

August 11, 2008

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

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

Mayor Ricciardo led all present in the Lord’s Prayer and the Pledge of Allegiance to the flag. The Clerk called the roll and upon completion of same, upon motion made by Mrs. Unhoch, seconded by Mr. Elvidge and carried that the minutes of June 2, 2008 (Work), June 9, 2008 (Regular and Work), and June 17, 2008 (Executive Session) were approved. Mrs. Le Frois and Mrs. Becker abstained.

At this time, Mayor Ricciardo announced the swearing-in ceremony of Special Officer Patrick Abello.

Ms. Kithcart stated Mr. Abello has been hired as a Special Class II Officer for the Newton Police Department and presented a brief bio. Ms. Kithcart indicated Mr. Abello attended the Cape May County Police Academy, graduated in January, 2008 and is currently employed as a Security Officer at Newton Memorial Hospital. Mr. Abello is certified in CPR, Water Rescue and the incident command system. Ms. Kithcart welcomed and congratulated Mr. Abello on his new position for the Town of Newton.

Mrs. Read, Town Clerk performed the swearing-in ceremony and the Governing Body welcomed Mr. Abello and wished him well on his new appointment.

Under Reading of Ordinances, Mayor Ricciardo directed the Clerk to

August 11, 2008

read aloud the following Ordinance relative to final adoption.

**ORDINANCE #2008-17**

**AN ORDINANCE TO AMEND CHAPTER III OF THE REVISED GENERAL ORDINANCES OF THE TOWN OF NEWTON ESTABLISHING THE NEWTON POLICE DEPARTMENT AND ITS COMPOSITION.**

BE IT ORDAINED by the Town Council of the Town of Newton that Chapter III of the Revised General Ordinances of the Town of Newton is hereby amended and supplemented in full as follows:

**3-1 Department Established**

- a. The Police Department of the Town of Newton is hereby established and created and shall consist of a Police Chief, a maximum of three (3) Lieutenants, a maximum of four (4) Sergeants, a maximum of sixteen (16) Patrol Officers and Detectives and such other superior officers, and patrol persons as will be determined by the Town Manager from time to time as being proper and feasible for the Department. These members of the Newton Police Department shall be duly sworn.
- b. The Police Department shall also consist of certain civilian personnel to fill various positions, including but not limited to clerks, dispatchers, matrons and also special law enforcement officers, to be employed for special events, supplemental enforcement activity, and emergency purposes and otherwise. The Town Manager shall designate and thereafter appoint appropriate numbers of the above-mentioned civilian personnel as is deemed necessary for the efficient operation of the Police Department. Such civilian personnel shall not be members of the Department, except those who are designated as members by statute or ordinance. Special Law Enforcement Officers shall be duly sworn.

**3-2 Town Manager Designated as Appropriate Authority**

The Town Manager is hereby designated as the appropriate authority with the power to fix policies for the regulation and control of the Police Department. The Town Manager shall be responsible for the overall performance of the Police Department and shall adopt and promulgate rules and regulations for the government of the police force and for the discipline of its members.

**3-3 Chief of Police**

The head of the Police Department shall be the Chief of Police who shall be appointed by the Town Manager and who shall carry out such duties as the Town Manager shall assign to the Chief. The Chief of Police shall be directly responsible to the Town Manager for the efficiency and routine day-to-day operations of the Police Department and shall have the authority to assign day-to-day duties to members and other personnel of the Department. The Chief of Police shall keep the records of the Police Department in such manner and form as may be prescribed by the Town Manager and each month shall make reports in writing to the Town Manager as the Town Manager may require, of the operations and conduct of the Police

August 11, 2008

Department during the preceding month. The Chief shall also report, in writing, whatever information the Town Manager or the Chief of Police may deem necessary to impart for the public benefit and the good of the Police Department. The Chief of Police shall recommend to the Town Manager rules and regulations for the conduct and discipline of the members of the Police Department and amendments to the rules and regulations as necessary. No person shall be appointed Chief of the Police Department unless, in addition to all statutory requirements, he or she has completed four (4) full years of high school and has completed the municipal Police Academy course of the State of New Jersey or an acceptable equivalent course. He shall have a thorough knowledge of the criminal statutes and laws of the State of New Jersey and of the Ordinances of the Town of Newton, and shall have the ability to prepare reports and direct and administer the Police Department.

The Chief of Police shall, among other duties:

- a. Administer and enforce rules, regulations, and special emergency directives for the disposition and discipline of the force and its officers and personnel;
- b. Have, exercise and discharge the functions, powers and duties of the force;
- c. Prescribe the duties and assignments of all subordinates and other personnel; and
- d. Delegate such authority as he/ she may deem necessary for the efficient operation of the force to be exercised under his or her direction and supervision.

