

Council Work Session
February 4, 2009
Council Chambers

The regular monthly Work Session of Newtown Borough Council was called to order at 5:00 P.M. on Wednesday, February 4, 2009, by President of Council Mark Craig.

There was a Moment of Silence for Officer Christopher Jones

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

Public to be Heard

Sally Thompson asked if the public could comment after a presentation or only at "Public to be Heard." Mr. Craig responded that Council is usually responsive to public comments related to an agenda item.

Pickering Field

Mr. Walker explained that he met with Kevin O'Shea and Paul Jacobs regarding the use of Pickering Field, proposed work to be done and plans for the annual Little League parade. The League's Agreement with the Borough is due for renewal in July and Mr. Walker suggested they meet with Council to discuss their concerns. Mr. Jacobs, the Babe Ruth commissioner for Council Rock Newtown Athletic Association, addressed Council about the use of Pickering Field, which is used for the 13-15 year old baseball league. The Association would like to add a paver patio in front of /and on the sides of the current snack shack, with funds acquired through the purchase of engraved pavers. A new landscape bed would be planted where the current flagpole and memorial rock are located. Two small fences will be installed to conceal the trash receptacles. Interior renovations to the snack shack will be completed and the Association would like to increase the size of the shack by bumping out the front of the structure. Mr. Jacobs also noted that when the Association renews its agreement, it would like to amend the section regarding approved times for use by the League. The current agreement authorizes use from April 1-July 31. The Association would like to extend the timeframe to August 31 and then weekends only during September and October. The group feels that they have been responsible neighbors in the community, they employ a zero tolerance policy with players and coaches, they specifically limit the age group that plays on that field and they maintain the field with costs that go beyond the \$5000 supplied by Newtown Borough. With regard to the parade, the Association has established a relationship with the American Legion and they thought it would be appropriate to move their parade to Memorial Day and combine the two events. Tentative plans have been made for a group that plays "1870's old time baseball" to have an event on Memorial Day. Mr. Walker suggested coordinating that activity with the Recreation Board. In terms of the Usage Agreement, the Borough would need to approve any changes to the property and the Engineer has looked at the proposed plans.

Mr. Craig suggested discussing the usage and improvement issues separately. Mr. O'Malley asked whether the plans had been discussed with the neighbors and Mr. Jacobs explained Mr. Walker suggested bringing the plans to the work session and, if warranted, then following with neighbor/resident discussion. Mr. Walker felt the physical changes fell into two categories, the expansion of the shed and then the paver project. The Association is concerned with improving the appearance of the area and even if the expansion portion is not completed, they would like to paint and spruce up the snack shack and surrounding area. Landscaper Jim Waitkus explained that the flagpole area and paver plans would include leveling the area to eliminate any tripping hazard.

Resident Dan Knott, 206 N. Chancellor Street, is concerned about the expansion plans. Mr. Knott feels that there is no need for enlargement and that the snack shack is adequate. Resident Sally Thompson "ran" the shack for five years and stated there was only half the room that there is now, since the equipment was housed in the other half of the shed. Council approved an equipment shed, which is still not utilized for equipment, but instead houses the large tractor used to maintain the ball field. Ms. Thompson questioned how the proposed plans benefit the children and she is concerned that the expansion and the fences will make the overall appearance much larger. Mr. Jacobs and Mr. O'Shea responded that their intent was to clean up the area and make it more aesthetically pleasing for the neighbors, but Ms. Thompson said that still does not address the issue of the equipment that is left outside. Ms. Woldorf is concerned about losing the shack overhang with the expansion and feels that the Association will return in the future requesting an awning. After discussion, Council suggested a meeting be held with the neighbors, the Association and Borough committee representatives to obtain input on the proposed changes. Ms. Woldorf will speak to the Recreation Board about coordinating that meeting and Council will use the feedback when making their decisions. In addition, Mr. Walker suggested a site visit by Council to look at the structure.

In answer to questions about the expanded usage, Mr. Jacobs responded that the September and October weekends would be used for Fall baseball and possible tournaments. Mr. Knott asked why the Newtown Township fields could not be used and Mr. Jacobs answered that all fields might be needed and there are not that many 90' fields available.

Newtown Greenway Grant – Michael Sellers

Mr. Sellers introduced Sue Meyerov of the Heritage Conservancy and asked her to explain the process for the DCNR Newtown Greenway grant project and how it relates to the Newtown Borough Open Space Revision grant and the Newtown Township grant. Ms. Meyerov noted that the DCNR grant requires a 50% match, which can be "in kind" or monetary. All of the grants have similar elements and to have consistency in both the data collection efforts and the public outreach components would be beneficial. Mr. Walker suggested overlapping as much as possible to maximize the dollars. The Open Space Plan must be updated and approved by the County prior to acquiring the Open Space funds. Ms. Woldorf clarified that the Borough's match to the grant would actually be in volunteer hours and that the volunteer hours would count toward the Open Space Plan update. Mr. Sellers mentioned that a Request for Proposal might be required. Ms. Woldorf will discuss the Open Space Plan revision proposal on Tuesday at the Council Meeting.

