

January 14, 2013

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

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

Mayor Diglio led the Pledge of Allegiance to the flag and the Clerk called the roll and upon motion of Mr. Ricciardo, seconded by Mr. Elvidge and carried, the minutes of December 10, 2012 (Regular) and December 10, 2012 (Executive) meetings were approved.

### **PRESENTATION**

#### **A. House Decorating Contest Winner**

Mayor Diglio congratulated Tom Aquilino of 29 Park Avenue, Newton, as the winner of the Holiday House Decorating Contest and presented him with a certificate.

### **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 one from the public to be heard.

### **COUNCIL & MANAGER REPORTS**

Mr. Russo noted that Town Hall will be closed on January 21, 2013 in observance of Dr. Martin Luther King Jr. Day.

Mr. Russo noted that the Town Council will hold a Special Meeting to discuss the Municipal budget and Water and Sewer budget on Saturday, February 9, 2013 at 9:00 a.m. at the Newton Municipal Building.

Mr. Russo and Councilman Elvidge attended the New Jersey Municipal Management Association meeting in New Brunswick and the Newton Town Council was recognized for their "Outstanding Service to Local Government" by the New Jersey Municipal Management Association for 2012.

Councilman Elvidge noted that the award was a great surprise and was proud of the Town for being a recipient of same.

**ORDINANCES** - None

**OLD BUSINESS** - None

**CONSENT AGENDA**

Mr. Russo reviewed the various resolutions.

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 #1-2013\***

**OPPOSITION TO THE APPROVAL PROCESS FOR NON-SHBP HEALTH INSURANCE PLANS AS PROPOSED BY N.J.A.C. 5:30-18.1 THROUGH 18.4 AND N.J.A.C. 6A:23A**

**WHEREAS**, the New Jersey Local Finance Board and the New Jersey Department of Education have proposed rules requiring that all labor contracts providing for health insurance outside the State Health Benefits Program need to be approved by the State and requiring that local entities and school boards perform a static comparison of health insurance costs to State Health Benefit Program costs; and

**WHEREAS**, these rules are in conflict with Section 42.c of Chapter. 78, which is ostensibly used as authority for the regulation, but is actually meant only to apply to public entities wishing to enter into contract that included a contribution schedule from employees that substitutes for that as laid out in the statute; and

**WHEREAS**, the regulations, as proposed, extends this authority to require all public entities electing not to provide health benefits through the State Health Benefits Plan (SHBP) and the School Employees' Health Benefits Program (SEHBP) to submit to the process established under the proposed regulation; and

**WHEREAS**, this interpretation that is contrary to the regulations is supported by:

- The plain reading of the statute;
- The explanation contained in Local Finance Notice (LFN) 2011-20R, Section VI. Alternate Employee Health Care Contribution; and
- The following language from the "Statement" found at page 121, line 35 of the Bill (underlining added):

*The bill allows boards of education and units of local government, that do not participate in the SHBP or SEHBP, to enter into contracts for health care benefits coverage, as may be required to implement a collective negotiations agreement, and agree to different employee contribution rates if certain cost savings in the aggregate over the period of the agreement can be demonstrated. The savings must be certified to the Department of Education or the Department of Community Affairs, as appropriate.*

**WHEREAS**, the proposed regulation is cumbersome and places a significant burden on any public body intending to utilize the employee contribution schedule contained within the law, but wishing to obtain health benefits outside the SHBP or SEHBP; and

**WHEREAS**, the de facto effect of this regulation, if adopted, will be to drive public bodies into the SHBP or SEHPB and stifle competition; and

**WHEREAS**, New Jersey already has one of the nation's most uncompetitive health insurance markets according to the Henry J. Kaiser Family Foundation (October

2011):

- In the individual market, one carrier, Horizon BCBS, controls 73% of the market with only two carriers having 5% or more of the market.
- The same carrier controls over 75% of the governmental market, largely by virtue of its relationship with the SHBP and SEHBP.
- Finally, Horizon controls 43% of the small group market; and

**WHEREAS**, if the regulation causes a significant number of local entities to move to the SHBP and SEHBP, a negative result will be to increase market concentration and further reduce carrier competition in the State; and

**WHEREAS**, this will result in an increase in fully insured costs for other persons, governmental entities, not for profits, and business in the State; and

**WHEREAS**, the regulations' definition of "net employer cost" is not inclusive of all relevant items and should be modified:

- For instance, members of JIFs own a proportionate share of fund surplus that should be included in a valid comparison.
- Likewise, JIF members receive dividends that reduce net employer cost.
- Finally, JIF rates could include supplemental assessments that represent a liability to the member regardless of whether it stays in the joint insurance fund or moves to the SHBP.; and

**WHEREAS**, most local entity labor contracts cover multiple year periods:

- A comparison using the most current year is misleading and invalid because the comparison can change in subsequent years.
- In addition, school districts that belong to health JIFs renew on July 1 of each year.
- The differences in renewal cycles between the health JIF, the SEHBP, and the commercial market will further complicate comparisons; and

**WHEREAS**, the regulations do not address differences in plan design between an employer plan and the plan or plans offered by the SHBP and the SEHBP and such differences are critical to any valid comparison of plan economics; and

**WHEREAS**, the regulations do not address legal restraints on local entities considering their obligations to retirees, and obligations to employee groups that are not a part of the contract in question; and

**WHEREAS**, in situations where a local health plan has negotiated benefits that are richer than, or even different than, those provided by the SHBP and SEHBP, the local unit will be subject to sanctions for failing to honor its labor agreements; and

**WHEREAS**, the comparison is burdensome to local units and of limited use given that the requested details do not allow for a valid comparison of net cost and benefits; and

