

November 26, 2012

The regular meeting of the Town Council of the Town of Newton was held on the above date at 6:15 p.m. Present were Mrs. Becker (arrived @ 6:37 p.m.), Mr. Elvidge, Mr. Flynn, Mayor Diglio, Thomas S. Russo, Jr., Town Manager and Mark Hontz, Esq., Town Attorney. Deputy Mayor Ricciardo was absent.

Mayor Diglio made the following declaration that "in accordance with the Open Public Meetings Act, notice of this public meeting was given to the two newspapers of record and posted on the official bulletin board on November 1, 2012."

Mayor Diglio led the Pledge of Allegiance to the flag and the Clerk called the roll and upon motion of Mr. Flynn, seconded by Mayor Diglio and carried, the minutes of October 22, 2012 (Regular and Executive) meetings were approved. Councilman Elvidge abstained.

### **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 was no public to be heard.

### **COUNCIL & MANAGER REPORTS**

Mayor Diglio thanked the Department of Public Works and Water and Sewer Departments respectively, for their efforts with the Holiday parade as well as with the recent water main break which occurred in Andover Township.

### **ORDINANCES**

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

#### **ORDINANCE #2012-26**

#### **AN ORDINANCE TO AMEND CHAPTER 100, FEES AND COSTS OF THE CODE OF THE TOWN OF NEWTON**

**BE IT ORDAINED**, by the Town Council of the Town of Newton, that Chapter 100, Fees and Costs, be amended with the following changes in **bold** to read as follows:

**§ 100-2. Peddling and soliciting (Chapter 206)** be amended as follows:

**A.** (2)(a) License fee (traveling food vendor): **\$350.00 + Foodhandlers Permit**

**§ 100-13. Animals (Chapter 57)** be amended as follows:

**A.** (1) Neutered dog: **\$ 15** per dog.

(2) Non-neutered dog: **\$ 18** per dog.

(3) Cat license (neutered or non-neutered): **\$ 12** per cat.

(4) Replacement dog/cat tag: **\$2** each.

§ 100-14. **Taxicabs and limousines (Chapter 283)** be amended with the addition of the following:

A. (4) *Fee for Taxicab Owner's application submitted after the due date: \$100.00 per month.*

B. (3) *Fee for Taxicab Driver's application submitted after the due date: \$10.00 per month.*

§ 100-15. **Vehicles and traffic (Chapter 307)** be amended as follows:

C. (2)(b) Tractor-trailer/box truck parking: **\$100** annually

§ 100-17. **Health codes (Chapters 133; 250, Article I; and 273)** be amended with the addition of the following:

C. (5) *Late fee for Food Establishment: \$75 per month*

§ 100-19. **Utilities (Chapter 228)** be amended as follows:

H. Frozen meter charge: **\$250.**

§ 100-23. **Zoning (Chapter 320)** be amended as follows:

C. (3) Residential Escrow, Single-Family **\$1,500.**

§100-24. **Miscellaneous fees and charges.**

A. **Swimming Pool** be amended as follows:

(1) *Season Passes*

(a) *Town of Newton Residents:*

1. *Family \$200 (A family is defined as any adult, his or her spouse and their children ages 3 to 21 living together in 1 household. A maximum of 6 badges will be issued.)*

2. *Couple \$150 (A couple is defined as 2 persons married, engaged or otherwise romantically paired living in one household. A couple membership may also be purchased by single parents with 1 child. A maximum of 2 badges will be issued.)*

3. *Single \$100*

(b) *All Others (residing outside the Town of Newton)*

1. *Family \$300 (A family is defined as any adult, his or her spouse and their children ages 3 to 21 living together in 1 household. A maximum of 6 badges will be issued.)*

2. *Couple \$200 (A couple is defined as 2 persons married, engaged or otherwise romantically paired living in one household. A couple membership may also be purchased by single parents with 1 child. A maximum of 2 badges will be issued.)*

3. *Single: \$125*

(c) *Swim Team Participant*

1. *\$50 per swimmer up to a family maximum of \$100 (Newton Swim Team)*

2. *\$100 per hour (includes an additional 15 minutes of deck time both before and after practice)*

(d) *Senior Citizens (Ages 62 and up)*

1. *Couple \$60 (A couple is defined as 2 persons married, engaged or otherwise romantically paired living in one household.)*

2. *Single \$35*

(e) *Replacement Badge \$5 each*

(f) *Friends of Newton Membership - Available to Town of Newton employees, Town of Newton Emergency Services Personnel (Police, Fire and EMS), Military (active duty, reserve, or retired), people employed within the Town of Newton (as evidenced by a recent pay stub).*

1. *Family \$200 (A family is defined as any adult, his or her spouse and their children ages 3 to 21 living together in 1 household. A maximum of 6 badges will be issued.)*

2. *Couple \$150 (A couple is defined as 2 persons married, engaged or otherwise romantically paired living in one household. A couple membership may also be purchased by single parents with 1 child. A maximum of 2 badges will be issued.)*

3. *Single \$100*

(e) *Swim Team Family Membership:*

1. *Town of Newton Resident: \$150*

2. *Non-resident: \$250*

(2) *Daily Admission:*

(a) *Senior Citizens (ages 62 and up): \$2*

(b) *All Others: \$5*

(c) *Twilight Fee for non-senior citizens (after 5pm): \$3*

(3) *Swim Lessons:*

(a) *Season Pass Holder: \$55 for 8 30-minute lessons*

(b) *All Others: \$75 for 8 30-minute lessons*

(4) *Special Group Rate: \$3 per person to be used when a group visits the pool in off-peak hours*

(5) *Lifeguard Training - Red Cross Fees are additional and are not covered under this Ordinance*

