

Council Work Session  
May 4, 2011  
Council Chambers

The regular monthly work session of Newtown Borough Council was called to order at 7:00 P.M. on Wednesday, May 4, 2011, by President of Council Julia Woldorf.

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

### **Amendments to the Agenda**

Ms. Woldorf removed the "Request for Waiver of Fees" and added a discussion by Allan Smith regarding a portion of land that he is considering for development. Another Special Events Application was added. Mr. Walker noted that because of the importance of the issue, he had asked Ms. Woldorf to have the Allan Smith discussion at the televised Council meeting on Tuesday, rather than at the Work Session. Ms. Woldorf responded that she was concerned that there had been circulation of misinformation regarding this project and she wanted all Council members to have the facts at the Work Session, prior to any public comment at the Council meeting. She said the presentation would remain on the agenda and complimented members of the audience for attending the meeting to hear the facts first hand, rather than through third parties. Mr. Walker requested that Allan Smith make his presentation at the Council meeting as well and Ms. Woldorf stated that he is on the agenda.

### **Public to be Heard**

Resident Bob King voiced concern about the Sketch Plan presented by Allan Smith at the Planning Commission meeting and about comments made by the Planning Commission Chairman that density was not an issue with this development. Considering the number of planned units and retail space, Mr. King said this is approximately 33 units per acre, versus the 6.5 units per acre for the Newtown Station development, or 5 times the density of Newtown Station. Mr. King also noted that he understood the Planning Commission Chairman stated that Council could waive 25% of the parking requirement for the project. Ms. Woldorf asked the Planning Commission Chairman if he wished to correct those comments at this time. Chairman Warren Woldorf noted that if an applicant can prove the viability then they can take a 25% reduction in the parking, but Council has the option to accept the reduced amount or propose another amount. With regard to the density comments, Mr. Woldorf agreed that he might have made the statement that density was not an issue as he considers density a perception. Obviously, the number of units is an issue, but he does not consider the number of units a density concern and he noted that the surrounding municipalities do not have a dwelling unit per acre density factor in their ordinances because the units can vary in size. Mr. King acknowledged that 275 condominiums is different than 65 townhomes, but there would still be a need for six times the parking. Mr. Woldorf noted that creating this Traditional Neighborhood Development (TND) Ordinance was inspired by this project, but not written for it.

Ms. Woldorf said the next step is for Allan Smith to come to Borough Council to present his Sketch Plan and to get an informal feeling from Council about his concept. Mr. Smith will then come to Council for a Conditional Use Hearing, which is a legal proceeding. If he receives the Conditional Use approval, he would then make a preliminary application for land development with detailed drawings and would start going through the long review process.

Mr. Walker voiced concern about unanswered questions including how will the property be managed, who will have responsibility for the garage, the creek walk, the streets and does Mr. Smith have expectations that the Borough will assume a certain amount of responsibility and liability that they are unaware of? In Mr. Walker's opinion, for Council to express support of the concept on Tuesday without knowing what the business elements are, would be a big mistake.

Mr. O'Malley felt that additional meetings to discuss the project would be helpful. He noted that Mr. Smith's first public meeting presented a very different concept, which built support from the grass roots for that plan. Now that the concept has changed, Mr. O'Malley feels it is important to discuss all of the issues raised by Mr. Walker and others before making any decisions.

### **Residential Parking Permits – Gerard O’Malley**

The Long Term Parking Committee began discussions in January regarding the issue of residential parking difficulties in the areas of Court Street, Centre Avenue, Mercer, and Penn Streets between Court Street and Congress Street. Mr. O’Malley said one option discussed was to have residential parking permits for the residents of those four streets with a decision required for the timing of the restricted periods, the number of permits per residence, and whether a fee should be charged for each permit. Before enacting an ordinance, Council must obtain infrastructure and budget impact figures.

With regard to the timing of the restricted periods, June Hilbert asked why the Police Chief preferred the 24-hour timeframe. Mr. O’Malley felt that it was because of signage and simplicity of enforcement.

Bob Musto asked about the allocation of permits. Mr. Musto lives on a corner property, one side of his property adjacent to one of the proposed streets, and he asked if he would be able to apply for a permit, to which Mr. O’Malley responded that he thought so.

Court Street resident Ben Douglas expressed his preference for the time restriction being 8 A.M.-8 P.M. If a resident leaves for work before 8 A.M. and returns before 8 P.M. there is no parking available. Mr. Douglas would also be happy with the 24-hour restriction and felt that two permits per residence would be adequate.

