

Council Meeting
February 10, 2009
Chancellor Center

The regular semi-monthly meeting of Newtown Borough Council was called to order at 7:00 P.M. on Tuesday, February 10, 2009, by President Mark Craig. Mr. Craig asked those in attendance to join him in a moment of silence followed by the Pledge of Allegiance.

Present: Councillors Craig, Jaslow, O'Malley, Sellers, Walker and Woldorf; Solicitor Bradford Lare and Engineer John Genovesi of Gilmore & Associates, Inc. Mayor O'Brien was excused.

Mayor's Report –

- **The Police Report for January 2009**

In the absence of Mayor O'Brien, Councillor Walker presented the January 2009 Police Report.

Mr. Walker noted that in response to concerns about parking in front of Starbucks, Chief Wojciechowski separated the Starbucks violations from the total parking violations and recorded the warnings that were issued at that location.

Mr. Craig added that the Chief intends to utilize a part-time officer at various times to patrol and enforce parking along State Street. The officers will look at enforcement versus violation versus the additional cost incurred.

Mr. Sellers commented on the pedestrian sentinels violations and suggested that the police look at those areas with regard to additional manpower for enforcement

Special Events Reminder – Mark Craig

- Arbor Day – April 22, 2009 (Rain date April 27, 2009) 10 A.M – Noon

Mr. Craig noted that the event will be held on a Wednesday, rather than the usual Friday, with a rain date of Monday. The event will be held at The Brian S. Gregg Memorial Park adjacent to the Chancellor Center. Students from Goodnoe Elementary School will participate.

Amendments to the Agenda

Ms. Woldorf added discussion of the Old Skunky Study Proposal to the agenda under the Engineer's Report.

President's Report

Mr. Craig noted the closing of the Stockburger dealership, a 50-year active member of the business community, who became a victim of the economy through GMAC financing issues. The service operation will continue to operate with approximately 18 employees, but that is a significant drop from the previous 70 employees. There will be some impact to Newtown Borough but Berkheimer has not yet supplied those figures.

Correspondence

A letter was received from the Bucks County Emergency Management Agency in partnership with the Bucks County Health Department asking communities to alert their residents to a *Special Needs Registry* for individuals who might require assistance during an emergency. The information will be posted on the Borough's website and on the Borough's public access channel.

Mr. Craig announced a TMA Golf Outing to be held on April 24, 2009.

The Bucks County Borough's Association is holding a general membership meeting on February 24, 2009, where the Open Records Act will be discussed. Ms. Woldorf suggested having the Secretary attend, but Ms. Scull reported that she will be attending a February 27, 2009, Open Records Seminar in Lansdale.

Public to be Heard

Mr. Craig introduced Tom Jirele, Chairman of the Newtown Township Supervisors. Mr. Jirele noted that he and President Craig having been meeting regularly to discuss joint issues between the two municipalities. The Newtown Township Board of Supervisors is a big believer in reaching out to their neighbors and working with those neighbors in solving joint problems. Mr. Jirele would like to keep the momentum going through the year, but said they will need the Borough's help to accomplish this. The Sycamore Street project will be a big agenda item and they want to keep the Borough informed every step of the way. The Supervisors hope to soon fill their positions on the Joint Traffic Committee, which will allow them to begin working on issues effecting both the Borough and Township. The Township has also been pushing PENNDOT to move up traffic calming on Newtown-Yardley Road. Mr. Sellers raised the issue of the Jointure and noted that there was a sentiment from Council last year to review Newtown Borough's relationship with the Jointure. Mr. Sellers suggested sending two Council members to the next Jointure meeting to observe and perhaps begin a dialogue along those lines. Mr. Sellers is sensitive to the Sycamore Street issue and now with the Stockburger property on State Street in close proximity, these are areas that involve zoning and planning, which could affect each other. Mr. Jirele commented that all three Jointure partners would welcome the Borough's participation. When the Borough left the Jointure there were some adverse implications, one of which was the high density rezoning of the Roberts Nursery. Decisions by any one municipality often have an effect on their neighbors and he is sure that the Jointure could iron out some of the reasons that caused the Borough to leave and work to mitigate those issues.

