

March 12, 2018

The regular meeting of the Town Council of the Town of Newton was held on the above date at 7:05 pm. Present were Deputy Mayor Elvidge, Mr. Flynn, Mrs. Le Frois via phone, Mrs. Diglio, Mayor Levante, and Thomas S. Russo, Jr., Town Manager. Ursula Leo, Esq., Town Attorney was also present.

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 January 8, 2018."

Mayor Levante led the Pledge of Allegiance to the flag and the Clerk called the roll. Upon motion of Mrs. Diglio, seconded by Mr. Elvidge and carried, the minutes for February 26, 2018 Regular meeting were approved.

**OPEN TO THE PUBLIC**

At this time, 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 take one turn at the microphone and please limit their comments to 5 minutes. The Clerk will keep time. 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."*

Mayor Levante opened the meeting to the public.

Ralph Porter, 12 Pine Street, addressed concern with the clearing of sidewalks after snow storms and requested the Town enforce the Ordinances pertaining to same.

Maureen Snellen, 30 Plainfield Avenue, noted street signs are still missing on various streets in Town and requested an update.

Anwar Qarmout, 45 Woodside Avenue, requested an update on his recent complaint regarding the Zoning Officer. He feels the Zoning Officer should have a procedure which outlines the process when issuing summons. Mr. Qarmout also addressed concern with the aisle, in the Council Chambers, not being wide enough. He feels three (3) feet should be established.

Josh Couce read from a prepared statement:

"My name is Josh Couce and I am a resident of the Town of Newton. Since I am a part of an organization affiliated with the Town of Newton, I want to make clear that I am here on my own volition and the views I express tonight are of my own and of no other entity or individual.

Pedestrians being struck – what is being done about this?

- Ex: Madison, High

- Cross-walk stings have been done in the past, is this going to happen again?

Code Enforcement Requirements

- Overgrown vegetation; Landscaping (not maintained); House exterior not maintained; Property not maintained; Snow Removal

Reoccurring Issues:

- A. Snow Removal from Side Walks:
  - a. Old Main Street Grocery & the House directly next to on Main Street
  - b. Entire Spring Street
  - c. Barrett Avenue (ex: in front of the house that caught fire)
  - d. Sparta Avenue across the cemetery
  - e. Corner of Sussex and Sparta Avenue (Side Closest to Boonton Tire)
  - f. House that caught fire across from the cemetery
    - i. Side Note: Liquor Bottles 50+left there for months
- B. Snow Removal from Fire Hydrants
  - a. Various places around town from residential (Ex: Merriam Avenue Neighborhood) to Commercial Areas (Ex: Upper Spring Street & Halsted Street Neighborhoods)
- C. Overgrown vegetation/Landscaping – not maintained/Property not maintained
  - a. Dogwood & Gardner (right-corner as you turn into Dogwood from Gardner)
  - b. Sussex & Pine (right-corner as you turn onto Pine from Sussex)
- D. Spring Time is around the Corner:
  - a. Items left at the cur for weeks on end
    - i. Furniture, TVs, etc.
  - b. Overgrowth

My question to the Town Council, particularly the Town Manager is, why are these continuing issues? Is this something regarding with an inadequate allocation of resources? Inadequate Code Enforcement? Etc.”

Ben Edgar, 16 Windsor Drive, questioned the lawsuit on the road salt issue and also questioned the water testing update based on the recent letter sent to all Newton residents.

**COUNCIL & MANAGER REPORTS**

- a. **Mayor Levante** – No report at this time.
- b. **Deputy Mayor Elvidge** – No report at this time.
- c. **Councilwoman Le Frois** – Mrs. Le Frois gave a brief update on the upcoming St. Patrick’s Day parade to be held on Saturday, March 17, 2017 at 11:30 am.
- d. **Councilman Flynn** – Mr. Flynn thanked the First Responders for the past two (2) nor’easters storms for those who were without electricity and heat.
- e. **Councilwoman Diglio** – Mrs. Diglio had no current update on the Greater Newton Chamber of Commerce but would be attend the next meeting on March 14<sup>th</sup>. She will also be attending the SCLOM on Thursday, March 15<sup>th</sup>.

At this time, Mrs. Leo provided an updated on the road salt issue and advised that 39 municipalities are involved.

f. **Town Manager Russo** – Mr. Russo addressed various questions/concerns asked during the open public session.

Mr. Russo noted the St. Patrick’s Day parade will begin at 11:30 am on Saturday, March 17<sup>th</sup>.

He also announced the 1<sup>st</sup> Annual Easter Egg Dyeing and Cookie decorating event will be held on Friday, March 23, 2018 from 6 pm to 8 pm at #1 Firehouse, 22 Mill Street.

The Easter Egg Hunt will be held on Saturday, March 24, 2018 at 10 am at Newton High School.

The Senior Spring Luncheon will be held on Sunday, March 25, 2018 at Noon at Newton High School.

