

Council Work Session
February 2, 2011
Council Chambers

The regular monthly work session of Newtown Borough Council was called to order at 7:00 P.M. on Wednesday, February 2, 2011, by President of Council Julia Woldorf.

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

Amendments to the Agenda

Added to the agenda was review of a Special Events Permit Application and discussion of snow removal.

Public to be Heard

No one wished to be heard at this time

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

- Newtown Artesian Water Company Curb Ramps
The Engineer reported that she had not heard from the Design Engineer regarding approval of the curb ramp at Washington Avenue and State Street.
- MS4 Report
The Engineer received a review letter of the MS4 report from the Department of Environmental Protection (DEP). Ms. Saylor was authorized at the last meeting to address the issues/concerns raised in that letter and she responded to DEP by e-mail. In addition, she is working with Mayor O'Brien to make changes to the Borough's website based on DEP's recommendations.

The Borough is required to file the Year 8 MS4 report by March 10, 2011.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor O'Malley, and carried unanimously, to authorize the Engineer to file the Year 8 MS4 report.
- Neshaminy Creek Watershed Act 167 Stormwater Management Ordinance
With regard to the Neshaminy Creek Watershed Stormwater Management Ordinance, the Solicitor and Engineer conferred about amendments to the Borough's Stormwater Management Ordinance and circulated a draft ordinance to Council for review. The Borough is limited in their ability to make any substantial changes, since they are required to follow the Neshaminy Creek Watershed Ordinance that the County approved. Implementation of the plan for Newtown Borough and related fees require review by the Zoning Officer, as the new ordinance will have an impact on projects of any size in the Borough. The Planning Commission and Environmental Advisory Council are required to review the

proposed ordinance. Mr. O'Malley voiced concern about the new requirements for homeowners and the additional burden that will result because of the changes. Ms. Woldorf suggested having Ms. Lambert from the Bucks County Planning Commission attend a Council meeting to explain the changes and requirements for this ordinance. Mr. O'Malley suggested being pro-active and preparing a "Homeowners Guide to Navigate the Ordinance" for the Borough residents.

- FEMA Preliminary Revised Flood Insurance Maps

In reviewing the FEMA Preliminary Revised Flood Insurance Maps, Ms. Saylor found differences between the previous FEMA map and the newly revised map. She noted that the flood zone along Old Skunky is not mapped on the revised map. In response to Ms. Woldorf's comments to FEMA regarding the same issue, they replied that it was intentional due to the small drainage area and narrow width of the flood area. However, if it is a flooding source with repeated flooding, then FEMA requested additional information to review the issue.

Penn Street resident Diane LeBas asked if these changes would require residents to buy flood insurance and would it impact the liability of the Borough? Ms. Woldorf responded that, ultimately, it would and Ms. Saylor concurred.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor O'Malley, and carried unanimously, to authorize the Engineer to provide the additional information and communicate it to FEMA. in a timeframe not to exceed 8 hours.

- Phillips Court

Ms. Saylor reported that streetlights installed at Phillips Court are different from those approved on the final plan. In response to Ms. Saylor's letter, the developer stated that the approved light is no longer available and therefore, they installed a similar fixture. Ms. Woldorf noted that the fixture is still available, it is one of the most popular fixtures, and the installed light is not similar. The Solicitor stated that the Borough has the ability to enforce the Development Agreement.

- ❖ A motion was made by Councilor Sellers, seconded by Councilor Warren, and carried unanimously, to authorize the Solicitor to write a letter to the developer of Phillips Court requiring installation of the correct light fixtures in accordance with the approved plan specifications of record

- Sidewalk Ordinance

The revised Sidewalk Ordinance amends the ordinance and the Sub-Division and Land Development Ordinance (SALDO) to address ADA and PennDOT requirements and incorporate new specifications for the sidewalk design. A section on the installation of bollards should be included, but requires further discussion. Plain concrete with a standard finish, bluestone, and clay brick are the approved materials, with pavers excluded. Council decided that when a sidewalk crosses a driveway, the sidewalk should continue across the driveway. The ordinance must be reviewed by the Borough Planning Commission and the Bucks County Planning Commission before adoption by Council.

