

August 22, 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 and upon motion of Mrs. Becker, seconded by Mr. Ricciardo, the minutes of July 25, 2011 (Regular) and August 8, 2011(Regular) meetings were approved, as amended. Mrs. Diglio abstained from July 25, 2011meeting.

#### **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."*

Mrs. Maria States, 32 Mason Avenue, Newton, asked that the Town look into re-opening the entrance to Route 206/Merriam Avenue. Mrs. States indicated that there will be two factories opening soon and believes that there should be a second egress in order to alleviate traffic. Mayor Le Frois informed Mrs. States that the Town is currently reviewing this issue with the State.

Mrs. Thea Unhoch, 17 Condit Street, Newton, advised that there may be several residents of Merriam Avenue attending the next Council meeting in order to address the issue of re-opening Route 206/Merriam Avenue.

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

##### **A. Fire Truck Insurance – K. Mitchell**

Mr. Keith Mitchell, Newton's Insurance Agent, addressed Council with concerns regarding transporting Newton's new fire apparatus to the 2011

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Firemen's Convention by Fire & Safety Services. Mr. Mitchell contacted Fire & Safety Services to advise that they would need to increase their current insurance coverage to \$15 million and at this time they do not have adequate coverage. Due to the additional cost to Fire & Safety Services, they are not willing to increase their insurance coverage and they are requesting that the Town reconsider and accept their current insurance coverage. After a lengthy discussion, upon motion of Mr. Ricciardo, seconded by Mr. Elvidge, that the Town authorize Keith Mitchell to contact Fire & Safety Services and advise them of the nominal cost for the additional insurance required for this event. Roll call resulted as follows:

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

Mr. Mitchell will apprise Mr. Russo and the Town Council of his findings.

**B. Utility Board Appeal – Wunderlich**

Mr. Russo asked for representation of Lori Wunderlich to come forward to address a Utility Board Appeal. Mr. Hontz noting that there is no representation present to address Council, asked for this item to be removed from the agenda. Upon motion of Mrs. Becker, seconded by Mr. Ricciardo, that this appeal be removed from the agenda and honor the decision of the Utility Board and roll call resulted as follows:

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

**C. Best Practices Inventory**

Mr. Russo inquired whether Council had any questions with regard to the Best Practices Inventory, which was attached to Resolution #185-2011. Mr. Russo and Ms. Dawn Babcock, CFO, completed the questionnaire and based on the responses qualified the Town will receive 100% funding of State Aid. After a brief discussion, Council was pleased with the results of the inventory. Mr. Russo

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thanked Ms. Babcock for her assistance with the inventory.

**D. Fire Department's 175<sup>th</sup> Anniversary Celebration**

Mr. Russo advised Council of the proposed celebration to take place in the area of the Newton Fire Museum on Spring Street on Saturday, September 24, 2011 from 11:30 a.m. until 1:30 p.m. Mr. Russo directed the Fire Department to work with Department of Public Works as well as the Newton Police Department and requested that the event have minimal impact on the businesses on Spring Street. Council unanimously agreed to approve the NFD 175<sup>th</sup> Anniversary celebration on Saturday, September 24, 2011.

Mr. Russo read correspondence from the Sussex County Mosquito Control Department indicating that they will be spraying for mosquitos in the area of Trinity Street, Mt. View Street, East Clinton Street, Stuart Street, South Park Drive and Water Street. The spraying will be done through a truck mounted ultra-low volume spray and will take place on Tuesday, August 23, 2011 between 7:00 p.m. and 11:00 p.m.

**ORDINANCES**

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

**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**

**WHEREAS**, the Legislature of the State of New Jersey has in N.J.S.A. 40:48-1, et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote public health, safety, and general welfare of its citizenry; and

**WHEREAS**, the flood hazard areas of Town of Newton are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare; and

**WHEREAS**, these flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, causes damage in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood loss; and

**WHEREAS**, it is the purpose of this Ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- [1] Protect human life and health;
- [2] Minimize expenditure of public money for costly flood control projects;
- [3] Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- [4] Minimize prolonged business interruptions;
- [5] Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, bridges located in areas of special flood hazard;
- [6] Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- [7] Ensure that potential buyers are notified that property is in an area of special flood hazard; and
- [8] Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions; and

**WHEREAS**, in order to accomplish its purposes, this Ordinance includes methods and provisions for:

- [1] Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- [2] Requiring that uses vulnerable to floods including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- [3] Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- [4] Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- [5] Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

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

#### **SECTION 14-1.0 DEFINITIONS**

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance it's most reasonable application.

**Appeal** — A request for a review of the Construction Official's interpretation of any provision of this Ordinance or a request for a variance.

**Area of Shallow Flooding** — A designated AO, AH, or VO zone on a community's Digital Flood Insurance Rate Map (DFIRM) with a one percent annual or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard** — The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

**Base Flood** — The flood having a one percent chance of being equaled or exceeded in any given year.

**Basement** — Any area of the building having its floor subgrade (below ground level) on all sides.

**Breakaway Wall** — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

**Development** — Any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials located within the area of special flood hazard.

**Digital Flood Insurance Rate Map (DFIRM)** — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Elevated Building** — A non-basement building (i) built in the case of a building in an Area of Special Flood Hazard to have the top of the elevated floor elevated above the ground level by means of piling, columns (posts and piers), or shear walls parallel to the flow of the water, and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood up to the magnitude of the base flood. In an Area of Special Flood Hazard "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

**Flood or Flooding** — A general and temporary condition of partial or complete inundation of normally dry land areas from: .

[1] The overflow of inland or tidal waters and/or

[2] The unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Insurance Study (FIS)** — The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map(s) and the water surface elevation of the base flood.

**Flood Insurance Rate Map (FIRM)** — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Floodplain Management Regulations** — Zoning Ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodway** — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

**Highest Adjacent Grade** — The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic Structure** — Any structure that is:

[a] Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

[b] Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

[c] Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or

[d] Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved State program as determined by the Secretary of the Interior; or

(2) Directly by the Secretary of the Interior in States without approved programs.

**Lowest Floor** — The lowest floor of the lowest enclosed area [including basement]. An unfinished or flood resistant enclosure, useable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's lowest floor provided that such enclosure is not built so to render the structure in violation of other applicable non-elevation design requirements.

**Manufactured Home** — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**Manufactured Home Park or Manufactured Home Subdivision** — A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

**New Construction** — Structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Subdivision** — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

**Recreational Vehicle** — A vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Start of Construction** — For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. No. 97-348) includes substantial improvements and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the

installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation.

Permanent construction does not include land preparation, such as clearing, grading and filling nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings or piers, or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure** — A walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

**Substantial Damage** — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement** — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- [1] Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or
- [2] Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

**Variance** — A grant of relief from the requirements of this Ordinance that permits construction in a manner that would otherwise be prohibited by this Ordinance.

## **SECTION 14-2.0 GENERAL PROVISIONS**

### **14-2.1 LANDS TO WHICH THIS ORDINANCE APPLIES**

This Ordinance shall apply to all areas of special flood hazards within the jurisdiction of the Town of Newton, Sussex County, New Jersey.

