

Council Meeting
June 14, 2011
Chancellor Center

President Julia Woldorf called the regular semi-monthly meeting of Newtown Borough Council to order at 7:00 P.M. on Tuesday, June 14, 2011. 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, Walker, Warren and Woldorf; Mayor Dennis O'Brien and Solicitor Paul Cohen. Councillor Sellers was excused.

Mayor's Report – Dennis O'Brien

Police Report for May

The police department distributed 2800 informational handouts during *Pedestrian Safety Week*. Mayor O'Brien reported that with a DUI grant, officers on May 28, 2011, participated with Newtown Township officers and made several DUI arrests. The department provided security for the Memorial Day Parade on May 30, 2011.

Reminder: First Fourth Parade – July 2, 2011
Movies in the Park – Beginning June 21, 2011 in Linton Memorial Park
Antique Auto Show – July 17, 2011, 10 A.M. – 3 P.M.

The Mayor congratulated Paul Salvatore and the committee on a successful Welcome Day that was held on Sycamore Street.

Mr. O'Malley thanked Chief Wojciechowski for attending the SMART Transportation grant meeting and the police department for their participation in *Pedestrian Safety Week*.

Amendments to the Agenda

Discussion on the Holiday Parade Special Events Application was moved to later on the agenda.

President's Report – Julia Woldorf

Ms. Woldorf forwarded Councillor Sellers regrets for missing the meeting and she reminded Council that the July Council Meeting would be held at the Newtown Sewer Authority.

Public to be Heard

Since it is a community event, Joe Gordon, representing the First Fourth Committee, invited Borough Council to participate in the Fourth of July Parade on July 2, 2011. Mr. Gordon also

confirmed with the Mayor that he had received the invitation to participate in the Borough vs. Township softball game.

Frank Brassell said that he previously asked Ms. Woldorf to look into two issues. The first issue was trees that were removed in 2010 at the direction of Mr. Sellers. His concern was whether a permit had been applied for prior to the removal and had the Shade Tree Commission been contacted to grant permission. Ms. Woldorf responded that the trees were not in the right of way and that the Heritage Conservancy arborist had identified and marked the trees. Mr. Brassell quoted the Shade Tree Ordinance/By-laws, which reference public right-of-ways and public trees, and clearly define that a permit must be applied for with approval granted by the Shade Tree Commission. He said it appeared that neither of those things was done. His concern was that a member of Council acted on his own and he questioned what would have been the Borough's liability if damage or injury had resulted.

Another concern was for installation of the emergency generator at the Police Station. In researching the issue, Mr. Brassell noted that permits were applied for after the work had already been completed. Mr. Brassell asked about the waiver of permit fees and although the Council approved the waiver, a Council member authorized the issuance of permits prior to Council's waiver approval. Mr. Brassell felt that there is a double standard and he wanted to be assured that everyone has the same set of standards and is treated without arbitrary exceptions.

Certificates of Appropriateness

- ❖ A motion was duly made by Councillor Burke, seconded by Councillor Walker, and carried unanimously, to follow the recommendation of the Historic Architectural Review Board and direct President of Council to sign COA 2010-036H, thereby approving the historical appropriateness of the application, with final approval by the Code Enforcement Officer.

COA 2010 -036-H Resident Eric Nicholl, 235 Court Street

The applicant was seeking a Certificate of Appropriateness for submitted revisions dated May 16, 2011, with the addition of a light fixture, and garage submissions dated May 25, 2011, to the previously submitted application for a Certificate of Appropriateness for garage renovations and the addition of a 2nd floor above the garage.

- ❖ A motion was duly made by Councillor Burke, seconded by Councillor Walker and carried unanimously, to follow the recommendation of the Historic Architectural Review Board and direct President of Council to sign COA 2011-012H, thereby approving the historical appropriateness of the application, with final approval by the Code Enforcement Officer.

COA 2011-012-H Applicant: DeFrehn Corporation, 216 E. Washington Avenue, Hansen residence

The applicant was seeking a Certificate of Appropriateness for replacement of a shingle roof with new asphalt shingles, and replacement of existing gutters and downspouts with copper.

- ❖ A motion was duly made by Councillor Burke, seconded by Councillor Warren, and carried unanimously, to follow the recommendation of the Historic Architectural Review Board and

direct President of Council to sign COA 2011-013H, thereby approving the historical appropriateness of the application, with final approval by the Code Enforcement Officer.

COA 2011-013-H Applicant: Lisa Witkosky, 128 S. State Street, The Nest

The applicant was seeking a Certificate of Appropriateness for the installation of a new hanging sign on an existing bracket.

