

August 23, 2010

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, Mr. Ricciardo, Mrs. Diglio, Mrs. Le Frois, Mayor Becker, Mr. William Hinkes, Esq., Town Attorney and Town Manager, Mr. Thomas Russo, Jr.

Mayor Becker made the following declaration that "in accordance with the Open Public Meetings Act, notice of this public meeting was given to the two newspapers of record and posted on the official bulletin board on December 31, 2009."

Mayor Becker led the invocation and Pledge of Allegiance to the flag. The Clerk called the roll and upon completion of same, upon motion of Mrs. Diglio seconded by Mr. Elvidge, the minutes of August 9, 2010 (Regular) meeting was approved as presented with an abstention by Mrs. Le Frois.

SWEARING-IN CEREMONY

Mr. Russo introduced Ms. Arlene Lippencott, Laura and George Lippencott, Arlene's parents as well as Stanhope Police Officer, Kurt Eller, Arlene's boyfriend.

Mr. Russo read the following biography for Arlene Lippencott.

"Arlene Lippencott is a 28 year old resident of Byram Township. She grew up locally in Stillwater Township and graduated from Kittatinny High School.

She attained a Bachelor of Science degree in Criminal Justice from York College in Pennsylvania where she earned recognition for being on the Dean's list each year of school. She is currently enrolled in the Masters program for Human Resources Training and Development at Seton Hall University in South Orange, NJ.

While in college, Arlene interned at the Sussex County Prosecutor's Office. Then, after graduation, Arlene gained more valuable work experience as a Detention Officer at the Morris County Detention Center.

In July of 2005, Arlene was hired by the Stillwater Township Police Department and in December of 2005 she graduated from the 22-week long 66th Basic Police Class at the Morris County Police & Fire Academy in Parsippany. In March 2009, she transferred to the Sparta Township Police Department where she was a full-time regular officer for over a year until being laid off in June 2010.

Arlene comes to the Newton Police Department as a fully trained professional career police officer. She has received additional training in many other areas as well, most significantly:

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- Certified Emergency Medical Technician (EMT);
- CPR/AED for the Professional Rescuer; Radar Operator;
- Black Bear Aversive conditioning training through NJ Division of Fish, Game & Wildlife; DWI Detection;
- Communications Analysis; and Spanish for Law Enforcement

For the 1st time in the 100-year history of the Newton Police Department, we will have our first female Class II Special Police Officer.

Arlene comes highly recommended by her past supervisors at both the Sparta and Stillwater Police Departments.

Her education, training, personality and experience will certainly prove to be assets to the Town of Newton."

Mr. Russo performed the swearing-in ceremony while Kurt held the bible, followed by the pinning of her badge.

Chief Tomasula congratulated Officer Lippencott and thanked the Governing Body for the opportunity to hire a professionally trained police officer and is looking forward to having her on staff.

Mr. Russo recognized the police officers in attendance and thanked them for doing a great job on a daily basis.

OPEN TO THE PUBLIC

Rev. Brian Handrich, Redeemer Lutheran Church, 37 Newton-Sparta Road, Newton, introduced himself to the Governing Body. Rev. Handrich stated he is actively pursuing having his Church become more active in the community and is seeking advice on where the Church could focus their efforts in order to help out the community. Mr. Russo invited Rev. Handrich to meet with him, in his office, for further discussion.

COUNCIL & MANAGER REPORTS

Mr. Russo read the following Proclamation proclaiming the week of September 19 – 25, 2010 as "Surgical Technologist Week."

PROCLAMATION

Surgical Technologist Week

September 19-25, 2010

WHEREAS, Surgical Technologists are allied health professionals, who are an integral part of the team of medical practitioners providing surgical care to patients; and

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WHEREAS, Surgical Technologists work under the supervision of a surgeon to facilitate the safe and effective conduct of invasive surgical procedures, ensuring that the operating room environment is safe, that equipment functions properly, and that the operative procedure is conducted under conditions that maximize patient safety; and

WHEREAS, Surgical Technologists possess expertise in the theory and application of sterile and aseptic techniques and combine the knowledge of human anatomy, surgical procedures, and implementation tools and technologies to facilitate a physician's performance of invasive therapeutic and diagnostic procedures;

*NOW THEREFORE, WE, the Mayor and Town Council of the Town of Newton, hereby proclaim our **Congratulations** to the graduating class of Sussex County Community College's Surgical Technologist Program for their hard work and successful completion of the program. We would also like to proclaim September 19-25, 2010 as:*

"Surgical Technologist Week"

ORDINANCES

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

ORDINANCE #2010-10

AN ORDINANCE TO AMEND CHAPTER 10 "TRAFFIC" OF NEWTON'S REVISED GENERAL ORDINANCES

WHEREAS, there is a need to amend Chapter 10, Traffic to accurately reflect current parking regulations;

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Newton, in the County of Sussex and State of New Jersey, that Chapter 10, entitled Traffic of the Revised General Ordinances of the Town of Newton be amended as follows:

CHAPTER 10

Shall be amended as follows:

10-13B.2 Permitted Parking Hours.

(b) Deleted.

10-13B.3 Penalties.

(b) Deleted.

10-12.2 Individual Spaces to be Outlined.

