15 of this article, or dogs received or kept for diagnostic, medical, or surgical treatment, owned by and operated under the supervision of a graduate veterinarian licensed in New Jersey. Dogs used as guides for blind persons and commonly known as "Seeing Eye" dogs and dogs used to assist handicapped persons and commonly known as "service dogs" and dogs used to assist deaf persons and commonly known as "hearing ear" dogs shall be licensed in the same manner as other dogs and cats, except that the owner or keeper shall not be required to pay any fee.”
- C. Section 57-17 is revised to read as indicated: “The Chief of Police of the Town shall annually or biennially cause to be made a canvass of all dogs owned, kept or harbored within the limits of the Town on or before September 1 of the year in which the census is taken and shall report to the Clerk, the Board of Health, and the State Department of Health and Senior Services the results thereof, setting forth in separate columns the names and addresses of persons owning, keeping or harboring dogs, the number of licensed dogs owned, kept or harbored by each person, together with the registration number of each dog, and the number of unlicensed dogs owned, kept or harbored by each person, together with a complete description of each unlicensed dog.”
- D. Section 57-18.
- (1) Subsection A is amended as follows:
    - (a) “Dog Warden” is changed to “Animal Control Officer.”
    - (b) Subsection A(6) is added to read as follows: “Any dog or other animal which is suspected to be rabid.”
    - (c) Subsection A(7) is added to read as follows: “Any dog or other animal off the premises of the owner reported to, or observed by, a certified Animal Control Officer to be ill, injured or creating a

threat to public health, safety or welfare, or otherwise interfering with the enjoyment of property.”

- (2) Original Secs. 8-7.3, Notice of seizure, and 8-7.4, Disposition of unclaimed dogs or cats, are deleted.
  - (3) Subsection C is added to read as follows: “Owners of dogs and cats seized in accordance with this article shall be notified pursuant to N.J.S.A. 4:19-15.16 of such seizure and impoundment and the procedure for redemption of the animal.”
- E. In § 57-23, “Animal Warden” is changed to “Animal Control Officer.”
- F. Section 57-24 is added to read as follows: “Except as provided in N.J.S.A. 4:19-15.19, violations of the provisions of this article shall be punishable as set forth in Chapter 1, Article III, General Penalty.”

#### **Article IV, Vicious Dogs.**

Chapter 57, Article IV, is amended in its entirety to read as follows:

*ARTICLE IV*  
*Vicious Dogs*

*§ 57-25. Regulation.*

*Dogs characterized as "vicious" shall be regulated as provided in N.J.S.A. 4:19-16 et seq.*

*§ 57-26. Violations and penalties.*

*Any person violating the provisions of this article shall be punishable as provided in Chapter 1, Article III, General Penalty.*

#### **Chapter 70, Buildings, Unfit.**

- A. In § 70-3A, “not less than 10 days” is changed to “not less than seven days.”
- B. In the last sentence of § 70-6, “within 60 days” is changed to “within 30 days.”

#### **Chapter 85, Construction Codes, Uniform.**

In the first sentence of § 85-2A, “Department of Community Development, Division of Code Enforcement” is changed to “Department of Code Enforcement.”

#### **Chapter 100, Fees and Costs.**

- A. Original Sec. 21-1.1k, pertaining to registration of private refuse, is deleted.
- B. Section 100-7A is amended to read as follows: “Trailer court construction or alteration (§ 294-2E): \$225.”

C. Section 100-13C is added to read as follows:

*C. Impounding and destruction of certain dogs and cats:*

- (1) *Destruction of any unclaimed dog or cat at the request of the owner: \$3.*
- (2) *Expenses incurred by reason of any dog's or cat's detention, including maintenance: not to exceed \$4 for the first day and \$1 per day for each additional day, and \$2 for picking up each dog or cat.*

D. Original Secs. 21-1.7d, Boardinghome for children license, and 21-1.7e through g, pertaining to swimming pools, are deleted.

E. Section 100-15C(2)(c) is revised to read as indicated: “Park and ride [~~Section 10-13B.2-b~~]: free.

F. Section 100-17F is amended to read as follows:

*F. Body art licenses (§ 273-2):*

- (1) *Initial license (§ 273-2D): \$550.*
- (2) *Renewal license, annually (§ 273-2E): \$300.*
- (3) *Late fee for license renewal, per month (§ 273-2E): \$75.*
- (4) *Establishments that limit body-piercing procedures to the trailing edge of the ear (lower lobe), annually (§ 273-2B): \$50.*

G. Section 100-24C(6) is revised to read as indicated:

*(6) Fee for printing duplicate tax bills:*

- (a) *First duplicate, per N.J.S.A. 54:4-64: \$5.*
- (b) *Subsequent duplicates, per statute: \$25.*

## **Chapter 115, Fire Prevention.**

### **Article I, Uniform Fire Code.**

Section 115-8B is revised to read as indicted: “In any area marked by yellow or white lines or signs indicating the location of a fire zone or fire lane. The fine for parking in a fire zone is \$50.”

## **Chapter 133, Health Regulations.**

A. Section 133-2 is revised to read as indicated: “The ~~police and fire officers, the building inspector, and any other official of the Town of Newton designated by the Town Manager~~ shall be authorized to appoint special health officers as he/she

sees fit, and who shall assist the Health Officer in the enforcement of the provisions of this chapter.”

