

May 8, 2017

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

Mayor Diglio made the following declaration "in accordance with the Open Public Meetings Act, notice of this public meeting was given to the two newspapers of record and posted on the official bulletin board on December 31, 2016."

Mayor Diglio led the Pledge of Allegiance to the flag and the Deputy Clerk called the roll. Upon motion Mrs. Le Frois, seconded by Mr. Flynn and carried, the minutes for April 24, 2017 Regular and Executive meeting were unanimously approved.

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."

There being no one from the public to be heard, Mayor Diglio closed the hearing to the public.

PROCLAMATION S

a. Newton Boys Varsity Basketball

At this time, Mayor Diglio recognized the Newton Boys Varsity Basketball with a Proclamation:

PROCLAMATION

NEWTON BOYS VARSITY BASKETBALL

WHEREAS, the hard work and team effort exhibited by all of the members of the Newton High School Boys Varsity Basketball Team resulted in them earning the 2016-2017 New Jersey State Interscholastic Athletic Association, North 1, Section 2 Boys Basketball Sectional State Championship, and

WHEREAS, under the direction of Head Coach Dirk Kelly and Assistant Coaches Paul Filan, Joe Bolen and Ken Teets, the team with its 11 members takes pride in their 2016-2017 season with a record of 20 wins and 7 losses, securing the Northwest Jersey Athletic Conference Freedom Division Boys Basketball Championship; and

WHEREAS, the team's Captains Jason Heter and Charlie Maker, who were named to the First Team All - Area by Mugs Media, led their team to the State Championship, a first in the program's history and for a public school in Sussex County; and

WHEREAS, each of the team members and coaches should take pride in the part they played individually to create a winning overall team;

NOW, THEREFORE, We, the Mayor and Town Council of the Town of Newton do hereby proclaim our congratulations to the Newton Boys Varsity Basketball Team and their coaches for their outstanding season and wish them continued success in the future.

In witness whereof I have hereunto set my

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Hand and caused this seal to be affixed.

s/Sandra Lee Diglio

Attest: s/Teresa A. Oswin

Date: May 8, 2017

b. Coach Dirk Kelly

At this time, Mayor Diglio recognized Coach Dirk Kelly with a Proclamation:

PROCLAMATION

DIRK KELLY

WHEREAS, Dirk Kelly has had a long and successful career as a boys high school basketball coach; and

WHEREAS, during the 2016-2017 Dirk Kelly won his 300th career High School game as coach of the Newton Braves along with achieving the New Jersey State Interscholastic Athletic Association North 1, Section 2 and Boys Basketball Section State Championships; and

WHEREAS, Dirk has spent 16 of his 22 seasons of coaching with Newton beginning with a nine-year tenure in 1991 and returning for the last six; and

WHEREAS, during his tenure with Newton, Dirk has successfully led the team to several conference championships including Sussex County Interscholastic League crowns in 1996, 1998, and 1999 and the NJAC Colonial Division Championship in 2015 and 2016; and

WHEREAS, one of Dirk's proudest accomplishments was coaching his son Steven, while he scored over 1,000 points in 2014 season; and

WHEREAS, Dirk has been recognized for his outstanding coaching accomplishments by being named Mugs Media Coach of the Year for 2012-2013, 2015-2016 and 2016-2017 along with being named the New Jersey Herald's Boys Basketball Coach of the Year for 2016-2017; and

WHEREAS, Dirk is not only an outstanding coach, but Newton is proud to have him as a resident, where he along with his wife Jacqueline have raised their three sons, Thomas, Steven and Danny, and where Dirk has volunteered over the years coaching's Newton's Recreational Basketball Team;

NOW, THEREFORE, WE, the Mayor and Town Council of the Town of Newton, hereby congratulate Dirk Kelly on his outstanding coaching accomplishments and wish him good luck in all his future endeavors.

In witness whereof I have hereunto set my Hand and caused this seal to be affixed.

s/Sandra Lee Diglio

Attest: s/Teresa A. Oswin

Date: May 8, 2017

At this time Mr. Russo suggested a short break for photos to be taken in the lobby with the Council members and the team.

COUNCIL & MANAGER REPORTS

Mr. Russo asked Mr. David Simmons, of Harold E. Pellow & Associates, Inc. to come forward to update the Council on the Fox Hollow Watermain project.

Mr. Simmons started by stating there was an on-site meeting this morning at Fox Hollow. At this time the pipe is under the lake, connected at both ends, it is filled with water and chlorine, and it is currently disinfecting the main. The West Shore (Daggett Side) and the East Shore (Wyndemere Way Side) have both been connected and the restoration has taken place to

restore the areas where the connections were made. This morning the trees in the designated areas that were part of the DEP permit were being planted. The contractor has removed all the yellow silt curtains from the lake. We obtained a 5-day extension on our DEP permit to allow for some miscellaneous work to be completed. All the materials are out of the lake. Tomorrow the contractor along with Water department personnel will be flushing the chlorine out of the mains and taking bacteria tests, which take 24-hours to incubate, then they will perform pressure tests to verify the integrity of the pipe. Montana Construction is removing all the debris and equipment from the site. Ideally, they should have everything removed by late this week or early next week depending on weather.