In the parking meter zones established in subsection 10-12.1, the town engineer shall outline by appropriate markings, individual parking spaces. The spaces shall be of a sufficient size to accommodate automobiles of the most current size and design. No parking meters shall be installed in locations where parking is prohibited pursuant to R.S. 39:4-138. The town engineer shall also provide for the installation of parking meters upon the curb adjacent to each of

the parking areas or spaces so created which, upon the deposit of a coin, coins or paper currency as provided in subsection 10-12.3, will indicate the duration of the legal parking period as established in this chapter and the time when the period has elapsed.

10-12.3 Parking Lot Fines.

Upon entering any parking meter space in a paid parking area zone as described in Schedule XII, the operator of the vehicle shall deposit the appropriate United States coin, coins or paper currency as set forth in subsection 21-1.5a.

10-12.4 Occupying a Space Beyond the Legal Time.

Upon the deposit of a coin, coins or paper currency as specified in subsection 10-12.3, and placing the metering device in operation, the parking space may lawfully be occupied by the vehicle during the period of parking time which has been prescribed for the part of the street or lot in which the parking space is located. If the vehicle remains parked in any parking space beyond the parking time limit fixed for the parking space, the vehicle shall be considered as parked over-time and beyond the period of legal parking time. Any person convicted of a violation of this subsection shall be subject to a penalty in the amount described in Schedule XIX attached to and made a part of this chapter.

10-12.5 Additional Rules and Regulations.

a. No owner or operator shall stand or park a vehicle in any parking space in any parking meter area between the hours of 8:00am and 6:00pm Monday through Saturday, without depositing sufficient coin, coins or paper currency in the designated parking meter to cover the period during which the vehicle remains standing or parked. The provisions of this subsection shall not be applicable on Sunday or any legal holiday, or the day designated for observance of a legal holiday.

10-14.2 Parking Meter Fees; Hours.

When any vehicle is parked in any metered space in any of the public parking lots enumerated in subsection 10-14.1 between the hours of 8:00am and 6:00pm on all week days and Saturdays, upon entering the parking lot, the operator of the vehicle shall deposit a proper United States coin, coins or paper currency in the denominations set forth in subsection 21-1.5c.

10-14.5 Additional Rules and Regulations.

a. No owner or operator shall stand or park a vehicle in any of the aforementioned parking lots at any time on any week day between the hours specified in subsection 10-4.2 without depositing sufficient coin, coins or paper currency in the designated meter to cover the period during which the vehicle shall remain standing or parked. All day parking passes may be used in lieu of depositing coin, coins or paper currency.

The provisions for chapter shall not be applicable on Sundays or any legal holiday or the day designated for the observance of any holiday, except as otherwise provided in subsection 10-14.3.

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

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

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

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

The Clerk will advertise the above Ordinance according to law.

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

ORDINANCE #2010-11

BOND ORDINANCE AMENDING BOND ORDINANCE NUMBERED 2007-22 OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY FINALLY ADOPTED SEPTEMBER 10, 2007 IN ORDER TO AMEND THE DESCRIPTION OF THE PROJECT.

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 One. Section 3(a) of Bond Ordinance numbered 2007-22 of the Town of Newton, in the County of Sussex, New Jersey (the "Town") finally adopted September 10, 2007 is hereby amended to read as follows:

(a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the improvement of municipal properties by the replacement of the roof of the Department of Public Works maintenance garage located on 117 Moran Street and the demolition of the storage building located on 27 Orchard Street, including all costs necessary therefor or incidental thereto.

Section Two. 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.

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

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

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

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

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

The Clerk will advertise the above Ordinance according to law.

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

ORDINANCE #2010-12

THIS ORDINANCE SECURES BONDS OR OTHER OBLIGATIONS ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THE REDEVELOPMENT AREA BOND FINANCING LAW AND THE LIEN HEREOF IS A MUNICIPAL LIEN SUPERIOR TO ALL NON-MUNICIPAL LIENS HEREINAFTER RECORDED

ORDINANCE AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT FOR CERTAIN PROPERTY WITHIN THE SPARTA AVENUE PLAN AREA

WHEREAS, the Mayor and Town Council (the "Governing Body") of the Town of Newton (the "Town") adopted Resolution No. 65-2005 on April 25, 2005, designating that certain property identified as Block 1104, Lot 21 on the Official Tax Map of the Town, commonly known as 56 Sparta Avenue (the "Property"), as an "area in need of redevelopment" (the "Redevelopment Area") under the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Redevelopment Law"); and

WHEREAS, the Governing Body adopted Resolution No. 70-2007 on April 23, 2007 determining that certain areas within the Town, including that certain area immediately adjacent to the Property and encompassing the public streets and rights-of-way of Sparta Avenue, Merriam Avenue and Pine Street, qualified as an "area in need of rehabilitation" under the Redevelopment Law (the "Rehabilitation Area"); and

WHEREAS, on March 23, 2009, the Governing Body finally adopted Ordinance 2009-6 implementing a redevelopment plan (as amended, the "Redevelopment Plan") for the Redevelopment Area and the above-described portion of the Rehabilitation Area (collectively, the "Sparta Avenue Plan Area"), finding, among other things, the Redevelopment Plan to be substantially consistent with the Master Plan for the Town; and