**WHEREAS**, SEHBP rates are reduced by the amount of the A4 retiree surcharge paid by entities not in the state plan and the rates for local school districts not in the SEHBP are increased by the surcharge further limiting the fairness and utility of the comparison; and

**WHEREAS**, SEHBP and SHBP rates in the past have been impacted by one time sources of revenue such as the Tobacco settlement and the use of one time sources of revenue that are not available to local units does not permit for a fair and valid comparison; and

**WHEREAS**, the regulations favor the SEHBP and SHBP to the exclusion of health joint insurance funds (JIFs) that have faithfully served New Jersey local government, under enabling statutes, for over 20 years:

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- Health JIFs are a valid alternative for entities with unique plan designs, good loss experience, and a willingness to participate in JIF governance.
- Health JIFs are the largest "shared services" effort in the State for local government from a revenue standpoint.
- To the extent that the regulations operate to the disadvantage of health JIFs, the regulations are in opposition to, and indeed are hostile to, statutes that authorize JIF creation and operation.
- By extension, the regulations foster a "big government" mentality and are hostile to both "shared services" and "home rule" concepts.
- If the regulation seeks to encourage "due diligence", then members of the SEHBP and SHBP should also be required to compare their claims and cost to the health JIF and commercially insured alternatives.

**NOW, THEREFORE, BE IT RESOLVED**, that, for the foregoing reasons, we respectfully beseech that the Departments modify and reissue the proposed regulations to:

- Apply only when a local unit proposes an employee contribution schedule different from that contained in the statute;
- Require any comparison to take into consideration differences in plan design and eligibility;
- Require the evaluation criteria to consider dividends received from a health JIF and shares of surplus retained by the health JIF;
- Promote, rather than undermine, healthy competition among the various options available to local units shopping for health insurance;

**BE IT FURTHER RESOLVED** that certified copies of this resolution be forwarded to Governor Christie, the NJ Local Finance Board, the NJ Department of Education, and to local legislative representatives.

#### **RESOLUTION #2-2013\***

#### **RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF THAT CERTAIN AMENDMENT AND CONSENT NO. 1 BY THIS PARTICIPATING SERIES 2011A LOCAL UNIT IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY'S COUNTY OF SUSSEX RENEWABLE ENERGY PROGRAM**

**WHEREAS**, on December 14, 2011, pursuant to bond resolution 11-39, as amended and supplemented (the "*Bond Resolution*"), and certain other Program Documents (as defined in the Bond Resolution), the Morris County Improvement Authority (the "*Authority*") financed solar projects for various local government units (the "*Series 2011 Local Units*") within the County of Sussex (the "*Program*"), including the participating Series 2011 Local Unit adopting this resolution (the "*Participant*") (any capitalized terms herein, not otherwise defined herein, for all purposes of this Resolution, shall have the meanings ascribed to such terms in the Bond Resolution);

**WHEREAS**, the Participant took advantage of the Program through its execution and delivery of the Participant's License and Access Agreement and through its acknowledgment of the Power Purchase Agreement;

**WHEREAS**, the Authority, the County of Sussex (the "*County*"), U.S. Bank National Association (the "*Trustee*"), Sunlight General Capital Management, LLC and Sunlight General Sussex Solar, LLC (collectively, the "*Company*"), and the Participant desire to amend the Program Documents to effect certain changes as set forth in that certain "Amendment and Consent No. 1" to be executed (the "*Consent No. 1*"), in substantially the form attached hereto as **Exhibit A**, by and among the Authority, the County, the Trustee, the Company, as acknowledge by certain Series 2011 Local Units as set forth on Exhibit A to the Consent No. 1, which Consent No. 1 has been submitted to the rating agencies which rate the Authority's bonds (the "*Rating Agencies*");

**WHEREAS**, such changes include, as set forth in the Consent No. 1, (i) to provide for additional Project Fund requisition and payment direction procedures, (ii) to authorize an anticipated investment in the Investment Company by Firststar

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Development, LLC, a Delaware limited liability company (including any successor and assigns, "*Firststar*") and the investment by the Investment Company in the Holding Company, (iii) to revise the list of, and respective Required Completion Dates for, the participating Series 2011 Local Units, (iv) to clarify certain definitions and the application of the Draw Paper Ratio to Soft Costs, (v) to provide for Additional Subcontractors, (vi) to provide for the consent by only affected Series 2011 Local Units in future amendments and (vii) to provide for certain other matters allowing for the Project Company to make the Basic Lease Payment due January 15, 2013 on time and in full; and

**WHEREAS**, the Authority has previously authorized the execution and delivery of Consent No. 1 pursuant to that certain "RESOLUTION OF THE MORRIS COUNTY IMPROVEMENT AUTHORITY AUTHORIZING THE EXECUTION AND DELIVERY OF AMENDMENT AND CONSENT NO. 1 AND CERTAIN OTHER ACTIONS, ALL IN CONNECTION WITH THE AUTHORITY'S SUSSEX COUNTY RENEWABLE ENERGY PROGRAM" adopted by the governing body of the Authority on November 21, 2012 (the "*Authority Resolution*").

**NOW THEREFORE BE IT RESOLVED** by the governing body of the Participant as follows:

**Section 1.** The Mayor and Town Manager of the Participant (including their designees, each an "*Authorized Officer*") are each hereby severally authorized and directed to negotiate, execute and deliver the Consent No. 1, in substantially the form attached hereto as **Exhibits A**, with such changes as any such Authorized Officer, in his or her sole discretion shall determine to be necessary, desirable or convenient to promote the best interests of the Participant, including any non-material changes requested by the Rating Agencies and the final revised Exhibit A-1 to the Program Documents, and any such Authorized Officer's execution and delivery of the Consent No. 1 shall be full and complete evidence of the authorization by the Participant of any such additions or changes to the Program Documents. The Authorized Officer is hereby further authorized to take all such further actions in connection therewith in accordance with all applicable law, including without limitation the execution of such other certificates, instruments or documents, as any such Authorized Officer, in consultation with counsel, shall deem necessary, convenient or desirable by any such Authorized Officer to implement the Consent No. 1.

