

Council Meeting
May 11, 2010
Chancellor Center

President Julia Woldorf called the regular semi-monthly meeting of Newtown Borough Council to order at 7:00 P.M. on Tuesday, May 11, 2010. Ms. Woldorf asked those in attendance to join her in a moment of silence followed by the Pledge of Allegiance.

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

2010 Historic Preservation Awards – Jim McAuliffe

Historic Architectural Review Board Chairman Jim McAuliffe presented the following Historic Preservation Awards:

Residential: *For the addition at 113 Greene Street*
Marti Farsje – Owner
David Klemmer – Contractor
James McAuliffe – Architect

For the additions/renovations at 35 S. Chancellor Street
William & Kathleen McDermott – Owners
J.R. Maxwell Builders, Inc. – Contractor
James H. Hefelfinger – Architect

Signs: *Color Me Mine, 31 S. State Street*
Nathalie Glazier – Owner
River Signs – Signmaker

Capelli Salon, 15 N. State Street
Joe Festa & Matt DiBartolo – Proprietors
Joe Festa, Sr. – Sign Designer

Restoration: *For restoration of the historic clock tower*
First National Bank of Newtown, 40 S. State Street
(Bank representatives were unable to attend the meeting, but received their award at HARB meeting on April

Rehabilitation: *For rebuilding of the Church steeple*
St. Mark's AME Zion Church, 136 N. Congress Street

New Construction: *Stocking Works II, 405 S. State Street*
SS & K Building Limited Partnership – Owner
James McAuliffe & John Hayden – Architects
Twining Construction – Contractor

Mayor's Report – Dennis O'Brien

- The Police Report for April 2010 was presented
The Police Department was awarded a \$3000 state grant for Driving Under the Influence (DUI) enforcement and \$1000 for Buckle-Up patrols. The Mayor commended the Police Department for their investigation and handling of the crimes during the month of April.

The Mayor announced that at the Arbor Day program Newtown Borough received the designation *Tree City U.S.A.* for the 26th year by the National Association of State Foresters.

- Special Events Reminder:
Newtown Library Company Kitchen/Garden Tour – May 23, 2010
Memorial Day Parade – May 31, 2010
Antique Auto Show – July 18, 2010
Newtown Library Block Party – September 12, 2010

President's Report – Julia Woldorf

Ms. Woldorf announced that the Annual Police Memorial Service is scheduled for May 24, 2010, 7 P.M., at St. Andrew's Catholic Church. The public is encouraged to attend this service honoring Bucks County's fallen officers.

The Comprehensive Plan, which has been undergoing revision, will be presented for adoption at the June 8, 2010, Council Meeting. The final version of the Plan is available for review on the Borough website.

Ms. Woldorf asked that anyone with experience in grant writing, and who would be interested in volunteering their time to assist the Borough, should contact the Borough office.

Ms. Woldorf deferred to Mr. Sellers to announce the street sweeping schedule for May. Mr. Sellers reported that the street sweeping would occur on May 17 and 18, 2010, between 7-11 A.M. and he requested that all vehicles be removed from the Borough streets during that timeframe.

Public to be Heard

Frank Brassell, 538 Penn Street, announced that the Newtown Corporation will be holding *Newtown Uncorked*, with all eight Bucks County vineyards participating in the event and food provided by many Newtown restaurants. In addition, he announced that the Newtown Presbyterian Church would be holding a Strawberry Festival on June 5, 2010, from 12-4 P.M., followed by a Sycamore

Street festival, *Taking it to the Streets*. These activities are in conjunction with the *First Saturday* event being held the same day. *Welcome Day* will be held on Sunday, June 13, 2010, sponsored by the Newtown Business and Professional Association.

Resident Hubert Brown, speaking on behalf of Dr. Sydney of 125 S. Chancellor Street, voiced concern about trees along the edge of Old Skunky. A tree recently fell and several others are leaning toward Old Skunky and the Park [Linton]. Dr. Sydney is feeling the burden of the removal expense and asked if the Borough intended to compensate him and asked where the property lines are located.

Harry Betz, Newtown Bicycle Shop, voiced his dissatisfaction with the Newtown Corporation.

