

Council Work Session
June 2, 2010
Council Chambers

The regular monthly work session of Newtown Borough Council was called to order at 7:00 P.M. on Wednesday, June 2, 2010, by President of Council Julia Woldorf.

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

Public to be Heard

No one wished to be heard at this time.

Sidewalk Ordinance – Handicapped Ramp Discussion

With regard to the maintaining of Borough sidewalks, Ms. Woldorf explained that the issue of what to do if the sidewalk work includes ADA ramps at intersections and whether those ramps are the responsibility of the property owner or the Borough, has been raised. Solicitor Cohen noted that technically the ramps are the responsibility of the property owner, but because of the expense involved, the Borough could choose to assist property owners with those improvements. In researching the matter, Engineer Saylor explained that a property owner would only need to bring the specific ramp adjacent to their sidewalk into ADA and PennDOT compliance, rather than all four ramps at an intersection. If an inspected sidewalk is deemed hazardous, and the homeowner is required to replace/repair it, the cost to replace one ramp, if applicable, is approximately \$2500-\$5000. Ms. Saylor added that if the sidewalk repair is within 15 feet of a ramp and because of the possible change in slope, PennDOT requires compliance. Mr. Cohen will research what other Boroughs are doing with these situations. Ms. Saylor will check about the number of unrepaired sidewalks in Quadrant I and II that might have possible curb ramp issues.

Ms. Woldorf suggested asking for HARB's input with regard to materials, design, and driveway apron issues.

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

- Edgeboro Drive/N. State Street Curve

In order to address the concern with the Edgeboro Drive/N. State Street curve, Ms. Saylor is contemplating a one-way street going North from Jefferson Street to Frost Lane. In response to Mr. Seller's question about PennDOT agreeing to this change, Ms. Saylor responded that she had spoken to two PennDOT representatives who felt that some type of permit would be required but approval was possible. Ms. Saylor also suggested making North Congress Street one-way heading south, but discussion with Newtown Township would be required since this is a divided road. Manual traffic counts would be required to determine if this approach is feasible. Mr. O'Malley will discuss Ms. Saylor's suggestion with the Traffic Committee at its next meeting, but he also suggested speaking to resident's in that area to get their input.

- Neshaminy Watershed Stormwater Ordinance Update

Ms. Saylor has not had the opportunity to speak to Mr. Canalas who attended the recent Stormwater meeting, but she will update Council at the meeting on Tuesday.

- Sidewalk Inspections

Ms. Saylor was looking for direction from Council with the sidewalk inspections and completions. Mr. Sellers felt that focus should be in completing Quadrant I and II, with inspection of Quadrant III sidewalks delayed until the issues with the curb ramps and sidewalk ordinance amendments are addressed.

- MS-4 Report

Ms. Saylor has completed the MS-4 Year 7 Report, which is an annual report for stormwater discharges from separate municipal storm sewer systems. She would like Council's approval on Tuesday evening to submit the report. Ms. Saylor raised the question of whether the Borough wanted to re-stencil the storm sewer inlets or place medallions on them, since the Department of Environmental Protection is looking for eye-catching markings on each inlet to remind the public about proper disposal of waste. Volunteers could install the medallions, which would be a cost savings to the Borough.

- 4 Way Stop Sign at Lincoln Ave./Penn Street Intersection

Council received a recommendation from Pickering, Corts & Summerson to install a 4-way stop sign at the intersection of Lincoln Avenue and Penn Street. An ordinance change would be required should Council decide to proceed.

❖ A motion was duly made by Councilor Sellers, seconded by Councilor O'Malley, and carried unanimously, to authorize the Solicitor to draft an ordinance for a 4-way stop sign at the intersection of Lincoln Avenue and Penn Street.

Ms. Saylor suggested making the public aware of the proposed signage change prior to its installation.

- 257 S. State Street

The property owners at 257 S. State Street wish to install a deck. This will increase the impervious surface area from that shown on the original plans, but still well under the existing conditions on the site prior to building the house and driveway. Ms. Saylor feels that the increase is diminimus, but she wanted it brought to Council's attention since it is a change from the approved plan. Mr. Sellers felt that there should be some type of documentation because of the change. SALDO does not provide a process for submitting a revised plan after final approval, but the Borough's fee schedule does provide for a fee for submission of an amended plan. The owners could resubmit the plan, pay the fee for an amended plan, and go through land development, but Council could waive the formal process and move to final approval. Solicitor Cohen will speak to the Zoning Officer and Engineer on how to proceed.