(a) *Season Pass Holder: \$250*

(b) *All Others: \$275*

(6) *Birthday Parties:*

(a) *Season Pass Holders: \$150 for the first 10 guests, \$5 each additional guest, pizza and soda are included. Ice cream is an additional charge.*

(b) *All Others: \$200 for the first 10 guests, \$5 each additional guest, pizza and soda are included. Ice cream is an additional charge.*

(7) *Scuba Discovery Class: \$100 per student/per class*

(8) *Water Aerobics:*

(a) *Season Pass Holders: \$15 for five (5) sessions*

(b) *All Others: \$35 for five (5) sessions includes daily visit fee*

(9) *Guard Start: A pre-lifeguarding class for ages 11-14 resulting in CPR and First Aid Certification*

(a) *Season Pass Holders: \$75*

(b) *All Others: \$100*

B. (2): *\$12. (now in color)*

C. (1) *Fingerprints: \$5 Delete*

(2) *Meter covers, per day: (no charge)*

(3) *Accident reports (copies), per page: .05¢ when picked up at Police Department, \$5 when mailed with a self-address stamped envelope: \$5.*

(17) **Electronic Transaction Fees.** *Any surcharges or convenience fees shall be itemized separately on the invoice, charge slip, or receipt, and shall be disclosed to the payer at the time the transaction occurs. Such fees shall not exceed the cost of handling and processing the transaction to the local unit. The Town will periodically review all the costs to determine an appropriate percentage or fee to be charged.*

a. *The fee for the use of a credit card for the payment of taxes, interest, penalties and municipal charges or other fees and charges by the Town of Newton shall equal a percentage of the transaction. Said percentage fee shall not, in any event, exceed 4.0% of the total amount of the payment due to the Town of Newton.*

b. *The fee for use of an ACH checking account payment ("e-check") for the payment of taxes, interest, penalties and municipal charges or other fees and charges by the Town of Newton shall be \$2.00 per transaction.*

- D. (1) Marriage certificate, per copy: \$15.
- (2) Birth certificate, per copy: \$15.
- (3) Death certificate, per copy: \$15.
- (4) Correction to birth certificates, marriages, or death certificates: \$20
- (5) Domestic partnership, per copy: \$15.
- (6) Civil union, per copy: \$15.

E: **Park use fees:** be amended as follows:

(1) *Park/Field Use Fees will be waived for residents of the Town of Newton, Newton High School and for youth athletic teams based within the Town of Newton.*

(2) *Not-for-Profit Groups (daily):  
Half Day Rate: (up to 4 hours) \$50.  
Full Day Rate: (4 hours or more) \$100.*

(3) *All Other Groups (daily):  
Half Day Rate: (up to 4 hours) \$75.  
Full Day Rate: (4 hours or more) \$150.*

(4) *\$75 per game for use of our athletic fields or basketball courts.*

(5) *\$50 per practice for use of our athletic fields or basketball courts.*

(6) *\$25 per hour for use of the lights for the basketball, baseball or multi-purpose field.*

(7) *A deposit of \$50 will be required from all groups based outside the Town of Newton (this deposit is payable by check and will be returned to the organization provided there is no damage to the facility).*

(8) *Payment of the above fees shall be due upon approval of the application for park use.*

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

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

Mrs. Becker	Absent	Mr. Elvidge	Yes
Deputy Mayor Ricciardo	Absent	Mr. Flynn	Yes
Mayor Diglio		Yes	

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

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

**ORDINANCE #2012-27**

**AN ORDINANCE TO ESTABLISH MINIMUM AND MAXIMUM SALARIES AND WAGES FOR OFFICERS AND EMPLOYEES OF THE TOWN OF NEWTON FOR CALENDAR YEAR 2013**

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

Mrs. Becker	Absent	Mr. Elvidge	Yes
Deputy Mayor Ricciardo	Absent	Mr. Flynn	Yes
Mayor Diglio		Yes	

**BE IT RESOLVED** by the Town Council of the Town of Newton that the above Ordinance be introduced for the first reading, with hearing on same to be held on December 10, 2012.

**OLD BUSINESS**

**A. Tree Bank Ordinance – Jessica Caldwell**

Mrs. Jessica Caldwell, Town Planner and Mr. Hontz, Esq., Town Attorney, outlined the changes for the Tree Bank Ordinance. Mrs. Caldwell advised Council that this Ordinance would impact approximately 115 properties in the Town. Councilman Flynn requested that the major/minor subdivision checklist be updated to coincide with this Ordinance.

After a brief discussion, Council unanimously agreed to the draft Ordinance as proposed and will be adopted at an upcoming Council meeting.

**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.”*

**RESOLUTION #225-2012\***

**A RESOLUTION REQUESTING PERMISSION FOR THE DEDICATION BY RIDER FOR ELECTRONIC RECEIPT FEES REQUIRED BY THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES PURSUANT TO N.J.S.A. 40A-39**

**WHEREAS**, permission is required of the Director of the Division of Local Government Services for approval as a dedication by rider of revenues received by a

municipality when the revenue is not subject to reasonable accurate estimates in advance; and

**WHEREAS**, the State of New Jersey sets forth that any local unit is authorized and empowered to assess surcharges or convenience fees made to it per N.J.S.A. 40A:4-39 and the Division of Local Government Services sets forth that this is an allowable dedication by rider; and

**WHEREAS**, N.J.S.A. 40A:4-39 provides that the Director of the Division of Local Government Services may approve expenditures of monies by dedication by rider;

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

1. The Mayor and Town Council hereby request permission of the Director of the Division of Local Government Services to assess surcharges or convenience fees for the payment of taxes, interest, penalties and municipal charges or other fees and charges in the manner set forth per NJAC 5:30-9.9 and N.J.S.A. 40A:4-39.
2. The Municipal Clerk of the Town of Newton, County of Sussex is hereby directed to forward two certified copies of this resolution to the Director of the Division of Local Government Services.

