

November 14, 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. Ricciardo, Deputy Mayor Diglio, Mayor Le Frois, Mr. Thomas S. Russo, Jr., Town Manager, and Mark Hontz, Esq., Town Attorney. Mr. Elvidge was excused.

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 and the Clerk called the roll and upon motion of Mrs. Becker, seconded by Deputy Mayor Diglio, the minutes of October 24, 2011 (Regular) meeting were approved as amended. Deputy Mayor Diglio noted that the Town Clerk's office was notified of the amendments and they were corrected accordingly.

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."

There were no comments from the public.

COUNCIL & MANAGER REPORTS

There were no Council & Manager Reports.

ORDINANCES

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

ORDINANCE 2011-21

AN ORDINANCE FOR ADOPTION OF REVISED TOWN OF NETON PERSONNEL POLICIES AND PROCEDURES MANUAL AND EMPLOYEE HANDBOOK

WHEREAS, pursuant to Newton Revised General Ordinance 4-1 the Town Council of the Town of Newton is responsible for the generation of an employee personnel guide for employees of the Town of Newton in accord with the purposes declared in Subsection 4-1.1; and

WHEREAS, the Newton Town Manager, in consultation with his Department Heads and professional consultants, has completed a comprehensive review of the Town of

Newton employee personnel guide, resulting in a new guide entitled "Town of Newton Personnel Policies and Procedures Manual and Employee Handbook," Revision Date October 2011, and has submitted said Guide to the Town Council for review and approval, a copy of which document is available for public review in the Office of the Town Clerk; and

WHEREAS, the Town Council desires to approve and adopt the aforesaid new employee personnel guide as in conformance with the purposes set forth in Code Subsection 4-1.1.

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

1. The document entitled "Town of Newton Personnel Policies and Procedures Manual and Employee Handbook," Revision Date October 2011, is approved as the personnel guide for employees of the Town of Newton, and copies thereof are to be distributed to all present Town employees per Newton Code Section 4-1 and to all new employees henceforth.

2. This Ordinance shall take effect upon its passage and publication, as provided for by law.

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

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

Mrs. Becker	Yes	Mr. Elvidge	Absent
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 2011-22

ORDINANCE REAPPROPRIATING \$95,744.02 PROCEEDS OF OBLIGATIONS NOT NEEDED FOR THEIR ORIGINAL PURPOSED IN ORDER TO PROVIDE FOR THE ACQUISITION OF A PICK-UP TRUCK WITH APPURTENANCES FOR THE DEPARTMENT OF PUBLIC WORKKS, THE PREPARATION OF A ZONING ORDINANCE MASTER PLAN, DIGITIZED TAX MAPS AND

CODIFICATION OF ORDINANCES, THE ACQUISITION OF AN AERATOR FOR ALL PARKS AND THE REPLACEMENT OF BLEACHERS AT MEMORY PARK BASEBALL FIELD FOR AND BY THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY

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

Section 1. Pursuant to N.J.S.A. 40A:2-39, it is hereby determined that \$31,000 of the proceeds of obligations originally made available pursuant to bond ordinance #2007-22 of the Town of Newton, in the County of Sussex, New Jersey (the "Town") finally adopted September 10, 2007, as amended by bond ordinance #2010-11 of the Town finally adopted August 10, 2011, is no longer necessary for the purpose of the improvement of municipal properties by the replacement of the roof of the Department of Public Works maintenance garage located on 117 Moran Street and the demolition of the storage building located on 27 Orchard Street for which the obligations previously were authorized.

Section 2. The \$31,000 described in Section 1 and made available pursuant to N.J.S.A. 40A:2-39 is hereby reappropriated to provide for the acquisition of a pick-up truck with appurtenances for the Department of Public Works.

Section 3. Pursuant to N.J.S.A. 40A:2-39, it is hereby determined that \$40,000 of the proceeds of obligations originally made available pursuant to Section 3(a) of bond ordinance #2009-9 of the Town finally adopted April 27, 2009, as amended by bond ordinance #2009-16 of the Town finally adopted June 8, 2009, is no longer necessary for the purpose of the road, sidewalk, resurfacing, milling, paving and drainage improvements for which the obligations previously were authorized.

Section 4. The \$40,000 described in Section 3 and made available pursuant to N.J.S.A. 40A:2-39 is hereby reappropriated to provide for the preparation of a Zoning Ordinance Master Plan, digitized tax maps and codification of ordinances.

Section 5. Pursuant to N.J.S.A. 40A:2-39, it is hereby determined that \$24,744.02 of the proceeds of obligations originally made available pursuant to Section 3(n) of bond ordinance #2010-7 of the Town finally adopted June 14, 2010 is no longer necessary for the purpose of parking improvements for which the obligations previously were authorized.

Section 6. \$7,000 of the \$24,744.02 described in Section 5 and made available pursuant to N.J.S.A. 40A:2-39 is hereby reappropriated to provide a supplemental appropriation to the \$15,000 appropriated in Section 3(m) of bond ordinance #2011-5 of the Town finally adopted April 25, 2011 for the acquisition of an aerator for all parks. \$17,744.02 of the \$24,744.02 described in Section 5 and made available pursuant to N.J.S.A. 40A:2-39 is hereby reappropriated to provide a supplemental appropriation to the \$30,000 appropriated in Section 3(n) of bond ordinance #2011-5 of the Town finally adopted April 25, 2011 for the replacement of bleachers at Memory Park baseball field.

Section 7. The Town hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Town is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 8. This ordinance shall take effect 20 days after the first publication thereof after final adoption.

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

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Prior to voting, Mr. Ricciardo inquired about the purchase of the aerator and questioned how often the aerator is used at the municipal parks. Mr. Russo did not have the information available but would obtain the information for Mr. Ricciardo.

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

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

Mr. Russo noted that since there was not two-thirds vote of full membership as required by State statute, the Bond Ordinance will not pass.

After a brief discussion, Mr. Ricciardo advised that he will reconsider his vote and Mayor Le Frois asked for the previous vote on Ordinance 2011-22 to be nullified.

Upon motion of Mrs. Becker, seconded by Mr. Ricciardo and carried, the previous vote was nullified and roll call resulted as follows:

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

Mayor Le Frois re-opened the hearing to the public.

Ms. Brittany Miller, 168 Spring Street, Newton, asked for an explanation of this Ordinance process, which was addressed by Mayor Le Frois.