Fee Schedule Discussion

Ms. Woldorf noted that Council had received a memo from Zoning Officer Brown indicating some proposed changes to the Fee Schedule. These recommendations would bring the Newtown Borough Fee Schedule more in-line with similar communities. Mr. Sellers asked Council to review and consider the suggested changes. Zoning Ordinance modifications will be discussed at a future meeting.

Newtown Corporation

Solicitor Cohen reported on a meeting held prior to the Work Session with Newtown Borough Councilors Warren, Burke and himself and Newtown Township Supervisors Ciervo, Calabro and Newtown Township Solicitor Garton to discuss concerns raised over the past several months by the Borough about the Newtown Corporation. After discussion, the Newtown Township representatives indicated that they would like to give the Newtown Corporation more time to address the issues raised. If the Newtown Corporation is unable to meet those goals, then both municipalities could consider dissolution of the Corporation.

Mr. Sellers felt that additional time would serve no purpose and he was not clear on the benchmarks or goals that were expected. Mr. Sellers expressed his personal concern that a dysfunctional board of directors with a questionable financial picture has unprofessionally run the Newtown Corporation since taking over management in December of 2009. In his opinion, it can only end with an orderly dissolution and with an equitable distribution of the assets or with legal action initiated to bring this action to conclusion.

Mr. Warren explained that the parameters discussed in the meeting were to stop paying the interim director a salary, hire a permanent director within a reasonable timeframe, and provide a financial accounting.

Mr. Burke commented that if there had been a Borough liaison to the Corporation during the past twelve months, perhaps there would have been more understanding of the issues. In addition, he felt that Newtown Township should have been involved earlier in the discussions.

Mr. O'Malley felt that strategically aligning with Newtown Township is a good next step and having clear criteria spelled out is important, since he is not in favor of spending taxpayer dollars on a lawsuit at this time. He expressed the idea of a third option, which would be reconstitution of a new organization based on the current assets of the existing organization.

The Solicitor felt that no action was necessary at this meeting, since Newtown Township would be discussing the matter at their Work Session on Monday and the Borough should await their feedback.

Harry Betz, 30 N. State Street, questioned how long this could go on and asked why the Newtown Corporation is even necessary. He noted that the Newtown Business and Professional Association and the Newtown Borough Business Connection currently exist, so why the need for the Newtown Corporation.

Becky Betz, of Becky's Deli, is concerned about the Corporation's assets the longer the issue drags on. If the Corporation agrees to oversight, she would feel better, since many people worked hard on the events that brought in much of the funding.

Patty Lovi, 152 N. State Street, asked if anyone had seen a financial statement because the Department of Charities has a *1231 year-end form* that the Newtown Corporation has not filed. She referred to Corky Swartz's statement that there were dedicated funds for State Street from Brew Fest and asked whether anyone had looked into protecting those funds. Ms. Lovi commented that, although supportive of the organizations to which the Newtown Uncorked funds were designated, the funds should really go back to supporting the mission statement.

Corporation Board Member Joshua Horenstein commented that the leadership at the top is the problem and more people in the Borough and the Township need to step forward to express that concern.

Warren Woldorf, 440 E. Washington Avenue, likes the list of conditions expressed at the meeting, but he feels that rather than overseeing the assets, there should be control of the assets during this interim time.

Ms. Woldorf suggested having the Township and Borough remove their appointed members from the Board and immediately freeze the funds. She was not in favor of spending any more time trying to resolve the issues.

Mr. Sellers commented that the [Newtown Corporation] by-laws state that the Borough appoints five members and the Township appoints six members, and those members may be removed without cause at any time. The municipalities could then appoint new members with a different view in order to resuscitate the Newtown Corporation. Mr. Sellers stated that he personally has no problem with three of the appointed Borough members but could see removing the other two members at the Tuesday Council meeting, since those two have consistently voted with the six Township members in ways that he feels have brought Council to this point. He then suggested going to the Township and suggesting that they take these six members, which they acknowledge have been irresponsible, and remove them all. If the Township does not agree, then he feels that would tell the Borough immediately that there is no chance to work out a common ground for anything, including dissolution.

