

Council Work Session
April 6, 2011
Council Chambers

The regular monthly work session of Newtown Borough Council was called to order at 7:00 P.M. on Wednesday, April 6, 2011, by President of Council Julia Woldorf.

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

Amendments to the Agenda

Ms. Woldorf removed the Inter-Municipal Liquor License Transfer and the Recycling Proposal from the agenda.

Public to be Heard

No one wished to be heard at this time.

Newtown Artesian Water Company Rate Increase – Donald Smith and Richard Tomlinson

Don Smith and Rich Tomlinson, representing Newtown Artesian Water Company, explained to Council the reason for the requested rate increase. Newtown Artesian, established in 1888 as an investor owned utility covering Newtown Borough, later expanded to include Newtown Township and north Middletown [Township]. Water comes from five wells that they own and a pipeline connection with the Bucks County Water and Sewer Authority, which between the two entities provides 2 million gallons per day. In 1984, Newtown Artesian signed an agreement with the Bucks County Water and Sewer Authority for the purchase of additional water to service new developments in Newtown Township. Under the agreement, Newtown Artesian was required to purchase 1 million gallons per day, whether used or not, and the agreement allowed Bucks County Water and Sewer Authority to amend the water purchase rate without notice and at its sole discretion. Until recently, the arrangement has worked well, but since Bucks County Water and Sewer Authority purchases water from Philadelphia and Philadelphia has realized the need to replace their infrastructure, their rate increase has been passed along to each of the other entities, with Bucks County Water and Sewer giving a 28% rate increase to Newtown Artesian, hence the need for Newtown Artesian to raise their rates. In addition, Newtown Artesian has been pro-active in replacing the Newtown water lines installed in 1888, but the expense for that endeavor is costly. Newtown Artesian water main replacement is approximately 80% complete, but the additional 20% of replacement will be at a current rate of \$250/foot.

Lighting Inventory – Vince Piacentino

As a graduation project for Council Rock North, Vince Piacentino presented Council with his lighting inventory. Mr. Piacentino was given a lighting map of the Borough and asked to research the lighting, its efficiency and determine what could be improved upon. Of the 162 lights in the Borough, they are evenly divided between incandescent and mercury lights. Effective in 2012 all incandescent lights will be banned from use, as they are the most inefficient form of lighting. Mercury lighting is only 20% efficient. High-pressure sodium lights are extremely dependable and would be a short-term fix, but Mr. Piacentino believes that LED lighting would be the most efficient lighting for the Borough. The entire light fixture would require replacement for LED lighting and would cost \$1000-2000 per fixture with an increase in efficiency from

incandescent lighting of 60% with the cost recovered within approximately 9 years. Mr. Piacentino created a new updated digital lighting map of Newtown Borough and the Environmental Advisory Council will pursue lighting options.

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

- **FEMA Maps Update**
Ms. Saylor reported that FEMA's recent e-mail said that they added Old Skunky back onto the map with a "Zone X" designation based on information received from the Old Skunky report, but this designation does not require flood insurance by the property owners.
- **Stormwater Management Ordinance**
The Stormwater Management Ordinance is ready for advertising and authorization will take place at the Tuesday Council Meeting. The [storm water] application still needs revision and the Sub-Division and Land Development Ordinance (SALDO) needs revision in order to be consistent with the Stormwater Management Ordinance. The Zoning Officer will adjust the Impervious Surface Permit Application to include stormwater language.
- **Washington Avenue Curb Ramp Update**
PennDOT accepted the redesign by Gannet Fleming for the Washington Avenue curb ramp, but Ms. Saylor felt the area was too flat in front of the curb ramp and requested that the area be raised. Mr. Sellers questioned how long this process has taken and asked for a timeline for work to be completed. Ms. Saylor will continue to push for a completion date.
- **Newtown Station Maintenance Bond**
Ms. Saylor noted that an extensive punch list of outstanding items remains for Newtown Station. Solicitor Cohen will notify the maintenance bond insurance company in writing that issues remain and Ms. Saylor notified the developer. Mr. Cohen said a letter should result in pressure on the developer knowing that a claim has now been made against the bond. Ms. Saylor will add the concrete culvert work to the punch list, although Toll Brothers is well aware of the issue. Toll Brothers agreed to the concrete work at the culvert, but since the Newtown Station project exacerbated the culvert corrosion, Mr. Walker suggested asking Toll Brothers to take some responsibility in addressing the liner replacement. Ms. Saylor will assess the overall structural condition before the Tuesday Council Meeting.
- **Sidewalk/Bollard Ordinance**
The Borough received comments from the Bucks County Planning Commission and the Newtown Borough Planning Commission about the proposed changes to the Sidewalk/Bollard Ordinance. Most of the comments from the Borough Planning Commission related to preference issues. There will be further discussion at the Council Meeting on Tuesday.
- **Handicapped Ramp Removal at Lafayette and S. Lincoln Avenue**
Ms. Saylor reported that a small survey crew would need approximately 3 hours to survey the ramp and street, add the information into a CAD plan and prepare a ramp removal plan at a cost of \$800. There

would be additional expense for the ramp removal, curbing and re-seeding of the area. Mr. O'Malley requested that authorization for this work be delayed until budget implications are reviewed.

