

May 29, 2013

The regular meeting of the Town Council of the Town of Newton was held on the above date at 7:00 p.m. Present were Mrs. Becker (arrived at 7:29 pm), Mr. Elvidge, Deputy Mayor Ricciardo, Mr. Flynn, Mayor Diglio, Thomas S. Russo, Jr., Town Manager and Ursula Leo, Town Attorney.

Mayor Diglio made the following declaration that "in accordance with the Open Public Meetings Act, notice of this public meeting was given to the two newspapers of record and posted on the official bulletin board on December 31, 2012."

Mayor Diglio led the Pledge of Allegiance to the flag and the Clerk called the roll and upon motion of Deputy Mayor Ricciardo, seconded by Mr. Elvidge and carried, the minutes of May 13, 2013 Regular meeting and May 13, 2013 Executive meeting were approved with one minor correction.

OPEN TO THE PUBLIC

Mayor Diglio read the following statement:

"At this point in the meeting, the Town Council welcomes comments from any member of the public on any topic. To help facilitate an orderly meeting and to permit the opportunity for anyone who wishes to be heard, speakers are asked to limit their comments to 5 minutes. If reading from a prepared statement, please provide a copy and email a copy to the Clerk's Office after making your comments so it may be properly reflected in the minutes."

Mayor Diglio requested that if anyone from the public has a comment on Ordinance 2013-14 to hold their comment until the public hearing on this Ordinance.

There was no one from the public to be heard.

SWEARING IN CEREMONY

a. Swearing In of Class II Special Law Enforcement Officer Raul Couce

Prior to the swearing-in ceremony, Chief Michael Richards thanked the Governing Body for the recent appointment of Special Officer Raul Couce to the Newton Police Department. Mr. Couce is a retired Sargent of the New Jersey State Police, as well as a former Marine. Mr. Couce comes to us with much law enforcement experience and we look forward to him working on our team, Chief Richards concluded.

At this time, Mrs. Read swore in Officer Couce, while his wife held the bible.

Mayor Diglio welcomed Special Officer Couce to the Newton Police Department.

COUNCIL & MANAGER REPORTS

Mayor Diglio congratulated Mr. Russo for his recent appointment as Board President of Family Partners of Morris and Sussex Counties.

At this time, Mrs. Read introduced Jennifer Fratangelo, a part-time employee in the Municipal Clerk's office who began working on May 28th. Mrs. Read and her staff look forward to working with Jen and welcomed her to the Town Hall team.

ORDINANCES

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

ORDINANCE #2013-14

AN ORDINANCE AMENDING THE CODE OF THE TOWN OF NEWTON TO ESTABLISH A NEW ARTICLE III TO CHAPTER 213, SECTION 213-11, ET SEQ., REQUIRING CERTAIN LANDLORDS TO POST ADEQUATE SECURITY AGAINST THE CONSEQUENCES OF DISORDERLY BEHAVIOR OF THE TENANTS (N.J.S.A. 40A:53)

WHEREAS, the Town Council of the Town of Newton finds, determines and declares:

1. Parts of the Newton community and its citizens have experienced disturbances, damage and public expense resulting from carelessly granted and inadequately supervised rentals to irresponsible tenants by inept or indifferent landlords;
2. This section is enacted to preserve the peace and tranquility of the community for its residents, and to maintain the Town as a pleasant and safe place for all persons and families to live;
3. The enactment of this section is necessary and desirable to provide a means to curb and discourage those occasional excesses arising from irresponsible rentals; and
4. The Legislature of the State of New Jersey enacted N.J.S.A. 40:48-2.12n, et seq., to enable municipal governing bodies to take effective action to assure that excesses, when they occur, shall not be repeated, and that landlords be held to sufficient standards of responsibility.

NOW, THEREFORE BE IT ORDAINED, by the Town Council of the Town of Newton, County of Sussex, and State of New Jersey that the Code of the Town of Newton is hereby amended to establish and adopt the municipal powers authorized by the State of New Jersey Legislature, N.J.S.A. 40:48-2.12n through 40:48-2.12r, and as may be amended, a new Article III, Chapter 213, Section 213-11, et seq., to hold certain landlords responsible for disorderly tenant behavior, as follows:

Section 1. Chapter 213, Article III, "Holding Certain Landlords Responsible for Disorderly Tenant Behavior", is hereby created and made a part of the Code of the Town of Newton.

Article III. Holding Certain Landlords Responsible for Disorderly Tenant Behavior.

213-11. The Town of Newton hereby grants to itself all such powers granted to municipalities by the State of New Jersey for holding certain landlords responsible for their tenants, including the posting of adequate security against the consequences of

disorderly behavior of their tenants. Such enabling statutory powers are set forth at N.J.S.A. 40:48-2.12n et seq., as may be amended.

213-12 Definitions.

"Hearing Officer" shall mean a licensed attorney of the State of New Jersey appointed by the Town Council. The Hearing Officer shall not own or lease any real property within the Town of Newton, nor hold any interest in the assets of or profits arising from the ownership or lease of such property.

"Landlord" shall be defined as "Landlord" under the law, N.J.S.A. 40:48-2.12o, as may be amended.

213-13 Hearings and Penalties.

- A. If in any twenty-four (24) month period, two (2) complaints, on separate occasions, of conduct upon or in proximity to any rental premises, and attributable to the acts or incitements of any of the tenants of those premises, have been substantiated by prosecution and conviction in any court of competent jurisdiction as a violation of any provision of Title 2C of the New Jersey Statutes or any municipal ordinance governing disorderly conduct, the Newton Town Manager or any designee of the Town Manager for the purpose, may institute proceedings to require the landlord of those premises to post a bond against the consequences of future incidents of the same character.
- B. In the event a tenant is convicted of any of the conduct described in subsection A of this Section, the Town Manager or designee shall cause notice advising that the conduct specified has occurred to be served on the Landlord, in person or by registered mail, at the address appearing on the tax records of the Town.
- C. The Town Manager or designee shall cause to be served upon the Landlord, in person or by registered mail to the address appearing on the tax records of the Town, notice advising of the institution of such proceedings, together with particulars of the substantiated complaints upon which those proceedings are based, and of the time and place at which a hearing will be held in the matter, which shall be in the municipal building, municipal court or other public place within the Town, and which shall be no sooner than thirty (30) days from the date upon which the notice is served or mailed.
- D. At the hearing convened pursuant to subsection C of this Section, the Hearing Officer shall give full hearing to both the complaint of the municipality and to any evidence in contradiction or mitigation that the Landlord, if present or represented and offering such evidence, may present. The Hearing Officer may consider, to the extent deemed relevant by the Hearing Officer, prior complaints about the residents of the property, even if those complaints did not result in a conviction. At the conclusion of the hearing, the Hearing Officer shall determine whether the Landlord shall be required to post a bond in accordance with the terms of the ordinance.
- E. Any bond required to be posted shall be in accordance with the judgment of the Hearing Officer, in light of the nature and extent of the offenses indicated in the substantiated complaints upon which the proceedings are based, to be adequate in the case of subsequent offenses to make reparation for:
 - 1) damages likely to be caused to public or private property and damages consequent upon disruption or affected residents' rights of fair use and quiet possession of their premises;
 - 2) securing the payment of fines and penalties likely to be levied for such offenses; and

- 3) compensating the Town for the costs of repressing and prosecuting such incidents of disorderly behavior.