### **3-4 Duties of the Department**

The Police Department shall:

- a. Preserve the public peace, protect life and property, prevent crime, detect and arrest offenders against the penal laws and ordinances effective within the Town, suppress riots, mobs and insurrections, disperse unlawful or dangerous assemblages and preserve order at all elections, public meetings and assemblages;
- b. Administer and enforce laws and ordinances to regulate, direct, control and restrict the movement of vehicular and pedestrian traffic and the use of the streets by vehicles and persons to protect the safety and facilitate the convenience of motorists and pedestrians;
- c. Remove or cause to be removed all nuisances in the public streets, parks and other public places, inspect and observe all places of public amusement or assemblage and all places of business requiring any state or municipal license or permit and report thereon to the appropriate department;
- d. Provide proper police attendance and protection at fires;
- e. Provide for the attendance of its members in court as necessary for the prosecution and trial of persons charged with crimes and offenses and cooperate fully with the law enforcement and prosecuting authorities of federal, state and county governments;
- f. Operate a training program to maintain and improve the efficiency of the members of the Department, subject to the budgetary approval of the Town Council;
- g. Administer and enforce the rules and regulations for the disposition, conduct and discipline of the Department; and
- h. Be responsible to the Town Manager for all equipment and property of the Police Department and preserve, maintain and protect all such equipment and property in good order and useful condition and render a strict account thereof when called for by the Town Manager.

### **3-5 Qualifications and Appointment**

Each applicant for a position in the Police Department shall possess the qualifications required by N.J.S.A. 40A:14-122, *et seq.*, N.J.S.A. 40A-14-123.1, *et seq.*, as amended and any other applicable statutes. The minimum age for appointment shall be 18 years and the maximum age shall be 35 years old, except as set forth in N.J.S.A. 40A:14-127.1, *et seq.* With the approval of the Town Manager, the Chief of Police may establish additional qualifications and requirements relating to level or nature of experience, training, or particular expertise for applicants for particular positions, which the Police Department seeks to fill. All such additional qualifications shall be clearly specified in advertisements for the open position. The Town Manager may also require that an applicant for appointment to the Police Department shall successfully complete a physical, mental and psychological examination. All appointments of new officers or employees of the Department, and all promotions, shall be made by the Town Manager, after receipt of reports or recommendations, if submitted, from the Police Chief.

### **3-6 Term of Office**

The term of the permanent sworn officers employed in the Department shall be for the time that good behavior and efficiency is maintained. Every newly appointed officer shall serve a probationary period, which shall run until the later of (a) 12 months from the start of employment as an officer; or (b) six months of service after successful completion of the course at a New Jersey-certified police training academy unless otherwise required under applicable statute or regulation. No member shall serve as an officer or a member of the Department after attaining the age of 65 years. Probationary officers may be removed from employment by the Town Manager at any time during their probationary period or at its conclusion upon notice and an opportunity to be heard.

### **3-7 Special Law Enforcement Officers**

Pursuant to N.J.S.A. 40A:14-146.10, *et seq.* (P.L. 1985, c. 439), as amended from time to time, the Town Council may appoint special law enforcement officers who shall be so designated. Such appointments shall be for one year or such lesser time as the Town Council may specify at the time he/she makes any such appointment. Such special law enforcement officers, when assigned to duty by the Chief of Police shall, within the scope of such assignment, have all the powers and duties of regular police officers (except as limited by N.J.S.A. 40A:14-146.14 or other applicable statute), but shall not be members of the Police Department. Special law enforcement officers shall receive such compensation as the Town Council shall fix, shall be subject to call of duty by and shall be under the supervision and direction of the Chief of Police, or in the absence of the Chief, by and of the Acting Police Chief, if any, or the next highest ranking superior officer in the Police Department. While on duty and service to the municipality, special law enforcement officers shall devote themselves exclusively thereto. Special law enforcement officers shall be governed by the rules and regulations of the department and shall be subject to disciplinary action under the same established procedures.

### **3-8 Acting Police Chief**

August 11, 2008

In the event the Chief of Police is absent or goes on voluntary temporary leave, he or she shall, if the Chief deems it necessary for the efficient operation of the force, designate a member of the Police Department to act as Chief of Police until the Chief of Police returns to duty. In case of death, removal, suspension, incompetency or resignation of the Chief of Police, or if the Town Manager determines that the Chief of Police is incapable of making such designation, the Town Manager shall designate the person to act as Chief until the Chief of Police returns to duty or until a successor is appointed. The person so designated shall be charged with and perform all the duties of the Chief of Police while so acting. Such temporary appointment shall not increase the compensation of the person so designated.

### **3-9 Adult School Crossing Guards**

- a. The Town Manager may, in his/her discretion, appoint persons at least 18 years of age as school crossing guards in such numbers as the Town Manager may determine. No person shall be appointed as a school crossing guard unless such person:
  1. Is a citizen of this State;
  2. Is sound in body and of good health;
  3. Is of good moral character;
  4. Has not been convicted of any criminal offense involving moral turpitude; and
  5. Has been certified as eligible by the Chief of Police.
- b. School crossing guards shall be appointed for terms not exceeding one year. The Town Manager may revoke any such appointment for cause and after proper hearing. The powers and duties of a school crossing guard shall cease at the expiration or termination of the term for which the guard was appointed.
- c. School crossing guards shall not be members of the Police Department, but shall be under the supervision and direction of the Chief of Police and shall comply with the rules and regulations applicable to the conduct and decorum of regular police officers. They shall perform their duties only in the Town of Newton.
- d. School crossing guards shall not have the right to bear firearms or the power of arrest.
- e. Every school crossing guard shall receive such training and uniform as provided by law.

