

November 22, 2010

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

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

Mayor Becker led the innovation and Pledge of Allegiance to the flag. The Clerk called the roll and upon completion of same, upon motion of Mr. Ricciardo, seconded by Mrs. Diglio, the minutes of October 28, 2010 (Special) and November 8, 2010 (Regular) meetings were approved as presented.

#### **OPEN TO THE PUBLIC**

Mayor Becker 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."

Mr. Larry Pryduluk, chairman of the Memorial Day Parade, requested permission to hold the annual Memorial Day Parade on Monday, May 30, 2011 at Memory Park.

The Council unanimously granted permission to hold the annual Memorial Day Parade to be held on May 30, 2011 and thanked Mr. Pryduluk for all of his hard work in organizing this event.

#### **COUNCIL & MANAGER REPORTS**

Mr. Russo read the following Proclamation proclaiming November 14-20, 2010 as American Education Week.

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P R O C L A M A T I O N

American Education Week

November 14-20, 2010

*WHEREAS, public schools are the backbone of our democracy, providing young people with the tools they need to maintain our nation's precious values of freedom, civility and equality; and*

*WHEREAS, by equipping young Americans with both practical skills and broader intellectual abilities, schools give them hope for, and access to, a productive future; and*

*WHEREAS, education employees, be they substitute educators, custodians, teachers, bus drivers, or librarians, work tirelessly to serve our children and communities with care and professionalism; and*

*WHEREAS, schools are community linchpins, bringing together adults and children, educators and volunteers, business leaders, and elected officials in a common enterprise;*

*NOW THEREFORE, WE, the Mayor and Town Council of the Town of Newton, hereby proclaim November 14-20 as the 89th annual observance of American Education Week in the Town of Newton and we encourage all of our citizens to support efforts to make our public schools great for every child.*

**ORDINANCES**

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

**ORDINANCE #2010-27**

**AN ORDINANCE TO AMEND AND SUPPLEMENT CERTAIN PORTIONS OF CHAPTER 21 ENTITLED "FEES AND COSTS" OF NEWTON'S REVISED GENERAL ORDINANCES**

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

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

**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 Monday, December 13, 2010.

The Clerk will advertise the above Ordinance according to law.

**OLD BUSINESS**

There was no Old Business to be discussed.

**CONSENT AGENDA**

Mayor Becker read the following statement:

*"All items listed with an asterisk (\*) are considered to be routine and non-controversial by the Town Council and will be approved by one motion. There will be no separate discussion of these items unless a Council member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda."*

Mr. Russo provided an overview of all the resolutions on the Consent Agenda.

**RESOLUTION #199-2010\***

**AUTHORIZE REDEMPTION OF A TOWN HELD LIEN**

**WHEREAS**, at the Municipal Tax Sale held on June 2, 2010, a lien was struck off to the Town of Newton for Block 1307, Lot 39, also known as 14 New Hampshire Street, for delinquent Real Estate Taxes; and

**WHEREAS**, this lien, known as Tax Sale Certificate #1353, was recorded at the Sussex County Clerk's Office on August 12, 2010 as Book 8768 Page 663 at 18% interest; and

**WHEREAS**, Mr. Bert E. Shane of Shaneco, LLP, owner of said property, has effected redemption of Certificate #1353 in the amount of \$2,334.31;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that this Governing Body acknowledges that Tax Sale Certificate #1353 has been satisfied in full to the Town of Newton; and

**BE IT FURTHER RESOLVED**, that the Tax Collector be authorized to cancel Tax Sale Certificate #1353 with the Sussex County Clerk's Office.

**RESOLUTION #200-2010\***

**AUTHORIZE THE EXECUTION OF AN AGREEMENT WITH CIT-E-NET, LLC FOR ONLINE PAYMENT APPLICATIONS FOR THE TOWN OF NEWTON**

**WHEREAS**, the Town of Newton requested proposals for the services of an Internet-based Application Service Provider for the Town of Newton and received several responses; and

**WHEREAS**, Cit-e-Net, submitted a proposal dated September 17, 2010 outlining the services to be provided for \$3,750.00 which is less than the threshold established by the Local Public Contracts Law; and

**WHEREAS**, after review of all proposals, the Governing Body has determined that Cit-e-Net is the best company for the project; and

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**WHEREAS**, the Chief Financial Officer of the Town of Newton has certified that funds are available to support this contractual services agreement;

**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 Cit-e-Net, LLC, to provide Internet-based online payment applications for the Town of Newton as proposed; and

**BE IT FURTHER RESOLVED** that a certified copy of this resolution be forwarded to Cit-e-Net, LLC and that a notice of this agreement be published in the newspaper of record for the Town in accordance with the Local Public Contracts Law.