Engineer's Report – John Genovesi

Mr. Genovesi discussed the revised Old Skunky proposal and noted that the revisions were made to address the concerns raised at the last work session. The first issue was about placing a burden on the property owner to make the improvements and the other issue, raised from previous Council meeting minutes, was of Newtown

Borough's responsibility if they become involved with work on private property. Mr. Genovesi looked at the funding available for improvements and he spoke to the watershed manager from DEP regarding their handling of work on private property. A DEP agreement is attached to the revised proposal to address grantees taking state money to work on private property. Mr. Genovesi's revisions include wording about preparing plans and details that would involve the property owner, the property owner with Borough as a sponsor and/or with the involvement of the property owner with another entity, such as a non-profit organization or watershed association, who might provide monies to do extensive storm water channel improvements. Added was wording to allow work in a public right-of-way with the idea of siphoning off water from Old Skunky and directing it to the SEPTA right-of-way. When DEP awards money, the property owner is required to sign an agreement to maintain the improvements for a period of 20 years. Mr. Craig asked if the agreement applies only to DEP money. Mr. Genovesi suggested having the Solicitor review the document to see if the agreement would be applicable to Borough funds as well. Mr. Sellers appreciated the changes made in the revised proposal, but he again pointed out that the source for the controversy was the construction of Washington Village and he feels that the responsibility still comes back to Council to find a solution. Mr. Sellers reminded Council that the majority of the property owners have agreed to provide easements. Mr. Sellers knows that money has always been an issue and he is not suggesting that the Borough pay for this project, except to the extent that there is a minimal matching involvement. The money should be obtained through other sources and grants. Ms. Woldorf requested that the proposal be available for review by the property owners along Old Skunky.

Mr. Genovesi discussed the removal of two trees at 400 E. Washington Avenue that were to have remained on the property. Research indicates that \$3000 would be an adequate cost for replacement of the 28" oak tree. The other tree removed was a blue spruce with a diameter of 18". In discussions with the Solicitor, Mr. Williams felt it was a breach of the developer's agreement. Mr. O'Malley said two options were suggested in the engineer's memo, one being replacement of the 28" oak with an 8-9" diameter oak tree and the other option was a \$3000 fee. Mr. O'Malley felt that the tree should be replaced. Mr. Craig said that Council would need a document to address the breach of contract so that Council could vote on Tuesday. Mr. Lare stated that the developer's agreement would be reviewed and a suggestion made. Mr. Craig noted that there are two issues to be addressed, one is a remedy for a breach of contract and the other a fee that would be required as part of the fee-in-lieu. Mr. Lare will provide the information for the Tuesday Council meeting. Mr. Sellers suggested directing the Solicitor to amend the appropriate ordinance that would require SALDO applicants to notify the Engineer who would mark the trees to be removed. Mr. Genovesi also suggested detailing a penalty for the removal of unmarked trees whereby the trees would be replaced by the equivalent number of trees of the same caliper in addition to assessing a penalty fee.

A meeting was held with the Solicitor, the engineer and Frank Tyrol regarding the Phillips Court development. Estimates from contractors will be supplied regarding outstanding items that need to be completed. Gilmore's accounting shows that if escrow release #12 is approved then the escrow account will be short approximately \$2515.

Fee-in-Lieu of Trees – Gerard O'Malley

Mr. O'Malley reported that the Shade Tree Commission discussed the fee-in-lieu of trees being removed during land development. The recommendation from the Commission was setting a minimum of \$500 for trees up to 16" caliper. The Commission also recommended a \$200 fee for every inch of diameter above the 16". The ordinance and fee schedule will both need to be amended to reflect the Commission's recommendation.

Solicitor's Report – Bradford Lare

Mr. Lare reported that a meeting is scheduled for February 6, 2009, with Keystone Municipal Services, to discuss the Keystone contract.

Mr. Sellers asked about the lease for the Police Station and requested that the Solicitor review it.