Patty Lovi, 151 N. State Street, spoke about the “cease and desist” order that was recently sent by the Newtown Corporation to some business owners. Ms. Lovi also took exception to comments made by Frank [Brassell] to Dave Callahan, Bill Smith and Dennis O’Brien and she would like to have Council replace him with a more appropriate person who would serve everyone’s interests.

Frank Brassell, 538 Penn Street, spoke in his defense regarding Ms. Lovi’s prior comments. Mr. Brassell explained that his comments about Mr. Callahan were taken out of context. With regard to Bill Smith, Mr. Brassell explained that Mr. Smith became upset, and it was he who used unpleasant words that evening, not Mr. Brassell. With regard to Mr. O’Brien, the two have since spoken and cleared the air.

Update on Stockburger Site Project – Allan Smith

Allan Smith reported that the traffic study for the proposed project at the Stockburger site has been completed. He is awaiting word from the State Liquor Control Board regarding approval of the proposed new site for the State Store. Mr. Smith is also awaiting approval of the modifications to the Traditional Neighborhood Development (TND) ordinance before he can move his project forward. In response to Mayor O’Brien’s question about the types of use, Mr. Smith commented that the final project will be dictated by what is permitted under the revised TND Ordinance. At present, the design currently has more residential and retail use and less office use.

Certificates of Appropriateness

- ❖ A motion was duly made by Councilor Burke, seconded by Councilor Walker, 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 2010-010-H Residents: Kevin & Missy McCormick, 257 S. State Street, residence

The applicants were seeking a Certificate of Appropriateness for the installation of fencing to enclose the back and side yards. The fence would be the Option #1 fencing, as pictured in the illustration submitted with the amended application labeled “Decorative Board Spaced Single Convex.”

COA 2010-014-H Residents: Kevin & Missy McCormick, 257 S. State Street, residence

The applicants were seeking a Certificate of Appropriateness for the installation of a mahogany deck with railing and steps on the rear/side of the house, with the deck recessed inside the corner board and the lighting used will be as pictured and submitted on April 28, 2010.

COA 2010-15-H Applicant: Amy Mendelson, 126 S. State Street, Suite 100, Rose Cottage Needlepoint Studio

The applicant was seeking a Certificate of Appropriateness for the installation of directory sign plaques on the double-sided directory sign in the front of the building, and one wall sign at the rear of the building.

COA 2010-016-H Applicant: GFY Brothers LLC dba Ned's Cigar Store, 4 S. State Street

The applicants were seeking a Certificate of Appropriateness for the installation of a wooden sign display box.

COA 2010-017-H Applicant: James A. Williams, 200 Court Street

The applicant was seeking a Certificate of Appropriateness for the installation of a solid wood fence with lattice at the top and gate, and located at the side and rear yard areas, as illustrated in the photograph presented of the fence at Penn Street and Congress Street

COA 2010-019-H Applicant: Kenneth Breece, 128 S. State Street, Gourmet Express by Rouget

The applicant is seeking a Certificate of Appropriateness for the installation of a hanging sign in the front of the building, using the existing bracket.

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

Penn Street/Lincoln Avenue Intersection

Ms. Saylor reported on the Penn Street/Lincoln Avenue intersection review by the traffic engineer. The traffic engineer agreed that although specific criteria for a 4-way stop sign should normally apply, he noted that sound engineering judgment for safety at the intersection gives Council some flexibility in making that determination. A report could be submitted to Council supporting that judgment and Council could pass a Resolution authorizing the 4-way stop sign. At that time, Council could adopt an ordinance to make the change.

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Warren, and carried unanimously, to authorize the engineer to prepare a report that will meet the requirements to create a 4-way stop sign at Penn Street and Lincoln Avenue, using existing traffic counts and data and in a time not to exceed eight hours.

Newtown Artesian Water Company State Street Project

With regard to Newtown Artesian Water Company's State Street project, Ms. Saylor reported that a meeting will be scheduled with Gannett-Fleming engineers to review the handicapped ramps at the Washington Avenue and N. State Street intersection. Council raised concerns about the placement of the ramps and whether PennDOT had completed inspections approving the work.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Walker, and carried unanimously, to authorize the Borough engineer to meet with the [Gannett-Fleming] engineer regarding the State Street ramp situation as part of the paving project [of Newtown Artesian Water Company.]

