

February 28, 2011

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, 2010."

Mayor Becker led the Invocation and Pledge of Allegiance to the flag. The Deputy Clerk called the roll and upon completion of same, upon motion of Mrs. Le Frois, seconded by Mr. Elvidge, the minutes of February 3, 2011 (Budget Hearing), and February 05, 2011 (Budget Hearing) and February 14, 2011 (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. Jonathan Andrews, owner of the SpringBoard Shoppes, 145 Spring Street, Newton read the following prepared statement:

"I'm here tonight to register strong concern about the operation of the historic preservation advisory commission here in Newton."

The crux of the problem is that the ordinance, Chapter 20A, dated 2001, called for the commission "To prepare and distribute a historic district guideline handbook to be utilized for application reviews and foster appropriate rehabilitation within the historic districts; (20A-8, paragraph m)".

Such a booklet is not on the town's website, and is not known to the township officials I asked about it. This leaves decisions at the whim of the commission at any given meeting.

When I renovated the SpringBoard Shoppes, my contractor said it would be very beneficial to replace our front windows, as there was evidence of deterioration in the window frames. He said excellent units with composite frames could be ordered and installed very economically. These units would appear identical with the existing units. We were told emphatically that this was unacceptable, that only wooden frames would be accepted.

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Imagine my surprise when I was told that at the most recent commission meeting composite was accepted in lieu of wood in a presentation by a former commission chairman. We have no guideline handbook after 10 years, so it is not what you know, but who you know.

The trigger for my presentation tonight is the experience of my present tenants, PB&J Stores. They have purchased the building at 219 Spring Street, and proposed an excellent and attractive façade improvement. This is not a landmark building, but is within the town historic district.

The Ordinance itself states that the commission should use certain criteria. 20A-13,a.5. says 'they should consider the structure's visual compatibility with the buildings places and structures to which it would be visually related in terms of the visual compatibility factors set forth herein.' When I viewed their plans, I thought they coordinated with and complemented our entire downtown.

The Ordinance further states, 20A-13, c.3. that 'It is not the intent of this chapter to discourage contemporary architectural expression or to encourage new construction which emulates existing buildings of historic or architectural interest or of a certain period or architectural style; but rather to preserve the integrity and authenticity of the historic preservation districts and to ensure the compatibility of new structures therein,'

Again, the design presented was a wonderful enhancement to the appearance of downtown Newton. The building is not a landmark building. Rejecting the design was arbitrary. There is no historic district guideline handbook to base proposals on, and no handbook for the commission to use as a measuring tool.

The commission chair said that brick front could not be covered. When asked what could be done, he said it could only be painted. Painting of an historic building is discouraged by the National Park Service. But this is not an historic building. So a change which is in keeping with the other buildings in town should be welcomed.

The National Park Service says, 'It makes better administrative sense to create a local-specific-design guideline based on principles of the Standards than use the Standards by themselves to review a work proposal for a Certificate of Appropriateness.'

Otherwise people seeking to invest in the town will continue to hire qualified architects and develop plans which are in agreement with the appearance of our town and historic parameters, only to discover that their money has been wasted because board members decide they don't like the design.

We do need guidelines. The commission has been charged with publishing them. Without them, composite is forbidden to me but permitted to him. Beautiful designs are unacceptable if a key person doesn't like them. We need guidelines."

There was no one else from the public to be heard.

COUNCIL & MANAGER REPORTS

Mr. Russo read correspondence from the Newton First Aid Squad dated February 9, 2011 requesting permission to hold a coin toss on May 27th from 3:00

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p.m. to 6:00 p.m., May 28th from Noon to 4:00 p.m., August 5th from 3:00 p.m. to 6:00 p.m., August 6th from Noon to 4:00 p.m., Sept 2nd from 3:00 p.m. to 6:00 p.m., and Sept 3rd from Noon to 4:00 p.m. The coin toss will take place on County Route 621 (Sparta Avenue) and County Route 616 (Woodside Avenue). The Governing Body had no object for the Newton First Aid Squad holding a coin toss on the above dates.

Mr. Russo updated Council regarding a meeting sponsored by our State Legislators which will be held at the Freeholder meeting room on Tuesday, March 29, 2011.

Mr. Russo advised Council of correspondence received from the Greater Newton Chamber of Commerce requesting permission to hold an event on Spring Street to be held on Saturday, April 9, 2011, from Noon to 5:00 p.m. The raindate is April 16, 2011. Mr. Russo indicated the Chamber is requesting permission to close Spring Street for this event. The Governing Body had no objection for this event being held on the above date, noting that the Greater Newton Chamber of Commerce is responsible for all overtime costs for Department of Public Works and Police Department.

Mr. Russo advised he received correspondence from the Middlesex Regional Educational Services Commission indicating the 2011 and 2012 rates for electricity charged to the Newton Municipal facilities will be 8.8 cents per kilowatt hour. Mr. Russo indicated this is a cost savings for the Town.

