

August 9, 2010

The regular meeting of the Town Council of the Town of Newton was held on the above date at 7:00 p.m. Present were Mr. Elvidge, Mr. Ricciardo, Mrs. Diglio, Mayor Becker, Mr. Mark Hontz, Esq., Town Attorney and Town Manager, Mr. Thomas Russo, Jr. Mrs. Le Frois was excused.

Mayor Becker made the following declaration that "in accordance with the Open Public Meetings Act, notice of this public meeting was given to the two newspapers of record and posted on the official bulletin board on December 31, 2009."

Mayor Becker led the invocation and Pledge of Allegiance to the flag. The Clerk called the roll and upon completion of same, upon motion of Mrs. Diglio seconded by Mr. Ricciardo, the minutes of July 22, 2010 (Executive) and July 26, 2010 (Regular, Special and Executive) were approved as presented.

PRESENTATION

a. St. Patrick's Day Parade Committee

Mr. Dennis Harrington, Chairman of the St. Patrick's Day Parade Committee, presented the Town with a five hundred dollar (\$500) donation. Mr. Harrington thanked the Town of Newton for hosting the parade held in March and thanked everyone involved for making the parade a huge success.

OPEN TO THE PUBLIC

Mayor Becker read the following statement:

"At this point in the meeting, the Town Council welcomes comments from any member of the public on any topic. To help facilitate an orderly meeting and to permit the opportunity for anyone who wishes to be heard, speakers are asked to limit their comments to 5 minutes. If reading from a prepared statement, please provide a copy and email a copy to the Clerk's Office after making your comments so it may be properly reflected in the minutes."

Mr. Kent Hardmeyer, member of the Advisory Shade Tree Commission, addressed Council to update them on the Shade Tree Inventory project. "Newton's Advisory Shade Tree Commission is presently conducting an inventory of the shade trees that front on its many streets. Newton has 118 named streets which total 144,300 ft. or just over 27 miles and including several state and county roads.

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Information is being collected on the size, species, height, condition, location, health and possible location conflicts such as sidewalks, overhead wires, etc. Instead of doing a time consuming account of each tree, a random sample of streets was selected for sampling.

When completed, the inventory will give much valuable information on Newton's street trees which provide many benefits to the Town and property owners. The inventory is one of the objectives listed in the recently adopted and State approved Community Forestry Management Plan.

Advisory Shade Tree Commission members include: Chairman Betsy VanOrden, Dr. John Craddock, Kent Hardmeyer, Laurie Terranova and DPW Supervisor Kenneth Jaekel."

Mrs. Thea Unhoch, 17 Condit Street, congratulated the Newton Police Department on their 100th Anniversary of service to the Town of Newton. "I would also like to compliment them on their wonderful display at the Sussex County Fair. It was an amazing depiction of what they do and what they go through on a daily basis. Several people, including Ernie, made it a point to let me know how fortunate we are to have such a fine department. They are truly Newton's finest and the Town is very proud of all of them," Mrs. Unhoch concluded.

COUNCIL & MANAGER REPORTS

Mr. David B. Simmons, Jr., PE, Town Engineer gave a lengthy presentation on the Fire Hydrant Flow Results Report. Mr. Simmons advised that Harold E. Pellow & Associates, Inc. was charged with conducting a study for fire flow tests, in conjunction with the Newton Water & Sewer Utility staff, on the existing fire hydrants located within the municipal boundary lines of Newton. Mr. Simmons advised that the report created describes the testing methodology; analyzes the fire flow results obtained through field tests and provides short, medium, and long-term recommendations to improve the areas where the minimum fire flow rates are below the required standards. The fire flow testing was conducted in

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various stages during the months of May, June and July 2010. There are a total of 339 fire hydrants located inside the municipal boundary lines of Newton, including the privately owned and operated fire hydrants. Approximately 263 hydrants were tested as part of this study. The remaining fire hydrants were not flow tested because: 1) private fire hydrants on commercial properties; 2) private fire hydrants located at Newton Memorial Hospital; 3) private fire hydrants located on the SCCC campus; and 4) remaining fire hydrants in the high pressure zone, in order to avoid excessive disruption to the pumping system on High Street.