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WHEREAS, pursuant to Section 4 of the Redevelopment Law, the Town has determined to act as the "Redevelopment Entity" (as such term is defined at Section 3 of the Redevelopment Law) for the Redevelopment Area to exercise the powers contained in the Redevelopment Law to facilitate the development of the Project (as hereinafter defined); and

WHEREAS, the Redevelopment Plan provides, among other things, for the construction of a facility consisting of light manufacturing, research and development, office space and associated storage space and parking components on the Property, as well as the construction of street lighting, landscaping, sidewalk and other on- and off-site improvements in accordance with the requirements of the Redevelopment Plan (the "Project"); and

WHEREAS, the Project will consist of an initial phase encompassing the construction of not to exceed 125,000 square feet of office, light manufacturing, and research and development space, as well as associated storage space, ancillary surface parking, certain road improvements and water system improvements and the environmental remediation of the Property (collectively, the "Phase 1 Project"), and in the Redeveloper's (as defined below) sole discretion, up to two future phases; and

WHEREAS, in order to implement the development, financing, construction, operation and management of the Project, the Town entered into a redevelopment agreement with Thorlabs, Inc., Newton, New Jersey (the "Redeveloper") dated November 30, 2009, as amended (the "Redevelopment Agreement"); and

WHEREAS, in accordance with Section 8.05 of the Redevelopment Agreement, the Redeveloper assigned the Redevelopment Agreement to its affiliate, Thorlabs Urban Renewal, LLC, Newton, New Jersey (the "Entity") as of December 2, 2009; and

WHEREAS, the Entity has represented to the Town that the Phase 1 Project would not be feasible in its intended scope but for the provision of financial assistance by the Town; and

WHEREAS, in order to improve the feasibility of the Phase 1 Project, the Entity made an application for a long term tax exemption and financial agreement with respect to the Property (the "Application") pursuant to the Long Term Tax Exemption Law, *N.J.S.A. 40A:20-1 et seq.* (the "Tax Exemption Law"), which Application is on file with the Town Clerk; and

WHEREAS, after review of the Application together with redevelopment counsel, the Mayor and the Town Manager recommended that the Application be approved; and

WHEREAS, the Governing Body, together with the Town Manager and redevelopment counsel for the Town, have reviewed the terms of a proposed financial agreement (the "Financial Agreement"), a copy of which has been filed with the Town Clerk and which is attached hereto as Exhibit A and by this reference incorporated herein; and

WHEREAS, the Town hereby finds that the relevant benefits of the Phase 1 Project to the redevelopment of the Sparta Avenue Plan Area outweigh the loss, if any, of property tax revenue in granting the long term tax exemption for the Phase 1 Project; and

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WHEREAS, the Town hereby determines that the assistance provided to the Phase 1 Project pursuant to the Financial Agreement will be a significant inducement for the Entity to proceed with the Phase 1 Project and that based on information set forth in the Application, the Phase 1 Project would not be feasible without such assistance;

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

I. GENERAL

The aforementioned recitals are incorporated herein as though fully set forth at length.

II. APPLICATION FOR EXEMPTION APPROVED

The Application, which is on file with the Town Clerk and has been recommended for approval to the Town Council by the Mayor and the Town Manager, is hereby accepted and approved.

III. EXECUTION OF FINANCIAL AGREEMENT AUTHORIZED

(a) The Town Manager is hereby authorized to execute the Financial Agreement, substantially in the form as it has been presented to the Governing Body subject to modification or revision deemed necessary and appropriate in consultation with redevelopment counsel.

(b) The Clerk of the Town is hereby authorized and directed, upon the execution of the Financial Agreement in accordance with the terms of Section III (a) hereof, to attest to the signature of the Town Manager upon such document and is hereby further authorized and directed thereupon affix the corporate seal of the Town upon such document.

(c) The Town Clerk shall file certified copies of this ordinance and the Financial Agreement with the Tax Assessor of the Town and the Director of the Division of Local Government Services within the Department of Community Affairs in accordance with Section 12 of the Tax Exemption Law.

IV. SEVERABILITY

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Ordinance.

V. AVAILABILITY OF THE ORDINANCE

A copy of this Ordinance shall be available for public inspection at the offices of the Town.

VI. EFFECTIVE DATE

This Ordinance shall take effect according to law.

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

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

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

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

The Clerk will advertise the above Ordinance according to law.