**Section 2.** The Municipal Clerk of the Participant and any designee are hereby authorized and directed, where required, to affix the corporate seal of the Participant and to attest to the signature of the Authorized Officer on the Consent No. 1 and such other certificates, instruments or documents contemplated herein. Thereafter the Authorized Officer is hereby authorized and directed to deliver any such fully authorized, executed, delivered, and if applicable, attested and sealed certificates, instruments and documents to any interested party.

**Section 3.** All actions taken to date in connection with the Consent No. 1 by the Participant and its advisors are hereby ratified, confirmed and approved.

**Section 4.** A certified copy of this resolution and five (5) executed originals of the Consent No. 1 shall be forwarded to Stephen B. Pearlman, Esq. of Inglesino, Pearlman, Wyciskala & Taylor, LLC, to the attention of Annie Collart, Law Clerk, at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

**Section 5.** This resolution shall take effect immediately in accordance with all applicable law.

**RESOLUTION #3-2013\***

**AUTHORIZING THE SALE OF BRINE SOLUTION TO MUNICIPALITIES**

**WHEREAS**, the Town of Newton has the equipment necessary to make a brine solution which is used on roadways in preparation for inclement weather; and

**WHEREAS**, in the past, other municipalities have purchased the brine solution from the Town of Newton; and

**WHEREAS**, the Newton Town Council desires to authorize the sale of brine solution to other municipalities to the extent it is available, subject to the terms and conditions of this Resolution; and

**WHEREAS**, the New Jersey Local Public Contracts Law authorizes the sale of items such as the brine solution to a local government agency in accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-36(2), without the need for bids or public auctions;

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

1. The Town of Newton may sell to other municipalities brine solution to the extent that the Town of Newton has the solution available.
2. The DPW Supervisor shall be responsible for monitoring the quantities of brine solution sold and provide the information to the Town of Newton CFO or his/her designee for invoicing purposes.
3. The sale price of the brine solution at the time of this Resolution is \$0.25 per gallon; however, the Town of Newton reserves the right to adjust the sale price in the event that the costs to the Town of Newton increase during the term of this Resolution. Upon receipt of the invoice, the purchasing municipality shall submit a purchase order or voucher to the Town of Newton. Payment of the invoice is expected within 30-45 days of the invoice date.
4. A copy of this Resolution shall be placed on file with the Clerk of the Town of Newton.
5. This Resolution shall take effect immediately and shall remain in effect through April 30, 2013, or as such time as the Town Council modifies or repeals this Resolution.

**RESOLUTION #4-2013\***

**AUTHORIZING THE TOWN OF NEWTON TO ENTER INTO A SHARED SERVICES AGREEMENT THROUGH DECEMBER 31, 2017 WITH THE COUNTY OF SUSSEX FOR MAINTENANCE OF MUNICIPALLY OWNED TRAFFIC SIGNALS AND FLASHING WARNING DEVICES**

**WHEREAS**, the Town of Newton owns certain traffic signals and flashing warning devices within its jurisdiction; and

**WHEREAS**, there is a need to have these signal devices maintained, repaired, and upgraded as required and necessary to keep them repaired and in working condition; and

**WHEREAS**, the County of Sussex, through its Office of Bridge and Traffic Safety, within the Division of Engineering, is in a position to provide these services to the Town of Newton for their consideration; and

**WHEREAS**, the Town of Newton and County of Sussex had previously entered into a Shared Services agreement for Signal Maintenance which expired on December 31, 2012; and

**WHEREAS**, the Town of Newton and County of Sussex are interested in consummating a new arrangement as a shared service that will allow for this collaboration to occur again; and

**WHEREAS**, the Town of Newton and County of Sussex have agreed to participate in the manner and to the extent as outlined in the attached Agreement which allocation of responsibility and cost is also agreeable to the parties; and

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**WHEREAS**, the parties have the authority to enter into the attached Agreement under the Uniform Shared Services and Consolidation Act, N.J.S.A.40A:65-1 et seq. and the Local Public Contracts Law, N.J.S.A. 40A:11-10;

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Newton that the Mayor and Municipal Clerk are hereby authorized to execute the attached Agreement.

**RESOLUTION #5-2013\***

**APPOINTMENT OF FRANK LEONE TO THE NEWTON PARKING AUTHORITY**

**WHEREAS**, there currently is a vacancy on the Newton Parking Authority as a result of the removal of Richard Valentino due to excessive unexcused absences, and

**WHEREAS**, Frank Leone has expressed interest in serving as a member of the Newton Parking Authority;

**NOW THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that Frank Leone is hereby appointed to an unexpired five (5) year term on the Newton Parking Authority, effective immediately with said term continuing to December 31, 2015.

**RESOLUTION #6-2013\***

**ADOPTION OF THE TEMPORARY OPERATING BUDGET AND TEMPORARY WATER AND SEWER BUDGET FOR 2013**

**WHEREAS**, funds are needed to operate the Municipal Government and the Water and Sewer Utility for the first ninety (90) days of calendar year 2013; and

**WHEREAS**, N.J.S.A. 40A:4-19 provides for adoption of a Temporary Budget, not to exceed twenty-six and one-quarter percent (26.25%) of the preceding year's Budget;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that the 2013 Temporary Operating Budget and the 2013 Temporary Water and Sewer Utility Budget be and are hereby approved, pending adoption of the 2013 Annual Municipal Budget and the 2013 Water and Sewer Utility Budget.