### **14-2.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

The areas of special flood hazard for the areas of special flood hazard for the Town of Newton, Community No. 340453, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- a) A scientific and engineering report "Flood Insurance Study, Sussex County, New Jersey (All Jurisdictions)" dated September 29, 2011.
- b) Flood Insurance Rate Map for Sussex County, New Jersey (All Jurisdictions) as shown on Index and panel numbers 34037C0284E, 34037C0292E, 34037C0303E, 34037C0311E; whose effective date is September 29, 2011.

The above documents are hereby adopted and declared to be a part of this Ordinance. The Flood Insurance Study and maps are on file at 39 Trinity Street, Newton, New Jersey.

### **14-2.3 PENALTIES FOR NONCOMPLIANCE**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Ordinance and other applicable regulations. Violation of the provisions of this Ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$2,000 or imprisoned for not more than 90 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Town of Newton from taking such other lawful action as is necessary to prevent or remedy any violation.

### **14-2.4 ABROGATION AND GREATER RESTRICTIONS**

This Ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and other Ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### **14-2.5 INTERPRETATION**

In the interpretation and application of this Ordinance, all provisions shall be:

- [1] Considered as minimum requirements;
- [2] Liberally construed in favor of the governing body; and,
- [3] Deemed neither to limit nor repeal any other powers granted under State statutes.

### **14-2.6 WARNING AND DISCLAIMER OF LIABILITY**

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Ordinance does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of the Town of Newton, any officer or employee thereof or the Federal Insurance Administration, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

## **SECTION 14-3.0 ADMINISTRATION**

### **14-3.1 ESTABLISHMENT OF DEVELOPMENT PERMIT**

A Development Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any area of special flood hazard established in SECTION 14-2.2. Application for a Development Permit shall be made on forms furnished by the Construction Official and may include, but not be limited to; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- [1] Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- [2] Elevation in relation to mean sea level to which any structure has been floodproofed.
- [3] Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in SECTION 14-4.2-2; and,
- [4] Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

### **14-3.2 DESIGNATION OF THE LOCAL ADMINISTRATOR**

The Construction Official is hereby appointed to administer and implement this Ordinance by granting or denying development permit applications in accordance with its provisions.

### **14-3.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR**

Duties of the Construction Official shall include, but not be limited to:

#### **14-3.3-1 PERMIT REVIEW**

[1] Review all development permits to determine that the permit requirements of this Ordinance have been satisfied.

[2] Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

[3] Review all development permits to determine if the proposed development is located in the floodway, assure that the encroachment provisions of SECTION 14-4.3[1] are met.

#### **14-3.3-2 USE OF OTHER BASE FLOOD AND FLOODWAY DATA**

When base flood elevation and floodway data has not been provided in accordance with SECTION 14-2.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Construction Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer SECTIONS 14-4.2-1, SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, and 14-4.2-2, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION.

#### **14-3.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED**

[1] Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

[2] For all new or substantially improved floodproofed structures:

[i] verify and record the actual elevation (in relation to mean sea level); and

[ii] maintain the floodproofing certifications required in SECTION 14-3.1 (3).

[3] Maintain for public inspection all records pertaining to the provisions of this Ordinance.

#### **14-3.3-4 ALTERATION OF WATERCOURSES**

[1] Notify adjacent communities and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control Section and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.

[2] Require that maintenance is provided within the altered or relocated portion of said watercourse so the flood carrying capacity is not diminished.

#### **14-3.3-5 INTERPRETATION OF FIRM BOUNDARIES**

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in SECTION 14-3.4.

#### **14-3.4 VARIANCE/APPEAL BOARD PROCEDURE**

[1] The Planning Board as established by the Town Council shall hear and decide appeals and requests for variances from the requirements of this Ordinance.

[2] The Planning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Construction Official in the enforcement or administration of this Ordinance.

[3] Those aggrieved by the decision of the Planning Board, or any taxpayer, may appeal such decision to the Superior Court of New Jersey.

[4] In passing upon such applications, the Planning Board, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Ordinance, and:

- (i) the danger that materials may be swept onto other lands to the injury of others;
- (ii) the danger to life and property due to flooding or erosion damage;
- (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (iv) the importance of the services provided by the proposed facility to the community;
- (v) the necessity to the facility of a waterfront location, where applicable;
- (vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
- (vii) the compatibility of the proposed use with existing and anticipated development;
- (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
- (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (x) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
- (xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

[5] Upon consideration of the factors of SECTION 14-3.4-1 [4] and the purposes of this Ordinance, the Planning Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Ordinance.

[6] The Construction Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

#### **14-3.4-1 CONDITIONS FOR VARIANCES**

[1] Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in SECTION 14-3.4-1[4] have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

[2] Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

[3] Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

[4] Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

[5] Variances shall only be issued upon:

(i) A showing of good and sufficient cause;

(ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

(iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in SECTION 14-3.4- 1[4], or conflict with existing local laws or Ordinances.

[6] Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

## **SECTION 14-4.0 PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **14-4.1 GENERAL STANDARDS**

In all areas of special flood hazards the following standards are required:

#### **14-4.1-1 ANCHORING**

[1] All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

[2] All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

#### **14-4.1-2 CONSTRUCTION MATERIALS AND METHODS**

[1] All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

[2] All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

#### **14-4.1-3 UTILITIES**

[1] All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

[2] New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters;

[3] On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and

[4] Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

#### **14-4.1-4 SUBDIVISION PROPOSALS**

[1] All subdivision proposals shall be consistent with the need to minimize flood damage;

[2] All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

[3] All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

[4] Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

#### **14-4.1-5 ENCLOSURE OPENINGS**

All new construction and substantial improvements having fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, or other covering or devices provided that they permit the automatic entry and exit of floodwaters.

#### **14-4.2 SPECIFIC STANDARDS**

In all areas of special flood hazards where base flood elevation data have been provided as set forth in SECTION 14-2.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or in SECTION 14-3.3-2, USE OF OTHER BASE FLOOD DATA, the following standards are required:

##### **14-4.2-1 RESIDENTIAL CONSTRUCTION**

[1] New construction and substantial improvement of any residential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities, elevated to or above base flood elevation;

[2] Within any AO zone on the municipality's FIRM that all new construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

##### **14-4.2-2 NONRESIDENTIAL CONSTRUCTION**

In an Area of Special Flood Hazard, all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement together with the attendant utilities and sanitary facilities either:

[1] Elevated to the level of the base flood elevation; and

[2] Within any AO zone on the municipality's DFIRM that all new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet (at least two feet if no depth number is specified). And, require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures;

or

[1] Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

[2] Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,

[3] Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in SECTION 14-3.3-3 [2] [ii].

#### **14-4.2-3 MANUFACTURED HOMES**

[1] Manufactured homes shall be anchored in accordance with SECTION 14-4.1-1 [2].

[2] All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.

#### **14-4.3 FLOODWAYS**

Located within areas of special flood hazard established in SECTION 14-2.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

[1] Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

[2] If SECTION 14-4.3[1] is satisfied, all new construction and substantial improvements must comply with SECTION 14-4.0 PROVISIONS FOR FLOOD HAZARD REDUCTION.

[3] In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than two-tenths (0.2) of a foot at any point.

#### **SECTION 14-5.0 SEVERABILITY**

If any provision of this Ordinance or the application of this Ordinance to any person or circumstances is held invalid, the remainder of this Ordinance shall not be affected and shall remain in full force and effect.

#### **SECTION 14-6.0 REPEALER**

All Ordinances or parts of Ordinances or resolutions that are inconsistent or in opposition to the provisions of this Ordinance are hereby repealed in their entirety.

