

Council Meeting  
January 12, 2010  
Chancellor Center

President Julia Woldorf called the regular semi-monthly meeting of Newtown Borough Council to order at 7:00 P.M. on Tuesday, January 12, 2010. 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 and Mayor O'Brien.

### **Mayor's Report – Dennis O'Brien**

- **The Police Report for December 2009 was presented**  
Mayor O'Brien reported that three part-time police officers have left the force to take full time positions in other departments.

### **Amendments to the Agenda**

Ms. Woldorf noted that COA 09-036-H (incorrectly listed as 038), is being removed from the agenda as there is no Certificate of Appropriateness required.

The proposal for cameras at the police station is being removed from the agenda. Ms. Woldorf reported that the Police Committee asked the Chief to obtain detailed quotes for the proposed cameras, and the Chief had asked for the discussion to be postponed until February, so that he could assemble complete information.

An additional set of minutes from November 17, 2009, has been added to the agenda for approval.

### **President's Report – Julia Woldorf**

Ms. Woldorf explained changes in the handling of Public Comment for this meeting only. The first *Public to be Heard* is only for discussion of items listed on the agenda. The second *Public to be Heard* is for comment on items not on the agenda. There are two agenda items for which there is new information, the Stocking Works II proposal and the Newtown Corporation, and there will be time for public comment prior to any vote on those issues. Ms. Woldorf is working to develop rules of order for Council. Mr. Burke and Mr. Warren volunteered to assist and a draft should be available for the February Work Session.

## **Public to be Heard**

Karen White, S. Chancellor Street, asked to address Council about an item from the previous Council meeting, but Ms. Woldorf informed her that since it was not an agenda item, she must wait until the end of the meeting to speak under that *Public to be Heard*.

## **President's Report – Julia Woldorf**

### **Appointment of Solicitor**

- ❖ A motion was duly made by Councilor Burke, seconded by Councilor Warren, and carried unanimously, to appoint Paul Cohen of Jenei and Cohen as the Borough Solicitor, noting acceptance of his fee schedule as noted in Mr. Cohen's letter of December 17, 2009.

### **Appointment of Engineer**

A motion was made by Councilor O'Malley to appoint Pickering, Corts & Summerson as the Borough Engineer, but after the following discussion, Mr. O'Malley withdrew his motion: Councilor Walker stated that Pickering, Corts & Summerson does not have storm water management expertise. Considering the storm water issues related to Old Skunky, Mr. Walker felt that Cowan & Associates is a better candidate. Councilor Burke felt that Cowan researched the Borough prior to their presentation to Council and they came to the meeting prepared. Mr. Burke felt that Cowan had the tools, technology and resources to better serve the Borough. Councilor O'Malley voiced concern that Cowan was located at a greater distance from the Borough and he felt that Pickering, Corts & Summerson had a long standing history with the Borough. Councilor Sellers felt that the Borough archives of Pickering would be a benefit to Newtown. Councilor Warren would like to have consensus on this decision and suggested having further discussion with both firms regarding their respective fee schedules before making an appointment and suggested tabling the motion. The newly appointed Solicitor, Paul Cohen, who was in attendance, was asked to come forward and advise Council on how to move forward. Mr. Walker wanted assurance that both firms would be willing to work at the rate of the Gilmore fee schedule and asked for additional information on Pickering's storm water management experience. There will be further discussion at the Work Session.

### **Appointment of Alternates to Zoning Hearing Board**

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Walker, and carried unanimously, to adopt Resolution 01-12-10-A, to appoint William E. Palkovics to the Newtown Borough Zoning Hearing Board as an alternate member, through December 31, 2011.
- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Walker, and carried unanimously, to adopt Resolution 01-12-10-B, to appoint Harry V. Tomlinson to the Newtown Borough Zoning Hearing Board as an alternate member, through December 11, 2011.

## Certificates of Appropriateness

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

### **COA 2009-040-H Applicant: DeFrehn Corporation, resident at 111 N. Chancellor Street**

The applicant was seeking a Certificate of Appropriateness for the replacement of a slate roof with GAF Slateline. An emergency permit was issued November, 20, 2009.