Mr. Russo requested Council's support to host a community-wide clean up event in conjunction with the Parish Council to be held on Saturday, April 30th from 8:30 a.m. to 12:30 p.m. Mr. Russo explained the goal is to have community volunteers help clean-up litter and debris within the Town of Newton and indicated there will be a mobile paper-shredding unit at Town Hall available for Newton residents. The Governing Body agreed and directed Mr. Russo to move forward with the planning of this event.

ORDINANCES

Mayor Becker directed the Deputy Clerk to read aloud the following

Ordinance relative to final adoption.

ORDINANCE #2011-2

AN ORDINANCE TO EXCEED THE 2011 MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget up to 2.0% unless authorized by ordinance to increase it to 3.5% over the previous year’s final appropriations, subject to certain exceptions; and

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and

WHEREAS, the Town Council of the Town of Newton in the County of Sussex finds it advisable and necessary to increase its CY 2011 budget by up to 3.5% over the previous year’s final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and

WHEREAS, the Newton Town Council hereby determines that a 3.5% increase in the budget for said year, amounting to \$255,054.02 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and

WHEREAS, the Newton Town Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years;

NOW, THEREFORE BE IT ORDAINED, by the Town Council of the Town of Newton, in the County of Sussex, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2011 budget year, the final appropriations of the Town of Newton shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$255,054.02, and that the CY 2011 municipal budget for the Town of Newton be approved and adopted in accordance with this ordinance; and

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to the final appropriation in either of the next two succeeding years, and

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Recorded vote:

Introduction:	Aye	Nay	Abstain	Absent
Becker	_____	_____	_____	_____
Le Frois	_____	_____	_____	_____
Diglio	_____	_____	_____	_____
Ricciardo	_____	_____	_____	_____
Elvidge	_____	_____	_____	_____

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

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

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

Mrs. Diglio had a question regarding the increase in CAP which was addressed by Mrs. Babcock, Chief Financial Officer.

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

ORDINANCE #2011-3

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

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

SCHEDULE III

PARKING TIME LIMITED ON CERTAIN STREETS

<u>Name of Street</u>	<u>Sides</u>	<u>Time Limit</u>	<u>Hours</u>	<u>Location</u>
Spring Street	North-easterly	1 hour	8:00am to 6:00pm Monday-Saturday	Beginning at a point in the northeasterly curb line of Spring Street, 83 feet north of where the same intersects with the northerly side line of Union Place, thence northerly along the northeasterly curb line of Spring St. in all appropriately marked parking spaces, other than those reserved for handicapped persons as listed in Schedule XVII, to a point 119 feet north of Moran St's. westerly curb line intersection with Spring Street

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SCHEDULE XIX

LOCAL SUPPLEMENTAL VIOLATIONS BUREAU SCHEDULE

<u>Ordinance Section</u>	<u>Short Description</u>	<u>Payable Amount</u>
5-14.2A	Public parks/ride or drive except at posted speeds	\$55
5-14.2B	Public parks/park in other than an established or designated parking area	\$55
5-14.2C	Public parks/leave vehicle standing or parked at night in established parking areas	\$55
5-14.2G	Public parks/use or ride any motorcycle, mini bikes or any motorized vehicle, except in those areas designated by the Advisory Recreation Commission	\$55
10-3.2	Prohibited Parking During an Emergency	\$55
10-3.3	Parking Prohibited, All Times, Certain Streets	\$55
10-3.4	Parking Prohibited During Certain Hours	\$25
10-3.5	Parking Time Limited – Certain Street	\$20
10-3.6	Stopping or Standing Prohibited During Certain on Streets	\$55
10-3.8	Overtime Parking Western Plaza Lot	\$25
10-4	Limit Use of Streets to Certain Vehicles	\$25
10-9	Loading Zones	\$85
10-11.1	No Parking – Certain Times on School Grounds	\$25
10-11.1B	Parking Permitted Only in Specific Area	\$25
10-11.2	One-Way Traffic/Newton High School	\$45
10-11.3(a)	Parking School Buses Only/Merriam Ave. School	\$55
10-11.3(b)	One-Way Traffic/Merriam Ave. School	\$45
10-11.4	One-WayTraffic/Halsted Street School	\$45
10-12.4	Overtime Parking	\$20
10-12.5a	Overtime Parking	\$20
10-12.5b	Not Parking in Designated Area/Streets	\$20
10-13A(1)	Overnight Parking Prohibition/Park & Ride Between 10:00pm to 5:00am	\$25
10-13B.2a	No Parking in the Municipal Lots between 4:00am and 6:00am	\$25
10-13.B.2b	Eastern Plaza parking over two hour limit	\$25
10-14.2	Parking in the Municipal Lots without paying the proper fee	\$20
10-14.3	No Parking 4:00am to 6:00am	\$25
10-14.5c	Not Parking in Designated Area/Municipal Lots	\$20
10-16	No Parking During Snow Removal	\$50
13-28.16	Parking in a Fire Zone	\$50

1. Where the statutory or Ordinance penalty does not exceed \$50.00 for each offense, including where the minimum statutory or Ordinance penalty does not exceed \$50.00 for each offense, the defendant at any time before the hearing date, upon presentation of the signed plea of guilty and waiver of trial endorsed on the summons, may pay the

penalty and in addition, court costs of \$24.00 in the Violations Bureau, subject to the limitations prescribed in R.7:7, including the limitation when the summons is marked to indicate that a court appearance is required.

