

April 25, 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. Ricciardo, Mrs. Diglio, Deputy Mayor Le Frois, Mayor Becker, Mr. Thomas S. Russo, Jr., Town Manager and Mark Hontz, Esq., Town Attorney. Mr. Elvidge was absent.

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 Pledge of Allegiance to the flag. The Deputy Clerk called the roll. The Deputy Clerk indicated there was one correction to the April 11, 2011 Regular meeting minutes; Page 1, Introduction to the Newton Fire Department Proclamation. Upon motion of Deputy Mayor Le Frois, seconded by Mrs. Diglio, the minutes of April 11, 2011 (Special) and April 11, 2011 (Regular) were approved as corrected.

#### **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."*

Diane Sare, Bergen County Democrat, presented the Governing Body with an overview of the Glass-Steagall Act (H.R. 1489). Ms. Sare advised that the reinstatement of the Glass-Steagall Act (H.R. 1489) was reintroduced to the U.S. Congress two weeks ago and explained that the Glass-Steagall Act is the legal separation of commercial banks from investment banks. Ms. Sayer also advised that she and her colleagues are meeting with State legislatures and city councils asking for support of this Act. Ms. Sare presented Council with a copy of the bill and a sample resolution and requested that Council consider passing this Resolution.

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**COUNCIL & MANAGER REPORTS**

Mayor Becker read and presented Mr. Hank Pomerantz the following Proclamation proclaiming the week of May 16, 2011 as **Relay for Life Days** in Newton.

**PROCLAMATION**

**RELAY FOR LIFE**

**WHEREAS**, Relay for Life® is the signature activity of the American Cancer Society and celebrates cancer survivors and caregivers, remembers loved ones lost to the disease and empowers individuals and communities to fight back against cancer; and

**WHEREAS**, money raised during Relay for Life® of Sussex County supports the American Cancer Society's mission of saving lives and creating a world with less cancer and more birthdays – by helping people stay well, by helping people get well, by finding cures for cancer and by fighting back; and

**WHEREAS**, Relay for Life® helped fund more than \$150 million in cancer research last year;

**NOW, THEREFORE, WE**, the Mayor and Town Council of the Town of Newton, hereby proclaim the week of May 16, 2011 as **Relay for Life Days** in Newton and encourage our citizens to participate in the Relay for Life® event at Sussex County Community College from Saturday May 21<sup>st</sup> at 4:00pm to Sunday, May 22<sup>nd</sup> at 6:00am.

Mr. Hank Pomerantz thanked Mayor Becker and Mr. Russo for all their help.

Mr. Pomerantz explained the relay is the major event for the American Cancer Society and this year they have 60 teams. Mr. Pomerantz indicated that at kick-off there will be over 100 cancer survivors leading the march.

Mr. Russo advised he received correspondence from the Northwest Christian School stating that they will be holding their 2<sup>nd</sup> Annual Dora Peterson 5K and Family Fun Day on Saturday, May 21, 2011. Mr. Russo indicated the Northwest Christian School requested permission for traffic to be re-routed on North Park Drive for the 5K run and will forward the request to the Newton Police Department. The Governing Body had no objection for the traffic to be re-routed for the Northwest Christian School 5K Run.

Mr. Russo advised he received correspondence from Mr. Dennis Harrington requesting permission to hold the 2012 Sussex County St. Patrick's Day Parade in Newton on March 17, 2012 with a later start time of 1:00 p.m. The

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Governing Body had no objection to for the 2012 Sussex County St. Patrick's Day Parade to be held in Newton at 1:00 p.m.

**ORDINANCES**

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

**ORDINANCE #2011-5**

**BOND ORDINANCE PROVIDING FOR VARIOUS CAPITAL IMPROVEMENTS OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY, APPROPRIATING THE AGGREGATE AMOUNT OF \$1,360,000 THEREFOR, INCLUDING \$10,000 RECEIVED AS A RECYCLING TONNAGE GRANT, AND AUTHORIZING THE ISSUANCE OF \$1,282,000 BOND OR NOTES OF THE TOWN TO FINANCE PART OF THE COST THEREOF**

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:**

**Section 1.** The several improvements described in Section 3 of this bond ordinance are hereby respectively authorized to be undertaken by the Town of Newton, in the County of Sussex, New Jersey (the "Town") as general improvements. For the several improvements or purposes described in Section 3, there are hereby appropriated the respective sums of money therein stated as the appropriation made for each improvement or purpose, such sums amounting in the aggregate to \$1,360,000, including \$10,000 received as a recycling tonnage grant and also including the aggregate sum of \$68,000 as the several down payments for the improvements or purposes required by the Local Bond Law. The down payments have been made available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

**Section 2.** In order to finance the cost of the several improvements or purposes not covered by application of the several down payments or grant, negotiable bonds are hereby authorized to be issued in the principal amount of \$1,282,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