B. Original Sec. 12-2, Plumbing Code, is deleted.

C. Section 133-13B is added to read as follows:

*B. Section 2.1 is amended to add Subparagraph j, reading as follows:*

*j. The existence or presence of any of the following, except that this section shall not apply to any building foundation or cellar hole which is in active process of construction; provided, however, that such building foundation or cellar hole is adequately protected and is not permitted to remain uncovered for a period longer than 30 days:*

*(1) Any unfenced excavation more than two feet in depth, or any excavation where stagnant water gathers or is collected is hereby declared a nuisance.*

*(2) Any unfenced open building foundation or cellar hole is hereby declared dangerous to children and is a nuisance.*

*(3) Any open building foundation or cellar hole in which stagnant water gathers or collects is hereby declared a nuisance.*

D. Section 133-24 is revised to read as indicated: “~~Fees and charges for the filing of an application and plans for a permit to locate and construct an individual sewage disposal system or to alter an existing individual sewage disposal system shall be as set forth in § 21-1.7b. Fees for a septic cleaning permit are set forth in § 100-17A.~~”

E. Original Secs. 12-6, Boarding Homes for Children Code, and 12-7, Swimming Pool Code, are deleted.

F. Section 133-32 is added to read as follows: “The provisions of N.J.A.C. 8:24-1.1 et seq., Sanitation in Retail Food Establishments and Food and Beverage Vending Machines, is enforced in the Town of Newton.”

G. Original Secs. 12-8.1, Code established, 12-8.2, Title of Code, 12-8.3, Public record, and 12-8.4, Amendment to Code, are deleted.

### **Chapter 139, Historic Preservation.**

A. The first sentence of § 139-11C is revised to read as indicated: “The Commission’s recommendation shall focus on how the proposed undertaking would affect a landmark’s historic or architectural significance as outlined in the definition of “historic landmark” in § 139-4 of this chapter.”

- B. The last sentence of § 139-12E is revised to read as indicated: “The Commission’s recommendation shall focus on how the proposed undertaking would affect a landmark’s historic or architectural significance as outlined in the definition of “historic landmark” in § 139-4 of this chapter.”
- C. The last sentence of § 139-12K is revised to read as indicated: “The Commission’s recommendation shall focus on how the proposed undertaking would affect a landmark’s historic or architectural significance as outlined in the definition of “historic landmark” in § 139-4 of this chapter.”
- D. Section 139-13D(1) is revised to read as indicated: “Its historic, architectural, cultural or scenic significance in relation to the criteria established in the definition of “historic landmark” in § 139-4.”

### **Chapter 144, Housing Standards.**

In §§ 144-13A and 144-16A and B(1), “§ 100-16” is changed to “§ 100-21.”

### **Chapter 156, Junkyards and Junk Dealers.**

In § 156-8, “Public Works Supervisor” is changed to “Public Works Director.”

### **Chapter 166, Land Use Procedures.**

- A. Section 166-8A(1) is revised to read as indicated: “Class I. The Mayor or the Mayor’s designee in the absence of the Mayor.”
- B. Section 166-8C is revised to read as indicated: “Alternate members may participate in ~~discussions of the proceedings~~ all matters but may not vote except in the absence or disqualification of a regular member of any class. Participation of alternate members shall not be deemed to increase the size of the Planning Board. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate members are to vote, Alternate No. 1 shall be chosen first, followed in turn by Alternate No. 2, then Alternate No. 3, and then Alternate No. 4, if necessary.”
- C. The first sentence in § 166-9A is revised to read as indicated: “The term of the member composing Class I shall correspond with his official tenure, or if the member is the Mayor’s designee in the absence of the Mayor, the designee shall serve at the pleasure of the Mayor during the Mayor’s official tenure.”
- D. The last sentence in § 166-44 is revised to read as indicated: “Such appeal shall be taken within 20 days by filing a notice of appeal ~~in the manner set forth in paragraph 18A-3.7a of this chapter~~ and in accordance with the provisions of N.J.S.A. 40:55D-69 et seq., of the Municipal Land Use Law of 1975, as amended.”

**Chapter 200, Parks and Recreation Areas.**

A. Section 200-2 is amended as follows:

- (1) Subsection A is revised to read as indicated: “No person shall enter or remain in any portion of the public parks and recreational areas and, where applicable, other lands owned or controlled by the Town and devoted to public recreation use or purpose between the hours of 10:00 p.m. and 6:00 a.m. This subsection is not intended to restrict any municipal employee from conducting official business in those areas as part of his respective employment responsibilities established pursuant to § 200-4 of this chapter. ~~Fines for violation of Subsections A, B, C and G of this section below are enumerated in Chapter A325, Fines.~~”
- (2) Subsection B is revised to read as indicated: “~~Prohibited uses are that~~ No person shall.”
- (3) Subsection C is added to read as follows:

*C. Fines for violation of Subsection B(1), (2), (3) and (7) of this section are as follows:*

- (1) *Riding or driving except at posted speed [Subsection B(1)]: \$55.*
- (2) *Parking in other than an established or designated parking area [Subsection B(2)]: \$55.*
- (3) *Leaving vehicle standing or parked at night in established parking areas [Subsection B(3)]: \$55.*
- (4) *Using or riding any motorcycle, minibike or any motorized vehicle, except in those areas designated by the Advisory Recreation Commission [Subsection B(7)]: \$55.*

B. Section 200-8 is revised to read as indicated: “Except as provided in § 200-3C, ~~For~~ any violation of any provision of this chapter, ~~the penalty shall,~~ upon conviction of a violation, be the penalty punishable as set forth in Chapter 1, Article III, General Penalty.”