Resident Patty Lovi thanked Mayor O'Brien, Councillor Walker and Chief Wojciechowski for the increase in police visibility on the street. The officer on duty is walking up and down State Street checking in on business and the retailers appreciate the police presence.

Certificates of Appropriateness

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

COA 2009-001H Applicant David R. Cramp, 30 N. Congress St., Newtown United Methodist Church

The applicant was seeking a Certificate of Appropriateness for the construction of a deck, landing and steps at the rear door of the church parsonage, with the following changes:

- The base of the deck (the skirt) will be vertical/horizontal lattice, framed with 1 x 6's
- The exterior steps will be 1 x 12, with lattice underneath the stringers
- The decking will not extend past the end of the house

COA 2009-002H Applicant Thomas McInerney, 10 N. State Street, Wachovia Securities

The applicant was seeking a Certificate of Appropriateness for the installation of exterior light fixtures, shutters, window trim, awning and new replacement doors with the following changes:

- The shutters on second floor windows will be louvered & hung on operable black painted hardware
- The awning is to be eliminated
- The two front doors will be wood, 9 lites with 2 panel bottoms to match the existing door on the right
- The window hood trims are to be eliminated
- The light fixture will be Option 2, as presented
- The applicant will return to HARB for the door hardware and sign applications

Engineers Report – John Genovesi, Gilmore & Associates, Inc.

Engineer Genovesi reported that an escrow release had been requested in December for Phillips Court, but was tabled. After reviewing the project and meeting with the developer, Mr. Genovesi recommended that the escrow release of \$2577 would result in a need to replenish the account in the amount of \$2515. With regard to the punch list, Mr. Tyrol is awaiting approval by PECO of the wiring diagram in order to install the streetlights. Mr. Craig asked the Solicitor for clarification about the need to release the escrow if the work has been completed. Mr. Genovesi said that Mr. Williams indicated that if it is a valid request, there is no reason not to approve the release.

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor Jaslow, and carried unanimously, to approve Escrow Release #12 for Cologne Associates, Inc., in the amount of \$2577 with the request to replenish the escrow account in the amount of \$2515.

Mr. Sellers, in trying to address the residents concerns, wants a specific timetable for the Phillips Court project, realizing that there are components like PECO that dictate what that timeframe would be.

General Projects Update

With regard to the streetlights at Newtown Station, Mr. LeGreca has provided plans to the Homeowner's Association and is awaiting their feedback, at which time he will submit the plan to the Borough for review and approval. Snow removal at Newtown Station had been an issue as the contractor piled snow on the property of an individual whose house fronts on Washington Avenue. The management company was apologetic but not cooperative, but did verbally promise it would not happen again. Mr. Walker asked that the management company receive written notice from the Engineer. Ms. Woldorf suggested placing the snow in the retention basin.

Mr. Craig, in addressing resident Michael Molloy's concerns, asked about the ponding problem at the corner of Greene and Liberty Streets. Mr. Genovesi felt that because the intersection is so flat it takes longer for the area to drain and there are no storm drains. Mr. Walker indicated that Scotts All Seasons would be striping the intersection tomorrow, if the temperature remains warm. He also reported that the debris that collects at the intersection has been removed, which should improve the drainage in that area. Mr. Molloy had asked what triggers the requirement to bring the curb cuts up to ADA standards. Mr. Genovesi said that they rely on PENNDOT to review the plans and make sure the Borough is in compliance, but he does not know specifically what level of activity dictates full reconstruction. He will research the subject.

Old Skunky Proposal

Ms. Woldorf is uncomfortable with some areas of the revised proposal and she offered some suggested language change insertions, which she distributed to Council. She acknowledged that this will be a multi-step process and that the proposal is step one in obtaining the engineering and technical information required, regardless of what comes after the study. Ms. Woldorf explained her rationale for the proposed changes and asked Mr. Genovesi if he agreed to those changes. He felt some of the proposed changes were more an issue of semantics and other suggestions were more dependent on the actual study results, but Mr. Genovesi agreed that he could accept those changes. There was discussion about using a consistent term to describe Old Skunky throughout the proposal and Council agreed to use the term storm water channel.