- 2. Where the statute or Ordinance provides simply for a maximum penalty not in excess of \$50.00, it may be disposed of by payment through the Violations Bureau of one-half the maximum penalty plus \$24.00 court costs.

3.

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

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

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

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

OLD BUSINESS

Mayor Becker advised that there was no update on the Main Street Newton program.

After a brief discussion regarding the sale of a portion of the Railroad Avenue Right-Of-Way, Block 1301, Lot 1.02, the Governing Body was in agreement to proceed with the sale. The Governing Body directed Mr. Russo to contact the Town Attorney to prepare the necessary papers.

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."*

Council requested Resolutions #31-2011 and #32-2011 be pulled from the Consent Agenda for further discussion.

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RESOLUTION #33-2011*

ACCEPTANCE OF THE NORTH PARK DRIVE SUBPROJECT OF THE PAVING OF VARIOUS STREETS PROJECT AS COMPLETE

WHEREAS, the Town Council of the Town of Newton awarded a contract for the Paving of Various Streets Project to Top Line Construction Corp., in the amount of \$441,283.76 by Resolution #141-2010, which was adopted on August 23, 2010; and

WHEREAS, within the project was a subproject for the Paving of North Park Drive which is a State Aid Project from the New Jersey Department of Transportation; and

WHEREAS, the Town Council approved Change Order No. 1 for the project by the adoption of Resolution #189-2010 at their meeting on October 25, 2010, adjusting the overall contract amount to \$442,729.67 with the North Park Drive portion of the project totaling \$131,120.23; and

WHEREAS, the Town Council approved Change Order No. 2 for the North Park Drive portion of the project by the adoption of Resolution #25-2011 at their meeting on February 14, 2011 adjusting the North Park Drive subproject contract total to \$132,006.57; and

WHEREAS, Harold E. Pellow & Associates, Inc., the Project Engineer, has recommended the North Park Drive portion of the project be accepted as complete by the Town Council so the one (1) year Maintenance Bond may be secured by the contractor and the final papers can be prepared so that final reimbursement from the NJDOT can be obtained;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that it hereby accepts the North Park Drive subproject as complete based on the recommendation of the Town Engineer, so that the final paperwork can be started and the one (1) year Maintenance Bond be secured by the Contractor, Top Line Construction Corp., and final papers can be prepared so that the final reimbursement from the NJDOT can be obtained.

RESOLUTION #34-2011*

AMENDMENT OF 2011 TEMPORARY OPERATING BUDGET

WHEREAS, the Town Council of the Town of Newton adopted the 2011 Temporary Operating Budget and Temporary Water and Sewer Utility Budget by Resolution #261-2010 dated December 29, 2010; and

WHEREAS, N.J.S.A. 40A:4-20 provides that the governing body, by resolution adopted by a 2/3 vote of the full membership, may make amendments to temporary budgets in an amount not to exceed one-twelfth (1/12) of the preceding year's Budget (2010 Budget \$8,846,987 x 1/12 = \$737,248) and that a copy of this resolution be filed with the Director of Local Government Services;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the 2011 Temporary Operating Budget be hereby amended as follows:

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**TOWN OF NEWTON
2011 TEMPORARY BUDGET AMENDMENT**

<u>Current Account</u>	<u>Account No.</u>	<u>Amt of Amendment</u>
Group Insurance OE	1066200	\$45,000
Snow Removal SW	1081102	15,000
Snow Removal OE	1081239	15,000
911 Misc SW	1094770	5,000
Assessment of Taxes OE	1055216	<u>10,000</u>
Subtotal Current Temp Amendment		90,000
CIF – Acquisition of Street Signs	1095303	5,000
Contribution to PERS	1098296	63,544
Contribution to PFRS	1092897	<u>578,704</u>
Total Current Temp Amendment		\$737,248

<u>Water Sewer Utility Account</u>		
Contribution to PERS	6093296	<u>13,060</u>
Total Water/Sewer Temp Amendment		\$13,060

2010 TOWN OF NEWTON BUDGET

<u>CURRENT</u>		<u>WATER/SEWER</u>
\$10,831,370	Total 2010 General Appropriations	\$4,015,000
1,270,090	Less: Debt Service	599,095
291,000	Capital Improvements	829,000
<u>423,293</u>	Reserve for Uncollected Taxes	<u>0</u>
\$8,846,987	Total Amount to calculate upon	\$2,586,905
<u>x 1/12</u>		<u>x 1/12</u>
\$737,248	Allowable 2011 Temporary Budget Amend.	\$215,575

