

Council Meeting
November 9, 2011
Chancellor Center

President Julia Woldorf called the regular semi-monthly meeting of Newtown Borough Council to order at 7:00 P.M. on Wednesday, November 9, 2011. Ms. Woldorf asked those in attendance to join her in a moment of silence, followed by the Pledge of Allegiance.

Present: Councillors Burke, O'Malley, Sellers, Walker, Warren and Woldorf; Mayor Dennis O'Brien and Solicitor Paul Cohen.

Mayor's Report – Dennis O'Brien

Police Report for October

Mayor O'Brien presented the October police report. The police received a state grant for DUI traffic controls and several violations were noted. Extra security was provided for the Market Day event, for the Library 5K Run and for Halloween night patrols.

Special Events

Newtown Historic Association Open House Tour – December 3, 2011, 10 AM-4 PM
Holiday Parade – December 4, 2011, 2-4 PM

Mayor O'Brien read a proclamation from Chief Wojciechowski and himself recognizing the generosity of a Borough family for their \$1000 donation to the purchase of an AED unit. The Mayor explained that both of the police department AED units were out of service, so police calls for individuals in cardiac arrest were made without those devices. The Mayor announced that he and his wife wished to donate \$500 toward the purchase of another unit in the name of the *We Are Family* Foundation and he asked anyone else wishing to donate to do so.

Amendments to the Agenda

Ms. Woldorf added a banner request from the Newtown Historic Association to the agenda.

President's Report – Julia Woldorf

There was no President's Report.

Correspondence

Ms. Woldorf received a letter from the Department of Environmental Protection informing her that the Borough was not selected for any of the eight grants for which it applied.

Public to be Heard

Paul Salvatore announced that *First Night Newtown* is looking for sponsors and the first fundraiser will be held December 2, 2011. He also noted that sponsors are still needed for the Holiday Parade and the committee is looking for participants and non-profit groups may participate at no charge. Mr. Salvatore said that it is a true community parade starting in the Borough and moving to the Township.

Mr. Salvatore said during the work session discussion on establishing the Human Relations Commission, it was stated that no member of the Commission could hold office in any political party. He asked for clarification and asked who the Commission is limited too, and would it preclude the Majority and Minority Inspectors who represent their political parties working at the polls on Election Day. Mr. Cohen responded that he could not answer the question now, but if Council directs him, he could look into the matter. Mr. Salvatore asked why it was included in the ordinance and questioned passing an ordinance to protect the rights of individuals which violates the rights of others.

Request for Banner

Mary Callahan, representing the Newtown Historic Association, requested permission to hang a 12 sq. ft. banner on South State Street on the Fabian Oil property to advertise the Historic Open House Tour.

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor Burke, and carried unanimously, to approve the Newtown Historic Association's application to hang a banner for a period of two weeks, ending Saturday, December 3, 2011.

Newtown Creek Conservation Presentation – Sue Myerov

Ms. Myerov a Senior Planner at the Heritage Conservancy gave a PowerPoint presentation on the recently completed Newtown Creek Conservation Plan. The study was funded through a grant from the Pennsylvania Department of Conservation and Natural Resources (DCNR), a community partnership conservation program. Educating the public about the issues and encouraging protection of the Creek area are some of the goals. The Newtown Creek Coalition held several visioning sessions and workshops, and as part of this project, the Conservancy built upon that information and created a watershed survey looking for public participation in the survey. The plan is now being reviewed by the DCNR for their comments.

Mr. Sellers said that this is the culmination of a 5 year effort and important to note that the final product is a building block for what comes in the future in terms of the ability to implement the recommendations. Significant funding would be required for implementation, which would include pedestrian crossings connecting the Borough and the Township.

Someone in the audience asked where the pedestrian crossings would be. Mr. Sellers responded that Greene Street at the Newtown Commons and Frost Lane at the old trolley bridge would be two areas for consideration.

Ms. Woldorf said that Council authorized application for a large grant to complete several of the projects highlighted in the study and having this study supports moving forward to the next level.