**ORDINANCES**

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

**ORDINANCE #2018-4**

**AN ORDINANCE AMENDING THE CODE OF THE TOWN OF NEWTON, SECTION 100-12, REGARDING ALCOHOLIC BEVERAGE CONTROL LICENSE FEES; SECTION 100-21.A, REGARDING PROPERTY MAINTENANCE CODE FEES; SECTION 41.10.A, REGARDING VACANT PROPERTY REGISTRATION REQUIREMENTS; AND SECTION 41.11.A, REGARDING VACANT PROPERTY INSPECTIONS**

**WHEREAS**, the Town of Newton wishes to amend the Code of the Town of Newton to revise alcoholic beverage control license fees; revise the fees associated with certificates of compliance; and clarify vacant and abandoned properties registration requirements and costs for inspections;

**NOW, THEREFORE BE IT ORDAINED**, as follows:

**Section 1.** Newton Town Code Section 100-12 is hereby deleted in its entirety and replaced as follows:

- A. Plenary retail consumption license [§ 49-15D(1)]: \$1,800.
- B. Plenary retail distribution license [§ 49-15D(1)]: \$1,800.
- C. Club license [§ 49-15D(1)]: \$185.

**Section 2.** Newton Town Code Section 100-21.A is hereby deleted in its entirety and replaced as follows:

- A. Fee for application for inspection and certificate of compliance.
  - (1) Request for certificate of compliance received more than 11 business days prior to change of occupant: \$50.

(2) Request for certificate of compliance received 3 to 10 business days prior to change of occupant: \$75.

(3) Request for certificate of compliance received 1-2 business days prior to change of occupant: \$175.

(4) Reinspection fee: \$25.

**Section 3.** Newton Town Code Section 41.10.A, General Requirements, is hereby deleted in its entirety and replaced as follows:

A. The owner of any vacant or abandoned property as defined herein shall, within 30 days after the building becomes vacant property or within 30 days after assuming ownership of the vacant property, whichever is later, file a registration statement for each such vacant property with the Town of Newton Clerk's office on forms provided by the Town of Newton for such purposes. The registration shall remain valid until the end of the calendar year. The owner shall be required to renew the registration annually, no later than January 31, as long as the building remains vacant property and shall pay a registration or renewal fee to the Town Clerk's office in the amount prescribed in § 41-12 for each vacant property registered.

**Section 4.** Newton Town Code Section 41.11.A, Registration statement requirements; property inspection, is hereby deleted in its entirety and replaced as follows:

A. After filing a registration statement or a renewal of a registration statement, the owner of any vacant or abandoned property shall provide access to the Town of Newton Construction Official if requested, following reasonable notice, during the period covered by the initial registration or any subsequent renewal. If an inspection is required of the interior of the property due to complaints or other cause, the fee for such inspection shall be the same as that for a reinspection, as provided for in Newton Town Code §100-21.A, as may be amended.

**Section 5. Severability.** If any provision of this Ordinance or the application of this Ordinance to any person or circumstances is held invalid, the remainder of this Ordinance shall not be affected and shall remain in full force and effect.

**Section 6. Repealer.** All ordinances or parts of ordinances or resolutions that are inconsistent or in opposition to the provisions of this Ordinance are hereby repealed in their entirety.

**Section 7. Effective Date.** This Ordinance will take effect after publication and passage according to law.

Mayor Levante opened the hearing to the public.

There being no one from the public to be heard, upon motion of Deputy Mayor Elvidge, seconded by Mrs. Diglio and unanimously carried, the hearing was closed.

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

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

This Ordinance will take effect after publication and adoption according to law.

The Clerk will advertise the above Ordinance according to law.

March 12, 2018

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

**ORDINANCE #2018-5**

**AN ORDINANCE OF THE TOWN OF NEWTON GRANTING MUNICIPAL CONSENT TO PIVOTAL UTILITY HOLDINGS, INC. d/b/a ELIZABETHTOWN GAS TO CONSTRUCT, MAINTAIN AND OPERATE GAS LINES FOR THE DISTRIBUTION OF NATURAL AND MIXED GAS**

**WHEREAS**, Pivotal Utility Holdings, Inc. doing business as Elizabethtown Gas, a Corporation of the State of New Jersey and a public utility subject to the jurisdiction of the New Jersey Board of Public Utilities, on January 24, 2018, filed a Petition with the Clerk of the Town of Newton seeking renewal of the Municipal Consent to construct, operate and maintain natural and mixed gas distribution lines for public and private consumption throughout the Town of Newton (the "Town"); and

**WHEREAS**, City Gas Company of Newton, a predecessor of Elizabethtown Gas was granted Municipal Consent to serve residents within the municipality and to construct, maintain, and operate a gas line for the distribution of natural and mixed gas in the Town, pursuant to an Ordinance adopted on September 2, 1946, and that Municipal Consent expired fifty (50) years thereafter; and

**WHEREAS**, representatives of the Petitioner appeared before the Mayor and Council to present their request for renewal of the Consent Ordinance within the Town; and

**WHEREAS**, the Petitioner has provided public notice of such Petition through publication in the official newspaper of the Town, and notices of such Petition have been posted pursuant to Statute; and

**WHEREAS**, the Town has determined that it is reasonable and necessary for Elizabethtown Gas, its successors and assigns, to continue to provide for construction, maintenance, and operation of a gas line for the distribution of natural and mixed gas in the entire Town; and

**WHEREAS**, the Town desires to extend the municipal consent to Pivotal Utility Holdings, Inc. d/b/a Elizabethtown Gas under the terms set forth in this Ordinance;

**NOW, THEREFORE, BE IT ORDAINED**, by the Mayor and Council of the Town of Newton:

Section I. Grant of Municipal Consent.