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

ORDINANCE #2010-13

BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE 2009-29 OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY FINALLY ADOPTED DECEMBER 14, 2009 IN ORDER TO AUTHORIZE THE EXECUTION OF A TRUST AGREEMENT

WHEREAS, on December 14, 2009, the Mayor and Town Council (the "Governing Body") of the Town of Newton (the "Town") adopted Ordinance 2009-29 appropriating \$4,660,000 and authorizing the issuance of not to exceed \$4,660,000 bonds or notes of the Town (the "Initial Ordinance"); and

WHEREAS, the purpose of the appropriation and indebtedness authorized by the Initial Ordinance was to provide assistance to Thorlabs Urban Renewal, LLC, Newton, New Jersey ("Redeveloper") in its role as the designated redeveloper and urban renewal entity with respect to the development of a mixed-use research and development, office and light manufacturing facility (the "Project Improvements") at 56 Sparta Avenue, Newton, New Jersey pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Redevelopment Law") and that certain redevelopment plan adopted by the Town on March 23, 2009 by Ordinance 2009-6, as amended; and

WHEREAS, the obligations authorized by the Initial Ordinance (the "Obligations") are further authorized by Section 37 and Section 67 of the Redevelopment Law; and

WHEREAS, Section 67 of the Redevelopment Law provides in part that in order to provide further security for obligations authorized thereunder, a municipality may enter into a financial agreement governing the establishment and payment of payments in lieu of taxes, which financial agreement, if recorded in the county land records, establishes a lien on the benefited property for the benefit of the holders of the obligations; and

WHEREAS, the Town expects to enter into a financial agreement (the "Financial Agreement") with the Redeveloper governing payments in lieu of taxes with respect to the Project Improvements, which Financial Agreement is expected to be recorded in the office of the Sussex County Clerk; and

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WHEREAS, the Obligations authorized by the Initial Ordinance are full faith and credit, *ad valorem* obligations of the Town; and

WHEREAS, the Town wishes to enter into a trust agreement (the "Trust Agreement") with a corporate trust institution to apply and administer the payments in lieu of taxes to be received with respect to the Project Improvements under the Financial Agreement; and

WHEREAS, the Town further desires to provide in the Trust Agreement that in exchange for the full faith and credit, *ad valorem* pledge of the Town to the holders of the Obligations, the Town shall be deemed and treated for all purposes of the Redevelopment Law as the sole holder of the Obligations;

BE IT ORDAINED BY THE MAYOR AND 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 above recitals are incorporated herein as though fully set forth at length.

Section 2. The Initial Ordinance is hereby amended and supplemented to add the following section:

"Section 11. The appointment of a corporate trust institution by the Town to serve as trustee (the "Trustee") with respect to obligations authorized herein is hereby approved. The execution of a trust agreement (the "Trust Agreement") by and between the Town and the Trustee with respect to the obligations and the application and administration of the payments in lieu of taxes to be received with respect to the Project Improvements also is approved hereby. The Trust Agreement shall provide in relevant part that in exchange for the full faith and credit, *ad valorem* pledge of the Town to the bondholders with respect to the obligations authorized herein, the Town shall be deemed and treated for all purposes of the Redevelopment Law as the sole holder of the obligations. The Trust Agreement shall further contain such other provisions and matters of law as are deemed necessary and desirable by the Town, in consultation with bond counsel."

Section 3. All other provisions and sections of the Initial Ordinance remain unchanged and in full force and effect.

Section 4. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

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

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

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

This ordinance will take effect after publication and adoption according

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to law.

The Clerk will advertise the above Ordinance according to law.

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

ORDINANCE #2010-14

AN ORDINANCE RESCINDING ORDINANCE 2010-2

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

Mr. Elvidge	Yes	Mr. Ricciardo	Yes
Mrs. Diglio	Yes	Mrs. Le Frois	Yes
	Mayor Becker	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 Wednesday, September 15, 2010.

The Clerk will advertise the above Ordinance according to law.

OLD BUSINESS

There was no old business to discuss.

CONSENT AGENDA

Mayor Becker 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. Ricciardo requested Resolution #141-2010 to be removed from the Consent Agenda for separate discussion.

RESOLUTION #136-2010*

AUTHORIZE EXTENSION OF PAYMENT OF REAL ESTATE TAXES

WHEREAS, the Sussex County Board of Taxation certified the 2010 tax rate for the Town of Newton on August 5, 2010 and as a result, the tax bills for the third installment could not be mailed by June 15th, but were mailed instead on August 11, 2010; and

WHEREAS, the intent of NJSA 54:4-64 is to assure that taxpayers are given adequate notice of taxes due before penalties are invoked requiring payment of interest for delinquency under the provisions of NJSA 54:4-67; and

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WHEREAS, in fairness to the taxpayers of the Town of Newton, a twenty-five (25) day extension period to September 8, 2010 shall be provided, in accordance with NJSA 54:4-67 and NJSA 54:4-81, by establishing the interest rate for delinquency at zero percent (0%) from the certification date of mailing said tax bills; and

WHEREAS, interest shall revert back to August 1, 2010 after the twenty five (25) day extension period to provide consistency and compliance in accordance with NJSA 54:4-67;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that a twenty-five (25) extension period to September 8, 2010 is hereby granted for the August 2010 tax quarter by charging zero percent (0%) interest during said extension period;

BE IT FURTHER RESOLVED, that following the twenty-five (25) day extension period, interest shall be charged from August 1, 2010, in compliance with NJSA 54:4-67.

RESOLUTION #137-2010*

REAPPOINTMENT OF STANLEY GOLDSCHMIDT TO THE CONSTRUCTION BOARD OF APPEALS

WHEREAS, Mr. Stanley Goldschmidt currently serves as a member of the Town of Newton Construction Board of Appeals relative to Property Maintenance issues; and

WHEREAS, Mr. Goldschmidt's current term expired on August 12, 2010 and he has expressed an interest in continuing to serve another three-year term;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that Mr. Stanley Goldschmidt is hereby reappointed to a three-year term on the Construction Board of Appeals, with said term continuing to August 12, 2013.