**RESOLUTION #7-2013\***

**APPROVE CHANGE ORDER NO. 1 FOR THE PROPOSED HOWARD STREET STORM DRAINAGE IMPROVEMENTS PROJECT**

**WHEREAS**, the Town Council of the Town of Newton awarded a contract for the Proposed Howard Street Drainage Improvements Project to Bob Viersma & Sons, Inc., in the amount of \$27,386.00 by Resolution #220-2012, which was adopted on October 22, 2012; and

**WHEREAS**, Harold Pellow & Associates, Inc., the Engineer for the project, has prepared Change Order No. 1 for said project, and recommends approval of the following:

	<u>Amount</u>
<u>Supplemental</u>	<u>\$ 520.00</u>
<u>Reduction</u>	<u>(\$2,380.25)</u>
<b>Total Change Order No. 1</b>	<b>(\$1,860.25)</b>

**WHEREAS**, the adjusted contract amount will be decreased by Change Order No. 1 to the new contract total of \$25,523.00;

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**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that we hereby approve Change Order No. 1 for the Proposed Howard Street Drainage Improvements Project based on the recommendation of the Harold E. Pellow and Associates, Inc., and that the Mayor is authorized to execute said Change Order No. 1 resulting in a new contract total of \$25,523.00.

**RESOLUTION #8-2013\***

**AFFIRM THE REFUND OF REDEMPTION MONIES TO OUTSIDE LIEN HOLDER FOR BLOCK 8.08, LOT 19**

**WHEREAS**, at the Municipal Tax Sale held on October 29, 2008 a lien was sold on Block 8.08, Lot 19 (Formerly Block 711, Lot 23), also known as 112 Spring Street, for 2007 delinquent water and sewer charges; and

**WHEREAS**, this lien, known as Tax Sale Certificate #1263, was sold to Plymouth Park Tax Service, LLC for 0% redemption fee and a premium of \$2,000.00; and

**WHEREAS**, in September 2012 Plymouth Park Tax Service, LLC assigned said Tax Sale Certificate to Steve Dickman, 173 Rt 46, Rockaway, NJ 07866; and

**WHEREAS**, TD Bank, the owner's mortgage company, has effected the redemption of Certificate #1263 in the amount of \$58,181.13, as well as \$1,517.00 for legal foreclosure fees;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that this Governing Body acknowledges that Steve Dickman is entitled to a redemption in the amount of \$58,181.13, a return of the premium in the amount of \$2,000.00, as well as \$1,517.00 for foreclosure legal fees; and

**BE IT FURTHER RESOLVED**, that this Governing Body hereby affirms the actions of the Tax Collector who issued three (3) checks, the first in the amount of \$58,181.13 for the redemption of Certificate #1263, the second in the amount of \$2,000.00 for the return of the premium and \$1,517.00 for the foreclosure legal fees to Steve Dickman, 173 Rt. 46, Rockaway, NJ 07866.

**RESOLUTION #9-2013\***

**FINAL ACCEPTANCE OF THE PROPOSED IMPROVEMENTS TO THE EMERGENCY SPILLWAY OF PAULINSKILL DAM SITE #4 PROJECT**

**WHEREAS**, on September 24, 2012 by way of adoption of Resolution #195-2012, the Newton Town Council awarded a contract to CMS Construction, Inc., for Proposed Improvements to the Emergency Spillway of Paulinskill Dam Site #4 Project; and

**WHEREAS**, in a memo to the Town Manager dated December 6, 2012, the Town Water Engineer, David B. Simmons, Jr., of Harold E. Pellow & Associates, Inc., states that said project has been completed and recommends the project be accepted as final and complete;

**NOW, THEREFORE BE IT RESOLVED** by the Town Council of the Town of Newton that it hereby concurs with the Town Water Engineer's recommendation and accepts the Proposed Improvements to the Emergency Spillway of Paulinskill Dam Site #4 Project as final and complete so that final paperwork can be started and a one (1) year Maintenance Bond be secured by the contractor; and

**BE IT FURTHER RESOLVED** that certified copies of this Resolution be forwarded to CMS Construction, Inc., and the Town Water Engineer.

**RESOLUTION #10-2013\***

**APPROVE 2012 APPROPRIATION RESERVE TRANSFERS**

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

<u>From</u> <u>CURRENT</u>	<u>To</u>	<u>Amount</u>
Assessment of Taxes SW 1055103A	Assessment of Taxes OE 1055200A	\$800.00
Road SW 1080101A	Police SW 1074100A	\$15,000.00
Court SW 1059100A	Cencom SW 1094734A	\$1,500.00
Snow Removal SW 1081100A	Cencom SW 1094734A	\$3,900.00
Collection Tax SW 1056101A	Human Resource SW 1053103A	\$300.00
Clerk SW 1051101A	Community Devel SW 1064103A	\$250.00
Inspection Building SW 1077100A	Accumulated Absence SW 1094400A	\$2,000.00
Group Insurance OE 1066200A	Other Insurance OE 1069200	\$2,000.00
<b>TOTAL CURRENT TRANSFERS</b>		<b>\$25,750.00</b>
W&S Bldg - Electric 6052225A	W&S Admin&Fin SW 6051101A	\$3,000.00
W&S Bldg - Electric 6052225A	W&S Social Security OE 6093298A	\$ 50.00
<b>TOTAL WATER &amp; SEWER TRANSFERS</b>		<b>\$3,050</b>

**RESOLUTION #11-2013\***

**RESOLUTION CONSENTING TO THE PROPOSED WATER QUALITY MANAGEMENT (WQM) PLAN AMENDMENT ENTITLED: *SUSSEX COUNTY WATER QUALITY MANAGEMENT PLAN***

