

Council Work Session
March 2, 2011
Council Chambers

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

Present were Councillors Burke, O'Malley, Sellers, Walker, Warren and Woldorf; Mayor Dennis O'Brien; Solicitor Paul Cohen; Engineer Maryellen Saylor of Pickering, Corts & Summerson and Code Enforcement Officer Jo-Anne Brown.

Amendments to the Agenda

Added to the agenda under the Solicitor's Report was discussion of the Noise Ordinance.

Public to be Heard

Resident Noelle Finley discussed on-going noise issues with the Black Horse Tavern. She wanted to know the status of updating the noise ordinance. Ms. Woldorf responded that it is still in process, but noted that the Police Committee discussed the ability to enforce under the existing noise ordinance. Solicitor Cohen expressed the opinion that the Code Enforcement Officer is responsible for issuing a violation and that it is not necessary for her to be on-site, as long as she has a police report noting the violation. Code Enforcement Officer Brown voiced concern that the ordinance criteria are not measurable. Ms. Finley noted that Friday nights seem to be the worst nights for the loud music emanating from the establishment. Mr. Sellers responded that he has been attempting to contact the owner to discuss the problems again. He suggested that Ms. Finley continue to phone the police for each disturbance in order to provide a documented report of each incident.

Traffic Committee Banner Request – Gerard O'Malley

The Traffic Committee was seeking support from Council to place a "Pedestrian Safety" banner across State Street. Jennifer Pennington explained that the committee felt placing a banner would involve the community, but they did not want to pursue the approval of PennDOT and PECO, if Council did not agree to the banner placement. Zoning Officer Brown explained that attaching anything to utility poles is not permitted and any banner placement must be high enough to avoid contact with fire engines and large trucks. Council supported the idea and Ms. Pennington will keep them informed.

Temporary Sign for Tzedek v'Shalom – Ralph Posmontier

Mr. Posmontier, representing Tzedek v'Shalom, said that the synagogue is requesting temporary A-frame directional signage for their Flea Market fundraising event. Zoning Officer Brown said that the Borough does not permit A-frame signage and/or off-site signage, but that a temporary banner placed on the site of the event was permissible. After additional discussion, Ms. Brown responded to Mr. Sellers' question that directional signs with "TVS Flea Market" would be acceptable.

Stormwater Management Ordinance Presentation – Alice Lambert, Bucks County Planning Commission

Ms. Lambert, representing the Bucks County Planning Commission, presented Council with an overview of the recently adopted Stormwater Management Ordinance and its impact on municipalities. The goal of the plan is to restore the natural hydrologic site to what it was prior to development by using various techniques to control the stormwater. The intent is to use nature through infiltration, trees, plantings, and/or rain gardens for keeping the stormwater on site by attempting to infiltrate it through permeable surfaces. Since Newtown Borough is most concerned about the requirements for small projects, Ms. Lambert explained that projects that are below 1000 square feet must calculate the amount of run-off and then reduce the rate of that run-off, but are not required to provide any plan submission. A small project site-plan application was created for projects from 1000-5000 square feet, which is essentially a do-it-yourself site application. Fully engineered site plans are required for projects over 5000 square feet. There had been confusion about the requirements for small projects, but Ms. Lambert clarified that any project that is below 1000 square feet is not subject to enforcement by the municipality. The square footage calculation is cumulative for each additional project and therefore subject to the criteria established for each category, effective with the adoption date of the ordinance.

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

- **Newtown Artesian Water Company Curb Ramps**
Ms. Saylor received no update from the design engineer on the status of the PennDOT review of the Washington Avenue curb ramp design. Following Mr. Sellers recommendation, Ms. Saylor will contact PennDOT directly about the review status.
- **MS4 Report**
Ms. Saylor is preparing the MS4 Year 8 report and it will address the same items as those addressed in the prior MS4 report.
- **Neshaminy Creek Watershed Act 167 Stormwater Management Ordinance**
Ms. Saylor will be working with the Zoning Officer to design the application forms for Stormwater Management and will work on “user friendly” information sheets/charts for the use of homeowner’s with stormwater management issues. Further discussion on the proposed ordinance will take place at the April work session, with authorization to advertise the ordinance at the April Council meeting.
- **FEMA Meeting Update**
Both Ms. Saylor and Mr. Burke attended the recent FEMA meeting, and Ms. Saylor asked why FEMA removed Old Skunky from the updated FEMA maps. The FEMA representative responded that they made the change because the improved technology is more accurate. Mr. Burke noted that if Newtown Borough wanted Old Skunky added back to the map, FEMA would encourage involving the community in the issue and receiving their input before making that decision. The addition to the map would not require the purchase of flood insurance, as only areas designated “AE” require the insurance. The Borough will provide FEMA with the Old Skunky report in order to provide additional information for their review.

- **Newtown Station Maintenance Period**
Newtown Station is coming to the end of its maintenance period and Toll Brothers has requested final inspection from the Engineer. Gilmore and Associates had noted several items that required follow-up during the maintenance period. The Newtown Station Homeowners Association has additional concerns and they will be sending a letter to Council regarding those issues.