### **3-10 Rules and Regulations**

The Town Manager shall from time to time as in his/her judgment may seem necessary, adopt and amend the rules and regulations for the conduct and discipline of the Police Department and members thereof. The Town Manager shall distribute copies of any newly adopted rule, regulation or amendment promptly after its adoption to the Chief of Police. Any such rule, regulation or amendment shall take effect 30 days after adoption unless the Town Manager shall declare, in his/her adoption that an emergency exists which requires a rule, regulation or amendment to take effect immediately. Said rules and regulations may fix and provide for the enforcement of such rules and regulations and the enforcement of penalties for any violations. All members and employees of the Police Department shall be subject to such rules, regulations and penalties.

### **3-11 Disciplinary Action**

- a. Disciplinary action shall be taken against members of the Police Department in accordance with N.J.S.A. 40A:14-147, applicable court decisions and the

August 11, 2008

rules and regulations adopted by The Town Manager pursuant to Subsection 3-10 above.

### **3-12 Oath of Office**

Each member of the Police Department shall, before entering upon the performance of his or her duties, take and subscribe an oath to bear true faith and allegiance to the government established in the State, to support the Constitutions of the United States of America and the State of New Jersey and to faithfully, impartially and justly discharge and perform all duties of his or her office, which oath or affirmation shall be filed with the Clerk within ten (10) days after appointment.

### **3-13 Contracted Off-Duty Employment**

#### 3-13.1 Purpose.

For the convenience of those persons and entities which utilize the services of off-duty law enforcement officers of the Newton Police Department and to authorize the outside employment of Town police while off duty, the Town hereby establishes a policy regarding the use of said officers.

- a. Members of the Police Department shall be permitted to accept police related employment for private employers or school districts only during off-duty hours and at such time as will not interfere with the efficient performance of regularly scheduled or emergency duty for the Town.
- b. Any person or entity wishing to employ off-duty police shall first obtain the approval of the Chief of Police, which approval shall be granted if in the opinion of the Chief, such employment would not be inconsistent with the efficient functioning and good reputation of the Police Department, and would not unreasonably endanger or threaten the safety of the officer or officers who are to perform the work.

#### 3-13.2 Escrow Accounts.

- a. Any person or entity requesting the services of an off-duty law enforcement officer in the Newton Police Department shall estimate the number of hours such law enforcement services are required, which estimate shall be approved in writing by the Chief of Police, and shall establish an escrow account with the Town Treasurer of the Town by depositing an amount sufficient to cover the rates of compensation and administrative fees set forth in section 3-13.4 for the total estimated hours of service.
- b. Prior to posting any request for services of off-duty law enforcement officers, the Chief of Police or his designee, shall verify that the balance in the escrow account of the person or entity requesting services is sufficient to cover the compensation and fees for the number of hours specified in the request for services. The Chief of Police shall not post a request for services from any person or entity unless all fees and compensation required in the manner described above have been deposited with the Town Treasurer. No officer shall provide any such services for more hours than are specified in the request for services.
- c. In the event the funds in such an escrow account should become depleted, services of off-duty law enforcement officers shall cease and requests for further or future services shall not be performed or posted until additional funds have been deposited in the escrow account in the manner prescribed above.
- d. The person or entity requesting such services shall be responsible for ensuring that sufficient funds remain in the escrow account in order to avoid any interruption in service.

August 11, 2008

### 3-13.3 Requests for Services

All requests to the Town for the services of off-duty law enforcement officers in the Newton Police Department for a period of one (1) week or longer shall be forwarded to the Chief of Police for posting at least ten days before such services are required. Any law enforcement officers, when so employed by the Town, shall be treated as an employee of the Town provided, however, that wages earned for outside employment shall not be applied toward the pension benefits of law enforcement officers so employed, nor shall hours worked for outside employment be considered in any way compensable as over-time.

### 3-13.4 Rates of Compensation; Administrative Fee; Payment for Services

- a. Rates of compensation for contracting the services of off-duty law enforcement officers shall be based on a rate close to that of time and one-half of Top Step Patrolmen as currently established by contract.
- b. An additional per hour fee is established to cover administrative costs, overhead, and out-of-pocket expenses of the Town of Newton in accordance with the hourly rate as currently set forth in Fee Schedule 21-1.5j.

### 3-13.5 Disclaimer

All ordinances, codes or parts thereof inconsistent with any of the provisions of this new section are hereby repealed to the extent of such inconsistency. If any section or provision of this chapter shall be held invalid by any court of competent jurisdiction, the same shall not affect the other sections or provisions of this chapter, except so far as the section or provision so declared invalid, which shall be inseparable from the remainder of any portion thereof.

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

**WHEREAS**, the Municipal Council of the Town of Newton desires to amend its regulations addressing the assessment of development fees authorized pursuant to the Fair Housing Act of 1985 (N.J.S. 52:27D-301, et seq.) and related regulations as enacted by the Council on Affordable Housing (COAH) so as to conform the ordinances of the Town of Newton to current regulatory criteria;

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

I. Chapter 18A, Land Use Procedures, Section 7 thereof, shall be amended as follows:

- a. Section 7.3(a)(iv) shall be amended to delete the two sentences beginning with ‘Estimates \* \* \*’ and ending with ‘\* \* \* assessor.’
- b. Section 7.4(a) shall be amended to replace the phrase ‘one half (.5) percent of the equalized assessed value for residential development’ with ‘one