Mr. Sellers questioned why if it is a PennDOT road and they reviewed the design and signed off on it, then what effect might Borough comments have on the process? Ms. Saylor explained that PennDOT might take input, but Mr. Sellers commented that the Borough really has no jurisdiction to veto or approve. He was concerned because the Borough was required to follow specific standards for their projects, yet PennDOT does not follow their own standards. Ms. Saylor explained that retrofitting the ramps has been the issue, although she feels that some ramps could have been better aligned. Ms. Woldorf would like to have Council representatives at the scheduled meeting. Mr. Walker explained that the Water Company was to have provided Gilmore with the proposed curb cut installation design, which was not done. Ms. Woldorf suggested that Council discuss a means for better communication [with Newtown Artesian and Newtown Sewer] going forward.

Frost Lane Street Project

Ms. Saylor spoke with the Newtown Township engineer about attending a Council meeting to discuss the Frost Lane project. The Township Supervisors would rather have Ms. Saylor relay the information to Council and that will occur at the June 8, 2010, Council meeting.

Resolutions for PA-TEC Fox Chase Rail Line Reactivation

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor O'Malley, and carried unanimously, to approve Resolution 05-11-10A supporting a new review by the Pennsylvania Department of Transportation, Bucks County Planning Commission, Delaware Valley Regional Planning Commission and Southeastern Pennsylvania Transportation Authority, of the reinstatement of regional rail service to points between Fox Chase and Newtown Borough.
- ❖ A motion was duly made by Councilor Burke, seconded by Councilor O'Malley, and carried unanimously, to approve Resolution 05-11-10B supporting the reinstatement of regional rail service to the Newtown Regional Rail Line connecting Newtown Borough, Newtown Township, Northampton, Upper Southampton, Upper Moreland Township, Abington Township, Bryn Athyn Borough with the Fox Chase Station in northeast Philadelphia, Pennsylvania.

Newtown Corporation

Because of recent actions taken by the Newtown Corporation, Mr. Warren stated that it is incumbent upon Council to protect public funds that are currently in the custody of the Newtown Corporation. He then made a motion to proceed with legal and equitable actions against the Corporation. Mr. Walker asked the Solicitor to clarify Mr. Warren's comments about "public funds" and suggested revisiting the Solicitor's memo supplied to Council before voting on the motion. Solicitor Cohen asked to reserve his ability to give an opinion on the "public funds" reference. Mr. Sellers concurred with Mr. Warren's concern regarding the protection of "public funds," noting that there is the matter of the Borough's \$5000/year contribution and the broader concern about the additional money raised by the Corporation and how it has been spent over the past years. Mr. O'Malley is satisfied that the taxpayers have gotten their money's worth from the work of the Newtown Corporation, but he agreed that something needs to be done in order to help the businesses of State Street. Mr. Walker added that as of two years ago, just under \$1,000,000 in improvements have been realized by the Borough. Mr. Burke would prefer to see the motion amended to include Newtown Township, Newtown Borough and Newtown Corporation representatives meeting and coming to some agreement, prior to going to litigation. Mr. O'Malley felt that the motion was too broad and he would prefer to have the Solicitor recommend a course of action giving some idea of the associated costs involved. Ms. Woldorf felt it was time for Council to take a stand.

Joshua Horenstein, 21 S. Lincoln Avenue, a new Corporation board member, voiced his disappointment about how he had been received by the board and excluded from a recent meeting.

Bill Smith, of Newtown Jewelers, would like Council to reach a decision, since he is concerned about expenditures of the Corporation funds. Mr. Smith voiced disappointment that Council members had not previously spoken up, with the exception of Mr. Sellers, who stood up for the business community.

Becky Betz, of Becky's Newtown Deli, thanked Council for their comments and she was glad to see that Council was taking action tonight. She questioned what the recourse was for finding out where the money has gone.

Dave Callahan, a Newtown Corporation board member, said he found out today that a board meeting had been held without any notification being given to him.

Corky Swartz, a Corporation board member, felt that the Corporation had taken a new direction and he felt that they wish to become a Chamber of Commerce. They are no longer looking at the original joint obligation between Newtown Borough and Newtown Township. Mr. Swartz voiced concern that the Brew Fest application submitted to the Liquor Control Board (LCB) was to allow a special interest fundraiser for the benefit of State Street and he does not believe that occurred. The negative publicity over the past months is of great concern to Mr. Swartz and he would like to see the assets of the Corporation protected.