**RESOLUTION #226-2012\***

**APPOINTMENT OF TOWN AUDITOR FOR CALENDAR YEAR 2013**

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

**WHEREAS**, the Town of Newton advertised a Request for Proposals for the services of a qualified Auditor and received several responses; and

**WHEREAS**, Ferraioli, Wielkocz, Cerullo & Cuva, P.A. has submitted a proposal outlining the services to be provided; and

**WHEREAS**, after review of all submitted proposals by the RFP Review Committee, the Governing Body has determined that, Ferraioli, Wielkocz, Cerullo & Cuva, P.A., is the best candidate for the position; and

**WHEREAS**, the anticipated term of this contract is one (1) year ending December 31, 2013;

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton hereby authorizes the Mayor and Clerk to execute an agreement with Ferraioli, Wielkocz, Cerullo & Cuva, P.A., for services as Town Auditor for calendar year 2013; and

**BE IT FURTHER RESOLVED** that a certified copy of this resolution be forwarded to Ferraioli, Wielkocz, Cerullo & Cuva, P.A.; and

**BE IT FURTHER RESOLVED** that a fully-executed copy of this agreement be kept on file and available for public inspection in the Municipal Clerk's office.

**RESOLUTION #227-2012\***

**APPOINTMENT OF ENVIRONMENTAL ATTORNEY FOR CALENDAR YEAR 2013**

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

**WHEREAS**, the Town of Newton advertised a Request for Proposals for the services of a qualified Environmental Attorney and received several responses; and

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**WHEREAS**, the Buzak Law Group has submitted a proposal outlining the services to be provided; and

**WHEREAS**, after review of all submitted proposals by the RFP Review Committee, the Governing Body has determined that The Buzak Law Group, is the best candidate for the position; and

**WHEREAS**, the anticipated term of this contract is one (1) year ending December 31, 2013;

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton hereby authorizes the Mayor and Clerk to execute an agreement with The Buzak Law Group, for services as Environmental Attorney for calendar year 2013; and

**BE IT FURTHER RESOLVED** that a certified copy of this resolution be forwarded to The Buzak Law Group; and

**BE IT FURTHER RESOLVED** that a fully-executed copy of this agreement be kept on file and available for public inspection in the Municipal Clerk's office.

**RESOLUTION #228-2012\***

**APPOINTMENT OF TOWN ATTORNEY FOR CALENDAR YEAR 2013**

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

**WHEREAS**, the Town of Newton advertised a Request for Proposals for the services of a qualified Municipal Attorney and received several responses; and

**WHEREAS**, Ursula Leo, Esq., of the firm Laddey, Clark & Ryan, LLP has submitted a proposal outlining the services to be provided; and

**WHEREAS**, after review of all submitted proposals by the RFP Review Committee, the Governing Body has determined that, Ursula Leo, Esq., of the firm Lady Clark and Ryan, is the best candidate for the position; and

**WHEREAS**, the anticipated term of this contract is one (1) year ending December 31, 2013;

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton hereby authorizes the Mayor and Clerk to execute an agreement with , Ursula Leo, Esq., of the firm Laddey, Clark & Ryan, LLP, for services as Municipal Attorney for calendar year 2013; and

**BE IT FURTHER RESOLVED** that a certified copy of this resolution be forwarded to Ursula Leo, Esq., of the firm Laddey, Clark & Ryan, LLP; and

**BE IT FURTHER RESOLVED** that a fully-executed copy of this agreement be kept on file and available for public inspection in the Municipal Clerk's office.

**RESOLUTION #229-2012\***

**APPOINTMENT OF BOND COUNSEL FOR CALENDAR YEAR 2013**

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

**WHEREAS**, the Town of Newton advertised a Request for Proposals for the services of a qualified Bond Counsel and received several responses; and

**WHEREAS**, McManimon, Scotland & Bauman, LLC has submitted a proposal

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outlining the services to be provided; and

**WHEREAS**, after review of all submitted proposals by the RFP Review Committee, the Governing Body has determined that McManimon, Scotland & Bauman, LLC is the best firm for the position; and

**WHEREAS**, the anticipated term of this contract is one (1) year ending December 31, 2013;

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton hereby authorizes the Mayor and Clerk to execute an agreement with, McManimon, Scotland & Bauman, LLC for services as Bond Counsel for calendar year 2013; and

**BE IT FURTHER RESOLVED** that a certified copy of this resolution be forwarded to McManimon, Scotland & Bauman, LLC; and

**BE IT FURTHER RESOLVED** that a fully-executed copy of this agreement be kept on file and available for public inspection in the Municipal Clerk's office.

**RESOLUTION #230-2012\***

**APPOINTMENT OF LABOR ATTORNEY FOR CALENDAR YEAR 2013**

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

**WHEREAS**, the Town of Newton advertised a Request for Proposals for the services of a qualified Labor Attorney and received several responses; and

**WHEREAS**, James Prusinowski of the firm Knapp, Trimboli, and Prusinowski, LLC has submitted a proposal outlining the services to be provided; and

**WHEREAS**, after review of all submitted proposals by the RFP Review Committee, the Governing Body has determined that James Prusinowski of the firm Knapp, Trimboli, and Prusinowski, LLC is the best candidate for the position; and

**WHEREAS**, the anticipated term of this contract is one (1) year ending December 31, 2013;

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton hereby authorizes the Mayor and Clerk to execute an agreement with James Prusinowski of Knapp, Trimboli, and Prusinowski, LLC for services as Labor Attorney for calendar year 2013; and

**BE IT FURTHER RESOLVED** that a certified copy of this resolution be forwarded to James Prusinowski of the firm Knapp, Trimboli, and Prusinowski, LLC; and

**BE IT FURTHER RESOLVED** that a fully-executed copy of this agreement be kept on file and available for public inspection in the Municipal Clerk's office.