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

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

Mrs. Becker	Yes	Mr. Elvidge	Absent
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 2011-23

AN ORDINANCE AMENDING CHAPTER 20, ZONING, AT SECTION 20-4 AND ADDING SECTION 20-5.22

WHEREAS, the Town Council of the Town of Newton has, in the interest of public health, safety and welfare and to safeguard the health, comfort, living conditions, safety and welfare of the citizens of the Town of Newton, considered the fire hazards and air pollution generated by outdoor furnaces; and

WHEREAS, outdoor furnaces typically employ smoldering fires and short smokestacks that can create heavy smoke close to the ground, creating both a nuisance and spreading particles posing a threat to the lungs and heart; and

WHEREAS, the Town Council of the Town of Newton has reviewed written materials from the United States Department of Environmental Protection, the New Jersey Department of Environmental Protection and the Sussex County Board of Health regarding the health threats posed by outdoor furnaces; and

WHEREAS, the Town Council of the Town of Newton has discussed the practical difficulties of investigating and enforcing existing New Jersey regulations on emissions from outdoor furnaces, N.J.A.C. 7:27-3, and the probable expenditure of scarce enforcement resources on the enforcement of any partial or qualified ban that could be enacted on outdoor furnaces; and

WHEREAS, the Town Council of the Town of Newton takes cognizance of the population density and comparatively small average property size of properties within the Town of Newton, which exponentially enhances the health threats of smoke from an outdoor furnace to numbers of surrounding neighbors compared to the impact of outdoor furnaces in more rural areas; and

WHEREAS, the Town of Newton notes the presence of numerous schools, nursing facilities and a hospital in close proximity to other residential and commercial properties within the Town of Newton and takes heed of the heightened health threats posed by outdoor furnaces to the higher-risk populations of said schools, nursing facilities and hospital;

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

1. Ordinance Section **20-4 Definitions** is amended by the addition of the following definition: to read in its entirety as follows:

Outdoor Furnace: Any equipment, device, appliance or apparatus, or any part thereof, which is: (a) installed, affixed or situated outdoors; (b) wood, biomass and/or pellet-fed; and (c) utilized for the purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any interior space or water source. This term includes but is not limited to wood boilers.

2. New Ordinance Section "**20-5.22 Outdoor Furnaces**" is created to read, in its entirety, as follows:

Outdoor Furnaces are prohibited in all zones. No accessory structures shall be permitted to house or enclose an Outdoor Furnace.

3. 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.

4. 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.

5. This ordinance will take effect after publication and passage 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. Ricciardo, seconded by Mrs. Becker 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	Absent
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.

OLD BUSINESS

There was no Old Business for discussion.

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."*

RESOLUTION #227-2011*

CANCEL WATER AND SEWER CAPITAL BALANCES

WHEREAS, certain Water Sewer Capital Improvement appropriation balances remain dedicated to projects now completed; and

WHEREAS, it is necessary to formally cancel said balances so that the unexpended balances may be returned to each respective Capital Improvement Fund or credited to Fund Balance, and unused debt authorizations may be canceled;

NOW, THEREFORE BE IT RESOLVED, by a majority of the full membership of the Town Council of the Town of Newton, that the following unexpended and dedicated balances of Water Sewer Capital appropriations be canceled:

<u>Ordinance Number</u>	<u>Date Auth.</u>	<u>Project Description</u>	<u>Amount Cancelled</u>	
			<u>Funded</u>	<u>Unfunded</u>
#2004-5	4/26/04	Replacement of Water and Sewer Mains (to CIF)	\$72,981.81	
#2008-9	5/28/08	Installation of an 8" Sanitary Sewer Main in the Alleyway between Spring St. & Trinity Street (to CIF)	\$19,108.64	
#2008-9	5/28/08	Clean and Re-Coat High Street Water Tank (to CIF)	\$ 357.50	
#2010-19	10/13/10	Acquisition of Hot Box (to CIF)	\$ 81.70	
		TOTAL	\$92,529.65	

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RESOLUTION #228-2011*

AUTHORIZE AN AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF TRANSPORTATION FOR THE INSTALLATION OF WAYFINDING SIGNS IN THE TOWN OF NEWTON ALONG ROUTES 206 AND 94

WHEREAS, improvements as part of the Town of Newton Circulation Plan will be made along State Route 206 and 94 in Newton; and

WHEREAS, the improvements, made by the Town, will include eleven locations along the extents of the State Routes running through Newton; and

WHEREAS, the Town will install wayfinding signs to guide motorists to downtown Newton and parking areas. The signs will consist of specific blue and white "Downtown Newton" Signs; and

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton in consideration of the mutual covenants contained herein, the Town and State agree as follows:

First, the Town agrees to:

- (a) Assume or retain jurisdiction for installation and highway maintenance of wayfinding signs, sign locations are shown on a map Entitled, "Proposed Wayfinding Sign Program," created by Level G Associates, LLC., dated July 18, 2011.

Second, the State agrees to:

- (a) Assume or retain jurisdiction for highway maintenance and highway control in those areas already under control of NJDOT.
- (b) This agreement will be binding upon executing the permit and signed by the Regional Maintenance Engineer and the Town authorized representative.

Date

Helen R. Le Frois, Mayor

Date

REGIONAL MAINTENANCE ENGINEER

RESOLUTION #229-2011*

AUTHORIZE RENEWING MEMBERSHIP IN THE STATEWIDE INSURANCE FUND

WHEREAS, a number of local units have joined together to form the Statewide Insurance Fund ("FUND"), a joint insurance fund, as permitted by N.J.S.A. 40A:10-36, *et seq.*; and

WHEREAS, the Town of Newton ("LOCAL UNIT") has complied with relevant law with regard to the acquisition of insurance; and

WHEREAS, the statutes and regulations governing the creation and operation of joint insurance funds contain elaborate restrictions and safeguards concerning the safe and efficient administration of such funds; and

WHEREAS, the LOCAL UNIT has determined that membership in the FUND is in the best interest of the LOCAL UNIT.

WHEREAS, the LOCAL UNIT agrees to be a member of the FUND for a period of three (3) years, effective from **January 1, 2012** terminating on **January 1, 2015** at 12:01 a.m. standard time; and

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WHEREAS, the LOCAL UNIT has never defaulted on claims, if self-insured, and has not been canceled for non-payment of insurance premiums for two (2) years prior to the date of this Resolution.

