

December 8, 2008

The regular meeting of the Town Council of the Town of Newton was held on the above date at 7:00 p.m. Present were Mr. Elvidge, Mrs. Unhoch, Mrs. Becker, Mrs. Le Frois, Mayor Ricciardo and Town Manager, Tom Russo.

Mayor Ricciardo made the following declaration that “in accordance with the Open Public Meetings Act, notice of this public meeting was given to the two newspapers of record and posted on the official bulletin board on December 26, 2007”.

Mayor Ricciardo led all present in the Lord’s Prayer and the Pledge of Allegiance to the flag. The Clerk called the roll.

Mayor Ricciardo declared the meeting open to the public.

PUBLIC

Mr. Jan Brody, Esq. addressed Council to advise that he represents Newton Shop-Rite #213 and is present if the governing body has any questions regarding the recent bid submitted to the Town of Newton.

Mr. Michael Neiman, 210 Main Street, Newton, addressed several complaints regarding Dan’s Muffler, which is a mechanic shop next door to his residence. Mr. Nieman has registered these complaints several times with Newton officials and advised that it has fallen on “deaf ears”. Mr. Neiman has advised that the shop has been allowed to expand, which he believes needed Zoning approval. Mayor Ricciardo advised this has been an ongoing situation and advised that Newton officials are currently investigating the situation and if necessary summonses will be issued. Mayor Ricciardo insured Mr. Neiman that his complains will be revisited by the Newton officials.

Ms. Tami Horsfield, President of Sussex County Economic Development Partnership, advised that she has been working with Ronetco

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(Shop Rite) on the bid process regarding the purchase of the Armory property. Ms. Horsfield requested the governing body take a serious look at this buyer who would be a great asset for Newton. She asked that the Council look at the whole project, with all the potential issues, and truly consider Ronetco during this bid process.

There being no one else from the public to address the Council, Mayor Ricciardo proceeded to the next agenda item, a presentation by Keith Mitchell, Insurance Agent.

Council & Manager Reports

a. Insurance Update - Keith Mitchell

Mr. Keith Mitchell, CIC, owner of Mitchell Agency Insurance, handed out packets and reviewed the Town's insurance coverage and premium comparison for 2009. Mr. Mitchell reviewed the 2009 marketing sheet which showed the comparison from three companies. Mr. Mitchell provided a proposal from Statewide Insurance Fund which outlined all coverages needed for the Town of Newton. Mr. Mitchell noted that the workers compensation renewal for 2009 has been an issue due to large claims. Mr. Mitchell and Mr. Russo advised that the Town plans on working with the Town employees on a monthly basis to increase awareness on workers compensation, in order to get a better outcome on workers compensation claims. After a lengthy discussion, Council thanked Mr. Mitchell for his efforts as our insurance agent.

ORDINANCES

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

Ordinance #2008-27

AN ORDINANCE TO AMEND CHAPTER 10, MANDATORY

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RECYCLING OF CHAPTER 12 “HEALTH CODE” OF NEWTON’S REVISED GENERAL ORDINANCES.

The following RESOLUTION was offered by Mr. Elvidge who moved its adoption, seconded by Mrs. Le Frois and roll call resulted as follows:

| | | | |
|-----------------|-----|---------------|-----|
| Mr. Elvidge | Yes | Mrs. Unhoch | Yes |
| Mrs. Becker | Yes | Mrs. Le Frois | Yes |
| Mayor Ricciardo | Yes | | |

BE IT RESOLVED by the Town Council of the Town of Newton that the above Ordinance be introduced for the first reading, with hearing on same to be held on December 22, 2008.

The Clerk will advertise the above Ordinance according to law.

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

ORDINANCE #2008-28

AN ORDINANCE TO ESTABLISH MINIMUM AND MAXIMUM SALARIES AND WAGES FOR OFFICERS AND EMPLOYEES OF THE TOWN OF NEWTON FOR CALENDAR YEAR 2008.

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

| | | | |
|-----------------|-----|---------------|-----|
| Mr. Elvidge | Yes | Mrs. Unhoch | Yes |
| Mrs. Becker | Yes | Mrs. Le Frois | Yes |
| Mayor Ricciardo | Yes | | |

BE IT RESOLVED by the Town Council of the Town of Newton that the above Ordinance be introduced for the first reading, with hearing on same to be held on December 22, 2008.

The Clerk will advertise the above Ordinance according to law.

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

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

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

BE IT RESOLVED by the Town Council of the Town of Newton that the above Ordinance be introduced for the first reading, with hearing on same to be held on December 22, 2008.

The Clerk will advertise the above Ordinance according to law.

OLD BUSINESS

ORDINANCE #2008-30

AN ORDINANCE AMENDING CHAPTER 18A, LAND USE PROCEDURES OF THE REVISED GENERAL ORDINANCES OF THE TOWN OF NEWTON, REGARDING DEVELOPMENT FEES.

Ordinance #2008-20 will remain **TABLED** pending attorney review.

CONSENT AGENDA

Mayor Ricciardo read the following statement:

“All items listed with an asterisk () are considered to be routine and non-controversial by the Town Council and will be approved by one motion. There will be no separate discussion of these items unless a Council member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.”*

It was requested that Resolution #207-2008, Resolution #214-2008 and Resolution #217-2008 be removed from the consent agenda for individual discussion.