August 11, 2008

and one-half (1.5) percent of the value of the unit(s) as determined in subpart (c) below, provided no increase in density is permitted.”

c. Section 7.4(b) shall be amended to replace the phrase “equalized assessed value” with “value calculated pursuant to subpart (c) hereof \* \* \*”. The paragraph entitled “Example” shall be deleted, to be replaced with the following:

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees would equal one and one-half (1.5) percent of value on the first two units, and six (6) percent of value for the additional two units. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.”

c. There shall be a new Section 7.4(c), as follows: “For purposes of calculating the fee due herein, value shall be set at the coverage amount of the Home Owner Warranty document of a for-sale unit, or, for rental units, the appraised value on the document utilized for construction financing; or, if the first two measures are not available, the equalized assessed value for residential development.”

d. There shall be a new Section 7.4(d), as follows: “Any documentation being relied upon by the developer/owner in the determination of the appropriate fee must be supplied by the developer/owner in advance of the request for a building permit. If the “equalized assessed value” must be used as the basis for calculating fees, the developer/owner must supply a complete set of building plans to the Municipal Assessor prior to issuance of a building permit so that the Municipal Assessor shall have at least ten days to review the plans to determine the estimated development fee. No building permit may be issued until this fee is calculated and payment made pursuant to Section 7.7(a).”

f. Section 7.5(a) shall be amended to replace the phrase “one (1) percent of the equalized assessed value for non-residential development” with “three (3) percent of the value of the unit(s) as determined in subpart (c) below, provided no variance for an increase in floor area ratio had been approved.” There shall be added to said Section the sentence: “If a variance for an increase in floor area ratio had been approved for certain units, a developer's fee of six (6) percent of the value of such units shall be required as determined in subpart (c) below.”

g. Section 7.5(b) shall be amended to replace the phrase “equalized assessed value” with “value calculated pursuant to subpart (c) hereof”.

h. There shall be a new Section 7.5(c), as follows: “For purposes of calculating the fee due herein, value shall be set at the Estimated Cost of Work as reported on the building permit issued by the municipal Construction Department, unless this is not applicable, in which case there shall be used the appraised value on the document utilized for construction financing; or, if the first two measures are not available, the equalized assessed value of the non-residential development.”

August 11, 2008

i. There shall be a new Section 7.5(d), as follows: “Any documentation being relied upon by the developer/owner in the determination of the appropriate fee must be supplied by the developer/owner in advance of the request for a building permit. If the “equalized assessed value” must be used as the basis for calculating fees, the developer/owner must supply a complete set of building plans to the Municipal Assessor prior to issuance of a building permit so that the Municipal Assessor shall have at least ten days to review the plans to determine the estimated development fee. No building permit may be issued until this fee is calculated and payment made pursuant to Section 7.7(a).”

j. Section 7.7(a) shall be deleted and replaced with the following language: “Fifty (50) percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of the certificate of occupancy.”

II. All ordinances or parts of ordinances heretofore adopted that are inconsistent with any of the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

III. If a court of competent jurisdiction shall act to void any part of this Ordinance, such act shall not affect the remainder of the Ordinance.

IV. This Ordinance shall take effect upon its passage and publication as required by law.

Mayor Ricciardo declared the hearing on Ordinance #2008-17 open to the public.

There being no one from the public to be heard, upon motion by Mayor Ricciardo, seconded by Mrs. Unhoch and carried, the hearing was closed.

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

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

BE IT RESOLVED by the Town Council of the Town of Newton that the above Ordinance be adopted in its entirety according to law.

Upon motion of Mrs. Le Frois, seconded by Mrs. Becker and carried,

August 11, 2008

that the Clerk be authorized and directed to advertise the above Ordinance according to law.

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

**ORDINANCE #2008-18**

**AN ORDINANCE AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION FOR THE PREPARATION OF A REVISION AND CODIFICATION OF ORDINANCES FOR THE TOWN OF NEWTON (NJSA 40A:4-53)**

**WHEREAS, the ordinance books of the Town of Newton need to be updated and proposals were received.**

**NOW THEREFORE BE IT ORDAINED,** by the Town Council of the Town of Newton, in the County of Sussex, State of New Jersey, that pursuant to NJSA 40A: 4-53, the sum of Twenty-one Thousand Dollars (\$21,000.00) is hereby appropriated for the preparation of a revision and codification of ordinances for the Town of Newton and shall be deemed an emergency appropriation as defined and provided for in NJSA 40A: 4-55;

**BE IT FURTHER ORDAINED,** that such appropriation and “special emergency notes” authorized to finance the appropriation shall be provided for in succeeding annual budgets by the inclusion of at least one-fifth (1/5) of the amount authorized pursuant to this act.

**BE IT FURTHER ORDAINED,** that a copy of this ordinance be filed with the Director of the Division of Local Government Services.

Mayor Ricciardo declared the hearing on Ordinance #2008-18 open to the public.

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

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

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

**BE IT RESOLVED** by the Town Council of the Town of Newton that the above Ordinance be adopted in its entirety according to law.

August 11, 2008

Upon motion of Mrs. Unhoch, seconded by Mrs. Becker and carried, that the Clerk be authorized and directed to advertise the above Ordinance according to law.