No such bond shall be in an amount less than \$500 or more than \$5,000. The Town may enforce the bond thus required by action in the Superior Court, and shall be entitled to an injunction prohibiting the Landlord from making or renewing any lease of the affected premises for residential purposes until that bond or equivalent security, in satisfactory form and amount, has been deposited with the Town.

- F. A bond or other security deposited in compliance with subsection E of this Section shall remain in force for three (3) years. Upon the lapse of the three (3) year period, the Landlord shall be entitled to the discharge thereof, unless prior thereto further proceedings leading to a forfeiture or partial forfeiture of the bond or other security shall have been had under Section 213.14 below, in which case the security shall be renewed, in an amount and for a period that shall be specified by the Hearing Officer. The Town Council may by Resolution shorten the period for which security is required to not less than one (1) year from the date of the transfer of ownership or control, if during that year no substantiated complaints are recorded with respect to the property in question.

213-14 Bond Forfeiture and Extension.

- A. If during the period for which a Landlord is required to give security pursuant to Subsection 213-13 above, a substantiated complaint is recorded against the property in question, the Town Manager or designee may institute proceedings against the Landlord for the forfeiture or partial forfeiture of the security, for an extension as provided in Subsection 213-13.F. above, of the period for which the security is required, or for increase in the amount of security required, or for any or all of those purposes.
- B. Any forfeiture or partial forfeiture of security shall be determined by the Hearing Officer solely in accordance with the amount deemed necessary to provide for the compensatory purposes set forth in Subsection 213.13.E above. Any decision by the Hearing Officer to increase the amount or extend the period of the required security shall be determined in light of the same factors set forth in Subsection 213-13.E above, and shall be taken only to the extent that the nature of the substantiated complaint or complaints out of which proceedings arise under this section indicates the appropriateness of such change in order to effectually carry out the purposes of this ordinance effectually. The decision of the Hearing Officer in such circumstances shall be enforceable in the same manner as provided in Subsection 213-13.F above.
- C. A Landlord may recover from a tenant any amounts of security actually forfeited as described in Subsection B of this Section.

Section 2. 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 3. 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 4. Effective Date. This Ordinance will take effect after publication and passage according to law.

Prior to opening the hearing to the public, Ursula Leo, Esq. outlined the stipulations with regard to Ordinance 2013-14 to the public.

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At this time, Mayor Diglio opened the hearing to the public.

John Ragsdale, 40 Halsted Street, thanked the Town Council for proposing Ordinance 2013-14. Mr. Ragsdale noted that two years ago, he along with other residents came before the Governing Body to request such an ordinance. Mr. Ragsdale is a property owner in Newton as well as a landlord of several rental properties and this ordinance would affect him. He is supportive of this Ordinance and thanked Council for their efforts of same.

John Nuss, 55-57 High Street, provided Council with a copy of the New Jersey law which outlines the Federal Fair Housing laws. Mr. Nuss, a licensed real estate broker, believes that Ordinance 2013-14 would discriminate and tie the hands of realtors. Mr. Nuss expressed his displeasure with this Ordinance.

Marge McCabe, 125 High Street, expressed the positive features with the proposed ordinances. Mrs. McCabe outlined the problems associated with the rental properties, having worked next to a boarding house in Newton.

Karen Hardin-Kitchel, 58 West End Avenue, questioned the boarding home status, which was addressed by Mrs. Leo. Mrs. Harden-Kitchel, believes that boarding homes are necessary but should be run with an "iron fist".

Bob Phillips, Newton property owner and realtor, agreed with the ordinance but believes it needs new verbiage to protect the landlords but also requiring them to be accountable.

Steven Bolzano, 80 Old Mt. Road, Clinton, N.J., Newton property owner, feels that certain sections of the ordinance are illegal. Mr. Bolzano believes the ordinance should be revisited and re-created to make the tenants responsible for their own actions, not the landlords.

Councilwoman Becker, a landlord herself, advised that this landlord/tenant issue has been addressed for several years and believes that this Ordinance will correct the issues at large. Mrs. Becker believes that this Ordinance will be an asset to landlords during an eviction process.

Mr. Phillips suggested that the landlords add verbiage to their lease which would require the tenant to post a monetary surety bond.

Matt Luwinsky, landlord and property owner, feels that this proposed Ordinance should not be penalizing the landlords.

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Bruce Shapiro, 1217 Edpass Road, New Brunswick, addressed several questions regarding this Ordinance which was addressed by Legal Counsel.

Mrs. Hardin-Kitchel questioned the impact of this Ordinance on boarding homes and was advised that this Ordinance has no jurisdiction over the boarding homes.

Bruce Glindmeier, owner of 141 Mill Street, (three unit property), does not believe that this Ordinance will assist the landlords with the eviction process.

Glenn Edwards, property owner and resident of Sparta, disagrees with this Ordinance and will sell his property if the Ordinance is passed.

Anwar Qarmout, 45 Woodside Avenue, property owner and business owner, agrees that it is a good ordinance but needs to be tweaked. Mr. Qarmout suggested that the Town and landlords work together to make it a better Ordinance.

Mrs. Leo further explained the hearings portion of the Ordinance, under 213.13 "Hearing and Penalties".

Roman Osadca, 10 Old Stage Road, a landlord and property owner in Newton, suggested creating a "task force" and having the group work with the Town to recreate the verbiage in the Ordinance.

Fred Judge, 24 Hicks Avenue, property owner of several rental properties, agrees with the concept of the Ordinance but believes that it needs to be modified.

Rachel Hendricks, 162 Pine Acres, Milford, PA, and works for the Association of Realtors in Sparta. Ms. Hendricks disagrees with the Ordinance as written, noting several deficiencies in the Ordinance and suggesting that the Council reconsider this Ordinance as proposed.

Herb Fraser, 47 Phillips Road, Green Twsp., owner of two boarding homes in Newton, expressed his disappointment with this Ordinance, noting that this Ordinance does not apply to his properties, but feels that the landlords should not be punished because of a few bad properties. Mr. Fraser advised that he met with the Town Manager and the Chief of Police last year and requested guidance with his boarding homes and indicates that the Town did not assist.

