

Council Work Session  
January 7, 2009  
Council Chambers

The regular monthly Work Session of Newtown Borough Council was called to order at 5:00 P.M. on Wednesday, January 7, 2009, by President of Council Mark Craig.

Present: Councillors Craig, Jaslow, Sellers, Walker and Woldorf; Mayor Dennis F. O'Brien; Solicitor Donald Williams and Engineer and John Genovesi. Councillor O'Malley was excused.

### **Discussion of Long Term Parking Committee Appointment**

Mr. Craig commented that since Mr. O'Malley was not in attendance, the discussion of the Long Term Parking Committee appointment should probably be postponed. In response, Ms. Woldorf said that she had spoken to Mr. O'Malley. She reported that after the resignation of committee member Larry Auerweck, Mr. O'Malley's desire was to allow the committee to return to its original size rather than replace him, since his concern was that as committees get bigger they become less functional. Although someone had expressed interest in joining, Ms. Woldorf said that they both felt that returning the Committee to its original size would be good. Committee member Paul Salvatore commented that he would prefer to see the membership at five members and he noted that he is the only Borough resident on the Committee, as the other members represent the business community. Mr. Jaslow felt that volunteers should not be turned down and an added voice on any committee would be a welcome addition. Mr. Craig suggested additional discussion, which should include Mr. O'Malley. Mr. Walker suggested having the Long Term Parking Committee discuss the issue.

### **Discussion of Newtown Corporation Appointments**

Ms. Woldorf noted that there are two openings on the Newtown Corporation Board and several individuals have expressed interest in serving. Ms. Woldorf reminded Council that they never concluded what its relationship with the Newtown Corporation was going to be moving forward. Secondly, if the Borough will be appointing members to the Board, Council will want assurance that those individuals represent the Borough's interests. With that in mind, Ms. Woldorf suggested announcing openings on the Newtown Corporation Board and having interested parties attend the January 27<sup>th</sup> Joint Meeting of the Newtown Corporation, Newtown Township Supervisors and Newtown Borough Council to find out what the issues are and then interview those individuals at the February Council work session. Ms. Woldorf felt that these appointments are more significant than routine committee appointments and she is concerned about economic and long-term consequences of those appointments. Mr. Jaslow asked how many applicants had expressed interest in the position and Mr. Craig noted that there were three individuals. Mr. Sellers felt that there was confusion about the direction Newtown Corporation was going after the last joint meeting. The Newtown Corporation concluded that they wanted mandatory appointments by the two municipalities and he wanted to see Newtown Township and Newtown Borough appointees communicate with their boards. Mr. Sellers would like to see discussion of what the benefit of the Newtown Corporation would be to Newtown Borough going forward, rather than discussion of the by-law changes. Mr. Jaslow voiced concern about protecting the Borough and by-law changes could influence what happens. He feels that no member of Council should serve as a member of the Board, only as a

liaison. Executive Director, Ms. Ortwein, felt that delaying appointments would create difficulties with orientation and training for the newly appointed Newtown Township board members. Ms. Woldorf stated that she is unfamiliar with the applicants and would not want to appoint members until she understood their philosophy and what they have to offer. She wanted assurance that those appointed would reflect what Council would like to see reflected. Resident Patti Lovi was concerned that Ms. Woldorf does not know enough about the Corporation and their mission statement to make a good judgment on who should be appointed. Ms. Lovi said the success of the Newtown Corporation was quite clear and that the Corporation has not been political in the past. The Borough and the Township have worked together and Ms. Lovi does not want to lose that sense of camaraderie. In an effort to move the process along, Mr. Walker suggested that with the past involvement of Mr. Sellers and Mr. Craig on the Newtown Corporation board, that they review the applications and make a recommendation to Council rather than delaying the appointments until February. Mr. Sellers was uncomfortable with that approach and did not want the responsibility that might cause someone to make a decision to serve. He wished to have the applicants attend the January 27<sup>th</sup> meeting and understand the interaction between the three boards. Ms. Ortwein was extremely disappointed and questioned why after 8 years of appointments to the board the process needs to be changed. Ms. Woldorf said the issue is that there are new council members and as a new Councillor she wants to feel comfortable with the representation of appointees to the Corporation. Board member Paul Salvatore expressed concern about the delay of approvals and felt that the rules seem to change depending on the players. Ms. Ortwein said the reason for the Corporation looking for its independence was because they did not want to politicize their work and she felt that a big political play is now going on here. In answer to Mr. Walker's question about Newtown Township appointments, Mr. Salvatore responded that the supervisors chose not to appoint a supervisor as a sitting member. Ms. Lovi asked Council's position in appointing a Borough representative to the Board who is not a Borough resident, but who had a business connection. Mr. Craig noted that he had no problem with such an appointment, but he could not speak for the rest of Council.