Mr. Russo asked Mr. Simmons to update the Council on the financials of the project. Mr. Simmons advised they are working on the final quantities to prepare a change order. There were unanticipated unknown obstacles that amount to a substantial increase. He hopes to have the final figures in the next few weeks.

Mr. Simmons answered several questions posed by Mr. Flynn regarding the project. Deputy Mayor Levante acknowledged Mr. Simmons careful management and supervising of the project given the many difficulties the project had. Council thanked Mr. Simmons for his time.

ORDINANCES

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

ORDINANCE 2017-8

A FULLY FUNDED WATER SEWER CAPITAL IMPROVEMENT ORDINANCE IN THE AMOUNT OF \$990,000.00 FOR SPARTA AVENUE PUMP STATION IMPROVEMENTS IN THE TOWN OF NEWTON, COUNTY OF SUSSEX, NEW JERSEY

BE IT ORDAINED by the Town Council of the Town of Newton, in the County of Sussex, as follows:

Section 1 a. \$990,000.00 is hereby appropriated for Sparta Avenue Pump Station Improvements and all costs necessary therefore or incidental thereto from the following sources:

Water Sewer Utility - Reserve for Hook-Up Fees	\$871,900.00
Water Sewer Capital - Reserve for Pump Station Improvements	\$68,100.00
Water Sewer Capital - Capital Improvement Fund	\$50,000.00

Section 2. The Town hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Town is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services and is filed and available for public inspection in the office of the Clerk.

Section 3. This ordinance shall take effect as provided by the law.

Mayor Diglio opened the hearing to the public.

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

The aforementioned **ORDINANCE 2017-8** was offered by Mr. Flynn, who moved its adoption, seconded by Deputy Mayor Levante and roll call resulted as follows:

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

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

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

ORDINANCE 2017- 9

BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS IN AND BY THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING \$1,405,000 THEREFOR, AND AUTHORIZING THE ISSUANCE OF \$1,334,000 BONDS OR NOTES OF THE TOWN TO FINANCE PART OF THE COST THEREOF

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

Section 1. The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the Town of Newton, in the County of Sussex, New Jersey (the "Town") as general improvements. For the several improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$1,405,000 including the aggregate sum of \$71,000 as the several down payments for the improvements or purposes required by the Local Bond Law. The down payments have been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the several improvements or purposes not covered by application of the several down payments, negotiable bonds are hereby authorized to be issued in the principal amount of \$1,334,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

<u>Purpose</u>	<u>Appropriation & Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds & Notes</u>	<u>Period of Usefulness</u>
a) Excavation and construction of a concrete structural sill and improvements to sections of existing Dam Site #2 embankment including work and materials necessary therefor and incidental thereto	\$125,000 (Supplementing an appropriation of \$250,000 appropriated by Section 3(c) of Bond Ordinance 2011-5)	\$118,000 (Supplementing an authorization of \$237,500 appropriated by Section 3(c) of Bond Ordinance 2011-5)	15 years

Purpose	Appropriation & Estimated Cost	Estimated Maximum Amount of Bonds & Notes	Period of Usefulness
b) Drilling of two wells by DPW garage to monitor underground storage tank including work and materials necessary therefor and incidental thereto	\$35,000	\$33,250	40 years
c) Construction and improvement to boardwalk to connect trail in Andover Township to Hicks Avenue and Lower Spring Street including work and materials necessary therefor and incidental thereto	\$50,000 (Supplementing an appropriation of \$50,000 appropriated by Section 3(o) of Bond Ordinance 2010-7)	\$47,500 (Supplementing an authorization of \$22,500 appropriated by Section 3(o) of Bond Ordinance 2010-7)	15 years
d) Acquisition of backhoe with appurtenances including related costs and expenditures incidental thereto	\$100,000 (An additional \$100,000 will be appropriated from the Water Sewer Capital Account)	\$95,000	15 years
e) Acquisition of pickup truck for DPW with appurtenances including related costs and expenditures incidental thereto	\$40,000	\$38,000	5 years
f) Acquisition and installation of garage bay doors at DPW garages including work and materials necessary therefor and incidental thereto	\$40,000	\$38,000	15 years
g) Acquisition of crash trailers with LED arrow boards including related costs and expenditures incidental thereto	\$65,000	\$61,750	5 years
h) Demolition and construction of new firehouse #2 including work and materials necessary therefor and incidental thereto	\$855,000 (Supplementing an appropriation of \$950,000 appropriated by Section 3(b) of Bond Ordinance 2016-5)	\$812,250 (Supplementing an authorization of \$902,500 appropriated by Section 3(b) of Bond Ordinance 2016-5)	40 years
i) Acquisition of radios and pagers for the Fire Department including related costs and expenditures incidental thereto	\$45,000	\$42,750	10 years
j) Repair and resurface of roller hockey rink flooring and walls including work and materials necessary therefor and incidental thereto	\$50,000	\$47,500	10 years
TOTALS:	\$1,405,000	\$1,334,000	

The excess of the appropriation made for each of the improvements or purposes aforesaid over the grant and estimated maximum amount of bonds or notes to be issued therefor, as above

stated, is the amount of the down payment for each purpose. All improvements or purposes include all work and materials necessary therefor or incidental thereto.