The Mayor and Council of the Town of Newton hereby grant to Pivotal Utility Holdings, Inc. doing business as Elizabethtown Gas, a Corporation of the State of New Jersey (hereinafter "Elizabethtown") with principal offices located at 520 Green Lane, Union, New Jersey 07083, its successors and assigns, a nonexclusive consent, right and privilege for the use, without impairment of, or obstruction to the public use, of the public roads, streets, avenues, ways, and other public places of the Town to construct, lay, maintain, and operate for a period of fifty (50) years, the necessary mains, conductors, pipes and concomitant appurtenances for the purpose of furnishing, conveying, storing, supplying and distributing natural and mixed gas for heat, power, light and other purposes for public and private use and consumption, along, in, or under the following described service area: all the public roads, streets, avenues, highways, and public places within the Town as they now exist or may be hereinafter be laid out by the municipal authorities of the Town or dedicated to the Town.

Section II. Conditions on Grant of Municipal Consent.

The Municipal Consent granted herein is expressly conditioned upon the following:

- (a) the written acceptance of Elizabethtown of the terms and conditions of

this municipal Consent Ordinance within thirty (30) days of its final adoption.

- (b) the New Jersey Board of Public Utilities (hereinafter "N.J.B.P.U.") approval of the Consent herein granted and the issuance of such other grants or approvals as determined by the N.J.B.P.U.
- (c) Elizabethtown shall satisfy all Statutory requirements regarding the proper organization and operation of a Public Utilities engaged in the distribution of natural and mixed gas, and shall remain subject to the jurisdiction of and comply with all Rules and Regulations of the United States Department of Transportation, Office of Pipeline Safety and the N.J.B.P.U. as well as the Ordinance of the Town.
- (d) Elizabethtown shall construct and continuously maintain and operate their distribution lines within the service area in a safe and efficient manner, and maintain such gas distribution lines in a state of good operation and repair and including all streets, roads, and public rights-of-way within the Town wherein its lines are located.
- (e) the construction, operation and maintenance of the gas distribution system within the rights-of-way of the Town shall in no way place any obligation, financial or otherwise, or any liability of any kind, upon the Town and no obligation is to attach for the construction, operation and maintenance of the said gas distribution system to the Town.

Section III. Construction; Installation; Restoration.

- A. Construction. In each and every case in which road openings or excavation of any nature are required or made for the purposes aforesaid, Elizabethtown shall restore, all such public and private lands or facilities to as good a condition as existed at the commencement of the said work or such better condition, at its sole cost and expense. All such openings and installation and maintenance shall be undertaken in strict compliance with the standards imposed by the N.J.B.P.U., any other regulatory agency, and all applicable Municipal Ordinances, with such work to be done in a careful, prudent and workmanlike manner, and within such time limitations as shall be best for the proper safeguard of the public.
- B. Relocation. If at any time during the period of this Municipal consent, the Town finds it necessary to alter or change the grade of any street, road or other public right-of-way or area, Elizabethtown shall, upon reasonable notice by the Town, remove and relocate its distribution line and pipes at the expense of Elizabethtown.
- C. Restoration. In the event that Elizabethtown shall refuse or neglect, after ten (10) days notice in writing by the representative of the Town, to restore any disturbed area at its cost and expense, and in compliance with all applicable Municipal Ordinances in effect at the time, to its pre-existing or better condition, any street, road, pavement, driveway or other improvements after having made an opening or excavation, the necessary work to accomplish such restoration may be done by the Town, and thereafter, Elizabethtown shall be liable for the actual and necessary costs thereof, and shall immediately pay such costs to the Town upon receiving notice thereof.
- D. Preconditions to Undertaking Construction. Elizabethtown shall give to the Town, through its duly designated representative, written notice of its intention to open or excavate any street or other public place in accordance with the Town Ordinance regulating the excavation and opening of streets, roads and highways, with the exception that such notice requirement shall be waived in the event of an emergent circumstance such that such emergency will affect public health or safety. As soon as practically possible after the occurrence of such emergent circumstance, Elizabethtown shall give prompt written notice to the Town

of any emergency opening or excavation that Elizabethtown shall undertake.

Section IV. Indemnification, Performance Bond, Liability.

- A. Indemnification. Elizabethtown, its successors and assigns, by the acceptance of the grants, rights and privileges conferred by this ordinance, shall at all times and does hereby and will indemnify and hold harmless, the Town and all of its subsidiary agencies, officials and employees for any and all claims of whatsoever kind or nature arising from or relating to the construction, installation, maintenance, laying, repairing, inspecting, or altering of mains conductors, pipes and appurtenances thereto, and any other facilities, and including, but not by way of limitation, any damages, penalties, costs, attorney's fees and charges for personal injury, property damage or otherwise, based upon Elizabethtown's negligence or the negligence of its agents, servants, employees or independent contractors.
  
- B. Performance Bond. Prior to the commencement or any construction or installation under this Municipal Consent, Elizabethtown shall execute and deliver to the Clerk of the Town and subject to prior review and approval by the Town Attorney, a Bond in the amount of \$10,000.00 guaranteeing the faithful performance of all of its obligations and undertakings under this Ordinance, which Bond shall be enlarged or renewed from time to time as the Council may require.
  