Proposed Use Description for Parking Structures

Planning Commission Chairman Warren Woldorf noted that although there had been previous discussion of parking structures, because of the planned Stocking Works II concept plan, the Planning Commission felt a more urgent need to develop a use description for parking structures.

- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Warren, and carried unanimously, to authorize the Solicitor to draft an ordinance based on the Newtown Borough Planning Commission's recommendations on parking structure definition/description and forward it to the Bucks County Planning Commission for review.

Zoning Hearing Board Alternate Members – Perry Warren

Mr. Warren will propose re-appointing two Zoning Hearing Board alternate members at the Council Meeting on Tuesday.

Environmental Advisory Council Presentation

Ms. Woldorf announced that Liz Robinson will be making a presentation on May 24, 2011, at 7 P.M. at the Chancellor Center to discuss making older homes more energy efficient. The Environmental Advisory Council is sponsoring the program.

West Nile Spraying

Council is asked annually to approve spraying Newtown Borough for the West Nile Virus.

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor Sellers, and carried unanimously to authorize the President of Council to send a letter to the Bucks County Board of Health approving spraying for West Nile Virus in Newtown Borough.

Special Events Applications

Ms. Woldorf explained that the Newtown Business and Professional Association requested a waiver of the Special Events Application Fee for the Antique Auto Show because they are a non-profit organization. Mr. Sellers said it was his understanding that the organization had the ability to pay the fee and he felt that was an important criterion. Mr. Walker felt that the \$250 fee was high in comparison to the fee charged by other municipalities. Both Mr. O'Malley and Mr. Warren agreed that this was a long-standing community event and not a moneymaking event for the participants. Ms. Woldorf felt that the fee covers the cost of processing the application and other incidental expenses.

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor O'Malley, and carried with Councilors Sellers and Woldorf voting nay, to approve the waiver of the application fee for the Antique Auto Show.

Ms. Woldorf explained the route for the American Legion Memorial Day Parade and said they were requesting a waiver of the fee because it was a parade for veterans who gave the ultimate sacrifice for their country.

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor O'Malley, and carried unanimously, to approve the waiver of the application fee and police coverage costs for the Annual Memorial Day Parade.

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 February as outlined in the Treasurer's e-mail dated March 17, 2011, but removing payment of the Gilmore invoice until there is satisfactory resolution.

Mr. O'Malley announced that there are plans for a meeting with Mr. Walker, Mr. Sellers and Scott [Dengler, of Scott's All Seasons] to discuss the long term plan for replacing the street signs.

Ms. Woldorf asked if there were any plans for the County to assist in the purchase of the required police radios. Mr. Walker said that there is a possibility that the County will finance the purchase with the Borough repaying the amount.

Solicitor's Report – Paul Cohen

- Noise Ordinance
The Solicitor reviewed the current Noise Ordinance with regard to enforcement. The Zoning Officer is responsible for enforcing the existing ordinance, but Mr. Cohen believes there could be coordination between Ms. Brown and the Police Department. The Police Department could file a police report on an incident that results in a violation, with enforcement by the Zoning Officer. Another issue is whether the Borough wants to adopt a subjective restriction regarding noise disturbance, which is essentially, what is in place currently, or as Mr. Cohen would prefer, adopt an ordinance with more objective standards. Mr. Cohen mentioned a possible arrangement with Newtown Township, since they have the equipment, to have one of their officers take the necessary decibel readings. Mr. Walker felt that the Borough is spending a great deal of time discussing a noise ordinance but is not enforcing the ordinance that is already in place. Mr. Sellers supported the idea of a more objective standard and although enforcement might address the immediate issue with a specific noise problem, he felt that Council should be more pro-active to address future issues.
- Parking Ordinance
Mr. Cohen previously circulated a revised parking ordinance that included provisions for residential parking permits in a designated area. For tracking purposes, Chief Wojciechowski would prefer that the residential parking permits be renewed each year. With respect to the parking lot behind "10 Centre," the Chief felt that those should be designated parking spaces and that only four permits should be available per business. Mr. O'Malley voiced concern about limiting the businesses to four permits, as he felt there should be a sliding scale based on the number of employees per business. Mr. Cohen explained that it was his understanding that there would only be 76 permits available and all of those cars would be required to park behind 10 Centre, with 2 hour parking in all other parking lots. Mr. O'Malley felt that Council should notify all residents potentially affected by residential permits. Mr. Cohen suggested authorizing the advertising of the residential permit ordinance at the next Council Meeting, which would allow time for the committee's next meeting and discussion before the adoption in May and Mr. O'Malley agreed. Mr. Cohen will handle the parking permit ordinance separately.