RESOLUTION #138-2010*

APPROVAL TO SUBMIT A GRANT APPLICATION AND EXECUTE A GRANT AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR PHASE II REHABILITATION OF THE SUSSEX BRANCH RAIL TRAIL IN THE TOWN OF NEWTON

WHEREAS, the Town of Newton is applying for funding in the amount of \$90,000.00 to complete the Phase II Rehabilitation of the Sussex Branch Rail Trail through the NJDOT Division of Local Aid and Economic Development Bikeway; and

WHEREAS, this project will rehabilitate the existing bike path in Town, and will also help to provide a better walking, running and biking connection to the Town; and

WHEREAS, the Town of Newton will assume the responsibility for the maintenance of the proposed bike path;

NOW, THEREFORE BE IT RESOLVED, that the Town Council of the Town of Newton formally approves the submission of the grant application for the above stated project; and

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BE IT FUTHER RESOLVED, that the Mayor, Town Manager, and Clerk are hereby authorized to submit an electronic grant application identified as BIKE-2011-Newton Town-00009 to the New Jersey Department of Transportation on behalf of the Town of Newton; and

BE IT FURTHER RESOLVED, that the Mayor, Town Manager, and Clerk are hereby authorized to sign the grant agreement on behalf of the Town of Newton and that their signatures constitute acceptance of the terms and conditions of the grant agreement and approval of same.

RESOLUTION #139-2010*

APPOINTMENT OF A CLASS II-SPECIAL POLICE OFFICER

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

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that this Governing Body concurs with the Town Manager's appointment of the following individual as a Class II - Special Police Officer for calendar year 2010:

Arlene D. Lippencott

RESOLUTION #140-2010*

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF A RECOVERY ZONE FACILITY BOND OF THE TOWN OF NEWTON IN A PRINCIPAL AMOUNT NOT TO EXCEED \$6,175,000 AND AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF A BOND AGREEMENT AND RELATED INSTRUMENTS AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, on April 25, 2005, the Mayor and Town Council (the "Governing Body") of the Town of Newton (the "Town"), after investigation and public hearings of the Town's Planning Board in accordance with Section 5 of the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Redevelopment Law"), adopted Resolution No. 65-2005 designating that certain property identified as Block 1104, Lot 21 on the Official Tax Map of the Town (as further described at Section 1.01 below, the "Property" or the "Redevelopment Area"), as an "area in need of redevelopment" in accordance with Section 6 of the Redevelopment Law; and

WHEREAS, the Town issued a "DeRose Notice" on April 10, 2008 to the owners of the Property as required by *Harrison Redevelopment Agency v. DeRose et al.*, 395 *N.J. Super.* 361 (App. Div. 2008); and

WHEREAS, in accordance with Section 14 of the Redevelopment Law, following recommendation by the Planning Board, the Governing Body adopted Resolution No. 70-2007 dated April 23, 2007 determining that certain areas within the Town, including that certain area immediately adjacent to the Property and encompassing the public streets and rights-of-way of Sparta Avenue, Merriam Avenue and Pine Street, qualified as an "area in need of rehabilitation" (the "Rehabilitation Area"); and

WHEREAS, on March 23, 2009, after review and comment by the Planning Board in accordance with the Redevelopment Law, the Town adopted

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Ordinance 2009-6 implementing a redevelopment plan (the "Initial Redevelopment Plan") for the Property and the above-described portion of the Rehabilitation Area (collectively, the "Plan Area"); and

WHEREAS, on January 11, 2010, after review and comment by the Planning Board in accordance with the Redevelopment Law, the Town adopted Ordinance 2009-33 amending the Initial Redevelopment Plan (as amended, the "Redevelopment Plan"); and

WHEREAS, the Redevelopment Plan provides, among other things, for the construction of a facility consisting of light manufacturing, research and development, office space and associated storage space and parking components on the Property, as well as the construction of street lighting, landscaping, sidewalk and other on- and off-site improvements in accordance with the requirements of the Redevelopment Plan (collectively, the "Project"); and

WHEREAS, on November 9, 2009, the Governing Body adopted Resolution No. 232-2009 designating Thorlabs, Inc., an S corporation of the State of New Jersey with offices at 435 Route 206, Newton, New Jersey ("Thorlabs") as redeveloper of the Plan Area and authorizing the execution of a redevelopment agreement; and

WHEREAS, the Town and Thorlabs have executed a redevelopment agreement for the Plan Area dated November 30, 2009 (the "Redevelopment Agreement"); and

WHEREAS, in accordance with the provisions of Resolution No. 232-2009 and the Redevelopment Agreement, Thorlabs has assigned its role as redeveloper to its affiliate Thorlabs Urban Renewal, LLC (the "Redeveloper"), a limited liability company of the State of New Jersey qualified to do business as an urban renewal entity under the Long Term Tax Exemption Law, *N.J.S.A. 40A:20-1 et seq.*, pursuant to an assignment and assumption agreement by and among Thorlabs, the Town and the Redeveloper effective December 2, 2009; and