**Chapter 213, Property Maintenance.****Article II, Property Maintenance Code.**

The third sentence in § 213-10 is revised to read as indicated: “In the event that said fine shall, in total, be greater than \$1,250 upon an owner or person or persons responsible, such owner or persons shall have 30 days from the sending of the notice of violation pursuant to N.J.S.A. 40:49-5 and the ~~International Property Maintenance Code, First Edition, 2000~~ Section 107.4, referred to in § 213-8 to cure and abate the condition and

shall also be afforded an opportunity for a hearing before the Municipal Court for an independent determination of whether such violation occurred and what the amount of the fine should be.”

## **Chapter 222, Sales, Special.**

### **Article II, Garage Sales.**

- A. In § 222-13B, “a permit fee of \$5” is changed to “a permit fee as provided in § 100-5B.”
- B. In § 222-19, “Department of Community Development, Division of Code Enforcement” is changed to “Department of Code Enforcement.”

## **Chapter 228, Sewer and Water.**

- A. The second sentence of § 228-8 is amended by deleting the words “After August 10, 1959” from the beginning thereof.
- B. In § 228-16A, “N.J.S.A. 40A:27A-11” is changed to “N.J.S.A. 40A:26A-11.”
- C. Section 228-18A is revised to read as indicated: “~~Beginning with the bill issued in the calendar year 1973,~~ The schedule of rentals or charges for the use of Water and Sewer Utility facilities in the Town shall be charged in accordance with Schedules I and II of § 228-17.”
- D. Original Sec. 15-6.4, Violations and penalties, is deleted.
- E. Section 228-27K is revised to read as indicated: “~~Discharge of equipment and vehicle washing from municipal operations until February 28, 2009. After February 28, 2009,~~ No discharge of equipment and vehicle wash wastewater will be permitted.”
- F. Original Sec. 15-7.6, Violations and penalties, is deleted.

## **Chapter 240, Site Plan Review.**

- A. In § 240-3, “§ 100-23” is changed to “§§ 100-22E and 100-23.”
- B. Section 240-5D is revised to read as indicated: “Any applicant wishing to make a change in an approved application shall follow the same procedure as the original application. ~~If the County Planning Board exercises approval authority pursuant to N.J.S.A. 40:27-12, its action shall be noted on the site plan.~~”
- C. Section 240-11 is revised to read as indicated: “As a condition of final site plan approval, the reviewing board may require and shall accept, in accordance with the standards adopted by Chapter 162, Land Subdivision, §§ ~~162-5C and 162-7J~~, for the purpose of assuring the installation and maintenance of on-tract improvements, a performance guarantee. Off-tract improvements may be required

pursuant to the provisions of Chapter 162, Land Subdivision § 162-7K(1), (2), (3) and (4).”

- D. In § 240-15, “see § 162-7J” is changed to “see Chapter 162, Land Subdivision.”

## **Chapter 250, Solid Waste.**

### **Article I, Solid Waste Code.**

- A. Original Secs. 12-9.1, Code established, 12-9.2, Title of Code, and 12-9.3, Public record, are deleted.
- B. In § 250-8, “Department of Community Development, Division of Code Enforcement” is changed to “Department of Code Enforcement.”

### **Article III, Dumpsters; Roll-Off Containers; Temporary Storage Units.**

- A. Section 250-14 is added to read as follows:

#### **§ 250-14. Definitions.**

*As used in this article, the following terms shall have the meanings indicated:*

*TEMPORARY STORAGE CONTAINER — A portable containerized property storage facility or unit intended to be utilized upon the exterior of residential premises for the purpose of storing all types of items of personal and household property, either for pure storage or to facilitate the moving of persons from household unit to household unit, with the understanding that such unit, after a reasonable period of time for loading, will be moved to commercial storage facilities.*

- B. In §§ 250-15, 250-16 and 250-20, “pod” is changed to “temporary storage container.”

### **Article IV, Recycling.**

- A. Section 250-21 is amended as follows:

- (1) The first sentence of the introductory paragraph in the definition of “designated recyclable materials” is revised to read as indicated: “Those materials designated within the Sussex County District Solid Waste Management Plan (See N.J.S.A. 13:1E-99.13a.) to be source-separated for the purpose of recycling.”
- (2) The definition of “multifamily dwelling” is amended by deleting “(See N.J.S.A. 13:1E-99.13a.)” therefrom.

- B. The last sentence of § 250-27B is revised to read as indicated: “Allowing such unseparated solid waste and recyclables to accumulate will be considered a violation of this article and ~~the local sanitary code~~ Town of Newton sanitary regulations and/or the State Sanitary Code.”

**Chapter 258, Stormwater Control.**

- A. The last sentence in § 258-13B is revised to read as indicated: “In addition, the design of trash racks must comply with the requirements of ~~Subsection 8.D.~~ § 258-15A(1).”
- B. In § 258-14B(1) and (3), “N.J.A.C. 2:90-1.3(a)4” is changed to “N.J.A.C. 2:90-1.3(a)3.”
- C. Section 258-20 is added to read as follows: “Unless otherwise specified, violations of the provisions of this chapter shall be punishable as provided in Chapter 1, Article III, General Penalty.”

