

January 9, 2017

The regular meeting of the Town Council of the Town of Newton was held on the above date at 7:00 pm. Present were Deputy Mayor Levante, Mr. Elvidge, Mr. Flynn, and Mrs. Le Frois. Thomas S. Russo, Jr., Town Manager and Ursula Leo, Esq., Town Attorney were also present. Mayor Diglio was excused.

Deputy Mayor Levante made the following declaration "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, 2016."

Deputy Mayor Levante led the Pledge of Allegiance to the flag and the Deputy Clerk called the roll. Upon motion Mr. Elvidge, seconded by Mrs. Le Frois and carried, the minutes for December 28, 2016 Regular and Executive meetings were approved.

### **OPEN TO THE PUBLIC**

Deputy Mayor Levante 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."*

Jacki Espinoza of JCP&L gave the Council a brief overview of the work currently being performed in Newton. She stated tree trimming is currently underway by Tree Smiths. Reliability Circuit Checks are being performed, so far everything looks good.

There being no one else from the public to be heard, Deputy Mayor Levante closed the meeting to the public.

### **PRESENTATIONS**

#### **a. Proclamation - Frank E. Philhower**

Deputy Mayor Levante presented the following proclamation to retired Sgt. Frank Philhower:

### **PROCLAMATION**

#### **FRANK E. PHILHOWER, JR.**

**WHEREAS**, Frank E. Philhower, Jr., was raised in the Town of Newton, and always aspired to be a police officer; and

**WHEREAS**, his career in law enforcement included working as a Corrections Officer for Sussex County and as a Sheriff's Officer in Warren County; and

**WHEREAS**, in 1994, Frank was given the opportunity to become a police officer in the Town of Newton; and

**WHEREAS**, during his career in Newton, Frank constantly sought to improve and expand his career by serving in many different roles, including Lead Firearms/Use of



Mr. Russo indicated the Town Hall will be closed on Monday, January 16, 2017 in observation of Dr. Martin Luther King, Jr.'s birthday.

**ORDINANCES**

Deputy Mayor Levante directed the Deputy Clerk to read aloud the following Ordinance relative to introduction.

**ORDINANCE 2017-1**

**AN ORDINANCE AMENDING SECTIONS 320-3, DEFINITIONS, AND 320-25D(3), SIGN LIGHTING, REGARDING SIGN LUMINANCE**

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

Deputy Mayor Levante	Yes	Mr. Elvidge	Yes
Mr. Flynn	Yes	Mrs. Le Frois	Yes
Mayor Diglio		Absent	

**BE IT RESOLVED**, by the Town Council of the Town of Newton that the above Ordinance be introduced for the first reading, with hearing on same to be held on January 23, 2017.

Deputy Mayor Levante directed the Deputy Clerk to read aloud the following Ordinance relative to introduction.

**ORDINANCE 2017-2**

**ORDINANCE REAPPROPRIATING \$38,000 PROCEEDS OF OBLIGATIONS AND \$2,000 UNSPENT DOWN PAYMENT FUNDS NOT NEEDED FOR THEIR ORIGINAL PURPOSE IN ORDER TO PROVIDE FOR THE ACQUISITION OF AN UNMARKED FOUR-WHEEL DRIVE POLICE VEHICLE IN AND BY THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY**

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

Deputy Mayor Levante	Yes	Mr. Elvidge	Yes
Mr. Flynn	Yes	Mrs. Le Frois	Yes
Mayor Diglio		Absent	

**BE IT RESOLVED**, by the Town Council of the Town of Newton that the above Ordinance be introduced for the first reading, with hearing on same to be held on January 23, 2017.

**OLD BUSINESS**

There was no Old Business to be discussed.

**CONSENT AGENDA**

Deputy Mayor Levante read the following statement:

January 9, 2017

*"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 outlined the Resolutions on the Consent Agenda.