**Section 3.** The several improvements hereby authorized and the several purposes for which the bonds are to be issued, the estimated cost of each improvement and the appropriation therefor, the estimated maximum amount of bonds or notes to be issued for each improvement and the period of usefulness of each improvement are as follows:

<u>Purpose</u>	<u>Appropriation and Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds or Notes</u>	<u>Period of Usefulness</u>
a) Road improvements consisting of reconstruction and resurfacing, and reconstruction and/or installation of sidewalks along the entire length of Shady Lane, Hillside Avenue, Overlook Road, Slate Hill Road and Spring Street including adjacent areas	\$300,000	\$285,000	10 years
b) Paving of the Western Plaza parking lot	\$115,000	\$109,250	10 years

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<u>Purpose</u>	<u>Appropriation and Estimated Cost</u>	<u>Estimated Maximum Amount of Bonds or Notes</u>	<u>Period of Usefulness</u>
c) Engineering for improvements at Dams #1, #2, #3 and #4 and major repairs to Dam Site #4	\$250,000	\$237,500	15 years
d) Repair and/or reconstruction of Town Hall retaining wall	\$75,000	\$71,250	20 years
e) Reconstruction of curbing and sidewalk on Adams Street and reconstruction and renovations to parking lot on Adams Street	\$50,000	\$47,500	10 years
f) Renovation and major repair and/or replacement of elevator at Town Hall	\$50,000	\$47,500	15 years
g) Acquisition of recycling truck	\$125,000 (including \$10,000 received as a recycling tonnage grant)	\$108,750	5 years
h) Acquisition of a truck for the Department of Public Works	\$150,000	\$142,500	5 years
i) Acquisition of narrow band radio equipment for the Department of Public Works	\$14,000	\$13,300	5 years
j) Acquisition of high band portable radios, pagers and mobile data terminals for the Fire Department	\$12,000	\$11,400	5 years
k) Improvement of Municipal Building consisting of upgrades, renovations and acquisition of furniture and equipment	\$20,000	\$19,000	5 years
l) Supplemental appropriation for redevelopment planning	\$75,000 (in addition to the \$250,000 appropriated by bond ordinance #2009-5 finally adopted 2/23/09, the \$50,000 appropriated by bond ordinance #2005-8 finally adopted 5/9/05, the \$75,000 appropriated by bond ordinance #2007-8 finally adopted 6/11/07, the \$250,000 appropriated by bond ordinance #2007-21 finally adopted 8/27/07 and \$50,000 available from an Office of Smart Growth grant)	\$71,250 (in addition to the \$238,000 bonds or notes authorized by bond ordinance #2009-5 finally adopted 2/23/09, the \$47,500 bonds or notes authorized by bond ordinance #2005-8 finally adopted 5/9/05, the \$71,400 bonds or notes authorized by bond ordinance #2007-8 finally adopted 6/11/07, the \$238,000 bonds or notes authorized by bond ordinance #2007-21 finally adopted 8/27/07 and the \$25,000 grant received under the 2005 ordinance, reducing the debt authorization)	15 years
m) Acquisition of an aerator for all parks	\$15,000	\$14,250	15 years
n) Replacement of bleachers at Memory Park Baseball Field	\$30,000	\$28,500	15 years
o) Upgrade of hockey facility	\$25,000	\$23,750	15 years
p) Installation of police digital video surveillance equipment at various buildings	\$20,000	\$19,000	7 years
q) Acquisition of all-wheel drive vehicle for Police Department	<u>\$34,000</u>	<u>\$32,300</u>	5 years
TOTALS	<u>\$1,360,000</u>	<u>\$1,282,000</u>	

The excess of the appropriation and grant for each of the improvements or purposes aforesaid over the estimated maximum amount of bonds or notes to be issued therefor, as above stated, is the amount of the down payment for each purpose.

**Section 4.** All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the

chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

**Section 5.** The Town hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Town is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

**Section 6.** The following additional matters are hereby determined, declared, recited and stated:

(a) The purposes described in Section 3 of this bond ordinance are not current expenses. They are all improvements that the Town may lawfully undertake as general improvements, and no part of the costs thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The average period of usefulness, computed on the basis of the respective amounts of obligations authorized for each purpose and the reasonable life thereof within the limitations of the Local Bond Law, is 10.77 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Town as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$1,282,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$313,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated costs indicated herein for the purposes or improvements.

**Section 7.** The Town hereby makes the following covenants and declarations with respect to obligations determined to be issued by the Chief Financial Officer on a tax-exempt basis. The Town hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986, as amended (the "Code"), in order to preserve the exemption from taxation of interest on the obligations, including, if necessary, the requirement to rebate all net investment earnings on the gross proceeds above the yield on the obligations. The Chief Financial Officer is hereby authorized to act on behalf of the Town to deem the obligations authorized herein as bank qualified for the purposes of Section 265 of the Code, when appropriate. The Town hereby declares the intent of the Town to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds

to pay or reimburse expenditures for the costs of the purposes described in Section 3 of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations §1.150-2 or any successor provisions of federal income tax law.