RESOLUTION #191-2008*

RESOLUTION PROCLAIMING JANUARY 2009 AS RADON ACTION MONTH

WHEREAS, radon is a naturally occurring radioactive gas that is the second leading cause of lung cancer, causing as many as 500 deaths annually in New Jersey, and

WHEREAS, elevated radon levels are found in many homes and pose a serious health threat to families residing in these homes, and

WHEREAS, any home may have high levels of radon - even if neighboring homes do not, and

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WHEREAS, radon testing is easy and inexpensive - and elevated levels of radon can be effectively reduced at the cost of a typical home repair, and

WHEREAS, a significant number of homes in the Town of Newton have elevated levels of radon, and

WHEREAS, by mitigating homes with radon concentrations at or above 4pCi/L in New Jersey, 140-250 lives are saved annually;

NOW, THEREFORE, We the Mayor and Town Council of the Town of Newton do hereby proclaim JANUARY 2009 as RADON ACTION MONTH in the Town of Newton and call upon all residents who have not yet tested to test their homes for radon and to reduce radon levels if elevated levels are found, to protect their families from the serious health risk of radon.

RESOLUTION #192-2008*

**CONCUR WITH THE TOWN MANAGER'S APPOINTMENT OF
SPECIAL POLICE OFFICERS**

WHEREAS, Section 3-10 within Chapter III, Police Department, of the Revised General Ordinances of the Town of Newton indicates that the Town Manager may appoint Special Police Officers for a term not to exceed one year;

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Newton that this Governing Body concurs with the Town Manager's appointment of the following individuals as Special Police Officers for calendar year 2009:

Class II

Joseph Sapio
Donald Donofrio
Patrick Abello

Class I

Louis Read

RESOLUTION #193-2008*

CANCELLATION OF SMALL BALANCES

WHEREAS, N.J.S.A. 40A: 5-17.1 allows for the cancellation of property tax refunds or delinquent amounts in the amounts of less than ten (\$10.00) dollars;

WHEREAS, the Town Council of the Town of Newton may authorize the Tax Collector to process, without any further action on the part of the Governing Body, any cancellation of property tax refunds or delinquencies of less than ten (\$10.00) dollars;

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NOW THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton in the County of Sussex in the State of New Jersey that the Tax Collector is hereby authorized to process, the cancellation of any property tax refunds or delinquencies of less than ten (\$10.00) dollars.

RESOLUTION 194-2008*

DESIGNATE THE TOWN MANAGER AS THE NATIONAL ORGANIZATION OF DISABILITY REPRESENTATIVE

WHEREAS, the Town Manager has historically been appointed as the National Organization of Disability representative for the Town of Newton;

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Newton that the Newton Town Manager, Thomas S. Russo, Jr., is hereby appointed as the National Organization on Disability representative for the Town of Newton;

BE IT FURTHER RESOLVED that the Mayor and the Town Manager are authorized to sign any documents that may be required by the National Organization on Disability to confirm this appointment.

RESOLUTION 195-2008*

DESIGNATION OF THE PUBLIC AGENCY COMPLIANCE OFFICER

BE IT RESOLVED by the Town Council of the Town of Newton that Debra Millikin is hereby designated as the Public Agency Compliance Officer for the Town of Newton for 2009;

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to the NJ Department of Treasury, Division of Contract Compliance and Equal Employment Opportunity, as requested by said agency.

RESOLUTION #196-2008*

REAPPOINTMENT OF MUNICIPAL REPRESENTATIVE TO THE SUSSEX COUNTY WATER QUALITY POLICY ADVISORY COMMITTEE

BE IT RESOLVED by the Town Council of the Town of Newton that the Water and Sewer Superintendent, Mr. William Grenille, is hereby reappointed as the municipality's representative to the Sussex County Water Quality Policy Advisory Committee for 2009 and will attend regular meetings of said Committee conducted on the second Thursday evening of each month at 7:30pm at the Sussex County Administrative Center on One Spring Street, Newton, New Jersey;

BE IT FURTHER RESOLVED that, if required, the Newton Water and Sewer Superintendent may also attend workshop meetings of the Sussex County Water Quality Policy Advisory Committee;

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BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to Mr. John Armeno, Chairman of the Sussex Water Quality PAC.

RESOLUTION #197-2008*

**DESIGNATE CHIEF FINANCIAL OFFICER/FINANCE DIRECTOR
AS THE INDIVIDUAL AUTHORIZED TO SELL BOND
ANTICIPATION NOTES**

WHEREAS, it is necessary from time to time for the Town of Newton to sell Bond Anticipation Notes or other Notes for the benefit of the municipality, and

WHEREAS, the Chief Financial Officer/Finance Director is the individual responsible for maintaining the financial records of the Town of Newton;

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Newton as follows:

1) The Chief Financial Officer/Finance Director is hereby authorized to sell Bond Anticipation Notes and directed to determine all matters in connection with said Notes not determined by this or subsequent Resolutions.

2) The Chief Financial Officer/Finance Director is directed to report in writing to the Governing Body at the meeting next succeeding the date when the sale or delivery of Notes pursuant to this Resolution is made. Such report is to include the amount, description, interest rate, maturity of the Notes sold, the price obtained, and the name of the purchaser.

3) This Resolution shall take effect immediately upon its adoption.

RESOLUTION #198-2008*

DESIGNATE OFFICIALS TO SIGN CHECKS

BE IT RESOLVED by the Town Council of the Town of Newton that the Town Manager, the Town Treasurer and/or the Chief Financial Officer are hereby designated as officials authorized to sign all municipal checks, Water and Sewer Utility checks, and payroll checks during calendar year 2009.