Mr. Simmons outlined in detail the fire hydrant test data compiled as well as the fire hydrant color classification graph as follows:

Red Hydrants – less than 500 gpm;	(39%)
Orange Hydrants – 500 to 999 gpm;	(26%)
Green Hydrants – 1,000 to 1,499 gpm;	(33%)
Light Blue Hydrants – 1,500 gpm or greater	(2%)

Mr. Simmons indicated that all the data collected will be reviewed and analyzed to provide a list of recommendations to improve fire flow in those areas of the Town that need flow improvement. The recommendations will be placed into the following four categories:

Category 1: Immediate Improvements: This type of improvement will focus on immediate repairs to fire hydrants that were noted as needing repairs/replacement during the testing procedure.

Category 2: Short-Term Improvements: This type of improvement will focus on repairs/construction that can be undertaken in a short term time frame to help increase flow from existing fire hydrants.

Category 3: Medium-Term Improvements: This type of improvement will focus on reinforcing water delivery to areas of the distribution system to supplement the water flow to the overall area.

Category 4: Long-Term Improvements: This type of improvement will focus on replacing watermains in miscellaneous areas of neighborhoods that are still deficient in flow even after additional watermains have been constructed to bring additional water into the area.

The governing body had several questions which were addressed by Mr. Simmons, Mr. Baldwin, Water & Sewer Supervisor, Debra Millikin, Deputy Town Manager and Mr. Russo, Town Manager.

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At this time, Mr. Russo invited other professionals to address the fire hydrant flow test study, in conjunction with Ordinance 2010-2. Mr. Keith Utter, Construction Official, addressing his opinion on the Ordinance, advised that the Ordinance is invalid and does not meet the Uniform Construction Code (UCC).

Mr. Hontz, Esq., indicated that since the implementation of this Ordinance, some of the State standards addressed in the Ordinance lapsed on June 14, 2010, therefore are not valid within this Ordinance. After a brief discussion, Mr. Hontz advised that now that the data report is completed, the Town may act on the information at hand and will be acting responsibly in the "eyes of the law."

After a lengthy discussion, Mr. Ricciardo requested a straw poll on having Ordinance 2010-2 be rescinded. Upon hearing a majority vote, Mr. Russo advised that he will place an Ordinance for introduction on the agenda on August 23, 2010, which shall rescind Ordinance 2010-2.

Mayor Becker opened the meeting to the public.

Mrs. Thea Unhoch, 17 Condit Street, Newton, asked why there is a plastic bag over the fire hydrant in front of her home and was advised that it is in need of repair and that a new hydrant is on order.

Mr. Ed Smith, 56 Dogwood Drive, Newton, inquired what fire hydrants on Dogwood have low pressure and was advised where to find the information within the fire hydrant flow report.

Mr. Kent Hardmeyer, 70 Pine Street, Newton, suggested that the fire flow report be placed on the Town website for residents to review and was advised by Mr. Russo that he would place on the website.

Mr. Joe Inga, Fire Sub-code Official, Fire Prevention Official and member of the Newton Fire Department, indicated that he brought this Ordinance to the attention of the Town Manager and Town Council in order to address the low pressure areas of Newton. Mr. Inga indicated that it is important for the Town to continue with fire flow improvements for the common goal of safety. Mr. Inga indicated that the Newton Fire Department is well aware of the low pressure

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areas in Newton and always takes the necessary precautions to effectively extinguish fires. "I would like to take away any fears or concerns of residents regarding the fire service in Newton," Mr. Inga concluded.

Mr. Anwar Qarmout, 45 Woodside Avenue, Newton, questioned the Town's liability if the Town does not act on this report and was advised by Mr. Russo that the data will be incorporated into the Water and Sewer master plan and he will work with Mr. Simmons on this update. This update will include specific recommendations from the Town Engineer on areas of the Town to be completed first; type of improvement; timeline; and cost, so that the Town may budget accordingly. Mr. Russo reiterated that there should not be any fears or concerns from the community regarding completion of this study. A true concern will be the total cost, but the Town will pursue grants and loans for this project, Mr. Russo concluded.

Councilman Elvidge indicated that he is glad that the Town now has a completed study for the fire hydrant flows as it is a great tool which will be utilized by the Town.