Resident Paul Salvatore, 148 N. Elm Avenue, had concerns about whether this would adversely affect Washington Village residents, if some of the proposed suggestions, such as impervious surface ratios, were implemented. The Engineer commented that a lot of run-off comes from Washington Village and the idea would be to study how much run-off comes from there and determine whether there could be ways to mitigate that run-off. Mr. Salvatore noted that his father-in-law played in Old Skunky 60 years ago, long before Washington Village was built and the addition of Washington Village did not help the situation, but it was not the sole cause of the problem. By solving the issue for 32 property owners, a hardship may be created for others.

Resident Joe Lovi, 151 N. State Street, suggested using a Gantt chart to show the schedule for the project. Mr. Lovi also commented that the project is dependent on the cooperation of the 32 property owners along Old Skunky and Mr. Craig noted that most have agreed.

- ❖ A motion was duly made by Councillor Jaslow, seconded by Councillor Woldorf, and carried unanimously, to accept the outline, objectives and price proposal, with Ms. Woldorf's submitted changes and with the consistent wording of storm water channel throughout the document.

Presentation of Minutes

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Walker, and carried with Councillor O'Malley abstaining, to approve the Work Session Minutes for the January 7, 2009, meeting.

COMMITTEE REPORTS

Budget & Finance – Robert Walker

Consolidated Report

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor Jaslow, and carried unanimously, to accept, subject to audit, the consolidated expenditure report for the month of January 2009, totaling \$179,941.42.

Environmental Advisory Council – Liaison Julia Woldorf

Ms. Woldorf discussed the project proposal for the Newtown Borough Open Space Plan Revision. EAC member Bob King commented that the initial proposal cost of \$14,500 seemed high and the EAC began looking at ways to reduce that cost. In response, the Heritage Conservancy submitted a scaled back plan that would entail more work by the EAC members but at a lower cost. The EAC considered both proposals. A \$4500 grant would reduce the Borough's expense to \$10,000 and Ms. Woldorf has pursued another \$5000 grant from PECO. With the possible offsets, the EAC committee recommends accepting the \$14,500 proposal.

- ❖ A motion was duly made by Councillor Woldorf, seconded by Councillor Sellers, and carried unanimously, to accept the Heritage Conservancy's proposal to update the Newtown Borough Open Space Plan of 2001 in the amount of \$10,000.

Long Term Parking – Gerard O'Malley

Mr. O'Malley reported on the 2009 Goals and Objectives, the first of which was to complete the implementation of the outstanding items from the 2008 "Near Term Plan." Secondly, the Committee considers the education of business owners, employees, visitors and residents on the multiple options and locations for parking within the Borough to be a very important activity for 2009. Third, the Committee will investigate the feasibility and desirability of a parking structure as a long-term option, which would include financing options that would not involve taxation on Borough residents. Fourth, there were discussions on the municipal lots and about the possibility of "paid" parking. The fifth priority is to confirm the parking inventory for Newtown Borough and confirm the number of full and part-time employees.

Newtown Area Telecommunications Committee – Gerard O'Malley

Mr. O'Malley reported that the January meeting was postponed until March. There will be a discussion of the purpose and reason for existence of the Committee and/or whether the Committee should be abolished since both the Verizon and Comcast franchise agreements have been negotiated. Mr. O'Malley reminded the public that the digital conversion has been delayed for three months.