Certificates of Appropriateness

- ❖ A motion was duly made by Councillor Burke, seconded by Councillor Sellers, and carried with Councillor Woldorf abstaining, to follow the recommendation of the Historic Architectural Review Board and direct the Vice-President of Council to sign COA 2011-030-H, thereby approving the historical appropriateness of the application, with final approval by the Code Enforcement Officer.

COA 2011-030-H Residents Warren & Julia Woldorf, 440 East Washington Avenue

The applicants were seeking a Certificate of Appropriateness for porch railings, which were previously approved under COA 2010-009, and for which the 18-month period for construction had expired.

- ❖ A motion was duly made by Councillor Burke, seconded by Councillor Warren, and carried unanimously, to follow the recommendation of the Historic Architectural Review Board and direct the President of Council to sign COA 2011-031-H, thereby approving the historical appropriateness of the application, with final approval by the Code Enforcement Officer.

COA 2011-031-H Applicant: Jim Dumont, 1 S. Lincoln Avenue

The applicant was seeking a Certificate of Appropriateness for the railings on the front steps, noting that the four caps would be 6" x 6" classic caps, as presented at the meeting, and the entire stair railing including caps, posts and rails would be painted white.

- ❖ A motion was duly made by Councillor Burke, seconded by Councillor Warren, and carried unanimously, to follow the recommendation of the Historic Architectural Review Board and direct the President of Council to sign COA 2011-032-H, thereby approving the historical appropriateness of the application, with final approval by the Code Enforcement Officer.

COA 2011-032-H Resident Joseph White, 143 N. State Street & Additional Applicants: Residents Robert and Ester Novotney, 145 N. State Street, a twin residence

The applicants were seeking a Certificate of Appropriateness for the replacement of rubber porch roofing with tin roofing. The Novotneys agreed to the stipulation that they would submit to the Zoning Officer an affirmation of their desire to have the same roofing material installed on their roof as on 143 N. State Street and submitted prior to the November 9, 2011, Council Meeting.

2012 Proposed Budget

Mr. O'Malley said that Council made good progress over the last three meetings balancing the expenses vs. the revenues, especially in the General Fund, but still came up short. He explained that there were several ways to approach making the changes. One was going back and looking at the assumptions around revenues and expenditures, another approach was utilizing the Operating

Reserve Fund and the third was to discuss the millage rate for the Borough. The recommendation from Treasurer Ours used all three approaches.

With regard to the Ambulance Squad donation, Mr. Walker explained that the Ambulance Squad's presentation pointed out how well they function and how lean their budget is. He did some research after that presentation and determined that the Squad is entitled to have a tax fund of its own, with Council having the ability to approve up to a .5 Mill for an Ambulance tax.

Mr. O'Malley noted that the Committee revisited several items discussed at the Work Session, including when to purchase the next police vehicle. He also said that it appears that a bond issue would provide funds for the purchase of police radios enabling Council to remove those funds from the police budget and placing the \$10,000 back into the General Fund. Mr. O'Malley said this is a united proposal from the Budget and Finance Committee and it works out to a net 3% increase in the budget.

Mr. Sellers asked what the 3 Mill increase converts to in terms of revenue raised. Mr. O'Malley responded that it equates to \$97,900, with .5 Mill for the Lighting Fund and .25 Mills for the Ambulance Fund. This increase would be approximately \$129 per average tax bill or a percentage increase of 50%. Mr. Sellers also asked about the 2.5% salary increase for staff and 3.5% for the Chief of Police and suggested that Council consider no increase for 2012.

Mr. Burke thanked the Budget Committee for their hard work and agreed that adding the Ambulance Fund was a good idea.

Mr. Warren asked how much money was to be moved from the Reserve Fund. Mr. O'Malley said the amount was \$60,000 and Mr. Warren asking about drawing further from the Reserve Fund in lieu of increasing the millage. Mr. O'Malley noted that the same discussion took place last year and he felt the transfer of \$200,000 at that time was appropriate, but it is not sustainable, since those funds could be used for funding grants and handling emergency issues. Mr. Walker said that the rule of thumb is to retain 10% in reserves.