ORDINANCES

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

ORDINANCE #2010-08

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 12, HEALTH CODE, OF THE REVISED GENERAL ORDINANCES TO GUARD AGAINST DUMPSTER AND REFUSE CONTAINER EXPOSURE TO STORMWATER

WHEREAS, the New Jersey Department of Environmental Protection requires that all Tier A municipalities take measures to prevent the discharge of liquids or solids from uncovered dumpsters and other refuse containers into municipal separate storm sewers systems. In order to comply with the requirements of the Town of Newton's Municipal Stormwater General Permit, the Town Council wishes to amend the revised general ordinances to require that all dumpsters and other refuse containers exposed to stormwater be covered at all times.

BE IT ORDAINED by the Town of Newton Council that certain sections within Chapter 12, Health Code, of the Code of the Town of Newton be amended as follows:

SECTION 1. Chapter 12, Section 12-13, *Refuse Containers/Dumpsters* is created to include the following:

The purpose of this section is to require that all dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and prohibits the spilling, dumping, leaking, or otherwise discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system(s) operated by the Town of Newton and/or the waters of the State so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

Subsections:

- 12-13.1 Definitions
- 12-13.2 Prohibited Conduct
- 12-13.3 Exceptions to Prohibition
- 12-13.4 Enforcement
- 12-13.5 Violations and Penalties
- 12-13.6 Severability

SECTION 2. Chapter 12, Section 12-13.1, *Definitions* is created to include the following:

For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

MUNICIPAL SEPARATE STORM SYSTEM (MS4) – a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Town of Newton or other public body, and is designed and used for collecting and conveying stormwater.

PERSON – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

REFUSE CONTAINER – any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.

STORMWATER – means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

WATERS OF THE STATE – means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

SECTION 3. Chapter 12, Section 12-13.2, *Prohibited Conduct* is created to include the following:

Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.

Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system(s) operated by the Town of Newton.

SECTION 4. Chapter 12, Section 12-13.3, *Exceptions to Prohibition* is created to include the following:

- A. Permitted temporary demolition and/or construction containers.
- B. Litter receptacles (other than dumpsters or other bulk containers).
- C. Individual homeowner trash and recycling containers.
- D. Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit.
- E. Large bulky items (e.g., furniture, bound carpet and padding, white goods placed curbside for pickup).

SECTION 5. Chapter 12, Section 12-13.4, *Enforcement* is created to include the following:

The Town Manager, through the Town Zoning Officer, shall enforce the provisions of this section. It shall be unlawful for any reason to violate any part of this ordinance adopted by the Town Council of the Town of Newton.

SECTION 6. Chapter 12, Section 12-13.5, *Violations and Penalties* is created to include the following:

Any person(s) who is found to be in violation of the provisions of this ordinance shall be first notified of the violation and if the violation is not remediated within 30 days, that person(s) shall be liable to a penalty in accord with the following schedule for each day on which the violation exists beyond the 30 day limit:

<i>Offense</i>	<i>Fine</i>
First	\$100 per day
Second	\$250 per day
Third and Subsequent	\$500 per day

SECTION 7. Chapter 12, Section 12-13.6, *Severability* is created to include the following:

It is the intention of the Town Council that every provision of this Section shall be considered separable and the invalidity of any article, clause or provision of this Section shall not affect the validity of any other portion of this Section or this Chapter.

SECTION 8. Effective date:

This ordinance shall take effect upon final adoption and will be published as required by law.

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

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

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

This ordinance will take effect immediately after publication and adoption according to law.

The Clerk will advertise the above Ordinance according to law.

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

ORDINANCE #2010-09

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 19B, STORMWATER CONTROL, OF THE REVISED GENERAL ORDINANCES TO PREVENT THE DISCHARGE OF SOLIDS AND FLOATABLES FROM PRIVATE PROPERTIES INTO MUNICIPAL SEPARATE STORM SEWER SYSTEMS

WHEREAS, the New Jersey Department of Environmental Protection requires that all Tier A municipalities take measures to prevent the discharge of solids and floatables from private properties into municipal separate storm sewers systems. In order to comply with the requirements of the Town of Newton's Municipal Stormwater General Permit, the Town Council wishes to amend the revised general ordinances to require the retrofitting of existing storm drain inlets on privately owned properties.

BE IT ORDAINED by the Town of Newton Council that certain sections within Chapter 19B, Stormwater Control of the Code of the Town of Newton be amended as follows:

SECTION 1. Chapter 19B, Section 19B-18, *Private Storm Drain Inlet Retrofitting* is created to include the following:

The purpose of this section is to require the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the Town of Newton so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

Subsections:

12-18.1 Definitions

12-18.2	Prohibited Conduct
12-18.3	Design Standards
12-18.4	Enforcement
12-18.5	Violations and penalties
12-18.6	Severability

SECTION 2. Chapter 19B, Section 19B-18.1, *Definitions* is created to include the following:

For the purpose of this section, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) – a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by The Town of Newton or other public body, and is designed and used for collecting and conveying stormwater.