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

**ORDINANCE #2008-19**

**ORDINANCE FOR DETERMINING POSITIONS ELIGIBLE FOR THE DEFINED CONTRIBUTION RETIREMENT PROGRAM IN AND BY THE TOWN OF NEWTON IN THE COUNTY OF SUSSEX, NEW JERSEY.**

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

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

**BE IT RESOLVED** by the Town Council of the Town of Newton that the above Ordinance be introduced for the first reading, with hearing on same to be held on August 25, 2008.

Upon motion of Mrs. Becker, seconded by Mrs. Le Frois and carried, that the Clerk be authorized and directed to advertise the above Ordinance according to law.

There being no Old Business, under New Business, the Town Manager requested a resolution for the reappointment of Paul McAdam to the Construction Board of Appeals.

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

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

August 11, 2008

**RESOLUTION #137-2008**

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that Mr. Paul McAdam is hereby reappointed to a three year term on the Construction Board of Appeals, effective immediately with said term continuing to August 12, 2011.

The Town Manager requested a resolution to authorize issuance of a Water Sewer Capital Bond Anticipation Note.

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

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

**RESOLUTION #138-2008**

**WHEREAS**, Ordinance Nos. 1998-08, 1999-03, and 2000-06 previously adopted by the Town Council of the Town of Newton authorized the issuance of Bond Anticipation Notes to provide temporary financing for the Water Sewer Capital Fund, and

**WHEREAS**, three quotations were received for a \$328,000 Bond Anticipation Note at 11:00 a.m. on Wednesday, July 30, 2008 by the Finance Director as follows:

<u>Institution</u>	<u>Net Interest</u>
Sussex Bank	2.19 %
TD Bank, NA	2.80 %
Lakeland Bank	2.55 %

**WHEREAS**, the Chief Financial Officer accepted the quotation of Sussex Bank for a Bond Anticipation Note, totaling \$328,000.00 at a net interest cost of 2.19%, and a net interest payable of \$6,365.11, upon recommendation of bond counsel, and

**WHEREAS**, the appropriate Town Officials will execute said Note in the amount of \$328,00.00 with an interest rate of 2.19% dated August 6, 2008 for a term of 319 days due June 25, 2009;

**WHEREAS**, to comply with N.J.S.A. 40A:2-28 of the Local Bond Law, which requires that the Chief Financial Officer report certain information in writing to the Mayor and Council at the next council meeting, herewith attached is the Certificate of Determination and Award.

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that it does hereby authorize the issuance of said Bond Anticipation Note by the Chief Financial Officer and the execution of said note by the appropriate Town Officials.

August 11, 2008

The Town Manager requested a resolution for the denial of a renewal application for Harold R. Storm, Jr. for Taxicab Owner's License.

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

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

**RESOLUTION #139-2008**

**WHEREAS**, Harold R. Storm, Jr., t/a Chip's Taxi Limo & Courier, 203 Spring Street, Newton, New Jersey has submitted an application for renewal of his Taxicab Owner's License, his current license having expired on May 31, 2007, and

**WHEREAS**, said renewal application for the above Taxicab Owner's License had several deficiencies which were outlined by the Municipal Clerk in a letter to Mr., Storm dated July 31, 2008, and

**WHEREAS**, Mr. Storm's application lists his business address as 203 Spring Street, Apt. 8, Newton, New Jersey and the Town of Newton has received notification from Mr. Bernard Glow, owner of 203 Spring Street, Newton, New Jersey, that a business space is not rented, leased or occupied by either Mr. Harold Storm or Chip's Taxi, Limo & Courier;

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that it hereby denies the renewal of the Taxicab Owner's License application submitted by Harold R. Storm, Jr., 203 Spring Street Apt. 8, Newton, N.J. 07860, t/a Chip's Taxi, Limo and Courier based on the deficiencies noted as well as the mis-representation of said business address;

**BE IT FURTHER RESOLVED** that the applicant, Mr. Harold R. Storm, Jr., must cease the operation of Chip's Taxi Limo & Courier immediately;

**BE IT FURTHER RESOLVED** that failure to remain in compliance with all aspects of Chapter 9 of the Newton Revised General Ordinances, as well as the provisions of N.J.R.S. 46:16, will result in the issuance of summonses and monetary penalty.

The Town Manager requested a resolution to authorize the Mayor and the Municipal Clerk to execute an Agreement with PBA Local 138.

At this time, Mayor Ricciardo read the following public statement:

"The Newton Town Council is pleased to announce that the PBA Local

August 11, 2008

138 and the SOA Local 138 union contracts for the Newton Police have been settled for a four year period beginning January 1, 2008 through December 31, 2011. The Town is equally pleased that the negotiation process itself was mutually cooperative and that arbitration hearings were averted due to the persistence for settlement by both the Union Reps and our Town Manager.

In an effort to be competitive with other Sussex County municipalities, which is one of the stipulations of the pre-arbitration processes, a methodology for rate increases effective March 1<sup>st</sup> instead of January 1<sup>st</sup> was used for years 2008, 2009, and 2010, which lessens the budgetary impact while allowing for a more favorable rate increase to the base pay.

The new contracts represent a varied net annual percentage increase, depending on rank, from between 3.17% and 3.75% in 2008; 2.42% and 3.75% in 2009; 2.33% and 3.75% in 2010; and 2.5% and 3.85% in 2011. All four years are under the recent legislation which caps the amount to be raised by taxation at 4%.

