

July 9, 2012

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, Mr. Flynn, Mayor Diglio, Thomas S. Russo, Jr., Town Manager, and William Hinkes, Esq., Town Attorney.

Mayor Diglio led the Pledge of Allegiance to the flag and the Clerk called the roll.

#### **SWEARING-IN CEREMONY OF DEPUTY MAYOR**

At this time, Kevin Kelly, Esq. proceeded with the swearing-in ceremony of Deputy Mayor Joseph A. Ricciardo, while Carol Wiley held the bible.

Deputy Mayor Ricciardo thanked and congratulated Mayor Diglio for her term as Mayor and welcomed Dan Flynn to the Town Council.

Mayor Diglio 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, 2011."

Mayor Diglio asked for approval of the Town Council minutes and upon motion of Mr. Ricciardo, seconded by Mrs. Becker and carried, the minutes of June 25, 2012 (Regular) meeting were approved.

#### **OPEN TO THE PUBLIC**

Mayor Diglio 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 being no one from the public to be heard, Mayor Diglio closed the meeting to the public.

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

##### **a. Utility Advisory Board – Tomasula**

Mr. Edward Tomasula, 22 Kory Road, addressed the Council to appeal the penalty on his Utility bill in the amount of \$30.13. Mr. Tomasula advised that he did not receive a utility bill in the last quarter of 2011 and then received the next bill with a penalty. Mr. Tomasula was advised, by neighbors, that the Post Office had lost the previous bills. He appealed to the Newton Utility Advisory Board and was denied.

After a brief discussion, upon motion of Deputy Mayor Ricciardo, seconded by

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Mrs. Becker and carried, the penalty in the amount of \$30.13 be waived for Mr. Tomasula, based on the fact that the Post Office lost the utility bills.

Mrs. Becker	Yes	Mr. Elvidge	Yes
Deputy Mayor Ricciardo	Yes	Mr. Flynn	Yes
Mayor Diglio		Yes	

Mayor Diglio then made a presentation to Marge McCabe for her years of service to the Newton Planning Board. Marge Lake McCabe was first appointed to the Newton Planning Board by the Town Council on August 24, 1998 by the adoption of Resolution #107-1998. Her first meeting on the Planning Board, where she was sworn in was September 16, 1998. On January 21, 2004, Marge was voted as Vice-chairwoman for the Planning Board. On April 21, 2004, upon the resignation of Chairman Kent, Marge was voted Chairwoman by the Board members and has held that position until January 18, 2012.

At this time, Mayor Diglio presented Mrs. McCabe with a plaque which was inscribed:

"In Great Appreciation of 14 years of Dedicated  
Service to the Town of Newton"  
1998-2012

Mrs. McCabe thanked the Town Council for this "surprise" presentation.

**ORDINANCES**

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

**ORDINANCE #2012-19**

**AN ORDINANCE TO AMEND SCHEDULE "B" OF ORDINANCE 2011-25**

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

Mrs. Becker	Yes	Mr. Elvidge	Yes
Deputy Mayor Ricciardo	Yes	Mr. Flynn	Yes
Mayor Diglio		Yes	

**BE IT RESOLVED** by the Town Council of the Town of Newton that the above Ordinance be introduced for the first reading, with hearing on same to be held on July 23, 2012.

**OLD BUSINESS** – None

**CONSENT AGENDA**

Mayor Diglio read the following statement:

*"All items listed with an asterisk (\*) are considered to be routine and non-controversial by the Town Council and will be approved by one motion. There will be no separate discussion of these items unless a Council member so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda."*

Mr. Russo provided a brief overview of the various Resolutions.

**RESOLUTION #145-2012\***

**APPOINTMENT OF ANTHONY TORRE AS A REGULAR MEMBER OF THE NEWTON PLANNING BOARD**

**WHEREAS**, there is currently a vacancy on the Town of Newton Planning Board due to the resignation of Daniel Flynn; and

**WHEREAS**, Anthony Torre, currently Alternate No. 3 on the Planning Board, has expressed interest in serving as a Regular Member of the Planning Board;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that Anthony Torre is hereby appointed to an unexpired four-year term as a Regular Member of the Newton Planning Board, effective immediately with said term continuing to December 31, 2015.