**RESOLUTION #231-2012\***

**AMEND AGREEMENT WITH FRED M. KNAPP, ESQ., AS LABOR RELATIONS LEGAL COUNSEL**

**WHEREAS**, the Town of Newton has a need to acquire legal counsel for certain specific matters under non-fair and open contracts pursuant to provisions of N.J.S. 19:44A-20; and

**WHEREAS**, the Town Council appointed Fredric M. Knapp, Esq., of Knapp, Trimboli & Prusinowski, LLC as Labor Relations Attorney for calendar year 2012 by the adoption of Resolution #296-2011 at their meeting on December 28, 2011; and

**WHEREAS**, said contract stipulated that the amount expended during the term of the contract is not to exceed \$17,500.00; and

**WHEREAS**, due to circumstances beyond the Town's control the costs for labor relations legal counsel exceeded the \$17,500.00 allocated and thus Resolution #45-2012 was adopted on March 6, 2012 to amend the contract to an amount not to exceed \$30,000.00; and

**WHEREAS**, due to circumstances beyond the Town's control the costs for labor relations legal counsel exceeded the \$30,000.00 allocated and

**WHEREAS**, both parties have agreed to increase the amount of the original contract to be increased by \$15,000.00 to a new amount not to exceed \$45,000.00; and

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

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton authorizes the Mayor and Municipal Clerk to amend the agreement with Fredric M. Knapp, Esq., of Knapp, Trimboli & Prusinowski, LLC as the Town of Newton's Labor Relations Attorney for the remainder of calendar year 2012 for an amount not to exceed \$45,000.00;

**BE IT FURTHER RESOLVED** that a fully executed copy of said amended agreement be provided to Fredric M. Knapp, Esq. and filed in the Office of the Municipal Clerk.

**RESOLUTION #232-2012\***

**AUTHORIZE REFUND OF REDEMPTION MONIES TO OUTSIDE LIEN HOLDER FOR BLOCK 21.09, LOT 16 (FORMERLY BLOCK 1220, LOT 6)**

**WHEREAS**, at the Municipal Tax Sale held on June 2, 2010, a lien was sold on Block 21.09, Lot 16 (Formerly Block 1220, Lot 16), also known as 37 Dogwood Drive, for 2008 delinquent water and sewer charges; and

**WHEREAS**, this lien, known as Tax Sale Certificate #1348, was sold to Lawrence & Helen Earl, LLC for 0% redemption fee and a premium of \$600.00; and

**WHEREAS**, IndyMac Mortgage Services, the owner's mortgage company, has effected the redemption of Certificate #1348 in the amount of \$4,205.67;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that this Governing Body acknowledges that Lawrence & Helen Earl, LLC is entitled to a redemption in the amount of \$4,205.67; and

**BE IT FURTHER RESOLVED**, that the Tax Collector be authorized to issue a check, in the amount of \$4,205.67 for the redemption of Certificate #1348 to Lawrence & Helen Earl, LLC, Box 42, Stillwater, NJ 07875.

**RESOLUTION #233-2012\***

**AUTHORIZE REFUND OF REDEMPTION MONIES TO OUTSIDE LIEN HOLDER FOR BLOCK 13.07, LOT 20 (FORMERLY BLOCK 1007, LOT 1)**

**WHEREAS**, at the Municipal Tax Sale held on October 29, 2008, a lien was sold on Block 13.07, Lot 20 (Formerly Block 1007, Lot 1), also known as 120 Woodside Avenue, for delinquent real estate taxes as well as delinquent water and sewer charges; and

**WHEREAS**, this lien, known as Tax Sale Certificate #1268, was sold to Jesse Wolosky for 0% redemption fee and a premium of \$4,500.00; and

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**WHEREAS**, ASAP Management, LLC, property owner, has effected the redemption of Certificate #1268 in the amount of \$39,297.81. The redeemer has also paid legal fees in the amount of \$1,254.27;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that this Governing Body acknowledges that Jesse Wolosky is entitled to a redemption in the amount of \$39,297.81, the premium in the amount of \$4,500.00, as well as the legal fees in the amount of \$1,254.27; and

**BE IT FURTHER RESOLVED**, that the Tax Collector be authorized to issue three (3) checks, in the amount of \$39,297.81 for the redemption of Certificate #1268, \$4,500.00 for the premium and \$1,254.27 for the legal fees to Jesse Wolosky, 1 Vista Drive, Sparta, NJ 07871.

**RESOLUTION #234-2012\***

**AUTHORIZE EXECUTION OF A SHARED SERVICES AGREEMENT FOR ANIMAL CONTROL AND POUND SERVICES WITH THE TOWNSHIP OF WANTAGE COVERING CALENDAR YEAR 2013**

**WHEREAS**, the Town of Newton desires to enter into a shared service agreement with the Township of Wantage animal control and pound services; and

**WHEREAS**, the annual fee for the year 2013 is \$15,800; and

**WHEREAS**, sufficient funds have been appropriated in the Town of Newton Operating Budget for calendar year 2013 for said services;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that the Mayor and the Municipal Clerk are hereby authorized to execute an agreement for animal control and pound services, in duplicate, with the Township of Wantage for calendar year 2013; and

**BE IT FURTHER RESOLVED** that a copy of said agreement shall be placed on file in the Municipal Clerk's office and available for public viewing.