RESOLUTION #35-2011*

**AUTHORIZE REFUND OF REDEMPTION MONIES TO OUTSIDE LIENHOLDER FOR TAX
SALE CERTIFICATE #1270 FOR BLOCK 1108, LOT 23**

WHEREAS, at the Municipal Tax Sale held on October 29, 2008, a lien was sold on Block 1108, Lot 23, also known as 21 Kelsey Avenue, for 2007 delinquent Real Estate Taxes and delinquent Water and Sewer charges; and

WHEREAS, this lien, known as Tax Sale Certificate #1270, was sold to Park Finance, LLC for a 0% redemption fee with a \$8,600.00 premium; and

WHEREAS, Leonard P. Pasculli, Esq., representing the owner of said property, has effected redemption of Certificate #1270 in the amount of \$32,630.64;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that this Governing Body acknowledges that Park Finance, LLC is entitled to a refund in the amount of \$32,630.64 as well as a refund of the premium in the amount of \$8,600.00; and

BE IT FURTHER RESOLVED, that the Tax Collector be authorized to issue a check in the amount of \$32,630.64 for the redemption of Certificate #1270 and a check for the refund of the premium in the amount of \$8,600.00, payable to Park Finance, LLC, PO Box 109, Cedar Knolls, NJ 07927.

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RESOLUTION #36-2011*

**AUTHORIZING THE AWARD OF A CONTRACT TO DONNELLY ENERGY SOLUTIONS –
INSTALLATION OF ENERGY IMPROVEMENTS IN TOWN FACILITIES AND AUTHORIZING
THE FILING OF AN APPLICATION WITH THE NJ STATE CLEAN ENERGY PROGRAM**

WHEREAS, the Town of Newton wishes to install various energy improvements in Town facilities; and

WHEREAS, said energy improvements can be installed by Donnelly Energy Solutions through the New Jersey Clean Energy Program and State Contract T2334; and

WHEREAS, public bids are not required when the purchase is made under a State Contract in accordance with N.J.S.A. 40A:11-12 of the Local Public Contracts Law; and

WHEREAS, TRC Energy Services Inc, 900 Route 9 North, Site 104, Woodbridge, NJ 07095, has been selected as the New Jersey Program manager and has selected Donnelly Energy Solutions, Wayne, NJ, as the contractor for the Town of Newton as said selection was approved by letter from the Acting Director of the Division of Local Government Services dated April 21, 2010; and

WHEREAS, Donnelly has provided an estimate for eligible work dated January 17, 2011;

WHEREAS, said costs will be borne by grant funding including a \$20,000 grant through the New Jersey Smart Start Buildings and through the Federal ARRA program and other NJ Funding;

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

1. A contract is hereby awarded to Donnelly Energy Solutions for the installation of various energy improvements in Town of Newton facilities in amount not to exceed \$36,591.50.
2. The contract is awarded in accordance with the unit pricing, terms and conditions contained in New Jersey State Contract T2334.
3. Any and all municipal officials are hereby authorized to take whatever actions may be necessary to implement the terms of this Resolution.
4. The Town Manager is to complete and file necessary grant applications.
5. All necessary UCC permits and inspections must be obtained.
6. Any change orders must be approved in writing by the Town Manager and approved by the Town Council.
7. The Municipal Clerk is hereby authorized and directed to provide a copy of the Resolution to the Chief Financial Officer and Donnelly Energy Solutions, 557 Route 23 South, Wayne, NJ 07470, Attention: Michael Jacobus.
8. Donnelly Energy Solutions shall not conduct any work until they have been notified by the Town that the grant has been approved and the Town Manager issues a notice to proceed.
9. The Town hereby assigns the \$20,000 ARRA grant to Donnelly Energy

Solutions to provide for payment for the work described.

Name	Introduced	Seconded	Aye	Nay	Abstain	Absent
Becker						
Le Frois						
Elvidge						
Ricciardo						
Diglio						

RESOLUTION #37-2011*

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 2010 and 2011 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

730.42	VOID	28268
1,079.96	VOID	28376
188.85	VOID	28334
60,335.83	Lakeland Bank	28377
154.30	Montague Tool & Supply	28378
3,167.00	Harold Pellow & Assoc. Inc.	28379
55.00	Decker's Fire & Safety	28380
3,430.65	NUI Corporation	28381
279.25	G & G Diesel Service Inc.	28382
4,380.00	Pumping Services	28383
2,941.76	Centurylink Communications, Inc.	28384
118.61	Campbell's Small Engine	28385
296.99	Neopost Leasing	28386
172.19	Tri-State Rentals, Inc.	28387
48.89	Federal Express	28388
2,715.00	Ferraioli, Cerullo & Cuva	28389
37.00	James Sisco	28390
37.00	Richard A. Straway, Jr.	28391
37.00	Thomas Straway	28392
440.26	Vital Computer Resources, Inc.	28393
55.00	NJLM	28394
26.40	J & D Sales and Service	28395
37.00	William F. Smith	28396
37.00	Brock Kithcart	28397
37.00	William Hagaman	28398
103.99	Joseph A. Sapio	28399
1,450.00	Microsystems-NJ Com, LLC	28400
25.00	Joseph Carr	28401
187.34	Sebring Auto Parts	28402
2,470.00	Stamp Fulfillment	28403

