

August 8, 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 Mrs. Becker, Mr. Elvidge, Mr. Ricciardo, Deputy Mayor Diglio, Mayor Le Frois, Mr. Thomas S. Russo, Jr., Town Manager and Mark Hontz, Esq., Town Attorney.

Mayor Le Frois 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 Le Frois led the Pledge of Allegiance to the flag. The Clerk called the roll.

OPEN TO THE PUBLIC

Mayor Le Frois 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."

PROCLAMATION

a. Senior Citizen of the Year – Jack Phlegar

Mayor Le Frois read and presented the following Proclamation to Jack Phlegar to honor him as "2011 Newton Senior Citizen of the Year".

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

JACK PHLEGAR

WHEREAS, Jack Phlegar, born in January 1929, moved to the Town of Newton at the age of three with his parents John T. and Dorothy Elizabeth; and

WHEREAS, after attending the Newton school system, Jack joined the Navy where he proudly served his country for 8 years; and

WHEREAS, at the age of 21, Jack married his childhood sweetheart Joyce at the Newton Presbyterian Church on High Street where he continues to be an ongoing member, serving on both the Board of Trustees and two terms as a Deacon; and

WHEREAS, through the years, Jack held several positions, from work with Sussex Printers and Dyers to his years at Picatinny Arsenal; and

WHEREAS, Jack takes pride in being a father to his five children, as well as being a grandfather and great-grandfather to their children; and

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***WHEREAS,** Jack's commitment to community service was further proven when he joined the Newton Fire Department in 1958 and continues to serve as a life member. He currently donates his time every Thursday, Friday and Saturday to the Newton Fire Museum giving tours and brief history lessons on the Town and Department he is so proud to serve; and*

***WHEREAS,** over the years, Jack has unselfishly dedicated his life to helping his community, from volunteering at the Newton Presbyterian Church, serving in the Newton Volunteer Fire Department to being a member of the Prime Time Seniors, he continues to set an example to all those who know and love him;*

***NOW, THEREFORE, We,** the Mayor and Town Council of the Town of Newton hereby proclaim our appreciation and gratitude to Jack Phlegar for exemplifying the vital role that senior citizens play within their community. In recognition of his volunteer efforts, we commend Jack for his spirit and dedication to our Town and hereby name Jack Phlegar:*

2011 "Newton Senior Citizen of the Year"

Mr. Jack Phlegar thanked the Newton Town Council for this great honor.

COUNCIL & MANAGER REPORTS

a. Spring Street Promotions

Mr. Russo indicated that the Spring Street Promotions group is present for a follow-up discussion on the Spring Street Promotions proposed budget. Mr. Russo noted that the Town is considering reallocating funds from Main Street Newton to Spring Street Promotions.

Mr. Russo introduced members of the Spring Street Promotions group. Sara Megletti, Jonathan Andrews and Don Meng, members of the Spring Street Promotions group made a brief presentation with regard to their proposed budget and outlined their specific intentions for using the allocated funds:

- 1) Reprinting of the Newton Shopping Guide - \$800.00
- 2) Lunchfest - \$1,800.00
- 3) Fire Museum Anniversary - \$200.00
- 4) Holiday Shopping Promotions - \$1,000.00
- 5) Fire & Ice Festival - \$500.00 TOTAL: \$4,300.00

Ms. Megletti advised that they are still actively seeking financial commitments from other sources and thanked the Council for their financial support. The Governing Body asks that the Spring Street Promotions group keep them informed of their progress.

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Upon motion of Mrs. Becker, seconded by Deputy Mayor Diglio and carried that the Main Street Newton funds be reallocated to the Spring Street Promotions group as outlined and roll call resulted as follows:

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

Mr. Russo noted that Neighborhood Health Services is hosting their annual National Health Center Week Reception on August 11th at 1:00 p.m. at 238 Spring Street and inquired whether Council members are attending. Councilwoman Becker, Deputy Mayor Diglio and Mayor Le Frois will be attending at various times.

ORDINANCES

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

ORDINANCE 2011-15

AN ORDINANCE AUTHORIZING THE TOWN OF NEWTON TO IMPLEMENT THE FIVE-YEAR EXEMPTION AND ABATEMENT LAW, GRANTING TAX EXEMPTIONS FOR CERTAIN IMPROVEMENTS TO AND CONSTRUCTION OF RESIDENTIAL DWELLINGS, CERTAIN IMPROVMENTS TO INDUSTRIAL STRUCTURES AND CERTAIN IMPROVEMENTS TO COMMERCIAL STRUCTURES, ALL WITHIN THE DOWN TOWN HISTORIC DISTRICT, AND SUPERSEDING ANY OTHER ORDINANCE GRANTING SUCH EXEMPTIONS

WHEREAS, the Five-Year Exemption and Abatement Law, *N.J.S.A. 40A:21-1 et seq.* (the "Act") enables municipalities which contain an area that has been designated as an area in need of rehabilitation pursuant to the Local Redevelopment and Housing Law, *N.J.S.A. 40A:12A-1 et seq.* (the "Redevelopment Law") to provide for the short term exemption or abatement of local property taxes imposed upon eligible dwellings, commercial and industrial structures within such rehabilitation area; and

WHEREAS, on April 23, 2007, the Town of Newton (the "Town"), designated certain properties within its borders as an area in need of rehabilitation in accordance with the Redevelopment Law (the "Rehabilitation Area"); and

WHEREAS, Section 20A-1 *et seq.* of the Newton Municipal Code (the "Historic Preservation Ordinance") provides that the Town may create one or more historic districts; and

WHEREAS, the Historic Preservation Ordinance further provides that proposed construction, improvements, relocation or renovation of properties lying within such historic districts may be subject to review by the Newton Historic Preservation Advisory Commission under certain circumstances, in addition to review by the Town Planning Board, where appropriate; and

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WHEREAS, at this time, the Town has designated one historic district within its boundaries (as set forth at Exhibit A, attached hereto), as may be thereafter amended or supplemented, the "Downtown Historic District"; and

WHEREAS, the Downtown Historic District is wholly within the Rehabilitation Area; and

WHEREAS, the Town believes that the historic preservation of the properties within the Downtown Historic District is of great importance to the Town as a whole; and

WHEREAS, the Town acknowledges that improvements to or construction of properties within the Downtown Historic District to historic standards may be more costly than such improvements or construction would be otherwise; and

WHEREAS, the Town wishes to encourage investment in the Downtown Historic District by alleviating a portion of the costs of such improvements or construction in certain circumstances,

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Town Council of the Town of Newton as follows:

Section 1. General. The recitals set forth above are incorporated herein as if set forth at length.