**Chapter 273, Tattoo and Body Piercing.**

Section 273-2 is amended as follows:

- A. Subsection B is revised to read as indicated: “For the establishments that limit body-piercing procedures to only piercing of the trailing edge of the ear (lower lobe), as described in N.J.A.C. 8:27-9.1, the annual licensing fee is ~~\$50~~ as set forth in § 100-17F(4).”
- B. The first sentence of Subsection D is revised to read as indicated: “An application for an initial license shall be accompanied by a fee in the amount of ~~\$500~~ as set forth in § 100-17F(1).”
- C. Subsection E is revised to read as indicated: “The renewal license fee for engaging in the business of operating a body art establishment within the Town of Newton shall be ~~\$250 per year~~ as set forth in § 100-17F(2). All licenses shall expire on the last day of March annually. If renovations of the body art establishment occur, plans must be submitted to the Newton Construction Office and the Sussex County Health Department, and the applicant will be required to comply with § 273-4. The late fee for failure to renew the license shall be ~~\$50 per month~~ as set forth in § 100-17F(3) if not paid by the final due date of April 30 each year.”

**Chapter 279, Taxation.****Article I, Hotel and Motel Tax.**

Original Sec. 5, Effective date, is deleted.

**Chapter 283, Taxicabs and Limousines.****Article I, Taxicabs.**

- A. Throughout the first sentence of § 283-11, “\$300,000” is changed to “\$500,000.”
- B. In § 283-14, “N.J.S.A. 46:16” is changed to “N.J.S.A. 48:16-1 et seq.”

## **Chapter 294, Trailer Camps.**

Section 294-2A is revised to read as indicated: “Referral agency. The Planning Board is designated as the referral agency to the Council in administering the provisions of this chapter, pursuant to R.S. 40:55-1.13.”

## **Chapter 299, Trees.**

Original Sec. 17-10, Advisory Shade Tree Commission, is deleted.

## **Chapter 307, Vehicles and Traffic.**

A. Section 307-10B is added to read as follows:

*B. No vehicle shall be permitted to remain in any public parking lots between the hours of 4:00 a.m. and 6:00 a.m., except for 14 spaces located at the easterly side of the Central Plaza and 12 spaces located at the westerly side of Central Plaza for which parking is permitted at any hour of the day or night, provided the space is not occupied beyond the legal time as set forth in § 307-25. Vehicles may be parked in public parking lots for up to 72 consecutive hours, after which time they may be removed by the Police Department and the owner shall pay reasonable costs for removal and storage before regaining possession of the vehicle.*

B. Original Sec. 10-13, Gate-operated parking lots, is deleted.

C. Original Sec. 10-14.5e is deleted.

## **Chapter 320, Zoning.**

A. Section 320-3B is revised to read as indicated: “Zoning Map. The boundaries of the said zoning districts are hereby established as shown on the 1996 Zoning Map of the Town of Newton, as ~~last revised June, 1996~~ January 7, 1999, which accompanies and is made a part of this chapter.”

B. In § 320-4, the original definition of “gasoline station” is deleted.

C. In § 320-4, the definition of “Planning Board” is amended to read as follows:

*PLANNING BOARD – The Planning Board of the Town of Newton.*

D. In § 320-4, the original definition of “trailer camp” is deleted.

E. Section 320-121B is added to read as follows: “Temporary signs shall be permitted as indicated in Table B, Temporary Sign Regulations.”

F. Section 320-124B is amended to read as follows:

*B. Assistant Zoning Officer.*

- (1) Office created. The office of Assistant Zoning Officer is hereby created.*
- (2) Duties. It shall be the duty of the Assistant Zoning Officer, under the supervision and control of the Zoning Officer and to the extent not prohibited by law, to perform all the duties of the Zoning Officer in the absence of the Zoning Officer or at such other times as may be permitted by law or as directed by the Town Manager.*

G. Table A, Permanent Sign Regulations, is amended by adding the following at the beginning thereof:

<b>KEY:</b>
<i>P = Permitted</i>
<i>P1 = These signs must be wall signs flat against the building</i>
<i>P3 = Signs naming the business or products sold on the premises shall be permitted, provided that:</i> <ul style="list-style-type: none"> <li><i>a) The area of the sign shall not exceed 70% of that portion of the area of the front of the building occupied by the business or businesses</i></li> <li><i>b) Minimum sign height: 9 feet above ground level</i></li> <li><i>c) Sign shall be flat against the building, protruding no more than 6 inches from the building</i></li> </ul>
<i>N = Signs not permitted</i>

H. Table B, Temporary Sign Regulations, is amended by deleting the words “according to N.J.S.A. 5:23-2.5(c)2” from the first entry under the heading “Sign Function/Control.”

**ORDINANCE NO. 2012-3**

**TOWN OF NEWTON, COUNTY OF SUSSEX, STATE OF NEW JERSEY**

**AN ORDINANCE AUTHORIZING THE SALE OF  
MUNICIPAL LANDS NOT NEEDED FOR PUBLIC USE**

**WHEREAS**, the Town of Newton has title to a certain parcel of real property which is Lot **1.07** in Block **1301** as shown on the Newton Tax Map, which parcel is not needed for public use; and

**WHEREAS**, Lot **1.07** in Block **1301** is less than the minimum size required for development under the municipal zoning ordinance and is without any capital improvements thereon; and

**WHEREAS**, N.J.S.A. 40A:12-13.2 requires that such a parcel be offered to the owner or owners of real property contiguous to said parcel being offered for sale prior to it being offered at a public sale.

**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. The Town Manager of the Town of Newton is hereby authorized to notify in writing, by certified mail, return receipt requested, all contiguous property owners of Lot **1.07** in Block **1301** that said lot is being offered for sale at a minimum price of \$24,000. Said notice shall state that:

(a) The minimum price requested for Lot **1.07** in Block **1301** as \$24,000.