- C. Liability Insurance. Elizabethtown agrees to maintain and keep in full force and effect, at its sole expense, and at all times during the terms and duration of this Municipal Consent, sufficient liability insurance naming the Town as an additional insured party, and insuring and indemnifying the Town against any loss by any such claim, suit, judgment, execution or as follows:
  - (a) Elizabethtown shall carry Workman's Compensation Insurance with Statutory limits.
  
  - (b) Elizabethtown shall at all times, maintain a Comprehensive General Liability Insurance Policy with a single limit amount of \$1,000,000.00 covering liability for any death, personal injury, property damage or other liability arising out of its construction and operation of the gas distribution systems herein and in addition, an excess liability (or "umbrella") policy in the amount of \$3,000,000.00.
  
  - (c) Elizabethtown shall furnish to the Town a certified copy or Certificate of Insurance of each of the Policies as set forth herein.

Section V. Duration of Consent.

Term. The Municipal consent granted to Elizabethtown herein is for a period of fifty (50) years from the effective date of this Ordinance.

Section VI. Severability.

If the provision of any article, section, subsection, paragraph, subdivision or clause of this Ordinance shall be judged invalid by any Court or Competent jurisdiction, such Order or Judgment shall not effect or invalidate this remainder of any such article, section, subsection, paragraph or clause, and, to this end, the provisions of this Ordinance are hereby declared to be severable.

Section VII. Effective Date.

This Municipal Consent Ordinance shall become effective upon adoption and publication according to law, and only upon written acceptance of this Municipal Consent by Elizabethtown, which written consent shall be filed with the Clerk of the Municipality within thirty (30) days of the date after which Elizabethtown receives notice of the passage of this Ordinance.

\_\_\_\_\_  
Wayne F. Levante, Mayor

ATTEST: \_\_\_\_\_  
Lorraine A. Read, Municipal Clerk

Mayor Levante opened the hearing to the public.

There being no one from the public to be heard, upon motion of Deputy Mayor Elvidge, seconded by Mrs. Diglio and unanimously carried, the hearing was closed.

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

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

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

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

**ORDINANCE #2018-6**

**BOND ORDINANCE PROVIDING A SUPPLEMENTAL APPROPRIATION OF \$700,000 FOR THE CONSTRUCTION OF NEW FIREHOUSE #2 IN AND BY THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, AND AUTHORIZING THE ISSUANCE OF \$665,000 BONDS OR NOTES OF THE TOWN TO FINANCE PART OF THE COST THEREOF**

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

**Section 1.** The improvement described in Section 3(a) of this bond ordinance has heretofore been authorized to be undertaken by the Town of Newton, in the County of Sussex, New Jersey (the "Town") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the supplemental amount of \$700,000, such sum being in addition to the \$950,000 appropriated therefor by Section 3(b) of Bond Ordinance #2016-5 of the Town finally adopted June 13, 2016 and the \$855,000 appropriated therefor by Section 3(h) of Bond Ordinance #2017-9 of the Town finally adopted May 8, 2017, and including the sum of \$35,000 as the additional down payment required by the Local Bond Law. The

additional down payment is now available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

**Section 2.** In order to finance the additional cost of the improvement or purpose not covered by application of the additional down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$665,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

**Section 3.** (a) The improvement heretofore authorized and the purpose for the financing of which the bonds are to be issued is the the construction of new Firehouse #2, as described in Section 3(b) of Bond Ordinance #2016-5 of the Town finally adopted June 13, 2016, as supplemented by Section 3(h) of Bond Ordinance #2017-9 of the Town finally adopted May 8, 2017, including all work and materials necessary therefor and incidental thereto.

(b) The estimated maximum amount of bonds or bond anticipation notes to be issued for the improvement or purpose is \$2,379,750, including the \$902,500 authorized by Section 3(b) of Bond Ordinance #2016-5 of the Town finally adopted June 13, 2016, the \$812,250 authorized by Section 3(h) of Bond Ordinance #2017-9 of the Town finally adopted May 8, 2017 and the \$665,000 bonds or bond anticipation notes authorized herein.

(c) The estimated cost of the improvement or purpose is \$2,505,000, including the \$950,000 appropriated by Bond Ordinance #2016-5 of the Town finally adopted June 13, 2016, the \$855,000 appropriated by Bond Ordinance #2017-9 of the Town finally adopted May 8, 2017 and the \$700,000 appropriated herein.

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

the amount, the description, the interest rate and the maturity schedule of the bond anticipation notes sold, the price obtained and the name of the purchaser.

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

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

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Town may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this bond ordinance, is 40 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Town as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$665,000, and the obligations authorized herein will be within all debt limitations prescribed by the Local Bond Law.

(d) An aggregate amount not exceeding \$461,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement. Of this amount, \$190,000 was estimated for these items of expense in bond ordinance #2016-5 of the Town finally adopted June 13, 2016, \$171,000 was estimated for these items of expense in bond ordinance #2017-9 of the Town finally adopted May 8, 2017 and an additional \$100,000 is estimated therefor herein.