WHEREAS, despite Redeveloper's investment of equity and borrowed funds, such amounts are insufficient to pay for all of the costs associated with the development and construction of the Project; and

WHEREAS, by Resolution dated December 16, 2009, the County of Sussex (the "County") has designated the Plan Area as a recovery zone pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5 Stat. 115 (2009) (the "Stimulus Act"), and has allocated its \$6,175,000 of volume cap with respect to Recovery Zone Facility Bonds authorized under the Stimulus Act to the Plan Area for the Project; and

WHEREAS, in order to defray some of the costs of the Project, thereby making the Project viable, and to pay certain costs of issuance in connection with the Bond (as defined below), the Town, in furtherance of the purposes of the Redevelopment Law, proposes to issue its Recovery Zone Facility Bond, Series 2010, in a principal amount not to exceed \$6,175,000 (the "Bond") and to secure the Bond by a pledge of moneys to be received by the Town and the assignment of certain rights of the Town with respect to the Project, which pledge and assignment are hereby declared to further secure the payment of the principal of and interest on the Bond; and

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WHEREAS, the Town proposes to apply the proceeds of the Bond to make a loan to the Redeveloper to assist in the financing of the Project in accordance with the Bond Agreement by and among the Town, Lakeland Bank as purchaser and escrow agent, and the Redeveloper (the "Bond Agreement") providing, in part, for payments by the Redeveloper sufficient to meet installments of interest and principal on the Bond.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX AS FOLLOWS:

Section 1. In order to assist in financing the Project, the Bond is hereby authorized to be issued in a principal amount not to exceed \$6,175,000, with an interest rate not to exceed seven and a half percent (7.5%) per annum. The Bond shall be dated, shall bear interest at such rate of interest, and shall be payable as to principal, interest and premium, if any, all as is specified therein. The Bond shall be issued in the form, shall mature, shall be subject to redemption prior to maturity and shall have such other details and provisions as are prescribed by the Bond Agreement.

Section 2. The Bond shall be a special and limited obligation of the Town, payable solely out of the moneys derived pursuant to the Bond Agreement and all such moneys are hereby pledged to the payment of the Bond. The payment of the principal of, premium, if any, and interest on the Bond shall be secured by a pledge and assignment of revenues and certain rights of the Town as provided in the Bond Agreement. Neither the members of the Town's Governing Body nor any person executing the Bond issued pursuant to this Resolution, the Bond Agreement and the Redevelopment Law shall be liable personally on the Bond by reason of the issuance thereof. The Bond shall not be in any way a debt or liability of the State or of any political subdivision thereof other than the Town and shall not create or constitute any indebtedness, liability or obligation of the State or of any political subdivision other than the Town. The Bond shall not constitute a pledge of the faith and credit of the State or of any political subdivision, including the Town, and shall be payable solely from the pledge and assignment of revenues described in this Section.

Section 3. The Bond Agreement and all instruments attached as exhibits thereto, in substantially the form attached hereto, are hereby approved. The Mayor and Town Manager (each an "Authorized Officer") are hereby authorized to execute, acknowledge and deliver the Bond Agreement and all instruments attached as exhibits thereto with any changes, insertions and omissions as may be necessary or desirable in consultation with the Town's bond counsel, and the Town Clerk is hereby authorized to affix the seal of the Town on the Bond Agreement and all instruments attached as exhibits thereto and attest the same. The execution of the Bond Agreement shall be conclusive evidence of any approval required by this Section.

Section 4. Lakeland Bank, Newton, New Jersey is hereby appointed Escrow Agent under the terms of the Bond Agreement.

Section 5. The Bond is hereby authorized to be sold in accordance with the Bond Agreement.

Section 6. The Authorized Officers are hereby designated to be the authorized representatives of the Town, charged by this Resolution with the responsibility for issuing the Bond and each of them is hereby authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done

any and all acts and things necessary or proper for carrying out this Resolution, the Bond Agreement and the issuance of the Bond.

Section 7. The adoption of this Resolution shall be deemed to be an "official intent" within the meaning of Treasury Regulation 1.150-2, effective on the date of its adoption, as made applicable to the Bond by rulings of the Internal Revenue Service.

Section 8. In case any one or more of the provisions of this Resolution, the Bond Agreement or the Bond issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Resolution or the Bond Agreement and the Bond shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

Section 9. All resolutions or parts of resolutions or other proceedings in conflict herewith are repealed insofar as such conflict exists.

Section 10. This Resolution shall take effect immediately.