PERSON – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

STORM DRAIN INLET – an opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

WATERS OF THE STATE – means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

SECTION 3. Chapter 19B, Section 19B-18.2, *Prohibited Conduct* is created to include the following:

No person in control of private property (except a residential lot with one single family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

- A. Already meets the design standard below to control passage of solid and floatable materials; or
- B. Is retrofitted or replaced to meet the standard in Section IV below prior to the completion of the project.

SECTION 4. Chapter 19B, Section 19B-18.3, *Design Standards* is created to include the following:

Storm drain inlets shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section 19B-18.3(3) below.

A. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

(1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

(2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

B. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

C. This standard does not apply:

(1) Where the municipal engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;

(2) Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

a. A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or

b. A bar screen having a bar spacing of 0.5 inches.

(3) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars; or

(4) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

SECTION 5. Chapter 19B, Section 19B-18.4, *Enforcement* is created to include the following:

The Town Manager, through the Public Works Supervisor, shall enforce the provisions of this section. It shall be unlawful for any reason to violate any part of this ordinance adopted by the Town Council of the Town of Newton.

SECTION 6. Chapter 19B, Section 19B-18.5, *Violations and Penalties* is created to include the following:

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Any person(s) who is found to be in violation of the provisions of this ordinance shall be first notified of the violation and if the violation is not remediated within 30 days, that person(s) shall be liable to a penalty in accord with the following schedule for each day on which the violation exists beyond the 30 day limit:

<i>Offense</i>	<i>Fine</i>
First	\$100 per day
Second	\$250 per day
Third and Subsequent	\$500 per day

SECTION 7. Chapter 19B, Section 19B-18.6, *Severability* is created to include the following:

It is the intention of the Town Council that every provision of this Section shall be considered separable and the invalidity of any article, clause or provision of this Section shall not affect the validity of any other portion of this Section or this Chapter.

SECTION 8. Effective date:

This ordinance shall take effect upon final adoption and will be published as required by law.

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

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

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

This ordinance will take effect immediately after publication and adoption according to law.

The Clerk will advertise the above Ordinance according to law.

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

ORDINANCE #2010-10

AN ORDINANCE TO AMEND CHAPTER 10 "TRAFFIC" OF NEWTON'S REVISED GENERAL ORDINANCES

The following **ORDINANCE** was offered, by Mr. Ricciardo, who moved its

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introduction, seconded by Mr. Elvidge and roll call resulted as follows:

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

BE IT RESOLVED by the Town Council of the Town of Newton that the above Ordinance be introduced for the first reading, with hearing on same to be held on Monday, August 23, 2010.

The Clerk will advertise the above Ordinance according to law.

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

ORDINANCE #2010-11

BOND ORDINANCE AMENDING BOND ORDINANCE NUMBERED 2007-22 OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY FINALLY ADOPTED SEPTEMBER 10, 2007 IN ORDER TO AMEND THE DESCRIPTION OF THE PROJECT

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

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

BE IT RESOLVED by the Town Council of the Town of Newton that the above Ordinance be introduced for the first reading, with hearing on same to be held on Monday, August 23, 2010.

The Clerk will advertise the above Ordinance according to law.

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

ORDINANCE #2010-12

ORDINANCE AUTHORIZING THE EXECUTION OF A FINANCIAL AGREEMENT FOR CERTAIN PROPERTY WITHIN THE SPARTA AVENUE PLAN AREA

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

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

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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 Monday, August 23, 2010.

The Clerk will advertise the above Ordinance according to law.

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

ORDINANCE #2010-13

BOND ORDINANCE AMENDING AND SUPPLEMENTING BOND ORDINANCE 2009-29 OF THE TOWN OF NEWTON, IN THE COUNTY OF SUSSEX, NEW JERSEY FINALLY ADOPTED DECEMBER 14, 2009 IN ORDER TO AUTHORIZE THE EXECUTION OF A TRUST AGREEMENT

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

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

BE IT RESOLVED by the Town Council of the Town of Newton that the above Ordinance be introduced for the first reading, with hearing on same to be held on Monday, August 23, 2010.