NOW, THEREFORE, BE IT RESOLVED, that the LOCAL UNIT does hereby agree to join the Statewide Insurance Fund; and

BE IT FURTHER RESOLVED that to the extent required by law, the LOCAL UNIT shall provide notice of the Indemnity and Trust Agreement to the Office of the State Comptroller; and

BE IT FURTHER RESOLVED that the LOCAL UNIT will be afforded the following coverage(s) as marked "Yes":

	<u>YES</u>	<u>NO</u>
Workers' Compensation & Employer's Liability	x	
Liability, Property, Crime-Faithful Performance and Fidelity, Inland Marine, Boiler and Machinery, Comprehensive General Liability, Auto Liability, Auto Physical Damages and Professional Liability	x	
Pollution Liability	x	

BE IT FURTHER RESOLVED that Thomas S. Russo, Jr. is hereby appointed as the LOCAL UNIT's Fund Commissioner and is authorized to execute the application for membership and the accompanying certification on behalf of the LOCAL UNIT; and

BE IT FURTHER RESOLVED that the LOCAL UNIT's Fund Commissioner is authorized and directed to execute the Indemnity and Trust Agreement and such other documents signifying the membership in the FUND as required by the FUND's Bylaws and to deliver same to the Administrator of the FUND with the express reservation that said documents shall become effective only upon the LOCAL UNIT's admissions to the FUND following approval of the FUND by the New Jersey Department of Banking and Insurance.

Member name: TOWN OF NEWTON

By: _____

Title: Town Manager

ATTEST:

Lorraine A. Read, RMC Municipal Clerk

Dated: _____

This Resolution agreed to the 14th day of November, 2011, by a vote of:

 Affirmative Abstain Negative Absent

RESOLUTION #230-2011*

APPOINTMENT OF KEITH MITCHELL AS RISK MANAGEMENT CONSULTANT FOR THE TOWN OF NEWTON FOR CALENDAR YEAR 2012

WHEREAS, the TOWN OF NEWTON (hereinafter "Local Unit") has joined the Statewide Insurance Fund (hereinafter "Fund"), a joint insurance fund as defined in N.J.S.A. 40A:10-36 *et seq.*; and

WHEREAS, the Bylaws require participating members to appoint a Risk Management Consultant, as those positions are defined in the Bylaws, if requested to do so by the "Fund"; and

WHEREAS, the "Local Unit" has complied with relevant law with regard to the appointment of a Risk Management Consultant; and

WHEREAS, the "Fund" has requested its members to appoint individuals or entities to that position;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of "Local Unit", in the County of Sussex and State of New Jersey, as follows:

1. The TOWN OF NEWTON hereby appoints KEITH MITCHELL as its local Risk Management Consultant.
2. The **TOWN MANAGER AND MUNICIPAL CLERK** and Risk Management Consultant are hereby authorized to execute the Risk Management Consultant's Agreement for the year 2012 in the form attached hereto.

Attest:

Town of Newton

Lorraine A. Read, R.M.C., Municipal Clerk

By: _____
Helen R. Le Frois, Mayor

RESOLUTION #231-2011*

APPROVE CHANGE ORDER NO. 1 FOR DENVILLE LINE STRIPING PORTION OF THE PAVING OF VARIOUS STREETS PROJECT

WHEREAS, the Town Council of the Town of Newton authorized a contract for the Paving of Various Streets Project to Tilcon New York, Inc., and Denville Line Striping in the amount totaling \$271,398.55 by Resolution #179-2011, which was adopted on August 22, 2011; and

WHEREAS, as part of the above project Denville Line Striping was awarded the line striping portion of the project in the amount of \$8,161.70; and

WHEREAS, the Town Council approved Change Order No. 1 for Tilcon's portion of the project by the adoption of Resolution #198-2011 on September 14, 2011 reducing their portion of the project by \$11,487.18; and

WHEREAS, Harold E. Pellow & Associates, Inc., the Engineer has prepared Change Order No. 1 for Denville Line Striping's portion said project, and recommends approval of the following:

<u>Denville Line Striping</u>	<u>Amount</u>
<u>Change Order No. 1</u>	
<i>Extra</i>	\$1,623.72
<i>Reduction</i>	<u>(\$1,515.42)</u>
Total Change	\$108.30

WHEREAS, the adjusted contract amount for Change Order No. 1 will increase Denville Line Striping's portion by \$108.30 to the new contract subtotal total of \$8,270.00;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that it hereby approves Change Order No. 1 for Denville Line Striping portion of the Paving of Various Streets Project based on the recommendation of the Town Engineer, and that the Mayor is authorized to execute Change Order No. 1 for Denville Line Striping resulting in a new contract subtotal of \$8,270.00; and

BE IT FURTHER RESOLVED that a copy of the Change Order prepared by the Engineer detailing the change order be attached and made part of this resolution.

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RESOLUTION #233-2011*

**AUTHORIZE EXECUTION OF AGREEMENT BETWEEN THE TOWN OF NEWTON AND THE
NEWTON PARKING AUTHORITY**

WHEREAS, on January 15, 1982, the Town Council of the Town of Newton adopted an Ordinance authorizing the execution of an agreement with the Newton Parking Authority for the purpose of dedicating revenue from certain parking meters to said Parking Authority; and

WHEREAS, such agreements between governmental agencies and authorities may be extended each year by adoption of a Resolution of the Governing Body; and

WHEREAS, at a regular meeting of the Newton Parking Authority conducted on November 3, 2011, the members of the Authority approved an appropriate agreement for calendar year 2012 and authorized the Chairman and the Secretary to execute said agreement;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the Mayor and the Municipal Clerk are hereby authorized to execute said agreement with the Newton Parking Authority, dedicating revenue from certain parking meters to said Authority and describing certain services to be performed on behalf of the Authority by the Town of Newton during calendar year 2012.

RESOLUTION #234-2011*

**APPOINTMENT OF MUNICIPAL AUDITOR FOR THE TOWN OF NEWTON FOR CALENDAR YEAR
2012**

WHEREAS, the Town of Newton has a need to acquire auditing services as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.4; and

WHEREAS, the anticipated term of this contract is for calendar year 2012; and

WHEREAS, auditing service is a professional service as defined by the Local Public Contracts Law and is, therefore, exempt from public bidding requirements in accordance with N.J.A.C. 40A:11-5(1)(a)(i); and

WHEREAS, Ferraioli, Wielkotz, Cerullo & Cuva, P.A. has submitted a proposal dated October 25, 2011 indicating they will provide the auditing services for \$24,480.00; and

WHEREAS, Ferraioli, Wielkotz, Cerullo & Cuva, P.A. has completed and submitted a Business Entity Disclosure Certification which certifies that Ferraioli, Wielkotz, Cerullo & Cuva, P.A. has not made any reportable contributions to a political or candidate committee in the Town of Newton in the previous one year, and that the contract will prohibit the Ferraioli, Wielkotz, Cerullo & Cuva, P.A. from making any reportable contributions through the term of the contract; and

WHEREAS, the Chief Financial Officer has certified that funds are available to support an agreement with Ferraioli, Wielkotz, Cerullo & Cuva, P.A. in an amount of \$24,480.00;

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Newton authorizes the Mayor to enter into a contract with Ferraioli, Wielkotz, Cerullo & Cuva, P.A. as described herein; and

BE IT FURTHER RESOLVED, that the Business Disclosure Entity Certification and the Determination of Value be attached and filed with this resolution; and

BE IT FURTHER RESOLVED, that notice of this action shall be published once in the New Jersey Herald.