**Section 8.** The grant moneys received for the purposes described in Section 3 hereof shall be applied to direct payment of the cost of the improvements.

**Section 9.** The chief financial officer of the Town is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Town and to execute such disclosure document on behalf of the Town. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Town and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Town fails to comply with its undertaking, the Town shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

**Section 10.** The full faith and credit of the Town are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Town, and the Town shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Town for the payment of the obligations and the interest thereon without limitation of rate or amount.

**Section 11.** This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

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

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

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

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

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**ORDINANCE #2011-6**

**A FULLY FUNDED WATER SEWER CAPITAL IMPROVEMENT ORDINANCE IN THE AMOUNT OF \$196,878.91 FOR VARIOUS WATER SEWER CAPITAL IMPROVEMENTS IN THE TOWN OF NEWTON, COUNTY OF SUSSEX, NEW JERSEY**

**BE IT ORDAINED** by the Town Council of the Town of Newton, in the County of Sussex, as follows:

**Section 1.** \$196,878.91 is hereby appropriated from reserved balances in the Water Sewer Capital Fund for the following various water sewer capital improvements in the Town of Newton, including all costs necessary therefore or incidental thereto:

**Morris Lake Dam Improvements and Right Abutment Improvements- \$96,878.91.** Rehabilitation of the right abutment of Morris Lake Dam with overtopping protection materials.

Additional monies which are available for this project:

\$36,252.50 remaining balance of a 2010 Water Sewer Utility Budget appropriation under the Capital Improvement Fund – Morris Lake Dam Improvements.

\$10,000 appropriated amount in the 2011 Water Sewer Utility Budget under the Capital Improvement Fund – Morris Lake Dam Improvements.

TOTAL PROJECT COST: \$143,131.41

**Acquisition of Flusher - \$100,000.00.**

Acquisition of a new flusher to replace existing twenty year old flusher.

Additional monies which are available for this project:

\$250,000 appropriated amount in the 2011 Water Sewer Utility Budget under the Capital Improvement Fund – Acquisition of Flusher.

TOTAL PROJECT COST: \$350,000.00

**TOTAL COST OF VARIOUS IMPROVEMENTS \$196,878.91**

**Section 2.** The Water Sewer Capital Budget of the Town of Newton is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. The resolution in the form promulgated by the Local Finance Board showing full detail of the amended capital budget and capital program as approved by the Director of the Division of Local Government Services is on file with the Clerk and is available there for public inspection.

**Section 3.** This ordinance shall take effect as provided by the law.

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

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

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

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

**ORDINANCE #2011-7**

**AN ORDINANCE REDUCING THE SPEED LIMIT FOR NORTH PARK DRIVE WITH THE TOWN OF NEWTON**

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

Mr. Elvidge	Absent	Mr. Ricciardo	Yes
Mrs. Diglio	Yes	Deputy Mayor 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 May 9, 2011.

The Deputy Clerk will advertise the above Ordinance according to law.

**ORDINANCE #2011-8**

**A FULLY FUNDED WATER SEWER CAPITAL IMPROVEMENT ORDINANCE IN THE AMOUNT OF \$234,000.00 FOR MERRIAM AVENUE WATERMAIN UPGRADES IN THE TOWN OF NEWTON, COUNTY OF SUSSEX, NEW JERSEY.**

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

Mr. Elvidge	Absent	Mr. Ricciardo	Yes
Mrs. Diglio	Yes	Deputy Mayor 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 May 9, 2011.

The Deputy Clerk will advertise the above Ordinance according to law.

**OLD BUSINESS**

**A. Main Street Newton BID**

Mr. Russo indicated the grant application process is moving forward. Mr. Russo also indicated that he and Mrs. Oswin received training this week on the new Main Street Newton website and hope to get the website up and running in the next few months.

**B. Utility Board Appeal – Mautone**

Mr. Russo indicated that Mr. Mautone requested the Appeal be carried until the May 9, 2011 Council meeting.

A motion was made by Mr. Ricciardo to carry Mr. Mautone’s Utility Board Appeal until the May 9, 2011 Council meeting, seconded by Deputy Mayor Le Frois and roll call resulted as follows:

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

**C. Utility Board Appeal – Oricchio**

At this time, Mark Hontz, Esq. swore-in Mr. Alex Oricchio. Mr. Alex Oricchio, property owner 17 Hicks Avenue, requested a Utility Board Appeal for relief of large third and fourth quarter 2010 water and sewer bills. Mr. Oricchio presented an overview of the discrepancy. The Governing Body had several questions which were addressed by Mr. Oricchio.

