

Council Work Session
October 5, 2011
Council Chambers

The regular monthly Work Session of Newtown Borough Council was called to order at 7:00 P.M. on Wednesday, September 7, 2011, by President of Council Julia Woldorf.

Present were Councillors Burke, O'Malley, Sellers, Walker, Warren and Woldorf; Mayor O'Brien; Solicitor Paul Cohen; and Engineer Maryellen Saylor of Pickering, Corts & Summerson.

Amendments to the Agenda

There were no amendments to the agenda.

Public to be Heard

There was no one from the public who wished to be heard at this time.

Engineer's Report – Maryellen Saylor, Pickering, Corts & Summerson

Newtown Station Detention Basin

Ms. Saylor received two e-mails regarding the basin. One was about stabilization of the bank and after examination, she determined that the area was seeded, but the seed did not take, leaving many bare spots. She contacted Toll Brothers and they will address the issue. In addition, Ms. Saylor received a picture of gravel that had washed into the swale after the recent storms. In Ms. Saylor's opinion, that was a matter for the Home Owners Association, since it pertained to regular maintenance of the basin.

Lynda Piacentino, a member of the Newtown Station condominium board, asked for clarification about the re-seeding of grass on the embankment. Ms. Piacentino said that the basin was primarily a grassed detention basin, allowing the area within the parameters of Old Skunky to grow in with cattails and natural vegetation. It was her understanding that as part of the Toll maintenance bond, there was some major upheaval in June with the grass being removed from the banks and other plantings installed. The condominium board received no information about the new plantings or maintenance of the area, so she asked Ms. Saylor for direction. Ms. Saylor explained that after the maintenance bond inspection, it was noted that there should have been some additional plantings in the basin. As a result, Ms. Saylor required Toll to complete the plantings. Ms. Piacentino has never seen the approved landscape plan and has had difficulty in obtaining a copy of it. The planting of azalea bushes and mulch beds at the bottom of the basin did not make sense to her. Ms. Saylor will contact Toll Brothers about providing a landscape plan to Ms. Piacentino.

Newtown Station Bollards

Ms. Saylor investigated the options for breakaway, collapsible, and decorative bollards at the emergency access in Newtown Station. She found that removable bollards might work, although that removal could take time in an emergency. Ms. Piacentino voiced concern about the bricked area at the emergency access being able to support the weight of a fire engine, but Ms. Saylor felt sure it was designed to hold the weight of emergency vehicles. Mr. Sellers asked Ms. Saylor to obtain a cross-section of the emergency area to verify the capacity to hold a fire truck. Ms. Saylor said that two options exist for the bollards. One was removing the existing bollards and replacing them with four new bollards with retractable receivers. The other was retrofitting the installed bollards with retractable receivers, with the bollards drilled and a pin placed in order to lock them. In response to Ms. Woldorf's question about the options, Mr. Cohen said that Toll Brothers could decide which option they wished to chose. Mr. Walker asked whether anyone spoke to the emergency services groups looking for their input on bollards. Council decided that checking with them would be a good idea. Council will discuss the issue of the maintenance bond and cash escrow at a future meeting.

1 S. Lincoln Avenue

Builder Jim Dumont asked Council for direction with the installation of a required streetlight for his land development plan for 1 S. Lincoln Avenue. A May 2008 review letter received by Mr. Dumont from engineer, Gilmore & Associates, stated that Council would determine the make and fixture of the proposed street lamp. Gilmore recommended that the light, make and fixture, match the lighting being installed as part of the Frost Watson development. At that point, the lights were in a trial period, but Gilmore said that if Council agreed with the recommendation, they would provide Mr. Dumont with details for the light. He never received that information and since he now wishes to install the light, he contacted Toll Brothers for the light details. Mr. Dumont then showed the information to the Borough Engineer, who informed him that the high-pressure sodium fixture did not comply with the Borough Zoning Ordinance. Mr. Walker asked if Mr. Dumont could apply for a variance for the light, if necessary, and Mr. Cohen said yes. Ms. Saylor will work with Mr. Dumont to find a light that complies.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Walker, and carried unanimously, to authorize installation of the pole as described in the fax dated August 13, from Harry G. Hey & Sons, to Jim Dumont with a picture specifying a Hanover fixture on a Sternberg pole, and with a preference that the developer follow the recommendations of the Engineer for light dampening options that might be available.