**Section 7.** The Town hereby makes the following covenants and declarations with respect to obligations determined to be issued by the Chief Financial Officer on a tax-exempt basis. The Town hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exemption from taxation of interest on the obligations, including, if necessary, the requirement to rebate all net investment earnings on the gross proceeds above the yield on the obligations. The Chief Financial Officer is hereby authorized to act on behalf of the Town to deem the obligations authorized herein as bank qualified for the purposes of Section 265 of the Code, when appropriate. The

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

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

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

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

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

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

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

Mayor Levante opened the hearing to the public.

Ben Egner, 16 Windsor Drive, questioned the total cost of the new firehouse which was addressed by Mr. Russo.

There being no one from the public to be heard, upon motion of Deputy Mayor Elvidge, seconded by Mrs. Diglio and unanimously carried, the hearing was closed.

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

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

This Ordinance will take effect after publication and adoption according to law.

The Clerk will advertise the above Ordinance according to law.

**OLD BUSINESS**

**a. Spring Street Parking Analysis – No Update**

No update at this time.

**CONSENT AGENDA**

Mayor Levante read the following statement:

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

Mr. Russo reviewed the Resolutions on the consent agenda.

**RESOLUTION #72-2018\***

**AUTHORIZE THE AWARD OF A REQUIRED DISCLOSURE CONTRACT FOR HAROLD E. PELLOW & ASSOCIATES, INC., FOR PROFESSIONAL ENGINEERING SERVICES FOR THE FIREHOUSE #2 RENOVATION PROJECT**

**WHEREAS**, the Town of Newton has a need for construction management and inspection services for the upcoming Firehouse #2 Renovation Project with Harold E. Pellow & Associates, Inc., as a required disclosure contract pursuant to the provisions of N.J.S.A. 19:44A-20.4; and

**WHEREAS**, Newton’s Qualified Purchasing Agent, Sean Canning of the Canning Group, LLC has determined and certified in writing the value of the acquisition will exceed \$17,500; and

**WHEREAS**, the anticipated term of this contract is for the 2018-2019 year (s), to project completion; and

**WHEREAS**, Harold E. Pellow & Associates, Inc., submitted a memo dated March 6, 2018 outlining the additional costs for construction management and inspections services which in the aggregate is expected to exceed the pay-to-play threshold of \$17,500.00; and

**WHEREAS**, the Chief Financial Officer hereby certifies that additional funds NOT TO EXCEED \$30,000.00 are available as follows;

**General Capital Fund – Ord. #2016-5 Firehouse #2 A/C #30916052**

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*"The maximum dollar value is based on a reasonable estimate of the goods or services required over the contract term, and the Town of Newton is not obligated to spend that amount."*

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton that this Resolution will serve as an agreement between the Town of Newton and Harold E. Pellow & Associates, Inc., to provide construction management and inspection services for the upcoming Firehouse #2 Renovation Project as outlined in Harold E. Pellow & Associates, Inc., memo dated March 6, 2018 for an additional \$20,000 for a total not exceed \$30,000.00; and

**BE IT FURTHER RESOLVED**, that the Business Disclosure Entity Certification and Personal Contribution Disclosure form, Determination of Value be placed on file in the Office the Municipal Clerk.

**RESOLUTION #73-2018\***

**RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE BOND AND MAINTENANCE BOND FOR BLOCK 3.04, LOT 14**

**WHEREAS**, Kenneth D. Martin of Martin Realty and Development Co., d/b/a Route 519 and North Park Drive, LLC ("applicant") received approvals from the Town and the Town Planning Board for the Kohl's Department Store ("Kohl's") on his property located at Block 3.04 Lot 14 (formerly known as Block 303 Lot 26.05) within the Town of Newton; and

**WHEREAS**, the applicant submitted a performance bond and maintenance bond related to the Kohl's site; and

**WHEREAS**, the Town Engineer has opined that site improvements covered by the performance bond have been successfully completed and recommended that the \$37,200.00 performance bond be released at this time; and

**WHEREAS**, the Town Engineer has additionally advised that a maintenance bond for site improvements in the amount of \$47,543.85 was posted with the Town and any remaining maintenance bond can be released, as improvements along North Park Drive are in satisfactory condition;

**NOW THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that the performance bond in the amount of \$37,200.00 and any remaining maintenance bond be released to the applicant.

**RESOLUTION #74-2018\***

**RESOLUTION AUTHORIZING RELEASE OF PERFORMANCE GUARANTEE AND MAINTENANCE GUARANTEE FOR BLOCK 3.03, LOT 5**

**WHEREAS**, Kenneth Martin of Martin Realty and Development Co, d/b/a North Park Urban Renewal Associates, ("applicant") obtained approvals from the Town of Newton and the Town of Newton Planning Board for a Holiday Inn and an Applebee's on his property located at Block 3.03, Lot 5 (formerly known as Block 303.01 Lot 4) within the Town of Newton; and

**WHEREAS**, the applicant submitted a cash performance guarantee and maintenance guarantee related to the Holiday Inn and Applebee's; and

**WHEREAS**, the Town Engineer has recommended that the performance bond in the amount of \$9,780.00 be released at this time, and if the third pad site is developed, a new performance bond be posted at that time; and

**WHEREAS**, the Town Engineer has additionally opined that the site improvements are in satisfactory condition and a maintenance guarantee of \$93,411.75 was posted in 2006, and any remaining maintenance bond with the Town should also be released.