Section 2. Definitions. All terms utilized in this ordinance not specifically defined herein shall conform to the meanings set forth in the Act. For ease of reference, the definitions set forth in the Act as of the date of the adoption of this Ordinance are attached hereto as Exhibit B. However, if the definitions set forth in the Act shall be subsequently amended, then the Act, and not Exhibit B, shall control.

Section 3. Statement of Purpose. The Town hereby determines to utilize the authority granted under Article VIII, Section I, paragraph 6 of the New Jersey Constitution to establish the eligibility of certain dwellings, commercial structures and industrial structures for exemptions, as provided in this ordinance and as permitted by the Act, throughout the Downtown Historic District.

Section 4. Exemptions Authorized to be Implemented by Tax Assessor. The Town hereby determines to provide for the exemption from taxation of certain improvements and certain new construction occurring within the Downtown Historic District. To the extent that a property owner shall apply to the Tax Assessor within the time period prescribed by the New Jersey Department of Treasury in accordance with the Act, which currently requires submission within thirty (30) calendar days following completion of the improvements or construction for which the exemption is sought, and shall provide documentation to the Tax Assessor, in a form and manner acceptable to the Tax Assessor and consistent with the Act, of compliance with this section, such property owner shall be entitled to the relevant exemption enumerated herein without any need for action by the Town Council.

(a) Residential – Improvements. The Town hereby determines to provide for the exemption from taxation of certain improvements made to dwellings, on the following terms and conditions:

1. The term "dwelling", for purposes of this Section 4(a), shall include condominium residential units but not cooperative type residential properties.
2. The term "dwelling", for purposes of this Section 4(a), shall not include "multiple dwellings", as defined by the Act.

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3. Only dwellings that are more than twenty (20) years old shall be eligible for exemption.

4. The term "improvements", for purposes of this subsection, shall mean a modernization, rehabilitation, renovation, alteration or repair which produces a physical change in an existing building or structure that improves the safety, sanitation, decency or attractiveness of the structure as a place for human habitation, and which does not change its permitted use.

5. To the extent that a dwelling shall comply with the requirements set forth at subsections (1) through (4), above, in determining the value of real property for each dwelling unit, the Town shall regard the first \$15,000 in the assessor's full and true value of improvements for each dwelling unit primarily and directly affected by the improvements as not increasing the value of the property for a period of five years, notwithstanding that the value of the property to which the improvements are made is increased thereby. During the exemption period, the assessment on any property pursuant to this paragraph shall not be less than the assessment thereon existing immediately prior to the improvements, except if there is damage to the dwelling through action of the elements sufficient to warrant a reduction.

(b) Residential – New Construction. The Town hereby determines to provide for an exemption of 30% of the assessor's full and true value for a period of five years following construction of new dwellings. The term "dwelling", for purposes of this Section 4(b), shall include condominium residential units but not cooperative type residential units, and shall not include multiple dwellings. This exemption is to be granted notwithstanding that the value of the property upon which the construction occurs is increased thereby.

(c) Residential – Multiple Dwellings – Improvements. (1) The Town hereby determines to provide for an exemption of 100% of the assessor's full and true value for a period of five years following the construction of improvements to multiple dwellings. The term "multiple dwelling" shall have that meaning ascribed to it by the Act. The definition of "multiple dwelling" set forth in the Act as of the date of adoption of this ordinance is set forth at Exhibit B, attached hereto.

(2) This exemption is to be granted notwithstanding that the value of the property upon which the construction occurs is increased thereby. During the exemption period, the assessment on any property pursuant to this Section 4(c) shall not be less than the assessment thereon existing immediately prior to the improvements, except if there is damage to the multiple dwelling through action of the elements sufficient to warrant a reduction.

(d) Commercial – Improvements. The Town hereby determines to provide for the exemption from taxation of certain improvements made to commercial structures, on the following terms and conditions:

1. For purposes of this ordinance, the term commercial structure relates to office, retail and like uses, but does not include multiple dwellings.

2. For purposes of this ordinance, the term commercial structure shall include a structure which contains both residential units and some other commercial use (for example, retail), provided that the structure is not part of a condominium or cooperative regime and further provided that the structure does not qualify as a multiple dwelling under the Act.

3. To the extent that improvements to a commercial structure shall comply with the requirements set forth at subsections (1) and (2), above, the Town hereby determines to provide for an exemption of 100% of the assessor's full and true value for a period of five years following the construction of the improvements. This exemption is to be granted notwithstanding that the value of the property upon which the construction of the improvement occurs is increased thereby.

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(e) Industrial – Improvements. The Town hereby determines to provide for the exemption from taxation of certain improvements made to industrial structures, on the following terms and conditions:

1) Improvements must be made to both the interior and exterior of a structure in order to qualify for exemption under this section.

2) Only improvements with a cost of less than \$1,000,000 shall be eligible for exemption under this section.

3) No less than twenty-five percent of the improvement cost shall be attributable to the exterior improvements.

4) To the extent that improvements to an industrial structure shall comply with the requirements set forth at subsections (1) through (3), above, the Town hereby determines to provide for an exemption of 100% of the assessor's full and true value for a period of five years following the construction of the improvements. This exemption is to be granted notwithstanding that the value of the property upon which the construction of the improvement occurs is increased thereby.

5) To the extent that improvements to a commercial structure do not comply with one or more of subsections (1) through (3) above, a property owner is not eligible for exemption under this section but may apply to the Town for consideration of the proposed exemption in accordance with Section 5 hereof.