**RESOLUTION #146-2012\***

**APPOINTMENT OF BARBARA MATTINGLY AS A REGULAR MEMBER OF THE NEWTON PLANNING BOARD**

**WHEREAS**, there is currently a vacancy on the Town of Newton Planning Board due to the resignation of Robert Caffrey; and

**WHEREAS**, Barbara Mattingly, currently Alternate No. 4 on the Planning Board, has expressed interest in serving as a Regular Member of the Planning Board;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that Barbara Mattingly is hereby appointed to an unexpired four-year term as a Regular Member of the Newton Planning Board, effective immediately with said term continuing to December 31, 2014.

**RESOLUTION #147-2012\***

**APPOINTMENT OF MELISSA LOGAN AS AN ALTERNATE MEMBER OF THE NEWTON PLANNING BOARD**

**WHEREAS**, there is currently a vacancy on the Town of Newton Planning Board for Alternate Position #1; and

**WHEREAS**, Melissa Logan has expressed an interest in serving on the Planning as an Alternate Member;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that Melissa Logan is hereby appointed to an unexpired two-year term as Alternate Member #1 of the Newton Planning Board, effective immediately with said term continuing to December 31, 2012.

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**RESOLUTION #148-2012\***

**APPOINTMENT OF DAVID STEINBERG AS AN ALTERNATE MEMBER OF THE NEWTON PLANNING BOARD**

**WHEREAS**, there is currently a vacancy on the Town of Newton Planning Board for Alternate Position #3; and

**WHEREAS**, David Steinberg has expressed an interest in serving on the Planning Board as an Alternate Member;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that David Steinberg is hereby appointed to an unexpired two-year term as Alternate Member #3 of the Newton Planning Board, effective immediately with said term continuing to December 31, 2012.

**RESOLUTION #149-2012\***

**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:

**Utility Board Recommends Credit for Sewer Charges from a Water Leak:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
13779	24 Pine Street	\$354.00

**Credit for Account that Should Have Been Inactive:**

<u>Account</u>	<u>Address</u>	<u>Amount</u>
6740	13 Summit Ave.	\$75.00

**RESOLUTION #150-2012\***

**APPROVE CHANGE ORDER NO. 1 FOR THE PAVING OF VARIOUS STREET PROJECT**

**WHEREAS**, the Governing Board of the Town of Newton adopted Resolution #189-2011 on September 14, 2011 in an effort to save budgeted monies and improve services for itself by renewing its membership in the Morris County Cooperative Pricing Council "MCCPC"; and

**WHEREAS**, Tilcon New York, Inc., "Tilcon" of 625 Mt. Hope Road, Wharton, New Jersey was the low bidder on the "MCCPC" portion for municipalities with regard to Resurfacing of Roads; and

**WHEREAS**, the Town of Newton has contracted with Tilcon through the "MCCPC" for the *Milling and Paving of Various Streets Project* which includes the paving of Moran Street, Merriam Avenue, the Main Street Parking Lot, the Memory Park Parking Lot, Straway Boulevard and the Pool Parking Lot for a total contract amount of \$271,686.95; and

**WHEREAS**, the Town Engineer, Harold E. Pellow has recommended Change Order No. 1 to the *Milling and Paving of Various Streets Project* resulting in a reduction in costs of \$6,585.70; and

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

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**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton that Change Order No. 1 for the *Milling and Paving of Various Street Project* in the Town of Newton is hereby approved resulting in a \$6,585.70 reduction in costs for a new contract total of \$265,101.25.

**BE IF FURTHER RESOLVED**, that a certified copy of this resolution be forwarded to the Town Engineer, Harold E. Pellow & Associates, Inc., and the contractor, Tilcon New York, Inc.

**RESOLUTION #151-2012\***

**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 2011 and 2012 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**