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

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

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

- (a) The improvements or purposes described in Section 3(a) of this bond ordinance are not current expenses. They are all improvements or purposes that the Town may lawfully undertake as general improvements, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.
- (b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 29.75 years.
- (c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Town as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$1,334,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.
- (d) An aggregate amount not exceeding \$304,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purposes or improvements.

Section 7. The Town hereby makes the following covenants and declarations with respect to obligations determined to be issued by the Chief Financial Officer on a tax-exempt basis. The Town hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exemption from taxation of interest on the obligations, including, if necessary, the requirement to rebate all net investment earnings on the gross proceeds above the yield on the obligations. The Chief Financial Officer is hereby authorized to act on behalf of the Town to deem the obligations authorized herein as bank qualified for the purposes of Section 265 of the Code, when appropriate. The Town hereby declares the intent of the Town to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

Section 8. Any grant moneys received for the purposes or improvements described in Section 3 hereof shall be applied either to direct payment of the cost of the improvements or to payment of the obligations issued pursuant to this bond ordinance.

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

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

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

Mayor Diglio opened the hearing to the public.

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

The aforementioned **Ordinance 2017-9** was offered by Deputy Mayor Levante, who moved its adoption, seconded by Mrs. Le Frois and roll call resulted as follows:

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

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

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

ORDINANCE 2017-10

AN ORDINANCE ADOPTING A NEW CHAPTER 42 - REGISTRATION OF VACANT AND ABANDONED PROPERTIES

The aforementioned **ORDINANCE 2017-10** was offered by Mr. Flynn, who moved its introduction, seconded by Deputy Mayor Levante and roll call resulted as follows:

Deputy Mayor Levante	Yes	Mr. Elvidge	Absent
Mr. Flynn	Yes	Mrs. Le Frois	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 May 22, 2017.

OLD BUSINESS

There was no old business to discuss.

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 consent agenda.

RESOLUTION # 77-2017*

DESIGNATE OFFICIALS TO SIGN CHECKS FOR THE TOWN OF NEWTON - TOWNSHIP OF GREEN CONSOLIDATED MUNICIPAL COURT

BE IT RESOLVED by the Town Council of the Town of Newton, that the Municipal Court Administrator, Lucy M. DeLoreto, Municipal Court Deputy Court Administrator Aida Cahill, and the Municipal Court Hon. Judge, John E. Mulhern are hereby authorized to sign General Account checks and Bail Account checks for the Town of Newton and Green Township Consolidated Municipal Court.

RESOLUTION # 78-2017*

RESOLUTION AUTHORIZING REIMBURSEMENT OF TICKET & TOWING FEES TO SEELY BROTHERS FLAG

WHEREAS, Seely Brothers Flag had their vehicle ticketed and towed in the Town of Newton on March 7, 2017; and

WHEREAS, the amount paid to the Town of Newton for the parking violation was \$54.00 and the amount paid to D&E Service Center for towing of the vehicle was \$242.50; and

WHEREAS, the Town of Newton wishes to refund the fees paid by Seely Brothers Flag due to confusion and undue hardship caused by the inaccurate line striping on the Town road at that time;

NOW, THEREFORE BE IT RESOLVED, that the Town Council of the Town of Newton authorizes Seely Brothers Flag to be paid \$296.50 for reimbursement from the Town of Newton for the costs of the parking violation and towing charges that occurred on March 7, 2017.

RESOLUTION # 79-2017*

TOWN OF NEWTON CERTIFICATION OF ANNUAL AUDIT

WHEREAS, N.J.S.A. 40A: 5-4 requires the Governing Body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

WHEREAS, the Annual Report of Audit for the year 2016 has been filed by a Registered Municipal Accountant with the Municipal Clerk pursuant to N.J.S.A. 40A: 5-6, and a copy has been received by each member of the Governing Body; and

WHEREAS, R.S. 52:27BB-34 authorizes the Local Finance Board of the State of New Jersey to prescribe reports pertaining to the local fiscal affairs; and

WHEREAS, the Local Finance Board has promulgated N.J.A.C. 5:30-6.5, a regulation that the Governing Body of each municipality shall, by resolution, certify to the Local Finance Board of the State of New Jersey that all members of the Governing Body have reviewed, at a minimum, the sections of the annual audit entitled “Comments and Recommendations”; and

WHEREAS, the members of the Governing Body have personally reviewed, at a minimum, the Annual Report of Audit, and specifically the section of the Annual Audit entitled “Comments and Recommendations”, as evidenced by the group affidavit form of the Governing Body attached hereto; and

WHEREAS, such resolution of certification shall be adopted by the Governing Body no later than forty-five days after receipt of the annual audit, pursuant to N.J.A.C. 5:30-6.5; and

WHEREAS, all members of the Governing Body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

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WHEREAS, the Chief Financial Officer has prepared, distributed and filed the Corrective Action Plan in accordance with Federal and State Guidelines; and

WHEREAS, failure to comply with the regulations of the Local Finance Board of the State of New Jersey may subject the members of the local Governing Body to the penalty provisions of R.S. 52:27BB-52 to wit:

R.S. 52:27BB-52: A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey a order of the director (Director of Local Government Services), under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more that one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office.