Mr. Walker reminded Council that the stormwater project at the end of Frost Lane and the Quad I and Quad II sidewalks were not included in these budget figures.

Year 2012 Budget

- ❖ A motion was duly made by Councillor Burke, seconded by Councillor O'Malley, and carried with Councillor Warren voting nay, to direct the Secretary to advertise the Year 2012 Budget of \$2,371,124.00, as proposed.

Ms. Woldorf announced that the budget would be available at Borough Hall for inspection by the public for the next month.

Year 2012 Tax Rate Ordinance

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor O'Malley, and carried with Councillor Warren and Woldorf voting nay, to direct the Secretary to advertise an Ordinance setting the Tax Rate for Year 2012 as follows: General Fund 6.25 Mills; Lighting Fund 1 Mill; Fire Tax Fund .875 Mills; Street Improvement Fund .675 Mills;

Ambulance Fund .25 Mills; Earned Income Tax @ 1%; Realty Transfer Tax @ 1%; and Local Services Tax @ \$52.00.

Year 2012 Tax Ordinance Fixing Salaries

- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Walker, and carried unanimously, to direct the Secretary to advertise an Ordinance Fixing Salaries and other compensation for elected tax collector, auditor and Council appointees for Year 2012.

Engineer's Report

Newtown Station Maintenance Bond

The Engineer provided Ms. Woldorf with information regarding the Maintenance Bond for Newtown Station. A meeting was recently held with Ms. Woldorf, Ms. Saylor and Newtown Station board member Michael Feit regarding some uncompleted items, which included repair of brickwork, problems with drainage and some foundation plantings that had not survived. Toll Brothers representative Michael Nice agreed to take care of these items. Ms. Saylor's recommendation was to release the Maintenance Bond but increase the cash escrow from \$10,000 to \$20,000 to cover the bollards and the remaining items to be completed. The Homeowner's Association is considering requesting removal not replacement of the bollards.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor O'Malley, and carried unanimously, to authorize release of the Maintenance Bond for Newtown Station in exchange for a \$20,000 cash escrow, subject to entering into a letter agreement in a form satisfactory to the Borough solicitor.

Mr. Cohen added that the cash escrow would be held until the items are completed, and as they are completed, a portion of the escrow would be released, as requested by the developer and after approval by Council. If it is determined that the bollards will not be installed, then that portion of the escrow would be released.

Sidewalk Survey

Ms. Saylor provided Council with an e-mail listing the cost of Quad I and Quad II sidewalk inspections. After discussion at the work session, there appeared to be a difference of opinion on which Quadrant was to be inspected and no further inspections will be done until a decision is reached. Mr. Walker noted that the minutes approved inspection of Quadrant II, but \$4100 was spent inspecting Quadrant I. He would not be in favor of paying the bill since it appears that the wrong Quadrant was inspected. Mr. Burke's understanding was that the Borough was going back to the list of existing people who had received letters to determine if the work had been completed before resending letters. He questioned exactly what this bill was for and did it cover a re-survey of Quadrant I. It was suggested to continue discussion at the December Work Session.

Frost Lane Stormwater Drainage Ditch

Ms. Saylor provided an estimate of approximately \$10-12,000 for the repair at the base of Frost Lane where there is a problem with stormwater drainage, where it is scouring. The decision appears to be whether to try and halt what is occurring now or wait until next year to do a more extensive project. Mr. Sellers noted that this condition resulted from the joint work with Newtown Township that was completed on Frost Lane. The stormwater outlet on the far side of Edgeboro Drive [at the end of Frost Lane] has created a significantly scoured location of about 4' at its greatest depth. The engineer suggested re-grading the ditch and stabilizing the side slopes to eliminate more erosion from rain.