**RESOLUTION #1-2017\***

**Authorize the Employment Agreement of Thomas S. Russo, Jr., as Town Manager for the Town of Newton**

**WHEREAS**, the Town of Newton and Thomas S. Russo, Jr., desire to continue the employment of Thomas S. Russo, Jr. as Town Manager for the Town of Newton; and

**WHEREAS**, the Town of Newton has prepared a written Employment Agreement effective January 1, 2017 through December 31, 2019, which has been reviewed and accepted by Thomas S. Russo, Jr.;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton, that the Mayor and Municipal Clerk are hereby authorized to execute said Employment Agreement dated January 1, 2017, with Thomas S. Russo, Jr., on behalf of the Town of Newton, with said Agreement being attached to and made part of this Resolution.

**RESOLUTION #2-2017\***

**TOWN OF NEWTON CAPITAL BUDGET AMENDMENT**

**RESOLUTION #2-2017**

**Whereas**, the local capital budget for the year 2016 was adopted on April 25, 2016; and  
**Whereas**, it is desired to amend the capital budget section;  
**Now, Therefore Be It Resolved**, by a majority of the full membership of the Governing Body of the Town of Newton, County of Sussex that the following capital budget amendment be made:

RECORDED VOTE:	AYES	(			(
		(		NAYS	(
	(Insert last name)	(			(
		(			(
ABSTAIN		(			(
ABSENT		(			(

Project Title	Project Number	Cost Estimate as Adopted	Cost Estimate as Amended	Funding as Amended		
				Capital Improvement Fund	Capital Surplus	Debt Authorized
<b>reappropriated from:</b>						
Pedestrian Crosswalk Signals	#2014-6 3(g)	\$ 40,000.00	\$ -	\$ 2,000.00	\$ -	\$ 38,000.00
<b>reappropriate to:</b>						
Acquisition of 4WD Police Vehicle	#2016-6	\$ -	\$ 40,000.00			
<b>Total - All Projects</b>		<b>\$ 40,000.00</b>	<b>\$ 40,000.00</b>	<b>\$ 2,000.00</b>	<b>\$ -</b>	<b>\$ 38,000.00</b>

**Be It Further Resolved**, that one certified copy of this resolution be filed forthwith in the Office of the Director of Local Government Services, and one copy be forwarded to the Town Auditor and filed with the Chief Financial Officer.

**RESOLUTION #3-2017\***

**Adoption of the Temporary Operating Budget and Temporary Water and Sewer Budget for 2017**

**WHEREAS**, funds are needed to operate the Municipal Government and the Water and Sewer Utility for the first ninety (90) days of calendar year 2017; and

**WHEREAS**, N.J.S.A. 40A:4-19 provides for adoption of a Temporary Budget, not to exceed twenty-six and one-quarter percent (26.25%) of the total of the appropriations made for all purposes in the budget for the preceding year excluding, in both instances, appropriations made for interest and debt redemption charges, capital improvement fund and public assistance;

January 9, 2017

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that the 2017 Temporary Operating Budget and the 2017 Temporary Water and Sewer Utility Budget be and are hereby approved, pending adoption of the 2017 Annual Municipal Budget and the 2017 Water and Sewer Utility Budget.

**2017 TOWN OF NEWTON TEMPORARY OPERATING BUDGET**

<u>BUDGETARY ACCOUNT</u>		<u>ACCOUNT NO.</u>	<b>2017 TEMPORARY BUDGET</b>
Town Manager's Office	S&W	1050101	\$32,000
	OE	1050226	30,000
Town Clerk's Office	S&W	1051101	31,000
	OE	1051201	3,000
Town Council	S&W	1052103	3,000
	OE	1052244	1,800
Human Resources	S&W	1053103	8,000
	OE	1053247	3,000
Elections	OE	1053244	3,000
Financial Administration	S&W	1054101	20,000
	OE	1054226	3,700
	AUDIT	1054300	500
Assessment of Taxes	S&W	1055103	15,000
	OE	1055216	7,000
Collection of Taxes	S&W	1056101	18,000
	OE	1056226	4,000
Legal Services and Costs	OE	1058200	35,000
Municipal Court	S&W	1059101	35,000
	OE	1059226	12,000
Engineering Services	OE	1060216	5,000
Buildings and Grounds	S&W	1061101	0
	OE	1061255	50,000
Planning	S&W	1062100	12,000
	OE	1062216	6,000
Historic Commission	OE	1063201	500
Community Development	S&W	1064101	1
	OE	1064216	10,000