- ❖ A motion was duly made by Councillor Burke, seconded by Councillor Walker, and carried unanimously, to follow the recommendation of the Historic Architectural Review Board and direct President of Council to sign COA 2011-0114H, thereby approving the historical appropriateness of the application, with final approval by the Code Enforcement Officer.

COA 2011-014-H Applicant: Jinrong Li, 154 N. State Street, Spa Haven

The applicant was seeking a Certificate of Appropriateness for the change of tenant identification on an existing sign.

- ❖ A motion was duly made by Councillor Burke, seconded by Councillor Warren, and carried unanimously, to follow the recommendation of the Historic Architectural Review Board and direct President of Council to sign COA 2011-015H, thereby approving the historical appropriateness of the application, with final approval by the Code Enforcement Officer.

COA 2011-015-H Applicant: Cara Godwin, 110 S. State Street, Independent Ignite Associate office

The applicant was seeking a Certificate of Appropriateness for the replacement of a directory sign slat.

- ❖ A motion was duly made by Councillor Burke, seconded by Councillor Warren, and carried unanimously, to follow the recommendation of the Historic Architectural Review Board and direct President of Council to sign COA 2011-017H, thereby approving the historical appropriateness of the application, with final approval by the Code Enforcement Office

COA 2011-017-H Applicants: Mike Hutchinson, 105 E. Washington Avenue, Bernheimer residence

The applicant was seeking a Certificate of Appropriateness for replacement of a decorative slate roof flashing and gutter with new asphalt shingles.

- the wood cornices and brackets would be repaired or replaced in kind
- the proposed roofing is Grand Manor asphalt shingles, the color to emulate the existing slate; the design and pattern will be duplicated as per the existing roof

Holiday Parade Special Event Application

The Holiday Parade Special Event application was for a parade on December 4, 2011, from 2-4 P.M. Mr. O'Malley asked about the request for waiver of fees and if the Township was being asked for the same waiver. Mr. Brassell clarified that he wished to have both the application fee and the police coverage fees waived and the Township had not yet met to make their decision. He commented that a parade is not a moneymaking event and the Newtown Corporation actually lost money last

year. He also noted that other parades, like the Memorial Day Parade, are not charged for police services.

Mr. Warren said that the cost of police coverage is a hard cost to the Borough and uses taxpayer money, if not reimbursed by the organizations involved. He questioned whether the Newtown Corporation had paid their bill for the 2010 Holiday Parade. Mr. Salvatore explained that the Borough had requested a donation of \$662 and the Newtown Corporation had asked for clarification on the amount and never received it. Mr. Brassell said that Chief Wojciechowski had told the committee members [for the 2010 parade] that there would be no costs involved for the parade. Mr. Warren preferred saving the date for the parade but postponing a decision on the waiver until additional information is received regarding the 2010 donation and the Police Chief itemizes the costs of providing the police services.

A motion was made and withdrawn to waive the permit fee, with a decision on a waiver to be made later.

Mr. O'Malley felt that since it is one parade, the Borough should be consistent with the Township, and he would like to know the Township's intention. If it is deemed a community event, then all fees should be waived and he would not necessarily be opposed to that. Ms. Woldorf said that it is a significant expense to bring police in for these events and Council is looking closely at every expenditure.

- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Walker, and carried with Councillor Warren voting nay, to approve the Holiday Parade Special Events Application for December 4, 2011, without any statement as to fees, which will be dealt with in the future.

Engineer's Report

Penn Street Sinkhole Update

In the absence of Mr. Sellers, Ms. Woldorf reported that a sinkhole was discovered on Penn Street just east of S. State Street. After investigation by the Sewer Authority, the water company [Newtown Artesian], the Borough Engineer and Scott Dengler, it was decided that PECO should be contacted. A good meeting was held with representatives from PECO at which PECO agreed to excavate the area and investigate the issue, particularly since it the hole is around the electric and gas lines. PennDOT was also notified in case the sinkhole extends under State Street, which is a state road. Since the Borough has requested that PECO do this work and a "Road Opening Permit" is required, PECO has asked for a waiver of the road opening permit fee and escrow.

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor O'Malley, and carried unanimously, to waive the fee and escrow to PECO for the "Road Opening Permit" for Penn Street, but the Borough does not waive the right to recover any costs incurred by the Borough related to this project, including professional services costs.