Personnel Policy Review

Since the Personnel Policy is to be reviewed annually, Mr. Burke opened discussion about the process and questioned the timeframe for receipt of applications for vacant committee positions. Mr. Burke suggested starting the process earlier in order to obtain the information prior to January. The Policy says that the board/committee members should be contacted two months prior to the end of their term. Ms. Woldorf suggested that perhaps those considering reappointment should be asked to respond by the beginning of December. Ms. Woldorf sees no problem with the Personnel Chairman contacting the committee chairpersons to see if they have suggestions about interested individuals, but applications should be directed to the Personnel Chairperson. Mr. Burke voiced concern about a Committee Chair receiving the applicant information prior to Council receiving the applications and then voicing a preference for a particular candidate. In one particular case, Mr. Burke was concerned about another committee chair who was approached about a candidate that was not being appointed, even though Council had not yet taken a formal vote. Mr. Warren felt there was a proactive element to the process and since, at the work session, there were four applicants, and his inclination was to choose two of them, he reached out to the other two advising them that there were openings on other committees, if they were not appointed. Mr. O'Malley expressed the feeling that the process was followed and working. Mr. Warren agreed with Mr. Burke about starting the process earlier. Council agreed that the Personnel Policy should continue as previously approved.

Snow Removal

Ms. Woldorf wanted Council's input regarding the removal of snow in the business district on State Street and in the municipal parking lots, if there are more large storms. Although a significant budget expense, Ms. Woldorf looked to Council for a commitment to continue the removal should it be required. Mr. Sellers felt it was a matter of public safety, since two-way traffic is compromised if the snow is not removed. The removal was handled during nighttime hours to cause the least amount of disruption. Mr. O'Malley agreed that it is a public safety issue but questioned what criteria would trigger the snow removal. Mr. Sellers responded that what drives the decision is the limit reached on where the Borough can put the snow. Council agreed that the snow removal should continue, if warranted.

Long Term Parking Committee – Gerard O'Malley

Mr. O'Malley reported that the Long Term Parking Committee discussed the issues of residential parking near the business district and the potential to have residential parking permits. In addition, there was discussion of parking permits for the municipal parking lots and the possible use of the parking lot behind the 10 Centre building for additional parking. The Committee decided to evaluate how the current parking permits were allocated by reviewing the list of parking permit holders, to determine the number of parking spots that would be available behind the 10 Centre building, and to initiate discussion with some of the larger employers about parking issues. The committee discussed having residential parking permits and 2 hour non-resident parking on Court Street, Centre Avenue, and Penn Street and those residents in attendance at the meeting supported the idea.

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Burke, and carried unanimously, to authorize the Solicitor to begin the process of drafting a Residential Permit Parking modification to the current Parking Ordinance.

Waiving of Permit Fees for Borough Projects

Ms. Woldorf explained that, in the past, Council has waived permit fees for Borough projects. She asked Council whether they wanted to continue to waive fees on a project-by-project basis or whether they wanted to exempt the Borough from its own fees. The Solicitor questioned whether it would be necessary to amend any ordinances. Since the Zoning Officer was the one who raised the waiver issue, Mr. Cohen will speak to Ms. Brown for clarification.

Peddling and Solicitation Ordinance

In reviewing the Peddling and Solicitation Ordinance, Chief Wojciechowski asked Council for clarification on several issues. The definition of a “transient retail merchant” needed a clearer definition and Chief Wojciechowski asked if a group solicitation would require a separate permit/fee for each individual or only one for the group/organization. As the result of an inquiry by a possible vendor, the question was raised as to whether a “transient retail merchant” would be permitted to sell products on specific street corners and Mayor O’Brien commented that Newtown merchants would probably not be pleased if merchants were selling the same products on State Street.

Special Events Application

Mayor O’Brien presented the Special Events Application for the blue grass concerts sponsored by Pickering Manor, noting that police coverage will not be required for the event.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor O’Malley, and carried unanimously, to waive the Special Events Application fee for the Blue Grass concerts sponsored by Pickering Manor.
- ❖ A motion was duly made by Councilor Warren, seconded by Councilor Burke, and carried unanimously, to approve the Special Events Application for the Blue Grass concerts scheduled for May 1, 2011, at the Newtown Theater.