RESOLUTION #199-2008*

**DESIGNATE NEWSPAPERS THAT WILL RECEIVE NOTES
REQUIRED BY THE NEW JERSEY OPEN PUBLIC MEETINGS ACT
FOR 2009**

WHEREAS, Section 3D(2) of the Open Public Meetings Act, approved October 21, 1975 as Chapter 231, P.L. 1975, requires every public body to designate two (2) newspapers to receive notices required to be mailed, telephoned, telegraphed or hand delivered;

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NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Newton that it hereby designates the newspapers listed below as newspapers to receive notices required by the Open Public Meetings Act:

New Jersey Herald

New Jersey Sunday Herald

RESOLUTION #200-2008*

DESIGNATE LEGAL NEWSPAPERS FOR CALENDAR YEAR 2009

BE IT RESOLVED by the Town Council of the Town of Newton that the newspapers listed below be designated as the official newspapers for the Town of Newton for legal advertising during the 2009 calendar year:

New Jersey Herald

New Jersey Sunday Herald

RESOLUTION #201-2008*

**APPOINTMENT OF MUNICIPAL REPRESENTATIVE TO THE
SUSSEX COUNTY SOLID WASTE ADVISORY COMMITTEE FOR
2009**

BE IT RESOLVED by the Town Council of the Town of Newton that the Public Works Director, Kenneth Jaekel, is hereby appointed as the municipality's representative to the Sussex County Solid Waste Advisory Committee to attend regular meetings of said Committee conducted on the second Tuesday evening of each month at 7:30pm at the Sussex County Administrative Center on One Spring Street, Newton, New Jersey;

BE IT FURTHER RESOLVED that, if required, the Public Works Director may also attend workshop meetings of the Sussex County Solid Waste Advisory Committee;

BE IT FURTHER RESOLVED that a certified copy of this Resolution be forwarded to Ron Keller, Chairman of the Sussex County SWAC.

RESOLUTION #202-2008*

**AUTHORIZE THE TAX ASSESSOR, THE TOWN ATTORNEY AND
THE TOWN MANAGER TO ACT ON BEHALF OF THE TOWN OF
NEWTON FOR CALENDAR YEAR 2009 WITH REGARD TO TAX
APPEALS**

BE IT RESOLVED by the Town Council of the Town of Newton that the Municipal Tax Assessor and the Town Attorney are hereby authorized to defend all contest appeals before the Sussex County Board of Taxation and the Tax Court of the State of New Jersey;

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BE IT FURTHER RESOLVED that the Municipal Tax Assessor and the Town Attorney are also hereby authorized to initiate municipal appeals to correct the Town of Newton tax listing including, but not limited to, rollback complaints, added and omitted assessment complaints, and such other appeals as may be necessary to correct the assessments for the Town of Newton;

BE IT FURTHER RESOLVED that the Municipal Assessor, the Municipal Attorney, and the Town Manager are hereby designated as the agents of the Town of Newton for the purpose of signing settlements of the foregoing matters by stipulation for the 2009 Calendar Year.

RESOLUTION #203-2008*

**DESIGNATION OF LINDA A. ROTH AS TAX SEARCH OFFICER
FOR THE TOWN OF NEWTON FOR 2009**

WHEREAS, N.J.S.A. 54:5-11 provides that each municipality within the State of New Jersey shall designate a person to act as the Tax Search Officer for the municipality, and

WHEREAS, Linda A. Roth, as Certified Tax Collector for the Town of Newton, is qualified to make examinations of the municipalities records as to unpaid municipal liens and to certify the results of that examination;

NOW THEREFORE BE IT RESOLVED that the Town Council of the Town of Newton hereby designates Linda A. Roth as the Tax Search Officer for the Town of Newton.

RESOLUTION #204-2008*

APPOINT LOCAL EMERGENCY PLANNING COMMITTEE

WHEREAS, Appendix A:9-41 of the NJ Statutes Annotated, and N.J.A.C. 13:64-2.3 pertaining to Emergency Management, require that every New Jersey municipality create a Local Emergency Planning Committee, and

WHEREAS, the individual appointed as the local Emergency Management Coordinator shall also be a member of, and shall serve as Chairman of, said Local Emergency Planning Committee;

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Newton that it hereby concurs with the appointment of the individuals recommended by Emergency Management Coordinator Kenneth A. Teets for membership on the Newton Local Emergency Planning Committee for calendar year 2009 as listed below:

| | |
|----------------------|--|
| Kenneth A. Teets | Emergency Management Coordinator |
| Dan Finkle | Deputy Emergency Management Coordinator |
| Chief John Tomasula | Newton Police Department |
| Thomas S. Russo, Jr. | Newton Town Manager |
| Jeffrey Schiffner | Newton Fire Chief |
| Irv Kinney | Newton Vol. First Aid and Rescue Squad |
| Ken Jaekel | Newton Public Works Director |

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William Grennille
Lorraine Read
Debra Millikin
Robert Bittle
William King
Robert Dunphy
Patricia Day

Newton Water and Sewer Superintendent
Newton Municipal Clerk
Deputy Town Manager
Newton Construction Official
Newton Interim School Superintendent
Radio Station WNNJ
Sussex County Chapter of the American Red Cross

RESOLUTION #205-2008*

APPOINT INSURANCE AGENT

WHEREAS, the Town Council of the Town of Newton previously appointed local insurance agents to provide insurance coverage on behalf of the municipality, and

WHEREAS, said insurance services will be needed during calendar year 2009;