Councilman Elvidge commended all those who addressed the Council regarding this Ordinance. Mr. Elvidge believes that this Ordinance has all the components of a good Ordinance, but believes that the Ordinance needs work prior to adoption.

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Mr. Russo noted that he and Chief Richards met with Mr. Fraser and made several recommendations to assist with the numerous calls to the Newton Police from his boarding homes.

Chief Richards clarified that the meeting held with the Town Manager and Mr. Fraser provided several recommendations to rectify the issues at the boarding homes owned by Mr. Fraser. Chief Richards believes that a landlord should be accountable for his tenants and this Ordinance will require accountability.

Jill Rivera, 9 Abigail Way, Sparta, questioned the tenants who have an undisclosed rental history and feels that the bond postings requirement is unfair to the landlord/property owner.

Mrs. Hardin-Kitchel stated that the Town has a large drug problem and suggested that the fines required under this Ordinance be utilized for drug awareness trainings for the youth.

John Nuss, speaking for Ann Tomlin, property owner on Madison Street, advised that Ms. Tomlin recently had an incident at the rental unit in which the Police Department responded. Ms. Tomlin is afraid a fine will be imposed and was advised by Chief Richards that the incident was not the fault of the renter, therefore it will not apply to this Ordinance.

Councilwoman Becker expressed her frustration with regard to the misinformation which was supplied by some of the landlords.

Jeff Harris, 17 Linmor Avenue, a property owner, advised that he has had issues with tenants and feels that this Ordinance will hinder the landlords even more.

Nadine Goldschmidt, 17 Linmor Avenue, provides a thorough background check and disagrees with the penalty.

Anwar Qarmout, 45 Woodside Avenue, questioned the appeal process on this Ordinance which was addressed by Mrs. Leo. Mr. Qarmout invited all the public to the Council meetings twice a month.

Marisa Wilson, owner of 75 Trinity Street, disagrees with penalizing the landlords for the wrongdoing of the tenants.

Mrs. Leo outlined and clarified the details and requirements of this Ordinance.

David DeOria, 48 Hillstone Trail, Byram, owner of several properties in Newton, disagrees with the Ordinance in its current state and feels that the Ordinance needs to

be modified. Mr. DeOria feels that he cannot be responsible for his tenants actions and requested that the Council reconsider this Ordinance.

Special Officer Don Donafrio, Newton Police Department, has 28 years of experience in law enforcement. Officer Donafrio is a property owner of rental units in Newton, he applauded the Manager and Town Council for the proposed Ordinance and feels that a few tweaks to the Ordinance may be helpful to the landlords and assist with the Town progress.

Fred Judge questioned whether all tenants within the rental unit are the responsibility of the landlord and was advised by Mrs. Leo that all tenants qualify under this Ordinance.

Michael Nemeth, property owner of 210 Main Street, suggested that this Ordinance be incorporated into the tenant leases and was advised that an addendum to the lease could be added by the landlord.

There being no one else from the public to be heard, upon motion of Mr. Flynn, seconded by Mr. Elvidge and unanimously carried, the hearing was closed.

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

| | | | |
|------------------------|-----|-------------|-----|
| Mrs. Becker | Yes | Mr. Elvidge | No |
| Deputy Mayor Ricciardo | No | Mr. Flynn | Yes |
| Mayor Diglio | | Yes | |

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

INTERMISSION: 10 MINUTES

When the meeting reconvened, Mayor Diglio directed the Clerk to read aloud the following Ordinance relative to final adoption.

ORDINANCE #2013-15

AN ORDINANCE REVISING SECTION 283-17.8, FOREIGN LIMOUSINE REGISTRATION, OF THE CODE OF THE TOWN OF NEWTON

WHEREAS, the current Town Ordinance that governs the circumstances pursuant to which a limousine license may be issued, Section 283-17.B, is in need of amendment;

NOW, THEREFORE BE IT ORDAINED, by the Mayor and Town Council of the Town of Newton, County of Sussex, and State of New Jersey, that Section 283-17.B of the Town of Newton Code is amended as follows:

Section 1. Section 283-17.B of the Town of Newton Code shall be amended to read as follows:

283-17.B. Foreign limousine registration with business address in Newton. Whenever the owner of a limousine maintains a business address in the Town of Newton; owns a limousine that is registered in another state or the District of Columbia; satisfies all of the requirements set forth in this article; and desires to obtain a license for each such limousine from the Town of Newton, said owner shall annually file for a license for each such owned limousine to be issued by the Town in accordance with N.J.S.A. 48:16.22.4(a). Pursuant to New Jersey statute, the owner may have his principal place of business in a location other than a municipality in the State of New Jersey, in which case, the owner may elect a municipality in New Jersey in which he has a business address to file the required insurance policy and receive the license to operate. The Town of Newton shall issue such license upon the owner's satisfaction of all of the requirements set forth in this article.

Section 2. 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 3. 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 4. Effective Date. This Ordinance shall take effect immediately upon adoption and publication in accordance with law.

Mayor Diglio opened the hearing to the public.

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

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

| | | | |
|------------------------|-----|-------------|-----|
| Mrs. Becker | Yes | Mr. Elvidge | Yes |
| Deputy Mayor Ricciardo | Yes | Mr. Flynn | Yes |
| Mayor Diglio | Yes | | |

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

The Clerk will advertise the above Ordinance according to law.

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

ORDINANCE #2013-16

AN ORDINANCE AMENDING SECTION 110-24.h OF THE CODE OF THE TOWN OF NEWTON TO INCLUDE A PROVISION REGARDING FUTURE PAYMENT

WHEREAS, the Town Council of the Town of Newton finds that Section 100-24 entitled "Miscellaneous fees and charges", as referred to in Chapter 100, "Fees and Costs" of the Newton Town Code, is in need of revision to include a provision, pursuant to N.J.S.A. 40:5-18(d), requiring certain future payments to the Town to be tendered in cash or by certified or cashier's check.

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

Section 1. Existing Section 100-24.H "Miscellaneous fees and charges" of the Code of the Town of Newton shall be and is hereby revised as follows:

H. Service charges for checks returned due to insufficient funds, per N.J.S.A. 40:5-18(c): \$20.00. If any individual or business has had a check or other written instrument to the Town returned for insufficient funds, all future payments to the Town must be tendered in cash or by certified or cashier's check, per N.J. S.A. 40:5-18(d).

Section 2. 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 3. 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 4. Effective Date. This Ordinance will take effect after publication and passage according to law.

Mayor Diglio opened the hearing to the public.

There being no one from the public to be heard, upon motion of Mr. Flynn, seconded by Mrs. Becker and unanimously carried, the hearing was closed.