The Clerk will advertise the above Ordinance according to law.

OLD BUSINESS

There was no Old Business to discuss.

CONSENT AGENDA

Mayor Becker read the following statement:

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

RESOLUTION #127-2010*

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

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Newton that this Governing Body concurs with the Town Manager's appointment of the following individuals as School Crossing Guards for the 2010-2011 school year:

Lisa Alex	Glenn Kinney
Debbie Alger	Tiera McCullough
Diane Bell	Barbara Meininger
Carol Blanchard	Karen Mokrzycki
June Bowne	Martha Morris
Mark Clark	Theresa Owens
Louise Cort	Tara Pankz
Debbie Dellamo	Doreen Pasqualetto
Carolyn Dipple	Sarah Schmalstich
Betty Francis	Steve Stoll
Thomas Hoffman	Angela Vealey
Lisa Huber	

RESOLUTION #128-2010*

APPOINTMENT OF EVIN JOICE TO THE ECONOMIC DEVELOPMENT ADVISORY COMMISSION

WHEREAS, there is currently a vacancy for a Regular Member of the Economic Development Advisory Commission; and

WHEREAS, Evin Joice has expressed an interest in serving on the Commission;

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that Evin Joice is hereby appointed to the unexpired three-year term on the Economic Development Advisory Commission, effective immediately with said term continuing to December 31, 2011.

RESOLUTION #129-2010*

AFFIRM THE ISSUANCE OF A BOND ANTICIPATION NOTE

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

WHEREAS, four quotations were received for a \$2,047,100 Bond Anticipation Note at 11:30 a.m. on Wednesday, July 21, 2010 by the Chief Financial Officer as follows:

<u>Institution</u>	<u>Net Interest</u>
Lakeland Bank	1.25%
Oppenheimer & Co., Inc	1.52%
Janney Montgomery	1.73%
First Hope Bank	2.05%

WHEREAS, the Chief Financial Officer accepted the quotation of Lakeland Bank for a Bond Anticipation Note totaling \$2,047,100.00 at a net interest cost of

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1.25%, and a net interest payable of \$25,588.75, upon recommendation of bond counsel; and

WHEREAS, the appropriate Town Officials have executed said Note in the amount of \$2,047,100.00 with an interest rate of 1.25% dated July 28, 2010 for a term of 365 days (360 days for interest calculations) due July 28, 2011; and

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

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

RESOLUTION #130-2010*

AUTHORIZE CREDITS DUE WATER AND SEWER UTILITY ACCOUNTS

WHEREAS, Ms. Eliza Jo Paine of 105 High Street, Utility Account #6066 appeared before the Newton Town Council at their meeting on July 26, 2010 to appeal a decision by the Utility Advisory Board in reference to her 1st and 2nd quarter utility bills for 2010; and

WHEREAS, the Governing Body upheld the decision of the Utility Advisory Board but agreed to waive the penalties that Utility Account #6066 incurred while the dispute was being addressed;

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 account due to the reason stated:

Credit 1st quarter & 2nd quarter penalties per Town Council:

<u>Account</u>	<u>Address</u>	<u>Amount</u>
6066	105 High Street	\$82.19

RESOLUTION #131-2010*

TO CANCEL RECEIVABLE AND APPROPRIATED RESERVE BALANCES IN THE FEDERAL AND STATE GRANT FUND

WHEREAS, the Town of Newton received an award in the amount of \$4,000.00 from the State of New Jersey for a Click It or Ticket grant covering the period 5/24/10 – 7/06/10; and

WHEREAS, the total costs expended and approved by the State of New Jersey for this grant total \$3,824.05; and

WHEREAS, a receivable balance of \$175.95 entitled *Due from State of New Jersey Click It or Ticket Grant* remains on the Federal and State Grant Fund balance sheet; and

WHEREAS, it is necessary to formally cancel the receivable balance and its offsetting appropriated reserve balance from the Federal and State Grant Fund balance sheet;

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NOW, THEREFORE BE IT RESOLVED, by a majority of the full membership of the Town Council of the Town of Newton, that we hereby cancel the following grant receivable and appropriated reserve balances:

Federal & State Grant Fund

Grant Receivable – Click It or Ticket #110115	\$175.95
Appropriated Reserve – Click It or Ticket #111215	\$175.95