- Killed in Service Amendment
Municipalities were previously required to provide Killed in Service (KIS) benefits and Newtown Borough had incorporated those benefits into their Pension Plan Ordinance by reference to the agreement with the Pennsylvania Municipal Retirement System (PMRS) who administers the Pension Plan. The Borough incorporated the Ordinance into the Collective Bargaining Agreement. Pennsylvania has since passed Act 51 in 2009, which established payment of KIS benefits by the state. In order to make the necessary changes, Mayor O'Brien spoke with the police officers about amending the Collective Bargaining Agreement to eliminate that benefit and they agreed.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor O'Malley, and carried unanimously, to authorize the Solicitor to initiate the process of amending the Borough's agreement with the Pennsylvania Municipal Retirement System (PMRS) with option #2 [eliminating the KIS benefit, updating the Pension Plan Ordinance, amending the collective bargaining agreement and then canceling the insurance policy] of the Solicitor's April 5, 2011, letter regarding the Police Pension Plan.

- Peddling/Solicitation Ordinance
Mr. Cohen said he was awaiting additional information from Chief Wojciechowski regarding his concerns related to the Peddling/Solicitation Ordinance.

- Upper Makefield Police Department Hold Harmless Letter
Mr. Cohen spoke to John Rice, Solicitor for Upper Makefield, expressing his concerns about the language of the Hold Harmless Letter and providing him with new wording. He has not yet heard back from Mr. Rice.

- Lease at 301 S. State Street
The Borough entered into a lease 24 years ago for property in the area of the Stocking Works development for the sole purpose of providing parking while Sterling Street was repaved. The lease has a provision that renews year-to-year, although the Borough has not used it. Without acknowledging any liability under the lease or the effectiveness of the lease, Mr. Cohen recommended that a notice should be sent to the landlord, S & S General Partnership, which is a company owned by Allan Smith, formally terminating the lease so there will be no future confusion.

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor Sellers, and carried unanimously, to authorize the Solicitor to send notice to the landlord notifying them of termination of the lease.

- Phillips Court
Mr. Cohen suggested having full discussion of the Phillips Court issues at the Tuesday Council Meeting, but he did note that the primary concern of the property owners is the streetlights. Money currently exists under a Letter of Credit that was used to secure the improvements and Council must decide whether that money should be used to make the repairs or take legal action to force the developer to make the repairs.

Old Business

Ms. Woldorf reported that the Committee formed to update the website has met and hopes to make recommendations to Council by June.

Mr. Sellers updated Council on the diesel spill at *First Student*, noting clean up and removal of the storage tank has occurred. The Department of Environmental Protection has initiated enforcement action and is looking to assess a penalty.

Ms. Woldorf announced the digitizing of the Zoning Ordinance and Sub-Division/Land Development Ordinance (SALDO), with both items in a searchable pdf format. They are ready to be posted on the Borough website

Mr. Sellers reported that installation of/training on the new police station generator has taken place. Mr. Sellers asked Council for a waiver of fees for the generator installation. Since the Borough process is to pay the permit fees before issuance of a permit, Mr. Walker questioned how the work was completed without a permit. Mr. Sellers responded that the work needed to be done and he was unaware that permits were required. Mr. Walker felt that since this contractor works in the Borough, he should have known permits were required. Mr. Walker asked if the Borough could have a standing resolution to allow the waiver of permits for future Borough projects and Mr. Cohen said the Council could approve such a motion.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Warren, and carried unanimously, to approve the waiver of associated fees for the police station emergency generator installation.

Mr. Sellers explained that electrical inspections are completed by an outside service in order to obtain the required inspection sticker and he asked Council to approve that payment for the emergency generator inspection. Mr. Walker noted that all electrical work in the Borough requires inspection and he questioned that cost being the responsibility of the contractor not the Borough. Mr. Sellers noted that none of the contractors providing estimates for this project included inspection fees in their estimates.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Warren, and carried with Councillor Walker voting nay, to have Newtown Borough pay \$125 to Mid-Atlantic Inspections for the inspection sticker for the electrical inspection of the police station generator.

New Business

Ms. Woldorf noted that the Borough has received various surveys from PennDOT and the State Advisory Committee and she has passed them on to their respective committee liaisons.

Ms. Woldorf is attending Rep. Santarsiero's upcoming meeting and hopes to obtain information regarding the availability of grants. Mr. Walker suggested asking about financial assistance for the police radios.

Public to be Heard

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

There was a motion to adjourn at 10:17 P.M.

Respectfully submitted,

Marcia M. Scull
Borough Secretary

IN ATTENDANCE

Gema Duarte
Jeff Werner
Warren Woldorf
Paul Salvatore
Mike, Linda & Vince Piacentino