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Newton that Mr. Keith Mitchell of the Mitchell Agency, be named as agent of record effective January 1, 2009 for the following insurance policies:

- | | |
|--|------------------|
| a) Commercial Business Policy | S1496280 |
| b) All Bonds | |
| c) Comprehensive Law Enforcement Liability | S1496280 |
| d) Public Officials/Employees Liability | S1496280 |
| e) Workers' Compensation | WC0807860NEW |
| f) Umbrella Policy | UB S1730038 |
| g) Fire Accident Insurance | VFP 2331-3391C09 |
| h) Fire Life Insurance | G001047-0001 |

BE IT FURTHER RESOLVED that the above named insurance agent is appointed to provide insurance services without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-1(1)(a) of the Local Public Contracts Law, because the services to be provided are of a nature requiring specific professional skills and knowledge;

BE IT FURTHER RESOLVED that notice of this action shall be published once in the New Jersey Herald.

RESOLUTION #206-2008*

**TRANSFER OF SCHOOL MONIES FOR THE PERIOD FROM
JANUARY 1, 2009 TO JUNE 30, 2009**

BE IT RESOLVED by the Town Council of the Town of Newton that the Town Treasurer be authorized to turn over to the Treasurer of School Monies, as monies become available, \$5,123,562.00 to meet the obligations of the Newton Board of Education, exclusive of Debt Service, in accordance with the Statutes and the request of the Board of Education of Newton.

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| | |
|--|---------------------|
| Amount of Tax Voted (Exclusive of Debt Service) | \$10,247,124.00 |
| Amount Received to Date | 5,123,562.00 |
| Amount of This Request | <u>5,123,562.00</u> |
| Balance Due Board of Education | 0.00 |

RESOLUTION #208-2008*

**REAPPOINTMENT OF MUNICIPAL JUDGE,
JOHN E. MULHERN, ESQ.**

BE IT RESOLVED by the Town Council of the Town of Newton that John E. Mulhern, Esq. be hereby reappointed to another 3-year term as Municipal Judge effective January 1, 2009 and continuing through December 31, 2011.

RESOLUTION #209-2008*

**APPOINT THE TOWN MANAGER AS HEARING OFFICER IN ALL
MATTERS OF DISPUTE REGARDING THE TOWN OF NEWTON**

WHEREAS, certain matters may arise over the course of the year which require a hearing to be conducted for the purpose of resolving issues, and

WHEREAS, Thomas S. Russo, Jr., Town Manager of the Town of Newton, is the representative of the Governing Body, as well as the Chief Executive and Administrative Officer of the municipality;

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Newton that the Town Manager is hereby appointed as Hearing Officer in all matters of dispute regarding the Town of Newton for the calendar year 2009.

RESOLUTION #210-2008*

**ESTABLISH THE RATE OF INTEREST TO BE CHARGED FOR
NON-PAYMENT OF TAXES ON OR BEFORE THE DUE DATE**

WHEREAS, N.J.S.A. 54:4-67 permits the Governing Body of each municipality to fix the rate of interest to be charged for late payment of taxes as provided by law, and

WHEREAS, N.J.S.A. 54:6-67 has been amended to permit the fixing of said rate at eight percent (8%) per annum for the first \$1,500.00 of the delinquency and eighteen percent (18%) per annum for amounts in excess of \$1,500.00, and an additional penalty of six percent (6%) may be collected for delinquencies in excess of \$10,000.00 from property owners who fail to pay the delinquency prior to the end of the calendar year;

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NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Newton that the Tax Collector is hereby authorized and directed to charge an eight percent (8%) per annum rate of interest on the first \$1,500.00 of taxes which become delinquent after the tax due date, and a rate of eighteen percent (18%) per annum interest on any amount of taxes due in excess of \$1,500.00 which becomes delinquent after the tax due date;

BE IT FURTHER RESOLVED that the Tax Collector is also authorized and directed to charge an additional penalty of six percent (6%) if a delinquency is in an amount in excess of \$10,000.00 and remains in arrears beyond December 31st of each calendar year;

BE IT FURTHER RESOLVED that the ten (10) day grace period for quarterly tax payments shall remain in effect, that any payment of taxes not made on or before the due date in accordance with this Resolution shall be charged interest from the due date as set forth by law, and that this Resolution shall take effect immediately.

RESOLUTION #211-2008*

ESTABLISH SCHEDULE OF PUBLIC TOWN COUNCIL MEETINGS FOR 2009

WHEREAS, Section 13 of the Open Public Meetings Act, approved October 21, 1975 as Chapter 231, P.L. 1975, requires every public body to post and maintain posted throughout the year a schedule of the meetings of said public body;

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Newton, Sussex County, New Jersey that the following schedule for 2009 indicates all public meetings of the Newton Town Council will be held on the second and fourth Mondays of each month at 7:00pm, unless otherwise indicated, in the Council Chambers, 39 Trinity Street, Newton, New Jersey;

Council Meetings

7:00pm

| | |
|-------------------|-----------------------|
| January 12 and 26 | July 13 and 27 |
| February 9 and 23 | August 10 and 24 |
| March 9 and 23 | September 16** and 28 |
| April 13 and 27 | October 14* and 26 |
| May 11 and 27* | November 9 and 23 |
| June 8 and 22 | December 14 and 28 |

**Held the Wednesday following a legal holiday*
*** Held the third Wednesday of the month*

Reorganizational Meeting

6:00pm

July 1, 2009

BE IT FURTHER RESOLVED that, for the purposes of the Act, the official bulletin board for posting notices shall be the bulletin board in the first floor lobby of the Municipal Building at 39 Trinity Street, Newton, New Jersey, with said board being just outside the door of the Municipal Clerk's

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Office;

BE IT FURTHER RESOLVED that certified copies of this Resolution be forwarded to the New Jersey Herald and the NJ Sunday Herald, and a copy be filed with the Municipal Clerk.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be mailed to any person requesting notices of meetings of the Town Council pursuant to N.J.S.A. 10:4-19 and whoever has paid the required fee for such notice.