In exchange for the salary increase, the union members will increase their copayment for dependent health care premiums from the present 5% to 7.5% in 2008 and to 10% in 2010. In addition, limitations have been placed on the benefits for all upcoming Police retirements relative to health insurance. The Council felt strongly that, in fairness to the Town of Newton taxpayers, and in keeping with what is becoming the norm in both the private and public sector, future salary increases should be offset, by a savings to the Town in the exorbitant cost of health and retirement benefits.

On behalf of the Newton Town Council, I would like to thank Police Union members here tonight on a job well done, and express our gratitude for the professional manner in which you represent Newton and the comfort

August 11, 2008

level you bring to our community. We look forward to a favorable working relationship with our Police Officers in the years ahead.

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

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

**RESOLUTION #140-2008**

**WHEREAS**, the Town Manager and representatives of PBA Local 138 have negotiated a four-year agreement covering calendar years 2008, 2009, 2010 and 2011 pertaining to Police Officers of the Newton Police Department, and

**WHEREAS**, said agreement for calendar years 2008, 2009, 2010 and 2011 has been agreed upon by both the Police Officers and the Town of Newton;

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that it hereby ratifies the above agreement and authorizes the Mayor and the Municipal Clerk to execute said agreements, in duplicate, with PBA Local 138.

The Town Manager requested a resolution to authorize the Mayor and the Municipal Clerk to execute an Agreement with the Superior Officers' Association of PB'A Local 138.

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

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

**RESOLUTION #141-2008**

**WHEREAS**, the Town Manager and representatives the Superior Officers' Association of PBA Local 138 have negotiated a four-year agreement covering calendar years 2008, 2009, 2010 and 2011 pertaining to Superior Police Officers of the Newton Police Department, and

August 11, 2008

**WHEREAS**, said agreement for calendar years 2008, 2009, 2010 and 2011 has been agreed upon by both the Superior Police Officers and the Town of Newton;

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that it hereby ratifies the above agreement and authorizes the Mayor and the Municipal Clerk to execute said agreements, in duplicate, with the Superior Officers' Association

The Town Manager requested a resolution to award contract for the beautification of Main Street Project, Phase III.

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

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

**RESOLUTION #142-2008**

**WHEREAS**, bids were publicly accepted and opened on August 6, 2008 at 10:00 a.m. for the proposed Beautification of Main Street Project, Phase III by the Town Engineer, Harold Pellow, and

**WHEREAS**, the Town Engineer reviewed the following bids for bid amount and compliance with bid specifications:

<u>Bidder's Names/Addresses</u>	<u>Bid Amount</u>
Tony's Concrete Constr. Co. 316 E. Kinney Street Newark, NJ 07105	\$314,968.00
Diamond Construction 35 Beaverson Boulevard Brick, NJ 08723	\$463,149.00

**WHEREAS**, the Town Engineer recommends the award of the contract to the low bidder, Tony's Concrete Construction Co. in the amount of \$314,968.00, and

**WHEREAS**, the Chief Financial Officer has certified that funds are available to support this project as per attached certification;

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that the contract for the Beautification of Main Street Project, Phase III be hereby awarded to Tony's Concrete Construction Co. of Newark, New Jersey in the amount of \$314,968.00 based on submission of the low bid as described above;

**BE IT FURTHER RESOLVED** that certified copies of this

August 11, 2008

Resolution be forwarded to the Town Engineer and the Bidders.

The Town Manager requested a resolution to approve Bills and Vouchers for payment.

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

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

### **RESOLUTION #143-2008**

**BE IT RESOLVED** by the Town Council of the Town of Newton that payment is hereby approved for all vouchers that have been properly authenticated and presented for payment, representing expenditures for which appropriations were duly made in the 2007 and 2008 Budgets adopted by this local Governing Body, including any emergency appropriations, and where unexpended balances exist in said appropriation accounts for the payment of such vouchers.

### **TOWN BILLS**

400,000.00	Water & Sewer Capital Account	810057
196,833.75	Depository Trust Company	810058
20.00	Sussex County Clerk's Association	24137
2,568.48	Delta Dental	24138
2,434.57	Delta Dental	24139
755.45	Vision Service Plan	24140
14,944.00	Selective Insurance Company	24141
500,000.00	Water & Sewer Operating Account	860035
169,334.13	Payroll Account	810059
1,036.70	E.A. Morse & Company	24142
298.73	Montague Tool & Supply	24143
7,455.10	Harold Pellow & Assoc., Inc.	24144
117.00	ABCCode Security	24145
168.72	Airmark Pools	24146
113.00	G & H Service	24147
21,851.71	JCP&L	24148
1,654.06	SCMUA	24149
7.89	Sussex County Plumbing	24150
35.00	EMBARQ	24151
271.36	EMBARQ	24152
160.00	EMBARQ	24153
254.33	EMBARQ	24154
1,916.50	Hollander, Hontz, Hinkes & Pasculli LLC	24155
609,631.69	County of Sussex	24156
20,092.44	County of Sussex	24157
51,969.54	County of Sussex	24158
12.60	Campbell's Small Engine	24159
319.00	D & E Service Center	24160