Newtown Corporation – Michael T. Sellers

Mr. Sellers reported on the Joint Meeting of Newtown Borough Council, the Newtown Township Supervisors and the Newtown Corporation. The relationship with the boards was discussed and views were exchanged. The Newtown Corporation was seeking to define its mission and relationships with both municipalities with a free exchange of ideas, comments, suggestions and even questions, but Mr. Sellers was not sure it succeeded in doing that. Mr. Sellers felt that a lot of the issues that Council had coming into the meeting remain unresolved. Mr. Sellers then announced that he would be submitting his resignation from the Newtown Corporation Board. Mr. Sellers said that the past several months have shown him that the ability to serve in both roles in not

necessarily a good idea for either board. He feels that fundamental questions remain with the Borough and with the Township. Mr. Sellers intends to remain involved with the Newtown Creek Coalition. Mr. O'Malley asked if there had been any discussion since the joint meeting about the next steps and what they heard and Mr. Sellers said the Board had not yet met. The biggest problem Mr. Sellers sees is communication, both with the municipalities and frankly with the public. He thinks there is great potential with improved communication and he noted that the meetings are open to the public. Mr. Craig made it clear that Mr. Sellers will continue in the role of liaison.

Personnel Committee – Julia Woldorf

- ❖ A motion was duly made by Councillor Woldorf, seconded by Councillor O'Malley, and carried unanimously, to appoint Noelle Finley, 35 Court Street, to the *Long Term Parking Committee*.
- ❖ A motion was duly made by Councillor Woldorf, seconded by Councillor Jaslow, and carried unanimously, to appoint Joan Foley, 432 E. Washington Avenue, to the *Youth Aid Panel*.
- ❖ A motion was duly made by Councillor Woldorf, seconded by Councillor O'Malley, and carried unanimously, to appoint Kristine Sawaya, 172 N. Elm Avenue, to the *Youth Aid Panel*.
- ❖ A motion was duly made by Councillor Woldorf, seconded by Councillor O'Malley, and carried unanimously, to appoint Mary Jane Leonard, 446 Centre Avenue, to the *Youth Aid Panel*.

There were two applicants for the HARB position, Marcia Lincoln-Heinz and Kevin Edmonds. Mr. O'Malley commented that making a decision would be difficult, as both individuals would serve capably. Ms. Lincoln-Heinz would bring great experience since she has been involved on various committees and she has concerns and issues that are important to the Borough's future. Mr. Edmonds response to questions indicated an interest in transparency and the approachability of HARB. People in the Borough do not fully understand HARB and are sometimes confused and frightened about going to HARB. He would like to see that change.

- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Jaslow, and carried unanimously, to appoint Kevin Edmonds, 117 N. Lincoln Avenue, to the *Historic Architectural Review Board*, to fill an unexpired term through December 31, 2009.

Ms. Woldorf asked Council if the position on the Newtown Corporation should be a Borough resident or would a non-resident business owner be considered. There were various opinions so the position will be open to anyone wishing to apply.

Planning Commission – Michael Sellers

Planning Commission Chairman Woldorf reported that an informal sketch plan for a traditional neighborhood development was brought to the Planning Commission by the Stockburger property owners several months ago and a second presentation followed. There was no new information brought forward at the February meeting. The final draft of the Comprehensive Plan was discussed and the Planning Commission hopes to approve it at the March 2, 2009, meeting, which begins the 45-day public review process.

Shade Tree Commission – Gerard O'Malley

Mr. O'Malley reported that the Shade Tree Commission discussed the Fee-in-Lieu of trees when a land development occurs. The recommendation begins with \$500 for a 16" tree and adding another \$200 per inch

over 16. The schedule was reviewed at the February work session and Mr. Lare prepared an ordinance for Council to review. The Shade Tree Commission also received a request for removal of a pine tree on Court Street, which they approved without conditions.

Mr. Craig asked Mr. Lare about his letter regarding the tree at 400 E. Washington Avenue and Mr. Lare responded that he thought the Shade Tree Commission would be making a recommendation. Mr. O'Malley reminded Mr. Lare that the recommendation was made at the Work Session to replace the tree and the developer's agreement would address the remaining trees. Mr. Craig's understanding was that Council was going to make the decision today on the illegally removed tree. There was considerable discussion by Council about the appropriate time to plant the tree with the construction that is currently in progress. Mr. Sellers voiced concern about the number of trees that have been lost within the past year and he feels strongly that trees should always be replaced.

- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Woldorf, and carried unanimously, to require the developer of 400 E. Washington Avenue to replace the tree that was removed with an 8" oak tree, at the appropriate planting time, as part of the overall landscape plan and in consultation with and approval of the Shade Tree Commission and with a 1 year guarantee of survivability and to be assessed a \$2000 penalty for the remaining 20" of the tree that was removed.

Streets, Lights & Properties – Robert Walker

Mr. Craig explained that an ordinance is not required for approval of a handicapped parking space. In reviewing previous handicapped space approvals, Council agreed to establish such spaces by approving a motion. Ms. Woldorf asked about striping and Mr. Walker responded that signage at either end of the space would be sufficient.

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor Jaslow, and carried unanimously, to approve a handicapped parking space at 97 E. Centre Avenue.

Traffic Committee – Gerard O'Malley

Mr. O'Malley announced that the Traffic Committee will be making a presentation to Council at the March 10, 2009, meeting, after consultation with the chief of police. The Committee was formed in 2008 and has been working diligently on a first step plan that they feel will add to increased safety for both pedestrian and vehicular circulation.

Zoning Report – Rand Jaslow

Mr. Jaslow referenced the *Building and Zoning Activities Log* for January that was circulated by Zoning Officer, Jo-Anne Brown. The total building and zoning activity was 39 applications.

With regard to the 325th Mural Project, Mr. Jaslow explained that the Zoning Hearing Board determined the mural to be a sign, which would require HARB approval. The written decision, however, called it a temporary sign, which appears not to reflect the discussion at the hearing. The confusion has created complications regarding how long the mural could remain and when it could be painted. Mr. Jaslow is working on having the written decision reviewed and possibly revised to indicate a permanent sign rather than a temporary sign. If the mural committee would like to move the process forward procedurally with an application to HARB, they could

do that while awaiting clarification on the Zoning Hearing Board decision. Resident Patty Lovi, who has been involved with the project from the beginning, offered to withdraw the application until the Solicitor drafts an ordinance for public art. There are two other potential applications for public art, so the issue needs to be addressed. Mr. Jaslow's concern is that completing the comprehensive plan, drafting an ordinance and establishing an art review board will take time, which would further delay the project. Ms. Lovi wants to be fair to everyone who comes after the 325th group so that they are all subject to the same process. She feels that the community involvement and support is so critical to this project because whatever is done now lays a solid foundation for future generations who want to produce a project like this.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Jaslow, and carried unanimously, to authorize the Solicitor to draft a public art ordinance.

Solicitor's Report – Bradford Lare

A tentative date of March 3, 2009, has been set for the Zoning Hearing Board application for 235 Court Street. The application requests a variance from the impervious surface ratio, removing a patio and building an addition on the basic footprint. After discussion, Council decided to take no position on the application. Ms. Woldorf asked if members of Council get copies of Zoning Hearing Board decisions. Mr. Craig responded that Council is notified of the decision, usually by the Borough Solicitor. It was decided to have the secretary send electronic copies of the decisions to Council.

The proposed amendment is required to bring the Borough Deed Registry into compliance with the new state law.

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor Jaslow, and carried unanimously, to approve an Ordinance amending Article I, Chapter 118 of the Code of the Borough of Newtown in the "Deed and Other Instruments Registry Chapter."

Old Business

Ms. Woldorf suggested that Council begin the process required for consideration of Historic District expansion and she asked if the Ad Hoc Historic District Overlay Committee should resume its activities and come back with recommendations regarding expansion. Mr. Jaslow responded that he felt the Planning Commission should receive a formal recommendation from the Ad Hoc Committee for their review, which would be passed on to Council.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor O'Malley, and carried unanimously, to have the Ad Hoc Historic District Overlay Committee resume its activities and come back with recommendations regarding expansion of the Historic District.

Mr. Sellers asked that discussion of parade fees be placed on the work session agenda for further discussion.