479.61	Quill Corporation	30598
3,032.70	Printing Center, Inc.	30599
606.80	M G L Printing Solution	30600
832.50	Harold Pellow & Assoc., Inc.	30601
195.00	ABCCode Security	30602
463.64	Airmark Pools	30603
199.50	New Jersey Herald	30604
2,224.47	SCMUA	30605
245.96	Campbell's Small Engine	30606
259.25	Lock & Key World	30607
12,591.00	Willco, Inc.	30608
193.93	Newton Citgo	30609
95.87	Newton Trophy	30610
1,229.00	T.A. Mountford Company	30611
340.00	Galls Incorporated	30612
1,000.00	NJ State Assoc. of CHF Police	30613
311.71	Airgas East	30614
71.98	Sirchie Finger Print Labs	30615
638.17	McGuire	30616
1,680.22	Vision Service Plan	30617
39,309.28	Statewide Insurance Fund	30618
193.55	Verizon Wireless	30619
48.29	Walmart	30620
1,102.50	Alternate Power Inc.	30621
25.00	Wildflowers with Tami	30622
480.00	Vogel, Chait, Collins, Schneider, PC	30623
4,276.58	Fire & Safety Services, LTD	30624
318.00	Thomson West	30625
783.84	Buckman's Inc.	30626
902.79	Staples Business Advantage	30627
1,793.00	Trane	30628
5,871.17	County of Sussex	30629
58.68	Nestle Waters	30630
707.58	Pinnacle Wireless FBO Unitek Global	30631
1,880.13	Taylor Oil	30632
115,710.00	NJMEBF	30633
290.00	Air Purifiers, Inc.	30634
2,349.00	Morphotrak, Inc.	30635

**CAPITAL**

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10,189.75	Harold Pellow & Assoc., Inc.	7937
25.20	New Jersey Herald	7938
87,263.80	Tilcon New Jersey	7939
12,970.00	Fireman's Friend LLC	7940

**Total TOWN BILLS \$313,239.45**

**WATER AND SEWER ACCOUNT**

30.04	Montague Tool & Supply	12961
316.88	Schmidt's Wholesale, Inc.	12962
5,046.16	Harold Pellow & Assoc., Inc.	12963
227.08	Fisher Scientific	12964
578.35	CCP Industries	12965
420.00	Andres & Mooney Electric Inc.	12966
386.00	Keller Welding Company	12967
1,019.74	SCMUA	12968
1,810.67	Coyne Chemical Corp., Inc.	12969
107.30	Campbell's Small Engine	12970
1,045.08	Hamburg Plumbing Supply Co., Inc.	12971
685.00	Minisink Press Inc.	12972
750.00	Frank Semeraro Construction, Inc.	12973
323.42	Vision Service Plan	12974
46,516.72	Statewide Insurance Fund	12975
728.70	Univar USA Inc.	12976
9,198.00	Passaic Valley Sewerage Comm.	12977
797.86	Main Pool & Chemical Company	12978
63,871.35	Tilcon New Jersey	12979
2,210.00	Alternate Power Inc.	12980
143.00	Process Tech Sales and Service	12981
10.21	Pall Corporation	12982
7,241.40	Accurate Waste Removal	12983
20,832.00	NJMEBF	12984
1,850.00	Harter Equipment, Inc.	12985
323.28	Tri-State Rentals/Party World Inc.	12986
585.12	Parkhurst Dist. Co., Inc.	12987

**CAPITAL**

3,796.32	Harold Pellow & Assoc., Inc.	2225
108,664.08	Tilcon New Jersey	2226
139.10	Sussex County Rental Center	2227

**Total WATER & SEWER BILLS \$279,652.86**

**TRUST ACCOUNT**

5,997.00	Harold Pellow & Assoc., Inc.	3028
440.75	Current Account	3029
236.26	Walmart	3030
395.85	Foremost Promotions	3031
259.99	Simon Peter Sport	3032

**Total TRUST ACCOUNT BILLS \$7,329.85**

The Clerk presented an application for a Special Permit for a Social Affair from the Greater Newton Chamber of Commerce to be held on Monday, September 10, 2012 from 7:00 p.m. to 10:00 p.m. on Spring Street for the "Taste of Newton" event. It was noted that the application was in order, signed by the Chief of Police, and accompanied by the prescribed fee.

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

Mrs. Becker	Yes	Mr. Elvidge	Yes
Deputy Mayor Ricciardo	Yes	Mr. Flynn	Yes
Mayor Diglio		Yes	

Upon motion of Mrs. Becker, seconded by Mr. Elvidge and carried, that Resolution #152-2012 be added to the agenda and roll call resulted as follows:

Mrs. Becker	Yes	Mr. Elvidge	Yes
Deputy Mayor Ricciardo	Yes	Mr. Flynn	Yes
Mayor Diglio		Yes	

**RESOLUTION #152-2012\***

**AUTHORIZE THE EXECUTION OF AN AGREEMENT BETWEEN THE TOWN OF NEWTON AND SCARC INC., FOR THE DISBURSEMENT OF FUNDS FROM THE TOWN OF NEWTON'S HOUSING TRUST FUND**