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RESOLUTION #235-2011*

AUTHORIZE EXECUTION OF AN AGREEMENT FOR AUDITING SERVICES FOR THE REVIEW OF STATEMENT OF ASSETS AVAILABLE FOR BENEFITS FOR (LOSAP) WITH FERRAIOLI, WIELKOTZ, CERULLO & CUVA

WHEREAS, the Town of Newton will require the services of a qualified Auditor to examine the Statement of Net Assets Available for Benefits for the Town of Newton's Emergency Services Volunteer Length of Service Award Program (LOSAP) as of December 31, 2011; and

WHEREAS, auditing service is a professional service as defined by the Local Public Contracts Law and is, therefore, exempt from public bidding requirements in accordance with N.J.A.C. 40A:11-5(1)(a)(i); and

WHEREAS, Mr. Thomas M. Ferry, RMA of the accounting firm Ferraioli, Wielkatz, Cerullo & Cuva, PA has furnished an appropriate contract for said services for a maximum contract amount of \$1,500.00; and

WHEREAS, Ferraioli, Wielkatz, Cerullo & Cuva, PA has completed and submitted a Business Entity Disclosure Certification with certifies that said firm has not made any reportable contributions to a political or candidate committee in the Town of Newton in the previous one year, and the contract will prohibit the firm from making any reportable contributions through the term on the contract; and

WHEREAS, the anticipated term of this contract is for calendar year 2012;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the Mayor, the Town Manager and the Treasurer are hereby authorized to execute a contract on behalf of the municipality for review of their LOSAP Statement of Net Assets Available for Benefit and said contract will remain on file in the Municipal Clerk's office; and

BE IT FURTHER RESOLVED, that a copy of the fully executed contract be forwarded to Mr. Thomas Ferry, and that a notice of this award be published in accordance with the Local Public Contracts Law.

RESOLUTION #236-2011*

APPROVE CHANGE ORDER NO. 1 FOR THE PURCHASE OF PIPES AND FITTINGS FOR THE MERRIAM AVENUE WATERMAIN PROJECT

WHEREAS, the Town Council of the Town of Newton authorized a contract for the Purchase of Watermain Pipes and Fittings for the Merriam Avenue Watermain Project to Brent Material Company in the amount of \$209,301.90 by Resolution #108-2011, which was adopted on May 23, 2011; and

WHEREAS, Harold Pellow & Associates, Inc., the Engineer for the project has prepared Change Order No. 1 for said project, and recommends approval of the following:

<u>Change Order No. 1</u>	<u>Amount</u>
<i>Extra</i>	\$1,585.00
<i>Supplemental</i>	\$2,177.06
<i>Reduction</i>	<u>(\$11,535.86)</u>
Total Change	<u>(\$7,773.80)</u>

WHEREAS, the adjusted contract amount will be decreased by \$11,535.86 by Change Order No. 1 to the new contract total of \$201,528.10;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton

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that it hereby approves Change Order No. 1 for the Purchase of Watermain Pipes and Fittings for the Merriam Avenue Watermain Project based on the recommendation of the Town Engineer, and that the Mayor is authorized to execute Change Order No. 1 resulting in a new contract total of \$201,528.10; and

BE IT FURTHER RESOLVED that a copy of the Change Order prepared by the Engineer detailing the change order be attached and made part of this resolution.

RESOLUTION #237-2011*

AUTHORIZE CREDITS DUE WATER AND SEWER UTILITY ACCOUNTS

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

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

Payment Charged to Incorrect Account

<u>Account</u>	<u>Address</u>	<u>Amount</u>
19594	136 Water Street	(\$75.00)
1420	50 Water Street	\$75.00

Delinquent Penalty Erroneously Applied

<u>Account</u>	<u>Address</u>	<u>Amount</u>
1420	50 Water Street	\$7.50

RESOLUTION #238-2011*

APPROVE 2011 APPROPRIATION TRANSFERS

BE IT RESOLVED, by the Town Council of the Town of Newton that the following 2011 appropriation transfers be approved effective this date:

<u>From</u>	<u>To</u>	<u>Amount</u>
<u>CURRENT</u>		
Finance OE 1054226	Audit Services OE 1054300	\$2,040.00
First Aid Contribution OE 1076200	Vehicle Maintenance 1083371	1,000.00
Swimming Pool SW 1090101	Snow SW 1081102	6,700.00
Snow OE 1081239	Snow SW 1081102	1,500.00
Swimming Pool SW 1090101	Parks & Playgrounds OE 1091232	3,600.00
TOTAL CURRENT TRANSFERS		\$14,840.00

RESOLUTION #239-2011*

AUTHORIZE REFUND OR REDEMPTION MONIES TO OUTSIDE LIEN HOLDER FOR BLOCK 1003, LOT 16

WHEREAS, at the Municipal Tax Sale held on October 19, 2011 a lien was sold on Block 1003, Lot 16, also known as 178 Main Street, for 2010 delinquent taxes; and

WHEREAS, this lien, known as Tax Sale Certificate #1361, was sold to US Bank cust for Pro Capital I, LLC for 0% redemption fee with a premium of \$500.00; and

WHEREAS, Thomas P. Osborn, the owner of said property, has effected the redemption of Certificate #1361 in the amount of \$1,983.99;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that this Governing Body acknowledges that US Bank cust for Pro Capital I, LLC is entitled to a redemption in the amount of \$1,983.99 as well as the premium of \$500.00; and

BE IT FURTHER RESOLVED, that the Tax Collector be authorized to issue two checks, one in the amount of \$1,983.99 for the redemption of Certificate #1361 and one for the premium of \$500.00 to US Bank cust for Pro Capital I, LLC, 50 So. 16th Street, Suite 1950, Philadelphia, PA 19102.