Joshua Horenstein added that with the present leadership still in place, financial oversight would not make a difference. Unless the Borough has an ironclad grip on the organization, nothing will change. Mr. Horenstein clarified that the Chairman of the Board is the Chief Executive Officer who delegates authority to the Director. He feels that removal of the Chairman, Interim Executive Director and Treasurer who are an impediment to fixing the problems, is necessary.

Mr. Burke reminded Council of his January motion to let the Newtown Corporation "go their own way," and there was reluctance from Council, because it was felt that the Borough needed the Newtown Corporation. He is not hearing that now, nor at the last meetings, and he feels there is now reluctance from Council because they feel there is a financial gain if the issue goes to court. Mr. Burke does not agree and feels that Council should remove its board members, and simply be done with the Newtown Corporation.

The Solicitor does not feel that Newtown Township is ready to consider dissolution of the Corporation, but Mr. Cohen will communicate to the Township Solicitor that in addition to no longer paying the Interim Director's salary and obtaining a financial accounting, the Council feels that there should be financial oversight of, if not a freeze on expenditures. Mr. Cohen was clear that all of this is a request and if the sitting Board does not agree, then the next step would be for both municipalities to remove their directors and appoint board members who will follow their directions. The only other option would be legal action requesting emergent relief because of

the belief that there is misappropriation of funds, but this could be a problem if Newtown Township does not agree.

Mr. Cohen noted that the by-laws do not give Council the authority to direct their directors' actions. Council could resolve what they would like them to do, but cannot force their votes.

Mr. O'Malley questioned the objective of making a motion. He asked if the reason was to list the items that Council ultimately wants in a joint resolution with the Township, or whether it is to test how the Borough's appointed representatives will react to the voices of Council. Mr. Sellers responded yes to both and Mr. Warren said that he felt it started with the latter.

❖ A motion was duly made by Councilor Sellers, seconded by Councilor Warren, and carried unanimously, to express the wish that the Borough appointees to the Newtown Corporation Board of Directors take the following actions at their June 3, 2010 meeting:

1. Rescind any purported amendment to the Newtown Corporation By-Laws that would create autonomy of the Newtown Corporation from Newtown Borough and Newtown Township and reaffirm the Newtown Corporation By-Laws as existing and agreed upon by Newtown Borough and Newtown Township.
2. Remove Frank Tyrol as Chairman of the Newtown Corporation Board of Directors.
3. Direct the current Corporation Treasurer to conduct no further financial transactions on behalf of the Corporation and to freeze all disbursements of funds not already issued, until further action.
4. Immediately remove the current Acting Executive Director from his position and cease all compensation.
5. Direct the Corporation Treasurer to secure all financial records of the Corporation and provide written proof of their location to Newtown Borough and Newtown Township liaisons.

Newtown Borough Council expects their appointed directors to carry out these actions with the understanding that they can be replaced by Newtown Borough Council in accordance with the Newtown Corporation By-Laws.

Mr. O'Malley voiced concern that he would rather have had this entire discussion at a broadcast Council meeting, so he would like an explanation given at the Tuesday Council meeting regarding the reason for the taking of this action at this meeting.

Traditional Neighborhood Development Update

Mr. Sellers reported that the review work for the Traditional Neighborhood Development Ordinance modifications has begun and with completion by the end of June.

Streets, Lights & Properties – Michael Sellers

Mr. Sellers explained that there has been an ongoing issue of inspections for the Borough playgrounds, as there is a select group of individuals certified to complete these inspections. Mr. Sellers provided Council with a

playground audit proposal and Curriculum Vitae from Elizabeth Caesar. The cost of \$1750 plus, travel expense, would include inspection of two playgrounds and the Pickering Ball Field.

Mr. O'Malley questioned the need to inspect Pickering Field. Mr. Sellers responded that the Borough's insurance covers the field and that property owned or with a legal relationship to the Borough should be included in the audit. In addition, Mr. Sellers sent pictures of Pickering Field to Ms. Caesar, which raised the issue of the close proximity of the field to neighbors and cars.

Budget and Finance – Gerard O'Malley

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Warren, and carried unanimously, to approve the professional service invoices for the month of April 2010.