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

| | | | |
|------------------------|-----|-------------|-----|
| Mrs. Becker | Yes | Mr. Elvidge | Yes |
| Deputy Mayor Ricciardo | Yes | Mr. Flynn | Yes |
| Mayor Diglio | | Yes | |

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

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

ORDINANCE #2013-17

AN ORDINANCE TO AMEND SECTION 213-7 OF THE CODE OF THE TOWN OF NEWTON BY ADDING A NEW SUBSECTION D REGARDING PENALTIES FOR FAILURE TO OBTAIN A CERTIFICATE OF COMPLIANCE

The following **ORDINANCE** was offered by Deputy Mayor Ricciardo, who moved its introduction, seconded by Mr. Elvidge and roll call resulted as follows:

| | | | |
|------------------------|-----|-------------|-----|
| Mrs. Becker | Yes | Mr. Elvidge | Yes |
| Deputy Mayor Ricciardo | Yes | Mr. Flynn | Yes |
| Mayor Diglio | | 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 June 10, 2013.

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

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ORDINANCE #2013-18

ORDINANCE REAPPROPRIATING \$148,000 PROCEEDS OF OBLIGATIONS NOT NEEDED FOR THEIR ORIGINAL PURPOSES AND OTHER AVAILABLE FUNDS IN ORDER TO PROVIDE FOR THE RECONSTRUCTION OF SIDEWALKS AND RELATED WORK ON STREETS AND ROADS DESCRIBED IN A LIST ON FILE WITH THE TOWN CHIEF FINANCIAL OFFICER AND THE REPLASTERING OF THE TOWN POOL AND RELATED WORK IN AND BY THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY

The following **ORDINANCE** was offered by Mrs. Becker, who moved its introduction, seconded by Deputy Mayor Ricciardo and roll call resulted as follows:

| | | | |
|------------------------|-----|-------------|-----|
| Mrs. Becker | Yes | Mr. Elvidge | Yes |
| Deputy Mayor Ricciardo | Yes | Mr. Flynn | Yes |
| Mayor Diglio | | 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 June 10, 2013.

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

ORDINANCE #2013-19

BOND ORDINANCE PROVIDING FOR THE CONSTRUCTION OF A 20" HDPE WATER TRANSMISSION MAIN ACROSS FOX HOLLOW LAKE BY THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING \$900,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$900,000 BONDS OR NOTES OF THE TOWN FOR FINANCING THE COST THEREOF

The following **ORDINANCE** was offered by Deputy Mayor Ricciardo, who moved its introduction, seconded by Mr. Flynn and roll call resulted as follows:

| | | | |
|------------------------|-----|-------------|-----|
| Mrs. Becker | Yes | Mr. Elvidge | Yes |
| Deputy Mayor Ricciardo | Yes | Mr. Flynn | Yes |
| Mayor Diglio | | 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 June 10, 2013.

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

ORDINANCE #2013-20

ORDINANCE OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT WITH THE NEWTON TOWN CENTRE URBAN RENEWAL ASSOCIATES, L.P. WITH RESPECT TO A SENIOR CITIZEN, AFFORDABLE HOUSING PROJECT

The following **ORDINANCE** was offered by Mrs. Becker, who moved its introduction, seconded by Deputy Mayor Ricciardo and roll call resulted as follows:

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| | | | |
|------------------------|-----|-------------|---------|
| Mrs. Becker | Yes | Mr. Elvidge | Yes |
| Deputy Mayor Ricciardo | Yes | Mr. Flynn | Recused |
| Mayor Diglio | | 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 June 10, 2013.

OLD BUSINESS

a. Commercial Vehicle Draft Ordinance

Jessica Caldwell, Town Planner and Ursula Leo, Esq., outlined the amendments to the proposed commercial vehicle ordinance in a residential zone. After a brief discussion, Council unanimously agreed to proceed with the stipulations, set forth, as well as including commercial vehicles not to exceed 15,000 pounds.

CONSENT AGENDA

Mayor Diglio 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 various resolutions on the Consent Agenda.

Mayor Diglio requested Resolution #78-2013 and Resolution #87-2013 be removed from the consent agenda.

RESOLUTION #79-2013*

APPROVE FIREWORKS DISPLAY AT MEMORY PARK FOR NEWTON DAY 2013

WHEREAS, a Resolution of the Newton Governing Body is required by the New Jersey Department of Labor, Division of Workplace Standards, to grant permission for the public display of fireworks; and

WHEREAS, Garden State Fireworks of Millington, New Jersey has submitted a proposal for a fireworks display with a copy of the permit application, certificate of insurance, a site diagram and other pertinent information, in conjunction with a fireworks display that will take place at Memory Park on Saturday, June 8, 2013 as part of the annual "Newton Day" celebration with a rain-date of June 15, 2013; and

WHEREAS, Sussex County Fire Marshal Joseph C. Inga has advised that the application for said fireworks display is complete and in order;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the Greater Newton Chamber of Commerce is granted permission for a fireworks display during the "Newton Day" celebration to take place on Saturday, June 8, 2013, with a rain-date of June 15, 2013 and that said fireworks display will be provided by Garden State Fireworks of Millington, NJ; and

BE IT FURTHER RESOLVED, that a certified original of this Resolution be forwarded to the New Jersey Department of Labor and Sussex County Fire Marshal, Joseph C. Inga.

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RESOLUTION #80-2013*

AUTHORIZE RELEASE OF PERFORMANCE GUARANTEE POSTED BY ELIZABETH TOWN GAS, CO.

WHEREAS, Elizabethtown Gas, Co., posted a Performance Guarantee with the Town of Newton for proposed work on Ferndale Avenue and Hillside Terrace; and

WHEREAS, in a letter dated May 16, 2013, Harold E. Pellow, P.E., L.S., of the firm of Harold E. Pellow & Associates, Inc., Town Engineer, has recommended that said Performance Guarantee currently on file with the Town of Newton for the Ferndale Avenue and Hillside Terrace projects be released, said letter is attached to and made part of this resolution;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that it hereby authorizes the release of the Performance Guarantee in the amount of \$33,019.24 posted with the Town of Newton by Elizabethtown Gas, Co., related to the Ferndale Avenue and Hillside Terrace project based on the recommendation of the Town Engineer.

RESOLUTION #81-2013*

APPOINTMENT OF A CLASS II- SPECIAL LAW ENFORCEMENT OFFICER- RAUL COUCE

WHEREAS, §30-8 within Chapter 30, Police Department, of the Code of the Town of Newton indicates that the Town Council may appoint a Special Law Enforcement 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 appoints the following individual as a Class II - Special Law Enforcement Officer for calendar year 2013 based on the recommendation of the Town Manager and Chief of Police:

Raul Couce

RESOLUTION #82-2013*

RESOLUTION TO SUPPORT THE SUBMISSION OF A TONNAGE GRANT APPLICATION FOR RECYCLING TO THE STATE OF NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c.102, has established a recycling fund from which a tonnage grant may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for the **2012 Recycling Tonnage Grant** will memorialize the commitment of this municipality to recycling and to indicate the assent of the Newton Town Council of the Town of Newton to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

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WHEREAS, a resolution should designate the individual authorized to ensure the application is properly completed and timely filed; and

WHEREAS, the Newton Town Council adopted Resolution #42-2013, authorizing entering into a Shared Services Agreement with the Sussex County Municipal Utilities Authority to provide a Certified Recycling Professional for the Town of Newton;

NOW, THEREFORE BE IT RESOLVED, by the Newton Town Council of the Town of Newton that the Town of Newton hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates Reenee Casapulla, Recycling Coordinator for SCMUA, to ensure that the application is properly filed; and

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purpose of recycling.