RESOLUTION #240-2011*

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

198.00	VOID	29341
19,124.01	Neil Casey	29427
200.00	Treasurer, Petty Cash Fund	29428
64.94	Quill Corporation	29429
229.98	Staples Credit Plan	29430
635.49	E.A. Morse & Company	29431
4,185.37	Montague Tool & Supply	29432
184.00	M G L Printing Solutions	29433
375.00	Municipal Software	29434
93.75	Sussex Car Wash, Inc.	29435
207.00	Classic Auto Upholstery	29436
1,968.31	G & G Diesel Service Inc.	29437
12,661.42	JCP&L	29438
390.00	B & G Elevator Inc.	29439
35.00	Centurylink Communications, Inc.	29440
3,654.00	Hollander, Strelzik, Pasculli, Hinkes	29441
695,9911.20	County of Sussex	29442
18,441.28	County of Sussex	29443
50,296.17	County of Sussex	29444
1,754.65	Campbell's Small Engine	29445
50.00	First United Methodist Church	29446
2,850.00	Ferraioli, Cerullo & Cuva	29447
200.00	JRF Tire Inc.	29448
150.00	Willco, Inc.	29449
674.54	Vital Computer Resources, Inc.	29450
60.00	NJLM	29451
160.00	Newton Trophy	29452
173.50	Galls Incorporated	29453
150.97	Sebring Auto Parts	29454
1,270.00	Rutgers Continuing Educ Cook College	29455
263.72	Sherwin-Williams	29456
615.28	Dempsey Uniform & Supply Inc.	29457
26,959.97	International Salt	29458

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150.00	Greater Newton Chamber of Commerce	29459
112.15	Airgas East	29460
57.70	Sirchie Finger Print Labs	29461
2,594.83	Boonton Tire Supply	29462
1,407.71	McGuire	29463
807.32	Vision Service Plan	29464
190.32	Verizon Wireless	29465
1,735.00	Accurate Door, Inc.	29466
59.13	Petro-Mechanics, Inc.	29467
380.00	North Jersey Portable Toilets	29468
2,788.27	Dell Marketing L.P.	29469
1,247.96	Walmart	29470
201.00	Cooper Electric Supply Co.	29471
791.00	Danforth's Trailer & Auto, Inc.	29472
138.72	Teresa Ann Oswin	29473
13.35	Vogel, Chait, Collins, Schneider, PC	29474
173.30	Advance Auto Parts	29475
43.66	Carquest	29476
423.50	Rogo Fastener Co., Inc.	29477
390.00	Scott Sorensen	29478
107.87	Lab Safety Supply Inc.	29479
455.00	Scarinci & Hollenbeck, LLC	29480
95.37	Paint Spot	29481
2,254.82	Staples Business Advantage	29482
10,780.00	First Hope Bank	29483
4,759.00	Trane	29484
330.95	Lowe's	29485
46.73	Nestle Waters	29486
269.94	Simon Peter Sport	29487
5,476.15	Rachles/Michele's Oil Company	29488
7,321.40	Taylor Oil Co.	29489
723.00	Firefighter One	29490
168.00	Jersey Central Power & Light	29491
800.00	Porter Lee Corporation	29492
4,007.83	Knapp, Trimboli & Prusinowski, LLC	29493
107,927.27	NJMEBF	29494
1,770.00	Chelbus Cleaning Co., Inc.	29495
3,569.50	Direct Energy Business	29496
120.00	Kiwanis Club of Newton	29497
20.60	Action Data Services, Inc.	29498
620.05	Harter Equipment, Inc.	29499
383.36	Button Sling Inc.	29500
262.15	SCCW	29501
556.34	Eas by Ads	29502
54.80	Go2Guides, LLC	29503
50.00	Steve Vannieuwland	29504
968.11	Bucket Supply & Equipment Parts	29505
85.00	NJ Motor Vehicle Services	29506
183,317.60	Payroll Account	29507
162.00	Electronic Fees – W/S	29508
150.00	Town of Newton Electronic Fees	29509
188,879.86	Payroll Account	29510

CAPITAL

1,000.00	VOID	7672
300.00	NJ Dept. of Transportation	7811
180.00	Hollander, Strelzik, Pasculli, Hinkes	7812
403.10	McManimon & Scotland	7813
1,226.88	Carpet Gallery	7814
291.50	Pinnacle Wireless, Inc.	7815
8,104.60	Denville Line Painting, Inc.	7816
2,550.00	Guide Rite Highway Steel	7817
82,765.51	Brent Material Company	7818

Total TOWN BILLS \$1,478,810.76

WATER AND SEWER ACCOUNT

17.98	Quill Corporation	12506
1,817.25	Montague Tool & Supply	12507
1,217.05	MWH Americas, Inc.	12508
6,486.92	JCP&L	12509
8,150.00	Pumping Services	12510
120.25	Sussex County Plumbing	12511
14.00	Paul M. Havens	12512
12,026.08	Coyne Chemical Corp., Inc.	12513
125.85	Centurylink Communications, Inc.	12514
324.00	Hollander, Strelzik, Pasculli, Hinkes	12515
64.24	Rowe & Company, Inc.	12516
147.50	D & E Service Center	12517
542.00	Lock & Key World	12518
29.00	Allied Meter Service Inc.	12519
3,150.00	Ferraioli, Cerullo & Cuva	12520
1,241.00	Mitchell Agency	12521
759.44	Lubrication Engineers, Inc.	12522
16,517.65	Weldon Asphalt Company	12523
135.45	Airgas East	12524
14.00	Ervin Lasso	12525
1,636.88	Limecrest Quarry Developers	12526
163.92	Vision Service Plan	12527
2,027.95	Univar USA Inc.	12528
4,590.00	Passaic Valley Sewerage Comm.	12529
1,558.88	Main Pool & Chemical Company	12530
925.46	Tilcon New Jersey	12531
79.00	Water Environment Federation	12532
25.00	Performance Trailers, Inc.	12533
542.61	Ryan Herco Flow Solutions	12534
15,957.35	NJMEBF	12535
3,850.70	Direct Energy Business	12536
2,534.97	Capital Supply Const. Products, Inc.	12537
19.90	Skylands Sport Shop	12538
666.00	A.P. Certified Testing LLC	12539
29,658.31	Payroll Account	116034
26,111.00	U.S.D.A./FHA	116035
65,429.00	U.S.D.A./FHA	116036
30,040.58	Payroll Account	116037

Total WATER & SEWER BILLS \$238,717.17

TRUST ACCOUNT

209.50	Annmarie M. Sciascia	2942
167.08	Bears Landscaping	2943
72.00	Hollander, Strelzik, Pasculli, Hinkes	2944
110.07	Newton Trophy	2945
902.00	Harold Pellow & Assoc., Inc.	2946
313.07	Scott Nause	2947
680.00	Seely Brothers	2948
750.00	Vogel, Chait, Collins, Schneider, PC	2949
405.00	Vogel, Chair, Collins, Schneider, PC	2950
693.00	Payroll Account	117120
1,551.00	Payroll Account	117121

Total TRUST ACCOUNT BILLS \$5,852.72

FEDERAL STATE GRANT ACCOUNT

968.08 Barco Products 1076

Total FEDERAL STATE GRANT ACCOUNT BILLS \$968.08

SUI ACCOUNT

3,720.00 S/NJ Employer Accounts 1073

Total SUI ACCOUNT BILLS \$3,720.00

RESOLUTION #241-2011*

AUTHORIZE EXECUTION OF A SHARED SERVICES AGREEMENT FOR ANIMAL CONTROL AND POUND SERVICES WITH THE TOWNSHIP OF WANTAGE COVERING CALENDAR YEAR 2012

WHEREAS, the Town of Newton desires to enter into a shared service agreement with the Township of Wantage animal control and pound services; and

WHEREAS, the annual fee for the year 2012 is \$15,500; and

WHEREAS, sufficient funds have been appropriated in the Town of Newton Operating Budget for calendar year 2012 for said services;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that the Mayor and the Municipal Clerk are hereby authorized to execute an agreement for animal control and pound services, in duplicate, with the Township of Wantage for calendar year 2012; and

BE IT FURTHER RESOLVED that a copy of said agreement shall be placed on file in the Municipal Clerk’s office and available for public viewing.