Goodnoe School Expansion

Mr. Sellers reported that Council Rock School District is planning a major expansion of Goodnoe Elementary School. This project will probably have stormwater implications for the Borough. After Goodnoe's first expansion, the Borough is aware that the contractor installed a stormwater basin at the rear of the property. Mr. Sellers' thought was to have the Borough take a role, at least during the planning stage, of looking at the stormwater and site plans, not the structural plans, to determine if there are any concerns. Since Washington Village is adjacent to the project and there have been historical issues of water coming down into Old Skunky, Mr. Sellers said the Borough does not need any more [water] volume to deal with. Mr. Sellers said that there might be re-direction of current stormwater in a new way. Mr. Walker suggested that Ms. Woldorf send a letter requesting participation by the Borough Engineer. Ms. Woldorf said that when Toll built Newtown Walk, the

Borough was shutout of the process with the claim that no water was coming into the Borough. However, when the stormwater portion of the Old Skunky study was completed, it showed that 1/3 of the water was actually coming toward the Borough. Ms. Woldorf suggested writing to both Newtown Township and the school district asking to include the Borough Engineer.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Walker, and carried unanimously, to have Council president contact Newtown Township and Council Rock School District to request the opportunity for the Borough engineer to participate in the stormwater planning aspects for the new Goodnoe School expansion.

SALDO and Zoning Ordinance Modifications

Solicitor Cohen circulated a proposed ordinance to Council with a substantial number of modifications to the SALDO [Sub-Division and Land Development Ordinance], Zoning Ordinance, and the recently passed Stormwater Ordinance. The purpose is to update the Stormwater Management Ordinance regarding the changes to small projects, to make the SALDO and Zoning Ordinance consistent with the new Stormwater Management Ordinance by updating definitions and bringing some provisions up-to-date. The ordinance will require review by the Borough Planning Commission and the Bucks County Planning Commission.

Phillips Court

Mr. Cohen said that it was his understanding that the developer ordered the light fixtures for Phillips Court, which should arrive in 4-6 weeks. The other issue was installation of railings on two properties. In late August, the developer said that they would install new railings within 30 days, but he now says that there are no funds for the installation. The developer requested using the money that the Borough took from his escrow for the light fixtures to put toward the cost of the railings, but Mr. Cohen explained that money removed from escrow must be used for the purpose designated at the time. The developer is now suggesting that the Borough use the escrow funds for the purchase of the light fixtures and their installation, which would free up funds for the railing installation. Mr. Cohen will continue conversations with the developer's attorney. Since railings are not considered public improvements they are not part of the escrow, but they were required by the original plan and are a safety issue. Mr. Sellers said that the Borough has an obligation to assure compliance with the plan and the occupancy permits should not have been issued. Mr. Cohen said the Borough has the ability to find the developer in default of the plan for failure to install the railings.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Warren, and carried unanimously, to authorize the Solicitor to look into the legal options in enforcing the requirements of the land development plan for Phillips Court.

Curb Replacement

Mr. Walker said that the when there is milling and overlaying of streets, it has been the Borough's practice to include curb replacement. In looking at the Engineer's figures for the nine identified street projects, he did not see estimates for curb replacements in any of the projects. Unless the policy was changed, Mr. Walker said the figures should be up-dated prior to the budget meeting. Mr. Sellers said it was an issue of money since the cost of doing even the minimal work is fairly significant for current budget purposes. Ms. Saylor will bring some of the figures to the October 27, 2011, budget work session.

Budget and Finance – Gerard O’Malley

Mr. Walker reminded Council that they received their budget packets, and asked for an initial review and comments to the Treasurer by Friday [October 7, 2011], but no later than Monday (October 10, 2011). Council will discuss the line-item budget on October 27, 2011, and Mr. Walker noted that the budget would be a challenge. Mr. Walker also reminded Council that those involved with grants should have the correct figures in for budget purposes.

- ❖ A motion was duly made by Councillor O’Malley, seconded by Councillor Walker, and carried unanimously, to approve the professional services invoices for August.
- ❖ A motion was duly made by Councillor O’Malley, seconded by Councillor Walker, and carried unanimously, to approve payment to Jacobs Engineering for invoice #2 dated September 1, 2011.

Comprehensive Plan Matrix Discussion

Ms. Woldorf said that Council has been looking at the implementation matrix for the Comprehensive Plan on a quarterly basis. During this review, Ms. Woldorf noted that the Open Space Plan was completed, Council applied for a grant for the Newtown Creek, a recycling program for State Street is in progress, there is ongoing work in several areas regarding parking/circulation and under the category Borough/region, the Council is discussing the Goodnoe expansion.

Solicitor’s Report – Paul Cohen

Parking Permit Ordinance

Mr. Cohen said that the existing Parking Permit Ordinance allows parking longer than 3-hours, but it is limited to certain businesses and is restrictive. The proposed Parking Permit Ordinance expands the ability to allocate more permits and to sell them to more individuals than are currently on the existing approved list. Mr. Cohen suggested adding a provision that gives the Police Chief the ability to limit the number of permits that any one business can purchase.