August 11, 2008

653.50	Lock & Key World	24161
12.76	Hayek's Market Inc.	24162
48.00	Peter J. Kays	24163
420.00	Willco, Inc.	24164
10.88	Sebring Auto Parts	24165
1,622.46	Newton Hockey c/o J. Hoffman	24166
228.00	S/NJ Dept. of Labor & Workforce Dev.	24167
197.23	Airgas East	24168
46.95	L-3 Comm. Mobile-Vision	24169
4,616.50	Boonton Tire Supply	24170
5,985.38	Weiner Lesniak	24171
195.31	Verizon Wireless	24172
35.99	Verizon Wireless	24173
210.00	Accurate Door, Inc.	24174
32,207.15	County of Sussex	24175
996.45	KME Fire Apparatus	24176
189.00	North Jersey Portable Toilets	24177
312.50	Alternate Power Inc.	24178
994.20	Nextel Communications	24179
120.00	Morris County Police Academy	24180
134.53	KayPrinting	24181
43.19	Advance Auto Parts	24182
56.92	Carquest	24183
116.00	Thomson West	24184
1,813.50	Buckman's Inc.	24185
592.19	Newton Electrical Services, Inc.	24186
320.00	Northeast Fire Protection, Inc.	24187
55.00	Dominick's Pizza	24188
6,443.87	Rachles/Michèle's Oil Company	24189
4,440.96	Taylor Oil Co.	24190
2,880.00	Government Management Advisors, LLC	24191
320.00	Dept. of Health & Human Services	24192

**CAPITAL**

36,353.18	Kevil Chevrolet	7190
23,177.51	Harold Pellow & Assoc., Inc.	7191
1,356.00	Hollander,Hontz,Hinkes&Pasculli,LLC	7192
303.12	Beaver Run Farms	7193
13,864.00	Office Business Systems, Inc.	7194
1.18	Cooper Electric Supply Co.	7195
254.84	Spectrum Communications	7196
19,988.00	BNK Restoration Co., Inc.	7197
925.22	Wayne Tile Company	7198

Total TOWN BILLS \$2,166,797.22

**WATER AND SEWER ACCOUNT**

12,103.12	Sparta Township Tax Collector	10236
750.00	Delta Dental	10237
124.81	Vision Service Plan	10238
74,306.53	Water & Sewer Capital Account	860034
31,694.88	Payroll Account	860035
370.07	Montague Tool & Supply	10239

August 11, 2008

216.57	Harold Pellow & Assoc. Inc.	10240
22,214.46	JCP&L	10241
1,805.00	Pumping Services	10242
286.44	SCMUA	10243
145.59	Sussex County Plumbing	10244
46.00	Paul Baldwin	10245
12.00	Paul M. Havens	10246
2,145.30	Coyne Chemical Corp., Inc.	10247
119.06	EMBARQ	10248
2,267.00	Garden State Laboratories, Inc.	10249
1,209.52	All Quality Contracting	10250
60.00	Ervin Lasso	10251
33.66	McGuire	10252
720.00	Treasurer, State of New Jersey	10253
196.00	Grinnell Recycle	10254
252.57	Verizon Wireless	10255
1,048.80	Univar USA, Inc.	10256
7,128.00	Passaic Valley Sewerage Comm.	10257
4,046.82	Main Pool & Chemical Company	10258
2,060.00	Alternate Power, Inc.	10259
360.41	Process Tech Sales & Service	10260
536.63	Pall Corporation	10261
13.84	Nestle Waters	10262
18.00	Eric Tompkins	10263
51.00	NSI Solutions	10264

**CAPITAL**

402,306.53	Sussex Bank	2105
1,236.51	Harold Pellow & Assoc., Inc.	2106
106,629.29	Underground Utility Corp.	2107

Total WATER & SEWER BILLS \$676,514.41

**TRUST**

9,478.60	Payroll Account	871016
7,722.33	Harold Pellow & Assoc., Inc.	2531
1,837.50	Hollander,Hontz,Hinkes&Pasculli LLC	2532
560.00	Weiner Lesniak	2533
645.00	Vogel, Chait, Collins, Schneider, PC	2534
1,650.00	Colleen Cunningham, Esq.	2535
115.94	Virginia Kelly	2536

Total TRUST ACCOUNT \$22,009.37

The Clerk presented an application for an on-premise raffle from the Literacy Volunteers of Sussex County, 61 High Street, Newton, New Jersey to be held on October 19, 2008 from 2:00 p.m. to 4:00 p.m. at Sussex County Community College, One College Hill Road, Newton. It was noted that the application was in order and accompanied by the prescribed fee.

August 11, 2008

The Governing Body had no objection to the issuance of an on-premise raffle to the Literacy Volunteers of Sussex County on October 19, 2008 from 2:00-4:00 p.m.

The Clerk presented an application for an off-premise raffle from Newton Memorial Hospital Foundation, 175 High Street, Newton, New Jersey to be held on November 22, 2008 at 6:30 p.m. at Newton Memorial Hospital, 175 High Street, Newton. It was noted that the application was in order and accompanied by the prescribed fee.

The Governing Body had no objection to the issuance of an on-premise raffle to the Newton Memorial Hospital Foundation on November 22, 2008 at 6:30 p.m.