## Stocking Works II Presentation – Allan Smith

Developer Allan Smith addressed Council regarding plans for the State Liquor Store. The Liquor Control Board needs a larger facility and will not renew the lease on the current store. Mr. Smith asked Council for their support in retaining the store and accelerating the process by agreeing to phase in the construction of a larger store at the site of the current Stockburger showroom, prior to the remainder of the project being approved. In answer to Mr. Walker's question about whether Borough zoning allows this use at this location, Planning Commission Chairman Woldorf responded that it does. Mr. Woldorf did comment that detailed drawings would be required in order to apply for a building permit.

Ms. Woldorf asked for public comment at this point.

Resident Jeanne Haeckel asked whether other types of retailers would be more of a benefit to the Borough than a liquor store. Ms. Haeckel also asked about potential traffic concerns.

Joe Lovi, 151 N. State Street, would like to see the State Store remain, retail is retail and the traffic should be the same.

Dave Callahan of Court Street noted that the State Store has brought shoppers into town and he is in favor of retaining it.

Eric Johnson, 142 S. State Street, is in favor of the entire Stocking Works II project and the State Store. Mr. Johnson feels that the Borough should work with the developers the best we can.

Becky Betz, Becky's Deli, spoke in favor of the State Store and would like to see it stay.

Mary Jane Leonard, E. Centre Avenue, spoke in favor of retaining the State Store but asked about the design, the entrance and parking.

In response to Ms. Haeckel's traffic question, Mr. Smith responded that the State Store traffic should be less than currently at the Centre Street location. Mr. Smith noted that a traffic study is currently being conducted and should be completed before the next Planning Commission meeting.

Mr. Walker asked if there would be additional uses above the State Store and Mr. Smith responded that there would be office use.

Mr. Warren disclosed prior to the vote that he rents office space from Mr. Smith, and although he does not see that as a conflict of interest, he did want it noted.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Walker, and carried unanimously, to have Council express their support for retaining the Pennsylvania State Store location in Newtown Borough.

Solicitor Cohen clarified that acceptance of a phased project does not waive any of the requirements of the land development process for the entire project.

In response to Mr. O'Malley's question, Planning Commission Chairman Woldorf noted that the Planning Commission has only viewed conceptual plans of the project, but they are in favor of retaining the State Store and phasing the project, which complies with the current Zoning Ordinance.

Bob King, 242 S. Chancellor Street, had concerns about phasing of the project and whether the store would be more than 10,000 square feet, which he felt would not meet the current Zoning Ordinance requirements. Mr. King urged Council not to act on this issue tonight as he is concerned about rushing the project through.

Carolyn Gabbe of N. State Street voiced concern about moving from a proactive process to a hasty reactive process and that might be setting a precedent.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Walker, and carried with Councilor O'Malley voting nay, to allow a phasing of the Stocking Works II project to allow application and consider early approval of the State Store location.

## **Newtown Corporation**

Dave Callahan, 113 Court Street, a member of the Newtown Corporation, felt that the Executive Director was unfairly fired. Although there had been discussion about areas for improvement and housing issues, the Executive Committee never discussed firing of the Executive Director.

Mr. Sellers asked Mr. Callahan about the Executive Committee meeting on December 8, 2009, the same night as the Borough Council Meeting and which Corporation members were in attendance. Mr. Sellers then asked about the meeting on December 10th and Mr. Callahan explained that both he and Mr. Swartz were unaware that there would be discussion on possible termination after they left the meeting.

Paul Salvatore, 148 N. Elm Avenue, a member of the Newtown Corporation, noted that there was discussion at the Executive Committee about termination of the existing contract for the Main Streets Manager and that discussion would continue at the board meeting on December 10<sup>th</sup>. Although not placed on the agenda, a board member reminded the board that the discussion was to take place and discussion then commenced with a motion being made. Mr. Salvatore noted that the

Newtown Township liaison was in attendance, but that no Borough liaison had attended meetings in several months. Mr. Salvatore asked that Council not make a decision until the joint meeting on January 28, 2010.