**RESOLUTION #235-2012\***

**AWARD PURCHASE OF 125 GALLON MELTER APPLICATOR WITH COMPRESSOR AND ON DEMAND ACTIVATED PUMP FEATURE DIESEL FUEL**

**WHEREAS**, the Town of Newton publicly opened and read bids for the purchase of a 125 Gallon Melter Applicator with Compressor and on Demand Activated Pump Feature Diesel Fuel on Wednesday, November 14, 2012 at 10:00 a.m. as follows:

<u>Name and Address of Bidder</u>	<u>Bid Price</u>	<u>Options A -G</u>	<u>Total Amount</u>
Crafco, Inc. 420 N. Roosevelt Avenue Chandler, AZ 85226	\$38,681.92	\$1,095.24	\$39,777.16

**WHEREAS**, after review of the bid documents, the Department of Public Works Supervisor, Kenneth Jaekel and Newton's Qualified Purchasing Agent, Debra J. Millikin recommend awarding the contract for the purchase of a 125 Gallon Melter Applicator with Compressor and on Demand Activated Pump Feature Diesel Fuel to Crafco, Inc., in the amount of \$39,777.16 to Crafco, Inc.; 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 bid submitted for the purchase of 125 Gallon Melter Applicator with Compressor and on Demand Activated Pump Feature Diesel Fuel be awarded to Crafco, Inc., 420 N. Roosevelt Avenue, Chandler, AZ 85226, in the amount of \$39,777.16.

A copy of this resolution and the proposed Contract is to be forwarded to Crafc0, Inc., for execution.

**RESOLUTION #236-2012\***

**AUTHORIZE EXECUTION OF AGREEMENT BETWEEN THE TOWN OF NEWTON AND THE NEWTON PARKING AUTHORITY**

**WHEREAS**, on January 15, 1982, the Town Council of the Town of Newton adopted an Ordinance authorizing the execution of an agreement with the Newton Parking Authority for the purpose of dedicating revenue from certain parking meters to said Parking Authority; and

**WHEREAS**, such agreements between governmental agencies and authorities may be extended each year by adoption of a Resolution of the Governing Body; and

**WHEREAS**, at a regular meeting of the Newton Parking Authority conducted on November 1, 2012, the members of the Authority approved an appropriate agreement for calendar year 2013 and authorized the Chairman and the Secretary to execute said agreement;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that the Mayor and the Municipal Clerk are hereby authorized to execute said agreement with the Newton Parking Authority, dedicating revenue from certain parking meters to said Authority and describing certain services to be performed on behalf of the Authority by the Town of Newton during calendar year 2013.

**RESOLUTION #237-2012\***

**AUTHORIZE CREDITS DUE WATER AND SEWER UTILITY ACCOUNTS**

**WHEREAS**, the Water and Sewer Collector has determined that the following Water and Sewer Utility Accounts are due credits for the reasons stated;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that the Water and Sewer Collector is hereby authorized to credit the following accounts for amounts billed incorrectly due to the reason(s) stated:

**Payment Posted to Incorrect Account:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
6980	6 Liberty Street	(\$265.13)
6997	6 ½ Liberty Street	\$265.13

**Credit for Overestimated Reading:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
18689	44 Diller Avenue	\$32.30

**RESOLUTION #238-2012\***

**APPROVE 2012 APPROPRIATION TRANSFERS**

**BE IT RESOLVED**, by the Town Council of the Town of Newton that the following 2012 appropriation transfers be approved effective this date:

<u>From</u>	<u>To</u>	<u>Amount</u>
<b><u>CURRENT</u></b>		
Assessment of Taxes SW 1055103	Assessment of Taxes OE 1055218	\$2,000.00
Collection of Taxes SW 1056101	Assessment of Taxes OE 1055218	3,750.00

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Health Benefit Waiver OE 1066300	Group Health Insurance OE 1066201	3,000.00
Snow Removal OE 1081239	Group Health Insurance OE 1066201	16,000.00
Snow Removal OE 1081239	Road SW 1080198	15,000.00
Recycling/Sanitation OE 1083269	Vehicle Maintenance OE 1083393	8,000.00
Court SW 1059101	Road SW 1080102	7,000.00
Swimming Pool SW 1090102	Vehicle Maintenance OE 1083393	2,000.00
Misc. Operations SW 1079100	Parks SW 1091101	6,000.00
Misc. Operations SW 1079100	Police SW 1074113	1,400.00
Stat.Expend-Social Security 1098298	Stat.Expend-DCRP 1098294	750.00
<b>TOTAL CURRENT TRANSFERS</b>		<b>\$64,900.00</b>

**RESOLUTION #239-2012\***

**AUTHORIZE RELEASE OF FUNDS DEPOSITED AS A PERFORMANCE GUARANTEE BY  
ACQUIRING ENTERPRISES, LLC**

**WHEREAS**, Acquiring Enterprises, LLC posted a \$250,000 letter of credit as a performance guarantee with Columbia Bank in favor of the Town of Newton in connection with the development of Block 9.03, Lot 27 (Formerly Block 803, Lot 1.02), located at 2-10 East Clinton Street in the Town of Newton; and

**WHEREAS**, the Newton Town Council on the recommendation of the Town Engineer, David B. Simmons, Jr., PE of the engineering firm of Harold E. Pellow & Associates, Inc. reduced the performance guarantee to \$50,798.40 by the adoption of Resolution #207-2008 on December 8, 2008; and

**WHEREAS**, by the adoption of Resolution #26-2010, the performance guarantee was reduced to \$13,620.00 on February 22, 2010 based on the recommendation of the Town Engineer; and

**WHEREAS**, in a letter dated November 8, 2012, Acquiring Enterprises, LLC requested the release of said performance guarantee; and

**WHEREAS**, in a letter dated November 14, 2012, the Town Engineer, has recommended that the remaining performance guarantee in the amount of \$13,620.00 be released;

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that it hereby authorizes the release of the performance guarantee of \$13,620.00 by Acquiring Enterprises, LLC related to the development of Block 9.03, Lot 27 (Formerly Block 803, Lot 1.02), located at 2-10 East Clinton Street based on the recommendation of the office of the Town Engineer.