### **Engineer's Report – John Genovesi**

Mr. Genovesi inspected the Phillips Court development and is creating a punch list with an estimate for completing those punch list items for the Tuesday Council meeting.

Gilmore & Associates wants to resolve the Newtown Station lighting issues in terms of producing a plan detailing what fixtures should be installed and moved and to confirm the lighting levels that have been agreed to with input from the Newtown Station Homeowners Association. In answer to Ms. Woldorf's question, Solicitor Williams stated that the revised plan does not need to be reviewed by the Planning Commission.

Mr. Walker reported that a meeting is scheduled between the Engineer, the Solicitor and Frank Tyrol to discuss the status and future plans related to the Phillips Court development.

Mr. Jaslow raised the issue of bollard placement in the right of way and asked if Council wished to adopt a new policy regarding bollards. Although bollards were previously permitted, new liability issues have arisen with regard to bollard placement in the right of way and the engineer is trying to limit the Borough's exposure to potential liability. Council authorized the Solicitor to review a possible amendment to the ordinance regarding placement of structures in the right-of-way.

## **Johnson, Kendall & Johnson**

Mr. Walker introduced Bruce White of Johnson, Kendall & Johnson who made a presentation to Council regarding cyber liability insurance coverage. In reviewing the new Cody police software contract, the Solicitor questioned the indemnification language in the Cody contract. This proposed insurance coverage would cover all Newtown Borough software applications, not just the Cody software. The coverage provides for damage and defense costs, regulatory expenses, outsource network claims, personal injury and identity theft. An enhanced policy includes security liability, content injury liability and additional professional liability. Mr. White feels the primary policy would meet the Borough's needs. Mr. Sellers asked whether these types of claims are occurring, to which Mr. White responded not at this time, so Mr. Sellers questioned the actual need for this type of coverage. Mr. Walker said he was trying to be pro-active in addressing what might be a potential issue. Mr. Jaslow recalled a similar discussion several years ago regarding insurance coverage and Mr. Sellers agreed that ultimately it is an evaluation of risk, but he is not convinced that there is a risk. Council decided to go forward with signing of the Cody contract and to make a decision on the insurance coverage in the future.

## **Budget & Finance – Robert Walker**

- Discussion on the Fee-in-Lieu of Trees was postponed, since Mr. O'Malley was not able to attend the meeting.

### **2009 Fee Schedule**

Mr. Walker explained that in order to streamline the permitting process for sidewalk improvements a flat fee of \$300 will be charged for Frontage Improvement Permits. The charge/fees will be different if the permit includes driveways and/or driveway aprons.

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor Jaslow, and carried unanimously, to adopt Resolution 01-07-09, the 2009 Newtown Borough Fee Schedule.

## **Solicitor's Report – Donald Williams**

Solicitor Williams reviewed the recommendations of the Historic District Workgroup regarding a possible amendment to the Zoning Ordinance. Mr. Williams reviewed the statutes, looked at case law and consulted with Lynn Bush of the Bucks County Planning Commission in order to determine if amending the ordinance to prohibit demolition of all buildings unless certain standards were met was a viable option. Mr. Williams is leaning toward the opinion, at this point, that such a regulation will not work. There is strong case law for permitting such regulations in the historic district, but defining such criteria to cover the entire town could be legally challenged. Mr. Jaslow suggested taking specific zoning districts that do not have historic district designation and changing the wording for those districts to permit certain criteria to apply that would permit Council to prohibit demolition of certain specific properties within those districts. Mr. Sellers felt that extending the historic district seems to be the accepted legal way to accomplish handling demolition requests. Solicitor Williams noted that there is oversight by the Commonwealth of Pennsylvania to approve/extend historic districts with passage of a Resolution. Mr. Williams raised the possibility of defining strict parameters geared toward the historical significance of the structure, but wanted to discuss the issue with Ms. Bush.