(b) An acceptance of an offer by a contiguous owner to purchase said lot shall not be binding upon the Town but shall be subject to confirmation by the Town Council, which confirmation shall be done by Resolution.

(c) In the event the Town accepts the offer of a contiguous offer and the conveyance is made, that the parcel shall annex to, merge with, and be considered one tract of land with the contiguous owner's existing property.

(d) The Town of Newton reserves the right, in its sole discretion, to accept or reject any offer it deems in the best interest of the Town of Newton.

(e) Any contiguous property owner who wishes to purchase said lot shall execute an Offer to Purchase in the form attached hereto and pay a deposit by cash, bank check, cashier's check or attorney's trust account check in the amount of ten percent (10%) of the offered price. The balance of the monies due pursuant to the Offer to Purchase shall be paid in cash or certified check on delivery of a Deed which shall be no later than 2:00 p.m. on May 31, 2012, at the offices of the municipal attorney, Hollander, Strelzik, Pasculli, Pasculli, Hinkes, Gacquin, Vandenberg & Hontz, LLC, located at 40 Park Place, Newton, New Jersey 07860, or at such other location as mutually agreed upon.

(f) The Town of Newton expressly disclaims any and all implied warranties of habitability or usability with respect to this property. The Offer to Purchase shall be in a "AS IS" condition, the Offeror having had ample and sufficient opportunity to inspect premises, examine its title, and review municipal ordinances and laws affecting said premises. No representations regarding the value, character, quality, habitability or condition thereof, including environmental conditions, have been made to

the Buyer on behalf of the Town of Newton prior to making any offer. The Buyer of the lot, after closing, shall be responsible for all present and future defects of any and in any part of the property. This Agreement will survive the closing of title.

(g) The property will be conveyed by Bargain and Sale Deed and shall be subject to covenants, restrictions, conditions, reservations of record, easements of record, or by prescription and such state of facts as an accurate survey and inspection of the premises may disclose.

(h) In the event all the owners of contiguous property do not make an offer to purchase within sixty (60) days of the date of mailing of the notice of Offer to Sell to them, the lot may be sold at public auction at some future date to any member of the public at such price as will be acceptable to the Town of Newton at that time.

(i) In the event the Town receives more than one (1) offer to buy from a contiguous property owner, at the same price, said property shall then be sold to the highest bidder, at auction, from among all the contiguous property owners, after written notice of time and place of said auction, to all contiguous property owners.

(j) In the event that two (2) or more contiguous property owners would like to divide the lot between them and increase each of their properties by a portion of the offered lot, the Town may or may not agree to such division of the lot. Any legal or engineering fees necessary to accomplish such a subdivision will be the responsibility of the adjoining property owners.

2. The lot offered for sale is a portion of the same land and premises which the Town of Newton took title to by virtue of the following:

(a) A 6.873 acre tract of land as described in a Deed of Conveyance from Thomas F. Patten and Ralph S. Tyler, Jr., Trustees of the Erie Lackawanna Railway Company to the Town of Newton dated October 25, 1982 and recorded in the Sussex County Clerk's Office in Newton, New Jersey in Book 1091 of Deeds on pages 682, etc.;

(b) A 4,352 square foot parcel of land as described in a Deed of Conveyance from Betty Heemer, Unmarried, to the Town of Newton, a Municipal Corporation, dated May 1979, and recorded in the Sussex County Clerk's Office in Newton, New Jersey in Book 1033 of Deeds on pages 989, etc.;

(c) A parcel of land as described in a Deed of Conveyance from Peter John Kays and Beverly A. Kays, His Wife, to the Town of Newton, dated June 3, 1977 and recorded in the Sussex County Clerk's Office in Newton, New Jersey in Book 989 of Deeds on pages 470, etc.;

3. The premises shall be sold subject to:

(a) The rights of any utilities or easements of record, should any exist;

(b) The rights of the public in Sparta Avenue, also known as Sussex County Route 616;

(c) A ground lease agreement between the Town of Newton and Thor Labs, Inc. dated April 2003 as outlined in Town of Newton Ordinance No. 2003-2.

(d) Existing storm drainage infrastructure on Block **1301**, Lot **1.05**, discharging through Block **1301**, Lot **1.07**, to storm drainage in Sparta Avenue (Sussex County Route 616).

4. The purchaser of Lot **1.07** in Block **1301** shall have the right, at its sole cost and expense, to obtain a new survey of the lot. Provided such survey depicts the lot and is certified to be correct to the Town of Newton, the Town of Newton shall utilize the legal description drawn in accordance with such survey in the Deed of Conveyance provided the Purchaser provides such legal description and a copy of the certified survey to the Town of Newton not less than one (1) week prior to the date set for closing.

5. An Offer to Purchase Lot **1.07** in Block **1301** shall be accepted or rejected by a Resolution of the Newton Town Council no later than the second regular meeting of the Governing Body following March 16, 2012, or the date of any auction sale. No offer may be withdrawn prior to such Resolution.

6. The notice of any auction sale of said lot shall be advertised in The New Jersey Herald at least once a week during two consecutive weeks, the last publication being no earlier than seven (7) days prior to the date of such sale.

**NOTICE**

TAKE NOTICE that the above Ordinance was introduced at a regular meeting of the Town Council of the Town of Newton conducted on January 23, 2012. It will be considered for adoption, after final reading and public hearing thereon, at a meeting of the Newton Governing Body conducted at 7:00 pm on February 13, 2012 in the Council Chambers at the Newton Municipal Building, 39 Trinity Street, Newton, New Jersey, and shall take effect according to law.