Section 5. Exemptions Requiring Application to the Town Council. (a) Exemptions for Which Application is Required. The Town hereby determines that any property owner seeking exemption from taxation with respect to industrial improvements which do not meet the requirements of Section 4(e)(1) through Section 4(e)(3), respectively, shall make application to the Town Council in accordance with this section, within the time period prescribed by the New Jersey Department of Treasury in accordance with the Act, which currently requires submission within thirty (30) calendar days following completion of the improvements or construction for which the exemption is sought. However, nothing in this ordinance shall prohibit a property owner who has made more than \$1,000,000 in industrial improvements which otherwise comply with the applicable requirements of Section 4 from foregoing exemption of the improvements in excess of \$1,000,000 and seeking instead an as of right exemption from the Assessor to the limits permitted by Section 4, above.

(b) Contents of Application. Applicants for an exemption under this section shall provide the Town Council and the Assessor with the following information:

A. A general description of the project for which exemption is sought, and an estimated schedule of completion for the project;

B. A legal description of all real estate necessary for the project;

C. Plans, drawings, and other documents as may be required by the Town Council to demonstrate the structure and design of the project;

D. A description of the number, classes, and type of employees to be employed at the project site within two years of completion of the project;

E. A statement of the reasons for seeking an exemption on the project, and a description of the benefits to be realized by the Town and the property owner if an exemption is granted;

F. Estimates of the cost of completing the project;

G. A statement showing (i) the real property taxes currently being assessed at the project site; (ii) estimated tax payments that would be made annually by the property owner with respect to the project during the period of the exemption, and (iii) estimated tax payments that would be made by the property owner with respect to the project during the first full year following the termination of the exemption;

H. A description of any lease agreements between the property owners and proposed users of the project, and a history and description of the users' businesses;

I. A certification by the property owner listing (i) all properties within the Town owned by the property owner or in which the property owner has an interest and (ii) all agreements with the Town to which the property owner is a party; and

J. Such other pertinent information as the Town may require.

(c) Review and Recommendation by Assessor. Within thirty (30) days of receipt of the information set forth at Section 5(b), above, the Assessor shall review the information provided and shall provide written recommendations to the Town Council with respect to same.

(d) Action by Town Council. Within sixty (60) days of receipt of the Assessor's recommendations, the Town Council shall consider the application for exemption, and shall by resolution either: disapprove the exemption; or approve an exemption of 100% of the value of the improvements for a five year period following the completion of construction.

Section 6. Additional Exemptions When Property Already Subject to Exemption. The Town hereby determines that an additional improvement or construction completed on a property already granted a previous exemption pursuant to this ordinance during the period in which the previous exemption is in effect, shall be eligible to qualify for an additional exemption under the standards identified in this ordinance. The additional improvement or construction shall be considered as separate for purposes of calculating the exemption, except that the assessed value of any previous improvement or construction shall be added to the assessed valuation as it was prior to that improvement or construction for the purpose of determining the assessed value of the property for which any additional exemption is to be subtracted.

Section 7. Tax Delinquency. No exemption shall be granted pursuant to this ordinance with respect to any property for which real estate taxes or other municipal charges are delinquent or remain unpaid, or for which penalties and interest for non-payment of taxes are due.

Section 8. Revaluation During Exemption Period. In the event that the Town implements a revaluation or reassessment during the exemption period for any property, any exemptions granted hereunder shall continue to apply but at a valuation level consistent with the revaluation or reassessment.

Section 9. Revision of Base Assessment During Exemption Period. The granting of an exemption for a particular property shall not prejudice the right of the Town to appropriately examine and revise the assessment during the five-year exemption period in the event the base assessment is found to be improperly valued and assessed.

Section 10. Effective Date; Sunset Provision. Upon final passage and publication as provided by law, this ordinance shall take effect on October 1, 2011 and shall authorize the Town to grant exemptions up to a 5-year period. This ordinance shall lapse, unless readopted, on September 30, 2016, and no exemptions shall be granted after September 30, 2016 without such re-adoption.

Section 11. Prior Actions Superseded. Any and all previous ordinances adopted by the Town relating to the Act are hereby superseded by this ordinance.

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EXHIBIT A

DOWNTOWN HISTORIC DISTRICT

<u>Address</u>	<u>Block</u>	<u>Lot</u>	<u>Address</u>	<u>Block</u>	<u>Lot</u>
99 High St	402	1	131 Main St	611	1
95 High St	402	2			
91 High St	402	3	22 Liberty St	701	13
89 High St	402	4	26 Liberty St	701	14
85-87 High St	402	5	32 Liberty St	701	15
83 High St	402	6	36 Liberty St	701	16
81 High St	402	7	38 Liberty	701	17
79 High St	402	8	94 High St	701	18
77 High St	402	9	96 High St	701	19
75 High St	402	10	98-100 High St	701	20
73 High St	402	11	102 High St	701	21
2 Academy St	402	11.01			
71 High St	402	12	116 Main St	702	10
69 High St	402	13	110 Main St	702	11
2 Academy St	402	14	110 Main St	702	12
4 Academy St	402	15	110 Main St	702	13.01
8 Academy St	402	16	6 Liberty St	702	14
14 Academy St	402	16.01	8 Liberty St	702	15
10 Academy St	402	17	14 Liberty	702	16
18 Academy St	402	18			
			132 Main St	703	1
3 Academy St	403	1	124 Main St	703	2
67 High St	403	1.01	128 Main St	703	2.01
5 Academy St	403	1.02	3 Dunn Pl	703	4
63 High St	403	2			
59 High St	403	3	125 Main St	704	1
53 High St	403	4	121 Main St	704	2
53 High St.	403	3.01	117 Main St	704	3
51 High St	403	5	115 Main St	704	4
49 High St	403	6	113 Main St	704	5
53 High St.	403	7	105 Main St	704	6
53 High St.	403	8			
35 High St	403	9	35 Liberty St	706	1
53 High St.	403	10	33 Liberty St	706	1.01
53 High St.	403	11	31 Liberty St	706	3
17 High St	403	12	29 Liberty St	706	4
11 High St	403	13	25 Liberty St	706	5
9 High St	403	14	21-23 Liberty St	706	6
7 High St	403	15	17-19 Liberty St	706	7
15 High St	403	16	3 Linwood Annex	706	8
12 Division St	706	10	91 Main St	711	1
18 Division St	706	11	89 Main St	711	2
20 Division St.	706	12	85-87 Main St	711	3
74 High St	706	13	83 Main St	711	4
76-78 High St	706	14	81 Main St	711	5
80 High St	706	15	79 Main St	711	6
82 High St	706	16	75 Main St	711	7
15 Liberty St	707	1	59 Main St	711	9
4 Linwood Annex	707	1.01	41-47 Main St	711	10
9 Liberty St	707	2			
7 Liberty St	707	3	39 Main St	711	12
100 Main St (6 Units)	707	4	21 Main St	711	13