#### **SECTION 14-7.0 EFFECTIVE DATE**

This Ordinance shall take effect upon its final passage and publication according to law.

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 Mrs. Becker and unanimously carried, the hearing was closed.

August 22, 2011

The aforementioned **ORDINANCE** was offered by Mr. Elvidge, who moved its adoption, 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	

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 final adoption.

### **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**

**WHEREAS**, large political contributions from those seeking or performing contracts with a municipality raise reasonable concerns on the part of taxpayers and residents as to their trust in government and its business practices; and

**WHEREAS**, pursuant to N.J.S.A. 40:48-2, a municipality is authorized to adopt such ordinances, regulations, rules and by-laws as necessary and proper for good government, as well as the public health, safety and welfare; and

**WHEREAS**, pursuant to P.L.2005, c.271 (codified at N.J.S.A. 40A:11-51) a municipality is authorized to adopt by ordinance, measures limiting the awarding of public contracts to business entities that have made political contributions, and limiting the contributions that the recipient of such a contract can make during the term of a contract; and

**WHEREAS**, in the interest of good government, the people and the government of the Town of Newton desire to establish a policy that will avoid the perception of improper influence in public contracting and local elections;

**NOW, THEREFORE, BE IT RESOLVED**, it shall be the policy of the Town of Newton to create such a regulation which states 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; and

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

#### **DEFINITIONS**

As used in this ordinance:

(a) "Campaign Committee" means (i) every candidate for the Town of Newton elective municipal office; (ii) every candidate committee established by or for

the benefit of a candidate for the Town of Newton elective municipal office; (iii) every joint candidate committee established in whole or in part by or for the benefit of a candidate for the Town of Newton elective municipal office; (iv) every political party committee of the Town of Newton; and (v) every political committee, continuing political committee, or other form of association or organization that regularly engages in the support of candidates for the Town of Newton municipal or Sussex County elective offices or Town of Newton municipal or Sussex County political parties or political party committees. The terms in the foregoing paragraph have the meaning prescribed in N.J.A.C. 19:25-1.7.

(b) "Contribution" has the meaning prescribed in N.J.A.C. 19:25-1.7. By way of illustration, and not limitation, this definition includes pledges, loans, and in-kind contributions.

(c) A "contract for professional or extraordinary services" means all contracts for "professional services" and "extraordinary unspecifiable services" as such term is used in N.J.S.A. 40A:11-5.

(d) For purposes of this Ordinance, a "Business Entity" whose contributions are regulated by this ordinance means: (i) an individual including the individual's spouse, and any child/children; (ii) a firm; corporation; professional corporation; partnership; limited liability company; organization; association; and any other manner and kind of business entity; (iii) any person who owns 10% or more of the equity or ownership or income interests in a person or entity as defined in sections (i) and (ii) above and their spouses and child/children; (iv) all partners or officers of such an entity, in the aggregate, and their spouses and child/children; (v) any person, subcontractor, subsidiary, corporation, firm, partnership, limited liability company, organization or association who has received or indefeasibly acquired the right to receive, from a person described in subparagraph (i) above, more than \$100,000.00 in compensation or income of any kind (including, by way of illustration, and not limitation: wages, salaries, sums paid to independent contractors, benefits, dividends, profit-sharing, pension contributions, deferred contributions, stock, stock options or gifts), in any twelve (12) month period prior to the award of, or during the term of, a contract subject to this ordinance; and (vi) all persons who are an "affiliate" of a Business Entity as defined in sections (i), (ii) and (v) above, as such term is used in 11 U.S.C. 101(2).

## **SECTION 1 – PROHIBITION ON AWARDING PUBLIC CONTRACTS TO CERTAIN CONTRIBUTORS**

(a) To the extent that it is not inconsistent with state or federal law, the Town of Newton and any of its departments, instrumentalities, or purchasing agents shall not enter into any agreement or otherwise contract to procure "professional services" as such term is defined at N.J.S.A. 40A:11-2(6) and used at N.J.S.A. 40A:11-5(1)(a)(i) and/or banking, insurance or other consulting service (hereinafter "Professional Services"), nor "extraordinary unspecified services" as such term is defined at N.J.S.A. 40A:11-2(7) and used at N.J.S.A. 40A:11-5(1)(a)(ii) and/or media, public relations, lobbying, parking garage management or other consulting and/or management service (hereinafter "Extraordinary Unspecified Services") from any Business Entity if such Business Entity has solicited or made any Contribution to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the Town of Newton or a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Town of Newton or Sussex County political committee or political party committee, or (iii) to any continuing political committee or political action committee that regularly engages in the support of Town of Newton municipal or Sussex elections and/or Town of Newton municipal or Sussex County candidates, candidate committees, joint candidate committees, political committees, political parties, political party committees, (hereinafter "PAC"), in

excess of the thresholds specified in subsection (g) within one calendar year immediately preceding the date of the contract or agreement.

(b) No Business Entity who submits a proposal for, enters into negotiations for, or agrees to any contract or agreement with the Town of Newton or any of its departments or instrumentalities, for the rendition of Professional Services or Extraordinary Unspecified Services shall knowingly solicit or make any Contribution, to (i) a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the Town of Newton, or a holder of public office having ultimate responsibility for the award of a contract, or (ii) to any Town of Newton or Sussex political committee or political party committee, or (iii) any PAC between the time of first communication between that Business Entity and the municipality regarding a specific agreement for Professional Services or Extraordinary Unspecified Services, and the later of the termination of negotiations or rejection of any proposal, or the completion of the performance or specified time period of that contract or agreement.

(c) The monetary thresholds of this Ordinance are: (i) a maximum of \$300 per calendar year each for any purpose to any candidate or candidate committee for mayor or governing body, or \$500 per calendar year to any joint candidates committee for mayor or governing body, or \$300 per calendar year to a political committee or political party committee of the Town of Newton; (ii) \$500 maximum per calendar year to a Sussex County political committee or political party committee; and (iii) \$500 maximum per calendar year to any PAC. However, for each Business Entity party to a contract for Professional or Extraordinary Unspecified Services as defined in subparagraph (a), or engaged in negotiations for a contract defined in subparagraph (a), when such Business Entity's Contribution is aggregated with all "persons" defined in subparagraph (d) of "Definitions" above, by virtue of their affiliation to that Business Entity party, a maximum of \$2,500 to all Town of Newton candidates, candidate committees, joint candidate committees, and holders of public office having ultimate responsibility for the award of a contract, all Town of Newton or Sussex County political committees and political party committees as described herein combined, without violating subsection (a) of this section.

(d) For purposes of this section, the office that is considered to have ultimate responsibility for the award of the contract shall be (i) the Town of Newton Mayor or Governing body, if the contract requires approval or appropriation from the Mayor or Governing body, or (ii) the Mayor of the Town of Newton, if the contract requires approval of the Mayor, or if a public officer who is responsible for the award of a contract is appointed by the Mayor.

(e) Rules regarding subcontractors. No person may be awarded a subcontract to perform under a contract subject to this Ordinance, if the subcontractor would be disqualified by paragraph (a) from receiving the contract at the time that the subcontract is awarded. Nor may any person who would be disqualified by paragraph (a) from receiving the contract perform substantially all of obligations described in a contract for professional or extraordinary services that is subject to this ordinance.