After a lengthy discussion, it was consensus of the Council to extend the appeal to the May 9, 2011 Council Meeting for additional documentation which supports the final water meter reading at time of Mr. Oricchio’s home closing and documentation indicating repair of a water leak in May, 2010.

A motion was made by Mr. Ricciardo to carry the Appeal to the May 9, 2011 Council meeting and no shut-off until the conclusion of the hearing, seconded by Deputy Mayor Le Frois and roll call resulted as follows:

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

**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 #71-2011\***

**CONSIDERATION FOR WAIVER OF HEALTH BENEFITS BY EMPLOYEES**

**WHEREAS**, the Town of Newton provides health care benefits to its eligible employees pursuant to Newton Revised General Ordinance Section 4-9.11; and

**WHEREAS**, pursuant to N.J.S. 40A:10-17.1, the Town of Newton is permitted to offer monetary consideration to an employee for waiving the provision of health care benefits by the Town of Newton, provided that said employee is eligible for health care coverage through an entity other than the Town of Newton; and

**WHEREAS**, each waiver of the provision of health care benefits by an eligible employee provides the Town of Newton a cost savings by removing the obligation of paying health benefit premium expenses for said employee; and

**WHEREAS**, pursuant to N.J.S. 40A:10-17.1, the amount paid, if any, as consideration to an eligible employee for waiver of health benefits is within the sole discretion of the Town of Newton, provided that the consideration does not exceed the limits imposed by said statute; and

**WHEREAS**, pursuant to N.J.S. 40A:10-17.1, the decisions of the Town of Newton regarding: (a) allowing eligible employees to waive health care benefits; and (b) the amount of consideration paid for such waiver; are not subject to the collective bargaining process; and

**WHEREAS**, the Town of Newton has, from time to time, amended the amount of consideration paid to eligible employees for waiver of health care benefits by eligible employees with the last such amendment set forth in Resolution #71-2010, dated May 24, 2010; and

**WHEREAS**, the Town of Newton desires to amend its policy for consideration paid to eligible employees who waive health care benefits so as to: (a) conform to the statutory requirements of N.J.S. 40A:10-17.1; (b) maintain

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a level of consideration for waiver of health care benefits that incentivizes eligible employees to waive health care benefits; (c) ensure that such amendment does not result in a diminution of consideration for those eligible employees who made the decision to waive health care benefits based upon Resolution #71-2010; and (d) seek cost savings for the Town of Newton;

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

1. Effective January 1, 2011 and retroactive to that date, the Town shall offer as monetary consideration to every eligible employee who waives health insurance coverage an annual sum that is the lesser of: (a) FIVE THOUSAND DOLLARS (\$5,000.) or (b) TWELVE AND ONE-HALF PERCENT (12.5%) of the amount saved by the Town of Newton because of the employee's waiver of health care benefits as calculated using the employee's applicable, individualized level of coverage and contribution.
2. In the event that the annualized amount of consideration that is to be paid to an eligible employee who waived health care benefits pursuant to Resolution #71-2010 is more than the annualized amount of consideration agreed to by the waiving employee under the implementation of this resolution, then the greater amount of consideration shall continue to be paid to the waiving employee until the next open enrollment period, at which time said employees will receive the amount guaranteed them pursuant to the terms of this resolution. Such employees will be subject to the terms of this resolution prior to the next open enrollment date upon the earliest occurrence of any of the following prior to that date: (a) execution of a new waiver; (b) acceptance of health benefits by the waiving employee; or (c) the Town changes or eliminates the amount of consideration paid for such waivers.
3. In the event that the annualized amount of consideration that is to be paid to an eligible employee who waived health care benefits pursuant to Resolution #71-2010 is less than the annualized amount of consideration agreed to by the waiving employee under the implementation of this resolution, then said employee will receive the greater amount of consideration, the amount guaranteed them pursuant to the terms of this resolution. Said employee will continue to receive waiver compensation pursuant to this resolution until the earliest occurrence of any of the following: (a) execution of a new waiver; (b) acceptance of health benefits by the waiving employee; or (c) the Town changes or eliminates the amount of consideration paid for such waivers.
4. In the event the Town changes or revises said open enrollment period, the opportunity for waiver of benefits shall occur during the revised period.
5. All other provisions of Town policy regarding the offering of an incentive in lieu of coverage remain unchanged.