Another Court Street resident, Rand Jaslow, commended the committee for their work, but felt that enforcement would be expensive. Mr. Jaslow commented that many of the large employers had signed agreements to lease space for employee parking and if the employees parked in those areas, it would free-up the parking on the residential streets for customer parking. Mr. Jaslow suggested “permitting” the employees and requiring them to park in the leased spaces, then fining them and their employers if they do not. Mr. O’Malley agreed with Mr. Jaslow’s suggestion, but commented that none of the parking agreements can be located, so enforcement would be difficult.

Jeanne Haeckel of Penn Street asked about construction vehicles, and asked if they could park longer than 2 hours, while work is completed. Ms. Haeckel supported enforcement, and suggested a “dedicated parking enforcement officer,” who would be funded through ticketing fines.

Paul Salvatore, a member of the Long Term Parking Committee, said that Doylestown has three officers dedicated strictly to parking enforcement. Mr. Salvatore also suggested a vendor permit to address the concern of contractor parking.

Centre Avenue resident Monica Morgan felt Council should base permit allocation on the number of permits a resident wished to purchase, not limited to two per residence.

Mr. Walker voiced concern about the ability to enforce the regulation with the existing police force and asked what the cost would be for a part-time individual to enforce the parking. He felt there should be discussion of costs before any passing an ordinance.

### **Council Rock Newtown Athletic Association Fall Ball**

Ms. Woldorf explained that the existing agreement between the Borough and the Council Rock Newtown Athletic Association (CRNA) requires written consent from the Borough for allowing Fall Ball each year at Pickering Field. Mr. Musto representing the CRNA announced that the proposed Fall Ball dates are September 10-11, 17-18, and 24-25, 2011.

Chancellor Street resident Dan Knott noted that he has always been opposed to leasing the park [Pickering Field] to a special interest group and feels it is wrong for the community. From Spring through September, it is not a community park and that concerns him.

Edith Gowin of Chancellor Street said that the other parks in the Borough are essentially children’s playgrounds and Pickering Field is the only area for expanded activities like flying kits, soccer, and Frisbee. Ms. Gowin is concerned that the children not involved in organized sports have no place to play. Ms. Gowin did acknowledge that the League has been very good in taking care of the property and addressing the neighbors concerns. The issue that concerned Ms. Gowin and Mr. Knott the most was the “dragging of the field,” which creates considerable dust.

Mr. Musto responded that the CRNA Board gives an information/rules sheet to every team and in-house manager using the field, which includes instructions to drive slowly when using the groomer on the field to cut down on the amount of dust generated. He stated that they are doing all they can to address the dust concerns.

Paul Salvatore felt that kids involved in organized sports with adult supervision have a tendency not to get into trouble, take drugs, or be arrested. Mr. Salvatore said that he often drives past the Field and no one is using it for any activity. He would rather see it used productively and he noted that Goodnoe Elementary, which is very close, has a large field for outdoor activities.

- ❖ A motion was duly made by Councillor O’Malley, seconded by Councillor Walker, and carried unanimously, to direct the President of Council to send notification to the Council Rock Newtown Athletic Association authorizing Fall Ball for the year 2011.

### **Engineer’s Report – Maryellen Saylor, Pickering, Corts & Summerson**

- Culvert at Penn and Lincoln Avenue  
The culvert carries Old Skunk under Lincoln Avenue and Toll Brothers has agreed to do some repairs on the headwall area and resurface the inside of the culvert with concrete where it has begun to deteriorate. An inspector from Pickering, Corts & Summerson inspected the inside of the culvert and determined that structurally the pipe is sound. Recommendations included providing scour protection for the upstream end of the pipe and sealing of joint areas within the pipe.
  - Washington Avenue Curb Ramp Update  
PennDOT approved the curb ramp designs for Washington Avenue and work should begin shortly. Ms. Saylor asked for the construction schedule in order to coordinate the project with the police department and Borough Council.
  - Handicapped Ramp Removal at Lafayette and S. Lincoln Avenue  
The survey crew completed their work at the Lafayette Street and S. Lincoln Avenue location and Ms. Saylor said the plan should be ready within three days in order to obtain prices from contractors for the removal work.
  - MS4 Report for Year 8  
The MS4 report for year 8 is due in June and Ms. Saylor will coordinate with Mayor O’Brien to post information on the website for public awareness of water conservation.
  - FEMA Maps  
FEMA reviewed the Borough’s Zoning Ordinance in relation to the state model regarding flood plain regulations. They returned a checklist of what needs to be amended or added. The Solicitor said it would involve a comprehensive review and suggested that the Planning Commission also review the document.
- ❖ A motion was duly made by Councillor Walker, seconded by Councillor O’Malley, and carried unanimously, to authorize the Solicitor to begin updating our floodplain regulations to reflect the new FEMA flood insurance in consultation with the Borough Engineer.
- Sidewalk Ordinance  
There are remaining issues to be resolved before completing the Sidewalk Ordinance, including whether Council wished to consider sidewalk materials other than brick, clay brick, slate, and standard finish concrete. Consideration of pavers and concrete brick and/or whether Council wished to add any design guidance such as lighting for bollards is still in question.
  - Resolution of Default for Phillips Court