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16.00	Ervin Lasso	28404
1,361.38	F.W. Bennett & Son, Inc.	28405
634.69	Boonton Tire Supply	28406
767.75	McGuire	28407
839.62	Vision Service Plan	28408
1,203.34	Verizon Wireless	28409
74.55	Mr. John	28410
195.00	Wildflowers With Tami	28411
500.00	NJSACOP	28412
2,055.00	Vogel, Chait, Collins, Schneider, PC	28413
1,139.90	Scarinci & Hollenbeck, LLC	28414
80.25	Tritec Office Equipment	28415
1,327.96	Staples Business Advantage	28416
90.00	Traveling Locksmith	28417
223.70	Paul Conway Shields	28418
96.00	CSS Test	28419
300.00	Northeast Fire Protection, Inc.	28420
37.00	Steve Estler	28421
3,093.80	Rachles/Michele's Oil Company	28422
9,376.52	Taylor Oil Co.	28423
148.41	Action Office Supplies	28424
23.00	Eric Tompkins	28425
2,250.00	Laddey, Clark & Ryan, LLP	28426
37.00	Adam Vough	28427
50.00	Sussex County Chamber of Commerce	28428
37.00	Joseph White	28429
72.26	Thomas S. Russo, Jr.	28430
850.00	Gramco Business Communications	28431
469.80	Penteledta	28432
112,290.06	NJMETF	28433
37.00	Roy Leyman	28434
5,841.32	Woodruff Energy	28435
577.07	Tanner Furniture, Inc.	28436
275.00	Advanced Software Devlp. Corp.	28437
193,542.79	Payroll Account	111008
922,786.00	Newton Board of Educations	111009

CAPITAL

2,806.00	Harold Pellow & Assoc., Inc.	7665
749.50	Pinnacle Wireless, Inc.	7666
14,287.50	McGrath Municipal Equipment, LLC	7667

Total TOWN BILLS \$1,361,618.40

WATER AND SEWER ACCOUNT

31,596.06	Payroll Account	116004
574.89	Newton Postmaster	11984
1,607.25	E S C Enterprises	11985
1,878.00	Harold Pellow & Assoc., Inc.	11986
889.37	NUI Corporation	11987
49,825.62	Pumping Services	11988
14.00	Paul M. Havens	11989
945.90	Coyne Chemical Corp., Inc.	11990
28.17	Centurylink Communications, Inc.	11991
1,349.88	Centurylink Communications, Inc.	11992
3,147.50	Ferraioli, Cerullo & Cuva	11993
2,482.60	Stamp Fulfillment	11994

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14.00	Ervin Lasso	11995
200.00	Treasurer, State of New Jersey	11996
163.92	Vision Service Plan	11997
285.78	Grinnell Recycle	11998
167.96	Verizon Wireless	11999
5,184.00	Passaic Valley Sewerage Comm.	12000
1,250.00	John Smalley	12001
884.40	Main Pool & Chemical Company	12002
528.20	Scarinci & Hollenbeck, LLC	12003
14.00	Eric Tompkins	12004
139.90	Penteledata	12005
149.00	EM Electrical Contractors, LLC	12006
15,042.94	NJMEBF	12007
96.00	United States Plastic Corp.	12008
1,694.17	Woodruff Energy	12009
283.95	Bruce Supply Corp.	12010
275.00	Advanced Software Devlp. Corp.	12011

CAPITAL

1,915.50	Harold Pellow & Assoc., Inc.	2168
14,287.50	McGrath Municipal Equipment, LLC	2169

Total WATER & SEWER BILLS \$136,915.46

TRUST ACCOUNT

879.10	Payroll Account	117104
1,721.00	Harold Pellow & Assoc., Inc.	2863
1,333.33	James P. Sloan, P.C.	2864
420.00	Vogel, Chait, Collins, Schneider, PC	2865
981.23	Sussex County Mailing Service	2866
1,876.50	Top Line Construction Corp.	2867

Total TRUST ACCOUNT BILLS \$7,211.16

FEDERAL/STATE GRANT ACCOUNT

343.00	Galls Incorporated	1059
95.27	Staples Business Advantage	1060

Total TRUST ACCOUNT BILLS \$438.27

RESOLUTION #38-2011*

MODIFICATION TO THE CALCULATION OF THE TAX COLLECTION RATE BY ALLOWING FULL DEDUCTION OF THE IMPACT OF TAX APPEAL JUDGMENTS ON THE LEVY (THEREFOR AFFECTING THE RESERVE FOR UNCOLLECTED TAXES)

WHEREAS, Chapter 56 of P.L. 2010 made a modification to the calculation of the tax collection rate (and therefore affecting the reserve amount) by allowing full deduction of the impact of tax appeal judgments on the levy; and

WHEREAS, according to NJSA 40A:4-41 (c)...(2) If tax appeal judgments of the county tax board pursuant to R.S.54:3-21 et seq., or the State tax court pursuant to R.S.54:48-1 et seq., result in tax reductions for the previous fiscal year, the governing body of the municipality may elect to calculate the current year reserve for uncollected taxes by reducing the certified tax levy of the prior year by the amount of the tax levy adjustments resulting from those judgments.