## **SECTION 2 - CONTRIBUTIONS MADE PRIOR TO THE EFFECTIVE DATE**

No Contribution or solicitation of contributions made prior to the effective date of this Ordinance shall be deemed to give rise to a violation of this Ordinance.

### **SECTION 3 - CONTRACT RENEWAL**

No contract subject to this ordinance may be renewed, extended, or materially modified unless the resulting renewal, extension, or modification would be allowable under the provisions of this ordinance if it were an initial contract.

### **SECTION 4 - CONTRIBUTION STATEMENT BY BUSINESS ENTITY**

(a) Prior to awarding any contract or agreement to procure Professional Services" or Extraordinary Unspecified Services" from any Business Entity, the Town of Newton or its purchasing agents and departments, as the case may be, shall receive a sworn statement from said Business Entity which is the intended recipient of said contract that he/she/it has not made a Contribution in violation of Section 1 of this Ordinance. The Town of Newton, its purchasing agents and departments shall be responsible for informing the Town Council of the Town of Newton that the aforementioned sworn statement has been received and that the Business Entity is not in violation of this ordinance, prior to awarding the contract or agreement.

(b) A Business Entity shall have a continuing duty to report to the Town of Newton any Contributions that constitute a violation of this act that are made during the negotiation, proposal process or the duration of a contract. The Town of Newton, its purchasing agents and departments shall be responsible for informing the governing body within ten (10) business days after receipt of said report from the Business Entity, or at the next meeting of the Town Council of the Town of Newton following receipt of said report from the Business Entity, or whichever comes first.

(c) The certification required under this subsection shall be made prior to entry into the contract or agreement with the Town of Newton, or prior to the provision of services or goods, as the case may be, and shall be in addition to any other certifications that may be required by any other provision of law.

### **SECTION 5 - RETURN OF EXCESS CONTRIBUTIONS**

A Business Entity that is a party to a contract for Professional Services or Extraordinary Unspecified Services may cure a violation of Section 1 of this Ordinance, if, within 30 days after the date on which the applicable ELEC report is published, said Business Entity notifies the municipality in writing and seeks and receives reimbursement of the Contribution from the recipient of such Contribution.

### **SECTION 6 - EXEMPTIONS**

The contribution limitations prior to entering into a contract in Section 1(a) do not apply to contracts which (i) are awarded to the lowest responsible bidder after public advertising for bids and bidding therefor within the meaning of N.J.S.A. 40A:11-4, or (ii) are awarded in the case of emergency under N.J.S.A. 40A:11-6. There is no exemption for contracts awarded pursuant to a "Fair and Open Process" under N.J.S.A. 19:44A-20 et seq.

### **SECTION 7 - PENALTY**

(a) It shall be a material breach of the terms of a Town of Newton agreement or contract for Professional Services or Extraordinary Unspecified Services when a Business Entity that is a party to such agreement or contract has: (i) made or solicited a Contribution in violation of this Ordinance; (ii) knowingly concealed or misrepresented a Contribution given or received; (iii) made or solicited Contributions through intermediaries for the purpose of concealing or

misrepresenting the source of the Contribution; (iv) made or solicited any Contribution on the condition or with the agreement that it will be re-contributed to a candidate, candidate committee or joint candidates committee of any candidate for elective municipal office in the Town of Newton, or a holder of public office having ultimate responsibility for the award of a contract, or any Town of Newton or Sussex County political committee or political party committee, or any PAC; (v) engaged or employed a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any Contribution, which if made or solicited by the professional Business Entity itself, would subject that entity to the restrictions of this Ordinance; (vi) funded contributions made by third parties, including consultants, attorneys, family members, and employees; (vii) engaged in any exchange of Contributions to circumvent the intent of this Ordinance; or (viii) directly or indirectly, through or by any other person or means, done any act which if done directly would subject that entity to the restrictions of this Ordinance.

(b) Furthermore, any Business Entity that violates Section 7 (a) (i-viii) shall be disqualified from eligibility for future Town of Newton contracts for a period of four (4) calendar years from the date of the violation.

(c) Any person who knowingly, purposely, or recklessly violates any provision of this ordinance, or who conspires with another person to violate any provision of this ordinance, or who, with the purpose of promoting or facilitating a violation of this ordinance, solicits another person to commit it, or aids or agrees, or attempts to aid another person in planning or committing it, shall be subject to punishment including fines and/or imprisonment as fixed by law for violations of the ordinances of the Town of Newton.

#### **SECTION 8 - CITIZENS PRIVATE RIGHT OF ACTION**

In addition to any rights that were heretofore available, or which may hereafter be available, to citizens, taxpayers, or associations, to challenge violations of this ordinance, every person aggrieved by a violation of the ordinance, or any taxpayer or resident of the Town of Newton has the right, consistent with the Rules of Court, to file charges in a court of competent jurisdiction, and/or to pursue a civil action for a violation of this ordinance in a court of competent jurisdiction, and to seek and obtain declaratory, injunctive, or other legal or equitable relief, including but not limited to, attorneys fees and costs, arising from or related to a violation of this ordinance.

#### **SECTION 9 - SEVERABILITY**

If any provision of this Ordinance, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this Ordinance to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby, and to this extent the provisions of this Ordinance are severable.

#### **SECTION 10 - INDEXING**

The monetary thresholds of "Definitions" Section (d) and Section 1(c) of this ordinance shall be increased effective March 1 of each calendar year by the percentage increase, in the prior calendar year, of the consumer price index for all urban consumers (CPI-U) for the New York-Northern New Jersey-Long Island region, rounded to the nearest \$10.00. The Clerk of the Town of Newton shall, by no later than April 1 of each calendar year, prepare and publish the revised thresholds on the official municipal website and in an official municipal newspaper.

**SECTION 11 - REPEALER**

All ordinances or parts of ordinances which are inconsistent with any provisions of this Ordinance are hereby repealed as to the extent of such inconsistencies.

**SECTION 12 - EFFECTIVE DATE**

This Ordinance shall become effective twenty (20) days following the final adoption thereof by the Town Council of the Town of Newton and shall be published as required by law.

Mayor Le Frois opened the hearing to the public. There being no one from the public to be heard, upon motion by Mr. Ricciardo, seconded by Mr. Elvidge 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 final adoption.

**ORDINANCE 2011-17**

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

**BE IT ORDAINED**, by the Town Council of the Town of Newton, that Chapter XXI, Fees and Costs, be amended as follows:

**Traffic (Relating to Chapter X).**

2. Overnight Parking Pass

- a. Central Plaza (Lot #4), Western Plaza (Lot #3), and the Adams Street Lot (Lot #1) (residents and business night shift employees) \$15.00\* monthly  
\$180.00\* annual
- b. Tractor Trailer/Box Truck  
Parking - Annually \$25.00\*
- c. Park & Ride (10-13B.2-b) Free

\*plus applicable NJ State Sales Tax

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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 Mrs. Becker and unanimously carried, the hearing was closed.

The aforementioned **ORDINANCE** was offered by Mr. Elvidge, 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.

At this time, Mark Hontz, Esq. recused himself due to conflict with Ordinance 2011-18.