Mr. Sellers asked Mr. Salvatore when the decision was made to terminate the Executive Director. Mr. Salvatore clarified that the December 8th meeting was only discussion of the contract and termination was not discussed until the December 10<sup>th</sup> meeting. In response to Mr. Sellers' question about the acting director, Mr. Salvatore answered that he is serving as acting director.

Frank Brassell, the newest member of the Newtown Corporation, commented that the Executive Director's job description and compensation was discussed at both the November and December meetings, with the Newtown Township liaison in attendance. Mr. Brassell clarified that the decision to terminate had not been previously discussed, but evolved at the meeting.

Patti Lovi, 151 N. State Street, seemed surprised that the Newtown Township liaison attended the Executive Session of the Newtown Corporation. Ms. Lovi also noted that the Executive Director and Corporation had received many accolades and state recognitions and she was upset at the way the termination was handled.

Charles Swartz, member of the Newtown Corporation, commented that there were no amendments to the Corporation agenda regarding the issue and Mr. Swartz felt blindsided when he found out after the meeting about the termination. Mr. Swartz acknowledged that there had been discussion about compensation and housing, but felt there should have been more discussion prior to termination. One of the most important issues was the leadership of the Executive Director with the Main Street program into Sycamore Street and Mr. Swartz feels that she should have been given the opportunity to work with the board and the new direction that they appear to be taking.

Janie Swartz voiced concern about the decision regarding the Executive Director and Ms. Swartz would like to see the Newtown Corporation disbanded. The Borough prospered from Ms. Ortwein's leadership and she is disappointed at the decision made by the Board.

Mr. O'Malley felt that Council should take their time in making a decision and his confidence in the Corporation has fallen recently.

Mr. Burke felt that better communication is needed and that more time is required before making a decision.

Ms. Woldorf questioned whether the by-laws should have included the Borough in the termination decision.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor O'Malley, and carried unanimously, to ask the Solicitor to review the Corporation by-laws to advise Council on their legal rights and obligations and to have an opinion within the next 30 days.

## **Pickering Field Use Agreement**

Mr. O'Malley reported that he and Mr. Walker have been working with the Council Rock Newtown Athletic Association representatives regarding the Pickering Field Use Agreement. He would like to see the Solicitor review the draft and the issue placed on the February Work Session agenda for discussion. The draft agreement will be available for public review.

## **Presentation of Minutes**

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor Sellers, and carried with Councilor Warren abstaining, to approve the November 10, 2009, Council Minutes.
- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Walker, and carried with Councilor Warren abstaining, to approve the November 17, 2009, Special Meeting Minutes.

## **COMMITTEE REPORTS**

### **Budget & Finance – Gerard O'Malley**

#### **Consolidated Report**

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor O'Malley, and carried unanimously, to accept, subject to audit, the consolidated expenditure report for the month of December 2009, totaling \$208,153.90.
- ❖ A motion was duly made by Councilor Warren, seconded by Councilor Walker, and approved unanimously, to hire Edward W. Craft as a non-civil service part time police officer, effective January 13, 2010, at a rate of \$18.00 per hour.

## **Old Business**

Mr. Walker asked Council to consider a “stop” time of 9 P.M. for Council meetings.

Mr. Walker referenced a letter written by Charles Machion and read by Jon Guy at the previous Council meeting regarding the ethical performance of Council members. Mr. Walker would like that issue discussed at the next Work Session, with copies of the letter shared with Council members and the Solicitor.

Ms. Woldorf reported that she amended her committee assignments and that Mr. O'Malley and Mr. Walker will serve as co-chairs of the Budget & Finance Committee.

Newtown Township decided not to reappoint members to the Newtown Area Telecommunications Advisory Council. The question remains as to what Newtown Borough would like to do moving forward or whether the board should become an Ad Hoc committee. The committee also served as a conduit for resident concerns and complaints. There was consensus among Council that the

Newtown Borough members of the NATAC should meet as scheduled in February and make recommendations regarding continuation of the board, which is established by ordinance.