Mr. Walker said he was hearing the information regarding the LCB permit requirement for the first time and he wondered what impact it would have on the Borough's ability to capture any of those funds for the benefit of the Borough's business association. He would like the Solicitor to review

the matter and Mr. Walker felt that he did not have enough information to make an informed decision about what Council can do at this time.

- ❖ A motion was duly made by Councilor Warren, seconded by Councilor Sellers, and carried with Councilors Walker and Burke voting nay, to authorize the Solicitor to proceed with any/all legal and/or equitable actions against the Newtown Corporation, and/or any/all members of the Board of Directors, if applicable, but with Council discussing the actual specifics and causes of action in Executive Session.

Junior Councilor Program – John Burke

Mr. Burke explained that a Junior Councilor Program would allow a student from Council Rock High School North, who lives in Newtown Borough, to participate in the meetings of Council. They would not be permitted to vote or participate in Executive Sessions.

- ❖ A motion was duly made by Councilor Burke, seconded by Councilor Walker, and carried unanimously, to approve Resolution 05-11-10D authorizing participation in the Pennsylvania State Association of Boroughs Junior Council Person Program.

Presentation of Minutes

- ❖ A motion was duly made by Councilor Warren, seconded by Councilor Walker, and carried unanimously, to approve the April 7, 2010, Work Session Minutes.
- ❖ A motion was duly made by Councilor Warren, seconded by Councilor Walker, and carried unanimously, to approve the April 13, 2010, Council Meeting Minutes.

COMMITTEE REPORTS

Budget & Finance – Gerard O'Malley and Robert Walker

Consolidated Report

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor O'Malley, and carried unanimously, to accept, subject to audit, the consolidated expenditure report for the month of April 2010, totaling \$113,798.21.

- **Quarterly Budget Reports**

Mr. O'Malley circulated to Council reports of the fund balances at the end of 2009 and the 2010 first quarter expenses and income. The actual numbers at the end of 2009 were very close to what had been anticipated, with the exception of snow removal figures. Although income is down for the first quarter, tax receipts are just now being received and the snow removal expenses were significant during the first quarter. During the budget process for 2011, Council will need to address long term planning and consider the income from development of the Stockburger property.

Streets, Lights & Properties – Michael Sellers

Mr. Sellers reported that the lighting recently installed at Linton Memorial Park should be activated by the end of the week.

Traffic Committee – Gerard O'Malley

Mr. O'Malley reported that the Traffic Committee is working on plans for a pedestrian safety week to raise awareness of pedestrian and bicycle safety. The timing of this year's program is tied into the 5th Grade Walking Tour and the end of school.

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Sellers, and carried unanimously, to approve Resolution 05-11-10C designating the week of May 28-June 6, 2010, as *Newtown Pedestrian Safety Week*.

Solicitor's Report

The Solicitor announced that an Executive Session was held prior to the meeting to discuss potential liability, personnel and real estate.

Solicitor Cohen explained that the current lease for the Newtown Borough Police Station is due to expire August 14, 2010, but requires notification 90 days prior to that expiration if the Borough wishes to renew. Mr. Cohen prepared a letter to Michael Errico, Sr., President of the Newtown Fire Association giving notice that the Borough is exercising its option to renew the police station lease.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Burke, and carried unanimously, to authorize the President of Council to execute and forward the letter to the Newtown Fire Association.

A public hearing was held at this meeting to consider Ordinance No. 703, which was duly advertised on April 29, 2010, and filed with the Bucks County Law Library. The Ordinance was prepared at the request of Chief Wojciechowski because of concerns about visibility in light of new stop signs recently placed at that corner.

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor Warren, and carried unanimously, to adopt Ordinance #703 amending Chapter 146, Section 146-33.b to prohibit parking on the southwest corner of Jefferson Street for 54' west of Liberty Street.

After discussion at the Council work session, Mr. Cohen spoke to Mark Evans of Town Planning Partnership, LLC regarding insurance coverage. In response to Mr. Seller's question about Town Planning, LLC obtaining coverage, Mr. Cohen said that they are investigating professional insurance coverage and awaiting quotes on that coverage. Mr. Burke suggested that in the future the Borough include the area of insurance coverage in all Requests for Proposals.