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Lorraine A. Read, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #14-2012

January 23, 2012

**“Authorization to Provide for the Purchase of Road Salt for the Department of Public Works for the Town of Newton”**

**WHEREAS**, the County of Sussex advertised and received bids for road salt; and

**WHEREAS**, the bids received allowed for vendors to extend their pricing to municipalities within the County of Sussex through a State regulated County Contract Purchasing System; and

**WHEREAS**, the following vendor was awarded a contract for road salt and has extended their pricing to municipalities, thereby affording the Town of Newton the opportunity of direct purchase without competitive bidding:

International Salt Co., Inc.  
655 Northern Blvd.  
Clark Summit, PA 18411

**WHEREAS**, the manufacturer has been awarded the County contract at the price of \$54.48 per tonnage of road salt, with such price good through May 2012; 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 does hereby award a contract for the purchase of road salt from International Salt Co., Inc., at the Sussex County price of \$54.48 per ton through May 2012.

### CERTIFICATION

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, January 23, 2012.

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Lorraine A. Read, RMC  
Municipal Clerk



TOWN OF NEWTON

CERTIFICATION OF THE AVAILABILITY OF FUNDS  
(AS REQUIRED BY N.J.S.A. 40A:4-57, N.J.A.C. 5:34-5.1 et seq)

THIS IS TO CERTIFY THAT FUNDS ARE AVAILABLE AS FOLLOWS:

RESOLUTION #: 14-2012

APPROVING: INTERNATIONAL SALT COMPANY

FOR THE PURPOSE OF: PURCHASE OF ROAD SALT AT \$54.48 PER  
TON THROUGH A STATE REGULATED COUNTY CONTRACT  
PURCHASING SYSTEM

IN THE AMOUNT OF: \$45,000.00

APPROPRIATED BY: CURRENT FUND -  
SNOW REMOVAL, OTHER EXPENSES #1081239 \$45,000.00

DATED THIS 23<sup>rd</sup> DAY OF JANUARY, 2012

BY 

DAWN L. BABCOCK  
CHIEF FINANCIAL OFFICER

**RESOLUTION RE: AWARD OF CONTRACT FOR ICE CONTROL MATERIALS (SALT AND GRITS) FOR THE COUNTY OF SUSSEX DIVISION OF PUBLIC WORKS**

**WHEREAS**, public bids were advertised for Ice Control Materials (Salt and Grits) for the County of Sussex, Division of Public Works on July 12, 2011 and publicly received by the Sussex County Bid Proposal Committee on August 5, 2011; and

**WHEREAS**, the bids received were reviewed by the County Counsel, the Division of Public Works, and the Purchasing Agent; and

**WHEREAS**, it has been recommended by the Director of the Division of Public Works that an award be made to the following responsible bidders:

North Church Gravel, Inc. P.O. Box 235 Oak Ridge, NJ 07438	\$9.88 per ton approximately \$98,800.00 based on unit prices
--	--

284 Aggregates, LLC 10 Route 284 Wantage, NJ 07461	\$7.87 per ton as needed based on supplies and location
--	--

Baldwin Enterprises P.O. Box 159 Vernon, NJ 07462	\$11.00 per ton as needed based on supplies and location Vendor has limited supply of 2,500 tons
---	--

Beaver Run Farms 300 Beaver Run Road Lafayette, NJ 07848	\$14.00 per ton as needed based on supplies and location
--	---

International Salt Co., Inc. 655 Northern Blvd. Clark Summit, PA 18411	\$54.48 per ton approximately \$1,089,600.00 based on unit prices
--	--

**WHEREAS**, the County Treasurer has certified that funds are available in the 2011 County operating budget to award these Contracts for the 2011 portion of the Contract, with the balance subject to adequate funds being appropriated in the 2012 operating budget.

**NOW, THEREFORE, BE IT RESOLVED** that upon the recommendation of the Division of Public Works, the Sussex County Board of Chosen Freeholders does hereby award a Contract for Ice Control Supplies (Salt and Grits) for the County of Sussex, Division of Public Works to the above listed vendors in the amount based on the unit prices of the quantity ordered and received; and

**BE IT FURTHER RESOLVED** that the Director and Clerk of the Board are hereby authorized and directed to execute said award of Contract; and



## TOWN OF NEWTON

### RESOLUTION #15-2012

January 23, 2012

### “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:

**Utility Board Recommends credit for minimum charges while the meter was stuck:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
22124	40 Carriage Lane	\$675.00

**Penalty Charged Erroneously:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
6108	113 High Street	\$24.16

### **CERTIFICATION**

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, January 23, 2012.

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Lorraine A. Read, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #16-2012

January 23, 2012

**“Authorize Harold E. Pellow & Associates, Inc., to create a Plan for the Railroad District”**

**WHEREAS**, the Town of Newton has a need to create a plan for the Railroad District; and

**WHEREAS**, Jessica Caldwell, P.P., of Harold E. Pellow & Associates, Inc., has provided a proposal to complete the Plan for the Railroad District for a cost of an amount not to exceed \$9,000; and

**WHEREAS**, the 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 it hereby authorizes Harold E. Pellow & Associates, Inc., to create a Plan for the Railroad District on the Town's behalf and that the cost for said services and the plan shall not exceed \$9,000.

#### CERTIFICATION

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, January 23, 2012.