Solicitor's Report – Paul Cohen

Mr. Cohen reported that an executive session was held prior to the meeting for discussion of pending litigation and personnel matters.

The Resolution for adoption of the Comprehensive Plan has been advertised and a public hearing will be held at the next Council meeting.

With regard to a proposed amendment to the Zoning Ordinance regarding fence permit fees and dimensional requirements for condominiums, the Solicitor asked Council for authorization to forward the proposed amendments to the Bucks County Planning Commission.

- ❖ A motion was duly made by Councilor Warren, seconded by Councilor Burke, and carried unanimously, to authorize the Solicitor to forward a copy of the proposed amendment to the Zoning Ordinance to the Bucks County Planning Commission for their review.

The Solicitor spoke to Chief Wojciechowski about prohibiting parking on the West side of S. Chancellor Street between Sterling and S. State Street. The Chief is concerned that if vehicles are parked on both sides of the road, there is not enough room for emergency vehicles to get through.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Burke, and carried unanimously, to authorize the Solicitor to draft an ordinance prohibiting parking on the West side of Chancellor Street between Sterling and S. State Street.

Chief Wojciechowski provided Solicitor Cohen with a sample Event Ordinance and the Chief would like the Borough to consider adopting such an ordinance. The idea would be to require permits for events that take place within the Borough and the ordinance would address who would be responsible to cover costs that might be incurred. Mr. Sellers felt that there should be a focus on the distribution of authority between the police department and Council, with the Chief recommending but with Council granting the final approval.

- ❖ A motion was duly made by Councilor Burke, seconded by Councilor Warren, and carried unanimously, to authorize the Solicitor to begin drafting an Events Ordinance for the Borough.

Old Business

Ms. Woldorf updated Council on the possible consultation of Borough lighting by a lighting engineer. Since the initial proposal was approximately \$10,000, Ms. Woldorf and Treasurer Ours are reviewing the proposal to remove some items that might reduce the final cost.

New Business

Mayor O'Brien explained various possibilities for making the website more accessible and discussed options with the individual who did Ewing Township's website, using a *Wordpress* program. Software programs, like Dreamweaver, are available but at a significant cost and somewhat difficult to use.

Ms. Woldorf reminded Council of the Special Meeting scheduled for 7 PM on June 24, 2010, in Council Chambers to discuss the review of the Traditional Neighborhood Development Ordinance modifications. Zoning Officer Brown has requested to attend the meeting since she would be the one working with that ordinance.

- ❖ A motion was duly made by Councilor Sellers, seconded by Council O'Malley, and carried unanimously, to authorize the attendance of Zoning Officer Brown at the June 24, 2010, Special Council meeting.

Ms. Woldorf raised the issue of two pedestrian accidents on Sycamore Street during the past two weeks. In Newtown Township, pedestrians are required to press the "Walk Light" button in order to activate the "Walk Light" to cross an intersection. In Newtown Borough, PennDot was convinced to change the process so that when the Borough lights turn green the "Walk Light" automatically comes on. Mr. O'Malley noted that the issue was discussed at the last Newtown Township Supervisors meeting and there was discussion about installing the "count-down" clocks. Mr. O'Malley had a conversation with Matt Benchener, the Township liaison to the Traffic Committee, about how Newtown Borough addressed the issue and Council felt that the best approach was for Mr. O'Malley to speak to the Joint Traffic Committee.

Mr. O'Malley asked if there was a policy on Borough committees releasing statements to the press based on committee viewpoints. Individual members can express their own opinions, but the Solicitor feels that any statement to the press would be inappropriate unless a committee approves a specific press release.

Ms. Woldorf reported that a Delaware Valley Regional Planning Commission meeting is scheduled for June 10, 2010, in Philadelphia, if anyone wishes to attend.

Public to be Heard

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

There was a motion to adjourn at 10:15 P.M.

Respectfully submitted,

Marcia M. Scull
Borough Secretary

IN ATTENDANCE

Warren Woldorf	440 E. Washington Avenue
Jeff Werner	The Advance
Gerilyn Williford	Macedonia Baptist Church
Patty Lovi	151 N. State Street
Becky & Harry Betz	30 N. State Street
Dave Callahan	113 Court Street