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Election of this choice shall be made by resolution, approved by a majority vote of the full membership of the governing body prior to the introduction of the annual budget pursuant to NJSA 40A:4-5; and

WHEREAS, attached to this resolution is a copy of sheet 22 of the 2010 Annual Financial Statement "Current Taxes – 2010 Levy" to support the amounts used to determine the modified tax collection rate as follows:

\$22,231,885.53	2010 Levy
<u><115,265.21></u>	County Appeals
\$22,116,620.32	2010 certified levy reduced by county appeals
\$21,692,894.81	Cash collected
22,116,620.32	divided by reduced 2010 levy
98.08	% of cash collections to 'reduced' 2010 levy

WHEREAS, for comparative information, the tax collection rate was 98.05% for the calendar year 2009, and 97.57% for the calendar year 2010; and

WHEREAS, based on the above calculation, the Town of Newton could use the modified tax collection rate of 98.08%, however the Town intends to use a more conservative rate of 97.8%.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Newton, approved by a majority vote of the full membership, that it utilize a tax collection rate of 97.8% (which is less than the 98.08% allowable rate) when calculating the line item appropriation Reserve for Uncollected Taxes in its calendar year 2011 Municipal Budget.

The Deputy Clerk presented a Transfer Application to the Newton Fire Department from Jennifer Cole, 1 Old Swartswood Road, Newton. It was noted the Application was in order and signed by the Chief of the Fire Department.

The Deputy Clerk presented an Application for a Special Permit for a Social Affair from the Sussex County Arts and Heritage Council, 133 Spring Street, Newton to be held on Saturday, April 16, 2011 from 4:00 p.m. to 7:00 p.m. at 133 Spring Street, Newton. It was noted the Application is in order, accompanied by the prescribed fee and signed by the Chief of Police.

A motion was made by Mr. Ricciardo to approve the **COMBINED ACTION RESOLUTIONS WITH THE REMOVAL OF RESOLUTIONS 31-2011 AND 32-2011**, 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		

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RESOLUTION #31-2011

AUTHORIZE AN AGREEMENT WITH EACH OF THE OWNERS OF PROPERTIES LOCATED AT 93-95 SPRING STREET, 1 SPRING STREET, AND 163-165 SPRING STREET FOR THE PLACEMENT OF OUTDOOR SURVEILLANCE CAMERAS

WHEREAS, the Town of Newton is in need of and desires to locate and operate outdoor video surveillance cameras on the exterior portions of the buildings located at 93-95 Spring Street, 1 Spring Street, and 163-165 Spring Street in the interest of public safety; and

WHEREAS, an agreement with each of the owners of the three above listed properties has been negotiated for the placement and operation of said cameras, copies of which are annexed hereto;

NOW, THEREFORE BE IT RESOLVED, that the Town Council of the Town of Newton hereby authorizes the Mayor and Clerk to execute the three agreements for the aforesaid purposes in the form annexed to and made part of this resolution.

The Governing Body had several questions regarding the placement of outdoor surveillance cameras which were addressed by Mr. Russo.

A motion was made by Mrs. Le Frois to **APPROVE RESOLUTION 31-2011**, seconded by Mr. Elvidge and roll call resulted as follows:

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

RESOLUTION #32-2011

AUTHORIZE THE EXECUTION OF AN AGREEMENT WITH VDA LLC FOR VERTICALTRANSPORTATION CONSULTING SERVICES

WHEREAS, the Town of Newton requires the services of a qualified Vertical Transportation Consulting Company for the replacement of the existing Town of Newton elevator; and

WHEREAS, VDA LLC, submitted a revised proposal dated February 22, 2011 outlining the services to be provided for \$13,300.00, which is less than the threshold established by the Local Public Contracts Law; and

WHEREAS, after review, the Governing Body has determined that VDA LLC, is qualified for the project; and

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 VDA LLC for the replacement of the existing Town of Newton elevator as proposed; and

BE IT FURTHER RESOLVED that a certified copy of this resolution be

forwarded to VDA 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.

The Governing Body had several questions regarding the contract from VDA LLC for consulting services in connection with the evaluation and modernization of the elevator in the municipal building which were addressed by Mark Hontz, Esq. After a lengthy discussion it was the consensus of the Governing Body to change PHASE IV – Contract (Construction) Administration, Item B. to read four (4) job site visits instead of two (2) and to strike VII FEE, Item G.

A motion was made by Mr. Ricciardo to **APPROVE RESOLUTION 31-2011 AS AMENDED**, seconded by Mrs. Diglio and roll call resulted as follows:

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

INTRODUCTION OF 2011 BUDGET

Mr. Russo indicated the hearing on the Budget and Tax Resolution will be held at the Municipal Building on March 28, 2011 at 7:00 p.m.