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

#### **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**

**WHEREAS**, the *Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.*, (the "Redevelopment Law" or the "Act") authorizes municipalities to determine whether certain parcels of land within the municipality constitute an area in need of redevelopment, and to prepare and adopt a redevelopment plan therefor; and

**WHEREAS**, on December 10, 2007, the Town of Newton, acting by Resolution, designated Block 1201.02, Lots 2 & 2.01 as an area in need of redevelopment pursuant to the Act (hereinafter, the "Redevelopment Area"); and

**WHEREAS**, on November 10, 2008, after review and comment by the Town's Planning Board in accordance with the Act, the Town, acting by Ordinance, enacted the Paterson Avenue Redevelopment Plan governing the Redevelopment Area (the "Initial Redevelopment Plan", attached hereto as Exhibit A); and

**WHEREAS**, due to changes in the national, regional and local economies occurring since the time of adoption of the Initial Redevelopment Plan that made development of the housing uses contemplated therein unlikely to occur in the near future, the Town wished to consider the addition of alternative uses and standards to the Initial Redevelopment Plan in order to provide additional options for the revitalization of the Redevelopment Area; and

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**WHEREAS**, in accordance with the Act, the Town prepared proposed amendments to the Initial Redevelopment Plan (the "Proposal", attached hereto as Exhibit B); and

**WHEREAS**, on June 27, 2011, the Town Council, acting by Resolution, referred the Proposal to the Planning Board for its review and comment in accordance with Section 7 of the Act; and

**WHEREAS**, at a duly noticed and constituted public meeting of the Planning Board held on July 20, 2011, Jessica Caldwell, P.P., A.I.C.P. of Harold E. Pellow & Associates, Inc. (the "Planning Consultant") presented the Proposal and further addressed any questions and comments presented by the Planning Board; and

**WHEREAS**, the members of the public were given the opportunity to provide their own testimony regarding the Proposal; and

**WHEREAS**, after due consideration of the Proposal, the testimony of the Planning Consultant, and the testimony of the public, the Planning Board determined by Resolution dated July 20, 2011 (the "Planning Board Resolution", attached hereto as Exhibit C), that while the Proposal is not consistent with the permitted uses for the Redevelopment Area recommended by the Town's Master Plan, it is consistent with the overarching goals of the Master Plan, and recommended to the Town Council that it adopt a modified version of the Proposal, with such changes as summarized at Exhibit B to the Planning Board Resolution (the "Planning Board Recommendations"); and

**WHEREAS**, the Planning Board Resolution included the following recommendation:

"The Planning Board recommends that the Town ascertain the height of the existing buildings within the Redevelopment Area, and provide for a maximum height for office, light industrial, research and development and warehouses uses that is the lesser of 40 feet or the height of the tallest building currently existing within the Redevelopment Area."; and

**WHEREAS**, the Town Engineer has determined that the tallest building currently existing within the Redevelopment Area has an approximate height of 36.3 feet, and has recommended that a maximum height of 40 feet be established for office, light industrial, research and development and warehouse uses within the Redevelopment Area (the "Height Amendment"); and

**WHEREAS**, the Town wishes to adopt the Proposal, as modified by the Planning Board Recommendations, as further modified by the Height Amendment (as so modified and attached hereto as Exhibit D, the "Plan Amendments"); and

**WHEREAS**, the Town acknowledges that the Plan Amendments are not consistent with the recommended uses set forth in the Master Plan, but wishes to adopt the Plan Amendments for the reasons set forth therein,

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, AS FOLLOWS:**

**Section 1.** The recitals hereto are hereby incorporated herein by reference as if set forth at length.

**Section 2.** The Plan Amendments, as filed in the Office of the Town Clerk, attached hereto as Exhibit D, are hereby approved. Any portion of the Initial Redevelopment Plan not modified by the Plan Amendments shall remain in full force and effect.

**Section 3.** The zoning map of the Town of Newton is hereby amended to incorporate the provisions of the Plan Amendments and delineate the boundaries of the Paterson Avenue Redevelopment Area.

**Section 4.** This ordinance shall take effect as provided in law.

Mayor Le Frois opened the hearing to the public.

Deputy Mayor Diglio noting that the word "manufacturing" was supposed to be removed from the Ordinance, advised that it still appears in several places.

Jenn Credidio, Esq., Special Redevelopment Counsel, addressed Council and advised that the word "manufacturing" will be removed and suggested that the Ordinance could still be adopted, based on the prior clarification from Council regarding the removal of the word "manufacturing".

Mrs. Maryann Muller, 106 Sussex Street, had several questions with regard to the buildings and their operations, within the Paterson Avenue Redevelopment area and was advised by Mayor Le Frois that these questions should be addressed to the Newton Planning Board. Mrs. Muller will have an opportunity to address all of her questions to the Planning Board once an application has been submitted by the applicant. It was noted that there has been no application submitted to date.

Mrs. States, 32 Mason Avenue, had a few questions regarding manufacturing which was addressed by Ms. Credidio, Bond Counsel.

There being no further public comment, upon motion by Mrs. Becker, seconded by Deputy Mayor Diglio and unanimously carried, the hearing was closed.

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

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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.

Mr. Hontz returned from being rescued from Ordinance 2011-18.

### **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."*

Mrs. Becker requested the removal of a membership application from Louis Ratti from the consent agenda.

Mr. Ricciardo requested the removal of Resolution #179-2011 from the consent agenda.

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

### **RESOLUTION #177-2011\***

#### **RESOLUTION TO RENEW MEMBERSHIP IN THE NORTH JERSEY MUNICIPAL EMPLOYEE BENEFITS FUND**

**WHEREAS**, a number of public entities in the State of New Jersey have joined together to form the NORTH JERSEY MUNICIPAL EMPLOYEE BENEFITS FUND, hereafter referred to as "the FUND", as permitted by N.J.S.A. 11:15-3, 17:1-8.1, and 40A:10-36 et seq.; and

**WHEREAS**, the FUND was approved to become operational by the Departments of Insurance and Community Affairs and has been operational since that date; and

**WHEREAS**, the statutes and regulations governing the creation and operation of a joint health insurance fund, contain certain elaborate restrictions and safeguards concerning the safe and efficient administration of the public interest entrusted to such the FUND; and

**WHEREAS**, the governing body of the TOWN OF NEWTON, hereinafter referred to as "LOCAL UNIT" has determined that membership in the FUND is in the best interest of the LOCAL UNIT.

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**NOW, THEREFORE BE IT RESOLVED**, that the governing body of the LOCAL UNIT hereby agrees as follows:

- i. Renew membership with the FUND for the period outlined in the LOCAL UNIT's Indemnity and Trust Agreements.
- ii. Will participate in the following type (s) of coverage (s):
  - a.) Health Insurance and/or Dental Insurance as defined pursuant to N.J.S.A. 17B:17-4, the FUND's Bylaws, and Plan of Risk Management.
- iii. Adopts and approves the FUND's Bylaws.
- iv. Execute an application for membership and any accompanying certifications.

**BE IT FURTHER RESOLVED** that the governing body of the LOCAL UNIT is authorized and directed to execute the Indemnity and Trust Agreement and such other documents signifying membership in the FUND as required by the FUND's Bylaws, and to deliver these documents to the FUND's Executive Director with the express reservation that these documents shall become effective only upon:

- i. Approval of the LOCAL UNIT by the FUND.
- ii. Receipt from the LOCAL UNIT of a Resolution accepting assessment.
- iii. Approval by the New Jersey Department of Insurance and Department of Community Affairs.