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**NOW THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that the performance guarantee in the amount of \$9,780.00 and any maintenance bond be released to the applicant.

**RESOLUTION #75-2018\***

**RESOLUTION AWARDING BID TO T. R. WENIGER, INC., FOR THE PROPOSED IMPROVEMENTS TO DAM SITE #2, FOR THE TOWN OF NEWTON, IN THE TOWNSHIP OF FREDON, PROJECT**

**WHEREAS**, the Town of Newton publicly accepted bids for the Proposed Improvements to Dam Site #2, for the Town of Newton, in the Township of Fredon, Project on February 21, 2018 at 11:00 a.m. as follows:

<u>Name and Address of Bidder</u>	<u>Bid Amount</u>
T. R. Weniger, Inc. 1900 New Brunswick Avenue Piscataway, NJ 08854	\$85,412.00
CMS Construction, Inc. 521 North Avenue Plainfield, NJ 07062	\$116,776.00
Zitone Construction & Supply Co., Inc. P.O. Box 1829 Montague, NJ 07827	\$118,521.00
Tony's Concrete Construction Co., Inc. 316 East Kinney Street Newark, NJ 07105	\$124,042.00
Your Way Contruction, Inc. 404 Coit Street Irvington, NJ 07111	\$134,674.71
Pierson Landscaping & Design, LLC 343A U.S. Highway 206 Branchville, NJ 07826	\$138,218.64
Berto Construction, Inc. 625 Leesville Avenue Rahway, NJ 07065	\$148,095.00
Colonnelli Brothers, Inc. 409 South River Street Hackensack, NJ 07601	\$169,778.00
Cinelly Group Corp. 125 Haul Road Wayne, NJ 07470	\$170,832.40
Salmon Bros., Inc. P.O. Box 67 Netcong, NJ 07857	\$174,000.00
Ferraro Construction Corp. 5 Park Drive Franklin, NJ 07416	\$181,592.00
Ron-Jon Construction Corp. 33 Laurel Street Butler, NJ 07405	\$198,900.15

<u>Name and Address of Bidder</u>	<u>Bid Amount</u>
Lakeside Construction P.O. Box 806 Hopatcong, NJ 07843	\$298,186.00

**WHEREAS**, after review of all the bids, the Town's Water Engineer, David B. Simmons, Jr. P.E., L.S., C.M.E. in his memo dated February 21, 2018 recommends awarding the Proposed Improvements to Dam Site #2, for the Town of Newton, in the Township of Fredon, Project in the amount of \$85,412.00, to T.R. Weniger, Inc. of Piscataway, New Jersey.; and

**WHEREAS**, Sean P. Canning, the Town of Newton's Qualified Purchasing Agent, has concurred with the purchase in accordance with the New Jersey Local Public Contract Law (N.J.S..40A:11-1 et. Seq.); and

**WHEREAS**, the Chief Financial Officer, Dawn L. Babcock has certified that funds are available;

General Capital Fund – Ord.#2017-9 Dam #2 Sill a/c #30917091 \$85,412.00

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton hereby awards the Proposed Improvements to Dam Site #2, for the Town of Newton, in the Township of Fredon, Project and authorizes the Mayor and Clerk to execute an agreement with T. R. Weniger, Inc., Piscataway, New Jersey in the amount of \$85,412.00.

#### **RESOLUTION #76-2018\***

##### **RESOLUTION AUTHORIZING SERVICE AGREEMENT WITH PALL CORPORATION**

**WHEREAS**, the Town of Newton received quotes for servicing of the Town of Newton's microfiltration system and have determined the service agreement offered by Pall Corporation is most advantageous to the Town; and

**WHEREAS**, the Town of Newton desires to enter into a one-year service agreement for servicing of the Town of Newton's microfiltration system. The total cost of the annual service contract is \$21,140.00; and

**WHEREAS**, the Town solicited at least two competitive quotes and is awarding to Pall Corporation pursuant to the New Jersey Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.; and

**WHEREAS**, the PALL Corporation has submitted a Service Contract Proposal for servicing of the Town of Newton's microfiltration system which has been reviewed and amended by Town personnel and the Town QPA; and

**WHEREAS**, subject to the Governing Body appropriating sufficient funds in the 2018 Water/Sewer Utility Budget, the Chief Financial Officer will certify funds NOT TO EXCEED \$22,000.00 are available as follows:

Water Sewer Utility –Water Treatment OE –Contract Maintenance #6064217

*"The maximum dollar value is based on a reasonable estimate of the goods or services required over the contract term, and the Town of Newton is not obligated to spend that amount."*

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that the Town Manager is hereby authorized to execute the Service Contract Proposal with Pall Corporation; and

**BE IT FURTHER RESOLVED**, that this resolution shall take effect immediately, subject to Pall Corporation submitting the required documents, and Pall Corporation agreeing to the Town's payment being made net sixty (60) days after the date of invoice.

**RESOLUTION #77-2018\***

**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 2017 and 2018 Budgets adopted by this local Governing Body, including any emergency appropriations, and where unexpended balances exist in said appropriation accounts for the payment of such vouchers.