Mr. Russo gave a brief overview of the 2011 Budget. Mr. Russo highlighted the reassessment of all the properties in Newton this past year and indicated the new Net Taxable Valuation for the Town dropped significantly and the average residential property assessment went down from the 2010 level of \$269,000 to the new 2011 level of \$222,309. Therefore, factoring in these new calculations and budget and tax levy as proposed, the average municipal portion tax payment in 2010 of \$2,429 will go up to an estimated average municipal portion tax payment in 2011 of \$2,509, an increase of \$80.00 a year or only \$1.54 a week.

Mr. Russo indicated the 2011 Water and Sewer budget is proposed at \$3,925,000 and provides service to 2,643 accounts.

Mrs. Diglio had a question regarding the increase in the municipal tax rate of \$80.00 per year which was addressed by Mrs. Babcock, Chief Financial

Officer and Mr. Russo.

A motion was made by Mrs. Diglio to **INTRODUCE THE 2011 TOWN OF NEWTON MUNICIPAL BUDGET and the 2011 WATER AND SEWER BUDGET**, 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-(10 minutes)

DISCUSSION

a. Utility Board Appeal – 108-110 Spring Street

Mr. Russo advised the homeowner requested the appeal be deferred at this time.

A motion was made by Mr. Ricciardo to **GRANT AN ADJOURNMENT REQUEST**, seconded by Deputy Mayor Le Frois and roll call resulted as follows:

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

b. Draft Telephone Audit Proposal

Mr. Russo gave a brief overview of the Draft Telephone Agreement with Safari Telecom. Mr. Russo explained Safari Telecom will conduct an on-site audit of all Municipal facilities to verify that all telephone lines being billed are functional. After a brief discussion, the Governing Body directed Mr. Russo to proceed with the Audit.

c. Draft Resolution on Reaffirmation of Retiree Benefits

Mr. Russo stated during his research of the above draft resolution, several resolutions were found addressing retiree benefits and forwarded the resolutions for legal counsel. Mr. Russo then turned the meeting over to Mark Hontz, Esq. to explain his findings.

Mr. Hontz explained the resolutions that were previously adopted were consolidated to the existing draft resolution. Mr. Hontz further explained he

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broke out the different levels of qualifications for different classes of people who are entitled to benefits and what they receive. Mr. Hontz indicated during his examination of resolution #188-2007, he found a discrepancy with retirement age and years of service that was inconsistent with State Statute. Mr. Hontz explained according to State Statute, the retiree must have 25 years of service or more in a retirement system administered by a New Jersey municipality or by the State of New Jersey. Mr. Hontz then outlined and offered three options for Council's consideration. After a lengthy discussion, Council opted for the second option, which reads, "*A retiree full-time non-union who is not retired on a disability pension and who meets the qualifications of subsection 2.f, above, is eligible for this benefit after age 62 provided that said retiree full-time non-union also has at least 15 years of service with the Town of Newton.*" Resolution will go on for next meeting.

d. Draft FKA Agreement for Town Hall Wall Repair Project

Mr. Russo addressed the draft Agreement with FKA Architects regarding replacement of the exterior masonry wall to the Newton Municipal Building. After a brief discussion, Council recommended Mr. Russo to proceed with a resolution after the 2011 Municipal budget is approved.

e. Draft Tax Map Fee Ordinance

Mr. Russo reviewed the draft tax map fee Ordinance with the Governing Body. After a brief review, the Governing Body directed Mr. Russo to proceed with the Ordinance.

OPEN TO THE PUBLIC

Mr. Charles Briggs, 73 Pine Street, expressed his extreme displeasure with the Matorana construction project located behind the Quik Chek on Sparta Avenue, in particular was with the 10-foot buffer and the removal of trees. Mr. Briggs presented photographs of the construction site, as well as a letter to the editor and a survey of the property in question to the Governing Body.

The Governing Body explained at length to Mr. Briggs that all of his concerns were addressed at the Planning Board meeting last week.

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Mr. Russo indicated that Paul Ferriero, Engineer, was on site and indicated by e-mail dated February 11, 2011, the site seems to be in control and the limit of clearing is consistent with the plans.

Mark Hontz, Esq. explained the plans were approved in March, 2010 and the appeal process should have been addressed at that time.

Mr. Russo read into the minutes, correspondence from Dave Soloway, Esq., Attorney for the Planning Board, to Mr. Briggs addressing his concerns.

February 24, 2011

Via Certified and Regular Mail

Charles Briggs
73 Pine Street
Newton, New Jersey 07860

**Re: Newton Planning Board - Martorana Enterprises, LLC
Block 12.01, Lots 5 and 5.03**

Dear Mr. Briggs:

I am the attorney for the Town of Newton Planning Board. I am writing to you in response to certain complaints you made both at the February 16, 2011 meeting of the Board, and in direct conversations before and after that meeting with representatives of the Town.