Since the Township was responsible for the actual work, Mr. Walker questioned whether the Township should be assisting with the repair. Mr. Cohen was asked to check the contract documents for the Frost Lane project to determine if there is some sharing of the responsibility for the work. Mr. Sellers and the Engineer will provide additional information on the issue at the December Work Session.

Presentation of Minutes

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor O’Malley, and carried unanimously, to approve the October 5, 2011, Council Work Session Meeting minutes, as revised.
- ❖ A motion was duly made by Councillor Warren, seconded by Councillor O’Malley, and carried unanimously, to approve the October 11, 2011, Council minutes, as revised.
- ❖ A motion was duly made by Councillor Warren, seconded by Councillor O’Malley, and carried unanimously, to approve the October 27, 2011, Special Council Meeting minutes.

COMMITTEE REPORTS

Budget & Finance – Gerard O’Malley and Robert Walker

Consolidated Report

- ❖ A motion was duly made by Councillor O’Malley, seconded by Councillor Walker, and carried unanimously, to accept, subject to audit, the consolidated expenditure report for the month of October 2011 totaling \$ 95,347.57.

Long Term Parking Committee – Gerard O’Malley

Mr. O’Malley reported that the Long Term Parking Committee recommends additional short-term parking in the downtown area of the Borough, with the objective of increased turnover for shorter stays. The Committee would like to add two additional short-term spaces in the small lot behind *Sharon Brown’s Highly Recommended*. In the municipal lot behind *Starbucks*, the Committee recommends two additional short-term spaces. In addition, they recommend one 15-minute parking space in front of First National Bank. With regard to the loading zone on Centre Avenue near the *Black Horse Tavern*, the Police Chief recommends removing the “Loading Zone” designation and making the area 30-minute parking. Mr. O’Malley was looking to Council for whether to designate the short-term spaces as 15-minute or 30-minute and he was looking for feedback on the suggested locations.

Mr. Burke agreed with the suggestions made and felt that the 30-minute limit on Centre Avenue would provide enough turnover time for loading/unloading and yet allow individuals to park as well.

Ms. Woldorf voiced concern about turning a loading zone into a 30-minute parking spot across the street from *Starbucks*. In her opinion if it is not designated as a loading zone, it would become a parking spot that would not be available for trucks. Even though the suggestion was from the Police Chief, Ms. Woldorf felt that when police are “policing” the area they are looking for active

loading/unloading, but if it becomes a 30-minute spot without the loading/unloading designation, then it is her belief that there will be problems with that.

Mr. O'Malley explained that the intent was not to have an actual loading/unloading zone anymore. The meaning of "Loading Zone" had created confusion and the Chief recommended the change to avoid that. In addition, some of the trucks for whom the space was intended are not actually using it.

Committee member Paul Salvatore spoke to some of the businesses and they favor adding the short-term spaces, but asked consideration of making them 30-minute rather than 15-minute spaces.

Mr. O'Malley will speak again with Chief Wojciechowski and bring his comments to the next work session and will provide Solicitor Cohen with a detailed list of the proposed spaces.

Personnel Committee – Perry Warren

Mr. Warren announced that an application was received for a Recreation Board position, but he has not received a response to the questions.

There are positions open on the Environmental Advisory Council, HARB, Planning Commission, Recreation Board, Newtown Corporation and Human Relations Commission. Anyone interested should submit an application.

Traffic Committee – Gerard O’Malley

Mr. O’Malley announced that the third public meeting for the Newtown Borough Integrated Transportation and Circulation Study will be held on November 16, 2011, at 7 PM at the Chancellor Center. The first meeting discussed existing concerns about pedestrian and bicycle circulation, as well as traffic flow. At the second meeting, those existing concerns were presented and potential solutions were discussed. This third meeting will cover recommendations in the draft report that resulted from the study and discussion about potential implementation ideas will take place.