---

Lorraine A. Read, RMC  
Municipal Clerk



TOWN OF NEWTON

CERTIFICATION OF THE AVAILABILITY OF FUNDS  
(AS REQUIRED BY N.J.S.A. 40A:4-57, N.J.A.C. 5:34-5.1 et seq)

THIS IS TO CERTIFY THAT FUNDS ARE AVAILABLE AS FOLLOWS:

RESOLUTION #:162012

APPROVING: HAROLD E. PELLOW & ASSOCIATES

FOR THE PURPOSE OF: CREATE A PLAN FOR THE RAILROAD DISTRICT

IN THE AMOUNT OF: NOT TO EXCEED \$9,000.00

APPROPRIATED BY: GENERAL CAPITAL -

ORD.#2011-5      REDEVELOPMENT                      #30911062                      \$ 9,000.00

DATED THIS 23RD DAY OF JANUARY, 2012

BY 

DAWN L. BABCOCK  
CHIEF FINANCIAL OFFICER



**HAROLD E. PELLOW & ASSOCIATES, INC.**

CONSULTING ENGINEERS · PLANNERS · LAND SURVEYORS

ESTABLISHED 1969

HAROLD E. PELLOW, *PRESIDENT*  
NJ - P.E. & L.S., NJ - P.P., NJ - C.M.E.  
PA - P.E. & L.S.

ANN PELLOW WAGNER  
NJ - C.L.A., VA - C.L.A., PA - C.L.A.  
(5/26/84 - 7/27/89)

DAVID B. SIMMONS, JR., *VICE PRESIDENT*  
NJ - P.E. & L.S., NJ - P.P., NJ - C.M.E.  
NY - P.E. & L.S., PA - P.E. & L.S.

CORY L. STONER, *ASSOCIATE*  
NJ - P.E., NJ - C.M.E.  
PA - P.E.

JESSICA C. CALDWELL  
NJ - P.P.; A.I.C.P.

THOMAS G. KNUTELSKY  
NJ - P.E.

January 19, 2012

**MEMORANDUM TO:** Honorable Mayor Helen R. Le Frois and Town Council Members

**FROM:** Jessica C. Caldwell, P.P., A.I.C.P., Newton Town Planner

**SUBJECT:** Railroad District Study Proposal

Dear Mayor Le Frois and Town Council Members:

In response to your request for a planning study for the Railroad District area and the use of the right-of-way in that area, I have put together a budget for developing a plan. The proposed plan will analyze the potential for development in the area in concert with potential uses of the former railroad right-of-way in that area. The ultimate goal of the plan will be to provide a guiding document for the Council and developers for moving forward on development in the area. The document is meant to be comprehensive so that individual decisions can be made within a framework that doesn't hinder development options in the future. The breakdown of the project is as follows:

- |  |                   |
|--|-------------------|
| 1. Research and compile data on existing studies and surveys/maps of the area: ..... | \$346.00          |
| 2. Introduction and description of the area: .....                                   | \$804.00          |
| 3. Challenges and opportunities for the area: .....                                  | \$346.00          |
| 4. Development options and scenarios for the area: .....                             | \$1,722.00        |
| 5. Right-of-way location and description: .....                                      | \$1,150.00        |
| 6. Challenges and opportunities for the R.O.W.: .....                                | \$356.00          |
| 7. Options for the R.O.W.: .....   | \$1,476.00        |
| 8. Recommendations: .....  | \$1,024.00        |
| 9. <u>Attend 2-3 Council Meetings and make document revisions: .....</u>             | <u>\$1,356.00</u> |
| Total Cost: \$9,000.00   |                   |

Please let me know if you would like me to discuss this proposal with you at a Council Meeting or if you have any questions. Otherwise, I look forward to working with you on the project.

Very truly yours,

Jessica C. Caldwell, P.P., A.I.C.P.

**HAROLD E. PELLOW & ASSOCIATES, INC.**

Town of Newton Planner

Cc: Thomas Russo, Town Manager  
Debra Millikin, Deputy Town Manager

JCC:jcc

K:\PROJECTS\MUNICIPAL\NEWTON\COUNCIL\00-040 - MISC. TOWN COUNCIL\LEFROIS AND COUNCIL 1.DOC



## TOWN OF NEWTON

### RESOLUTION #17-2012

January 23, 2012

“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 2011 and 2012 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.

### CERTIFICATION

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, January 23, 2012.

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Lorraine A. Read, R.M.C.  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #19-2012

January 23, 2012

**"RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY APPROVING THE MILL STREET WATERLINE PROJECT ASSESSMENT REPORT AND DETERMINING TO ASSESS A PORTION OF THE COST OF THE PROJECT ON PROPERTIES BENEFITTED THEREBY OVER A PERIOD OF 20 YEARS"**

**WHEREAS**, in 2008 the Town of Newton, in the County of Sussex, New Jersey (the "Town") determined to undertake the Mill Street Waterline Project as a local improvement and to make special assessments on the properties benefited by the project for a portion of the cost of the project; and

**WHEREAS**, the Town provided notice to the owners of 75 Mill Street, Block 405, Lot 20 (the Newton Industrial Park) and 33 Mill Street, Block 405 Lot 30 (the Brookside Apartments); and

**WHEREAS**, the Town finally adopted bond ordinance number 2008-6 on April 28, 2008 in order to provide financing during the construction of the project, which ordinance determined, among other things, that the project would be assessed over a period of 20 years; and