RESOLUTION #132-2010*

AWARD CONTRACT FOR ACCUBRINE SYSTEM TO TIMMERMAN EQUIPMENT COMPANY

WHEREAS, the Town of Newton and Andover Township purchased a Brine System in September of 2009 and now would like to add the Accubrine System which will allow for a blended mix of brine and calcium chloride to be used as weather conditions require; and

WHEREAS, Timmerman Equipment Company, the provider of the Brine System, has provided the Town of Newton a quote in the amount of \$29,000 to provide the Accubrine System and documentation that they are a “sole source” vendor for this system; and

WHEREAS, the Town of Newton bid threshold is \$29,000, and the Qualified Purchasing Agent, Department of Public Works Supervisor for Newton, and the Department of Public Works Supervisor for Andover Township, recommend the purchase of the Accubrine System from Timmerman Equipment Company; and

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

NOW, THEREFORE BE IT RESOLVED, by the Town Council of the Town of Newton that Timmerman Equipment Company, Whitehouse, NJ be awarded the contract for the Accubrine System in the amount of \$29,000.

RESOLUTION #133-2010*

AWARD CONTRACT FOR PROPOSED IMPROVEMENTS TO SPORTS PRACTICE FIELD AT MEMORY PARK, TO ROBERT W. WOGISCH, LANDSCAPE CONTRACTOR, INC.

WHEREAS, bid specifications were prepared for the proposed improvements to the Sports Practice Field at Memory Park at the request of the Town Council; and

WHEREAS, bids were publicly opened and read on August 4, 2010 and the Town Engineer, Harold E. Pellow & Associates, Inc., reviewed all of the bids and recommends awarding the contract to Robert W. Wogisch Landscape Contractor, Inc., the low bidder as follows:

	<u>BID</u>
Robert W. Wogisch Landscape Contractor, Inc 169 Lakeview Avenue Ringwood, NJ 07456	\$41,190.00

(a) The Mayor and Town Council hereby authorize the execution of an amendment to the Redevelopment Agreement in substantially the form attached hereto as Exhibit A and by this reference incorporated herein (the "Amendment").

(b) The Town Manger is hereby authorized to execute the Amendment in substantially the form attached hereto, with such additions, deletions and modifications as may be necessary in consultation with the Town Attorney and redevelopment counsel.

III. **SEVERABILITY**

If any part of this Resolution shall be deemed invalid, such parts shall be severed and the invalidity thereby shall not affect the remaining parts of this Resolution.

IV. **AVAILABILITY OF THE RESOLUTION**

A copy of this resolution shall be available for public inspection at the offices of the Town.

V. **EFFECTIVE DATE**

This Resolution shall take effect upon final passage.

RESOLUTION #135-2010*

APPROVE BILLS AND VOUCHERS FOR PAYMENTS

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 2009 and 2010 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

10,000.00	Main Street Newton, Inc.	27412
443.33	Quill corporation	27413
1,154.32	E.A. Morse & Company	27414
772.65	Printing Center, Inc.	27415
4,474.50	Harold Pellow & Assoc., Inc.	27416
117.00	ABCCode Security	27417
463.88	Airmark Pools	27418
90.50	G & G Diesel Service, Inc.	27419
9,870.86	JCP&L	27420
2,709.65	Centurylink Communications, Inc.	27421
122.59	Centurylink Communications, Inc.	27422
370.34	Centurylink Communications, Inc.	27423
35.00	Centurylink Communications, Inc.	27424
54.98	Campbell's Small Engine	27425
168.00	D & E Service Center	27426
30.00	Lock & Key World	27427
70.65	Federal Express	27428
105.00	Willco, Inc.	27429
530.45	J & D Sales and Service	27430