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<u>Address</u>	<u>Block</u>	<u>Lot</u>	<u>Address</u>	<u>Block</u>	<u>Lot</u>
100B Main St.	707	4.02	9-11 Main St	711	15
100 Main St.	707	5	7 Main St	711	16
94 Main St	707	6	3 Main St	711	17
6 Division	707	7	1 Main St	711	18
28 Church St	708	13	116 Spring St	711	21
64 High St	708	14	124 Spring St	711	22
66 High St	708	15	112 Spring St	711	23
68 High St	708	16	112-120 Spring St	711	23.01
70 High St	708	17	132 Spring St	711	26
5 Division St	709	1	144 Spring St	711	27
92 Main St	709	2	1 Adam St.	711	27.01
90 Main St	709	3	150 Spring St	711	28
86 Main St	709	4	156-160 Spring St	711	29
82 Main St	709	5	1 Adams	711	29.01
4-6 Church St	709	6	166-168 Spring St	711	30
8-10 Church St.	709	7	170 Spring St	711	31
12 Church St	709	8	1 Adams St	711	31.01
14-16 Church St	709	9	3 Adams St	711	32
			11 Adams St	711	33
101 Main St	710	1	13 Adams St	711	34
Elm Street	710	1.01	Main St	711	43
	710	1.02			
93 Main St	710	19	Main St	711	44
97 Main St	710	20			
234 Spring St	713	8	127-129 Spring St	717	2
Lot by Theatre	713	9	131 Spring St	717	3
218 Spring St	713	10	141-143 Spring St	717	4
220 Spring St	713	10.01	137 Spring St	717	4.01
216 Spring St	713	11	149-153 Spring St	717	5
214 Spring St	713	12	155-157 Spring St	717	6
			163-165 Spring St	717	6.01
4 Adams St	714	8	169 Spring St	717	7
180 Spring St	714	9	173 Spring St	717	8
188 Spring St	714	10	179 Spring St	717	9
196 Spring St	714	10.01	181-183 Spring St	717	10
200 Spring St	714	11	185 Spring St	717	11
			123 Spring St	717	33
54 High St	715	1			
19 Church Street	715	3	189-191 Spring St	717.01	12
66 Main St	715	4	201 Spring St	717.01	13
62 Main St	715	5	211-213 Spring St	717.01	14
Main St	715	6	219 Spring St	717.01	15
40 Park Place	715	7	221 Spring St	717.01	16
30 Park Place	715	8	223 Spring St	717.01	17
4 Park Place	715	10			
High St	715	11	4 High/Spring St	721	1
46 High St	715	12			
1 Legal Ln	716	9			
56-61 Spring St	716	10			
65-67 Spring St	716	12			
56-61 Spring St	716	12.01			
71-75 Spring St	716	14			
71-75 Spring St	716	15			
83 Spring St	716	16.01			
93-95 Spring St	716	17			
103 Spring St	716	17.01			

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111 Spring St	716	19
115 Spring St	716	20
111 Spring St	716	21
9 Moran Street	716	22
93-95 Spring St.	716	39

EXHIBIT B

DEFINITIONS SET FORTH IN THE ACT AS OF THE DATE OF ADOPTION

N.J.S.A. 40A:21-3. Definitions

As used in this act: [FN1]

a. "Abatement" means that portion of the assessed value of a property as it existed prior to construction, improvement or conversion of a building or structure thereon, which is exempted from taxation pursuant to this act.

b. "Area in need of rehabilitation" means a portion or all of a municipality which has been determined to be an area in need of rehabilitation or redevelopment pursuant to the "Local Redevelopment and Housing Law," P.L.1992, c. 79 (C.40A:12A-1 et al.), a "blighted area" as determined pursuant to the "Blighted Areas Act," P.L.1949, c. 187 (C.40:55-21.1 et seq.), or which has been determined to be in need of rehabilitation pursuant to P.L.1975, c. 104 (C.54:4-3.72 et seq.), P.L.1977, c. 12 (C.54:4-3.95 et seq.), or P.L.1979, c. 233 (C.54:4-3.121 et al.).

c. "Assessor" means the officer of a taxing district charged with the duty of assessing real property for the purpose of general taxation.

d. "Commercial or industrial structure" means a structure or part thereof used for the manufacturing, processing or assembling of material or manufactured products, or for research, office, industrial, commercial, retail, recreational, hotel or motel facilities, or warehousing purposes, or for any combination thereof, which the governing body determines will tend to maintain or provide gainful employment within the municipality, assist in the economic development of the municipality, maintain or increase the tax base of the municipality and maintain or diversify and expand commerce within the municipality. It shall not include any structure or part thereof used or to be used by any business relocated from another qualifying municipality unless: the total square footage of the floor area of the structure or part thereof used or to be used by the business at the new site together with the total square footage of the land used or to be used by the business at the new site exceeds the total square footage of that utilized by the business at its current site of operations by at least 10%; and the property that the business is relocating to has been the subject of a remedial action plan costing in excess of \$250,000 performed pursuant to an administrative consent order entered into pursuant to authority vested in the Commissioner of Environmental Protection under P.L.1970, c.33 (C.13:1D-1 et al.), the "Water Pollution Control Act," P.L. 1977, c. 74 (C.58:10A-1 et seq.), the "Solid Waste Management Act," P.L.1970, c. 39 (C.13:1E-1 et seq.), and the "Spill Compensation and Control Act," P.L.1976, c. 141 (C.58:10-23.11 et seq.).

e. "Completion" means substantially ready for the intended use for which a building or structure is constructed, improved or converted.

f. "Condominium" means a property created or recorded as a condominium pursuant to the "Condominium Act," P.L.1969, c. 257 (C.46:8B-1 et seq.).

g. "Construction" means the provision of a new dwelling, multiple dwelling or commercial or industrial structure, or the enlargement of the volume of an

existing multiple dwelling or commercial or industrial structure by more than 30%, but shall not mean the conversion of an existing building or structure to another use.