**RESOLUTION #201-2010\***

**AUTHORIZE THE EXECUTION OF AN AGREEMENT WITH ELAVON, INC. TO PROVIDE MERCHANT SERVICES FOR THE TOWN OF NEWTON**

**WHEREAS**, the Town of Newton requested proposals for the services of an Internet-based Application Service Provider for the Town of Newton and will be entering into an agreement with Cit-e-Net, LLC; and

**WHEREAS**, the Cit-e-Net agreement requires the Town to establish a designated authorized merchant service processor in order to process online credit card payments; and

**WHEREAS**, Elavon, Inc. currently provides this service to the Town of Newton Municipal Court and Elavon has had an established partnership with Lakeland Bank in providing merchant services throughout northern New Jersey, the Governing Body has determined that this is the best company to provide this service; and

**WHEREAS**, the Town of Newton's fee ordinance permits the collection of fees for those individuals choosing to use the service for the payment of taxes, interest, penalties and municipal charges or other fees;

**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 Elavon, Inc., to provide merchant services for the Town of Newton as proposed; and

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be forwarded to both Cit-e-Net, LLC and Elavon, Inc.

**RESOLUTION #202-2010\***

**APPROVAL OF CHANGE ORDER NO. 1 AND FINAL ACCEPTANCE OF THE IMPROVEMENTS TO THE SPORTS PRACTICE FIELD AT MEMORY PARK PROJECT**

**WHEREAS**, on August 9, 2010, by way of adoption of Resolution #133-2010, the Newton Town Council awarded a contract to Robert W. Wogisch Landscape Contractor, Inc., for the Proposed Improvements to the Sports Practice Field at Memory Park; and

**WHEREAS**, in his memo dated November 10, 2010, the Town Engineer states that said project has been completed and recommends the project be accepted as final and complete; and

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**WHEREAS**, in processing the final paperwork for the project, the Town Engineer recommends in his memo dated November 15, 2010 approving Change Order No. 1, which will increase the total contract amount by \$2,500 to a total of \$43,690.00; and

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

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that it hereby concurs with the Town Engineer's recommendations and authorizes the Mayor to execute said Change Order No. 1 for said project increasing the total contract amount to \$43,690.00 and thereby accepts the Improvements to the Sports Practice Field at Memory Park project as final and complete; and

**BE IT FURTHER RESOLVED**, that certified copies of this Resolution be forwarded to Robert W. Wogisch Landscape Contractor, Inc., and the Town Engineer.

**RESOLUTION #203-2010\***

**PROVIDE EMERGENCY APPROPRIATION IN THE AMOUNT OF \$60,000 IN THE TOWN OF NEWTON 2010 BUDGET"**

**WHEREAS**, it has been found necessary to make an Emergency Appropriation to meet certain extraordinary expenses to be incurred for the preparation and implementation of a reassessment of all real property within the Town of Newton; and

**WHEREAS**, N.J.S. 40A:4-53 provides that it shall be lawful to make such appropriation, which appropriation and/or "special emergency notes" issued to finance the same shall be provided for in succeeding annual budgets by the inclusion of an appropriation of at least one-fifth of the amount authorized pursuant to this act;

**NOW, THEREFORE, BE IT RESOLVED**, by the Town Council of the Town of Newton (not less than two-thirds (2/3) of all the members thereof affirmatively concurring), that in accordance with the provisions of N.J.S. 40A:4-55:

- 1) An emergency appropriation is hereby made for preparation and implementation of a reassessment of all real property within the Town of Newton in the total amount of \$60,000.00;
- 2) Said "special emergency note", not in excess of the amount authorized pursuant to law, be provided (should the Town determine the need for said note);
- 3) Said note (if necessary) shall be executed by the Mayor and Chief Financial Officer of the Town of Newton;
- 4) Said note shall be dated at such time as it may be issued, may be renewed from time to time provided that said note and any renewals thereof shall mature and be paid in the amount of not less than one-fifth of the total amount appropriated by this resolution in each year after the authorization.
- 5) One (1) certified copy of this resolution be filed with the Director of the Division of Local Government Services.