RESOLUTION #212-2008*

REIMBURSE TOWN EMPLOYEES FOR VEHICLE EXPENSE

WHEREAS, certain Town of Newton employees use their private vehicles in connection with Town business, and

WHEREAS, such employees routinely use their vehicles for travel within Sussex County, and

WHEREAS, it is appropriate to reimburse said Town employees for use of their personal vehicles;

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Newton that the employees listed below receive the following quarterly allowances for all vehicular trips within Sussex County effective January 1, 2009:

| <u>Employee</u> | <u>Position</u> | <u>Estimated Quarterly</u> | |
|----------------------|-----------------------|----------------------------|---------------|
| | | <u>Miles/Qtr.</u> | <u>Amount</u> |
| Debra Millikin | Deputy Town Manager | 400 miles | \$234.00 |
| Scott Holzhauer | Tax Assessor | 400 miles | \$234.00 |
| Derek Wechtler | Deputy Fire Chief | 300 miles | \$175.50 |
| Michael Teets | Assistant Fire Chief | 300 miles | \$175.50 |
| Kathy Citterbart | Zoning Officer | 300 miles | \$175.50 |
| Thomas Trudgeon, Sr. | Recreation Supervisor | 300 miles | \$175.50 |

BE IT FURTHER RESOLVED that for out-of-town business trips, employees and officers of the Town of Newton who use their personal means of transportation shall be reimbursed at the rate of fifty-eight and one-half cents (\$.585) per mile from Newton to the point of destination and return during calendar year 2009.

RESOLUTION #213-2008*

SUPPORT SUBMISSION OF APPLICATION FOR 2009

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RECREATIONAL TRAILS PROGRAM THROUGH NJDEP

WHEREAS, the Town of Newton is applying for funding in the amount of \$25,000 to conduct non-motorized improvements to the trails within the Town of Newton, and

WHEREAS, this project will help promote use of the trails and allow for further economic growth, and

WHEREAS, the Town of Newton will meet the requirement to provide a 20% match of in-kind services, and

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Newton that it hereby supports the submission of a grant application for the 2009 Recreational Trails Program through the State of New Jersey Department of Environmental Protection and authorizes the Mayor, the Town Manager and the Municipal Clerk to execute any and all documents necessary and related to the submission of said grant application.

RESOLUTION #215-2008*

RESOLUTION TO CANCEL OUTSTANDING CHECKS IN VARIOUS FUNDS

WHEREAS, there are checks which have not been cashed in the following Town of Newton funds; and

WHEREAS, those checks have been reviewed to determine if they should be canceled to fund balance so as not to be required to escheat them to the State of New Jersey;

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Newton, that the following outstanding checks are hereby canceled:

Current Fund

#22484 \$ 50.00 9/11/2007 Toni Zimmer PO#28940

Water Sewer Operating Fund

#9401 \$ 10.00 6/5/2007 NJ Dept Labor & Workforce V#
#9643 \$119.06 10/11/2007 Embarq

RESOLUITON #216-2008*

APPROVE 2008 APPROPRIATION TRANSFERS

BE IT RESOLVED by the Town Council of the Town of Newton that the following 2008 appropriation transfers be approved effective this date:

| <u>#From</u> | <u>To</u> | <u>Amount</u> |
|----------------------------------|--|---------------|
| Town Manager – S&W 1050101 | Town Manager – Other Expenses 1050247 | 1,100. |
| Misc. Operating – S&W 1079100 | Town Manager – Other Expenses 1050247 | 1,000. |

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| | | |
|--------------------------------------|--|------------------|
| Misc Operating – S&W 1079100 | Town Clerk – Salaries & Wages 1051101 | 1,000. |
| Misc. Operating – S&W 1079100 | Liquidation of Tax Title Liens – OE 1057200 | 1,500. |
| Planning Board – S&W 1062100 | Planning Board – Other Expenses 1062216 | 2,200. |
| Building & Grounds – S&W 1061101 | Building & Grounds – Other Expenses 1061255 | 500. |
| Misc. Operating – S&W 1079100 | Social Security 1098298 | 16,500. |
| Misc. Operating – S&W 1079100 | Utility – Gas or Diesel Fuel 1089229 | 12,500. |
| Swimming Pool – S&W 1090100 | Swimming Pool – Other Expenses 1090246 | 4,000. |
| Parks & Playgrounds – S&W 1091103 | Road Repair & Maint. –OE 1080261 | 10,000. |
| Note Principal 1096220 | USDA Loan Principal 1096216 | 1. |
| TOTAL TRANSFERS | | \$50,301. |

RESOLUTION #218-2008*

**APPOINTMENT OF RISK MANAGEMENT CONSULTANT FOR
THE TOWN OF NEWTON FOR CALENDAR YEAR 2009**

WHEREAS, TOWN OF NEWTON (hereinafter “Local Unit”) has joined the Statewide Insurance Fund (hereinafter “Fund”), a joint insurance fund as defined in N.J.S.A. 40A:10-36 *et seq.*; and

WHEREAS, the Bylaws require participating members to appoint a Risk Management Consultant, as those positions are defined in the Bylaws, if requested to do so by the “Fund”; and

WHEREAS, the “Fund” has requested its members to appoint individuals or entities to that position; and

NOW, THEREFORE, BE IT RESOLVED by the governing body of “Local Unit”, in the County of Sussex and State of New Jersey, as follows:

1. TOWN OF NEWTON hereby appoints KEITH MITCHELL its local Risk Management Consultant.
2. The MAYOR AND MUNICIPAL CLERK and Risk Management Consultant are hereby authorized to execute the Risk Management Consultant’s Agreement for the year 2009 in the form attached hereto.