**WHEREAS**, the Town of Newton desires to provide for the orderly development of wastewater facilities within the Town of Newton; and

**WHEREAS**, the New Jersey Department of Environmental Protection (NJDEP) requires that proposed wastewater treatment and conveyance facilities and wastewater treatment service areas, as well as related subjects, be in conformance with an approved WQM plan; and

**WHEREAS**, the NJDEP has established the WQM plan amendment procedure as the method of incorporating unplanned facilities into a WQM plan; and

**WHEREAS**, a proposed WQM plan amendment noticed in the New Jersey Register on January 7, 2013 for the Sussex County Water Quality Management Plan – Sussex County Future Sewer Service Area map, has been prepared by the County of Sussex;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that:

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1. The Town of Newton hereby consents to the amendment entitled *Sussex County Water Quality Management Plan* publicly noticed on January 7, 2013, prepared by the County of Sussex, for the purpose of its incorporation into the applicable WQM plan(s).
2. This consent shall be submitted to the NJDEP in accordance with N.J.A.C. 7:15-3.4.

**RESOLUTION #12-2013\***

**REFUND AN ADDED ASSESSMENT AS THE RESULT OF A COUNTY BOARD OF TAXATION APPEAL JUDGMENT**

**WHEREAS**, Block 12.01, Lot 16, also known as 38-40 Pine Street, received an added assessment for no longer meeting the eligibility for exempt status; and

**WHEREAS**, on December 12, 2012, Mr. Brian Benson paid the added assessment in the amount of \$6,202.59; and

**WHEREAS**, on December 31, 2012, a Judgment was received from the County Board of Taxation instructing the Tax Collector to reduce the amount of said added assessment causing an overpayment on this Block and Lot in the amount of \$5,353.50; and

**WHEREAS**, on December 19, 2012, the property was sold, therefore, the overpayment in the amount of \$5,353.50 is due as a refund to Mr. Brian Benson;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that this Governing Body acknowledges that Mr. Brian Benson is entitled to a refund in the amount of \$5,353.50; and

**BE IT FURTHER RESOLVED**, that the Treasurer of the Town of Newton be authorized to issue a check in the amount of \$5,353.50 for the refund of said overpayment to Mr. Brian Benson, C/O Dolan and Dolan, PA, PO Box D, Newton, NJ 07860, Attention: Mr. Charles J. Brand, Esq.

**RESOLUTION #13-2013\***

**AFFIRM THE REMITTANCE (CANCELLATION) OF AN ADDED ASSESSMENT**

**WHEREAS**, Block 21.04, Lot 24, also known as 71 Paterson Avenue and owned by Kenneth Scott M. Roundtree, received an added assessment for improvements to the residence on November 1, 2012; and

**WHEREAS**, on December 31, 2012 the Tax Collector received a judgment from the Sussex County Board of Taxation stating that the added assessment was reduced to zero and said added assessment be remitted (cancelled);

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that this Governing Body acknowledges that this added assessment for the tax year 2012 as well as the preliminary first half of 2013 be remitted (cancelled); and

**BE IT FURTHER RESOLVED** that this Governing Body hereby affirms the actions of the Tax Collector who has remitted (cancelled) the added assessment for the tax year 2012 as well as the preliminary first half of 2013 for said block and lot.

**RESOLUTION #14-2013\***

**AFFIRM THE REFUND OF REDEMPTION MONIES TO OUTSIDE LIEN HOLDER FOR BLOCK 8.08, LOT 22**

**WHEREAS**, at the Municipal Tax Sale held on June 2, 2010 a lien was sold on Block 8.08, Lot 22 (Formerly Block 711, Lot 22), also known as 124 Spring Street, for 2009 delinquent real estate taxes; and

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**WHEREAS**, this lien, known as Tax Sale Certificate #1328, and was sold to US Bank – Cust/Sass Muni VI dtr for 0% redemption fee and a premium of \$15,000.00; and

**WHEREAS**, Michael Nelms, Esq. the attorney, representing the sale of said property has effected the redemption of Tax Sale Certificate #1328 in the amount of \$37,330.94, as well as paid the legal foreclosure fees in the amount of \$1,384.53;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that this Governing Body acknowledges that US Bank – Cust/Sass Muni VI dtr is entitled to a redemption in the amount of \$37,330.94, the return of the premium for \$15,000.00 as well as \$1,384.53 for foreclosure legal fees; and

**BE IT FURTHER RESOLVED**, that this Governing Body hereby affirms the actions of the Tax Collector who issued three (3) checks, the first in the amount of \$37,330.94 for the redemption of Certificate #1328, the second in the amount of \$15,000.00 for the return of the premium and \$1,384.53 for the foreclosure legal fees to US Bank – Cust/Sass Muni VI dtr., 50 S 16<sup>th</sup> Street Suite 1950, Philadelphia, PA 19102 .

**RESOLUTION #15-2013\***

**AFFIRM THE REFUND OF 2012 OVERBILLING OF REAL PROPERTY TAX FOR BLOCK 14.01,  
LOT 15**

**WHEREAS**, the Tax Assessor has reduced the assessed value for 2012 on Block 14.01 Lot 15, also known as 10 Maple Avenue, owned by Alex Cable creating an overbilling as reflected in the Tax Collector’s extended tax duplicate issued by the County Board of Taxation; and

**WHEREAS**, the property taxes for the preliminary first half of 2012 were paid by Alex Cable as they were billed on the 2012/2013 tax bill issued in July 2012; and

**WHEREAS**, Alex Cable now requests a refund in the amount of \$914.54, the amount of said overbilling for the tax year 2012;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that this Governing Body acknowledges that Alex Cable is entitled to a refund in the amount of \$914.54; and

**BE IT FURTHER RESOLVED**, that this Governing Body hereby affirms the actions of the Tax Collector who issued a check in the amount of \$914.54 to Alex Cable, 10 Maple Avenue, Newton, NJ 07860.