**RESOLUTION #72-2011\***

**INSERTION OF SPECIAL ITEMS OF REVENUE IN THE 2011 TOWN OF NEWTON BUDGET  
PURSUANT TO NJSA 40A:4-87 (C.159, PL1948)**

**WHEREAS**, NJSA 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the Budget of any Municipality, when such item shall have been made available by law, and the amount thereof was not determined at the time of the adoption of the Budget; and

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**WHEREAS**, said Director may also approve the insertion of an item of appropriation of equal amount; and

**WHEREAS**, the Town of Newton received payment in the amount of \$3,175.18 from the State of New Jersey Division of Highway Traffic Safety for a Drunk Driving Enforcement Grant for grant period July 1, 2009 – June 30, 2010;

**NOW, THEREFORE, BE IT RESOLVED** that the Town Council of the Town of Newton hereby requests the Director of the Division of Local Government Services approve the insertion of the following item of revenue in the 2011 Budget of the Town of Newton which is now available as revenue from:

Miscellaneous Revenues:

Section F: Special Items of Revenue

Public and Private Revenues Off-set with Appropriations:

State of New Jersey DDEF Grant .....\$3,175.18

**BE IT FURTHER RESOLVED** that the following like sum be and the same is hereby appropriated under the caption of:

General Appropriations:

(A) Operations - Excluded from CAPS

Public and Private Programs Off-Set by Revenues:

State of New Jersey DDEF Grant

Police

Salaries and Wages..... \$3,175.18

**BE IT FURTHER RESOLVED** that a certified copy of this Resolution be forwarded to the Director of the Division of Local Government Services.

**RESOLUTION #73-2011\***

**TO TRANSFER RESERVE FOR DARE PROGRAM BALANCE TO RESERVE FOR POLICE DONATIONS**

**WHEREAS**, there exists a balance of \$520.83 in the Trust Fund - Reserve for DARE Program account; and

**WHEREAS**, the Newton Police Chief has requested that this balance be transferred to the Trust Fund - Reserve for Police Donations account; and

**WHEREAS**, the DARE account has been inactive since 2007 and the police use the donation account to purchase materials to further public awareness on various police safety issues including drug awareness;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton, that the \$520.83 balance in the Trust Fund – Reserve for DARE Program be transferred to the Trust Fund – Reserve for Police Donations.

**RESOLUTION #74-2011\***

**RESOLUTION TO SUPPORT THE SUBMISSION OF A TONNAGE GRANT FOR RECYCLING TO THE STATE OF NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**WHEREAS**, the Mandatory Source Separation and Recycling Act, P.L. 1987, c.102, has established a recycling fund from which a tonnage grant may be made to municipalities in order to encourage local source separation and recycling programs; and

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**WHEREAS**, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

**WHEREAS**, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

**WHEREAS**, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate and verifiable records of materials collected and claimed by the municipality; and

**WHEREAS**, a resolution authorizing this municipality to apply for the **2010 Recycling Tonnage Grant** will memorialize the commitment of this municipality to recycling and to indicate the assent of the Town Council of the Town of Newton to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

**WHEREAS**, such a resolution should designate the individual authorized to ensure the application is properly completed and timely filed;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that the Town of Newton hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates Debra Millikin to ensure that the application is properly filed; and

**BE IT FURTHER RESOLVED** that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purpose of recycling.

#### **RESOLUTION #75-2011\***

#### **REFUND OF HOMESTEAD REBATE CREDIT FOR BLOCK 1201.03, LOT 3**

**WHEREAS**, Block 1201.03, Lot 7 also known as 4 Paterson Place and owned by Carlson, Donald F. and Anne, are entitled to the Homestead Rebate Credit which was applied to the 2<sup>nd</sup> quarter 2011 Real Estate Taxes by the State of New Jersey; and

**WHEREAS**, Block 1201.03, Lot 7 was granted a Disabled Veteran Real Estate Tax exemption on said property effective January 1, 2011 by Newton's Tax Assessor, Scott Holzhauser; and

**WHEREAS**, on March 16, 2011 Newton's Tax Collector, Linda A. Roth received the Homestead Rebate Credit for Block 1201.03, Lot 7 from the State of New Jersey and said credit was applied in accordance with the State's guidelines; and

**WHEREAS**, since this property is now tax exempt and no taxes are currently due, the Homestead Rebate Credit in the amount of \$257.72 is to be refunded to Carlson, Donald F. and Anne;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that the Treasurer be authorized to issue a check in the amount of \$257.72 as a refund to Carlson, Donald F. and Anne, 4 Paterson Place, Newton, NJ 07860.

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**RESOLUTION #76-2011\***

**AUTHORIZE AN AGREEMENT WITH THE COUNTY OF SUSSEX FOR THE PLACEMENT OF OUTDOOR SURVEILLANCE CAMERAS AT THE PROPERTIES THEY OWN AT 1 SPRING STREET AND 4 HIGH STREET**

**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 owned by the County of Sussex and located at 1 Spring Street and 4 High Street in the interest of public safety; and

**WHEREAS**, the Town of Newton authorized executing an agreement with the County of Sussex for the placement of outdoor video surveillance cameras at their meeting on February 28, 2011 by the adoption of Resolution #31-2011; and

**WHEREAS**, the terms of said agreement have been amended to mutual approval of both parties, and said agreement is attached to and made part of this resolution;

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton hereby authorizes the Mayor and Clerk to execute the attached agreement with the County of Sussex for the placement of outdoor video surveillance cameras at 1 Spring Street and 4 High Street.