**WHEREAS**, SCARC, Inc. (hereinafter referred to as "SCARC") is a New Jersey 501(c)(3) non-profit corporation that provides supportive housing for people with special needs; and

**WHEREAS**, the Town of Newton adopted a Housing Element and Fair Share Plan on June 16, 2010 that included a variety of mechanisms for providing affordable housing in the Town; and

**WHEREAS**, the Town of Newton adopted a Spending Plan that was approved by the Council on Affordable Housing (COAH); and

**WHEREAS**, SCARC is working with the Town of Newton to construct a new facility for residential use for residents with special needs; and

**WHEREAS**, the project was not part of the Town's Housing Element and Fair Share Plan or Spending Plan but the Town recognizes the project as an emergent affordable housing mechanism that has merit and will be valuable to the Town of Newton; and

**WHEREAS**, the Town of Newton has received a request for FORTY EIGHT THOUSAND DOLLARS (\$48,000.00) for the use of construction or reconstruction of structures in the Town of Newton for residents with special needs, and the Town of Newton ("Town") has reviewed said request; and

**WHEREAS**, the Town wishes to disburse FORTY EIGHT THOUSAND DOLLARS (\$48,000.00) to SCARC, subject to the terms of a written agreement for the appropriate use of said funds; and

**WHEREAS**, the Town will seek to amend its Spending Plan to provide the funds to SCARC for use on this emergent affordable housing mechanism; and

**WHEREAS**, the Town recognizes that the project meets the COAH's criteria set forth in N.J.A.C. 5:97-6, and the Town of Newton shall submit information regarding the SCARC project in a format to be provided by the COAH so that it may be approved by COAH prior to disbursing the funds; and

**WHEREAS**, the Town of Newton seeks to earmark the requested \$48,000.00 from the Town's Affordable Housing Trust Fund for use by SCARC so that funds may be disbursed to SCARC following all necessary approvals from COAH;

**NOW, THEREFORE BE IT RESOLVED**, by the Town Council of the Town of Newton, that we hereby authorize the Mayor, Town Manager, and/or Municipal Clerk to act as follows:

1. Execute a written agreement with SCARC for the administration of affordable housing units in accordance with regulations promulgated by COAH.
2. Submit an amendment to the Town’s Spending Plan to include the mechanism at the earlier of two years after the Council’s approval of the spending plan amendment or the next planned amendment to the Fair Share Plan resulting from plan evaluation review pursuant to N.J.A.C. 5:96-10.
3. Submit monitoring pursuant to N.J.A.C. 5:96-11 to COAH relating to the affordable units created using affordable housing trust funds.
4. Earmark FORTY EIGHT THOUSAND DOLLARS (\$48,000.00) from the Town of Newton’s Housing Trust Fund in accordance with the terms and conditions of the aforementioned written agreement; and
5. Following all approvals from COAH and execution of an agreement as outlined in this resolution, disperse FORTY EIGHT THOUSAND DOLLARS (\$48,000.00) from the Town of Newton’s Housing Trust Fund in accordance with the terms and conditions of the aforementioned written agreement.

A motion was made by Mrs. Becker to approve **RESOLUTION #152-2012**, seconded by Mr. Flynn and roll call resulted as follows:

Mrs. Becker	Yes	Mr. Elvidge	Yes
Deputy Mayor Ricciardo	Yes	Mr. Flynn	Yes
Mayor Diglio	Yes		

**INTERMISSION** – None

**DISCUSSION**

Mr. Russo informed Council that Mark Hontz, Esq. will be in attendance at the next Council to discuss the draft for the “Disruptive Tenant Ordinance” and the Town Engineer, Harold Pellow and Associates, will be in attendance to discuss the Railroad Right-of-Way.

**OPEN TO THE PUBLIC**

Mr. Wayne LeVante, 5 East Stuart Street, suggested that the Town could possibly provide the service of “automatic” withdrawals for online utility and/or tax payments.

Mr. Russo advised that he would investigate this suggestion.

**COUNCIL & MANAGER COMMENTS**

Deputy Mayor Ricciardo inquired about the leak detection by the Water and Sewer Department which was addressed by Mrs. Millikin.



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There being no further business to be conducted, upon motion of Deputy Mayor Ricciardo, seconded by Mrs. Becker and unanimously carried, the meeting was adjourned at 7:22 p.m.

Respectfully submitted,

Lorraine A. Read, RMC  
Municipal Clerk