h. "Conversion" or "conversion alteration" means the alteration or renovation of a nonresidential building or structure, or hotel, motel, motor hotel or guesthouse, in such manner as to convert the building or structure from its previous use to use as a dwelling or multiple dwelling.

i. "Cooperative" means a housing corporation or association, wherein the holder of a share or membership interest thereof is entitled to possess and occupy for dwelling purposes a house, apartment, or other unit of housing owned by the corporation or association, or to purchase a unit of housing owned by the corporation or association.

j. "Cost" means, when used with respect to abatements for dwellings or multiple dwellings, only the cost or fair market value of direct labor and materials used in improving a multiple dwelling, or of converting another building or structure to a multiple dwelling, or of constructing a dwelling, or of converting another building or structure to a dwelling, including any architectural, engineering, and contractor's fees associated therewith, as the owner of the property shall cause to be certified to the governing body by an independent and qualified architect, following the completion of the project.

k. "Dwelling" means a building or part of a building used, to be used or held for use as a home or residence, including accessory buildings located on the same premises, together with the land upon which such building or buildings are erected and which may be necessary for the fair enjoyment thereof, but shall not mean any building or part of a building, defined as a "multiple dwelling" pursuant to the "Hotel and Multiple Dwelling Law," P.L.1967, c. 76 (C.55:13A-1 et seq.). A dwelling shall include, as they are separately conveyed to individual owners, individual residences within a cooperative, if purchased separately by the occupants thereof, and individual residences within a horizontal property regime or a condominium, but shall not include "general common elements" or "common elements" of such horizontal property regime or condominium as defined pursuant to the "Horizontal Property Act," P.L.1963, c. 168 (C.46:8A-1 et seq.), or the "Condominium Act," P.L.1969, c. 257 (C.46:8B-1 et seq.), or of a cooperative, if the residential units are owned separately.

l. "Exemption" means that portion of the assessor's full and true value of any improvement, conversion alteration, or construction not regarded as increasing the taxable value of a property pursuant to this act.

m. "Horizontal property regime" means a property submitted to a horizontal property regime pursuant to the "Horizontal Property Act," P.L.1963, c. 168 (C.46:8A-1 et seq.).

n. "Improvement" means a modernization, rehabilitation, renovation, alteration or repair which produces a physical change in an existing building or structure that improves the safety, sanitation, decency or attractiveness of the building or structure as a place for human habitation or work, and which does not change its permitted use. In the case of a multiple dwelling, it includes only improvements which affect common areas or elements, or three or more dwelling units within the multiple dwelling. In the case of a multiple dwelling or commercial or industrial structure, it shall not include ordinary painting, repairs and replacement of maintenance items, or an enlargement of the volume of an existing structure by more than 30%. In no case shall it include the repair of fire or other damage to a property for which payment of a claim was received by any person from an

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insurance company at any time during the three year period immediately preceding the filing of an application pursuant to this act.

o. "Multiple dwelling" means a building or structure meeting the definition of "multiple dwelling" set forth in the "Hotel and Multiple Dwelling Law," P.L.1967, c. 76 ([C.55:13A-1 et seq.](#)) [which is set forth below], and means for the purpose of improvement or construction the "general common elements" and "common elements" of a condominium, a cooperative, or a horizontal property regime.

p. "Project" means the construction, improvement or conversion of a structure in an area in need of rehabilitation that would qualify for an exemption, or an exemption and abatement, pursuant to [P.L.1991, c. 441 \(C.40A:21-1 et seq.\)](#).

q. "Annual period" means a duration of time comprising 365 days, or 366 days when the included month of February has 29 days, that commences on the date that an exemption or abatement for a project becomes effective pursuant to section 16 of [P.L.1991, c. 441 \(C.40A:21-16\)](#).

[FN1] [L.1991, c. 441 \(N.J.S.A. § 40A:21-1 et seq.\)](#).

DEFINITION OF MULTIPLE DWELLING SET FORTH IN THE HOTEL AND MULTIPLE DWELLING LAW AS OF THE DATE OF ADOPTION

N.J.S.A. 55:13A-3. Definitions.

(o) The term "multiple dwelling" shall mean any building or structure of one or more stories and any land appurtenant thereto, and any portion thereof, in which three or more units of dwelling space are occupied, or are intended to be occupied by three or more persons who live independently of each other. This definition shall also mean any group of ten or more buildings on a single parcel of land or on contiguous parcels under common ownership, in each of which two units of dwelling space are occupied or intended to be occupied by two persons or households living independently of each other, and any land appurtenant thereto, and any portion thereof. This definition shall not include:

(1) any building or structure defined as a hotel in this act, or registered as a hotel with the Commissioner of Community Affairs as hereinafter provided, or occupied or intended to be occupied exclusively as such;

(2) a building section containing not more than four dwelling units, provided the building has at least two exterior walls unattached to any adjoining building section and the dwelling units are separated exclusively by walls of such fire-resistant rating as comports with the "State Uniform Construction Code Act," P.L.1975, c. 217 ([C.52:27D-119 et seq.](#)) at the time of their construction or with a rating as shall be established by the bureau in conformity with recognized standards and the building is held under a condominium or cooperative form of ownership, or by a mutual housing corporation, provided that if any units within such a building section are not occupied by an owner of the unit, then that unit and the common areas within that building section shall not be exempted from the definition of a multiple dwelling for the purposes of P.L.1967, c. 76 ([C.55:13A-1 et seq.](#)). A condominium association, or a cooperative or mutual housing corporation shall provide the bureau with any information necessary to justify an exemption for a dwelling unit pursuant to this paragraph; or

(3) any building of three stories or less, owned or controlled by a nonprofit corporation organized under any law of this State for the primary purpose to provide for its shareholders or members housing in a retirement community as same is defined under the provisions of the "Retirement Community Full Disclosure Act," P.L.1969, c. 215 ([C.45:22A-1 et seq.](#)), provided that the

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corporation meets the requirements of section 2 of P.L.1983, c. 154 ([C.55:13A-13.1](#)).