The Clerk presented an application from Mr. Kyle Inga, 16 Birch Drive, Newton, New Jersey, for membership with the Newton Fire Department Junior Firefighter Program. It was noted that the application was in order and had been approved by the Chief of the Fire Department.

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BE IT RESOLVED by the Town Council of the Town of Newton that Mr. Kyle Inga, 16 Birch Drive, Newton, be and is hereby appointed a member of the Newton Fire Department Junior Firefighter Program, effective immediately.

A motion was made by Mrs. Becker to approve the **COMBINED ACTION RESOLUTIONS**, excluding Resolutions #207-2008, #214-2008, and #217,2008, which was seconded by Mrs. LeFrois and carried and roll call resulted as follows:

| | | | |
|-----------------|-----|---------------|-----|
| Mr. Elvidge | Yes | Mrs. Unhoch | Yes |
| Mrs. Becker | Yes | Mrs. Le Frois | Yes |
| Mayor Ricciardo | Yes | | |

Mayor Ricciardo requested discussion on Resolution #207-2008.

After a brief discussion, upon motion of Mayor Ricciardo, seconded by Mrs. Unhoch and carried, that the Resolution was **DENIED** as presented and roll call resulted as follows:

| | | | |
|-----------------|-----|---------------|-----|
| Mr. Elvidge | Yes | Mrs. Unhoch | Yes |
| Mrs. Becker | Yes | Mrs. Le Frois | Yes |
| Mayor Ricciardo | Yes | | |

RESOLUTION #207-2008

AUTHORIZE REDUCTION OF FUNDS DEPOSITED AS A PERFORMANCE GUARANTEE BY ACQUIRING ENTERPRISES, LLC

DENIED

RESOLUTION #214-2008

RESOLUTION REJECTING ALL BIDS IN CONNECTION WITH THE PROPOSED SALE OF THE NEWTON ARMORY.

Mayor Ricciardo requested discussion on Resolution #214-2008. Ms. Jennifer Credidio, Esq., McManimon & Scotland, Redevelopment Counsel for the Town of Newton, provided clarification regarding the rejection of this

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Resolution. Ms. Credidio further explained that at this time, it is Counsel's recommendation to reject this bid due to non-compliance.

Upon motion of Mr. Elvidge, seconded by Mrs. Becker and carried, that the Resolution was approved as presented and roll call resulted as follows:

| | | | |
|-----------------|-----|---------------|-----|
| Mr. Elvidge | Yes | Mrs. Unhoch | Yes |
| Mrs. Becker | Yes | Mrs. Le Frois | Yes |
| Mayor Ricciardo | Yes | | |

RESOLUTION #214-2008

WHEREAS, certain real property commonly known as the Newton Armory and identified on the Official Tax Map of the Town as Block 801, Lot 49.01 (the "Property") is currently owned by the State of New Jersey, subject to a reversionary interest to the Town upon a finding by the State that the Property is no longer needed for armory purposes; and

WHEREAS, the State has determined that the Property is no longer needed for armory purposes; and

WHEREAS, a transfer of the Property from the State to the Town is therefore expected; and

WHEREAS, by resolution adopted on October 6, 2008 (the "Resolution"), the Town Council determined the Property is not needed for public use and authorized the Town's administration (the "Administration") to administer the planned public sale of said Property in accordance with the provisions of the *Local Lands and Buildings Law, N.J.S.A. 40A:12-1 et seq.* (the "Act"); and

WHEREAS, the Resolution established at Section 2 thereof a minimum bid price of "(a) FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$550,000) plus (b) the construction, at the bidder's sole cost and expense, in accordance with the specifications contained in the invitation to bid attached hereto as Exhibit A, and for the exclusive benefit of the Town, of a community center upon certain Town-owned property located at 15 South Park Drive Extension, identified as Block 801, Lot 29."; and

WHEREAS, the Administration solicited bids for the Property pursuant to the Act; and

WHEREAS, the Town Manager held a public bid opening on November 6, 2008; and

WHEREAS, one submission was received from Newton 213 L.L.C. in the amount of "\$565,000 plus \$160,000 in lieu of constructing a Community Center" (the "Initial Newton 213 L.L.C. Submission"); and

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WHEREAS, acting by Resolutions dated November 10, 2008, the Town rejected the Initial Newton 213 L.L.C. Submission as nonconforming with the terms set by the Resolution, including the minimum bid price, and authorized the Administration to administer the planned public sale of the Property pursuant to the Act and upon new terms and conditions, including a minimum bid price of ONE MILLION ONE HUNDRED THOUSAND DOLLARS (\$1,100,000); and

WHEREAS, the Administration solicited bids for the Property for a second time, pursuant to the Act; and

WHEREAS, the Town Manager held a public bid opening on December 1, 2008; and

WHEREAS, one submission was received from Newton 213 L.L.C. in the amount of \$725,000 (the "Second Newton 213 L.L.C. Submission"); and

WHEREAS, the Town has determined that the Second Newton 213 L.L.C. Submission is nonconforming with the terms set by Resolution, in particular, the minimum bid price,

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

Section 1. The Second Newton 213 L.L.C. Submission is hereby rejected, as it does not conform to the bid terms.