RESOLUTION #83-2013*

TRANSFER OF SCHOOL MONIES FOR THE PERIOD JULY 1, 2013 TO DECEMBER 31, 2013

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, \$5,891,155.00 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;

| | |
|--|-----------------------|
| Amount of Tax Voted (Exclusive of Debt Service) | \$11,782,310.00 |
| Amount Received to Date | 0.00 |
| Amount of This Request | <u>\$5,891,155.00</u> |
| Balance Due Board of Education | \$5,891,155.00 |

May 29, 2013

RESOLUTION #84-2013*
CAPITAL BUDGET AMENDMENT

Whereas, the local Capital Budget for the year 2013 was approved on the 8th day of April 2013; and

Whereas, it is desired to amend said adopted Capital Budget Section.

Now, Therefore Be It Resolved, by the Town Council of the Town of Newton, County of Sussex that the following Capital Budget amendment of 2013 be made.

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

CAPITAL BUDGET (Current Year Action)
2013

| PLANNED FUNDING SERVICES FOR CURRENT YEAR 2013 | | | | | | | | | |
|--|----------------|-----------------|---------------------------------|----------------------------|--------------------------|-----------------|-------------------------------|-----------------|------------------------------|
| PROJECT | PROJECT NUMBER | ESTIMATED COST | AMOUNTS RESERVED IN PRIOR YEARS | 2013 BUDGET APPROPRIATIONS | CAPITAL IMPROVEMENT FUND | CAPITAL SURPLUS | GRANTS IN AID AND OTHER FUNDS | DEBT AUTHORIZED | TO BE FUNDED IN FUTURE YEARS |
| reappropriate old ordinances | | - 114,699.89 | | | | | - 114,699.89 | | |
| Improve Sidewalks | | 105,000.00 | | | | 15,300.11 | 89,699.89 | | |
| Pool Improvements | | 43,000.00 | 18,000.00 | | | | 25,000.00 | | |
| | | | | | | | | | |

May 29, 2013

| | | | | | | | | | |
|--------------------|--|-----------|-----------|--|--|-----------|--|--|--|
| | | | | | | | | | |
| TOTAL ALL PROJECTS | | 33,300.11 | 18,000.00 | | | 15,300.11 | | | |

3 YEAR CAPITAL PROGRAM 2013 - 2015

Anticipated Project Schedule and Funding Requirements

| PROJECT | PROJECT NUMBER | ESTIMATED COST | ESTIMATED COMPLETION TIME | FUNDING AMOUNTS PER YEAR | | | | | TO BE FUNDED IN FUTURE YEARS |
|------------------------------|----------------|----------------|---------------------------|--------------------------|------|------|------|------|------------------------------|
| | | | | BUDGET YEAR: 2013 | 2014 | 2015 | 2016 | 2017 | |
| reappropriate old ordinances | | 114,699.89 | 2,013.00 | -114,699.89 | | | | | |
| Improve Sidewalks | | 105,000.00 | 2,013.00 | 105,000.00 | | | | | |
| Pool Improvements | | 43,000.00 | 2,013.00 | 43,000.00 | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| TOTAL ALL PROJECTS | | 33,300.11 | | 33,300.11 | | | | | |

3 YEAR CAPITAL PROGRAM 2013 - 2015

SUMMARY OF ANTICIPATED FUNDING SOURCES AND AMOUNTS

| PROJECT | ESTIMATED COST | BUDGET APPROPRIATIONS | | CAPITAL IMPROVEMENT FUND | CAPITAL SURPLUS | GRANTS IN AID AND OTHER FUNDS | BONDS AND NOTES | | | |
|---------|----------------|-----------------------|--------------|--------------------------|-----------------|-------------------------------|-----------------|------------------|------------|--------|
| | | CURRENT YEAR 2013 | FUTURE YEARS | | | | GENERAL | SELF LIQUIDATING | ASSESSMENT | SCHOOL |
| | | | | | | | | | | |

May 29, 2013

| | | | | | | | | | |
|------------------------------|------------------|--|--|--|------------------|------------------|--|--|--|
| | - | | | | | - | | | |
| reappropriate old ordinances | 114,699.89 | | | | | 114,699.89 | | | |
| Improve Sidewalks | 105,000.00 | | | | 15,300.11 | 89,699.89 | | | |
| Pool Improvements | 43,000.00 | | | | | 43,000.00 | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| TOTAL ALL PROJECTS | 33,300.11 | | | | 15,300.11 | 18,000.00 | | | |

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

It is hereby certified that this is a true copy of a resolution amending the Capital Budget section as adopted by the Governing Body on the 29th day of May, 2013.

Certified by:

Date

Lorraine A. Read, RMC

RESOLUTION #85-2013*

AMENDMENT TO THE WATER/SEWER CAPITAL BUDGET

WHEREAS, the local capital budget for the year 2013 was adopted on the 8th day of April, 2013; and

WHEREAS, it is desired to amend said capital budget section;

May 29, 2013

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton, County of Sussex, the following amendment(s) to the adopted capital budget section of Water/Sewer Capital Fund be made.

Recorded Vote (Insert Names)

| | | |
|------|------------|------|
| | (Becker | (|
| | (Elvidge | (|
| Ayes | (Ricciardo | Nays |
| | (Flynn | (|
| | (Diglio | (|

WATER/SEWER CAPITAL BUDGET (Current Year Action)
2013

| | | | | Planned Funding Services for Current Year | | |
|---|-------------------|----------------------|-------------------------------|---|--------------------------------|-----------------------|
| 1 Project | 2 Project Num. | 3 Est. Total Cost | 4 Amt. Res. In Prior Years | 5a 2013 Budget Appropriation | 5b Capital Improvement Fund | 5c Capital Surplus |
| Construction of a 20" HDPE Water Transmission Main across Fox Hollow Lake | 2013-U19 | \$900,000.00 | | | | |
| Total All Projects | | \$900,000.00 | \$ - | \$ - | \$ - | \$ - |

SIX YEAR CAPITAL PROGRAM 2013 TO 2018
ANTICIPATED PROJECT SCHEDULE AND FUNDING REQUIREMENTS

| | | | | | Funding Amounts Per Year | | |
|---|---|---|---|--------------|--------------------------|--|--|
| 1 | 2 | 3 | 4 | 5 Capital | | | |
| | | | | | | | |

May 29, 2013

| Project | Project Number | Est. Total Cost | Estimated Completion Time | Improvement Fund 2013 Budget | 2013 | 2014 | 2015 |
|--|----------------|-----------------|---------------------------|------------------------------|--------------|------|------|
| Construction of a 20" HDPE Water Transmission Main - Fox Hollow Lake | 2013-U19 | \$900,000.00 | 2013 | | \$900,000.00 | | |
| Total All Projects | | \$900,000.00 | | \$ - | \$900,000.00 | \$ - | \$ - |

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

It is hereby certified that this is a true copy of a resolution amending the Capital Budget section as adopted by the Governing Body on the 29th day of May, 2013.