Due to the developer's failure to replace the lights at Phillips Court to be consistent with the approved plan, the Solicitor will have a Resolution of Default prepared for Council to approve, which will allow Council to draw funds from the Letter of Credit to replace those lights. An estimate for the cost of the lights will be provided on Tuesday at the meeting.

- Joseph Lucas Project at 255 S. Lincoln Avenue

Mr. Lucas is looking for a reduction in his Letter of Credit now that his project is complete. The development plan required an 18 month period to maintain his Letter of Credit and the Solicitor would suggest that should begin back in August when the improvements were accepted by Council. Council will address this matter at the Tuesday meeting.

### **Swing Set Discussion – John Burke**

Mr. Burke provided Council with proposals for the swing set replacement at Linton Memorial Park, which includes costs for installation and for mulch to cover the required fall zone. Once Council approves the purchase, Mr. Burke expects the work to take place in approximately five weeks. In response to a question from Mr. Warren, Mr. Burke advised that with the new guidelines, it is not permissible to mix adult swings and children's swings on the same structure. With regard to funding the project, Mr. Walker said that Council did not allocate funds in the 2011 budget to support the expenditure. If Council decides to approve the project, funds will come from the Operating Reserve Account. Council decided to postpone action on this matter until next Tuesday.

### **Special Events Applications**

Ms. Woldorf noted that although there is a \$250 Special Events Permit application fee, to date all applicants have asked for a waiver of the fee, which Council has granted. She suggested that Council reconsider the amount of the fee.

Mr. Warren supported not eliminating the fee, but having some charge to offset administrative costs. Council discussed the \$250 Special Event Fee and decided to reduce the amount of that fee. Mr. Salvatore suggested including information about insurance coverage by the applicant on the form, so that they are aware of the requirement. In addition, nowhere on the application does it indicate submission of the application at least 90 days in advance of the event.

❖ A motion was duly made by Councillor Warren, seconded by Councillor Walker, and carried unanimously, to authorize the Solicitor to draft an ordinance amending the Special Events Ordinance to eliminate reference to a fee and to authorize Council to separately establish the fee and to amend the existing Fee Schedule to adopt a fee of \$25.00.

Historic Association members Dave Callahan and Paul Gouza were present for the discussion of the Market Day Special Events Application.

❖ A motion was duly made by Councillor Burke, seconded by Councillor Walker, and carried unanimously, to approve the waiver of fees for the Market Day Special Events Application.

The Mayor then presented the 5K Run Special Events Application.

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor Warren, and carried unanimously, to approve the waiver of fees for the 5K Run for the Newtown Library Company Special Events Application.

Ms. Woldorf recommended postponing action on the 1<sup>st</sup> Fourth Parade Event application until Council receives an estimate from Chief Wojciechowski because the event will have direct budget implications. Mr. Salvatore noted that there was never a charge to the Committee for police coverage in the past, nor has there ever been a charge for other holiday parades.

### **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 March, as outlined in the Treasurer’s e-mail dated April 14, 2011.