The Clerk presented an application for a Special Permit for a Social Affair from the Greater Newton Chamber of Commerce, P.O. Box 386, Newton, New Jersey to be held on September 8, 2008 (Raindate September 9, 2008) from 7:00 p.m. to 10:00 p.m. to be held on Spring Street, Newton. It was noted that the application was in order, accompanied by the prescribed fee and approved by the Chief of Police.

The Governing Body has no objection (Mrs. Becker and Mrs. Le Frois abstain) to the issuance of a Special Permit for a Social Affair, by the Division of Alcoholic Beverage Control, to the Greater Newton Chamber of Commerce, Newton for September 8, 2008.

Under Manager's Reports, Ms. Kithcart read a request from the American Red Cross requesting permission to hold their semi-annual coin collection on Saturday, September 13, 2008 from 9:00 a.m. to 4:00 a.m. at the intersection of Sparta and Diller Avenues.

The Governing Body had no objection to granting permission to the American Red Cross to hold their semi-annual coin collection on Saturday, September 23, 2008.

August 11, 2008

Ms. Kithcart read a request from Merriam Avenue residents requesting permission to hold a Block Party on Saturday, August 23, 2008 with a raindate of Sunday, August 24, 2008. The residents are also requesting permission to have the street blocked off from vehicular traffic.

The Governing Body has no objection to granting permission for the residents of Merriam Avenue to hold a Block Party on August 23, 2008 and to have the street blocked off for vehicular traffic.

Ms. Kithcart indicated a special meeting of the Planning Board will be held Wed. at 7:00 p.m. which will include the adoption of the updated Master Plan.

Ms. Kithcart updated the Governing Body regarding the Main Street Beautification and Safe Routes to School project.

Ms. Kithcart indicated she will be traveling to Chester with Mrs. Millikin, Dave Simmons and Bill Grennille to meet with the Highlands Council relative to water allocation issues.

Ms. Kithcart indicated a meeting has been set up with PSE&G officials and the new Town Manager, Mr. Tom Russo, to discuss the impact of the power line project on the Town of Newton.

Ms. Kithcart indicated the Newton Fire Department has accepted their first two members into the Junior Fire Fighters program.

Ms. Kithcart updated the Governing Body regarding the Trinity/Mill Street paving project.

Ms. Kithcart announced that Morris Lake is 17' below spillway.

Mayor Ricciardo read the following Proclamation proclaiming our appreciation and gratitude to Eileen Kithcart for her exceptional dedicated service.

## **PROCLAMATION**

Eileen C. Kithcart

August 11, 2008

**WHEREAS**, Eileen C. Kithcart began her career with the town of Newton on July 12, 1971 as a part-time Clerk Typist for the Department of Urban Renewal, and

**WHEREAS**, Eileen served as a part-time Bookkeeper for the Housing Authority and Clerk for the Tax Assessor before becoming a full-time Administrative Assistant to Richard Deaney, Town Manager on July 5, 1977, and

**WHEREAS**, Eileen moved to the Finance Department in January 1980 as Supervisor of Accounts, and was named Newton's Finance /Municipal Treasurer on January 1, 1996, and

**WHEREAS**, Eileen was recognized on numerous occasions for her outstanding skills throughout her time in the Finance Department, and as a result was named Chief Financial Officer in the Fall of 2003, and

**WHEREAS**, just three short years later, Eileen's abilities were further recognized when she was appointed as Newton's eighth Town Manager on July 24, 2006, and

**WHEREAS**, some of her many accomplishments as Town Manager are the renovation of the Newton Pool House and Municipal Building, landscaping of the High Street Water Tank and Municipal Complex, improvements to the Memory Park fields, the implementation of the Visionary Plan and Redevelopment process for the Town, along with the completion of the Master Plan and the Mill Street Waterline Project;

**NOW THEREFORE, WE**, the Mayor and Town Council of the Town of Newton, hereby proclaim our deepest appreciation and gratitude to Eileen C. Kithcart for her dedicated service to the Town of Newton and the Community it serves for the past 37 years. We all admire her loyalty, leadership and most of all her friendship. We wish her health, happiness and joy in her retirement. Her presence in the Town Hall will be missed, but surely not forgotten. We hereby further proclaim, Friday, August 15, 2008 as "**Eileen Kithcart Day**" in the Town of Newton.

The Governing Body wished Ms. Kithcart very best in her retirement and thanked her for all her 37 years of service to the Town of Newton.

Ms. Kithcart read a prepared statement thanking everyone who attended her retirement party last Saturday. Ms. Kithcart stated, "the outpouring of accolades and heart-felt sentiments was overwhelming." Ms. Kithcart thanked the Council and employees for their support and respect and stated it was an honor and privilege to serve her hometown community for 37 years and will miss everyone.

Mayor Ricciardo declared the meeting open to the public.

August 11, 2008

Several residents of lower Spring Street addressed their concerns regarding an unlicensed taxicab business, Chip's Taxi, in their residential neighborhood.

Mr. Jeff Babcock, 16 Stuart Street, Newton questioned the enforcement of a Taxi business operating without a license in the Town of Newton. Mayor Ricciardo advised that this issue is being addressed by the Town Manager as well as several departments and will be addressed with Police Chief Tomasula as well.

There being no one else from the public to be heard, upon motion of Mr. Elvidge, seconded by Mrs. Becker and carried, the meeting was adjourned at 7:50 p.m.

Respectfully submitted,

Lorraine A. Read, RMC  
Municipal Clerk