Certified by:

Date

Lorraine A. Read, RMC
Municipal Clerk

RESOLUTION #86-2013*

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 2012 and 2013 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

| | | |
|-----------|---------------------------------------|-------|
| 300.95 | Quill Corporation | 31942 |
| 259.23 | Staples Credit Plan, Inc. | 31943 |
| 179.00 | Decker's Fire & Safety Equipt Inc. | 31944 |
| 75.00 | Abcode Security Inc | 31945 |
| 1,701.89 | NUI Corporation | 31946 |
| 531.65 | SCMUA | 31947 |
| 200.00 | B& G Elevator Inc. | 31948 |
| 197.57 | Centurylink Communications Inc. | 31949 |
| 35.00 | Centurylink Communications Inc. | 31950 |
| 124.00 | Centurylink Communications Inc. | 31951 |
| 2,892.76 | Centurylink Communications Inc. | 31952 |
| 576.00 | Hollander, Strelzik, Pasculli, Hinkes | 31953 |
| 34.21 | Read, Lorraine | 31954 |
| 338.60 | Campbell's Small Engine Inc. | 31955 |
| 297.50 | D & E Service Center | 31956 |
| 11,500.00 | Neopost Leasing, Inc. | 31957 |
| 384.00 | West Group Inc. | 31958 |
| 13.72 | Federal Express | 31959 |
| 50.00 | First United Methodist Church | 31960 |
| 1,592.48 | Staples Print Solutions | 31961 |
| 170.75 | Newton Trophy | 31962 |
| 16.00 | Smith, William F | 31963 |
| 261.50 | Galls Incorporated | 31964 |
| 435.05 | Wilfred Macdonald, Inc. | 31965 |
| 13.24 | Sebring Auto Parts Inc. | 31966 |
| 182.23 | Sherwin-Williams | 31967 |
| 376.75 | Zee Medical | 31968 |
| 2,733.00 | Stamp Fulfillment | 31969 |
| 758.94 | Dempsey Uniform & Supply Inc | 31970 |
| 9,000.00 | Greater Newton Chmbr of Comm | 31971 |
| 10.60 | Airgas East | 31972 |
| 296.33 | F.W. Bennett & Son, Inc. | 31973 |
| 147.23 | McGuire, Inc. | 31974 |
| 2,000.00 | Treasurer, State of New Jersey | 31975 |
| 1,435.50 | Verizon Wireless, Inc. | 31976 |
| 190.41 | Verizon Wireless, Inc. | 31977 |
| 195.00 | Cerbo's Hampton Nursery Inc. | 31978 |
| 54.82 | Walmart | 31979 |
| 75.95 | Mr. John, Inc. | 31980 |
| 99.00 | Fred Pryor Seminars | 31981 |
| 1,762.50 | Vogel, Chait, Collins, Schneider, PC | 31982 |
| 545.52 | Home Depot, Inc. | 31983 |
| 195.00 | Crane Sewer & Drain Cleaning | 31984 |
| 994.29 | Sussex County Mailing Service | 31985 |
| 622.88 | Staples Business Advantage Inc. | 31986 |
| 103.98 | Lowe's, Inc. | 31987 |
| 20.00 | Screen Creation Plus | 31988 |
| 25.00 | Katherine Citterbart | 31989 |
| 48.00 | CSS Test Inc. | 31990 |
| 55.25 | Krave Cafe | 31991 |
| 3,893.21 | Rachles/Michele's Oil Company Inc. | 31992 |

May 29, 2013

| | | |
|-----------|-------------------------------------|-------|
| 3,939.11 | Taylor Oil Co., Inc, | 31993 |
| 2,250.00 | Laddey, Clark & Ryan, LLP | 31994 |
| 11,625.00 | County of Sussex | 31995 |
| 168.00 | Sign-A-Rama | 31996 |
| 168.00 | Jersey Central Power & Light, Inc. | 31997 |
| 100.00 | Law and Public Safety Institute | 31998 |
| 564.75 | Penteledata | 31999 |
| 134.02 | Custom Products Corp. | 32000 |
| 159.00 | Rutgers, Center For Government Serv | 32001 |
| 90.95 | Minute UPS/ PAR Systems | 32002 |
| 2,022.31 | Woodruff Energy US, Inc. | 32003 |
| 127.81 | Amsterdam Printing | 32004 |
| 769.60 | Thyssenkrupp Elevator Corp | 32005 |
| 258.31 | Harleysville Life Insurance Company | 32006 |
| 3,100.00 | Clear Channel Radio, Inc. | 32007 |
| 1,327.75 | J. Caldwell & Associates, LLC. | 32008 |
| 550.00 | Mid-Atlantic Leeds | 32009 |
| 94.28 | Braen Stone Sparta | 32010 |
| 251.74 | Lincoln Equipment, Inc. | 32011 |

CAPITAL

| | | |
|------------|-------------------------------|--------|
| 195,131.98 | Payroll Account | 131046 |
| .65 | Trust Account, Town of Newton | 131045 |
| 3,629.71 | Capital Account | 131044 |
| 11,955.52 | Capital Account | 131043 |
| 5,955.00 | Water & Sewer Operating Acct | 131042 |
| 929,927.25 | Newton Board of Education | 131041 |
| 7,875.00 | BNY Mellon | 131040 |
| 134,065.00 | BNY Mellon | 131039 |
| 250.00 | Treasurer, Petty Cash Fund | 31941 |
| 60.00 | NJ Motor Vehicle Services | 31940 |
| 70.63 | Thomas S Russo Jr | 31939 |