**RESOLUTION #77-2011\***

**AUTHORIZE CREDITS DUE WATER AND SEWER UTILITY ACCOUNTS FOR THE COUNTY OF SUSSEX**

**WHEREAS**, the Town of Newton Water Sewer Utility mailed water/sewer bills on March 1, 2011 due and payable by March 31, 2011; and

**WHEREAS**, late penalties were assessed on all unpaid accounts as of April 1, 2011; and

**WHEREAS**, the March 23, 2011 Sussex County Freeholder meeting was cancelled due to inclement weather and due to this cancellation the County did not mail the water/sewer payment to the Town of Newton until April 1, 2011; and

**WHEREAS**, the County of Sussex is requesting that the 10% late penalty be waived;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that the Water and Sewer Collector is hereby authorized to credit the following accounts for the late penalties in the total amount of \$2,985.60:

<u>Account</u>	<u>Address</u>	<u>Amount</u>
1396	43 Water Street	\$22.46
1406	43 Water Street	\$113.24
5538	27 High Street	\$13.28
21554	19 High Street	\$32.88
21579	Hampton Street	\$7.50
21593	4 High Street	\$7.50
21603	3 High Street	\$7.50
21610	39 High Street	\$49.83
21650	82 Main Street	\$7.50

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21836	High & Spring Street	\$2,348.40
21843	High & Spring Street	\$7.50
21850	High & Spring Street	\$365.01
24516	4 High Street	\$3.00

**RESOLUTION #78-2011\***

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

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

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

**Credit penalty due to payment applied to incorrect account:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
21378	142 Merriam Avenue	\$5.15

**Utility Board recommends credit of minimum charges paid while meter was stuck:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
794	267 Spring Street	\$150.00

**RESOLUTION #79-2011\***

**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**

250.00	Newton Fire Museum	28633
377.46	Quill Corporation	28634
64.53	Montague Tool & Supply	28635
140.00	Freedom Business Machines	28636
162.50	Sussex Car Wash Inc.	28637
2,527.14	NUI Corporation	28638
390.00	B & G Elevator Inc.	28639
49.31	Centurylink Communications Inc.	28640
2,930.74	Centurylink Communications Inc.	28641
10,224.00	Hollander, Strelzik, Pasculli, Hinkes	28642
109.72	Campbell's Small Engine	28643
20.06	Federal Express	28644
129.00	R. S. Phillips Steel Company	28645
200.00	James Sisco	28646
200.00	Richard A. Straway, Jr.	28647
200.00	Thomas Straway	28648
200.00	William F. Smith	28649
200.00	Brock Kithcart	28650
200.00	William Hagaman	28651

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100.00	Weights & Measures Fund	28652
20,000.00	Trust Account, Town of Newton	28653
37.76	Airgas East	28654
681.06	Boonton Tire Supply	28655
102.88	Grinnell Recycle	28656
1,299.59	Verizon Wireless	28657
74.55	Mr. John	28658
200.00	Kenneth Jaekel	28659
124.13	Advance Auto Parts	28660
175.00	Scarinci & Hollenbeck, LLC	28661
43.14	Staples Business Advantage	28662
36.09	Lowe's	28663
100.00	Steve Estler	28664
7,102.72	Taylor Oil Co.	28665
2,250.00	Laddey, Clark & Ryan, LLP	28666
200.00	Adam Vough	28667
768.50	Northwest Building Supply	28668
200.00	Joseph White	28669
109.86	JMC Environmental Consultants, Inc.	28670
200.00	William Oswin, III	28671
200.00	Roy Leyman	28672
72.41	Direct Energy Business	28673
7,369.75	Direct Energy Business	28674
3,884.54	Woodruff Energy	28675
80.51	Harter Equipment, Inc.	28676
185.00	Holtz Learning Centers	28677
178,623.43	Payroll Account	111020
266,548.00	Public Employee Retire System	111021
578,704.00	Police & Fire Retirement System	111022
182,022.97	Payroll Account	111023
922,786.00	Newton Board of Education	111024

**CAPITAL**

144.00	Hollander, Strelzik, Pasculli, Hinkes	7681
329.50	McManimon & Scotland	7682
3,378.66	Current Account	7683
192.00	Sign-A-Rama	7684
1,750.00	Level G Associates, LLC	7685
750,000.00	Current Account	7686

**Total TOWN BILLS \$2,948,750.51**

**WATER AND SEWER ACCOUNT**

2,734.80	VOID	12056
36,993.75	VOID	111019
95.00	Sussex County Soil Conservation	12082
213.76	Schmidt's Wholesale Inc.	12083
4,304.51	MWH Americas, Inc.	12084
669.72	NUI Corporation	12085
200.00	John Madden	12086
172.00	Pumping Services	12087
214.00	Paul M. Havens	12088
8,657.68	Coyne Chemical Corp., Inc.	12089
28.14	Centurylink Communications Inc.	12090
1,348.82	Centurylink Communications Inc.	12091
2,718.00	Hollander, Strelzik, Pasculli, Hinkes	12092