### **New Business**

There was no new business

### **Public to be Heard**

Karen White, 121 S. Chancellor Street, was disappointed in the newly formed Council with what she saw as a well orchestrated reversal of the previous Council's approval of security cameras at Linton Park. Ms. White thought it was about giving the Chief the tools to do his job to protect the integrity of the park and more importantly the children of our community. Ms. White was upset at Mr. Warren's comments about the town meeting where 17 residents were against the cameras and 7 in favor of the cameras, finding it unfortunate that he did not take into consideration the petition supporting the installation of cameras signed by 32 residents who live around the park. Ms. White noted that the petition was signed by residents of various party affiliations and she felt that it would have been respectful to listen to all concerned residents.

Edith Gowin, 202 N. Chancellor Street, asked if Council would have specific details regarding fencing when the issue is discussed at the work session.

Paul Salvatore, 148 N. Elm Avenue, reported that over 1200 gifts were collected for the Angel Tree project. First Night was successful this year, even after lowering the ticket price, and the group was still able to provide fireworks.

Steve Lenihan of S. Chancellor Street commented on the reversal of the security camera issue without allowing public comment. Mr. Lenihan signed the petition referred to by Ms. White and yet there was no further discussion before overturning the previous motion. Mr. Lenihan was not happy with what he heard and felt that it was party politics.

Janie Swartz commented that the Borough should be mindful of the parking issues with the neighbors on North Chancellor Street when looking at the Pickering Field Use Agreement.

Judy Musto, 118 S. Congress Street, thanked the residents of Newtown Borough for their continued faith and support in re-electing her. Ms. Musto wanted to remind the public that there is a tax reduction deadline approaching. Under the Taxpayer Relief Act, there is a property tax reduction under a Homestead or Farmstead exclusion. A form must be filed with the county by March 1, 2010. If you already receive this reduction, you do not need to reapply. Applications and instructions can be obtained through the Bucks County website navigating through to the Board of Assessments. Ms. Musto can answer questions but she also suggested [www.bctaxes.org](http://www.bctaxes.org). A link will be included on the Borough website for additional informational sites.

Duane Buck, 113 Andrew Drive, thanked the Council members for serving the community and remarked that this had been one of the more enjoyable meetings he had attended. Mr. Buck agreed with Janie Swartz about working together and thoughtful in the deliberations. Mr. Buck belatedly thanked Mark Craig and Rand Jaslow for their past service. He also thanked Bob Walker for his service as Chair of the Budget Committee, which is a time-consuming job. Mr. Buck commented that he would like to see votes taken by conscience and not by party line.

Bob King served for 12 years and he realizes how much time it takes. Mr. King was concerned about the restriction on *Public to be Heard*. When serious discussions were taking place, Council always allowed public comment. Mr. King felt that the public is put at a disadvantage when it is unknown what Council discussion might be on an issue and if Council wants everyone to feel included then it is important that they be heard. Mr. King feels that the new policy is one of the more restrictive that he has seen and he urged Council to reconsider the process in order to have a free exchange of ideas.

The meeting was adjourned at 9:30 P.M.

Marcia M. Scull  
Borough Secretary

#### ATTENDEES

Diane LeBas	104 Penn Street
Paula Zimmerman & Josh Horenstein	21 S. Lincoln Avenue
Bill Heinemann	35 N. Chancellor Street
Caroline Bennett	28 Liberty Street
Marybeth Burke, Erin & Bridget	301 S. Norwood Avenue
Philip Nodore	Morris Plains, NJ
Vincent Nisilli	Morris Plains, NJ
Liz Warren	149 Andrew Drive
Warren Woldorf	440 Washington Avenue
Jen Pennington & Bill Foster	524 Penn Street
John & MaryJane Leonard	446 E. Centre Avenue
Paul Salvatore	148 N. Elm Avenue
Charles Swartz	323 Washington Avenue
Jim McAuliffe	545 E. Centre Avenue
Kati Sowiak	121 S. Chancellor Street
Joy Guy	110 S. Congress Street