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18.50	Newton Trophy	27431
377.68	Galls Incorporated	27432
420.00	MaryPaul Laboratories, Inc.	27433
1,018.55	Minisink Press, Inc.	27434
8.00	Sussex County Clerk	27435
179.25	Sebring Auto Parts	27436
79.00	Skylands Press	27437
109.75	L-3 Comm. Mobile-Vision	27438
600.00	McCullough Tree Service	27439
26.30	Irene O'Connor	27440
888.32	Vision Service Plan	27441
260.00	NJMMA	27442
187.40	Verizon Wireless	27443
475.00	North Jersey Portable Toilets	27444
19.99	Dell Marketing L.P.	27445
192.00	Gold Type Business Machines	27446
312.50	Alternate Power Inc.	27447
100.20	Cooper Electric Supply Co.	27448
25.00	Wildflowers with Tami	27449
2,445.00	Vogel, Chait, Collins, Schneider, PC	27450
1,248.61	The Home Depot	27451
1,125.07	The Home Depot	27452
713.25	Universal Uniform	27453
87.43	AW Direct Inc.	27454
831.91	Staples Business Advantage	27455
22.10	Language Line Services	27456
4,554.00	Trane	27457
63.31	Lowe's	27458
45.43	Nestle Waters	27459
2,540.68	Rachles/Michele's Oil Company	27460
2,188.60	Taylor Oil Co.	27461
339.44	Odyssey	27462
29.95	Chair-Pros	27463
104.96	County of Sussex	27464
168.00	Jersey Central Power & Light	27465
55.58	Atlantic Tactical	27466
675.00	Knapp, Trimboli & Prusinowski, LLC	27467
91,012.73	NJMEBF	27468
1,460.00	Chelbus Cleaning Co., Inc.	27469
95.00	Domain Registry of America	27470
4,207.00	Signal Control Products, Inc.	27471
197.50	Idville	27472
1,295.50	D. Becker Photo	27473
700,000.00	Newton Board of Education	27474
202,600.00	Depository Trust Company	27475
621,642.00	Newton Board of Education	27476
3,824.05	Federal & State Grant	27477
201,285.59	Payroll Account	27478

CAPITAL

1,500,00.00	Current Account	103004
25,259.25	Harold Pellow & Assoc., Inc.	7560
3,242.00	Lock & Key World	7561
4,215.20	W.B. Mason	7562
155.75	FKA Architects	7563

Total TOWN BILLS \$3,414,611.02

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WATER AND SEWER ACCOUNT

33,330.52	Payroll Account	106024
1,005.45	E S C Enterprises	11623
4,722.50	Harold Pellow & Assoc., Inc.	11624
1,524.84	Lee Company	11625
5,864.76	JCP&L	11626
48.50	Sussex County Plumbing	11627
13,093.47	Coyne Chemical Corp., Inc.	11628
125.85	Centurylink Communications, Inc.	11629
1,296.52	Centurylink Communications, Inc.	11630
82.50	Tri-State Rentals, Inc.	11631
16.17	Federal Express	11632
13,345.46	Sparta Township Tax Collector	11633
1,750.00	Cosper Environmental Services, Inc.	11634
26.45	Minisink Press Inc.	11635
129.83	Joseph G. Pollard Co., Inc.	11636
178.99	Sebring Auto Parts	11637
259.49	Zee Medical	11638
1,027.35	Limecrest Quarry Developers	11639
157.22	Vision Service Plan	11640
6,552.00	Passaic Valley Sewerage Comm.	11641
3,651.72	Main Pool & Chemical Company	11642
1,335.00	Alternate Power, Inc.	11643
300.74	The Home Depot	11644
44.95	Carquest	11645
133.50	Excelsior Lumber Company	11646
279.00	Process Tech Sales and Service	11647
10,026.32	Pall Corporation	11648
962.00	Andy Matt, Inc.	11649
11.48	County of Sussex	11650
12,743.27	NJMEBF	11651

Total WATER & SEWER BILLS \$114,025.85

TRUST ACCOUNT

367.50	Payroll Account	107119
180.00	Hollander, Strelzik, Pasculli, Hinkes	2803
256.00	Weiner Lesniak	2804
765.00	Vogel, Chait, Collins, Schneider, PC	2805

Total TRUST ACCOUNT BILLS \$1,568.50

FEDERAL & STATE GRANTS

17,000.00	Access Systems, Inc.	1052
1,742.58	Payroll Account	101107
1,780.47	Payroll Account	101108

Total HOUSING TRUST FUND ACCOUNT BILLS \$20,523.05

DEVELOPERS ESCROW

3,930.00	Vogel, Chait, Collins, Schneider, PC	1050
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Total DEVELOPERS ESCROW ACCOUNT BILLS \$3,930.00

August 9, 2010

The Clerk presented an application for an off-premise raffle from St. Joseph RC Church, 17 Elm Street, Newton to be held on October 15, 2010 at St. Joseph's Community Center, Halsted Street, Newton at 7:30 p.m.