Stormwater/FEMA/SALDO Ordinance Reviews

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor Burke, and carried unanimously, to authorize the Engineer not to exceed 16 hours of total time in reviewing the ordinance, coordinating with the Solicitor and Zoning Officer, regarding the FEMA requirements.
- ❖ A motion was duly made by Councillor Walker, seconded by Councillor Warren, and carried unanimously, to authorize an additional six hours of time by the Engineer to finish the updated “Application for Impervious Surface and Storm Water Management Permits.”
- ❖ A motion was duly made by Councillor Warren, seconded by Councillor O’Malley, and carried unanimously, to authorize the Engineer not to exceed 12 hours to update the SALDO and Zoning Ordinance bringing the previous editions of those ordinances into compliance with the new Stormwater Management Ordinance.

Presentation of Minutes

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor Burke, and carried unanimously, to approve the minutes of the May 4, 2011, Work Session Meeting.

Mr. Walker felt that the May 10, 2011, Council minutes should be expanded upon to include more of Mr. Sellers’ personal comments regarding the “Stocking Works II” project. Approval of the minutes will be deferred until the July work session.

COMMITTEE REPORTS

Budget & Finance – Gerard O’Malley and Robert Walker

Consolidated Report

- ❖ A motion was duly made by Councillor O’Malley, seconded by Councillor Walker, and carried unanimously, to accept, subject to audit, the consolidated expenditure report for the month of May 2011 totaling \$ 130,988.69.

Personnel Committee - Perry Warren

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor Walker, and carried unanimously, to appoint Karen White to the *Planning Commission*, to fill an unexpired term through December 31, 2012.

Mr. Warren announced that openings were available on the Environmental Advisory Council and Recreation Board.

Recreation Board – John Burke

Mr. Burke referred to the quotes for the swing set purchase and installation, which he had distributed prior to the Work Session. The Solicitor researched the issue of fundraising and reported that the Borough is not permitted to hold a fundraising event, but can accept donations.

The other option would be to have a non-profit group coordinate a fundraiser. Mr. O'Malley clarified that funds were not put in the 2011 budget for a swing set, so the Borough could postpone the purchase until 2012, dip into the Operating Reserve Fund or find a creative way to fund the project. Mr. O'Malley received a Borough resident's offer to donate up to \$2000 for the swing set, provided residents match that donation, and coupled with a \$1000 donation from the Newtown Rotary and shifting \$5000 that had previously been designated for a new Borough roof; the full amount should be available for the purchase and installation.

Newtown Corporation member Frank Brassell offered to have the Corporation, which is a non-profit organization, accept donations as they did for the Skate Park. Mr. Brassell said that the Newtown Corporation has the ability to solicit from their 5000 person database, which could easily generate the necessary funds. Ms. Woldorf said that Council would discuss the offer.

- ❖ A motion was duly made by Councillor Burke, seconded by Councillor Walker, and carried unanimously, to purchase the swing set for Linton Memorial Park, which would include the swing set, swings and play curb package totaling \$4864.27.
- ❖ A motion was duly made by Councillor Burke, seconded by Councillor Walker, and carried unanimously, to approve the installation of the swing set and curb package from Park Constructors of Limerick, PA, with a cost of \$1830, plus unloading and delivery at \$650 and \$300 for the cost of a dumpster.

Mr. Burke reminded the public that *Movies in the Park* will be on Tuesday evenings this year beginning June 21, 2011, with live music at 8 P.M. Rain dates will be Thursdays and the Facebook page can be checked for cancellations.

Streets, Lights & Properties

Ms. Woldorf explained to Council that a PennDOT grant could fund the mandated replacement of the Borough signage. Reflective signs are required to be in place by 2015 and will cost approximately \$332,000. This grant does not require a match, but must be applied for in July, and will be handled as a reimbursement. In order to apply for the program, Council is required to pass a Resolution. Although under the Automated Red Light Enforcement program, the Borough would not be required to have red light cameras for this grant. Mr. Walker said that since it is a reimbursement program, the Borough would need to increase the 2012-2015 budgets by approximately \$83,000 each year to cover the up-front costs and if the grant is not received, the Borough would incur the full cost.

- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Warren, and carried unanimously, to pass Resolution 06-14-11 applying for an Automated Red Light Enforcement Transportation Enhancement Grants Program.

Solicitor's Report – Paul Cohen

Special Events Ordinance/Fee Schedule

Solicitor Cohen announced the public hearing to adopt an ordinance amending the Special Events Ordinance for Newtown Borough to provide for the establishment of the Special Events Permit Fee

by Borough Council in the Newtown Borough Fee Schedule. The amendment is changing the existing ordinance by eliminating the set fee of \$250 and essentially saying that it will be a “fee to be determined by Borough Council,” with an amendment to the Fee Schedule to establish that fee.

The public was asked for comment. Resident Paul Salvatore, who had previously raised the issue of the \$250 fee being excessive, was glad to see that it is being repealed, although he felt there should have been more thought put into it before passing it the first time. He felt the expense of re-advertising was wasting money and time, but he was glad to see it being corrected.