Mr. Ricciardo asked that Resolution #232-2011 be pulled for separate discussion

A motion was made by Mr. Ricciardo to approve the **COMBINED ACTION RESOLUTIONS**, minus Resolution #232-2011, seconded by Mrs. Becker and roll call resulted as follows:

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

Mark Hontz, Esq. addressed questions from Mr. Ricciardo regarding Resolution #232-2011. Mr. Ricciardo expressed concern with regard to receiving the voluminous documents on Resolution #232-2011 only two days prior to a Council meeting. Mr. Russo advised that he will ensure that Council receives large documents via email as soon as they are received at Town Hall.

RESOLUTION #232-2011

AUTHORIZING THE EXECUTION OR ACKNOWLEDGEMENT AND DELIVERY OF CERTAIN AGREEMENTS AND CERTAIN OTHER ACTIONS TO BE TAKEN ALL IN CONNECTION WITH THE MORRIS COUNTY IMPROVEMENT AUTHORITY’S COUNTY OF SUSSEX GUARANTEED RENEWABLE ENERGY PROGRAM LEASE REVENUE BONDS (COUNTY OF SUSSEX PROGRAM), SERIES 2011 (FEDERALLY TAXABLE)

WHEREAS, the County of Sussex, New Jersey, a political subdivision of the State (the "*County*") desires to undertake the development and implementation of a renewable energy program (the "*Renewable Energy Program*") for the financing, design, permitting, acquisition, construction, installation, operation and maintenance of renewable energy capital equipment and facilities such as solar panels, wind turbines, and hydro-electric, bio-diesel, geothermal, and bio-mass facilities, including any related electrical modifications, work related to the maintenance of roof warranties, or other work required, desirable or convenient for the installation of such systems (collectively, the renewable energy capital equipment and facilities, the "*Renewable Energy Projects*") for and on behalf of the County and its affiliates, and the local governmental units within the County, including without limitation municipalities, boards of education for school districts, local authorities and any other local government instrumentalities, public bodies or other local government entities (collectively, including the County, the "*Local Units*"); and

WHEREAS, the Morris County Improvement Authority (the "*Authority*") has been duly created by resolution no. 42 entitled "Resolution of the Board of Chosen Freeholders of Morris County, New Jersey creating the Morris County Improvement Authority" duly adopted by the Board of Chosen Freeholders (the "*Morris County Board of Freeholders*") of the County of Morris (the "*Morris County*") in the State of New Jersey (the "*State*") on April 10, 2002 as a public body corporate and politic of the State pursuant to and in accordance with the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40:37A-44 *et seq.*, the "*Act*"), and other applicable law; and

WHEREAS, as of the date hereof, the County has not created its own county improvement authority, and therefore pursuant to the Act, the County may determine to utilize the services of another county improvement authority, including without limitation the Authority, with the consent of both the County, a beneficiary county under the Act, and the Morris County Board of Freeholders, for any purpose for which an improvement authority shall exist, including those set forth in Section 11 of the Act (N.J.S.A. 40:37A-54, "*Section 11*"), which purposes include the development and implementation of the Renewable Energy Program; and

WHEREAS, the County desires to implement the Renewable Energy Program through the Authority pursuant to the Act, the Uniform Shared Services and Consolidation Act, constituting Chapter 63 of the Pamphlet Laws of 2007 of the State, and the acts amendatory thereof and supplemental thereto (as codified at N.J.S.A. 40A:65-1 *et seq.*, the "*Shared Services Act*"), and all other applicable law, the terms of which agreement has been set forth in that certain "Service Agreement (Sussex County Renewable Energy Program)" dated as of March 1, 2011 (as amended and supplemented from time to time in accordance with its terms, the "*Service Agreement*") between the County and the Authority, and consented to by Morris County; and

WHEREAS, the County has determined to enter into the Service Agreement and utilize the services of the Authority and the Authority Consultants (as hereinafter defined) for the following primary reasons: (i) the County does not have a county improvement authority, which type of entity possesses legal authority to enter into the kind of transactions that make a successful regional Renewable Energy Program more likely to succeed, (ii) Morris County has developed and implemented its own renewable energy program through the Authority, which Authority has retained (in accordance with all applicable law) experienced legal, engineering, energy consulting, and financial advisory consultants, consisting of the Authority's energy engineering and energy service consulting firms, Birsdall Services Group and Gabel Associates, its energy counsel and bond counsel, Inglesino, Pearlman, Wyciskala & Taylor, LLC, and its financial advisor, NW Financial Group, LLC, (collectively, the "*Authority Consultants*") and (iii) accordingly, it is more administratively efficient for the County to utilize the services of the Authority and the Authority Consultants to implement the Renewable Energy Program, with such changes as desired by the County, rather than incur the time and expense of the County establishing a new program; and

WHEREAS, in addition, Sussex County may determine, but shall not be required, to seek the assistance of its auditor, financial advisor, if any, bond counsel, energy consultant, engineer or any other professional advisors deemed necessary, desirable and convenient by Sussex County (the "*Sussex County Consultants*", if any, and together with the Authority Consultants, the "*Consultants*"; to the extent Sussex County determines not to hire any Sussex County Consultants, references to the term Consultants herein shall be deemed to mean the Authority Consultants) to assist the Authority, the County and the Authority Consultants in connection with the Renewable Energy Program; and

WHEREAS, the Renewable Energy Projects procured under the Renewable Energy Program, limited initially to solar panels, are to be installed on, in, affixed or adjacent to and/or for any other Local Unit controlled buildings, other structures, lands or other properties of the Local Units (collectively, the "*Local Unit Facilities*"); and

WHEREAS, it may be necessary, desirable or convenient, in connection with the financing, design, permitting, acquisition, construction, installation, operation and maintenance of the Renewable Energy Projects, to finance, design, permit, acquire, construct, renovate and install certain capital improvements to the Local Unit Facilities, including without limitation, improvements to or replacement of, roofing systems, if any (the "*Capital Improvement Projects*" and together with the Renewable Energy Projects and any Completion Project as defined in the hereinafter defined Bond Resolution, the "*Projects*"), and to the extent no Capital Improvement Projects are so financed, references herein shall have no meaning; and