### **Stocking Works II Project– Allan Smith**

Ms. Woldorf asked Mr. Smith to discuss the portions of his plan that would impact the Borough and to introduce some of his ideas for the area. The proposed plan would use the parking lot in front of the liquor store and the parking lot behind Starbucks. Mr. Smith’s intent is to change the image of entering the Borough on Centre Avenue by adding a piazza, framed by two buildings, and making the area somewhat of a town square. He said that the loss of the 80+ parking spaces in those lots would be replaced in the proposed garage. Mr. Smith understands that Boroughs are unable to enter into private agreements to sell property, but are required to have auctions. The Borough could set conditions for an auction, which would preclude many buyers from fitting the criteria. Another scenario would involve the Borough donating a portion of the property to the Heritage Conservancy, with the understanding that the Conservancy participate in the creation of the Creek Walk, which it would secure for the Borough. With regard to the issue of liability, if the Conservancy is involved, Mr. Smith said that there is a law that applies to passive recreation on Conservancy property that protects them. Although Mr. Smith said that the parking lots are not required for his project to move forward, he felt that the piazza would be good for the Borough. Mr. Woldorf asked if the Borough could own the creek frontage, but have the condo/development association maintain it, rather than the Borough. Solicitor Cohen felt that was a workable arrangement. The parking garage would be “fronted” with stores and condominiums to disguise the structure and, as currently designed, contains 450-470 parking spaces. Mr. Smith’s original plan for the creek walk was very natural, but in working with the Planning Commission, their vision was more interactive, like San Antonio or Lambertville, with a restaurant looking over the creek.

### **Solicitor’s Report – Paul Cohen**

- Killed in Service Amendment

The Solicitor confirmed that any changes to the Killed in Service benefits would not affect Brian Gregg’s wife. In order to begin the process for a new Pension Plan agreement, the Borough must submit a checklist to the Pennsylvania Municipal Retirement System (PMRS).

- Upper Makefield Police Department Hold Harmless Letter

The Borough Solicitor is still in discussions with the Upper Makefield Solicitor regarding language for the Hold Harmless Letter. Mr. Cohen will submit revised language and hopefully resolve the issue.

- Noise Ordinance

Solicitor Cohen sent an e-mail to Council attaching several model noise ordinances. Mr. Cohen also spoke to the Police Chief about the noise ordinance and the Chief's ability to acquire the special equipment necessary to obtain decibel readings. The equipment would cost approximately \$1000 and a calibrator would be required at a cost of approximately \$500, which raises the question of how frequently the equipment would be used to justify the expense. The idea from their discussion was to move away from a noise ordinance and look at it more as a nuisance ordinance and the Chief agreed that the issue should be in the hands of the Police Department, not the Code Enforcement Officer.

## **Old Business**

Mr. Walker questioned the motion made at the April 6, 2011, Work Session regarding the Parking Structure Ordinance. He felt that Council should have reviewed the ordinance before forwarding it to the Bucks County Planning Commission. Mr. Walker was concerned because off-street parking was included in the ordinance, but not authorized in the motion. Mr. Cohen commented that both issues were part of the same recommendation from the Borough Planning Commission.

Mr. O'Malley requested that the Traffic Committee be on next week's agenda to pass a *Pedestrian Safety Week* Resolution.

Mr. Warren announced a resignation from the Planning Commission.

## **New Business**

Mr. O'Malley reminded Council of the Police Memorial Service scheduled for May 16, 2011, at 7:00 P.M. at St. Andrews Roman Catholic Church.

Mayor O'Brien reported that he received a phone call from the Attorney General's office stating that they had received six complaints from Borough residents regarding the proposed rate hike by Newtown Artesian Water Company. A public hearing is required, with the date to be announced.

After discussion by Council, the decision was not to cancel any of the summer Work Session meetings.

Since there is a conflict with use of the Chancellor Center for the July 12, 2011, Council meeting, the meeting will be at the Newtown Sewer Authority on S. Congress Street.

The Solicitor requested a short Executive Session following the meeting.

## **Public to be Heard**

Bob King distributed copies to Council of an e-mail sent by Allan Smith to Joseph Evans [regarding the Stocking Works II project] and said he felt some of Mr. Smith's comments were offensive to Newtown Borough residents.

Paul Salvatore raised the subject of impact fees and suggested that Newtown Borough consider impact fees for developers as a way to generate money without taking money from Borough reserves. Mr. Walker commented that Toll Brothers was assessed a per unit fee for the Newtown Station development.

There was a motion to adjourn at 10:50 P.M.

Respectfully submitted,

Marcia M. Scull  
Borough Secretary

IN ATTENDANCE

Gema Duarte  
Jeff Werner  
Warren Woldorf  
Paul Salvatore  
Paul Gouza  
Dave Callahan  
Jeanne Haeckel  
June Hilbert  
Rand Jaslow  
Larry Auerweck  
Monica Morgan  
Bob & Judy Musto  
Edith Gowin  
Dan Knott  
Betsey & Bob King  
Michael Carter  
Ben Douglas