**TOWN BILLS**

39624	A&S HYDRAULICS	470.00
39625	SYNCHRONY BANK	273.43
39626	BETH ANNE MACDONALD	1,500.00
39627	BOONTON TIRE SUPPLY INC.	901.15
39628	CAMPBELL'S SMALL ENGINE INC.	39.98
39629	CAMPBELLS SUPPLY OF SUSSEX COUNTY L	3,863.88
39630	CENTURYLINK COMMUNICATIONS, INC.	125.85
39631	CHELBUS CLEANING CO., INC.	1,813.75
39632	CINTAS CORPORATION NO. 2	143.07
39633	CINTAS FIRE PROTECTION	2,951.89
39634	CIT-E-NET, LLC	2,000.00
39635	COOPER ELECTRIC SUPPLY CO.	506.66
39636	COUNTY OF SUSSEX	7,700.00
39637	DANFORTH'S TRAILER & AUTO, INC	925.52
39638	DANIELSON, DEBORAH	175.00
39639	DETROIT SALT COMPANY, LLC.	21,726.89
39640	ESTREMER, MICHELLE	84.24
39641	EXTEL COMMUNICATIONS	1,975.08
39642	FASTENAL COMPANY, INC.	9.40
39643	FEDERAL EXPRESS	146.06
39644	FIRE & SAFETY SERVICES, LTD., INC.	9,335.94
39645	GARDEN STATE LABORATORIES INC	1,995.00
39646	GENERAL CODE, LLC	2,387.80
39647	GRASS ROOTS, INC.	1,312.40
39648	HAYEK'S MARKET INC.	51.17
39649	HOME DEPOT, INC.	1,052.35
39650	IAAO	540.00
39651	J & D SALES & SERVICE,LLC.	278.60
39652	JCP&L	392.86
39653	JK HVAC SERVICE, LLC.	1,000.76
39654	JP MONZO MUNIC CONSULTING, LLC	50.00
39655	KKPR MARKETING & PUBLIC RELATIONS,	412.94
39656	LOU'S GLASS	275.00
39657	LOWE'S , INC.	344.51
39658	MCGUIRE, INC.	1,984.87
39659	MCMANIMON, SCOTLAND & BAUMANN, LLC	455.00
39660	MICROSYSTEMS-NJ COM, LLC.	1,535.35
39661	MID-AMERICAN ELEVATOR COMPANY. INC.	450.00
39662	284 AGGREGATES, LLC.	164.14
39663	MONTAGUE TOOL & SUPPLY, INC.	1,062.82
39664	MORRIS COUNTY POLICE ACADEMY	1,000.00
39665	MUNICIPAL CLERKS ASSOCIATI	325.00
39666	NEW JERSEY EMERGENCY MANAGEMENT ASS	125.00
39667	NEW JERSEY HERALD, INC.	153.40
39668	NJMEBF	159,881.00
39669	NJMMA	250.00
39670	NJSACOP	365.00
39671	NORTH CHURCH GRAVEL, INC.	484.54
39672	NORTHWEST BUILDING SUPPLY, INC.	528.00
39673	PELLOW, HAROLD & ASSO, INC.	227.50

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39674	PENTELEDATA	899.64
39675	PHYSIO-CONTROL INC. MEDTRONIC PHYSI	778.00
39676	POSTER COMPLIANCE CENTER	199.88
39677	PRIME LUBE, INC.	385.00
39678	RACHLES/MICHELE'S OIL COMPANY, INC.	3,058.74
39679	READY REFRESH BY NESTLE	101.59
39680	REGISTRAR'S ASSO OF NEW JERSEY	50.00
39681	ROGO FASTENER CO., INC.	100.11
39682	SCHENCK, PRICE, SMITH, & KING, LLP	3,232.85
39683	SEBRING AUTO PARTS, INC.	52.26
39684	STAPLES BUSINESS ADVANTAGE, INC.	219.35
39685	TAYLOR OIL CO., INC.	3,094.24
39686	THE CANNING GROUP, LLC.	625.00
39687	THE RODGERS GROUP, LLC	4,524.00
39688	TIRE KING, INC.	685.00
39689	W.B. MASON, INC.	947.21
39690	WISTUBA, TRAVIS	135.13
39691	WITMER PUBLIC SAFETY GROUP, INC.	522.00
181017	PAYROLL ACCOUNT	198,022.11
39623	WEIS MARKETS, INC.	306.99
181016	BANK OF NEW YORK MELLON	48,575.00

**Total TOWN BILLS \$502,266.90**

**WATER AND SEWER ACCOUNT**

16764	ELIZABETHTOWN GAS	3,318.62
16771	ACCURATE WASTE REMOVAL INC.	3,944.00
16772	SYNCHRONY BANK	10.86
16773	Appalachian Forestry Service	984.00
16774	BETH ANNE MACDONALD	1,500.00
16775	CAPITOL SUPPLY CONST PRODUCTS, INC.	426.50
16776	CENTURYLINK COMMUNICATIONS, INC.	39.83
16777	CINTAS CORPORATION NO. 2	99.68
16778	CINTAS FIRE PROTECTION	2,835.18
16779	CURRENT ACCOUNT	1,241.32
16780	DUKE'S SALES & SERVICE, INC.	6,514.23
16781	HANNA INSTRUMENTS, UNITED STATES	135.00
16782	HAYEK'S MARKET INC.	16.30
16783	HOME DEPOT, INC.	398.97
16784	HYDRO TECHNOLOGY, LLC.	350.00
16785	3711 - KKPR MARKETING & PUBLIC RELATIONS,	412.93
16786	53 - MONTAGUE TOOL & SUPPLY, INC.	170.60
16787	1638 - NEW JERSEY WATER ASSOCIATION	430.00
16788	2788 - PENTELEDATA	561.79
16789	2121 -POSTER COMPLIANCE CENTER	199.87
16790	1489 - SMALLEY, JOHN H	1,250.00
186008	PAYROLL ACCOUNT	35,212.39
186007	STATE OF NEW JERSEY - PWT	389.93