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**RESOLUTION #240-2012\***

**AWARD PURCHASE OF SWEEPER**

**WHEREAS**, the Town of Newton publicly opened and read bids for the purchase of a Sweeper on Wednesday, November 14, 2012 at 11:00 a.m. as follows:

<u>Name and Address of Bidder</u>	<u>Bid Price</u>	<u>Trade In</u>	<u>Options 30.1-30.5</u>	<u>Total</u>
W.E. Timmerman Co., Inc. 3554 Route 22 West PO Box 71 Whitehouse, NJ 08888	\$182,300.00	\$6,000.00	\$8,140.00	\$184,440.00

**WHEREAS**, after review of the bid documents, the Department of Public Works Supervisor, Kenneth Jaekel and Newton's Qualified Purchasing Agent, Debra J. Millikin recommend awarding the contract for purchase of a Sweeper to W.E. Timmerman Co., Inc., in the amount of \$184,440; 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 bid submitted for the purchase of a Sweeper be awarded to W.E. Timmerman Co., Inc., 3554 Route 22 West, PO Box 71, Whitehouse, NJ 08888, in the amount of \$184,440.00. A copy of this resolution and the proposed Contract is to be forwarded to W.E. Timmerman Co., Inc., for execution.

**RESOLUTION #241-2012\***

**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 2011 and 2012 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**

720.92	Montague Tool & Supply	31090
1,618.50	Pellow, Harold & Assoc., Inc.	31091
135.00	Decker's Fire & Safety	31092
117.00	Abcode Security	31093
247.20	G & G Diesel Service, Inc.	31094
411.20	New Jersey Herald	31095
685.92	SCMUA	31096
200.00	B & G Elevator	31097
5,022.00	Hollander, Strelzik, Pasculli, Hinkes	31098
446.57	Rowe & Company Inc.	31099
5,000.00	Capital Account	31100
487.00	Campbell's Small Engine	31101
15.00	Lock & Key World	31102
50.00	Newton First Aid Squad	31103
39.00	Straway, Thomas	31104
210.00	Willco, Inc.	31105
1,745.59	Newton Citgo	31106
437.04	Staples Print Solutions	31107
39.00	Smith, William F.	31108
325.00	Treasurer, State of New Jersey	31109
750.00	Lou's Glass	31110
7.80	Minisink Press, Inc.	31111
2,000.00	Bank of New York	31112

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2,723.36	Good Year	31113
125.90	Zee Medical	31114
16,000.00	SUI Account	31115
760.43	Dempsey Uniform & Supply Inc.	31116
182.19	Airgas East	31117
3,090.18	Boonton Tire Supply	31118
103.35	McGuire	31119
193.55	Verizon Wireless	31120
139.30	Dell Marketing L.P.	31121
15.92	Walmart	31122
5,500.00	Holzhauer & Hostenstein, LLC	31123
1,395.00	Vogel, Chait, Collins, Schneider, PC	31124
934.30	Fire & Safety Services, LTD.	31125
176.81	Carquest	31126
200.85	Ward's Flowers & Gifts	31127
1,275.83	Staples Business Advantage	31128
328.73	Staples Business Advantage	31129
5.10	Language Line Services	31130
174.13	Lowe's	31131
96.00	CSS Test	31132
46.00	Krave Café	31133
26.07	Nestle Waters	31134
420.19	Sussex County Rental Center	31135
620.00	Pinnacle Wireless FBO Unitex Global	31136
10.00	Treasurer, State of NJ – Burial	31137
30.00	Adam Vough	31138
5,320.18	County of Sussex	31139
815.34	B & H	31140
800.00	Porter Lee Corporation	31141
240.88	Atlantic Tactical	31142
1,815.00	Knapp, Trimboli & Prusinowski, LLC	31143
1,125.82	Custom Products Corp.	31144
102.72	Mulch Concepts	31145
100.00	NJRA	31146
185.00	Thyssenkrupp Elevator Corp.	31147
70.00	Sonia Barria	31148
60.50	Lucy DeLoreto	31149
475.00	D. Lovenberg's Portable Toilet Rentals	31150
1,271.25	J. Caldwell & Associates, LLC	31151

**CAPITAL**

14,667.00	Howard Goldberg & Newtonian Assoc's	31089
1,357.92	Woodruff Energy US, LLC.	31088
1,487.52	Verizon Wireless	31087
5,188.38	Taylor Oil Co.	31086
25.53	Thomas S. Russo, Jr.	31085
3,811.61	Rachle's/Michele's Oil Company	31084
1,353.24	NUI Corporation	31083
5,044.10	Mirabito Energy Wholesale Div.	31082
168.00	Jersey Central Power & Light	31081
6,962.51	JCP&L	31080
6,463.60	Direct Energy Business	31079
100.00	Clear Channel Radio	31078
187.50	Civic Plus	31077
2,010.00	Chelbus Cleaning Co., Inc.	31076
126.69	CenturyLink Communications, Inc.	31075
35.00	CenturyLink Communications, Inc.	31074
475.39	CenturyLink Communications, Inc.	31073
7,875.00	BNY Mellon	121070
94,065.00	BNY Mellon	121069
929,927.25	Newton Board of Education	121068
650.00	Newton Parking Authority	121067
71.36	Elavon (merchant svc)	121066