**RESOLUTION #16-2013\***

**AUTHORIZE REFUND OF OVERPAYMENT OF WATER AND SEWER 4<sup>TH</sup> QUARTER CHARGES**

**WHEREAS**, on December 17, 2012, Alicia Ferrante, Attorney at Law, representing the buyer of Block 22.01, Lot 16, also known as 38-40 Pine Street, ordered a final water and sewer reading for; and

**WHEREAS**, on December 19, 2012 the property was sold;

**WHEREAS**, on December 20, 2012, Alicia Ferrante, Attorney at Law, paid the final water and sewer billing in the amount of \$180.00 bringing the account current; and

**WHEREAS**, on December 21, 2012, a payment was received and processed electronically from Brian Benson, prior owner of said property for payment of the 4<sup>th</sup> quarter water and sewer bill in the amount of \$75.00 causing an overpayment; and

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that this Governing Body acknowledges that Mr. Brian Benson is entitled to a refund the amount of \$75.00; and

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**BE IT FURTHER RESOLVED**, that the Treasurer be authorized to issue a check in the amount of \$75.00 to Mr. Brian Benson, c/o Charles Brand, P.O. Box D, Newton, NJ 07860.

**RESOLUTION #17-2013\***

**APPROVE BILLS AND VOUCHERS FOR PAYMENT**

**BE IT RESOLVED** by the Town Council of the Town of Newton that payment is hereby approved for all vouchers that have been properly authenticated and presented for payment, representing expenditures for which appropriations were duly made in the 2012 and 2013 Budgets adopted by this local Governing Body, including any emergency appropriations, and where unexpended balances exist in said appropriation accounts for the payment of such vouchers.

**TOWN BILLS**

1,251.75	Quill Corporation	31244
1,212.15	E.A. Morse & Company	31245
104.77	Montague Tool & Supply	31246
133.00	M G L Printing Solutions	31247
528.50	Pellow, Harold & Assoc., Inc.	31248
120.00	Abcode Security	31249
2,705.53	NUI Corporation	31250
972.51	G&G Diesel Service, Inc.	31251
5,813.54	JCP&L	31252
1,392.20	New Jersey Herald	31253
5,390.22	SCMUA	31254
200.00	B&G Elevator, Inc.	31255
185.05	CenturyLink Communications, Inc.	31256
2,891.61	CenturyLink Communications, Inc.	31257
5,634.00	Hollander, Strelzik, Pasculli, Hinkes	31258
464.94	Rowe & Company Inc.	31259
10.00	Read, Lorraine	31260
165.00	Rectifier Auto Electric	31261
134.88	Campbell's Small Engine	31262
120.50	Fire Fighters Equipment Co.	31263
95.00	Lock & Key World	31264
92.97	Federal Express	31265
53.00	Sisco, James	31266
53.00	Straway, Richard A. Jr.	31267
46.00	Straway, Thomas	31268
225.00	Willco, Inc.	31269
624.56	Staples Print Solutions	31270
110.00	NJLM	31271
747.99	J&D Sales and Service	31272
40.00	Sussex County League of Municipalities	31273
20.00	Newton Trophy	31274
53.00	Kithcart, Brock	31275
325.00	T.A. Mountford Company	31276
385.98	Galls Incorporated	31277
1,096.78	Weldon Asphalt Company	31278
28.80	Minisink Press, Inc.	31279
226.21	Sebring Auto Parts	31280
91.44	Weis Markets	31281
769.17	Dempsey Uniform & Supply, Inc.	31282
883.33	Airgas East	31283
90.00	G.F.O.A. of N.J.	31284
10.00	Sussex County Clerk's Assn.	31285
399.36	Boonton Tire Supply	31286
1,477.89	Verizon Wireless	31287
115.00	Accurate Door, Inc.	31288
86.44	Universal Supply Group, Inc.	31289
1,191.75	Dell Marketing, L.P.	31290
133.60	Walmart	31291

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76.13	Mr. John	31292
11.83	Cooper Electric Supply Co.	31293
742.63	Danforth's Trailer & Auto, Inc.	31294
915.00	Vogel, Chait, Collins, Schneider, PC	31295
107.60	Advance Auto Parts	31296
596.72	The Home Depot	31297
69.94	The Home Depot	31298
312.50	RR Donnelley	31299
1,811.44	Fire & Safety Services, Ltd.	31300
37.98	Carquest	31301
87.50	Scarinci & Hollenbeck, LLC	31302
65.34	Matthew Bender & Co.	31303
522.17	Staples Business Advantage	31304
1,198.80	Douglas Cummins	31305
102.29	Screen Creation Plus	31306
138.34	Sussex County Engineering Division	31307
45.21	Surefire, LLC	31308
192.00	CSS Test	31309
66.53	Nestle Waters	31310
53.00	Steve Estler	31311
6,951.77	Rachel's/Michele's Oil Company	31312
16,342.64	Taylor Oil Company	31313
97.75	Firefighter One	31314
46.00	Adam Vough	31315
53.00	Joseph White	31316
29.95	Wayne Tile Company	31317
308.40	JMC Environmental Consultants, Inc.	31318
276.00	Sign-A-Rama	31319
3,160.00	Tire King	31320
53.00	William Oswin III	31321
11,824.49	Atlantic Tactical	31322
9,285.00	Trimboli & Prusinowski, LLC	31323
499.75	Penteledata	31324
1,788.00	Penguin Management, Inc.	31325
53.00	Roy Leyman	31326
90.00	GPANJ	31327
3,378.67	Direct Energy Business	31328
3,413.94	Woodruff Energy US, LLC	31329
345.00	AG Choice, LLC	31330
192.40	Thyssenkrupp Elevator Corp.	31331
9.16	Shop Rite	31332
612.15	Fastenal Company	31333
500.48	Straus News	31334
914.54	Alex Cable	31335