The Clerk presented an application for an off-premise raffle from Newton Memorial Hospital Foundation, 175 High Street, Newton, to be held on November 20, 2010 at 175 High Street, Newton at 6:30 p.m.

The Clerk presented an application for an on-premise raffle from the Pride Foundation, Inc., 44 Ryerson Avenue, Newton to be held on September 23, 2010 at 59 Halsted Street, Newton from 6:30 p.m. to 8:30 p.m.

The Clerk presented an application for an on-premise raffle from the Pride Foundation, Inc., 44 Ryerson Avenue, Newton to be held On September 17, 2010 at 3:00 p.m.; September 25, 2010 at 1:00 p.m.; October 9, 2010 at 2:00 p.m. and October 23, 2010 at 1:00 p.m. at 44 Ryerson Avenue, Newton.

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

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

INTERMISSION

DISCUSSION

Mr. Russo outlined the agenda for the next discussion pertaining to the consolidation of Land Use Boards. Mr. Russo invited Mr. Cory Stoner, Town Engineer, to attend, as he has valuable experience working with consolidated boards in other communities in Sussex County.

Mr. Cory Stoner, PE, Town Engineer, provided his opinion, with the pros and cons, to the Governing Body regarding the consolidation of the Land Use Boards. Mr. Stoner feels that there would not be a sufficient cost savings to the Town with the consolidation.

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Mr. Russo indicated if a Municipal Land Use Board is created, it would seat nine regular members and four alternate members. Currently there are eight Planning Board members and seven Zoning Board members, therefore two members would be eliminated.

Councilman Ricciardo is very much in favor of the consolidation of the Planning and Zoning Boards and feels that combining the wealth of knowledge from both boards "would be invaluable to growth and the future of our community."

Councilman Elvidge expressed that he is not in favor of consolidating the Planning Board and the Zoning Board of Adjustment at this time.

Mr. Neil Flaherty, 154 Sparta Avenue, Newton, member of the Planning Board, is in favor of a joint Land Use Board. He feels that if you take the strengths from both boards and combine them, that the outcome will be an even stronger Land Use Board, which will benefit the community in the long run.

Mr. John Edwards, 85 Ryerson Avenue, Newton, member of the Zoning Board of Adjustment, indicated that when preparing for a Zoning Board meeting it takes an enormous amount of time and feels that the combination of boards would take double preparation time for members. Mr. Edwards indicated that he is not looking for reappointment due to his business commitments.

Mrs. Marge McCabe, 125 High Street, Newton, Chairwoman of the Planning Board, is in favor of the combination but suggested that the section which reads: "would result in savings in costs and impositions on the time of municipal volunteers" should be eliminated from the draft Ordinance. I heard this evening, that the combination to one board, will not save money and feels that it is not an imposition for volunteers, otherwise people would not volunteer, Mrs. McCabe concluded.

Other members of the Planning Board and the Zoning Board gave their input with regard to the consolidation of the Land Use Boards.

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Mr. Wayne McCabe, 125 High Street, Newton, noted that he is a professional planner and has worked with both boards professionally, not only in Newton, but all around the State. Mr. McCabe commended both the Planning Board and the Zoning Board of Adjustment and strongly feels that both boards should remain and should not be consolidated.

Ms. Marie Nardino, 36 Linwood Avenue, Newton, strongly supports the combining of both Planning Board and Zoning Board of Adjustment into one Land Use Board.

After a lengthy discussion, the consensus of the Town Council was to carry the discussion of the draft ordinance to the next Council meeting on Monday, August 23, 2010, in order to digest the comments from the Board members as well as from the public.

Mr. Ricciardo suggested that the Zoning Board members review the master plan and directed Mr. Russo to supply them with a copy.

OPEN TO THE PUBLIC

Mr. Kent Hardmeyer, 70 Pine Street, Newton, applauded the new sidewalks that are being constructed and replaced on Main Street.

Mr. Ed Smith, 56 Dogwood Avenue, Newton, questioned whose responsibility is it for repair of sidewalks in front of your own home and was advised that it is the homeowner's responsibility for repairs, maintenance and replacement.

COUNCIL & MANAGER COMMENTS

There being no further business to be conducted, upon motion by Mr. Ricciardo, seconded by Mr. Elvidge and unanimously carried, the meeting was adjourned at 9:25 p.m.

Respectfully submitted,

Lorraine A. Read, RMC
Municipal Clerk