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2,831.00	Garden State laboratories Inc.	12093
29.00	Allied Meter Service Inc.	12094
632.50	McManimon & Scotland	12095
12,778.98	Sparta Township Tax Collector	12096
200.00	Joseph Carr	12097
5,816.00	R & D Trucking	12098
135.45	Airgas East	12099
214.00	Ervin Lasso	12100
167.80	Verizon Wireless	12101
1,250.00	John Smalley	12102
1,776.60	Main Pool & Chemical Company	12103
3,501.45	Suburban Energy Services	12104
3,202.00	Kistler O'Brien Fire Protection	12105
318.72	Staples Business Advantage	12106
200.00	Eric Tompkins	12107
200.00	Dustin McGarry	12108
16,058.87	Direct Energy Business	12109
129.47	One Call Concepts	12110
1,061.99	Woodruff Energy	12111
2,531.59	Capitol Supply Const. Products, Inc.	12112
195.75	Electronic Fees – W/S	12113
30,136.26	Payroll Account	116010
13,060.00	Public Employee Retire System	116011
31,157.26	Payroll Account	116013

**CAPITAL**

853.33	McManimon & Scotland	2171
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**Total WATER & SEWER BILLS \$107,331.10**

**TRUST ACCOUNT**

1,333.33	James P. Sloan, PC.	2879
187.56	Walmart	2880
525.00	Vogel, Chait, Collins, Schneider, PC	2881
830.00	Ferriero Engineering Inc.	2882
450.00	D. Becker Photo	2883
1,108.54	Payroll Account	117108
805.49	Payroll Account	117109

**Total TRUST ACCOUNT BILLS \$5,239.92**

**FED. STATE GRANT**

50,895.10	Excel Environmental Resources, Inc.	1061
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**Total FED. STATE GRANT BILLS \$50,895.10**

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

**NATIONAL NURSES WEEK**

**WHEREAS**, nurses in the United States comprise our nation's largest health care profession; and

**WHEREAS**, the depth and breadth of the nursing profession meets the different and emerging health care needs of the American population in a wide range

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of settings; and

**WHEREAS**, a renewed emphasis on primary and preventive health care will require the better utilization of all of our nation's nursing resources; and

**WHEREAS**, professional nursing has been demonstrated to be an indispensable component in the safety and quality of care of hospitalized patients; and

**WHEREAS**, the demand for nursing services will be greater than ever because of the aging of the American population, the continuing expansion of life-sustaining technology, and the explosive growth of home health care services; and

**WHEREAS**, nurses will be needed in the future to meet the increasingly complex needs of health care consumers in this community; and

**WHEREAS**, the cost-effective, safe and quality health care services provided by nurses will be an ever more important component of the U.S. health care delivery system in the future;

**NOW, THEREFORE, WE**, the Mayor and Town Council of the Town of Newton, hereby proclaim May 6-12, 2011 as **National Nurses Week** in Newton. We encourage all residents of this community join us in honoring the nurses who care for all of us.

#### **P R O C L A M A T I O N\***

##### **ARBOR DAY**

**FRIDAY, APRIL 29, 2011**

**WHEREAS**, the New Jersey Legislature has adopted an Act designating Arbor Day and by that Act has designated the Last Friday in April as Arbor Day; and

**WHEREAS**, it is the purpose of the designation of this day throughout the Nation to encourage the planting of shade and forest trees, to encourage the harvesting of our forest crops by approved conservation methods, and to encourage the protection of our forests from the scourge of devastating fires, insects, and diseases that destroy the beauty and usefulness of our woodlands as well as their wildlife; and

**WHEREAS**, through the cooperation of the Advisory Shade Tree Commission, the beneficial effects of forest tree plantings, proper conservation practices in harvesting, timber, and the protection from the natural enemies of the forest can be materially increased, and we can pass on an enduring heritage of a vital natural resource to succeeding generations;

**NOW, THEREFORE**, We the Town Council of the Town of Newton, do hereby proclaim **Friday, April 29, 2011** as "**ARBOR DAY**" in the Town of Newton, and urge everyone able to do so to observe this day by the planting of one or more trees and by participating in one or more programs that the sponsors of Arbor Day provide.