**RESOLUTION #178-2011\***

**RESOLUTION SUPPORTING A-3412 SHARING THE BURDEN OF PROPERTY ASSESSMENT APPEAL REFUNDS**

**WHEREAS**, when County Tax Board appeals are granted, the municipality must reimburse the property taxpayer 100% of the appealed tax levy, which includes the municipal, school, county and any special districts tax; and

**WHEREAS**, the municipal tax collector makes the adjustment from the appeal as a credit on the 4<sup>th</sup> quarter tax bill resulting in the municipality's fund balance for the preceding year to diminish, if not completely deplete; and

**WHEREAS**, a recent League of Municipalities' survey has measured the extent to which resident have filed and won tax appeals in 2010; and

**WHEREAS**, on hundred fifty (150) municipalities, representing both large and small municipalities in all 21 counties that participated in the survey reported property value declines of more than \$87,900,000 which resulted from 19,788 tax appeals filed in 2010; and

**WHEREAS**, those responding to the survey indicated that 13,760 appeals were filed in 2009 compared to 19,788 in 2010, representing an increase of 43.7%; and

**WHEREAS**, a municipality often experiences an increase in tax appeals because they have conducted a revaluation; however, only 5 of 150 municipalities, which participated in the survey, indicated that their 2010 appeals resulted from revaluations; and

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**WHEREAS**, as a way of comparison, 23 of the participating municipalities conducted revaluations in 2009, when fewer tax appeals were presented to County Tax Boards; and

**WHEREAS**, the 2010 spike in appeals should be attributed to the economic downturn, which lowered property values and placed increased stress on the income of homeowners all around our Garden State; and

**WHEREAS**, the survey also indicated that in 2010 the various County Tax Boards have granted average property value reductions of close to \$5,000 per appeal; and

**WHEREAS**, fifty-six (56%) percent of those responding indicated that the successful tax appeals would have an impact on fund balances and place additional pressures on local officials during 2011; and

**WHEREAS**, although the survey was a snapshot picture in time, it can be used to project what might follow in 2011, since the reductions, which were granted by County Tax Boards in 2011, will have a multiplier effect when neighbors learn of their neighbor's tax reduction, which will likely increase the appeals and, in the alternative, Tax Assessors could be forced to adjust property values based upon the appeal information; and

**WHEREAS**, successful tax appeals have a three-fold negative impact on municipal budgets. First, the municipality, as the collector of taxes for the school district, county and special districts, must fund the full cost of the legal defense of the assessment. Second, since State law guarantees to the county and school district 100% of their levies, the municipality bears the full cost of any reimbursements resulting from the appeal (as well as the full burden for any uncollected taxes). Third, the end result will be further decline in the property tax base used to support municipalities, county governments and school systems; and

**WHEREAS**, in light of the revenue limitations that have been placed on all levels of local government by the Legislature (2% cap), such declining values will compound and add additional stress to local public officials, as they grapple with the issues confronting the tax paying public; and

**WHEREAS**, Assemblyman Carroll has recently introduced A-3412, which requires fire districts, school districts, and county governments to share in the burden of property assessment appeal refunds;

**NOW, THEREFORE BE IT RESOLVED**, that the Town Council of the Town of Newton hereby urges the swift passage and signing of A-3412; and

**BE IT FURTHER RESOLVED** that copies of this Resolution be forwarded to Governor Chris Christie, Senate President Stephen Sweeney, Assembly Speaker Sheila Oliver, Senator Steven Oroho, Assemblyman Gary Chiusano, Assemblywoman Alison McHose, NJ League of Municipalities and all Sussex County municipalities.

#### **RESOLUTION #180-2011\***

#### **AWARD BID FOR PURCHASE OF THE SINGLE AXLE SEWER CLEANER**

**WHEREAS**, the Town of Newton publicly opened and read bids for the purchase of the Single Axle Sewer Cleaner on Tuesday, August 16, 2011 at 10:00am as follows:

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<u>Name and Address of Bidder</u>	<u>Bid Price</u>	<u>Option 1</u>	<u>Option 2</u>	<u>Option 3</u>
Eagle Equipment, Inc. d/b/a Pierce Equipment Co. 3388 Route 22 West Branchburg, NJ 08876	\$338,181.00	\$4,600.00	\$3,800.00	\$2,700.00

**WHEREAS**, the Qualified Purchasing Agent and the Water and Sewer Supervisor have reviewed the bids and recommend the contract for the Purchase of the Single Axle Sewer Cleaner be awarded to Eagle Equipment Inc., d/b/a Pierce Equipment Co., of Branchburg, New Jersey whose low bid was \$338,181.00, including Option 1 in the amount of \$4,600.00 and Option 3 in the amount of \$2,700.00 for a total amount of \$345,481.00; 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 Purchase of the Single Axle Sewer Cleaner be awarded to Eagle Equipment Inc., d/b/a Pierce Equipment Co., Branchburg, New Jersey in the amount of \$345,481.00.

**RESOLUTION #181-2011\***

**AWARD BID FOR PROPOSED LIGHTING IMPROVEMENTS PROJECT**

**WHEREAS**, the Town of Newton publicly opened and read bids for the Proposed Lighting Improvements Project on Wednesday, August 17, 2011 at 11:00am as follows:

<u>Name and Address of Bidder</u>	<u>Bid Price</u>
Manor II Electric, Inc. 3 Ardsley Court Holmdel, NJ 07733	\$30,285.00
A.L. M. Electric Co., Inc. 78 Fanny Road Boonton, NJ 07005	\$36,400.00
High Point Electric, Inc. 719 Route 519 Wantage, NJ 07461	\$42,470.00

**WHEREAS**, the Qualified Purchasing Agent and the Town's Engineer, Harold E. Pellow and Associates, Inc., have reviewed the bids and recommend the contract for Proposed Lighting Improvements Project be awarded to Manor II Electric, Inc., of Holmdel, New Jersey whose low bid was \$30,285.00; 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 Lighting Improvements Project be awarded to Manor II Electric, Inc., of Holmdel, New Jersey in the amount of \$30,285.00.

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**RESOLUTION #182-2011\***

**CONCUR WITH THE TOWN MANAGER'S APPOINTMENT OF SCHOOL CROSSING GUARDS**

**WHEREAS**, New Jersey Statute 40A:9-154.1 states *"The governing body, or the chief executive, or the chief administrative officer, as appropriate to the form of government of any municipality, may appoint adult school crossing guards for terms not exceeding one year..."*;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that this Governing Body concurs with the Town Manager's appointment of the following individuals as School Crossing Guards for the 2011-2012 school year:

Lisa Alex	Lisa Huber
Debbie Alger	Peter Kays
Diane Bell	Glenn Kinney
Carol Blanchard	Tiera McCullough
Doug Bowne	Barbara Meininger
June Bowne	Karen Mokrzycki
Mark Clark	Martha Morris
Louise Cort	Ray Natoli
Helen Critelli	Theresa Owens
Debbie Dellamo	Krista Rannou
Carolyn Dipple	Dawn Rude
Betty Francis	Steve Stoll

**RESOLUTION #183-2011\***

**APPOINTMENT OF LUCY M. DELORETO, C.M.C.A., AS MUNICIPAL COURT ADMINISTRATOR**

**WHEREAS**, Ann Rosellen, Newton's Municipal Court Administrator, retired effective August 1, 2011; and

**WHEREAS**, the Town of Newton exhausted a search for a qualified replacement; and

**WHEREAS**, Lucy M. DeLoreto, C.M.C.A., best fits the needs and requirements for the position as Municipal Court Administrator;

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Newton, that Lucy M. DeLoreto, C.M.C.A., be appointed as Municipal Court Administrator for the Town of Newton effective August 1, 2011.