WHEREAS, the primary goal of the Renewable Energy Program is to expand the use of renewable energy sources available and utilized by the Local Units for their Local Unit Facilities, with the attendant environmental and financial benefits associated thereby, and to reduce the energy related operating costs to the Local Units for their Local Unit Facilities, all intended to be offered at no net cost to the Local Units; and

WHEREAS, in order to implement the Renewable Energy Program, the Authority has determined to finance the respective Renewable Energy Projects and Capital Improvement Projects, if any, on, in or about the respective Local Unit Facilities, all as set forth on Exhibits B, C, and A to the hereinafter defined Local Unit License Agreement for each of the following participating Local Units:

- (i) Fredon Township, Green Township and Town of Newton (collectively, the "*Municipal Series 2011 Local Units*"); and
 - (ii) Byram Township School District, Frankford Board of Education, Franklin Borough Board of Education, Hardyston Township Board of Education, High Point Regional Board of Education, Kittatinny Regional School District, Lafayette Township Board of Education, Lenape Valley Board of Education, Newton Board of Education (collectively, the "*Board of Education Series 2011 Local Units*"); and
 - (iii) County and Sussex County Technical School (the "*County Series 2011 Local Units*");
- (each a "*Series 2011 Local Unit*", and together with any additional local governmental units within the County that might be added by the Authority to the Renewable Energy Program, pursuant to the hereinafter defined Local Finance Board Application or otherwise, collectively, the "*Series 2011 Local Units*"), through the issuance by the Authority of one or more series of bonds and notes entitled "County of Sussex Guaranteed Renewable Energy Program Lease Revenue [Notes] Bonds (County of Sussex Program), Series 2011 (Federally Taxable)" dated their date of delivery, Outstanding (as defined in the Bond Resolution upon issuance) in the aggregate principal amount (including Sinking Fund Installments, if any, as such term is defined in the Bond Resolution) not to exceed \$50,000,000 (the "*Series 2011 Bonds*"); and

WHEREAS, pursuant to N.J.S.A. 40:37A-77 of the Act, N.J.S.A. 40A:65-4 of the Uniform Shared Services and Consolidation Act (as amended and supplemented from time to time, the "*Shared Services Act*") and other applicable law, upon or prior to the issuance of the Series 2011 Bonds, the Authority shall have entered into a "License and Access Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the first series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with

its terms, each agreement shall constitute a "*Local Unit License Agreement*", and collectively, the "*Local Unit License Agreements*") with each Series 2011 Local Unit, including the Participant, that would, among other things, provide the Authority and/or its assignees the right and obligation to (i) access the Local Unit Facilities of each such Series 2011 Local Unit, most particularly their roofs and electrical systems (the "*Local Unit License*"), (ii) finance, design, permit, acquire, construct, install, operate and maintain the Renewable Energy Projects for a term of fifteen (15) years on, in, affixed or adjacent to, or for the benefit of such Local Unit Facilities, (iii) receive the right to the renewable energy produced from the Renewable Energy Projects financed by the Series 2011 Bonds, and (iv) sell all or a portion of the renewable energy produced from such Renewable Energy Projects through the Authority to the respective Series 2011 Local Units, pursuant to an assignment (under each Local Unit License Agreement) from the Authority to the Series 2011 Local Units of the Power Purchase Agreement (as hereinafter defined), the terms of which Power Purchase Agreement could be entered into directly by the Series 2011 Local Units under N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law (for the municipality/County Series 2011 Local Unit) and under N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law (for the board of education Series 2011 Local Units); and

WHEREAS, pursuant to (i) N.J.S.A. 40A:11-4.1(k) of the Local Public Contracts Law, (ii) Local Finance Board Notice 2008-20, December 3, 2008, *Contracting for Renewable Energy Services*, (iii) the Board of Public Utilities ("*BPU*") protocol for measuring energy savings in PPA agreements dated February 20, 2009 (*Public Entity Energy Efficiency and Renewable Energy Cost Savings Guidelines*), (iv) Local Finance Board Notice 2009-10 dated June 12, 2009, *Contracting for Renewable Energy Services: Update on Power Purchase Agreements*, (v) all other applicable law, and (vi) pursuant to a competitive contracting process governed thereby, the Authority selected Sunlight General Sussex Solar, LLC, as solar developer (the "*Company*") to implement the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, at the Local Unit Facilities; and

WHEREAS, upon or prior to the issuance of the Series 2011A Bonds, the Authority and the Company shall enter into that certain "Power Purchase Agreement (Sussex County Renewable Energy Program, Series 2011)" to be dated as of the first day of the month of issuance of the initial series of Series 2011 Bonds (as the same may be amended or supplemented from time to time in accordance with its terms, the "*Power Purchase Agreement*"), which Power Purchase Agreement shall, among other things, obligate the Company to develop the Renewable Energy Projects for the Series 2011 Local Units, including the Participant, on their Local Unit Facilities, and combined with the Local Unit License Agreement, provide for the sale of the electricity produced by the Renewable Energy through the Authority to the Series 2011 Local Units, including the Participant, Projects at a fixed price, plus fixed escalation, set forth in the Power Purchase Agreement (the "*PPA Price*"), all as authorized pursuant to N.J.S.A. 40:37A-77 and -78 of the Act, N.J.S.A. 40A:65-4 of the Shared Services Act, N.J.S.A. 40A:11-15(45) of the Local Public Contracts Law and N.J.S.A. 18A:18A-42(o) of the Public Schools Contracts Law, and the guidelines applicable to such contracts promulgated by the State Board of Public Utilities;

NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWN OF NEWTON (THE "PARTICIPANT"), IN THE COUNTY OF SUSEX, NEW JERSEY, as follows:

Section 1. The Participant's Renewable Energy Projects and the financing of the Participant's Renewable Energy Projects through the Local Unit License Agreement, the Power Purchase Agreement, the resolutions and agreements in connection with the Series 2011 Bonds, and the other Renewable Energy Program documents, is hereby approved.

Section 2. The Mayor, the Municipal Clerk, and the Town Manager (collectively, the "*Authorized Officer*") are hereby each severally authorized and directed to execute or acknowledge, as the case may be, and deliver (i) the Local Unit License Agreement for the Participant and the Power Purchase Agreement to be acknowledged by the Participant, both in substantially the forms attached hereto as Exhibit A, with such changes thereto as the Authorized Officer deems in their sole discretion to be necessary, desirable or convenient for the execution thereof and to

consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of any changes to the forms. The Authorized Officer is hereby further authorized and directed to execute such other closing certificates (the "*Closing Certificate*") deemed necessary, desirable or convenient for the execution thereof and to consummate the transactions contemplated hereby, which execution thereof shall conclusively evidence the Authorized Officer's approval of the provisions and form of such Closing Certificate, which shall include without limitation, (x) the PPA Price, including escalation, (y) affirming that the PPA Price is less than the exiting tariff paid by the Participant for electricity, and (z) that Participant has received a copy of the report of the Authority's energy engineering consultant regarding the selection of the Company and the establishment of the PPA Price.