A resident asked Mr. O’Malley why there is no pedestrian sentinel at the intersection of Greene and North State Street. After talking to Chief Wojciechowski, the Chief said if Council wished to place a sentinel, he could request additional ones from PennDOT, although he prefers signage to sentinels. Ms. Woldorf also suggested adding one at the intersection near Barclay Street. Council concurred.

Solicitor’s Report – Paul Cohen

Parking Permit Ordinance

Mr. Cohen explained that because the proposed Parking Permit Ordinance was not lodged with the Bucks County Law Library, it would require re-advertising and, therefore, could not be approved by Council at tonight’s meeting.

Newtown Township Zoning Hearing for The Promenade

Mr. Sellers suggested at the Work Session that Council discuss the possibility of sending legal counsel to the Newtown Township Zoning Hearing for The Promenade. After listening to the Borough's budgetary constraints, he said Council should evaluate how strongly they wish to get involved, as any involvement with our attorney would result in costs going forward. Mr. Sellers said he did not suggest that the Borough send legal counsel.

Ms. Woldorf suggested sending a letter from Council registering their concerns regarding the reduction in the number of parking spaces for the development, because of the impact on Borough streets immediately adjacent to the site and Mr. Sellers wanted to include comments about the unkempt appearance of the site.

Mr. Burke said that sending a letter regarding concerns about the development would be more appropriate than including Mr. Sellers suggestion about the appearance of the property being an eyesore. He suggested asking the Township to look into the interests of both communities and serve the best interests of both.

Ms. Woldorf wanted to clarify the intent of the letter and asked if it should be sent to both the Supervisors and the Zoning Hearing Board. She said her understanding was that the letter should express ongoing concerns for the property, the new list of variances in particular, the impact on the Borough and that the Board of Supervisors and the Zoning Hearing Board would consider development of this property to the benefit of both communities.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Warren, and carried unanimously, to authorize Council President to send a letter to the Newtown Township Board of Supervisors and the Newtown Township Zoning Hearing Board registering the Borough's ongoing concern for the property that remains undeveloped, continues to be an eyesore and has a developer coming back for a list of variances [for The Promenade], including further reductions in parking.

SEPTA Issues

Mr. Cohen spoke with an attorney at SEPTA regarding issues previously discussed by Council. With regard to the question of environmental hazards, SEPTA responded that there was no record of environmental studies regarding the site. Mr. Cohen raised the possibility of an agreement with the Borough for use of the property, subject to screening provisions. The SEPTA attorney indicated that they would not be willing to have vehicles stored on the property, but storage of materials, such as salt, might be considered. The attorney asked the Borough to provide SEPTA with a proposal of the type of screening they would propose. Mr. Cohen said he would not be willing to pursue it, but assumed a committee or individual from Council might be willing to propose a reasonable use for the lot and what screening would be necessary. He would then communicate that to SEPTA. Mr. Cohen did state that he only spoke to one individual who indicated no parking, but others might consider it differently. Ms. Woldorf suggested that the Streets, Lights and Properties Committee should handle this issue.

Gilmore Invoice

A question was raised at the Work Session regarding a professional services bill from Gilmore for a deposition. Mr. Cohen did note that the Borough was dismissed from this particular case without prejudice. After speaking to Counsel for the insurance company, it was suggested that the Borough submit the bill to them.

Valet Parking

Mr. Cohen received an e-mail from attorney Shawn Ward regarding the proposed valet parking plan and indicating that a private lot will be used for the valet parking. The current Resolution presumes the use of the Borough lot, so a new Resolution would be required. Mr. Cohen said the Council only has the ability to designate lots for valet parking, but does not provide regulations for those lots. The agreement with the Newtown Corporation that was previously discussed had more to do with use of the Borough's parking facility behind 10 Centre than simply the operation of valet parking. In the interest of public safety, Mr. Cohen said Council can authorize the Police Chief to discontinue valet parking, if he feels that there is a threat to public safety. In response to Mr. Warren's question about the requirement of insurance, Mr. Cohen said that he believed that was related to the use of the Borough parking lot, but he does not feel that Council can require that since they are no longer engaged in the activity.