**RESOLUTION #204-2010\***

**REQUESTING APPROVAL OF THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES TO ESTABLISH A DEDICATED TRUST BY RIDER FOR ELECTRONIC RECEIPT FEES PURSUANT TO N.J.S.A. 40A:4-39"**

**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 is hereby directed to forward two (2) certified copies of this resolution to the Director of the Division of Local Government Services.

**RESOLUTION #205-2010\***

**APPROVE BILLS AND VOUCHERS FOR PAYMENT**

**BE IT RESOLVED** by the Town Council of the Town of Newton that payment is hereby approved for all vouchers that have been properly authenticated and presented for payment, representing expenditures for which appropriations were duly made in the 2009 and 2010 Budgets adopted by this local Governing Body, including any emergency appropriations, and where unexpended balances exist in said appropriation accounts for the payment of such vouchers.

**TOWN BILLS**

150.00	VOID	26783
40.00	VOID	26834
-20.00	James Sisco	24961
-37.50	Joseph Inga	25161
100.00	VOID	25678
-100.00	Sussex County Community College	25803
942,801.67	County of Sussex	27823
22,671.43	County of Sussex	27824
53,594.76	County of Sussex	27825
384.57	County of Sussex	27826
37.50	Joseph Inga	27827

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20.00	James Sisco	27828
100.00	Sussex County Community College	27829
150.00	Katherine Citterbart	27830
40.00	Registrar's Assoc. of New Jersey	27831
30.00	NJMMA	27832
1,826.85	B & R Uniform	27833
267.98	Quill Corporation	27834
849.32	Staples Credit Plan	27835
2,103.88	E.A. Morse & Company	27836
1,366.50	Partac Peat Corporation	27837
106.25	Sussex Car Wash, Inc.	27838
366.00	Classic Auto Upholstery	27839
1,245.97	NUI Corporation	27840
154.12	G & G Diesel Service, Inc.	27841
251.05	New Jersey Herald	27842
1,133.90	SCMUA	27843
390.00	B & G Elevator, Inc.	27844
193.43	Centurylink Communications, Inc.	27845
12,186.00	Hollander, Strelzik, Pasculli, Hinkes	27846
115.11	Row & Company, Inc.	27847
20,000.00	Capital Account	27848
986.00	Beaver Run Farms	27849
9.00	Campbell's Small Engine	27850
59.40	Federal Express	27851
80.00	Sussex County Economic	27852
50.00	First United Methodist Church	27853
72.00	R. S. Phillips Steel Company	27854
1,148.00	McManimon & Scotland	27855
955.88	Lafayette Auto Parts	27856
725.10	Newton Citgo	27857
275.39	Miami Systems	27858
162.00	Minisink Press, Inc.	27859
119.99	Joseph A. Sapio	27860
354.40	Sebring Auto Parts	27861
6.23	Sherwin-Williams	27862
50.00	Kenneth A. Teets	27863
640.44	Dempsey Uniform & Supply, Inc.	27864
113.37	Airgas East	27865
1,798.17	Newton Soccer Club	27866
891.44	Sirchie Finger Print Labs	27867
3,013.94	Boonton Tire Supply	27868
137.24	McGuire	27869
1,870.70	Verizon Wireless	27870
175.00	Cerbo's Hampton Nursery	27871
79.95	Universal Supply Group, Inc.	27872
209.10	North Jersey Portable Toilets	27873
2,317.48	Dell Marketing L.P.	27874
50.00	Walmart	27875
73.85	Mr. John	27876
122.12	Cooper Electric Supply Co.	27877
78.00	The Phillips Companies	27878
2,085.00	Vogel, Chait, Collins, Schneider, PC	27879
390.47	Advance Auto Parts	27880
1,514.87	The Home Depot	27881
144.45	The Home Depot	27882
117.81	Carquest	27883
907.46	Rogo Fastener Co., Inc.	27884