Total TOWN BILLS \$1,364,662.86

WATER AND SEWER ACCOUNT

| | | |
|-----------|---------------------------------------|-------|
| 126.42 | Montague Tool & Supply, Inc. | 13593 |
| 673.76 | NUI Corporation | 13594 |
| 464.60 | SCMUA | 13595 |
| 17,209.94 | Coyne Chemical Corp., Inc. | 13596 |
| 33.41 | Centurylink Communications., Inc | 13597 |
| 1,218.82 | Centruylink Communications, Inc. | 13598 |
| 429.00 | Campbell's Small Engine Inc. | 13599 |
| 5,000.00 | Neopost Leasing, Inc. | 13600 |
| 850.00 | Garden State Laboratories Inc. | 13601 |
| 375.00 | Tri-State Rentals, Inc. | 13602 |
| 106.38 | Hamburg Plumbing Supply Co Inc | 13603 |
| 841.00 | Current Account | 13604 |
| 3,289.12 | Weldon Asphalt Company Inc | 13605 |
| 2,495.70 | Stamp Fulfillment | 13606 |
| 392.00 | Dempsey Uniform & Supply Inc | 13607 |
| 260.30 | Airgas East | 13608 |
| 16,077.30 | Treasurer, State of New Jersey | 13609 |
| 153.42 | Verizon Wireless, Inc. | 13610 |
| 1,250.00 | Smalley, John | 13611 |
| 27.00 | Walmart | 13612 |
| 4,985.20 | Main Pool & Chemical Company, Inc. | 13613 |
| 11.94 | Advance Auto Parts | 13614 |
| 165.38 | Home Depot, Inc. | 13615 |
| 550.50 | Kistler O'Brien Fire Protection, Inc. | 13616 |
| 184.00 | Accurate Waste Removal, Inc. | 13617 |
| 119.90 | Penteledata | 13618 |

May 29, 2013

| | | |
|----------|---------------------------|-------|
| 224.76 | One Call Concepts, Inc. | 13619 |
| 823.54 | Woodruff Energy US, Inc. | 13620 |
| 75.00 | Amsterdam Printing | 13621 |
| 3,000.00 | Clear Channel Radio, Inc. | 13622 |

CAPITAL

| | | |
|-----------|---------------------------------|--------|
| 2,810.27 | Weldon Asphalt Company Inc. | 8118 |
| 1,790.75 | J. Caldwell & Associates LLC | 8119 |
| 34,199.75 | Louis Barbato Landscaping, Inc. | 8120 |
| 457.53 | Payroll Account | 133004 |
| 5,980.81 | Payroll Account | 133004 |
| 2,400.00 | Federal & State Grant | 133003 |
| 32,045.84 | Payroll Account | 136021 |
| 547.88 | Payroll Account | 2239 |
| 41.91 | Payroll Account | 126103 |

Total WATER & SEWER BILLS \$79,684.95

TRUST ACCOUNT

| | | |
|----------|--------------------------------------|--------|
| 763.75 | Pellow, Harold & Asso, Inc | 3127 |
| 1,333.33 | Sloan, James P, P.C., Inc. | 3128 |
| 450.00 | Vogel, Chait, Collins, Schneider, PC | 3129 |
| 103.93 | Simon Peter Sport | 3130 |
| 339.00 | J. Caldwell & Associates, LLC | 3131 |
| 406.94 | Nimco Inc | 3132 |
| 231.44 | Aquiring Enterprises LLC | 3133 |
| 962.51 | Payroll Account | 137112 |

Total TRUST ACCOUNT BILLS \$4,590.90

FEDERAL/STATE GRANTS

| | | |
|----------|----------------------|------|
| 84.24 | Weis Markets, Inc. | 1135 |
| 382.13 | Home Depot Inc | 1136 |
| 1,182.00 | Screen Creation Plus | 1137 |
| 344.50 | Dominick's Pizza LLC | 1138 |
| 645.00 | Intellishred | 1139 |

Total FEDERAL/STATE GRANTS BILLS \$3,267.87

DEVELOPERS ESCROW ACCOUNT

| | | |
|--------|--------------------------------------|------|
| 862.50 | Vogel, Chait, Collins, Schneider, PC | 1130 |
| 540.00 | Ferriero Engineering Inc. | 1131 |
| 169.50 | J. Caldwell & Associates, LLC | 1132 |

Total DEV. ESCROW BILLS \$1,572.00

RESOLUTION #88-2013*

PROVIDE EMERGENCY APPROPRIATION IN THE TOWN OF NEWTON 2013 BUDGET

WHEREAS, an emergency has arisen with respect to pool repairs and no adequate provision was made in the 2013 budget for the aforesaid purpose; and

WHEREAS, N.J.S. 40A:4-48 provides for the creation of an emergency appropriation for the purpose above mentioned; and

WHEREAS, the total amount of emergency appropriation(s) created including the appropriation to be created by this resolution is \$43,000.00 and three percent (3%) of the total operations in the budget for the year is \$277,644.89;

May 29, 2013

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton by not less than two-thirds (2/3) of all the members thereof affirmatively concurring, that in accordance with the provisions of N.J.S.A. 40A:4-48 that:

- 1) An emergency appropriation be and the same is hereby made for in the amount of \$43,000.00.
- 2) Said emergency appropriation shall be provided in full in the 2014 budget.
- 3) The Chief Financial Officer has certified that the expenditures to be financed through this resolution are related to the aforementioned emergency.
- 4) That an "Emergency Note" not in excess of the above amount be authorized pursuant to N.J.S.A. 40A:4-48 and in accordance with the provision of NJSA 40A:4-51.
- 5) That such note shall be executed by the Chief Financial Officer and by the Town Clerk
- 6) That said note be dated after May 29, 2013, and may be renewed from time to time, and such note and any renewals thereof shall be payable on or before December 31, 2014.
- 7) A certified copy of this resolution be filed with the Director of the Division of Local Government Services.

STATEMENT RE:
EMERGENCY RESOLUTION

This statement must be prepared in duplicate by the Chief Financial Officer or other responsible official, and must be filed with the Municipal Clerk prior to the adoption of the emergency resolution. The duplicate thereof must be filed with the Director of Local Government Services at the time of filing the emergency resolution.
Need of Emergency Appropriation:

In the spring of 2013 it was observed that the pool cover had ripped and further inspection revealed that much of the water had leaked out of the pool. The Town attempted to contact the vendor who had built the pool to come on site and advise regarding the pool leak. After multiple attempts, other vendors were contacted to determine why the water had leaked. RJR engineers advised that a hydrostatic valve needed replacement. This repair was performed.

On May 21st it was discovered that the plaster on the floor of the main pool area was popping up and had jagged edges. This had now become a health, welfare and safety issue. It was determined to declare an emergency so the necessary repairs could be performed prior to the pool opening on June 17, 2013.