**CAPITAL**

1,079.80	Stamp Fulfillment	31243
-2,429.55	Stamp Fulfillment – VOID	31242
336.00	Dominick's Pizza	31241
198,384.55	Payroll Account	121077
19,839.28	Payroll Account	121076
14.99	Teresa Ann Oswin	31240
119.85	Elavon (merchant svc)	121075
150,000.00	Capital Account	121074
7,116.25	Pellow, Harold & Assoc., Inc.	8049
1,599.00	McManimon & Scotland	8050
1,151.25	Carpet Gallery	8051
2,442.20	Spectrum Communications	8052
746.00	Garden State Highway Products	8053
345.16	Grainger	8054
1,265.77	National Business Furniture	8055
3,813.75	J. Caldwell & Associates, LLC	8056
4,250.00	Millennium Strategies	8057

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17,774.75	Current Account	123004
13,668.00	Water & Sewer Capital Account	123003
33,623.39	Water & Sewer Capital Account	123002
466.26	Payroll Agency	121078
4,507.19	Current Account	127127
32,264.46	Current Account	127126
-1,178.98	Payroll Account	127125
1,178.98	Payroll Account	127125
1,178.98	Payroll Account	127124
3,000.00	Current Account	127123
192.24	Current Account	122101
15,476.00	Current Account	126045
35,365.31	Payroll Account	126044
9,446.70	Payroll Account	126043
2,097.61	Capital Account	126042
399.00	Pellow, Harold & Assoc., Inc.	2273
9,278.50	Harter Equipment, Inc.	2274
16.96	Fastenal Company	2275
15,411.15	Water & Sewer Operating Acct.	126111
32,758.74	Capital Account	126112

**Total TOWN BILLS \$725,708.55**

**WATER AND SEWER ACCOUNT**

13.98	Quill Corporation	13300
210.31	Montague Tool & Supply	13301
1,468.50	Pellow, Harold & Assoc., Inc.	13302
300.00	Municipal Software, Inc.	13303
801.07	CCP Industries	13304
206.63	Aurora Electrical Supply	13305
602.20	NUI Corporation	13306
3,098.95	JCP&L	13307
1,200.00	Pumping Services	13308
1,482.03	SCMUA	13309
22,775.93	Coyne Chemical Corp., Inc.	13310
33.56	CenturyLink Communications, Inc.	13311
1,221.98	CenturyLink Communications, Inc.	13312
576.00	Hollander, Strelzik, Pasculli, Hinkes	13313
870.00	Garden State Laboratories, Inc.	13314
1,575.00	Hamburg Plumbing Supply Co., Inc.	13315
1,000.00	Willco, Inc.	13316
5,913.21	Duke's Sales & Service	13317
16.68	Sebring Auto Parts	13318
318.58	Dempsey Uniform & Supply, Inc.	13319
234.00	R&D Trucking, Inc.	13320
159.34	Airgas East	13321
8,115.00	Treasurer, State of New Jersey	13322
700.00	JCI Jones Chemicals, Inc.	13323
194.84	Verizon Wireless	13324
728.70	Univar USA, Inc.	13325
397.25	Dell Marketing, L.P.	13326
917.40	Main Pool & Chemical Company	13327
370.00	New Jersey Water Association	13328
57.72	The Home Depot	13329
3,026.12	Suburban Energy Services	13330
300.00	Hydro Technology, LLC	13331
419.46	Staples Business Advantage	13332
1,899.00	Taylor Oil Co.	13333
28.00	Eric Tompkins	13334
962.00	Andy Matt, Inc.	13335
4,291.64	Accurate Waste Removal	13336
119.90	Penteledata	13337
106.20	Treasurer, State of New Jersey	13338

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7,910.64	Direct Energy Business	13339
253.58	One Call Concepts	13340
656.65	Woodruff Energy US, LLC	13341
200.00	NJ Dept. of Environmental Protection	13342
200.00	Appalachian Forestry Service	13343

**CAPITAL**

15,476.00	Current Account	126045
35,365.31	Payroll Account	126044
9,446.70	Payroll Account	126043
2,097.61	Capital Account	126042
399.00	Pellow, Harold & Assoc., Inc.	2273
9,278.50	Harter Equipment, Inc.	2274
16.96	Fastenal Company	2275
15,411.15	Water & Sewer Operating Acct.	126111
32,758.74	Capital Account	126112

**Total WATER & SEWER BILLS \$195,948.02**

**TRUST**

927.94	Quill Corporation	3089
702.00	Pellow, Harold & Assoc., Inc.	3090
1,422.00	Hollander, Strelzik, Pasculli, Hinkes	3091
15.00	Vogel, Chait, Collins, Schneider, PC	3092

**Total TRUST ACCOUNT BILLS \$3,066.94**

**DEVELOPERS ESCROW ACCOUNT**

210.00	Vogel, Chait, Collins, Schneider, PC	1112
138.88	Current Account	127201

**Total DEV. ESCROW BILLS \$348.88**

**FEDERAL/STATE GRANTS**

206.00	B & R Uniform	1124
200.00	Newton Board of Education	1125
340.00	Minisink Press, Inc.	1126
402.71	Screen Creation Plus	1127
120.00	Jack Choma	1128
400.14	Current Account	121105
14,400.00	Capital Account	121104
3,189.02	Trust Account, Town of Newton	121103
376.96	Payroll Account	121102