Comprehensive Plan Implementation

Ms. Woldorf suggested that Council review the Comprehensive Plan and at the March Work Session identify some of the short-term goals they wish to see addressed this year.

Budget and Finance – Gerard O’Malley

- ❖ A motion was duly made by Councilor O’Malley, seconded by Councilor Warren, and carried unanimously, to approve the professional services invoices for December as outlined in the Treasurer’s e-mail dated January 11, 2011.

Council discussed the invoice for Park Constructors separately from the other invoices, as Mr. Sellers raised the need to receive a “Letter of Certification” for installation of the equipment. Mr. Sellers referred to the original park audit and indicated that the completed work should match the audit findings, showing that each item was addressed. Mr. Burke will contact the manufacturer and installer for the information before Council approves the invoice.

Solicitor’s Report – Paul Cohen

- Declaration of State of Emergency
 - ❖ A motion was duly made by Councilor Warren, seconded by Councilor Sellers, and carried unanimously, to ratify the State of Emergency declared on January 26, 2011.

- Pension Plan

The existing Pension Plan for the Uniformed Officers provides for a Killed-in-Service benefit. The Borough currently maintains an insurance policy to pay for this benefit. As of 2009, the State [of Pennsylvania] now provides the Killed-in-Service benefit and local municipalities are no longer required to provide that benefit and should remove it from their pension plans. An amendment to the Collective Bargaining Agreement is required before the Ordinance can be amended.

 - ❖ A motion was duly made by Councilor Sellers, seconded by Councilor O’Malley, and carried unanimously, authorizing the Solicitor to work with the collective bargaining unit to discuss a change to the Collective Bargaining Agreement and then to subsequently draft an ordinance amending the pension plan.

- Noise Ordinance

After circulating a draft of the Noise Ordinance to Council, Mr. Cohen received comments about redundancy, noting that there are general prohibitions against “excessive noise” and “noise disturbance” and then specific prohibitions, so the question goes to whether all the prohibitions are necessary. Also raised was the concern about impinging on First Amendment Rights and restricting free speech. Mr. Cohen noted that the Noise Ordinance could be limited to certain hours, which would be somewhat consistent with the current ordinance. A criteria that is more objective, like setting decibel levels, could be included, but Council decided not to add decibel levels. Mr. Cohen will revise the draft ordinance.

Mr. Cohen announced that an Executive Session was held prior to the meeting for discussion of personnel matters and litigation, docket #2011-00309, in the Bucks County Court of Common Pleas.

Old Business

Mr. O’Malley announced that he received the PennDOT reimbursement agreement for the Pennsylvania Community Transportation Initiative. The Solicitor is preparing a Professional Services Agreement between Jacobs Engineering and Newtown Borough for them to complete that study, which he will circulate to Council for review.

New Business

Mr. O'Malley asked that the Traffic Committee make a brief presentation at the Tuesday Council Meeting regarding their work with the Joint Traffic Committee and looking for Council support on several issues.

The November Council Meeting will be held on Wednesday, November 9, 2011, to avoid conflict with their standard meeting date that falls on Election Day this year.

Ms. Woldorf asked for an update on the Newtown Corporation and Mr. Warren responded that new officers were elected at a "closed" meeting. Mr. Sellers asked Mr. Cohen look into the matter and the way in which they were elected.

Public to be Heard

Resident Paul Salvatore commended the Borough on the State Street snow removal. Mr. Salvatore asked that Washington Avenue also be given extra attention since it is a main artery through the community. Mr. Sellers responded that the line was drawn with this past storm with the business district, but if there are future storms, Council will be looking at other areas differently.

There was a motion to adjourn at 9:30 P.M.

Respectfully submitted,

Marcia M. Scull
Borough Secretary

IN ATTENDANCE

Gema Duarte
Jeff Werner
Warren Woldorf
Paul Salvatore
Diane LeBas
Bruce & Deborah Richman