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

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

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

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

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

ORDINANCE #2011-14

AN ORDINANCE REPEALING AND REPLACING CHAPTER 14 FLOOD DAMAGE PREVENTION ORDINANCE OF THE TOWN OF NEWTON REVISED GENERAL ORDINANCES WITH AN UPDATED FLOOD DAMAGE ORDINANCE

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

Mrs. Becker	Yes	Mr. Elvidge	Yes
Mr. Ricciardo	Yes	Deputy Mayor Diglio	Yes
Mayor Le Frois	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 August 22, 2011.

The Clerk will advertise the above Ordinance according to law.

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

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ORDINANCE #2011-16

AN ORDINANCE ESTABLISHING THAT A BUSINESS ENTITY WHICH MAKES POLITICAL CONTRIBUTIONS TO MUNICIPAL CANDIDATES AND MUNICIPAL AND COUNTY POLITICAL PARTIES IN EXCESS OF CERTAIN THRESHOLDS SHALL BE LIMITED IN ITS ABILITY TO RECEIVE PUBLIC CONTRACTS FROM THE TOWN OF NEWTON IN THE COUNTY OF SUSSEX

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

Mrs. Becker	Yes	Mr. Elvidge	Yes
Mr. Ricciardo	Yes	Deputy Mayor Diglio	Yes
Mayor Le Frois	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 August 22, 2011.

The Clerk will advertise the above Ordinance according to law.

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

ORDINANCE #2011-17

AN ORDINANCE TO AMEND CHAPTER XXI, FEES AND COSTS, OF THE REVISED GENERAL ORDINANCES OF THE TOWN OF NEWTON

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

Mrs. Becker	Yes	Mr. Elvidge	Yes
Mr. Ricciardo	Yes	Deputy Mayor Diglio	Yes
Mayor Le Frois	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 August 22, 2011.

The Clerk will advertise the above Ordinance according to law.

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

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ORDINANCE #2011-18

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF NEWTON,
IN THE COUNTY OF SUSSEX, NEW JERSEY, ADOPTING AMENDMENTS TO THE
PATERSON AVENUE REDEVELOPMENT PLAN**

Councilman Ricciardo addressed concerns with regard to the Paterson Avenue Plan Amendment. Jennifer Credidio, Esq. Bond Counsel, and Jessica Caldwell, Town Planner, further clarified and addressed the concerns of Mr. Ricciardo and the Governing Body.

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

Mrs. Becker	Yes	Mr. Elvidge	Yes
Mr. Ricciardo	Yes	Deputy Mayor Diglio	Yes
	Mayor Le Frois	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 August 22, 2011.

The Clerk will advertise the above Ordinance according to law.

OLD BUSINESS

There was no old business to be discussed.

CONSENT AGENDA

Mayor Le Frois 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 the resolutions on the Consent Agenda.

Upon motion of Mr. Ricciardo, seconded by Mrs. Becker, that Resolution #170-2011 be removed from consent agenda for further discussion.

RESOLUTION #171-2011*

AUTHORIZE EXTENSION FOR PAYMENT OF REAL ESTATE TAXES

WHEREAS, the Sussex County Board of Taxation has certified the 2011 tax rate for the Town of Newton on July 22, 2011 and as a result, the tax bills for the third installment could not be mailed by June 15th, but were mailed instead on August 1, 2011; and

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WHEREAS, the intent of NJSA 54:4-64 is to assure that taxpayers are given adequate notice of taxes due before penalties are invoked requiring payment of interest for delinquency under the provisions of NJSA 54:4-67; and

WHEREAS, in accordance with NJSA 54:4-67 and NJSA 54:4-81 a twenty-five (25) day extension period must be provided. In fairness to the tax payers of the Town of Newton, the Town is extending the period greater than twenty-five (25) days to August 30, 2011 by establishing the interest rate for delinquency at zero percent (0%) from the certification date of mailing said tax bills; and

WHEREAS, interest shall revert back to August 1, 2011 after the August 30, 2011 extension period to provide consistency and compliance in accordance with NJSA 54:4-67;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that a greater than twenty-five (25) day extension period is hereby granted for the August 2011 tax quarter by charging zero percent (0%) interest during said extension period:

BE IT FURTHER RESOLVED, that following the August 30, 2011 extension period, interest shall be charged from August 1, 2011 in compliance with NJSA 54:4-67.

RESOLUTION #172-2011*

AFFIRM THE ISSUANCE OF A BOND ANTICIPATION NOTE

WHEREAS, when Bond Ordinances are adopted by the Town Council of the Town of Newton, the Chief Financial Officer is authorized to issue Bond Anticipation Notes to provide temporary financing for the Town; and

WHEREAS, the Town of Newton will be financing debt through the Morris County Improvement Authority on approximately August 30, 2011; and

WHEREAS, Lakeland Bank agreed to financing the debt for the interim period of July 28, 2011 to September 1, 2011 at the rate of 1.25%; and

WHEREAS, the Chief Financial Officer negotiated the sale with Lakeland Bank for a Bond Anticipation Note totaling \$1,798,000.00 at a net interest cost of 1.25%, and a net interest payable of \$2,155.14; and

WHEREAS, the appropriate Town Officials have executed said Note in the amount of \$1,798,000.00 with an interest rate of 1.25% dated July 28, 2011 for a term of 35 days (360 days for interest calculations) due September 1, 2011; and

WHEREAS, to comply with N.J.S.A. 40A:2-28 of the Local Bond Law, which requires that the Chief Financial Officer report certain information in writing to the Mayor and Council at the next Town Council meeting, herewith attached is the Certificate of Determination and Award;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that it does hereby affirm the issuance of said Bond Anticipation Note by the Chief Financial Officer and the execution of said note by the appropriate Town Officials.