Mr. Sellers and Mr. Craig volunteered to attend the next Jointure Committee meeting.

New Business

Mr. O'Malley commented that oftentimes issues are discussed by Council and the public might not understand the nature of those issues. He suggested to the public that they ask for explanation or clarification if a discussion is unclear. Reporter Diana Bowen reminded Council to have the public identify themselves when speaking, so that those individuals can be properly recognized. Resident Caroline Bennett commented on Mr. O'Malley's request for the public to ask for explanation and noted that the public is often uncertain as to the appropriate time "...to raise their hand, chime in or ask a question versus waiting until Public to be Heard." Mr. Craig said that Council has been flexible in allowing comments and noted that Council will try to keep it as informal as possible.

Public to be Heard

Paul Salvatore, resident and member of Newtown Corporation, commented on Mr. Sellers remarks about communication with the Newtown Corporation. Mr. Salvatore said that as a member of the Board, he feels that the Board does not always know what the municipalities want, so Council needs to better communicate. Council must tell the Newtown Corporation what they expect and what information they wish to receive. Unfortunately, there is misinformation in the public about the Newtown Corporation and that needs to be cleared up. Accusing the Board of not doing their job is unfair, when Council has not provided them with their input. Mr. Salvatore feels that it is a two way street. With the recent changes that might come to State Street with the Stockburger property and especially Sycamore Street with the McGrath Corporation, the changes will directly affect Newtown Borough. It is important with the economic environment to encourage businesses to come, and we as a Borough benefit from those businesses.

Bill Heinemann, 35 N. Chancellor Street, voiced concern about the Stockburger property. He stated that the Borough is hoping for a good result quickly, but the fact remains that there is now an empty building on South State Street and the Borough does not want another ACME. Mr. Heinemann's question was how to proactively stay ahead of that issue, so that the Borough does not find itself a year from now with a chain link fence around an empty building and wondering how did it get there? He asked if it is possible to set a timeline within which, if the property is not developed, the Borough would have some guarantee of demolition of the building or at least securing the site. In addition, he wondered if anything could be attached to a sale that would ensure that the buildings are demolished at that time rather than years later. He would like to see Council stay on top of and ahead of this issue so they do not find themselves with ACME II. Mr. Craig noted that Mr. Stockburger had contacted him about the property being available to help with parking needs. Mr. Sellers asked the Solicitor to review the Borough's demolition ordinance to see if there is a required timeline for demolition when there is a vacant structure. The second part of Mr. Heinemann's request would be to ask, regarding the sale, if demolition could be incorporated into whatever the future plans are.

Diane LeBas of Penn Street suggested that in the process of creating rules for public art, it would be fitting to proceed with special care and concern and a strong sense of institutional memory because our most famous and esteemed citizen was Edward Hicks, who was a painter and sign painter.

In response to Mr. Heinemann's comments, Paul Salvatore reminded the public that Newtown Township owned the ACME property and through condemnation and the re-development authority, they ended up with what currently exists. Had the property gone through the normal course of purchase and development, it might have been completed a long time ago. The Township's involvement may have actually delayed the process, not enhanced it. Before the Council starts jumping in, maybe they should let private enterprise take its normal course.

An executive session was held for the purpose of real estate and pending litigation.

Respectfully submitted,

Marcia M. Scull
Borough Secretary

IN ATTENDANCE

Warren Woldorf	440 Washington Avenue
Jim McAuliffe	545 E. Centre Avenue
Peter Ciferri	The Advance
Patti & Joe Lovi	151 N. State Street
Diana Bowen	The Herald
Danny Adler	The Courier Times
Mary Alice Hagan	Washington Avenue
Paul Salvatore	148 N. Elm Avenue
John Burke	301 S. Norwood Avenue
Caroline Bennett	28 Liberty Street
Diane LeBas	104 Penn Street
Chris Donofry	16 S. Norwood Avenue
Bill Heinemann	35 N. Chancellor Street
Tom Jirele	Newtown Township
Robert King	242 S. Chancellor Street