Section 2. This resolution shall take effect immediately.

Mayor Ricciardo requested discussion on Resolution #217-2008.

Mrs. Unhoch requested an abstention on P.O. 3222.

Upon motion of Mrs. Le Frois, seconded by Mrs. Becker and carried, that Resolution #217-2008 be approved as presented and roll call resulted as follows:

| | | | |
|-----------------|-----|---------------|---------|
| Mr. Elvidge | Yes | Mrs. Unhoch | Abstain |
| Mrs. Becker | Yes | Mrs. Le Frois | Yes |
| Mayor Ricciardo | Yes | | |

RESOLUTION #217-2008

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 2007 and 2008 Budgets adopted by this

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local Governing Body, including any emergency appropriations, and where unexpended balances exist in said appropriation accounts for the payment of such vouchers.

TOWN BILLS

| | | |
|------------|-------------------------------------|--------|
| 35,000.00 | Capital Account | 810098 |
| 163,122.91 | Payroll Account | 810095 |
| 14,766.21 | Payroll Account | 810096 |
| 106.40 | B & R Uniform | 24645 |
| 1,445.04 | Quill Corporation | 24646 |
| 635.00 | Municipal Software, Inc. | 24647 |
| 94.00 | Decker's Fire & Safety | 24648 |
| 66.00 | Alpine Spring Water Company | 24649 |
| 5,973.51 | NUI Corporation | 24650 |
| 1,156.80 | Camille Furgiuele | 24651 |
| 2,446.68 | G & G Diesel Service Inc. | 24652 |
| 13,145.36 | JCP&L | 24653 |
| 634.12 | SCMUA | 24654 |
| 1,750.00 | Michael D. Teets | 24655 |
| 704.82 | Township of Sparta | 24656 |
| 2,695.82 | EMBARQ | 24657 |
| 160.00 | EMBARQ | 24658 |
| 3,202.50 | Hollander,Hontz,Hinkes&Pasculli LLC | 24659 |
| 431.10 | Rowe & Company, Inc. | 24660 |
| 1,156.80 | Arthur & Rita Frisbie | 24661 |
| 1,156.80 | John & Terry Iliff | 24662 |
| 25.00 | Lorraine A. Read | 24663 |
| 2,319.48 | Thea Unhoch | 24664 |
| 5,063.85 | Delta Dental | 24665 |
| 7,550.00 | Newton First Aid Squad | 24666 |
| 37.50 | Joseph Inga | 24667 |
| 50.00 | First United Methodist Church | 24668 |
| 544.14 | Thomas Trudgeon | 24669 |
| 150.00 | Scott Holzhauser | 24670 |
| 578.40 | Eugene Williams | 24671 |
| 4,296.27 | KML Technology Inc. | 24672 |
| 98.00 | Minisink Press, Inc. | 24673 |
| 629.69 | Ann M. Rosellen | 24674 |
| 578.40 | Donald Donofrio | 24675 |
| 1,156.80 | Gerald & Jean Garris | 24676 |
| 19.07 | Sebring Auto Parts | 24677 |
| 5,969.00 | Treasurer, State of NJ DCA | 24678 |
| 37.50 | Debra Millikin | 24679 |
| 190.58 | Debra Millikin | 24680 |
| 93.75 | Debra Millikin | 24681 |
| 50.00 | McCullough Tree Service | 24682 |
| 578.40 | Joyce Carr | 24683 |
| 578.40 | Jean Richards | 24684 |
| 41.93 | McGuire | 24685 |
| 783.70 | Vision Service Plan | 24686 |
| 1,156.80 | James & Nancy Ransnorth | 24687 |
| 216.75 | Grinnell Recycle | 24688 |

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| | | |
|--------------------|--------------------------------|-------|
| 37.50 | Robert Bittle | 24689 |
| 2,032.00 | Gold Type Business Machines | 24690 |
| 368.94 | Cooper Electric Supply Co. | 24691 |
| 1,376.24 | Danforth's Trailer & Auto Inc. | 24692 |
| 35.00 | S/NJ Toxicology Laboratory | 24693 |
| 36.17 | Advance Auto Parts | 24694 |
| 3,272.57 | Fire & Safety Services, Ltd. | 24695 |
| 578.40 | Larry E. Romyns | 24696 |
| 1,156.80 | Thomas & Bulah Morris | 24697 |
| 805.00 | Scarinci & Hollenbeck LLC | 24698 |
| 14.04 | Lynn Dee Frost | 24699 |
| 37.50 | Tania L. Ell | 24700 |
| 3.40 | Language Line Services | 24701 |
| 578.40 | Douglas Cummins | 24702 |
| 10,543.28 | Spectrum Communications | 24703 |
| 9.95 | Easylink Services Corporation | 24704 |
| 14,307.50 | Main Street Newton, Inc. | 24705 |
| 862.50 | Jeff Schiffner | 24706 |
| 1,108.12 | Pinnacle Wireless Inc. | 24707 |
| 932.16 | Rachles/Michele's Oil Company | 24708 |
| 305.00 | Firefighter One | 24709 |
| 1,550.00 | Laddey, Clark & Ryan, LLP | 24710 |
| 578.40 | Ronald Clouse | 24711 |
| 612.50 | Derek J. Wechtler | 24712 |
| 265.95 | Physio-Control, Inc. | 24713 |
| 80.00 | Northern Rain | 24714 |
| 1,000.00 | Thomas S. Russo, Jr. | 24715 |
| 2,481.84 | W.B. Mason | 24716 |
| 106.65 | County of Sussex | 24717 |
| 360.00 | VOID | 24718 |
| 444.00 | Hewlett-Packard Company | 24719 |
| 444.00 | VOID | 24719 |
| CAPITAL | | |
| 721.40 | Ray's Sport Shop | 10090 |