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RESOLUTION #173-2011*

**AUTHORIZE REFUND OF REDEMPTION MONIES TO OUTSIDE LIEN HOLDER FOR BLOCK
1309, LOT 33**

WHEREAS, at the Municipal Tax Sale held on October 29, 2008 a lien was sold on Block 1309, Lot 33, also known as 6 Smith Street, for 2007 delinquent taxes and water and sewer charges; and

WHEREAS, this lien, known as Tax Sale Certificate #1285, was sold to Jesse Wolosky for 3% redemption fee; and

WHEREAS, GMAC Mortgage who is the mortgage company for the owner of said property, has effected the redemption of Certificate #1285 in the amount of \$1,708.49. Also, paid were legal fees in the amount of \$1,096.95 as set forth by said lien holder in his foreclosure process;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that this Governing Body acknowledges that Jesse Wolosky is entitled to the redemption in the amount of \$1,708.49 as well as the legal fees in the amount of \$1,096.95; and

BE IT FURTHER RESOLVED, that the Tax Collector be authorized to issue a check in the amount of \$1,708.49 for the redemption of Certificate #1285 along with the legal fees of \$1,096.95 to Jesse Wolosky, 1 Vista Drive, Sparta, NJ 07871.

RESOLUTION #174-2011*

**AWARD BID FOR PROPOSED SIDEWALK REPLACEMENT ON VARIOUS STREETS
PROJECT**

WHEREAS, the Town of Newton publicly opened and read bids for the Proposed Sidewalk Improvements on Various Streets Project on Wednesday, August 3, 2011 at 11:00am as follows:

<u>Name and Address of Bidder</u>	<u>Bid Price</u>
Tony's Concrete Construction 316 E. Kinney Street Newark, NJ 07105	\$51,713.74

WHEREAS, the Town Engineer, Harold E. Pellow & Associates, Inc., has reviewed the bids and recommends the contract for the Proposed Sidewalk Replacement on Various Streets Project be awarded to Tony's Concrete Construction, of Newark, New Jersey whose low bid was \$51,713.74; and

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

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the bid submitted for the Proposed Sidewalk Replacement on Various Street is to be awarded to Tony's Concrete Construction, Newark, New Jersey in the amount of \$51,713.74.

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RESOLUTION #175-2011*

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

193.50	Harold Pellow & Assoc., Inc.	29085
375.00	Inst. For Forensic Psychology	29086
2,602.44	G & G Diesel Service Inc.	29087
4,108.54	JCP&L	29088
276.85	New Jersey Herald	29089
235.54	SCMUA	29090
35.00	Centurylink Communications, Inc.	29091
405.00	Newton Medical Center	29092
54.30	Campbell's Small Engine	29093
44.71	Tri-State Rentals, Inc.	29094
169.68	Federal Express	29095
63.98	Hayek's Market, Inc.	29096
30.00	Newton Trophy	29097
442.25	Galls Incorporated	29098
21.58	Sebring Auto Parts	29099
30.06	Weis Markets	29100
135.91	Sherwin-Williams	29101
272.11	Zee Medical	29102
194.86	Airgas East	29103
270.33	Boonton Tire Supply	29104
21,876.07	Ford Motor Credit-Municipal	29105
188.60	Verizon Wireless	29106
135.00	Accurate Door, Inc.	29107
570.00	North Jersey Portable Toilets	29108
110.00	Morris County Police Academy	29109
29.96	Advance Auto Parts	29110
1,053.68	The Home Depot	29111
1,033.97	The Home Depot	29112
350.00	Tania L. Ell	29113
1,168.37	Buckman's Inc.	29114
54.00	Seely Brothers	29115
60.95	Ward's Flowers and Gifts	29116
1,086.25	Staples Business Advantage	29117
278.92	Lowe's	29118
39.71	Nestle Waters	29119
3,313.65	Rachles/Michelle's Oil Company	29120
81.00	Firefighter One	29121
162.45	R & R Radar, Inc.	29122
672.00	All County Window Cleaning	29123
1,770.00	Chelbus Cleaning Co., Inc.	29124
14,166.66	The Station Inc	29125
358.00	National Business Furniture	29126
387.92	Crash Rescue Equipment Serv. Inc.	29127
640.00	IACP NET/Login	29128
100.00	Bonnie Diamond	29129
25,588.75	Lakeland Bank	111038

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205,225.00	Depository Trust Company	111039
180,401.53	Payroll Account	111040

CAPITAL

2,047,100.00	Lakeland Bank	113003
8,498.00	Harold Pellow & Assoc., Inc.	7746
6,143.15	Harold Pellow & Assoc., Inc.	7747
5,628.13	Harold Pellow & Assoc., Inc.	7748
352.05	New Jersey Herald	7749
90.00	Hollander, Strelzik, Pasculli, Hinkes	7750
105.75	Sherwin-Williams	7751
2,500.00	McCullough Tree Service	7752
465.06	The Home Depot	7753
278.88	Newton Parking Authority	7754
800.37	Lowe's	7755
1,839.75	Firefighter One	7756

Total TOWN BILLS \$2,544,665.22

WATER AND SEWER ACCOUNT

305.88	Quill Corporation	12314
250.46	Montague Tool & Supply	12315
21,376.96	Schmidt's Wholesale, Inc.	12316
1,152.50	Harold Pellow & Assoc., Inc.	12317
3,398.37	JCP&L	12318
229.62	SCMUA	12319
322.15	Sussex County Plumbing	12320
3,830.64	Coyne Chemical Corp., Inc.	12321
125.85	Centurylink Communications, Inc.	12322
254.97	Campbell's Small Engine	12323
1,606.62	Hamburg Plumbing Supply Co., Inc.	12324
592.65	Diamond Sand & Gravel, Inc.	12325
1,831.92	Limecrest Quarry Developers,	12326
720.00	Treasurer, State of New Jersey	12327
10,260.00	Passaic Valley Sewerage Comm.	12328
678.33	The Home Depot	12329
1,796.00	Process Tech Sales & Service	12330
52.47	Staples Business Advantage	12331
63.93	Lowe's	12332
78.98	Sussex County Rental Center	12333
1,800.00	William Grenille, LLC	12334
10,793.21	Direct Energy Business	12335
5,493.00	Hanson Pressure Pipe	12336
890.60	Hanson Pipe & Precast	12337
32,442.44	Payroll Account	12338

CAPITAL

8,193.50	Harold Pellow & Assoc., Inc.	2185
1,278.44	Payroll Account	116105
97.80	Payroll Account	116105

Total WATER & SEWER BILLS \$109,917.29

TRUST ACCOUNT

1,965.00	Harold Pellow & Assoc., Inc.	2917
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17,371.90