Section 3. The Secretary and any Assistant Secretary of the Participant are each hereby severally authorized and directed, upon the execution or acknowledgment of the documents set forth in Section 2 hereof: to attest to the Authorized Officer's execution or acknowledgment of such documents and is hereby further authorized and directed, when required by the Authority, to thereupon affix the seal of the Participant to such documents.

Section 4. Upon the execution or acknowledgment and attestation of and if required, the placing of the seal on the documents set forth in Section 2 hereof as contemplated by Sections 2 and 3 hereof the Authorized Officer is hereby authorized and directed to (i) deliver such fully executed or acknowledged, attested and sealed Local Unit License Agreement of the Participant to the other parties thereto and (ii) perform such other actions as the Authorized Officer deems necessary, desirable or convenient in relation to the execution and delivery thereof.

Section 5. The governing body of the Participant hereby authorizes the performance of any act, the execution or acknowledgment and delivery of any other document, instrument or Closing Certificates, including without limitation any solar renewable energy certificate auction or other applications or documents, which the Authorized Officer deems necessary, desirable or convenient in connection with this contemplated transaction, and the governing body of the Participant hereby directs the Authorized Officer. to execute or acknowledge, attest and affix (or cause the attestation or affixation of) the seal to any such documents, instruments or Closing Certificates, the authorization of which actions shall be conclusively evidenced by the execution or acknowledgment, attestation, affixation and delivery, as the case may be, thereof by such persons.

Section 6. This resolution shall take effect immediately.

Section 7. Upon the adoption hereof, a certified copy of this resolution shall be forwarded to John H. Eskilson, County Administrator, John Bonanni, Morris County Administrator and Chairperson of the Authority, Dennis R. McConnell, Esq., County Counsel and Stephen B. Pearlman, Esq., Counsel to the Authority, all of which may be sent as a single certified copy to the offices of Authority Counsel, attention David Wainger, Paralegal at dwainger@landplaw.com followed by the original to David Wainger at Inglesino, Pearlman, Wyciskala & Taylor, LLC, 600 Parsippany Road, Suite 204, Parsippany, New Jersey 07054-3715.

A motion was made by Mrs. Becker to approve the Resolution #232-2011, seconded by Deputy Mayor Diglio and roll call resulted as follows:

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

INTERMISSION (None)

DISCUSSION

a. **Professional Services 2012**

Mr. Russo provided Council with a list of Town of Newton professionals who are currently serving the Town of Newton. Mr. Russo suggested that Council do an RFP/RFQ on all the professionals who work for the Town as a best practice policy. Mr. Russo noted that he split the list into two sections, noting that six professionals could be completed for 2012 and six completed for 2013.

Mr. Hontz explained the difference between an RFP (Request for Proposals) and an RFQ (Request for Qualifications).

Mrs. Milliken recommended that the Town go through the RFP process which requires an evaluation committee to review all submitted proposals. Mr. Russo noted that the committee would consist of the Town Manager, Qualified Purchasing Agent, Chief Financial Officer, Mayor, and Deputy Mayor. It was noted that the Licensed Sewer Operator, the Water Supervisor, DPW Director, and the Tax Assessor will attend the RFP meetings, when required.

After a brief discussion, Council unanimously agreed to go out for RFP for Town Engineer; Water & Sewer Engineer; Specific Water & Sewer Engineer; Environmental Engineer; Town Planner; and Appraiser for calendar year 2012. Upon motion of Mr. Ricciardo, seconded by Mrs. Becker to approve the RFP process for 2012 and roll call resulted as follows:

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

OPEN TO THE PUBLIC

Roxanne Piccoli, 168 Spring Street, addressed Council with several questions regarding the Council meeting process. Miss Piccoli advised that she is not familiar with the Council meeting process and inquired about several resolutions on the consent agenda. Mayor Le Frois addressed Miss Piccoli's questions regarding the Council meeting process and reviewed several resolutions to her satisfaction.

Mrs. Thea Unhoch, 17 Condit Street, inquired about whose responsibility it is to re-stripe the handicapped parking space in front of St. Joseph Church and was advised

that it would be the Town's responsibility. Mr. Russo will direct our Public Works Department to review same.

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

COUNCIL & MANAGER COMMENTS

Mr. Russo directed Mr. Hontz to update Council on the Main Street Newton (MSN) organization. Mr. Hontz advised that MSN has received verbal approval to officially dissolve this group but is still required to have an official meeting, which has not happened to date.

Mr. Russo advised that there will be no packet this Friday but the weekly newsletter will be emailed to each Councilmember and staff member.

Mr. Russo discussed with the Governing Body his recommendation for non-union employees to receive a retroactive increase for 2011. After a brief discussion, Council approved a 2 % increase for approximately 17 full-time non-union & salaried employees.

Mr. Russo noted that the Newton Municipal Building will be closed on Thursday and Friday, November 24th and 25th in observation of the Thanksgiving Holiday. Mr. Russo suggested closing Town Hall at 3:00 p.m. on Wednesday, November 23, 2011 and had no objections from the Town Council.

Councilman Ricciardo inquired whether Mr. Russo's office could date stamp the documents sent to the Governing Body and was advised that Mr. Russo will instead forward the large documents for Council's review via email. Mr. Ricciardo advised Council that he will be on vacation and will not be at the next Council meeting.

Mayor Le Frois announced that the annual Senior Holiday Luncheon will be held on Sunday, December 4, 2011 at 12:30 p.m. at the Newton High School. Mayor Le Frois announced two events to be sponsored by the Newton Fire Department: January 1, 2012 - Swearing-in Ceremony of the new Officer's and April 7, 2012 - Annual Firemen's Dinner.

Deputy Mayor Diglio inquired who from the Town Council will be attending the annual Holiday Parade to be held on Saturday, November 26th and was advised that Mayor Le Frois; Councilwoman Becker; and the Town Manager will be in attendance. Mayor Le Frois also advised that Council has been invited to a dinner on Tuesday,

November 14, 2011

November 29, 2011 to launch a holiday campaign to reduce underage drinking in Sussex County.

There being no further business to be conducted, upon motion of Mrs. Becker, seconded by Deputy Mayor Diglio and unanimously carried, the meeting was adjourned at 7:55 pm.

Respectfully submitted,

Lorraine A. Read, RMC
Municipal Clerk