Mr. Jaslow confirmed with the Solicitor that he had reviewed the newsletter contract for *Printmasters* and was comfortable with the wording.

Mr. Williams referenced the proposed noise ordinance that had been drafted and asked Council for their input at the March work session.

Amendments to the Deed Registration Ordinance were presented by Mr. Williams. Pre-registration is no longer permitted, but the deed must be submitted to Newtown Borough within two business days of the deed filing at the Recorder of Deeds Office and the maximum fee will be changed to \$10.00. Mr. Jaslow noted that some municipalities require a Use and Occupancy Permit for any property that changes ownership and that would assure making the municipality aware of the transaction. Mr. Craig voiced concern about costs that could be incurred with required inspections to bring properties up to code. Mr. Williams noted that it depends on the individual ordinance and the extent of what the municipality wishes to accomplish. If triggering notification of the transaction is the main concern, then an extensive inspection would not be required. Mr. Williams will research the matter for Council. Secretary Scull commented that the proposed ordinance does not reference the Borough's current deed registration application, which has a section to be initialed by the buyer if the property is within the Historic District. The application is actually of more importance to the Borough than the copy of the deed, because it causes the buyer to acknowledge that they are in the Historic District. The discussion of requiring a U & O might accomplish that acknowledgement by the property owner. Mr. Salvatore did comment that U & O's are usually required prior to settlement and he suggested providing a New Resident Packet at the same time. Council will make a motion to advertise the ordinance at the next Tuesday Council meeting.

Mr. Sellers asked the Solicitor about his review of the Keystone Municipal Services contract. Mr. Williams reported that some indemnification and termination language should be addressed.

### **Old Business**

Ms. Woldorf asked if Council currently has or needs a Resolution on Records Retention. Mr. Walker reported that he had requested both the Police Department and the administrative staff to create a Records Retention Policy and that project is almost complete. Mr. Craig voiced concern with regard to the Open Records Act about the use of e-mails and which e-mail accounts should be used. Solicitor Williams was asked to provide the Council with input.

Mr. Sellers reported that a meeting with the individuals who wrote the DCNR Newtown Creek Greenway Grant is scheduled but Council must make a motion to hire the Heritage Conservancy to complete the work. The motion will be made at the Tuesday Council Meeting. Mr. Sellers agreed to oversee the grant project.

### **New Business**

Ms. Woldorf raised the issue of the Frankford Hospital expansion plans in Middletown Township, asking if Council wished to take a position in opposition to the plan. Mr. Craig felt that he did not have sufficient information to make a decision. He also questioned whether Newtown Borough had the right to participate with party status, since the project is not in an adjacent community. Solicitor Williams commented that "...it would be a stretch." Mr. Sellers noted that it would create an enormous increase in traffic. Ms. Woldorf offered to attend upcoming meetings and bring information to Council.

### **Public to be Heard**

Resident Paul Salvatore commented that the harder Council makes the process for appointments, the less people will come forward.

Resident Patti Lovi asked Council if information on an appointed server, such as Berkheimer, would be protected under the Cyber Liability Insurance that was discussed earlier in the meeting. Mr. Craig stated that it would only cover computer information for the Newtown Borough administrative office and Police Department.

Ms. Lovi reminded Council that at the December work session, they agreed to discuss the fees related to parades. Mr. Craig said it would be placed on the March or April work session agenda.

The meeting was adjourned at 7:35 P.M.

Respectfully submitted,

Marcia M. Scull  
Borough Secretary

IN ATTENDANCE

Diana Bowen	Bucks County Herald
Peter Ciferri	The Advance
Maryalice Hagan	203 Washington Avenue
Patty Lovi	151 N. State Street
Paul Salvatore	148 N. Elm Avenue
Chris Ortwein	Newtown Corporation
Bruce White	Johnson, Kendall & Johnson