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**RESOLUTION #184-2011\***

**AWARD BID FOR THE PROPOSED ELEVATOR UPGRADE AT THE TOWN MUNICIPAL BUILDING**

**WHEREAS**, the Town of Newton publicly opened and read bids for the Proposed Elevator Upgrade at the Town Municipal Building on Thursday, July 28, 2011 at 10:00am as follows:

<u>Name and Address of Bidder</u>	<u>Bid Price</u>	<u>Bond</u>	<u>Drilling Cost</u>
ThyssenKrupp Elevator Corporation 125 Moen Avenue Cranford, NJ 07016	\$93,499	\$7,849	\$10,700
Standard Elevator Corporation PO Box 2204 Clifton, NJ 07015	\$162,215	\$4,000	Included in Bid Price

**WHEREAS**, the Town Consultant, Robert Corcoran from VDA, LLC., has reviewed the bids and recommends the contract for the Proposed Elevator Upgrade at the Town Municipal Building be awarded to ThyssenKrupp Elevator Corporation, of Cranford, New Jersey whose low bid was \$93,499, a Bond of \$7,849, and drilling cost of \$10,700 for a total amount of \$112,048.00; 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 Elevator Upgrade at the Town Municipal Building to be awarded to ThyssenKrupp Elevator Corporation, Cranford, New Jersey in the amount of \$112,048.00.

**RESOLUTION #185-2011\***

**ACCEPT THE BEST PRACTICES INVENTORY QUESTIONNAIRE AND AUTHORIZE ITS SUBMISSION TO THE STATE OF NEW JERSEY DIVISION OF LOCAL GOVERNMENT SERVICES**

**WHEREAS**, Local Finance Notice 2011-18R sets forth the requirements regarding the Best Practices Inventory Questionnaire; and

**WHEREAS**, the final 5% allocation of state aid for CMPTRA and ETR will be disbursed based upon the results of this inventory; and

**WHEREAS**, the completed form must be an agenda item for discussion at a municipal governing body meeting. The purpose is to ensure that local officials have been apprised of the response. This can happen before or after actual submission of the inventory form; and

**WHEREAS**, the Municipal Clerk must subsequently file a certification confirming that the Inventory was discussed publicly; and

**WHEREAS**, attached to this resolution is the Best Practices Worksheet CY 2012 . The Town of Newton's responses to this inventory qualify the Town to receive 100% funding of the final 5% aid payment;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that it has been apprised of the responses, and does hereby authorize

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the Chief Financial Officer to email the worksheet to the State by the CY 2011 filing deadline of September 1, 2011 and authorizes the Municipal Clerk to file a certification confirming that the inventory was discussed publicly and submit such to the Division of Local Government Services to comply with the state requirements regarding the Best Practices Inventory Questionnaire.

**RESOLUTION #186-2011\***

**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 Market	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 & 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

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14,166.65	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
360.00	Harold Pellow & Assoc., Inc.	29130
62.88	Airmark Pools	29131
87.50	Sussex Car Wash, Inc.	29132
726.99	NUI Corporation	29133
3,542.93	G & G Diesel Service Inc.	29134
431.34	JCP&L	29135
977.37	SCMUA	29136
200.06	Centurylink Communications, Inc.	29137
48.44	Centurylink Communications, Inc.	29138
4,410.00	Hollander, Strelzik, Pasculli, Hinkes	29139
695,911.20	County of Sussex	29140
18,441.28	County of Sussex	29141
50,296.18	County of Sussex	29142
267.03	Campbell's Small Engine	29143
101.35	Tri-State Rentals, Inc.	29144
269.84	ZEP Manufacturing Company	29145
215.00	Carpet Gallery	29146
300.00	Willco, Inc.	29147
208.18	Treasurer, Petty Cash Fund	29148
112.00	NJLM	29149
8.80	J & D Sales and Service	29150
330.00	Marypaul Laboratories, Inc.	29151
514.50	Trust Account, Town of Newton	29152
2,205.93	Dempsey Uniform & Supply Inc.	29153
201.88	Airgas East	29154
6,050.04	L-3 Comm. Mobile-Vision	29155
552.11	Boonton Tire Supply	29156
839.62	Vision Service Plan	29157
1,571.78	Verizon Wireless	29158
930.00	Accurate Door, Inc.	29159
131.04	Dell Marketing L.P.	29160
76.13	Mr. John	29161
2,895.00	Vogel,Chait,Collins,Schneider,PC	29162
13.97	Advance Auto Parts	29163
1,242.50	Scarinci & Hollenbeck, LLC	29164
626.28	Buckman's Inc.	29165
278.95	Draeger Safety Diagnostics, Inc.	29166
596.32	William Weldon & Lick, Inc.	29167
1,471.89	Universal Uniform	29168
48.00	CSS Test	29169
856.00	Pinnacle Wireless, Inc.	29170
1,009.42	Municipal Graphics, Inc.	29171
2,250.00	Laddey, Clark & Ryan LLP	29172
168.00	Jersey Central Power & Light	29173
1,140.00	Knapp, Trimboli & Prusinowski, LLC	29174
100.00	Costco	29175
10,957.96	Direct Energy Business	29176
453.60	Woodruff Energy	29177
1,550.00	The Buzak Law Group, LLC	29178
1,250.00	HCP Consulting Group, LLC	29179
25,588.75	Lakeland Bank	111038
205,225.00	Depository Trust Company	111039
180,401.53	Payroll Account	111040
181,827.83	Payroll Account	111041

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920,408.00                      Newton Board of Education                      111042

**CAPITAL**

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
9,699.50	Pumping Services	7757
648.00	Hollander, Strelzik, Pasculli, Hinkes	7758
1,587.00	Access Control Technology	7759
2,390.60	Spectrum Communications	7760
873.80	Robert W. Wogisch	7761
6,232.19	Top Line Construction Corp.	7762
788.71	The Bench Factory	7763
2,096,020.94	Lakeland Bank	7764

**Total TOWN BILLS \$4,486,410.14**

**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 and 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
890.00	Hanson Pipe & Precast	12337
638.68	Montague Tool & Supply	12338
240.55	NUI Corporation	12339
900.00	Hollander, Strelzik, Pasculli Hinkes	12340
26.85	Campbell's Small Engine	12341
510.00	Garden State Laboratories, Inc.	12342
103.30	Hamburg Plumbing Supply Co., Inc.	12343
1,167.00	Diamond Sand & Gravel, Inc.	12344