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton hereby states it has complied with N.J.A.C. 5:30-6.5 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

RESOLUTION # 80-2017*

RESOLUTION AUTHORIZING AN ESCROW AGREEMENT WITH NEWTON 121, LLC

WHEREAS, Newton 121, LLC (the "Entity") is the contract purchaser of real property located at 121 Water Street, Newton, New Jersey; and

WHEREAS, the Entity and the Town desire to explore the potential for the redevelopment of the property, and the Entity recognizes that the Town will incur costs and expenses in connection therewith, and is willing to defray those costs, with no assurance of a particular result from the Town; and

WHEREAS, the Entity has agreed to deposit funds with the Town to be administered in accordance with the terms of the form of Escrow Agreement set forth in Exhibit A, attached here;

NOW THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the Mayor is hereby authorized to execute the Escrow Agreement attached hereto and is hereby incorporated into this Resolution.

ESCROW AGREEMENT

THIS ESCROW AGREEMENT ("Agreement") is made as of the ___ day of _____, 2017, by and between **NEWTON 121, LLC**. (the "Entity"), a corporation formed under the laws of the State of New Jersey, with an address of c/o Ronetco Supermarkets Inc., 1070 U.S. Highway 46, Ledgewood, New Jersey 07852; and the **TOWN OF NEWTON**, a municipal corporation of the State of New Jersey (the "Town") and together with the Entity (the "Parties"), with an address at 39 Trinity Street, Newton, NJ 07860.

WITNESSETH:

WHEREAS, the Entity is the contract purchaser of real property located at 121 Water Street, Newton, New Jersey and have requested that the Town consider a redevelopment designation and plan for the property; and

WHEREAS, the Entity has agreed to cover the costs and expenses incurred by the Town in the Town's review, designation and planning processes, with no assurance of a particular result from the Town; and

WHEREAS, the Entity has agreed to deposit with the Town the amount of \$3,000.00 (the "Escrow Deposit"), to be deposited in an escrow account and disbursed in accordance with the provisions of this Agreement to defray certain costs and expenses incurred by or on behalf of the Town arising out of or in connection with, among other things, consideration of a redevelopment designation and plan at the Property.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, and intending to be legally bound hereby, the Parties hereto agree as follows:

- 1. Escrow Deposit.** The Escrow Deposit is separate from and in addition to all other application fees and escrow deposits that may be required by the Town, pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., as and to the extent applicable.
- 2. Scope of Reimbursable Services. (a)** The Town shall be entitled to be reimbursed for all professional charges incurred in connection with the review process defined above, the preparation and review of all related documents and materials, including but not limited to correspondence, meetings and all communications (including by telephone and email) with the Entity, the Entity's professionals, Town staff or retained professional(s) with respect to the Town's review process (collectively, the "Reimbursable Activities"). **Reimbursement may include charges incurred in connection with Reimbursable Activities prior to the date of this Agreement, and is not contingent upon the outcome of any negotiations between the Parties.**