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53.10	Excelsior Lumber Company	27885
192.50	Scarinci & Hollenbeck, LLC	27886
971.76	Sussex County Mailing Service	27887
55.95	Ward's Flowers and Gifts	27888
1,145.25	Staples Business Advantage	27889
860.54	Staples Business Advantage	27890
174.77	Lowe's	27891
425.00	Spectrum Communications	27892
208.22	Skylands Area Fire Equip. & Training	27893
150.00	National Fire Codes Subscription	27894
2,745.54	Rachles/Michele's Oil Company	27895
3,923.62	Taylor Oil Co.	27896
605.08	Firefighter One	27897
2,250.00	Laddey, Clark & Ryan, LLP	27898
1,508.00	Adam Vough	27899
21.40	JMC Environmental Consultants, Inc.	27900
145.50	Thomas S. Russo, Jr.	27901
216.48	County of Sussex	27902
800.00	Porter Lee Corporation	27903
95.00	EM Signs	27904
1,235.00	Sparctech Solutions, LLC.	27905
9,725.00	Enforsys Police System, Inc.	27906
469.80	Penteledata	27907
1,460.00	Chelbus Cleaning Co., Inc.	27908
4,673.67	Direct Energy Business	27909
7,083.33	The Station Inc.	27910
211.55	Mini "T"	27911
3,476.25	Waterway	27912
89.50	Newton Gulf	27913
1,585.00	AG Choice, LLC	27914
1,614.44	Action Data Services, Inc.	27915
187,98.35	Payroll Account	27916
922,786.00	Newton Board of Education	27917
33,736.00	U.S.D.A. / FHA	27918
193,917.22	Payroll Account	27919

**CAPITAL**

65.10	New Jersey Herald	7619
1,062.00	Hollander, Strelzik, Pasculli, Hinkes	7620
29,000.00	Timmerman Company	7621
1,025.00	McManimon & Scotland	7622
86.44	J & D Sales and Service	7623
875.00	Applied Service Corp.	7624
1,665.00	Vogel, Chait, Collins, Schneider, PC	7625
1,200.00	FKA Architects	7626
18,900.00	Best Control Environmental Corp.	7627
3,880.00	Setcon Industries	7628
9,261.00	Robert W. Wogisch	7629

**Total TOWN BILLS \$2,537,151.40**

**WATER AND SEWER ACCOUNT**

30,005.73	Payroll Account	106036
24.00	VOID	10980
24.00	Joseph Carr	11807

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76.70	Hach Company	11808
337.96	NUI Corporation	11809
621.30	SCMUA	11810
14.00	Paul M. Havens	11811
8,728.41	Coyne Chemical Corp., Inc.	11812
125.85	Centurylink Communications, Inc.	11813
36.00	Hollander, Strelzik, Pasculli, Hinkes	11814
20.00	Rectifier Auto Electric	11815
1,230.00	Garden State Laboratories, Inc.	11816
282.88	Dempsey Uniform & Supply Inc.	11817
6,173.00	R & D Trucking, Inc.	11818
126.10	Airgas East	11819
14.00	Ervin Lasso	11820
642.68	Limecrest Quarry Developers	11821
195.49	Verizon Wireless	11822
7,776.00	Passaic Valley Sewerage Comm.	11823
1,250.00	John Smalley	11824
1,644.72	Main Pool & Chemical Company	11825
48.85	Advance Auto Parts	11826
213.32	The Home Depot	11827
3,566.85	Suburban Energy Services	11828
1,657.00	Pinnacle Wireless, Inc.	11829
962.00	Andy Matt, Inc.	11830
36.08	County of Sussex	11831
6,087.50	Metro Energy Solutions	11832
139.90	Penteledata	11833
77,857.05	Envirosight	11834
2,541.51	Dave Heiner Associates, Inc.	11835
5,697.72	Direct Energy Business	11836
107.05	Grainger	11837
30,136.88	Payroll Account	11838

**CAPITAL**

44.45	New Jersey Herald	2164
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**Total WATER & SEWER BILLS \$188,396.98**

**TRUST ACCOUNT**

780.00	Harold Pellow & Assoc., Inc.	2829
558.00	Hollander, Strelzik, Pasculli, Hinkes	2830
1,125.00	James P. Sloan, Esq.	2831
1,845.00	Vogel, Chait, Collins, Schneider, PC	2832
1,637.88	Payroll Account	107127
7,483.21	Current Account	107128
1,504.75	Payroll Account	107129

**Total TRUST ACCOUNT BILLS \$ 14,933.84**

**FEDERAL STATE GRANTS**

7,617.50	Atlantic Tactical	1056
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**Total FEDERAL STATE GRANT BILLS \$7,617.50**

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The Clerk presented an application for an off-premise raffle from the Pride Foundation, Inc., 44 Ryerson Avenue, Newton to be held on Friday, December 17, 2010 at 2:00 p.m., 44 Ryerson Avenue, Newton.