T-Mobile Conditional Use Hearing

Mr. Craig explained the T-Mobile Conditional Use Hearing and discussion related to the need for T-Mobile to request relief from the Zoning Hearing Board to permit a telecommunications tower within the Historic District. Council must make a decision whether to suspend the hearing, pending the outcome of the Zoning Hearing Board hearing, or continue the hearing and forward the issue to the Zoning Hearing Board after the Conditional Use Hearing has concluded. If Council chooses not to conclude the Conditional Use Hearing, then Council may not take a position when the matter goes to the Zoning Hearing Board. Mr. Sellers clarified that Council must determine whether Sec. 904 criteria are met. If they are, except for the zoning issue, Council must grant conditional use. On the other hand, if Council feels that the criteria have not been met then they can deny the Conditional Use and the issue will not continue to the Zoning Hearing Board.

- ❖ A motion was duly made by Councillor Woldorf, seconded by Councillor Walker, and carried unanimously, to continue the T-Mobile Conditional Use Hearing to its conclusion.

Mr. Walker would like to see the process completed as soon as possible and the suggestion was to hold a special meeting to conclude the Conditional Use Hearing. The meeting date will be scheduled and the hearing will begin at 5 P.M.

Old Business

Ms. Woldorf advised that the three applicants for the two Newtown Corporation Board openings were Joseph Finley, Colleen Forman and Paul Blancato. Ms. Ortwein expressed the desire to see Colleen Forman of First National Bank appointed to the Board. Ms. Ortwein had spoken to Ms. Forman and felt that she would serve well in the capacity of Treasurer for the Corporation and she does not currently serve on another Board. Mr. Salvatore commented that although Mr. Blancato serves on the Long Term Parking Committee, he is a resident and business owner in Newtown Borough and would be an asset to the Board. Although a new resident of Newtown Borough, Joe Finley would like to become involved and his interest is in economic development. Mr. O'Malley feels strongly about appointing Borough residents.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Walker, and carried unanimously, to appoint Paul Blancato, 17 S. State Street, to the *Newtown Corporation* for a 4 year term through December 31, 2012.
- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Walker, and carried unanimously, to appoint Joseph Finley, 35 Court Street, to the *Newtown Corporation* for a 4 year term through December 31, 2012.

Ms. Woldorf asked about training for the new Open Records Act and Secretary Scull noted that PSAB does not have any seminars currently scheduled. Mr. Sellers requested that all Open Records Requests be vetted through the Solicitor until the Secretary is able to complete an Open Records course.

Ms. Woldorf reported that a decision on the PECO Growing Greener grant should be received shortly. She also asked for clarification on the Zoning Hearing Board decision for the 325th Mural Project. Resident Patty Lovi commented that the decision does not reflect the actual discussion at the Zoning Hearing Board meeting. Mr. Craig responded that Mr. Jaslow is pursuing an explanation for the conflicting wording and will report on Tuesday evening. Ms. Lovi also reminded Council that the Design Committee of the Newtown Corporation, which included HARB Chairman Jim McAuliffe, concluded that HARB would not take a position on art, benches or flowerpots. Ms. Lovi stated that the planned mural is a community project and everyone should be comfortable with it. It is important that the project does not meet with opposition because it would lose its goodwill in the community.

New Business

Mr. O'Malley reported that the Traffic Committee would like to bring their recommendations to Council after meeting with Chief Wojciechowski.

Mr. Sellers said that a resident suggested changing the broadcast to a consistent time slot. The staggered times were originally chosen for the convenience of peoples varied schedules. Mr. O'Malley offered to send the current schedule to Council for review and comment.

Mr. Sellers referenced copies of the letter received from Mr. Douris about the New Years Eve fireworks event. He commented that it was similar to the earlier discussion on records requests and should be reviewed by the Solicitor. Mr. Craig responded that Mr. Williams reviewed it immediately and noted that it did not involve the Borough but it should be sent to Newtown Township and Paul Salvatore, as chair of First Night, which it was, and the Borough's insurance company was copied on the letter.

Public to be Heard

Resident Edith Gowin was concerned about the proposed expanded usage of Pickering Field. Ms. Gowin was not in attendance earlier in the meeting when the discussion was held with the Council Rock Little League Athletic Association and some of her questions were addressed at that time. She has lived across from Pickering Field for 37 years and she is worried that with expanded usage at the Field, which belongs to the community, children will not have the opportunity to play if the ball field is utilized April through October. Ms. Gowin questioned why other fields are not used for the association games and asked if traffic would be increased with expanded usage.

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 & Joe Lovi	151 N. State Street
Paul Salvatore	148 N. Elm Avenue
Chris Ortwein	Newtown Corporation
Daniel Knott	206 N. Chancellor St.
Paul Jacob	Leedom Drive
Kevin O'Shea	245 Stanford Pl.
Susan Myerov	Heritage Conservancy
Aliya Aslam	1 Locust Lane
Edith Gowin	202 N. Chancellor St.
Sally Thompson	N. Chancellor St.