Budget and Finance – Gerard O’Malley

- ❖ A motion was duly made by Councillor O’Malley, seconded by Councillor Walker, and carried unanimously, to approve the professional services invoices for January as outlined in the Treasurer’s e-mails dated February 25, 2011.

Comprehensive Plan Implementation Ideas

Ms. Woldorf forwarded a matrix of Comprehensive Plan implementation ideas to Council, noting that some items are already completed. Mr. Burke said that the Shade Tree Commission plans to update and map the tree inventory using GPS technology. Mr. Sellers suggested that the [creek] grant and conservation plan that will result from it will address ways to assess and improve creek management and beautification. Mr. O’Malley added that the Traffic and Long Term Parking Committees plan to address parking regulations, parking permits and the bicycle plan.

Solicitor’s Report – Paul Cohen

- **Temperance House Hearing**
With regard to the Temperance House hearing, Solicitor Cohen requested authorization for the Zoning Officer to attend the hearing, however the applicant has requested and Council has agreed to postpone the hearing. Should there be a change and the hearing held, then the following motion would apply:
 - ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Burke, and carried unanimously, to authorize Zoning Officer Brown to attend the [Temperance House] hearing on March 8, 2011.
- **Newtown Sewer Authority Resolution**
Mr. Cohen explained that the Resolution passed last March extending the charter of the Newtown Sewer Authority requires re-adoption due to a minor change made to the resolution regarding the effective date.
 - ❖ A motion was duly made by Councillor Warren, seconded by Councillor Burke, and carried unanimously, to adopt Resolution 03-02-11, [extending the charter of the Newtown Sewer Authority.]
- **Conflict of Interest**

Mr. Warren, as an attorney, raised concern about a potential conflict of interest regarding an individual who owns Borough property and has matters before Council, but who is not represented by Mr. Warren in these matters. Mr. Cohen advised Mr. Warren that there is no conflict in this representation, but that there would be a conflict if any vote arose regarding the application of this individual before Council and at such time appropriate disclosure and abstention would be required by Mr. Warren.

- **Phillips Court**

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor O'Malley, and carried unanimously, to authorize the Solicitor to contact and meet with representatives of the Phillips Court development for purposes of communicating and assisting in their continuing development problems.

- **Hold Harmless Letter**

Regarding the "hold harmless" letter requested by the Upper Makefield Police Department for use of their facilities and equipment by the Newtown Borough Police Department, Mr. Cohen reported that he spoke with the Borough insurance company and he has concerns about potential exposure and non-coverage. Mr. Cohen asked Council for authorization to contact the Upper Makefield Township Solicitor to discuss the matter.

- **Noise Ordinance**

Solicitor Cohen suggested that before dismissing the idea of adopting an ordinance with decibel levels that the Borough look into the practicality of being able to enforce such an ordinance. Mr. Cohen will speak to Chief Wojciechowski and the Zoning Officer and Ms. Woldorf asked Council to review the latest draft before the Tuesday Council meeting.

- **Executive Session**

Mr. Cohen reported that Council held an Executive Session prior to the meeting for discussion of personnel, potential litigation and existing litigation, including Bucks County Court of Common Pleas Docket #10-06463 and #11-00309 and Eastern District of Pennsylvania Docket #10-CV-3210.

Cool Cities

Council agreed to charge the Environmental Advisory Council (EAC) to present a plan and make recommendations to Council to address the Cool Cities program. Ms. Woldorf will advise the EAC.

Zoning Ordinance and SALDO Updating

Ms. Woldorf noted that there are inconsistencies in the Zoning Ordinance and the Sub-Division and Land Development Ordinance and both ordinances must be consistent with the updated Comprehensive Plan. The process should involve review by the Planning Commission and Zoning Officer. Mr. Walker asked that Council receive an approximate cost from the Zoning Officer for the work that would be involved.

Old Business

Ms. Woldorf asked Mr. Burke for a Letter of Certification regarding the completed work at Linton Memorial Park. Mr. Burke felt that the information supplied by the equipment manufacturer and installer fulfilled that requirement and he reminded Council that the insurance company did not require a Letter of Certification. In response to Mr. Sellers' comment that the park auditor [Ms. Caesar] said it was required, Mr. Burke said that in speaking to her, she felt it would not be a bad idea but she did not say it was required. Mr. Burke will pursue the matter.

New Business

Mayor O'Brien reported that one of the police cars blew a piston, but the \$900 repair figure is budgeted.

Ms. Woldorf reported that in response to her recent e-mail requesting letters of interest on Technical Assistance for Sustainable Community Building Blocks, she received requests for a walking audit, parking audit, sustainable land use code audit, the smart growth zoning code and the climate action plan. The Environmental Protection Agency will make a decision in March, notifying the twenty municipalities chosen to receive this assistance.

After discussion with the Solicitor, Ms. Woldorf reported that individuals speaking at a Council meeting must identify themselves, but addresses are not required to be included in the minutes.

Mr. Sellers requested Council approval to hold a meeting at the Chancellor Center.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Warren, and carried unanimously, to approve use of the Chancellor Center for a presentation of the draft River Conservation Plan on April 9, 2011, at 10 A.M.

Public to be Heard

There was no one who wished to be heard at this time.

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
Noelle Finley
Jennifer Pennington
Debbie Donofry