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- (b) Properly reimbursable professional charges shall be reasonable and necessary and shall relate to Reimbursable Activities performed by outside consultants and professionals. Annexed hereto as **Schedule 1** is a schedule of rates to be charged by outside professionals and consultants retained by the Town as of the date of this Agreement.
3. **Deposit and Administration of Escrow Funds.** The Escrow Deposit and all additions thereto shall be held by the Town in a banking institution or savings and loan association in the State of New Jersey insured by an agency of the federal government, or in any other fund or deposit approved for such deposits by the State of New Jersey, in a segregated, non-interest bearing account (the "Escrow Account") referenced to in this Agreement.
4. **Payments from the Escrow Funds.**
- (a) The Town shall use such funds to pay reimbursable professional charges.
- (b) Professional charges paid out of the Escrow Account shall include professional charges in connection with the Reimbursable Activities. The only costs that shall be added shall be actual out-of-pocket expenses of such professionals or outside consultants, including normal and typical expenses incurred in connection with such Reimbursable Activities.
- (c) Each payment for professional services charged to the Escrow Account shall be pursuant to a voucher from the professional, identifying the personnel performing the Reimbursable Activities, each date the services were performed, the hours spent in not greater than one-tenth hour increments, the hourly rate, and specifically properly reimbursable expenses. All professionals shall submit the required vouchers or statements to the Town on a monthly basis in accordance with the schedule and procedures established by the Town.
5. **Accounting and Additional Deposits.** As reasonably requested by the Entity, the Town shall prepare and send to the Entity a statement which shall include an accounting of funds listing all deposits, disbursements and the cumulative balance of the Escrow Account.
6. **Close Out Procedures.** Upon termination of the Town's review, the Entity may send written notice to the Town, Town Manager and Town's Chief Financial Officer, requesting that the remaining escrow balance of the Escrow Deposit be returned, or otherwise transferred to another escrow account if appropriate. After receipt of such notice, the professional(s) shall render a final bill to the Town within 30 days; and within 30 days of receipt, the Town shall pay all outstanding bills and render a written final accounting to the Entity detailing the uses to which escrow funds were spent. The Entity will not be responsible for any additional professional(s) charges once the final accounting has been rendered by the Town.
7. **Disputed Charges.** (a) The Entity may dispute the propriety or reasonableness of professional charges paid out of the Escrow Deposit by written notice to the Town. A copy of such notice shall be sent simultaneously to the professional(s) whose charges or estimated costs are the subject of the dispute. Such written notice of a disputed charge shall be given within 45 days from the Entity's receipt of the informational copy of the professional's voucher, except that if the professional has not supplied the Entity with an informational copy of the voucher, then the Entity shall send notice within 60 days from receipt of the first statement of activity against the escrow account containing the disputed charge. Failure to dispute a charge in writing within the prescribed time shall constitute the Entity's acceptance of the charge and a waiver by the Entity of all objections to the charge and to payment thereof out of the escrow account.
- (b) During the pendency of a dispute, the Town may continue to pay undisputed charges out of the Escrow Account. If a dispute over a charge is resolved in the Entity's favor after having been paid, the Town shall reimburse the Escrow Account in the amount determined to be properly disputed.
8. **Governing Law.** This Escrow Agreement shall be governed, construed and enforced according to the laws of the State of New Jersey, without regard to its conflicts of laws principles. Any action hereunder shall be brought exclusively in a court of the State of New Jersey sitting in Sussex County, New Jersey, and the Entity hereby waives all objections to such venue.
9. **Successors and Assigns.** This Escrow Agreement shall be binding upon, and inure to the benefit of, the parties hereto and upon each party's successors and assigns.
10. **Entire Agreement; No Modification Unless in Writing .** This Escrow Agreement contains the entire agreement of the parties relative to the subject matter hereof. Any amendment hereto or modification or variation hereof shall be ineffective unless in writing signed by each of the parties hereto.
11. **Effective Date.** This Agreement shall not become effective unless and until the Escrow Deposit is made.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date and year first above written.

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Witness or Attest:

NEWTON 121, LLC

By: _____

Witness or Attest:

TOWN OF NEWTON

Teresa A. Oswin, RMC
Deputy Municipal Clerk

By: _____
Sandra L. Diglio, Mayor

RESOLUTION # 81-2017*

TO CANCEL APPROPRIATION BALANCES IN THE WATER SEWER CAPITAL FUND

WHEREAS, certain Water Sewer Capital Improvement appropriation balances remain dedicated to projects now completed; and

WHEREAS, the Town Manager and other Town Officials have reviewed and determined there are no additional costs for these projects; and

WHEREAS, it is necessary to formally cancel said balances so the unexpended balances may be returned to each respective Capital Improvement Fund (CIF), or credited to Fund Balance, and any unused debt authorizations may be cancelled;

NOW, THEREFORE BE IT RESOLVED, by a majority of the full membership of the Town Council of the Town of Newton the following unexpended and dedicated balances of the Water Sewer Capital appropriations totaling \$6,939.00 be cancelled:

<u>Ordinance Number</u>	<u>Date Auth.</u>	<u>Project Description</u>	<u>Amount Cancelled</u>	
			<u>Funded</u>	<u>Unfunded</u>
2014-28	1/12/15	Waste Water Treatment Plant Building Roofs (to CIF)	\$6,939.00	

RESOLUTION # 82-2017*

APPROVE FIREWORKS DISPLAY AT MEMORY PARK FOR NEWTON DAY 2017

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, NJ 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 10, 2017 as part of the annual "Newton Day" celebration with a raindate of June 17, 2017; and

WHEREAS, Sussex County Fire Marshal Virgil Rome, has advised 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 10, 2017, with a raindate of June 17, 2017 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 Virgil Rome.

RESOLUTION # 83-2017*

APPROVE BILLS AND VOUCHERS FOR PAYMENT

BE IT RESOLVED by the Town Council of the Town of Newton that payment is hereby approved for all vouchers that have been properly authenticated and presented for payment, representing expenditures for which appropriations were duly made in the 2016 and 2017 Budgets adopted by this local Governing Body, including any emergency appropriations, and where unexpended balances exist in said appropriation accounts for the payment of such vouchers.