RESOLUTION #142-2010*

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 2009 and 2010 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

50.00	Peter J. Kays	27474
189,263.79	Payroll Account	1010044
124.40	Quill Corporation	27475
564.11	Montague Tool & Supply	27476
779.00	MGL Printing Solutions	27477
1,009.00	Harold Pellow & Assoc. Inc.	27478
198.00	Decker's Fire & Safety	27479
81.25	Sussex Car Wash, Inc.	27480
643.44	NUI Corporation	27481
1,394.84	G & H Service, Inc.	27482
250.95	New Jersey Herald	27483
1,693.15	SCMUA	27484
390.00	B & G Elevator, Inc.	27485
2,733.56	Centurylink Communications, Inc.	27486
14.63	Centurylink Communications, Inc.	27487
4,347.00	Hollander, Strelzik, Pasculli, Hinkes	27488
11.99	Campbell's Small Engine	27489
34.67	Federal Express	27490
16,439.55	McManimon & Scotland	27491
925.18	Newton Citgo	27492
1,150.00	T.A. Mountford Company	27493
1,012.56	Good Year	27494
19.07	Sebring Auto Parts	27495
630.17	Dempsey Uniform & Supply, Inc.	27496
4,076.12	Sussex County Bd. Of Elections	27497

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235.50	S/NJ Dept. of Labor & workforce Dev.	27498
337.57	Airgas East	27499
115.55	Boonton Tire Supply	27500
1,808.18	Verizon Wireless	27501
73.50	Mr. John	27502
43.55	Advance Auto Parts	27503
3,801.71	Fire & Safety Services, Ltd.	27504
70.00	Scarinci & Hollenbeck, LLC	27505
1,744.92	Buckman's Inc.	27506
73.45	Emergency Medical Products	27507
1,012.63	Tritec Office Equipment, Inc.	27508
2,697.00	Scottsdale Insurance Company	27509
710.56	Staples Business Advantage	27510
48.00	CSS Test	27511
1,675.00	Black Lagoon	27512
2,317.57	Rachles/Michele's Oil Company	27513
2,250.00	Laddey, Clark & Ryan, LLP	27514
325.00	JMC Environmental Consultants, Inc.	27515
100.00	Costco	27516
469.80	Penteledata	27517
3,232.49	Direct Energy Business	27518
10,763.83	Direct Energy Business	27519
125.00	Andover Township Fire Department	27520
275.97	Woodruff Energy	27521
125.00	New Jersey Conference of Mayors	27522
165.00	Shannon Esler	27523
300.00	Helga Walls	27524

CAPITAL

13,764.00	Harold Pellow & Assoc., Inc.	7564
496.60	New Jersey Herald	7565
1,278.00	Hollander, Strelzik, Pasculli, Hinkes	7566
1,800.00	Campbell's Small Engine	7567
1,900.00	Hamburg Plumbing Supply Co.	7568
410.00	McManimon & Scotland	7569
9,414.49	Current Account	7570
6,829.00	Current Account	7571
1,535.90	Limecrest Quarry Developers	7572
125.00	Accurate Door, Inc.	7573
797.00	The Phillips companies	7574
4,403.00	Black Lagoon	7575
2,800.00	Peters Associates	7576

Total TOWN BILLS \$308,286.80

WATER AND SEWER ACCOUNT

29,510.12	Payroll Account	106025
188.89	Quill Corporation	11652
3,439.11	Schmidt's Wholesale, Inc.	11653
7,388.00	Harold Pellow & Assoc. Inc.	11654
3,992.77	MWH Americas, Inc.	11655
257.10	Fisher Scientific	11656
2,391.50	Lee Company	11657
233.37	NUI Corporation	11658
980.00	G & H Service Inc.	11659
14.00	Paul M. Havens	11660

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4,477.80	Coyne Chemical Corp., Inc.	11661
26.93	Centurylink Communications, Inc.	11662
1,294.86	Centurylink Communications, Inc.	11663
747.00	Hollander, Strelzik, Pasculli, Hinkes	11664
162.00	Rectifier Auto Electric	11665
1,972.00	Beaver Run Farms	11666
1,230.00	Garden State Laboratories, Inc.	11667
283.95	Dempsey Uniform & Supply, Inc.	11668
4,950.00	R & D Trucking	11669
111.15	Airgas East	11670
14.00	Ervin Lasso	11671
1,250.00	John Smalley	11672
1,928.40	Main Pool & Chemical Company	11673
2,327.50	Scarinci & Hollenbeck, LLC	11674
977.41	Sussex County Mailing Service	11675
64.05	Staples Business Advantage	11676
962.00	Andy Matt, Inc.	11677
139.90	Penteledata	11678
15,227.33	Direct Energy Business	11679
161.57	One Call Concepts	11680
116.44	Woodruff Energy	11681
422.92	SCMUA	11682

CAPITAL

7,553.50	Harold Pellow & Assoc., Inc.	2154
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Total WATER & SEWER BILLS \$94,795.57

TRUST ACCOUNT

6,243.13	Current Account	107121
1,167.88	Payroll Account	107120
31.10	Quill Corporation	2806
1,125.00	James P. Sloan, P.C.	2807
635.00	Enforsys Fire Systems, Inc.	2808
981.23	Sussex County Mailing Service	2809

Total TRUST ACCOUNT BILLS \$10,183.34

FEDERAL & STATE GRANTS

1,715.04	Payroll Account	101109
1,573.00	Current Account	1053

Total FEDERAL & STATE GRANT ACCOUNT BILLS \$3,288.04

The Clerk presented an application for an off-premise raffle from NORWESCAP, 350 Marshall St., Phillipsburg, New Jersey to be held on December 22, 2010 at An Open Book, 169 Spring Street, Newton at 3:00 p.m. Proceeds to benefit NORWESCAP Sussex County First Book. It was noted that the application was in order and accompanied by the prescribed fee.