Valet Parking Update

Mr. Cohen has been in contact with and provided information to Shawn Ward, who is representing the Newtown Corporation on the valet parking issue. Mr. Cohen said that he believes no agreement has been worked out with a valet parking provider at this time.

Paul Salvatore said that the valet parking company is reviewing the agreement and that he met with the Zoning Officer and Police Chief. In response to Ms. Woldorf’s question about his role in representing the Newtown Corporation, Mr. Salvatore said that as a member of the Newtown Corporation Marketing Committee and a member of the Borough’s Parking Committee, he has been the go-to person to shepherd the project.

SEPTA Lease

Regarding the SEPTA lot between Centre and Penn Street, a resident expressed concern about usage of the SEPTA lot because he was told that he could not park vehicles there. He contacted SEPTA about use of the lot and after looking into the issue, they determined that in 1975 the Borough entered into a license agreement

with SEPTA that gave the Borough the ability to maintain the grounds, but excluded use of the lot for parking. Over time the use increased and other individuals began parking there and using it for storage of equipment/materials. SEPTA requested removal of all items, but they were willing to renew the lease to allow the Borough to maintain the grounds. They said they might consider use of the ground for recreational purposes or for storage of materials, if the Borough proposed landscaping/barriers for those materials. Mr. Cohen asked Council if they were interested in renewing or continuing the use of the property, but indicated that it would involve site improvements. Mr. Cohen explained that if the Borough chose to walk away, he would suggest correspondence terminating the existing lease. Mr. Sellers said that he felt the appropriate response to SEPTA would be that the Borough has been doing this for years and it saves the Borough money for the Borough contractor to stage equipment/salt there. Mr. Sellers asked what SEPTA would deem necessary to allow the license to comply if the current use was continued. Mr. Sellers pointed out that several of the other SEPTA properties in the Borough are not well maintained. Mr. Cohen will speak to SEPTA about what they would require.

Mr. Walker asked how Council planned to deal with the letter to Mayor O'Brien from SEPTA regarding allegations of environmental hazards. If the Borough plans to renew a lease and there are concerns that there might be hazardous waste there, he found that troubling. Ms. Woldorf did not know to what the letter referred. Mr. Sellers suggested the Solicitor contact SEPTA and obtain the source for this letter.

Ms. Woldorf asked about SEPTA's request for removal of vehicles/property, as some items, such as the boat, the Borough has no control over. The Solicitor said that if someone is trespassing on SEPTA's property, then SEPTA should be responsible for that removal.

Meeting Minutes

Mr. Cohen reviewed the comments by Shelly Houk from PSAB [Pennsylvania State Association of Boroughs] and looked into the Sunshine Law regarding minutes. Personally, he does not agree with their position and does not think that comments to the Secretary are official action. He could understand a group e-mail and/or comments being a possible concern. Nevertheless, his recommendation to Council was to have the Secretary prepare the minutes and circulate them to Council with no communication regarding the minutes. Any comments should be addressed at the Council meeting. The Secretary asked in order to expedite the process, if each individual Council member could provide their suggested changes to her prior to the meeting in order for her to re-listen to the tape and clarify any issues. If the Secretary does not share the information with Council members before the meeting, but simply brings the information to the meeting, it might facilitate the approval process. Mr. Cohen did not feel that individual communication with the Secretary would be a violation of the Sunshine Law, but sharing any information could be a problem. Mr. Cohen's understanding after Council discussion was that the Secretary would prepare and send a draft of the minutes to Council. Each Council member would then have the ability to communicate directly with the Secretary about any of their comments, but every change must be raised at a Council meeting for approval.

Old Business

Ms. Woldorf updated Council and said that the Website Committee received nine proposals and several web-based interviews have taken place. The Committee plans to meet with some other individuals, but a decision will not be made until early November.

New Business

Ms. Woldorf reported on proposed legislation raised at the Bucks County Association of Boroughs meeting. There is consideration of raising the limit for telephonic quotes to start at \$10,000 instead of \$4000.

Ms. Woldorf said there was a question about whether or not to charge the Water Company for the cost of police services to control traffic during the crosswalk painting at Washington Avenue and State Street. The Police Committee decided to waive the fee since it was a matter of safety for the Borough residents.

Public to be Heard

Paul Salvatore asked when copies of the budget would be available to the public. Mr. Salvatore was told that copies would be available after the November 9, 2011, meeting and until December 13, 2011, when Council will vote to adopt.

There was no one who wished to be heard at this time.

There was a motion to adjourn at 9:05 P.M.

Respectfully submitted,

Marcia M. Scull
Borough Secretary

IN ATTENDANCE

Jeff Werner
Warren Woldorf
Paul Salvatore
Larry Auerweck
Bob King
Gema Duarte
Marlowe Gordon
Jim Dumont
Lynda Piacentino

The Advance

Bucks County Courier Times

Newtown Station Condo Assoc.