TOWN BILLS

117.00	ABCODE SECURITY INC.	38147
200.00	ADAM VOUGH	38148
200.00	ALEX ARMSTRONG	38149
2,603.49	AMERICAN COACHWORKS LLC	38150
95.00	APSA	38151
200.00	ARMSTRONG, ADAM	38152
1,518.21	ATLANTIC TACTICAL INC.	38153
194.86	BOONTON ITRE SUPPLY INC.	38154
2,033.99	CAMPBELL'S SMALL ENGINE INC.	38155
60.00	CENTER FOR PREVENTION & COUNSELING	38156
125.85	CENTURYLINK COMMUNICATIONS, INC.	38157
3,594.17	CENTURYLINK COMMUNICATIONS, INC.	38158
1,770.00	CHELBUS CLEANING CO., INC.	38159
548.86	CINTAS FIRE PROTECTION	38160
2,613.94	COMPASS ENERGY GAS SERVICES, INC.	38161
278.00	DANIELSON, DEBORAH	38162
27.75	FEDERAL EXPRESS	38163
192.00	GOLD TYPE BUSINESS MACHINES	38164
1,201.58	HAGAMAN, WILLIAM	38165
165.00	HAYDEE BALLESTER	38166
36.71	HAYEK'S MARKET INC.	38167
1,069.26	HOME DEPOT, INC.	38168
354.00	HOME DEPOT, INC.	38169
1,033.00	J. CALDWELL & ASSOCIATES, LLC.	38170
200.00	KITHCART, BROCK	38171
20.00	KRAVE CAFÉ	38172
3,792.00	LADDEY, CLARK & RYAN, LLP	38173
125.00	LEAL, ALVARO	38174
14.24	LOWE'S INC.	38175
1,309.42	MAGARINO FORD, LLC.	38176
54.24	MCGUIRE, INC.	38177
231.00	MGL FOMS - SYSTEMS, LLC.	38178
1,500.00	MICROSYSTEMS-NJ COM, LLC	38179
780.50	MINISINK PRESS INC	38180
3,890.00	L-3 COMM. MOBILE-VISION	38181
295.00	MUNICIPAL GRAPHICS INC	38182
329.00	MUNICIPAL RECORD SERVICE	38183
529.41	NEOPOST LEASING, INC.	38184
87.30	NEW JERSEY HERALD, INC.	38185
128.22	NEW JERSEY HERALD, INC.	38186
1,690.00	NEWTON BOARD OF EDUCATION	38187
61.32	NEWTON SCREEN PRINTING	38188
1,058.92	NJ DIV PENSION & BENEFIT	38189
348,597.00	NJMEBF	38190
2,293.99	PELLOW, HAROLD & ASSO, INC.	38191
729.70	PENTELEDATA	38192
3,000.00	PRIME TIME NEWTON SENIORS	38193
160.00	PROFESSIONAL TIRE & AUTO	38194
248.17	QUILL CORPORATION	38195
2,088.11	RACHLES/MICHELE'S OIL COMPANY, INC.	38196
101.55	READY REFRESH BY NESTLE	38197
68.96	REISINGER OXYGEN SERVICE, INC.	38198
590.00	RICCIARDI BROTHERS, INC.	38199
258.40	ROUTE 23 PATIO, LLC.	38200
325.00	ROUTE 23 PATIO, LLC.	38201
200.00	ROY LEYMAN	38202
4,142.10	SCHENCK, PRICE, SMITH, & KING, LLP	38203
931.90	SCMUA	38204
431.95	SEBRING AUTO PARTS, INC.	38205
175.00	SIGN-A-RAMA, INC.	38206

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1,445.20	SIGN-A-RAMA, INC.	38207
349.41	STAPLES BUSINESS ADVANTAGE, INC.	38208
200.00	STEVE ESTLER	38209
200.00	STRAWAY, RICHARD A. JR.	38210
200.00	STRAWAY, THOMAS	38211
140.00	SUSSEX CAR WASH INC	38212
600.00	SUSSEX COUNTY COMM COLLEGE FOUNDATI	38213
3,044.82	SUSSEX COUNTY ENGINEERING DIVISION	38214
1,684.61	TAYLOR OIL CO., INC.	38215
535.71	THE CANNING GROUP, LLC.	38216
219.50	THYSSENKRUPP ELEVATOR CORP.	38217
393.94	TIMMERMAN COMPANY, INC.	38218
158.64	TOYOTA/SUBARU/SCION OF MORRISTOWN I	38219
409.00	TREASURER, STATE OF NJ	38220
120.00	TRIMBOLI & PRUSINOWSKI, LLC.	38221
126.68	UNITED TELEPHONE/CENTURY LINK	38222
220.00	USA HOISTCO., INC.	38223
193.55	VERIZON WIRELESS, INC.	38224
1,014.40	VISION SERVICE PLAN	38225
975.00	VOGEL, CHAIT, COLLINS, SCHNEIDER, PC,	38226
200.00	WILLIAM OSWIN III	38227
200.00	WISTUBA, TRAVIS	38228
193,083.69	PAYROLL ACCOUNT	171033
142,762.50	JP MORGAN CHASE BANK	171032