**WHEREAS**, the project has now been completed, and N.J.S.A. 40A:31-14 provides that upon completion of the improvements, the Town Council must assess the costs and expenses of the project on the land specially benefited in proportion to the benefits received, and, when completed, the assessments shall be filed as a report with the Town Clerk who shall give notice by advertising in one or more newspapers of general circulation in the Town and by notifying each concerned property owner, by certified mail of the fact that the report has been filed and that the governing body will meet at a designated time and place to hear concerns about the report as set forth in N.J.S.A. 40A:31-14; and

**WHEREAS**, such notice has been given and the Town Council has met to hear such concerns; and

**WHEREAS**, the Town Council has determined to approve the report in the form attached hereto; and

**WHEREAS**, the report must be filed with the Town Clerk, and thereupon the assessments shall constitute liens upon the land so assessed for special benefits;

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX** as follows:

**Section 1.** The Mill Street Water Line Project Assessment Report attached hereto is hereby approved.

**Section 2.** The Town Clerk shall deliver a duplicate copy of the Report to the appropriate officer of the Town who shall immediately thereafter send out by mail or deliver to owners of lands affected by the assessments as set forth in the Report bills for the assessments

described therein. The officer shall mail or deliver bills for the assessment in the manner required in connection with local improvements and shall keep a record and books of assessments in the manner required for local improvements under N.J.S.A. 40:56-31 at the expense of the Town.

**Section 3.** The owners of the real estate affected by the project upon which the local improvement assessments have been made may pay the assessment in installments over a period of 20 years pursuant to N.J.S.A. 40:56-35.

**Section 4.** This resolution shall take effect immediately

WITHOUT CHANGES

**CERTIFICATION**

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, January 23, 2012.

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Lorraine A. Read, RMC  
Municipal Clerk



## TOWN OF NEWTON

### RESOLUTION #19-2012

January 23, 2012

**"RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY APPROVING THE MILL STREET WATERLINE PROJECT ASSESSMENT REPORT AND DETERMINING TO ASSESS A PORTION OF THE COST OF THE PROJECT ON PROPERTIES BENEFITTED THEREBY OVER A PERIOD OF 20 YEARS"**

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**WHEREAS**, the Town provided notice to the owners of 75 Mill Street, Block 405, Lot 20 (the Newton Industrial Park) and 33 Mill Street, Block 405 Lot 30 (the Brookside Apartments); and

**WHEREAS**, the Town finally adopted bond ordinance number 2008-6 on April 28, 2008 in order to provide financing during the construction of the project, which ordinance determined, among other things, that the project would be assessed over a period of 20 years; and

**WHEREAS**, the project has now been completed, and N.J.S.A. 40A:31-14 provides that upon completion of the improvements, the Town Council must assess the costs and expenses of the project on the land specially benefited in proportion to the benefits received, and, when completed, the assessments shall be filed as a report with the Town Clerk who shall give notice by advertising in one or more newspapers of general circulation in the Town and by notifying each concerned property owner by certified mail of the fact that the report has been filed and that the governing body will meet at a designated time and place to hear concerns about the report as set forth in N.J.S.A. 40A:31-14; and

**WHEREAS**, such notice has been given and the Town Council has met to hear such concerns; and

**WHEREAS**, the Town Council has determined to revise the report and approve it in the form attached hereto; and

**WHEREAS**, the report must be filed with the Town Clerk, and thereupon the assessments shall constitute liens upon the land so assessed for special benefits;

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX** as follows:

**Section 1.** The Mill Street Water Line Project Assessment Report attached hereto is hereby approved.

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described therein. The officer shall mail or deliver bills for the assessment in the manner required in connection with local improvements and shall keep a record and books of assessments in the manner required for local improvements under N.J.S.A. 40:56-31 at the expense of the Town.

**Section 3.** The owners of the real estate affected by the project upon which the local improvement assessments have been made may pay the assessment in instalments over a period of 20 years pursuant to N.J.S.A. 40:56-35.

**Section 4.** This resolution shall take effect immediately

WITH CHANGES

**CERTIFICATION**

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a regular meeting of said Governing Body conducted on Monday, January 23, 2012.

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Lorraine A. Read, RMC  
Municipal Clerk



# TOWN OF NEWTON

## RESOLUTION #20-2012

January 23, 2012

**“A Resolution Providing for a Meeting Not Open to the Public in Accordance with the Provisions of the New Jersey Open Public Meetings Act, N.J.S.A. 10:4-12”**

**WHEREAS**, the Town Council of the Town of Newton is subject to certain requirements of the Open Public Meetings Act, N.J.S.A. 10:4-6, et seq.; and

**WHEREAS**, the Open Public Meetings Act, N.J.S.A. 10:4-12, provides that an Executive Session, not open to the public, may be held for certain specific purposes when authorized by Resolution; and

**WHEREAS**, it is necessary for the Town Council of the Town of Newton to discuss in a session not open to the public certain matters relating to the items authorized by N.J.S.A. 10:4-12b and designated below:

(1) Contract Negotiations

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Council of the Town of Newton, assembled in public session on January 23, 2012, that an Executive Session closed to the public shall be held on January 23, 2012, at      PM in the Town of Newton Municipal Building, 39 Trinity Street, Newton, NJ, for the discussion of matters relating to the specific items designated above.

It is anticipated that the deliberations conducted in closed session may be disclosed to the public upon the determination of the Town Council that the public interest will no longer be served by such confidentiality.

### CERTIFICATION

**THIS IS TO CERTIFY** that the above is a true copy of a Resolution adopted by the Town Council of the Town of Newton at a public meeting of said Governing Body conducted on Monday, January 23, 2012.

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Lorraine A. Read, RMC  
Municipal Clerk