Total TOWN BILLS \$329,334.49

WATER AND SEWER ACCOUNT

| | | |
|-----------|------------------------|--------|
| 580.17 | Newton Postmaster | 10450 |
| 37,391.95 | Payroll Account | 860058 |
| 5,580.59 | Payroll Account | 860059 |
| 24,363.00 | U.S.D.A./FHA | 860057 |
| 119.06 | VOID | 9643 |
| 178.07 | Montague Tool & Supply | 10452 |
| 13,191.75 | MWH Americas, Inc. | 10453 |
| 21.57 | Albertsons Inc. | 10454 |
| 1,197.42 | NUI Corporation | 10455 |
| 19,674.82 | JCP&L | 10456 |
| 3,689.13 | Pumping Services | 10457 |
| 345.03 | SCMUA | 10458 |

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| | | |
|----------|------------------------------------|-------|
| 28.00 | Paul Baldwin | 10459 |
| 384.00 | Coyne Chemical | 10460 |
| 1,333.49 | EMBARQ | 10461 |
| 873.52 | Delta Dental | 10462 |
| 1,468.30 | Chlorinator & Instrument | 10463 |
| 12.00 | Ervin Lasso | 10464 |
| 1,736.82 | Limecrest Quarry Developers | 10465 |
| 1,475.00 | Instrumentation Tech Systems, Inc. | 10466 |
| 158.93 | Vision Service Plan | 10467 |
| 1,828.40 | John Smalley | 10468 |
| 1,283.33 | Andy Matt, Inc. | 10469 |
| 973.95 | Dan's Auto | 10470 |
| 151.00 | Hewlett-Packard Company | 10471 |

CAPITAL

| | | |
|--------|----------------------|------|
| 600.00 | McManimon & Scotland | 2121 |
|--------|----------------------|------|

Total WATER & SEWER BILLS \$118,520.24

TRUST

| | | |
|----------|-----------------------------------|--------|
| 7,264.68 | Payroll Account | 871024 |
| 840.00 | Hollander, Hinkes & Pasculli, LLC | 2586 |
| 1,103.61 | Global Industrial Equipment | 2587 |

Total **TRUST BILLS** \$9,208.29

Intermission (10 minutes)

DISCUSSION (WORK SESSION)

Mr. Russo inquired whether the Town Council would like a copy of the property tax list in order for Council to make calls to property owners regarding past dues taxes. Council requested a list be put in their packets on Friday.

Mayor Ricciardo opened the meeting to the public.

Mrs. Connie Sutton-Falk, 9 Oak Tree Road, Newton (Fredon Twsp.), questioned why Mrs. Unhoch voted “no” on Ordinance 2008-29. Mrs. Unhoch explained that she voted “no” due to the density proposed.

Mrs. Sutton-Falk addressed concerns regarding acreage in the redevelopment area, which was defined by Mayor Ricciardo.

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COUNCIL & MANAGER COMMENTS

Councilwoman Becker thanked the Newton Police Department for the quick return of recovered items stolen from Spring Street last week.

At this time, upon motion of Mrs. Becker, seconded by Mrs. Unhoch and carried, the Town Council went into Executive Session at 8:13 p.m.

EXECUTIVE SESSION

WHEREAS, the Town Council of the Town of Newton (hereinafter referred to as the "Town Council"), convened a meeting in full compliance with the New Jersey Open Public Meetings Act, set forth in N.J.S.A. 10:4-12, and

WHEREAS, N.J.S.A. 10:4-12 allows a public body to enter executive session during a public meeting to discuss certain matters, and

WHEREAS, it has become clear to the Town Council that there is a need to enter executive session to discuss one or more of the exceptions to the New Jersey Open Public Meetings Act, as set forth in N.J.S.A. 10:4-12, and

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Newton that it will enter executive session to discuss issues related to Contract Negotiations.

Mrs. Jennifer Credidio, Esq., McManimon & Scotland, outlined the next steps regarding the bidding process pertaining to the Newton Armory property.

After a lengthy discussion, Ms. Credidio addressed several questions from the Governing Body.

Upon motion of Mrs. Le Frois, seconded by Mr. Elvidge and carried, the governing body moved out of Executive Session at 9:21 p.m.

Mayor Ricciardo expressed his disappointment with the Town Attorney's opinion regarding the letter dated December 4, 2008 by William E. Hinkes, Esq. After a brief discussion, Mayor Ricciardo requested the appeal paperwork for his review.

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There was no further business to conduct, upon motion of Mrs. Le Frois, seconded by Mrs. Becker and carried, the meeting was adjourned at 9:25 p.m.

Respectfully submitted,

Lorraine A. Read, RMC
Municipal Clerk