<u>BUDGETARY ACCOUNT</u>		<u>ACCOUNT NO.</u>	<b>2017 TEMPORARY BUDGET</b>
Industrial Commission	OE	1065200	0
Shade Tree Commission	OE	1065300	500
Economic Dev. Commission	OE	1065400	800
Employee Group Insurance	OE	1066200	400,000
Health Benefit Waiver	OE	1066300	6,000
Workers' Compensation Ins.	OE	1067200	45,000
Surety Bond Premiums	OE	1068200	0

January 9, 2017

Liability and Other Insurance	OE	1069200	70,000
Fire	OE	1070212	6,000
Aid to Volunteer Fire Cos.	OE	1072200	0
Police	S&W	1074111	830,000
	OE	1074223	25,000
Communications Center	S&W	1073101	100,000
	OE	1074326	35,000
Parking Meter Maintenance	S&W	1075100	1
	OE	1075271	0
First Aid Organization	OE	1076200	7,000
Inspection of Buildings	S&W	1077101	9,000
	OE	1077247	1,000
Code Enforcement	S & W	1077403	13,000
	OE	10775247	3,000
Emergency Management	S&W	1078100	2,700
	OE	1078246	2,000
Road Repair & Maintenance	S&W	1080101	150,000
	OE	1080259	30,000
Snow Removal	S&W	1081101	45,000
	OE	1081239	50,000
Stormwater/Flood	OE	1082216	4,000

<u>BUDGETARY ACCOUNT</u>		<u>ACCOUNT NO.</u>	<b>2017 TEMPORARY BUDGET</b>
Recycling/Sanitation	S&W	1083101	600
	OE	1083269	10,000
Vehicle Maintenance	OE	1083380	31,000
Board of Health	OE	1084252	500
Occupational Health(PEOSHA)	S&W	1085100	2,500
	OE	1085200	1,500
Recreation	SW	1087100	5,000
	OE	1087200	6,000
Utilities/Bulk Purchases	OE	1089225	100,000
Swimming Pool	S&W	1090100	2,000
	OE	1090207	5,000
Parks and Playgrounds	S&W	1091101	22,000
	OE	1091218	10,000
Celebration of Public Events	OE	1092200	5,000
Senior Citizen Programs	S&W	1093100	10,000
	OE	1093272	500
Length of Service Awards	OE	1094500	0
Aid to Dennis Mem. Library	OE	1094200	0
Recycling Tax O/S Cap	OE	1094550	200

January 9, 2017

Interlocal Parking Authority	S&W	1094710	5,000
Interlocal Green Court	S&W	1094798	10,000
Interlocal Byram Tax Coll	S&W	10947971	6,000
Public Employee Retire. Sys.	OE	1098296	177,924
Police & Fire Retirement Sys.	OE	1098297	0
Def. Contrib. Retire System	OE	1098294	5,000
Social Security System	OE	1098298	64,500
Unemployment	OE	1098299	500
<b>TOTAL 2017 TEMPORARY OPERATING BUDGET</b>			<b>\$2,664,226</b>

(Subject to 26.25% increase)

**APPROPRIATIONS NOT SUBJECT TO 26.25% INCREASE**

Public & Private Programs Offset by Revenues:			
DDEF	SW	1094814	2,000
Capital Improvements	OE	1095200	100,000
Debt Service	OE	1096200	500,000

**2017 TEMPORARY BUDGET CALCULATION**

\$12,414,438	Total 2016 Budget
2,132,005	Less: Debt (principal & interest)
-0-	Less: Public Assistance
<u>133,000</u>	Less: Capital Improvements
\$10,149,433	Amount on which % is applied
<u>x .2625</u>	Percentage increase allowed by State
\$2,664,226	Allowable 2017 Temporary Budget

**RESOLUTION #4-2017\***

**Approve 2016 Appropriation Reserve Transfers**

**BE IT RESOLVED** by the Town Council of the Town of Newton that the following 2016 appropriation reserve transfers be approved effective this date:

<u>From</u> <u>CURRENT</u>	<u>To</u>	<u>Amount</u>
Community Development OE 1064200A	Planning Board OE 1062216A	\$1,000.00
Celebration Public Events 1092200A	Legal OE 1058296A	\$2,000.00
Manager OE 1050200A	Mayor & Council OE 1052244A	\$250.00
<b>TOTAL CURRENT TRANSFERS</b>		<b>\$3,250.00</b>

**RESOLUTION #5-2017\***

January 9, 2017

**Appointment of Environmental Counsel and Deputy Public Defender for Calendar Year 2017**

**WHEREAS**, the Town of Newton has a need to acquire legal counsel for certain specific matters under non-fair and open contracts pursuant to provisions of N.J.S. 19:44A-20; and

**WHEREAS**, said professional services will be needed by the Town of Newton during calendar year 2017, and appropriate agreements for the appointment of each attorney have been prepared and executed by said attorneys; and

**WHEREAS**, the below named professionals have completed and submitted a Business Entity Disclosure Certification which certifies that each professional has not made any reportable contributions to a political or candidate committee in the Town of Newton in the previous one (1) year, and that the contract will prohibit the professional from making any reportable contributions through the term of the contract; and

**WHEREAS**, the anticipated term of each individual contract is one (1) year;

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton authorizes the Mayor and Municipal Clerk to execute an agreement in duplicate with each professional listed below:

Edward J. Buzak, Esq. The Buzak Law Group, LLC	Environmental Counsel
Daniel P. Agatino, J.D., Ph.D. Gruber, Colabella, Liuzza & Thompson	Deputy Public Defender

**BE IT FURTHER RESOLVED** that a fully executed copy of each agreement be provided to each of the respective attorneys with a certified copy of this Resolution and advertised according to State Statute.

**RESOLUTION #6-2017\***

**Resolution Authorizing Disposal of Surplus Property"**

**WHEREAS**, the Town of Newton is the owner of certain surplus property which is no longer needed for public use; and

**WHEREAS**, the Town Council is desirous of selling said surplus property in an "as is" condition without express or implied warranties;

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

- 1) The sale of surplus property shall be conducted through GovDeals pursuant to NJ State Contract A-83453/T2581 in accordance with the terms and conditions of the State Contract. The terms and conditions of the agreement entered into with GovDeals are available online at govdeals.com and also available in the Clerk's Office of the Town of Newton.
- 2) The sale will be conducted online and the address of the auction site is **govdeals.com**.
- 3) The sale is being conducted pursuant to Local Finance Notice 2008-9.
  
- 4) A list of the surplus property to be sold is as follows:
  - a) 2011 Ford Crown Victoria Police Interceptor  
VIN: 2FABP7BVXBX101174

Odometer: 76,000 (approx.)

Condition: Fair

- b) Tufbox Gun Locker  
Qty: Two (2)  
Condition: Excellent

- 5) The surplus property as identified shall be sold in an "as-is" condition without express or implied warranties with the successful bidder required to execute a Hold Harmless and Indemnification Agreement concerning use of said surplus property.
- 6) The Town of Newton reserves the right to accept or reject any bids submitted.

**RESOLUTION #7-2017\***

**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 2016 and 2017 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.

<u>CHECK #</u>	<u>VENDER</u>	<u>DECRPTION</u>	<u>TOTAL</u>
<b>#37661</b>	EM Electrical	Refund Zoning App	\$100.00
<b>Electronic Fee - OTHER</b>			
161714	Current	2016 Interest	\$.22
161715	Current	Close to Current	\$79.01
<b>Electronic Fee - TAX</b>			
1613153	Current	2016 Interest	\$359.52
1613154	Current	Close to Current	\$10.92
<b>Cashier</b>			
161433	Current	2016 Interest	\$3,807.76
<b>Tax Lien Trust</b>			
1615005	Current	2016 Interest	\$70.11
<b>Tax Lien Premium</b>			
161601	Current	2016 Interest	\$1,062.21
<b>P/R Agency</b>			
168209	Current	2016 Interest	\$.01
<b>Payroll</b>			
168180	Current	2016 Interest	\$485.65
<b>Housing Rehab Revolving Trust</b>			
167401	Current	2016 Interest	\$43.63
<b>Capital</b>			
163009	Current	2016 Interest	\$4,919.50
<b>Developer's Escrow</b>			
157201	Current	2016 Interest	\$54.26
<b>Dog</b>			
162102	Current	2016 Interest	\$ 87.28
<b>Grant</b>			
161128	Current	2016 Interest	\$107.65
<b>Trust</b>			
167127	Current	2016 Interest	\$2,559.54
<b>Current Total</b>			<b><u>\$13,747.27</u></b>