The Clerk presented an application for an off-premise raffle from the Pride Foundation, Inc., 44 Ryerson Avenue, Newton to be held on Tuesday, January 25, 2011 at 8:00 p.m., 44 Ryerson Avenue, Newton.

It was noted that the applications were in order and accompanied by the prescribed fee.

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

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

**INTERMISSION (None)**

**DISCUSSION**

**a. Main Street Newton - Business Improvement District (BID)**

Kevin Kelly, Esq., President of the Main Street Newton (MSN) Board, made a brief presentation regarding the proposed Business Improvement District (BID). Mr. Jim Sheldon, Executive Director of Main Street Newton, distributed a packet of information with an amended budget attached. Council suggested that grant monies be pursued through the State.

A question and answer period ensued with the Council.

Mayor Becker suggested that, in order to move forward with this project, the Town look into getting a consultant to create a BID.

Mr. Jef Buehler, State Director of Main Street New Jersey & Improvement District Program, addressed Council on several areas regarding the Business Improvement District (BID). Mr. Buehler outlined other municipalities comparable to Newton and the status of their BID process. Mr. Buehler strongly recommended that Council continue their partnership with MSN to pursue the

creation of a Business Improvement District (BID).

Mr. Russo indicated he attended a seminar at the New Jersey League of Municipalities regarding BID's and shared the pertinent information with the Governing Body.

After a lengthy discussion, Council directed Mr. Russo to reach out and pursue the potential grant funding from the State in order to secure a consultant for the BID analysis.

In the event a consultant is hired, Mr. Russo provided an outline of a very detailed and comprehensive list of duties and requirements to be provided by the consultant.

It was noted that an extension of the official "Main Street" designation for Main Street Newton program could be applied for at the end of the calendar year, if necessary.

**OPEN TO THE PUBLIC**

Mr. Frank Dindl, owner of Pottery Pizazz, 40 Moran Street, shared some thoughts on the BID program and questioned whether all property owners could be assessed, as well as the business owners. Mr. Dindl also suggested that a time-limit be placed on the BID assessment for Main Street Newton and if necessary could be renewed.

Mr. Ed Zukowski, owner of Newton Beauty Supply, Lower Spring Street, expressed his opposition to Main Street Newton BID and feels it will not benefit his wife's business.

Ms. Kate Sullivan, owner of business on Hampton border, feels that the businesses are not aware of this BID assessment and that additional hearings should be held prior to approval. In addition, she feels that the residents should also be assessed.

Mr. Anwar Qarmout, 45 Woodside Avenue, addressing the stacking ordinance, feels that the Town's current Ordinance has no enforcement mechanism. Mr. Qarmout was directed to call Mr. Russo to review the

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ordinance in question.

Mr. Don Meng, 31 Liberty Street, questioned whether there is an alternative to the BID process. Mr. Meng advised that merchants were not allowed to attend any of the Main Street Newton board meetings and indicated that the merchants are not aware and were not kept abreast of the BID program. Mr. Meng suggested that an alternative to the BID program be reviewed.

**COUNCIL & MANAGER COMMENTS**

Mr. Russo advised Mr. Qarmout that at the next Council meeting on December 13, 2010, Council will be discussing the revamping of the rental housing inspection program.

Mr. Russo advised Council that the Business Improvement District (BID) discussion will take place at the December 29, 2010 Council meeting. Mr. Russo noted that he does not anticipate receiving word on the State grant funding for the creation of a BID prior to that date.

Mr. Russo noted that the Municipal offices will be closed on November 25<sup>th</sup> and 26<sup>th</sup> in observation of Thanksgiving.

There being no further business to be conducted, upon motion by Mr. Ricciardo, seconded by Mrs. Le Frois and unanimously carried, the meeting was adjourned at 8:46 p.m.

Respectfully submitted,

Lorraine A. Read, RMC/CMR  
Municipal Clerk