CAPITAL

236.00	J. CALDWELL & ASSOCIATES, LLC.	8615
633.75	PELLOW, HAROLD & ASSO, INC.	8616

Total TOWN BILLS \$ 750,016.47

WATER AND SEWER ACCOUNT

77.77	CAMPBELL'S SMALL ENGINE INC.	16285
200.00	CARR, JOSEPH	16286
39.07	CENTURYLINK COMMUNICATIONS, INC.	16287
1,198.17	CENTURYLINK COMMUNICATIONS, INC.	16288
2,026.52	COMPASS ENERGY GAS SERVICES, INC.	16289
4,827.92	COYNE CHEMICAL CORP., INC.	16290
450.00	DELAWARE RIVER BASIN COMMISSION	16291
200.00	DUSTIN MCGARRY	16292
8,864.44	ENVIRONMENTAL PRODUCTS & SERVICES O	16293
3,609.00	GARDEN STATE LABORATORIES INC	16294
465.00	HAMPTON BODY WORKS, INC.	16295
64.18	HOME DEPOT, INC.	16296
366.42	INDUSTRIAL CHEM LABS & SER	16297
855.00	J. CALDWELL & ASSOCIATES, LLC.	16298
200.00	JAEKEL, KENNETH	16299
200.00	JASON VANDERGROEF	16300
18,107.97	JCP&L	16301
200.00	JOSEPH WHITE	16302
20.00	KRAVE CAFÉ	16303
585.10	LADDEY, CLARK & RYAN, LLP	16304
632.50	MINISINK PRESS INC.	16305
6,080.00	PASSAIC VALLEY SEWERAGE COMM.	16306
3,146.15	PELLOW, HAROLD & ASSO, INC.	16307
219.90	PENTELEDATA	16308
3,895.00	PUMPING SERVICES, INC.	16309
78.75	SCHENCK, PRICE, SMITH, & KING, LLP	16310
526.70	SCMUA	16311
175.00	SIGN-A-RAMA, INC.	16312
200.00	SISCO, JAMES	16313
325.61	STAPLES BUSINESS ADVANTAGE, INC.	16314
600.00	SUSSEX COUNTY COMM COLLEGE FOUNDATI	16315
159.89	SUSSEX COUNTY P & H, INC.	16316
871,900.00	WATER & SEWER CAPITAL ACCOUNT	176017
37,345.03	PAYROLL ACCOUNT	176016
359,944.62	JP MORGAN CHASE BANK	176015

CAPITAL

300.10 Pellow, Harold & Asso, Inc. 2442

Total WATER & SEWER Bills \$ 1,328,085.81

TRUST ACCOUNT

330.79	FOREMOST PROMOTIONS, INC.	3603
833.00	J. CALDWELL & ASSOCIATES, LLC.	3604
2,000.00	MUSKY TROUT HATCHERY	3605
1,404.75	PELLOW, HAROLD & ASSO, INC.	3606
216.09	RICHARDS, MICHAEL	3607
825.00	VOGEL, CHAIT, COLLINS, SCHNEIDER, PC,	3608
202.50	Payroll Account	177107

Total TRUST ACCOUNT Bills \$ 5,812.13

DEVELOPERS ESCROW(FUND 72) ACCOUNT

126.00	DOLAN & DOLAN, INC.	1276
487.50	MCMANIMON, SCOTLAND & BAUMANN, LLC	1277

Total DEVELOPERS ESCROW (FUND 72) ACCOUNT Bills \$ 613.50

FEDERAL/STATE GRANTS ACCOUNT

279.84	DANIELSON, DEBORAH	1362
25.48	STAPLES BUSINESS ADVANTAGE, INC.	1363
544.87	PAYROLL ACCOUNT	171109
428.23	PAYROLL ACCOUNT	171108
428.23	PAYROLL ACCOUNT	171107

Total FEDERAL/STATE GRANTS ACCOUNT Bills \$ 1,706.65

The Deputy Clerk presented an application for a permit for a social affair from the VFW Auxiliary Post #5360, to be held on Saturday, June 17, 2017 from 4:00 pm to 8:00 pm at the VFW, 85 Mill Street, Newton. It was noted the application was in order.

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

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

INTERMISSION - None

DISCUSSION

a. Keith Utter

Mr. Keith Utter, former Construction Official for the Town of Newton, came forward to give his thoughts on the revitalization of Spring Street. Mr. Utter gave an overview of his experience and knowledge in the construction field. He was a Construction Official for 25 years, lifelong resident of the county and has worked in the construction business for 45 years. Mr. Utter went on to state some of his observations and the long history of the economic decline in

Newton. He offered the suggestion of making the properties on Spring Street a Co-op or condominiums. He advised we need more volume in the Downtown and property owners should be held accountable in maintaining their properties. Mr. Utter offered his assistance to help.

Mrs. Le Frois stated her appreciation for the history and background Mr. Utter provided. She went on to say the Council has been having conversations about this topic for quite some time. The Town is frustrated with the State having jurisdiction over rooming houses and not providing some kind of relief for the tax exempt situation we face being the County Seat; also the ABC Liquor laws that are antiquated when you can go over the border to Warwick and open a restaurant with a liquor license in three days for \$1,200. Mrs. Le Frois also stated we have a developer looking to come to Town but the County won't help us put a light in at Hicks Avenue so it is stalling the project. She stated for every step we take forward, there are other agencies that cause us to take two steps back. We have been waiting for years for the State to clean up the Armory property. These are just a few examples.