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594.14	Dempsey Uniform & Supply Inc.	12345
135.45	Airgas East	12346
3,009.96	Limecrest Quarry Developers	12347
163.92	Vision Service Plan	12348
167.88	Verizon Wireless	12349
1,250.00	John Smalley	12350
2,073.00	Main Pool & Chemical Company	12351
751.96	Advance Auto Parts	12352
1,095.71	Airmatic Compressor Systems, Inc.	12353
3,404.25	Pall Corporation	12354
962.00	Andy Matt, Inc.	12355
10,121.71	Direct Energy Business	12356
141.12	One Call Concepts	12357
128.17	Woodruff Energy Energy	12358
1,000.00	Cit-E-Net	12359
991.86	Capital Supply Const. Products, Inc.	12560
2,200.00	Lafayette Asphalt	12561
6,170.00	Harter Equipment Inc.	12562
330.00	Lancaster Laboratories	12563
632.40	Airline	12564
30.00	J & L Farms	12565
32,442.44	Payroll Account	116025
31,706.36	Payroll Account	116026

**CAPITAL**

8,193.50	Harold Pellow & Assoc, Inc.	2185
432.00	Hollander, Strelzik, Pasculli, Hinkes	2186
1,278.44	Payroll Account	116105
97.80	Payroll Account	116106
1,524.11	Payroll Account	116107

**Total WATER & SEWER BILLS \$182,519.67**

**TRUST ACCOUNT**

1,965.00	Harold Pellow & Assoc, Inc.	2917
3,980.50	Harold Pellow & Assoc, Inc.	2918
48.00	Lock & Key World	2919
1,333.33	James P. Sloan, P.C.	2920
25.44	Treasurer, Petty Cash Fund	2921
1,440.00	Vogel, Chait, Collins, Schneider, PC	2922
15.00	Vogel, Chait, Collins, Schneider, PC	2923
9.98	Simon Peter Sport	2924
17,371.90	Payroll Account	2925

**Total TRUST ACCOUNT BILLS \$26,189.15**

**DEV. ESCROW**

6,761.25	Harold Pellow & Assoc, Inc.	1068
15.00	Vogel, Chait, Collins, Schneider, PC	1069

**Total FED. STATE GRANT BILLS \$6,776.25**

The Clerk presented an application for an on-premise raffle (50-50) from The Pride Foundation, 44 Ryerson Avenue, Newton, to be held on September 10,

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2011 at 1:00 p.m., October 1, 2011, at 2:00 p.m., October 15 and 29, 2011 at 1:00 p.m. and November 5, 2011 at 1:00 p.m. at 44 Ryerson Avenue, Newton. It was noted the application was in order and accompanied by the prescribed fee.

A motion was made by Deputy Mayor Diglio 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		

Councilman Ricciardo requested Resolution #179-2011 be removed from the consent agenda due to his conflict with the paving contractor. Councilman Ricciardo recused himself from the dais.

**RESOLUTION #179-2011**

**AWARD THE CONTRACT FOR THE PAVING OF VARIOUS STREETS PROJECT TO TILCON, NEW YORK AND DENVILLE LINE STRIPING**

**WHEREAS**, the Governing Board of the Town of Newton adopted Resolution #205-2007 on December 10, 2007 in an effort to save budgeted monies and improve services for itself by participating in the Morris County Cooperative Pricing Council; and

**WHEREAS**, Tilcon New York, 625 Mt. Hope Road, Wharton, New Jersey was awarded Contract #6, Road Surfacing in the Morris County Co-Op's portion for municipalities with regard to Resurfacing of Roads; and

**WHEREAS**, Denville Line Striping, Inc; 2 Green Pond Road, Rockaway, New Jersey was awarded Contract #36, Traffic Striping on Roadways in the Morris County Co-op; and

**WHEREAS**, the Town Engineer, Harold E. Pellow, has recommended that Tilcon New York and Denville Line Striping, Inc. be retained for the Paving of Various Streets Project (Hillside Avenue, Overlook Road, Slate Hill Road, Shady Lane, Alley next to Brenda's Diner, Alley between Spring Street and Moran Street, Western Plaza (Lot #3) and Theatre Parking Lot) in the Town of Newton, based on the Morris County Cooperative Pricing Council as outlined in the memo dated August 10, 2011, revised August 15, 2011, which is attached to and made part of this resolution; and

**WHEREAS**, in addition to the items through the Morris County Co-op, the Town Engineer has recommended additional items that are needed to complete the project that are not covered under the Morris County Co-op which are also outlined in his memo; and

**WHEREAS**, traffic control will be required for the completion of said project, which staff and costs will be supplied by the Town of Newton also outlined in the Engineer's memo:

To be awarded to Tilcon New York through the Morris County Co-op \$258,828.55

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To be awarded to Tilcon New York not covered by the Morris County Co-op	<u>\$12,570.00</u>
Total to be awarded to Tilcon New York	\$271,398.55
To be awarded to Denville Line Striping through the Morris County Co-op	\$5,341.70
To be awarded to Denville Line Striping not covered by the Morris County Co-op	<u>\$2,820.00</u>
Total to be awarded to Denville Line Striping	\$8,161.70
Total cost for Police Traffic Control (162 Man Hours @\$73.50 per hour)	\$11,907.00
<b>Total for the Paving of Various Streets Project</b>	<b>\$291,467.25</b>

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

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton, that the contract for the Proposed Resurfacing of Various Streets Project (Hillside Avenue, Overlook Road, Slate Hill Road, Shady Lane, Alley next to Brenda’s Diner, Alley between Spring Street and Moran Street, Western Plaza (Lot #3) and Theatre Parking Lot) in the Town of Newton is hereby awarded to Tilcon New York in the amount of \$271,398.55, and Denville Line Striping, Rockaway, New Jersey in the amount of \$8,161.70 based on the Morris County Cooperative Pricing Council bid results and the Town of Newton will be responsible for the cost of Police Traffic Control in the amount of \$11,907.00 with a total contract amount of \$291,467.25.

After a brief discussion, a motion was made by Mrs. Becker to approve the **RESOLUTION #179-2011**, seconded by Mr. Elvidge and roll call resulted as follows:

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

Councilman Ricciardo returned to the dais.

Upon motion Mrs. Becker, seconded by Mr. Ricciardo, that the membership application, from Louis Ratti, be **TABLED** for further review and roll call resulted as follows:

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

**INTERMISSION** - None

**DISCUSSION**

**a. Gardner Avenue Well – Dave Simmons & Paul Baldwin**

Dave Simmons, PE, Harold Pellow and Associates, Paul Baldwin, Water and

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Sewer Supervisor and Debra Millikin, Deputy Town Manager, made a presentation on the Gardner Avenue Well. Mr. Simmons outlined the history of the Gardner Avenue Well and reviewed the benefits of having it online, if necessary. It was noted that the well house, constructed in 1993, is currently not operational.

After a lengthy discussion, Council requested some cost figures prior to proceeding with a repair, an upgrade, or decommissioning of the well.

Mr. Simmons noted that he will move forward on the renewal of the water allocation permit.

**OPEN TO THE PUBLIC**

There was no one from the public to be heard.

**COUNCIL & MANAGER COMMENTS**

Councilwoman Becker commended Mr. Russo on the newly published Economic Development Commission brochure.

Councilman Ricciardo suggested that the Town prepare a Proclamation honoring the Greater Newton Chamber of Commerce for hosting their 10<sup>th</sup> Annual "Taste of Newton" event, being held on Monday, September 12, 2011.

There being no further business to be conducted, upon motion of Mr. Ricciardo, seconded by Deputy Mayor Diglio and unanimously carried, the meeting was adjourned at 9:00 pm.

Respectfully submitted,

Lorraine A. Read, RMC  
Municipal Clerk