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor Burke, and carried unanimously, to adopt Ordinance #713 amending the Special Events Ordinance.

A public hearing was held to adopt a resolution of the Borough of Newtown, Bucks County, Pennsylvania, amending the Fee Schedule of Newtown Borough, to modify the police fee and permit fee for special events. This amendment to the fee schedule establishes the police fee for special services at \$60 per hour per officer and the permit fee at \$25 per day.

Both the ordinance and the resolution were duly advertised in The Advance of Bucks County on May 26, 2011, and filed with the Law Library on May 27, 2011.

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor Walker, and carried unanimously, to adopt Resolution 06-14-11A changing the Borough Fee Schedule to reflect the \$25 per day special events application fee and the \$60 per hour per officer fee for special event services.

Storm Water Management Fees

With the recently adopted Storm Water Management Ordinance, the application requires fees to be charged. The Zoning Officer and Engineer worked together to develop fees based on the size of the project and the complexity of the application. An escrow is now necessary since there will be engineering fees at all levels of the application process, which include drawings that will require the engineer’s review. Mr. O’Malley asked how other municipalities are handling these issues and are the Borough’s proposed fees in line with theirs. He also questioned the rationale for having escrow fees for small projects. The Solicitor will circulate some additional information before the next Work Session.

Parking Structure Ordinance

The Solicitor made changes to the proposed Parking Structure Ordinance based on comments from Council at the Work Session.

- ❖ A motion was duly made by Councillor O’Malley, seconded by Councillor Warren, and carried with Councillor Walker abstaining, stating that he did not have enough information, to authorize the Solicitor to advertise the Parking Structure Definition/Use Ordinance for adoption at the July 12, 2011, meeting.

Noise Ordinance

The Solicitor made changes to the proposed Noise ordinance based on comments from Council at the Work Session, which included eliminating Sunday restrictions and shifting enforcement from the Code Enforcement Officer to the Police Department.

- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Warren, and carried unanimously, to authorize the Solicitor to advertise the amended Noise Ordinance.

Zoning Hearing Board Application for 29 S. State Street

- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Walker, and carried unanimously, to authorize the Solicitor to appear on July 5, 2011, on the Zoning Hearing Board Application for State Street Rentals, LLC, and oppose the application on behalf of the Borough.

Sidewalk Ordinance

There are two remaining items for discussion regarding the Sidewalk Ordinance. The first is materials to be used. One of the materials was standard finish concrete and the question for Council is whether to expand that to include rolled or stamped concrete. The Council decided to keep the restriction to standard finish concrete. The other issue to be discussed was bollards and possible inclusion of a definition for bollards. The Engineer provided Council with industry standards regarding bollards and the Solicitor noted that the current ordinance does not address design standards and is unclear regarding review by HARB. Mr. Walker thought the bollard issue was addressed at the time Mr. Levin installed his bollards on Centre Avenue and Mr. Cohen will research the matter.

Old Business

Mr. Warren asked the question that if someone was interested in donating to the swing set after watching the replay of this meeting, where they would send the donation. Mr. O'Malley clarified that a donation can be made directly to the Borough at any time and that the Newtown Corporation might be able to help in a more formal way with fundraising.

Mr. Burke asked Mr. Woldorf if he had heard back from the Bucks County Planning Commission about their attendance at the July Planning Commission meeting to discuss parking for multi family dwellings. Mr. Woldorf said that they would be invited to the July 11, 2011, meeting.

New Business

Mayor O'Brien announced that he would have a Proclamation for Garrison Lovely's Eagle Scout Court of Honor to be held on June 25, 2011.

Public to be Heard

Related to Mr. Burke's comment about the Bucks County Planning Commission attending the next Planning Commission meeting, Mr. Salvatore noted that questions were being received from Planning Commission members and he asked that Council also supply any questions they might have.

Mr. Salvatore commented that one of the reasons that the Newtown Skate Park chose the Newtown Corporation [to accept donations] was because the Corporation is a 501(3) C and, therefore, tax-deductible.

The meeting adjourned at 9:10 P.M.

Respectfully submitted,

Marcia M. Scull
Borough Secretary

ATTENDEES

Warren Woldorf

Jeff Werner

Jim McAuliffe

Ted Schmidt

Paul Salvatore

Tony Blancato

Larry Auerweck

Frank Brassell

Liz Warren

Marlowe & Joe Gordon

David Creames

Jinsong Li

Diane LeBas

Ed Weir

Audrey Bernheimer

Cara Godwin

Noelle Finley