I understand that you are aggrieved by the Martorana Enterprises application, and in particular, by the 10-foot buffer that is provided to your property from the proposed development. You believe there should be a much more significant buffer. There is, however, nothing that can be done by the Board to change the 10-foot buffer. Since you attended many of the hearings, I assume you recall that the Board in December, 2008 voted to deny the application. The applicant, as it had a right to do, filed an action in the Superior Court challenging that denial, arguing, among other things, that the Board did not have the legal right to deny an application that conformed with all applicable Town ordinances. Unfortunately, the Court essentially agreed, and determined that the Board, with one exception, acted in violation of applicable law when it denied the application. That one exception was issues relating to on-site traffic safety and circulation, and the Court returned the application to the Board for a limited hearing on that issue only. Following that hearing, by Resolution adopted on April 21, 2010, the Board granted preliminary site plan approval for Phase I of the application.

Based upon the order of the Court, the Board could not require that the applicant provide for greater buffers than was proposed in the initial application; nor could it require any changes in the application that did not relate to traffic safety. My recollection is that the applicant was requested by both the Board and members of the public to make some of these kinds of changes at the hearing before the Board following the Court's decision, but the applicant refused to agree to them. Thus, there was nothing the Board could do. Subsequently, the applicant filed an application before the Board for final site plan approval of Phase I, which the Board granted in a resolution adopted on January 19, 2011. Under applicable law, an applicant is entitled to approval of a final site plan application if the application complies with all of the then applicable requirements of the approval of the preliminary site plan application,

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and otherwise complies with Town ordinances. Because the application met this standard, the Board was required to approve it as a matter of law, and it did so.

Again, there is nothing that the Board can do about the 10-foot buffer, or any other aspect of the application that was required to be approved by the Court and was the subject of the April 21, 2010 Resolution of approval. In terms of your complaint about the applicant taking trees down on the site, there is nothing in the Board resolutions or, to my knowledge, in any Town ordinance, that prevents the applicant from taking down trees on the property, except with a tree line limit of disturbance line that is shown on the plans, and the area of the property that has been designated as Phase II. Based upon the plans, your property is not contiguous to the Phase II area, and the tree line limit of disturbance line adjacent to your property is approximately 10 feet.

I understand that you made other complaints at the recent Board hearing with regard to snow removal. The requirements imposed by the Board relating to snow removal do not apply until full development of the property, and are not applicable at this point with reference to snow being removed in the already developed areas. If snow is improperly being dumped in wetlands, that is a State Department of Environmental Protection issue, and is not something over which the Board has jurisdiction. Similarly, there is no limitation at the present time relating to trucks that may be making deliveries to the existing Quick Chek. If and when the site is developed in accordance with the approval, certain limitations will kick in.

If you wish to challenge the Board's action in granting preliminary and final site plan approval for Phase I of this project, my belief is that it is probably too late for you to do so under applicable law. Nevertheless, the time limitations for making such a challenge in the Superior Court of New Jersey can be relaxed under certain circumstances. I suggest that if you want to pursue this, you consult with an attorney as soon as possible. Again, the appeal would be to the Superior Court of New Jersey, and would not be made through the Board or the Town.

On the other hand, if you have a complaint that the applicant in some manner is not complying with any requirements of the resolutions of approval, that kind of complaint should be made directly to the Board or to the Town Zoning Officer. You should make such a complaint in writing and submit it to the Board and/or the Zoning Officer. Verbally confronting the Zoning Officer or any other Town official or employee is not the appropriate way to register this kind of complaint. A future verbal confrontation with the potential to cause serious annoyance or alarm to Town officials or employees could lead to proceedings in the Municipal Court. Again, any complaints should be put in writing, and they will be reviewed, and if appropriate, acted upon with reasonable promptness.

Please be guided accordingly.

*Very truly yours,
VOGEL, CHAIT, COLLINS,
AND SCHNEIDER
A Professional Corporation
David H. Soloway*

Kent Hardmeyer, 70 Pine Street, sympathizes with Mr. Briggs and expressed his disappointment with the Martorana construction site.

Jack Schwartz, 4 Linmor Ave., also expressed his disappointment with the

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Matorana construction site.

Don Donofrio, retired member, Newton Police Department, requested confirmation from the Governing Body that despite what happens at State level, the Town's policy for healthcare coverage for retired employees will be honored.

The Governing Body stated they can only do what State law allows and until such time, the policy will be honored. After a brief discussion, the Town Attorney advised adding a clause to item #3 of the draft resolution for reaffirmation of retiree benefits.

Janice Sweeley, 10 Orchard Street, expressed her disappointment with the Matorana project.

COUNCIL & MANAGER COMMENTS

Mr. Riccardo had a question regarding correspondence received from Harold E. Pellow, Town Engineer, which was addressed by Mr. Russo.

Mrs. Diglio had a question regarding an article she read in the New Jersey State League of Municipalities magazine which addresses the practice of billing insurance companies for reimbursement of fees for responses the Fire Department makes to its residents which was addressed by Mr. Russo.

EXECUTIVE SESSION- None.

There being no further business to be conducted, upon motion by Mrs. Le Frois seconded by Mrs. Diglio and unanimously carried, the meeting was adjourned at 8:39 p.m.

Respectfully submitted,

Irene M. O'Connor
Deputy Municipal Clerk