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277,872.67	Payroll Account	121064
100.00	Applebee's	31072
104.64	Dominick's Pizza	31071
834.92	Vision Service Plan	31070
121,329.00	NJMEBF	31069
300.00	Town of Newton	31068
15,686.67	Chase Bank	121063
65,520.00	Chase Bank	121062
425.00	Grant Writing USA	31067
929,927.25	Newton Board of Education	121061
4,745.00	Greater Newton Chamber of Commerce	31066
171.84	Thomas S. Russo, Jr.	31065
925.71	Payroll Account	121060
193,958.14	Payroll Account	121059
10,006.00	SZ Construction, LLC	8028
35,035.00	CMS Construction, Inc.	8029
6,212.00	Pellow, Harold & Assoc., Inc.	8030
60.60	New Jersey Herald	8031
72.00	Hollander, Strelzik, Pasculli, Hinkes	8032
463.20	Hamburg Plumbing Supply Co., Inc.	8033
4,759.66	McManimon & Scotland	8034
1,179.95	Lou's Glass	8035
3,067.07	BCI Burk Company	8036
274.99	Sparctech Solutions, LLC	8037
5,426.00	J. Caldwell & Associates, LLC	8038

**TOTAL TOWN BILLS \$2,828,174.53**

**WATER & SEWER BILLS**

7,890.00	Schmidt's Wholesale, Inc.	13240
3,449.25	Pellow, Harold & Assoc., Inc.	13241
213.77	Hach Company	13242
656.65	SCMUA	13243
22.75	Sussex County Plumbing &...	13244
12,784.88	Coyne Chemical Corp., Inc.	13245
33.56	CenturyLink Communications, Inc.	13246
450.00	Hollander, Strelzik, Pasculli, Hinkes	13247
45,000.00	Water & Sewer Capital Account	13248
819.00	Carr, Joseph	13249
4,000.00	SUI Account	13250
388.80	Dempsey Uniform & Supply, Inc.	13251
243.52	Airgas East	13252
62.00	Lasso, Ervin	13253
1,642.08	Boonton Tire Supply	13254
700.00	JCI Jones Chemicals, Inc.	13255
135.00	Accurate Door, Inc.	13256
743.40	Univar USA, Inc.	13257
5,130.00	Passaic Valley Sewerage Comm.	13258
794.50	Dell Marketing, L.P.	13259
1,392.60	Main Pool & Chemical Company	13260
14.98	Advance Auto Parts	13261
32,720.00	RAM Motors & Controls	13262
900.00	Hydro Technology, LLC	13263
1,408.89	Airmati Compressor Systems, Inc.	13264
1,915.00	Process Tech Sales and Service	13265
3,736.00	Pall Corporation	13266
78.00	Eric Tompkins	13267
962.00	Andy Matt, Inc.	13268
980.00	Tire King	13269
4,827.00	Accurate Waste Removal	13270
129.00	Dustin McGarry	13271
235.10	One Call Concepts	13272

**CAPITAL**

942.58	Woodruff Energy US, LLC	13206
231.34	Verizon Wireless	13205
754.35	NUI Corporation	13204
2,201.81	JCP&L	13203
12,847.57	Direct Energy Business	13202
187.50	Civic Plus	13201
125.85	CenturyLink Communications, Inc.	13200
34,042.07	Payroll Account	126037
170.92	Vision Service Plan	13199
18,039.00	NJMEBF	13198
84,856.64	Chase Bank	126036
171,359.99	Chase Bank	126035
2,250.00	Appalachian Forestry Service	13197
35,175.11	Payroll Account	126034
1,100.73	Schmidt's Wholesale	2262
255.00	Pellow, Harold & Assoc., Inc.	2263
34.20	New Jersey Herald	2264
139.80	Rowe & Company, Inc.	2265
6,266.50	Water & Sewer Operating Acct.	2266
25,304.83	Weldon Asphalt Company	2267
5,796.00	RAM Motors & Controls	2268
1,585.83	Capitol Supply Const. Products, Inc.	2269
1,850.00	Harter Equipment, Inc.	2270
146.80	Payroll Account	126110
77.69	Payroll Account	126109

**TOTAL WATER & SEWER BILLS \$ 540,199.84**

**TRUST ACCOUNT**

684.00	Pellow, Harold & Assoc., Inc.	3079
846.00	Hollander, Strelzik, Pasculli, Hinkes	3080
105.00	Vogel, Chait, Collins, Schneider, PC	3081
209.00	Kin Properties	3082

**CAPITAL**

2,163.75	Current Account	127120
1,616.88	Payroll Account	127119
200.00	Ms. Nicole M. Gibson	3078
202.11	Payroll Account	127118
1,010.55	Payroll Account	127117

**TOTAL TRUST ACCOUNT BILLS \$ 7,037.29**

**FEDERAL/STATE GRANTS**

2,025.00	Center for Prevention & Counseling	1113
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**TOTAL FEDERAL/STATE GRANTS \$ 2,025.00**

**DOG RESERVE**

7,750.00	Township of Wantage	8527
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**TOTAL DOG RESERVE \$ 7,750.00**

**SUI (FUND 73)**

7,398.73	S/NJ Employer Accounts	1076
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**TOTAL SUI (FUND 73) \$ 7,398.73**

November 26, 2012

**RESOLUTION #242-2012\***

**APPROVAL OF AGREEMENT FOR THE USE OF STRATFORD LANE INLET BY GULL, LLC FOR DRAINAGE**

**WHEREAS**, Gull, LLC (hereinafter referred to as "GULL") is the owner of improved real property located in the Town of Newton ("TOWN") commonly known as 52 Paterson Avenue and more precisely identified on the official tax map of the Town of Newton as Block 16.03, Lot 6 and formerly known as Block 1201.02, Lot 2.01 (hereinafter referred to as the "PROPERTY"); and