#### **P R O C L A M A T I O N\***

##### **APHASIA AWARENESS MONTH**

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**WHEREAS**, Aphasia is a disorder of the brain that occurs, most commonly, after a stroke or traumatic brain injury and affects a person's ability to communicate; a person with aphasia typically has difficulty with reading, writing and understanding what other people are saying, but the condition does not affect a person's intellect; and

**WHEREAS**, while widely under-diagnosed and often misunderstood, one-third of all stroke survivors are diagnosed with aphasia, most often by speech pathologists; although the condition is most common among older people, aphasia can be acquired by people of all ages following severe head and brain trauma; and

**WHEREAS**, it is estimated that one million people in the United States have aphasia, more than the number of people suffering from Parkinson's disease, muscular dystrophy, multiple sclerosis, or cerebral palsy; according to the American Stroke Association, among ischemic stroke survivors who were at least 65 years of age, 19% had aphasia; and

**WHEREAS**, there are varying degrees of aphasia that include: non-fluent or expressive aphasia, typified by a person's ability to speak in short, meaningful phrases that take a great effort to produce; fluent or receptive aphasia, typified by a person's ability to speak in long sentences that have no meaning, or include unnecessary or made up words, and difficulty in understanding others; and global aphasia, typified by severe communication difficulties and a person's limited ability to speak or comprehend language; and

**WHEREAS**, people with aphasia usually experience improvement over time, aided by speech therapy, rehabilitations services and counseling; however many people with aphasia are prone to depression, hopelessness and isolation, avoiding contact with others in order to pass on social situations that may lead to mutual frustration; and

**WHEREAS**, the Adler Aphasia Center, located in Maywood, New Jersey, was created when its co-founder, Mike Adler, suffered a stroke and could not find a local rehabilitation therapy program that offered the kind of quality care found at the few existing aphasia programs that he and his wife visited in Canada, England and other parts of the United States; and

**WHEREAS**, the Adler Aphasia Center is committed to empower, enhance and enrich the lives of people with aphasia and their families by providing an array of therapeutic, rehabilitation, respite and support services that address the unique social, emotional, psychological, curative and recovery need of aphasia patients;

**NOW, THEREFORE, WE**, the Mayor and Town Council of the Town of Newton, hereby proclaim June 2011 as **Aphasia Awareness Month** in Newton to raise public awareness on this often misunderstood disorder.

## **PROCLAMATION\***

### **RELAY FOR LIFE**

**WHEREAS**, Relay for Life® is the signature activity of the American Cancer Society and celebrates cancer survivors and caregivers, remembers loved ones lost to the disease and empowers individuals and communities to fight back against cancer; and

**WHEREAS**, money raised during Relay for Life® of Sussex County supports the American Cancer Society's mission of saving lives and creating a world with less

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cancer and more birthdays – by helping people stay well, by helping people get well, by finding cures for cancer and by fighting back; and **WHEREAS**, Relay for Life® helped fund more than \$150 million in cancer research last year;

**NOW, THEREFORE, WE**, the Mayor and Town Council of the Town of Newton, hereby proclaim the week of May 16, 2011 as **Relay for Life Days** in Newton and encourage our citizens to participate in the Relay for Life® event at Sussex County Community College from Saturday May 21<sup>st</sup> at 4:00pm to Sunday, May 22<sup>nd</sup> at 6:00am.

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

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

**DISCUSSION**

**a. Tax Exemption Ordinance**

Jenn Credidio, Esq., McManimon & Scotland, Redevelopment Counsel for the Town, and Mr. Scott Holzhauser, Tax Assessor, presented the Governing Body with an overview of the revised draft Tax Exemption Ordinance authorizing the Town of Newton to implement the five-year exemption and abatement law.

After a lengthy discussion, the Governing Body made a few revisions to the criteria and recommended Counsel to move forward with the Ordinance with the new revisions.

**OPEN TO THE PUBLIC**

Mr. Rick Sarkisian, Bergen County, reiterated the urgency in regard to H.R. 1489 the Glass—Steagall Act and stated that people should give it some thought about taking it very seriously.

**INTERMISSION – 10 Minutes**

**COUNCIL & MANAGER COMMENTS**

Mr. Russo updated the Governing Body regarding the Neighbors Helping Neighbors event that will take place on April 30, 2011 commencing at 8:30 a.m. at the Newton Municipal Building.

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Mr. Ricciardo commended his colleagues on Council for moving forward with the Tax Exemption Ordinance. Mayor Becker also commended everyone for their hard work on this Ordinance.

Deputy Mayor Le Frois reported that the new fire truck will be ready for final inspection in about two weeks.

**EXECUTIVE SESSION**

Mr. Russo read Resolution #80-2011 and Council entered into Executive Session at 8:10 p.m.

Council returned from Executive Session at 9:48 p.m.

Deputy Mayor Le Frois reminded Council of the Fire House Beef Steak Dinner on Saturday evening.

There being no further business to be conducted, upon motion by Mr. Ricciardo seconded by Mrs. Diglio and unanimously carried, the meeting was adjourned at 9:50 pm.

Respectfully submitted,

Irene M. O'Connor  
Deputy Municipal Clerk