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Burke, and carried unanimously, to authorize the President of Council to sign an agreement with Town Planning Partnership, LLC to review the proposed Traditional Neighborhood Development

Ordinance amendments, subject to the provision of Town Planning Partnership, LLC providing insurance coverage.

Although Mr. Cohen feels that the Borough Zoning Ordinance is clear, he explained that there is an allegation of ambiguity in the ordinance in the Zoning Appeal of Jodi Smith for 516 Centre Avenue. After discussion and in order to address the issue, Mr. Cohen has proposed an amendment to the ordinance that should make it abundantly clear.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Warren, and carried unanimously, to authorize the Solicitor to draft and forward to the Planning Commission amendments to the Zoning Ordinance pertaining to dimensional requirements for condominiums and a fee for fence permits.

Old Business

PennDOT related issues

Ms. Woldorf updated Council on the meeting of Rep. Steve Santarsiero and a PennDOT representative, who answered Council's questions. With regard to the Gateway Design planned for Newtown Township on Washington Avenue, the representative said it could not be expanded into the Borough without a total new project being designed.

With regard to a reduction of the speed limit on Washington Avenue, a letter needs to be sent to PennDOT making that request.

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Sellers, and carried unanimously, to authorize the President of Council to send a letter to PennDOT requesting a reduction in the speed limit on Washington Avenue to 25 M.P.H.

Regarding the ramps and construction on State Street, the PennDOT representative said that the information would be sent to the permits/inspection person who is in charge of that project.

Since there has been no response from PennDOT regarding Council's letter to them regarding The Promenade traffic study, the representative said a copy would be forwarded to the appropriate person.

Fee-in-Lieu of Trees

Ms. Woldorf reminded Council that the Fee-in-Lieu of trees issue was never resolved and should be addressed in light of future developments in the Borough. Mr. O'Malley will work with Shade Tree liaison Mr. Burke to move the issue forward.

New Business

There was no new business.

Public to be Heard

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

Council entered into an Executive Session at 9:35 P.M. and reconvened the meeting at 10:05 P.M.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Warren, and carried unanimously, to send a letter to Newtown Township Supervisor Ciervo advising of action taken on tonight, May 11, 2010, inviting discussion of dissolution of the Newtown Corporation.
- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Warren, and carried unanimously, to contact the Newtown Township Solicitor on the same matter.

The meeting was adjourned at 10:20 P.M.

Marcia M. Scull
Borough Secretary

ATTENDEES

Diane LeBas	104 Penn Street
Warren Woldorf	440 Washington Avenue
Judy Musto	118 S. Congress St.
Harry & Becky Betz	30 S. State Street
Dave & Mary Callahan	113 Court Street
Charles F. Swartz	323 E. Washington Avenue
Liz Warren	149 Andrew Drive
Jeff Werner	The Advance
Joshua Horenstein	21 S. Lincoln Avenue
Paula Zimmerman	21 S. Lincoln Avenue
Patty & Joe Lovi	151 N. State Street
Jim McAuliffe	545 E. Centre Avenue
Marty Ginty	149 N. State Street
Gerilyn Williford	Macedonia Baptist Church
Pat Foster	S. Norwood Avenue
Gale Jefferson	17 Maple Avenue
Mark & Ruth Reaves	St. Mark's A.M.E. Zion
Edwin T. Johnson	Newtown Presbyterian Church
Paul Salvatore	148 N. Elm Avenue
Wendy Warren	River Signs
B. Heyman	N. Lincoln Avenue

Allan Smith	301 S. State Street
Marti Farsje	113 Greene Street
Frank Brassell	538 Penn Street
James & Jay Maxwell	Doylestown
Rev. Sandra Reed	St. Mark's A.M.E. Zion
Jacky Vesley	136 N. Congress Street
Kevin McCormick	257 S. State Street
Kenneth Breece	128 S. State Street
Charlene Williams	200 Court Street
Jen Pennington	524 Penn Street
Ivan Winegar & Natalie Kaye	47 Gaylord Court
Bill Smith	Newtown Jewelers
Joe Festa, Sr.	13 N. State Street
Joe Festa, Jr.	13 N. State Street
Matthew DiBartolo	13 N. State Street
Sally Thompson	200 N. Chancellor Street