Payroll Account

117115

Total TRUST ACCOUNT BILLS \$19,336.90

RESOLUTION #176-2011*

REQUESTING CORRECTION OF THE HAZARDOUS DRAINAGE PROBLEM ON ROUTE 206 AT THE MERRIAM AVENUE INTERSECTION BY THE NEW JERSEY DEPARTMENT OF TRANSPORTATION (NJDOT)

WHEREAS, a hazardous condition exists on Route 206 in the Town of Newton, where Route 206 and Merriam Avenue intersect; and

WHEREAS, such hazardous condition is the result of the lack of sufficient storm drainage on Route 206; and

WHEREAS, during and following heavy rainstorms, Route 206 at this location floods and in the winter often ices over; and

WHEREAS, Route 206, at this location, has been closed to traffic numerous times, having a major traffic impact on the Town of Newton, the Township of Andover, the County of Sussex, and the State of New Jersey; and

WHEREAS, the Town of Newton, in order to alleviate such hazardous conditions, has closed down the Merriam Avenue intersection with Route 206 numerous times; and

WHEREAS, letters have been sent by various Newton officials to the New Jersey Department of Transportation (NJDOT) requesting that appropriate drainage be installed to remedy this hazardous situation;

NOW, THEREFORE, BE IT RESOLVED by the Newton Town Council that the Town of Newton formally requests that the severe drainage problem that exists on Route 206 in the area of the intersection with Merriam Avenue become a repair priority with the New Jersey Department of Transportation (DOT) in order to correct this obviously deficient and hazardous condition; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be sent to the New Jersey Department of Transportation (NJDOT), Sussex County Board of Chosen Freeholders, New Jersey State Senator Steve Oroho, New Jersey Assemblyman Gary Chiusano, New Jersey State Assemblywoman Allison Littell McHose, and the Township of Andover.

A motion was made by Mrs. Becker to approve the **COMBINED ACTION**

RESOLUTIONS, seconded by Mr. Ricciardo and roll call resulted as follows:

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

Regarding Resolution #170-2011, Councilman Ricciardo addressed concerns with the Town having any future monetary obligations to prior property owners as set forth in a license agreement which terminated September 30, 2001.

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Mr. Ricciardo also disagrees that the Town is obligated to pave the theater parking lot as outlined by this resolution.

RESOLUTION #170-2011

PAVING FORMER LOT 9 (NOW A PORTION OF LOT 8) IN BLOCK 713 ON THE TOWN OF NEWTON TAX MAP

WHEREAS, the Town of Newton was a party to a Parking Lot License Agreement with Brumar Associates, Inc., which agreement was dated January 4, 1996 and terminated September 30, 2001, (the "License Agreement"); and

WHEREAS, the License Agreement, among other issues, obligated the Town of Newton to maintain the parking lot adjacent to the Newton Theater building, said lot also known as former Lot 9 (now a portion of Lot 8) in Block 713 on the Town of Newton Tax Map (the "Theater Parking Lot"), and the License Agreement also obligated the Town of Newton to share revenue that the Town of Newton collected from parking meters installed on the Theater Parking Lot; and

WHEREAS, the License Agreement expired in 2001 and the Theater Parking Lot has since changed ownership so that it is now owned by The Newton Theater Company, LLC, 105 West Dewey Avenue, C17, Wharton, New Jersey 07885; and

WHEREAS, the Town of Newton seeks to fulfill its maintenance and restoration duties under the Lease and fulfill its revenue sharing obligations under the Lease by paving the subject parking lot and has obtained an estimate for such paving through the Morris County Cooperative Pricing Council, of which the Town of Newton is a paid member; and

WHEREAS, the present owner of the subject property, The Newton Theater Company LLC, has signed and delivered a Release, Hold-Harmless and Indemnification Agreement in favor of the Town of Newton in consideration for said paving;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton to approve the expense of an amount not to exceed SIX THOUSAND AND FIVE HUNDRED DOLLARS (\$6,500.00) for the paving of the former Lot 9 (now a portion of Lot 8) in Block 713 on the Town of Newton Tax Map (the "Theater Parking Lot"), in compliance with the terms of the attached July 14, 2011 letter quotation summarized by Harold E. Pellow & Associates, Inc., said paving to be accomplished forthwith through Tilcon New York, Inc.

After a brief discussion, a motion was made by Mrs. Becker to approve the

RESOLUTION #170-2011, seconded by Mr. Elvidge and roll call resulted as follows:

Mrs. Becker	Yes	Mr. Elvidge	Yes
Mr. Ricciardo	No	Deputy Mayor Diglio	Yes
	Mayor Le Frois	Yes	

INTERMISSION - None

DISCUSSION

There were no additional discussions among the Town Council.

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OPEN TO THE PUBLIC

Mr. Paul Wiebel, owner of 52 Paterson Avenue, advised that he is in the process of negotiating with Meadowbrook Company to purchase his building. Mr. Wiebel praised the potential buyers and asked that the Town Council move forward with the final adoption of Ordinance 2011-18.

Mayor Le Frois advised that tonight was first reading and final adoption will take place at the next Council meeting on Monday, August 22, 2011.

Mr. Xavier Izquierdo, 38 Dogwood Drive, addressed concern with regard to a basketball hoop which is currently erected in the street on Sparta Avenue/Pine Street. Mr. Izquierdo noted that the hoop is used regularly and he has seen the kids playing in the street and addressed the safety issues. Mayor Le Frois asked Mr. Russo to address this issue.

COUNCIL & MANAGER COMMENTS

Councilman Ricciardo noted his approval to a Resolution submitted by Fredon Township, which "Supports A-3412 Sharing the Burden of Property Assessment Appeal Refunds". Mr. Ricciardo requested that the Town also adopt a Resolution for this cause.

Councilwoman Becker commended the Newton Water and Sewer/Department of Public Works (DPW) team, for their excellent work on the watermain project on Merriam Avenue. Mrs. Becker noted that the Town of Newton has saved an enormous amount of money with the Newton staff doing the job. The residents have been very pleased as well, Mrs. Becker concluded.

There being no further business to be conducted, upon motion of Mrs. Becker, seconded by Mr. Ricciardo and unanimously carried, the meeting was adjourned at 7:57 pm.

Respectfully submitted,

Lorraine A. Read, RMC
Municipal Clerk