W/S

W/S Utility Trust Assessment

January 9, 2017

166403	W/S operating	2016 Interest	\$19.40
<b>W/S Electronic Fee</b>			
1663331	W/S operating	2016 Interest	\$9.97
1663336	W/S operating	2016 Earnings	\$2,364.32
<b>W/S Capital</b>			
166101	W/S operating	2016 Interest	\$5,753.62

**W/S Total \$ 8,147.31**

**RESOLUTION #8-2017\***

**Reappointment of Neil Flaherty to the Newton Planning Board**

**BE IT RESOLVED**, by the Town Council of the Town of Newton that Neil Flaherty is hereby reappointed to the Newton Planning Board, effective January 1, 2017 expiring on December 31, 2020.

The Deputy Clerk presented three applications:

1. An off-premise raffle (50-50) from the Karen Ann Quinlan Charitable Foundation to be held on Friday, December 29, 2017 at 12:00pm at 99 Sparta Avenue, Newton. It was noted the application was in order and accompanied by the prescribed fees.
2. An on premise Bingo from the Newton Pride Foundation to be held on Friday, February 10, 2017 from 6:00pm to 11:00pm (rain date of Friday, February 17, 2017 from 6:00pm to 11:00pm) at 44 Ryerson Avenue, Newton. It was noted the application was in order and accompanied by the prescribed fees.
3. An on premise Raffle (50-50) from the Newton Pride Foundation to be held on Friday, February 10, 2017 from 6:00pm to 11:00pm (rain date of Friday, February 17, 2017 from 6:00pm to 11:00pm) at 44 Ryerson Avenue, Newton. It was noted the application was in order and accompanied by the prescribed fees.

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

Deputy Mayor Levante	Yes	Mr. Elvidge	Yes
Mr. Flynn	Yes	Mrs. Le Frois	Yes
Mayor Diglio		Absent	

**INTERMISSION** – None

**DISCUSSION** – None

**OPEN TO THE PUBLIC**

January 9, 2017

There being no one from the public to be heard, Deputy Mayor Levante closed the meeting to the public.

**COUNCIL & MANAGER COMMENTS**

Mr. Flynn thanked Mr. Kent Hardmeyer for his service on the Planning Board upon receiving his letter of resignation this week.

Mr. Flynn also questioned Mr. Russo on the lighting issue he spoke to him about. Mr. Russo advised staff is still looking into the matter. Mr. Flynn pointed out the string of lights from Elm Street to Maple Avenue is out.

Mr. Flynn also questioned if we could get an update from Thorlabs now that Cono's has been demolished on their plans. Mr. Russo advised they have not submitted anything to the Planning Board at this time. A brief discussion ensued and Mr. Flynn asked when plans are submitted the Planning Board be cognizant of the lighting for the parking lot area. Mr. Russo advised he would take note of it.

**EXECUTIVE SESSION**

Deputy Mayor Levante read Resolution #9-2017. Upon motion of Mr. Flynn, seconded by Mr. Elvidge and unanimously carried, Council entered Executive Session at 7:34 pm.

Upon motion of Mrs. Le Frois, seconded by Mr. Flynn and unanimously carried, Council left Executive Session at 8:18 pm.

There being no further business to be conducted, upon motion of Mrs. Le Frois, seconded by Deputy Mayor Levante and unanimously carried, the meeting was adjourned at 8:21 pm.

Respectfully submitted,



Teresa A. Oswin, RMC  
Deputy Municipal Clerk