**WHEREAS**, the TOWN and GULL recognize that there are drainage issues that affect the rear of the PROPERTY; and

**WHEREAS**, The TOWN owns and maintains a storm drainage system, which, in part, conveys water from portions of the Castle Ridge development to a detention basin on Jersey Place; and there exists on this system an inline inlet located near the southwest corner of the PROPERTY (hereinafter known as the "STRATFORD LANE INLET"); and

**WHEREAS**, GULL seeks to utilize the STRATFORD LANE INLET as a means of expediting the drainage of stormwater on the PROPERTY resulting from normal one – and two – year storms by allowing the STRATFORD LANE INLET to accept limited stormwater discharge from the PROPERTY; and

**WHEREAS**, the TOWN and GULL acknowledge that the PROPERTY is subject to regular flooding from normal storm events and that utilization of the STRATFORD LANE INLET will neither cure the flooding to which the PROPERTY is subject nor prevent flooding of the PROPERTY in any storm event; and

**WHEREAS**, the TOWN and GULL have reached an agreement governing each parties' respective rights and obligations regarding the utilization of the STRATFORD LANE INLET as a means of expediting but not alleviating stormwater issues on the PROPERTY;

**NOW THEREFORE BE IT RESOLVED** that the Town Council of the Town of Newton does hereby approve the Agreement for the Use of the Town of Newton's Stratford Lane Inlet by Gull, LLC for Drainage, as set forth substantially in the form attached hereto, and does hereby authorize the Mayor to execute said agreement substantially in the form attached hereto and subject to review and approval of the Town Attorney.

The Clerk presented an application for an off-premise raffle from Pride Foundation, Inc., 44 Ryerson Avenue, Newton to be held on Friday, March 15, 2013 at 3:00 p.m. at 44 Ryerson Avenue, Newton. It was noted that the application was in order and accompanied by the prescribed fee.

The Clerk presented an application for an on-premise raffle from Catholic Academy of Sussex County, Inc. to be held on Saturday, January 12, 2013 at 9:00 p.m. and Saturday, March 23, 2013 at 9:00 p.m. at St. Joseph Regional School, 20 Jefferson Street, Newton. It was noted that the application was in order and accompanied by the prescribed fee.

The Clerk presented an application for an on-premise raffle (Pull Tab Game) from Loyal Order of Moose (LOOM #432) Newton to be held from January 1, 2013 to December 31, 2013 at 4 Diller Avenue, Newton. It was noted that the application was

in order and accompanied by the prescribed fee.

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

Mrs. Becker	Absent	Mr. Elvidge	Yes
Deputy Mayor Ricciardo	Absent	Mr. Flynn	Yes
	Mayor Diglio	Yes	

**DISCUSSION**

**a. Vision Plan – Jessica Caldwell & Stuart Koperweis**

Mrs. Caldwell, Town Planner and Mr. Koperweis, of Millennium Strategies, Marketing Consultant, made a presentation to the Governing Body and outlined the preliminary findings of the Strategic Vision Plan sessions as well as the Individual Stakeholder interviews. Mr. Koperweis informed the Council that there were four categories of utmost concern: Building & Hardscape Condition; Business; Communication; and Community. Mrs. Caldwell and Mr. Koperweis provided a brief outline of each category. Mrs. Caldwell reviewed the positive and negative comments received from the Vision Plan sessions.

After a lengthy discussion, Mr. Koperweis outlined several areas and options of marketing. Mr. Koperweis advised that a final report will be created and will be submitted to the Town Council in January.

Mayor Diglio open the meeting to the public.

Helen Le Frois, 132 Main Street, addressed the Council with several positive comments regarding the Vision Plan. Mrs. Le Frois is looking forward to the final report and hopes to find an outline of incremental measurable steps in order for the Town to move forward.

Neil Flaherty, 154 Sparta Avenue, addressed the Council and suggested that the Town needs to focus their Vision plan on the downtown area which is the “heart” of the Town of Newton.

**INTERMISSION** – 10 min.

**b. Non-Union Salaries**

Mr. Russo presented the Council with a salary proposal for non-union employees. Mr. Russo recommended that a one-time performance award payment, equal to 2% of the individual’s salary to be paid in 2012. It was also recommended that a 2% base

salary increase for 2013, beginning in January for non-union full-time and part-time employees be given. This would not include Town Manager, Town Council and newly hired employees. The total cost would be approximately \$30,000 which was budgeted in 2012. Council unanimously agreed to move forward with Mr. Russo's proposal as presented.

**c. December 26, 2012 Council Meeting Cancellation**

Mr. Russo requested that the last Council meeting, to be held on December 26, 2012, be cancelled. He outlined the agenda for December 10<sup>th</sup>, which will begin at 6:00 p.m. for the tree lighting ceremony and noted that any additional Resolutions will be moved to the first meeting in January.

After a brief discussion, Council agreed to cancel the December 26<sup>th</sup> Council meeting.

**OPEN TO THE PUBLIC**

Mayor Diglio opened the hearing to the public.

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

**COUNCIL & MANAGER COMMENTS**

Mr. Russo thanked the Mayor and the Newton Chamber of Commerce for their hard work on the Holiday parade held on Saturday, November 24, 2012. The parade was well attended and fun was had by all, Mr. Russo concluded.

Councilman Flynn thanked the Department of Public Works for clearing the roads in a timely manner after Hurricane Sandy.

Mayor Diglio also thanked the Department of Public Works as well as the Newton First Aid Squad and the Newton Fire Department for their assistance throughout the storm.

There being no further business to be conducted, upon motion of Mrs. Becker, seconded by Mr. Elvidge and unanimously carried, the meeting was adjourned at 7:36 p.m.

Respectfully submitted,

Lorraine A. Read, RMC  
Municipal Clerk