Date of Occurrence: **May 21, 2013**

Have any contracts been awarded or purchase orders place in connection with this emergency appropriation? **NO**

Have any payments been made in connection with this emergency appropriation? **NO**
If costs are in excess of \$17,500 for either labor or materials, or both, will bids be advertised for? **Quotes have been solicited.**

If not, have resolutions been adopted declaring an exigency to exist which will not permit the advertisement for public bids? **YES**

Will work be performed by contract, force account or otherwise? **Contract.**

Signed: _____
Title: Chief Financial Officer

Dated: _____

May 29, 2013

The Clerk presented an application for an off-premise raffle (50-50) from the Newton Fire Department Ladies Auxiliary, 53 Woodside Avenue, Newton, N.J. to be held on August 15, 2013 at 8:00 p.m. and November 21, 2013 at 8:00 p.m. It was noted that the application was in order and accompanied by the prescribed fees.

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

| | | | |
|------------------------|-----|-------------|-----|
| Mrs. Becker | Yes | Mr. Elvidge | Yes |
| Deputy Mayor Ricciardo | Yes | Mr. Flynn | Yes |
| Mayor Diglio | | Yes | |

Deputy Mayor Ricciardo addressed concerns regarding the redevelopment plans which were addressed by Mr. Russo.

RESOLUTION #78-2013

AUTHORIZE AWARD OF PLANNING SERVICES FOR THE AREA IN NEED OF REDEVELOPMENT STUDY AND PLAN FOR MCGUIRE CHEVROLET PROPERTY

WHEREAS, J. Caldwell & Associates, LLC was appointed as Town Planner for the Town of Newton for calendar year 2013 by the adoption of Resolution #250-2012 on December 10, 2012; and

WHEREAS, the Town of Newton has a need to utilize the services of J. Caldwell & Associates, LLC for planning services to conduct an Area in Need of Redevelopment Study and Plan for McGuire Chevrolet Property; and

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

WHEREAS, J. Caldwell & Associates, LLC has submitted a proposal dated April 25, 2013 outlining the services to be provided for an amount not to exceed \$40,000; and

WHEREAS, the Chief Financial Officer of the Town of Newton has certified that funds are available to support this contractual services agreement;

NOW, THEREFORE BE IT RESOLVED, that the Town Council of the Town of Newton hereby authorizes the Mayor and Clerk to execute an agreement with J. Caldwell & Associate, and LLC for planning services to conduct an Area in Need of Redevelopment Study and Plan for McGuire Chevrolet Property.

A motion of Mrs. Becker, to approved **RESOLUTION #78-2013**, seconded by Deputy Mayor Ricciardo and roll call resulted as follows:

| | | | |
|------------------------|-----|-------------|-----|
| Mrs. Becker | Yes | Mr. Elvidge | Yes |
| Deputy Mayor Ricciardo | Yes | Mr. Flynn | Yes |
| Mayor Diglio | | Yes | |

Deputy Mayor Ricciardo addressed concerns with regard to the warranty on the municipal pool. After a brief discussion, the consensus of the Council was to amend

the Resolution to include clarification on the plaster care verbiage as well as having the Town Manager obtaining a reasonable warranty on the contractor's work.

RESOLUTION #87-2013

AWARD EMERGENCY CONTRACT TO RJR ENGINEERING CO., INC., FOR THE RE-PLASTERING OF THE MAIN POOL AT MEMORY PARK

WHEREAS, the Town Recreation Supervisor, Kerry Deckert, has advised the Purchasing Agent, Debra J. Millikin, in writing (See attached) that repairs consisting of re-plastering the main Town pool are needed on an emergent basis and could not have reasonably been anticipated since the condition of the pool was not determined until the cover was recently removed which revealed the damage to the pool. Without the repairs being undertaken in short order the pool may not be able to open on June 17, 2013 as advertised or be available for use for the full season; and

WHEREAS, it is recommended by the Purchasing Agent, Debra J. Millikin and Recreation Supervisor, Kerry Deckert, that a contract for the re-plastering of the main pool be awarded on an emergency basis to RJR Engineering Co., Inc., in the amount of \$40,522.00; and

WHEREAS, the Chief Financial Officer, Dawn L. Babcock has certified that funds are available based on the attached certification; and

WHEREAS, approval of this resolution is subject to clarification of the exclusion of "plaster care" and the Town Manager shall discuss a warranty of a responsible term with RJR Engineering Co., Inc.

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton, that it hereby awards the contract for the re-plastering of the main pool to RJR Engineering Co., Inc., of Califon, NJ in the amount of \$40,522.00.

A motion of Mrs. Becker, to approved **RESOLUTION #87-2013**, as amended, seconded by Mr. Elvidge and roll call resulted as follows:

| | | | |
|------------------------|-----|-------------|-----|
| Mrs. Becker | Yes | Mr. Elvidge | Yes |
| Deputy Mayor Ricciardo | Yes | Mr. Flynn | Yes |
| Mayor Diglio | | Yes | |

DISCUSSION

a. MUNICIPAL ELECTION- MOVE FROM MAY TO NOVEMBER

Lorraine Read, Municipal Clerk, made a presentation and provided a cost analysis for the concept of moving the Municipal Election from May to November. Mrs. Read provided the Governing Body with a detailed outline of the May Municipal Election costs. Mrs. Read indicated that the total cost from our previous Municipal Election was \$15,292.30. By moving the Election to November, with NO extra cost to the Town, the Town saves \$15,292.30, without cutting the cost of a service (the Election would be in November). In addition, it would result in a higher turnout in our Municipal Election. It was noted that Sparta Township and Byram Township, both Faulkner Act Communities, moved

May 29, 2013

their elections to November. Mrs. Read provided statistics on the results from Sparta and Byram which showed a higher turnout for Municipal Election. Mrs. Read outlined some ideas for the use of the savings.

After a brief discussion, the majority of the Town Council decided to keep the Municipal Election in May due to the non-partisan component of the Election.

Marge McCabe, Sussex County Election Administrator, noted that on a personal note she would like the election to stay in May.

JULY 8TH MEETING CANCELLATION

Mr. Russo requested that the July 8th Council meeting be cancelled. Council has a meeting on July 1st (Reorganization Meeting) and will have a meeting on July 22nd. Council unanimously approved cancelling the July 8th Council meeting. The Municipal Clerk will send a notice to the newspaper.

OPEN TO THE PUBLIC

Mayor Diglio opened the hearing to the public.

Wayne McCabe, 125 High Street, commended Mrs. Read on the presentation and statistics related to the Municipal Election. Mr. McCabe noted his support of keeping the Municipal Election in May.

Anwar Qarmout, 45 Woodside Avenue, commended Mrs. Read on her presentation and agrees that the savings of \$15,000 is significant and supports moving the Municipal Election to November. It's a "win-win" situation for the taxpayers, Mr. Qarmout stated.

There was no one else from the public to be heard, the hearing was closed.

COUNCIL & MANAGER COMMENTS

There were no comments.

There being no further business to be conducted, upon motion of Deputy Mayor Ricciardo, seconded by Mr. Elvidge and unanimously carried, the meeting was adjourned at 11:19 p.m.

Respectfully submitted,

Lorraine A. Read, RMC
Municipal Clerk