The Clerk presented an application for membership to the Newton Fire

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Department from Gregory P. Leavitt, 5 Hamilton Street, Newton. It was noted that the application was in order and signed by the Chief of the Fire Department.

A motion was made by Mrs. Le Frois to approve the **COMBINED ACTION RESOLUTIONS**, excluding Resolution #141-2010, seconded by Mr. Elvidge and roll call resulted as follows:

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

RESOLUTION #141-2010

AWARD CONTRACT FOR RESURFACING OF VARIOUS STREETS

WHEREAS, the Town of Newton publicly opened and read bids for the "Resurfacing of Various Streets" project on Wednesday, August 4, 2010 at 11:00am as follows:

<u>Name and Address of Bidder</u>	<u>Amount Bid</u>
Top Line Construction Corp. 22 Fifth Street Somerville, NJ 08876	\$441,283.76
Owl Contracting 36 Berkshire Valley Road Kenvil, NJ 07847	\$452,453.00
Tilcon New York Inc. 625 Mt. Hope Road Wharton, NJ 07885	\$485,193.01

WHEREAS, the Town of Newton Purchasing Agent, Town Engineer and Town Attorney recommend the award to Top Line Construction Corp., in the amount of \$441,283.76; and

WHEREAS, included in the bid amount of \$441,283.76 is an amount of \$131,867.59 for the proposed resurfacing of North Park Drive, which subproject is eligible as a State Aid Project from the New Jersey Department of Transportation, and as such the Mayor and Clerk are authorized to execute the attached Form of Resolution for submission to NJDOT by the Town Engineer; and

WHEREAS, the Chief Financial Officer has certified funds are available based on the attached certification;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the contract for the Resurfacing of the Various Roads be awarded to Top Line Construction Corp., 22 Fifth Street, Somerville, NJ in the amount of \$441,283.76, and the annexed State Aid Project Resolution be submitted to the New Jersey Department of Transportation by the Town Engineer.

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After a brief discussion, a motion was made by Mr. Ricciardo to approve

RESOLUTION #141-2010, seconded by Mrs. Diglio and roll call resulted as follows:

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

INTERMISSION – None

DISCUSSION

a. Consolidation of Land Use Boards

Mrs. Jessica Caldwell, Town Planner, made a brief presentation and outlined her opinion regarding the consolidation of the Planning and Zoning Boards into one a Land Use Board. Mrs. Caldwell suggested that the consolidation would make things more efficient with one board than the two current boards and indicated there would be a savings but not a huge savings.

Mayor Becker suggested that one meeting a month should be sufficient, unless applications become abundant at which time Special meetings could be scheduled.

Councilwoman Diglio addressed concerns regarding the short amount of time that a board member has to review the applications prior to the meeting and was advised by Councilman Ricciardo that a majority of the time all the questions a board member has can be addressed at the meeting during the presentation.

The Council had questions which were addressed by Mrs. Caldwell. After a lengthy discussion, the consensus of the Governing Body was to move forward with the creation of a Land Use Board. Mr. Russo noted that an Ordinance to introduce will be on the next scheduled Council meeting agenda on September 15, 2010.

Mr. Russo outlined the proposed makeup of the newly constituted Land Use Board which would take effect January 1, 2011 and indicated there would be nine (9) regular members and four (4) alternate members. Mr. Russo

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indicated that there is a possibility of eliminating two people from the Zoning Board but suggested that a poll would be taken to see if all of the members are interested in continuing to serve.

Mr. Hinkes, Esq. noted that statutorily the newly created Board would be called a "Planning Board" but verbally could be called a "Land Use Board."

OPEN TO THE PUBLIC

Mayor Becker opened the meeting to the public.

Mr. Neil Flaherty, 154 Sparta Avenue, suggested that the Town poll all of the current Planning Board members to see if they are interested in serving on the Land Use Board, or perhaps want to be an alternate member instead of a regular member.

Mr. Bill Tharp, 29 Birch Drive, noting that he is currently a Zoning Board member, addressed his concerns regarding the combined Boards.

Mr. Anwar Qarmout, 45 Woodside Avenue, questioned the time constraints of the meetings and the necessity of having an applicant return several times, instead of completing the application at one meeting. Mr. Russo noted that in Randolph there was a Technical Review Committee which addressed and reviewed all applications prior to the applicant going before the Board. This option would eliminate the sometimes long and drawn out meetings for the applicants. Council liked the idea of having a Technical Review Committee to view all applications prior to submitting them to the Land Use Board. Mr. Qarmout was in favor of the combined boards and the Technical Review Committee.

COUNCIL & MANAGER COMMENTS

Mr. Russo dispersed an updated report on the current status of the unaccounted for water analysis. Mr. Russo noted that Debra Millikin and the Water & Sewer Department have been making great strides to correct the unaccounted-for-water and to date, have successfully reduced the unaccounted-for-water to 18%. This project will be continued and this report

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will be updated again in December, 2010, Mr. Russo concluded.

There being no further business to be conducted, upon motion by Mrs. Le Frois, seconded by Mrs. Diglio and unanimously carried, the meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Lorraine A. Read, RMC
Municipal Clerk