**Total WATER & SEWER Bills \$ 57,123.38**

**TRUST ACCOUNT**

3703	777 SOLOMON, LLC.	1,502.91
3704	MARTIN REALTY DEVELOPMENT & CONST C	575.98
3705	MCMANIMON, SCOTLAND & BAUMANN, LLC	3,418.50
3706	MID-AMERICAN SALT, LLC.	6,160.00
3707	PELLOW, HAROLD & ASSO, INC.	2,394.00
3708	PELLOW, HAROLD & ASSO, INC.	1,024.50
187105	PAYROLL ACOCUNT	4,819.50
3702	AUTOZONE	7.80
3690	AUTOZONE	-7.80

**Total TRUST ACCOUNT Bills \$ 19,895.39**

**DEVELOPERS ESCROW (FUND 72) ACCOUNT**

1298	PELLOW, HAROLD & ASSO, INC.	427.50
1297	AUTOZONE	11,554.13
1295	AUTOZONE	-11,554.13

**Total DEVELOPERS ESCROW (FUND 72) Bills \$ 427.50**

**FEDERAL/STATE GRANTS**

1395	GALLS, LLC	1,517.24
1396	MINISINK PRESS INC	625.00
181105	PAYROLL ACCOUNT	349.56
181104	PAYROLL ACCOUNT	436.95

**Total HOUSING FEDERAL/STATE GRANTS Bills \$ 2,928.75**

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

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

**INTRODUCTION OF 2018 BUDGET**

**A. TOWN OF NEWTON MUNICIPAL AND WATER & SEWER UTILITY BUDGET**

At this time, Mr. Russo outlined the Town of Newton Municipal and Water and Sewer Utility Budget and read the budget notice:

**MUNICIPAL BUDGET NOTICE**

Section 1.

Municipal Budget of the Town of Newton, County of Sussex for the Fiscal Year 2018. Be it Resolved, that the following statements of revenues and appropriations shall constitute the Municipal Budget for the year 2018; Be it Further Resolved, that said Budget be published in the New Jersey Herald In the issue of March 23, 2018. The Governing Body of the Town of Newton does hereby approve the following as the Budget for the year 2018:

Notice is hereby given that the Budget and Tax Resolution was approved by the Town Council of the Town of Newton, County of Sussex, on March 12, 2018. A hearing on the Budget and Tax Resolution will be held at the Municipal Building, on April 9, 2018 at 7:00 o'clock P.M. at which time and place objections to said Budget and Tax Resolution for the year 2018 may be presented by taxpayers or other interested persons.

Total 2018 Town of Newton Municipal Budget is \$12,766,000.

Total 2018 Water & Sewer Utility Budget is \$4,525,000.

Mr. Russo noted the municipal budget has a tax collection rate of 98.34%.

A motion was made by Mrs. Diglio to approve the **INTRODUCED 2018 MUNICIPAL BUDGET AND WATER & SEWER UTILITY BUDGET**, seconded by Deputy Mayor Elvidge and roll call resulted as follows:

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

**INTERMISSION** – None

**DISCUSSION**

Councilman Flynn questioned when the new marketing logo was established and was advised by Mr. Russo that his team, as well as the Mayor and Deputy Mayor, reviewed and approved recently.

**OPEN TO THE PUBLIC**

Ben Egner, 16 Windsor Drive, questioned what the Town will do next year regarding the road salt issue which was addressed by Mr. Russo.

Anwar Qarmout, 45 Woodside Avenue, clarified with Mr. Russo that he is looking to create a procedure for Zoning Officer. He also questioned the cost of the new firehouse and made suggestions for cost savings on this project.

Jim Ceravello, 124 Spring Street, noting a recent incident of a pedestrian being struck by a vehicle, addressed concern with public safety at the intersection of Moran and Spring Street.

Ralph Porter, 12 Pine Street, addressed safety concerns with the demolished firehouse on Woodside Avenue and feels the project should be downsized.

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

**COUNCIL & MANAGER COMMENTS**

Councilman Flynn noted there is no fence surrounding the demo of the firehouse and suggested one be installed for safety reasons. He also noted the firehouse was downsized from its original construction plan.

There being no further business to be conducted, upon motion of Deputy Mayor Elvidge seconded by Mr. Flynn and carried, the meeting was adjourned at 7:40 pm.

March 12, 2018

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lorraine A. Read". The signature is written in a cursive style with a large, prominent initial 'L'.

Lorraine A. Read, RMC  
Municipal Clerk