**Total FEDERAL/STATE GRANTS \$19,634.83**

**DOG RESERVE**

375.00	Fredon Animal Hospital	8528
192.24	Current Account	122101

**Total DOG RESERVE BILLS \$567.24**

**INTEREST ACCOUNT**

28.96	Current Account	121461
4,191.38	Current Account	121501
135.09	Current Account	151237
2,115.02	Current Account	161237
360.75	Current Account	1128229

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709.34	Current Account	128158
134.12	Current Account	127401
.55	Current Account	128514
244.52	W/S Operating Account	126401
21.01	W/S Operating Account	126333

**Total INTEREST ACCOUNT \$7,940.74**

**RESOLUTION #18-2013\***

**PERSON-TO-PERSON TRANSFER OF PLENARY RETAIL CONSUMPTION  
LICENSE NO. 1915-33-002-008**

**WHEREAS**, an application has been filed for a Person-to-Person Transfer of Plenary Retail Consumption License Number 1915-33-002-008, heretofore issued to Qarmout Bader George, t/a O'Reilly's Pub & Grill, for premises located at 271 Spring Street, Newton, New Jersey; and

**WHEREAS**, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term; and

**WHEREAS**, the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes and regulations promulgated thereunder, as well as pertinent local ordinances and conditions consistent with Title 33; and

**WHEREAS**, the applicant has disclosed and the issuing authority reviewed the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the license business;

**NOW, THEREFORE BE IT RESOLVED**, that the Newton Governing Body does hereby approve, effective January 14, 2013, the transfer of the aforesaid Plenary Retail Consumption License to B&M, LLC, t/a O'Reilly's Pub & Grill and does hereby direct the Town Clerk to endorse the license certificate to the new ownership as follows: "This license, subject to all its terms and conditions, is hereby transferred to B&M, LLC, effective January 14, 2013."

The Clerk presented an on-premise raffle application (50-50) from the March of Dimes Foundation to be held Friday, February 1, 2013 at the Sussex County Community College, One College Hill Road, Newton from 6:00 p.m. to 9:00 p.m.

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

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

**INTERMISSION** – None

**DISCUSSION**

**A. Fire Museum – C. Stoner and T. Kosten**

Mr. Thomas Kosten presented Council with a modified proposal for Architectural Services on the repair of the Newton Fire Museum on Spring Street. Mr. Kosten outlined

the basic repairs in order to prevent any further water damage to the exterior of the building.

It was noted that Mr. Cory Stoner, Town Engineer, will process all of the necessary bid package documents and has submitted a proposal for same. Mr. Russo advised Council that there are funds left in last year's budget to use for the rehabilitation of the Newton Fire Museum.

After a lengthy discussion, Council agreed to move forward, as recommended, and go out to bid for the proposed repairs as submitted by Mr. Kosten. Council also agreed to add \$70,000 in the 2013 Capital Budget towards same.

**B. Reverse Energy Auction – M. Stoller**

Mr. Mike Stoller of Energy Market Exchange, (EMEX) made a presentation on the Reverse Energy Action, which has a potential saving of up to 30% on electricity costs for the Town of Newton. Mr. Stoller presented a cost analysis for the Town of Newton and reviewed the auction process, noting there is no cost to Town.

After a brief discussion, Council authorized Mr. Stoller to proceed with the auction process and Mr. Russo will create a resolution for January 28<sup>th</sup> Council meeting.

**C. WWTP Solar Project Update – J. Scheri**

Mr. John Scheri, PE, of Hatch Mott MacDonald, made a presentation to the Council and outlined the solar project to be placed at the Newton Wastewater Treatment Plant site.

After a brief discussion, Council agreed to move forward, with the proposed alternative layout, as recommended by Mr. Scheri.

**D. NFAS LOSAP – Draft Ordinance – U. Leo**

At this time, Mayor Diglio stepped down from the dais to serve as Treasurer of the Newton First Aid Squad and discuss the LOSAP Ordinance with the Town Council. Also present was Irv Kinney of the Newton First Aid Squad.

Ursula H. Leo, Esq., Town Attorney, presented Council with a draft Ordinance that proposes to establish a Length of Service Award Program (LOSAP) for members of the Newton Volunteer First Aid Squad. LOSAP is an incentive and provides a tax-deferred income benefit to the members of the Squad.

After a lengthy discussion, Council agreed to move forward and introduce the Ordinance at the January 28<sup>th</sup> Council meeting, as presented. Council also agreed to

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submit the proposed public question to the voters, for referendum, in the November Election.

Mayor Diglio returned to the dais at 8:29 p.m.

**E. Court fees – Draft Ordinance**

Mr. Russo presented the Council with proposed increases on various Court fees and fines.

After a lengthy discussion, Council believed the fees/costs were excessive and requested that the fee schedule be revised and resubmitted.

**OPEN TO THE PUBLIC**

Mayor Diglio opened the hearing to the public.

Mr. and Mrs. Greg Le Frois, owner of 81 High Street, addressed the Council and thanked the Newton Fire Department, the surrounding Fire Departments who responded, the Newton First Aid Squad, and the Newton Police for their prompt response to a recent structure fire at their rental property located at 81 High Street.

**COUNCIL & MANAGER COMMENTS**

There were no comments at this time.

**EXECUTIVE SESSION**

Mr. Russo read Resolution #19-2013 and Council entered into Executive Session at 8:46 p.m. Mr. Russo then recused himself due to a family conflict.

Upon motion of Mr. Ricciardo, seconded by Mrs. Becker and carried, Council left Executive Session at 9:59 p.m.

There being no further business to be conducted, upon motion of Deputy Mayor Ricciardo, seconded by Mrs. Becker and unanimously carried, the meeting was adjourned at 10:00 p.m.

Respectfully submitted,

Lorraine A. Read, RMC  
Municipal Clerk