Paul Salvatore explained that George Stockburger has agreed to use of his lot next to the Friends Meeting House [on Court Street], which would free up the use of the lot behind 10 Centre for other parking. The details are being worked out and Mr. Stockburger will be compensated per car and paid directly by the valet company.

Mr. Warren asked why the Newtown Corporation even needed to be involved, as he thought the matter should be between the valet company and Mr. Stockburger. Mr. Salvatore responded that the Newtown Corporation is involved because they are marketing it, because they were the entity looking for a valet company in the beginning, and because someone needs to be a catalyst to keep it moving.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Walker, and carried unanimously, to retract the previous Resolution [for valet parking] and pass a new resolution stating that the two northernmost parking spaces South of Washington Avenue, located on the East side of 1 S. State Street, be hereby designated for valet parking. The parking spaces would be designated for valet parking for a period of three months and that valet parking at those spaces would only be on Thursdays from 9 AM – 9 PM and Fridays and Saturdays from 9 AM- 12 AM.

SALDO and Zoning Ordinance Revisions

The Solicitor and the Engineer have prepared revisions to the SALDO and Zoning Ordinance to update stormwater management issues. The Borough Planning Commission reviewed it and provided comments to Council. Mr. Cohen requested authorization to incorporate those

comments into the ordinance and forward it to the Bucks County Planning Commission for their review.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Burke, and carried unanimously, to authorize the Solicitor to incorporate the Planning Commission comments into the SALDO and Zoning Ordinances and forward them to the Bucks County Planning Commission for their review.

Based on discussion at the Planning Commission regarding the use of portable A-frame signs and the summary letter from the Planning Commission that resulted, Mr. Sellers asked the Solicitor to research the Zoning Ordinance to determine whether there could be a trial basis for use of temporary signs and if he could recommend amendment(s) to the Zoning Ordinance for the purpose described. Mr. Cohen will speak to the Zoning Officer before making a recommendation.

The Solicitor noted for the record that Council held an Executive Session prior to the meeting for discussion of personnel and litigation.

Old Business

Mayor O'Brien reported that because of the earlier discussion regarding AED units, Nancy Terry and her husband agreed to match the donation previously made.

Ms. Woldorf referenced an e-mail requesting a letter of support from Council to the Bucks County Planning Commission in support of their grant application to assist with the MS4 stormwater reporting.

- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Sellers, and carried unanimously, to authorize the President of Council to send a letter of support to the Bucks County Planning Commission in support of their grant application.

New Business

Mr. Burke announced that a continuing education program for HARB members, consisting of two four-hour sessions, will be held in December and will also be open to the public. Additional information will follow.

Ms. Woldorf raised the matter of the Annual Employee Luncheon and noted that last year members of Council shared the cost, which was fairly significant. The Solicitor advised that Borough funds can be used for the luncheon, but any Council members that attend must pay their own expenses. In her opinion, some employees are unable to attend because of other commitments, so she proposed having a potluck at Borough Hall, so that employees could come and partake during their lunch break, but still be acknowledged and not impact the Borough reserves in terms of financial obligation. The Secretary advised that the police department and office staff discussed the issue and felt that a luncheon was not necessary this year.

Ms. Woldorf announced that December 11, 2011, is the Volunteer Recognition Open House at the Half Moon Inn.

Public to be Heard

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

The meeting adjourned at 9:44 P.M.

Respectfully submitted,

Marcia M. Scull
Borough Secretary

ATTENDEES

Warren Woldorf	
Jeff Werner	The Advance
Paul Salvatore	
Larry & Ann Auerweck	
Diane LeBas	
Robert King	
Mary & David Callahan	
Liz Warren	
Susan Myerov	
Brian Holt	
Jessica Kadylak	The Patch
Jeanne Haeckel	
Judy Musto	
Bill Heinemann	
Nancy Terry	
Mary Hunter	
Jim McAuliffe	
Mark Craig	