Deputy Mayor Levante said he feels there is friction between different sects in Town. There is division among the people. Some would like Newton to be a quaint country town, but he feels we are a city. Being the County Seat, it brings in a lot of people because of the services it provides. Deputy Mayor Levante stated you need to provide the people with what they want so they shop here while visiting the many services and also come back. He went on to say we have been more aggressive with our ordinances to have the landlords maintain their buildings. Deputy Mayor Levante also stated there is money to be made but we have to look beyond the traditional methods. We need the merchants to merge their brick and mortar shops with an online presence.

A brief discussion ensued amongst the Council and Mr. Utter noting efforts the Town has taken so far in an effort to revitalize the downtown area. The Council thanked Mr. Utter for his time and thoughts.

b. Draft Ordinances

i. Disabled Veterans Tax Refunds

Mr. Russo asked Ms. Leo to review the draft ordinance on the disabled veterans' tax refunds. Ms. Leo outlined the reasoning behind establishing a formal policy to provide a retroactive refund on property taxes for a person or his or her surviving spouse who has been declared to be a 100% disabled veteran by the United State Department of Veterans Administration. With this ordinance the retroactive time frame will be the year in which the disability determination is made plus the previous calendar year. This will cap the timeframe at up to 24 months. A brief discussion ensued with Ms. Babcock stating she would like to see it limited to the current year to keep it in the current budget. Council felt the 24 month cap was fair and advised Mr. Russo to include the introduction of the ordinance at the next meeting.

ii. Dumpsters

Ms. Leo stated currently the Zoning Officer is treating the regulation for dumpsters as a normal \$25 zoning permit. This ordinance will revise the regulations to state if the dumpster is placed in a public right-of way it cannot inhibit the flow of vehicular or pedestrian traffic and eliminates the supervisory or enforcement procedures. On for introduction at the next meeting.

OPEN TO THE PUBLIC _____

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

James Ciaravolo, 124 Spring Street came forward asking for clarification on the registration of vacant or abandoned properties. He wondered how it will affect the buildings on Spring Street which the storefronts are empty but they have tenants on the upper floors and would not be classified as vacant. Mr. Flynn clarified this ordinance is for properties that are truly abandoned, meaning the water is shut off, the gas has been shut off, the mail delivery has stopped. Mr. Flynn stated he understands Mr Ciaravolo's concerns and maybe we could look into if there is way to make the property owner's care more about their storefronts. Deputy Mayor Levante asked Ms. Leo for clarification as his interpretation of the ordinance would apply to the situation Mr. Ciaravolo described. Ms. Leo clarified the ordinance applies to properties which are totally vacant. They will be required to register. We do not have control of occupancy.

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

COUNCIL & MANAGER COMMENTS

Deputy Mayor Levante stated after the last meeting's discussion on 39 Halsted Street he reached out to Senator Steve Oroho and Assemblyman Parker Space and he was happy to say Newton did receive a response and some assistance and wanted to publicly thank the both of them.

Deputy Mayor Levante also wanted to thank Debbie Danielson for putting together the Newton Robotic's parade. It was well received and well attended. He also wanted to acknowledge Mayor Diglio for her assistance to the team in unloading the bus. She had started doing it by herself, and that is a great show of leadership by example. He went on further to note the BID criticism recently directed at Mayor Diglio was unwarranted and offered his appreciation for all she does. Mayor Diglio relayed her thanks.

Mr. Flynn spoke regarding potential businesses that would be a good fit for Spring Street. He would like to see more of a college presence by having possibly a welding or wood carving store. There is a wood carver in Fredon that he feels would be a great fit and proposed approaching him to see if he would loan some of his creations for display on Spring Street.

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Another idea proposed by Mr. Flynn was a bicycle repair shop. He went on to speak of his recent visit to Quebec City and their vibrant downtown. He would like for that to happen in Newton.

Mayor Diglio stated she has been spending a great deal on the internet researching retail and how it is affected by the internet. She notified the Greater Newton Chamber of Commerce about Mr. Utter speaking tonight and the topic, and none of the merchants chose to attend. She went on to say we need experience-based products and merchants need to be more creative and have a product line the people want and be open when people are available.

Mrs. Le Frois gave praise to all the great things that have been happening in Newton and she is disheartened by the ignorant negative comments Newton gets online. She also wanted to publicly thank everyone who helped out at the 7th Annual Neighbors Helping Neighbors event in April.

Mayor Diglio wanted to reiterate Mrs. Le Frois comments on Neighbor Helping Neighbors and stated she didn't realize how much parking was available behind the buildings on Spring Street.

Deputy Mayor Levante stated the Economic Development Commission will be meeting tomorrow night.

There being no further business to be conducted, upon motion of Mrs. Le Frois, seconded by Mr. Flynn and unanimously carried, the meeting was adjourned at 8:51 pm.

Respectfully submitted,



Teresa A. Oswin, RMC
Deputy Municipal Clerk