

Council Work Session
June 8, 2011
Council Chambers

The regular monthly Work Session of Newtown Borough Council was called to order at 7:00 P.M. on Wednesday, June 8, 2011, by President of Council Julia Woldorf.

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

Amendments to the Agenda

Ms. Woldorf removed the new part-time police officer hiring and the discussion of parking requirements for multi-family dwellings from the agenda. She added under the Engineer's Report discussion of a sinkhole at Penn and South State Street. The Solicitor will be requesting authorization regarding on-going litigation.

Public to be Heard

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

Event Application – Mayor O'Brien

Mayor O'Brien presented the Special Events Application from the Recreation Board for *Movies in the Park*, noting that there will be eight movies throughout the course of the summer. The schedule changed this year from Wednesday and Saturday to Tuesdays only, with the rain date on Thursdays. Council had no objections to the application.

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

- Sink Hole at Penn and South State Street

The Engineer explained that a small sinkhole appeared on Penn Street near South State Street. The Newtown Sewer Authority met with the Engineer and Council representatives at the site and it was clear that it was not a Sewer Authority issue. After opening the hole to investigate, it was determined that there was a big open space, approximately 3 feet wide and 2 feet deep, next to the electric utility trench and PECO was contacted. After further investigation, the consensus of the Borough Engineer and the Newtown Sewer Authority was that it was a compaction problem and PECO's responsibility. The Borough must now decide how to address the problem, with the possibility of the Borough completing the work and then pursuing PECO for reimbursement.

Warren Gormley, Newtown Sewer Authority, provided Council with specific details and drawings, which seem to indicate that PECO is the responsible party, not the Sewer Authority. Mr. Gormley offered to hold a meeting of all parties at the Sewer Authority and Ms. Saylor offered to make the necessary contacts to schedule that meeting.

Mr. O'Malley and resident Jeanne Haeckel asked if there was an imminent threat to public safety because of this hole and with the truck traffic on the street. Ms. Saylor responded that eventually there could be a problem. The hole was filled with stone and covered with cold patch, but even that has begun to settle and it is a high-traffic truck area. She agreed to keep close watch on the area and notify the Borough if the road should be closed.

- MS4 Report for Year 8

Ms. Saylor said that yearly filing of the MS4 Storm Sewer Report for storm sewer maintenance and public education for pollution prevention for streams and waterways is required. The Engineer will work with the Mayor to update the Borough's stormwater management page on the website.

- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Burke, and carried unanimously, to authorize the President of Council to sign and submit the MS4 report to the Department of Environmental Protection.

- Washington Avenue Curb Ramp Update

Newtown Artesian Water Company has chosen a contractor for the curb ramp project at State and Washington Avenues and they will notify the Borough of the start date and the schedule for the work.

- Handicapped Ramp Removal at Lafayette and S. Lincoln Avenue

The Engineer prepared a plan for removal of the handicapped ramp at Lafayette and S. Lincoln Avenue. The next step is selection of a contractor to remove the existing curb and ramp, grade and seed the area, and replace the curb. Ms. Saylor anticipates the cost to be approximately \$4,000 and Mr. Sellers will obtain some prices for the work.

- Newtown Station Maintenance Bond

The Engineer submitted a punch list to the builder for on-site work and landscaping and their contractors are working on those lists. In addition to the on-site improvements, Toll made repairs to the headwall that transports Old Skunky under South Lincoln Avenue, but some additional work is still required.

- FEMA Ordinance Update

The Borough submitted its Zoning Ordinance to FEMA for review and comparison to their requirements. After receiving FEMA's comments, the Solicitor and Engineer recommend amending the Borough ordinance. Council authorized 10 hours of the Engineer's time at the last Council meeting to begin this review.

- Neshaminy Creek Stormwater Management Ordinance Application Forms/Fee Schedule

Since passing the Stormwater Management Ordinance, the Engineer and the Zoning Officer have been working together to update the Stormwater Management Application Forms and the Borough Fee Schedule to address the changes. There will now be application forms for small projects under 1000 sq. ft. and for large projects over 1001 sq. ft. The Solicitor raised the issue of maintenance agreements and proposed an ordinance amendment that maintenance agreements for large projects would be required, but Council would decide on smaller projects, if maintenance agreements were necessary. The Solicitor noted that the appendix maps were not included in the recently adopted Stormwater Management Ordinance. Mr. Cohen suggested including those maps in any amendments that Council makes to the

ordinance. With regard to suggested fee changes, Ms. Saylor indicated that the fee for small projects, under 500 sq. ft., would be less than it is currently. Projects over 5000 sq. ft. received the largest increases because the ordinance now requires much more review. The Borough's Ordinance and sections of the Sub-Division and Land Development Ordinance (SALDO) will require updating because of the Neshaminy Stormwater Management Ordinance changes.

- Sidewalk Ordinance

Council agreed upon the use of bluestone, brick, clay brick, or standard finish concrete as materials approved for sidewalks. The Borough Planning Commission suggested consideration of additional materials, such as brick pavers, concrete bricks or stamped concrete. The question was raised about specifying the thickness of the slate, as thinner slate tends to crumble. Mr. King noted past Councils, with a designation on the thickness, approved bluestone, which is a specific type of slate that wears well. After discussion, Council decided to add concrete brick, with either a brick or terra cotta color, to the list of acceptable materials.

Council agreed to postpone a decision on design standards for posts and bollard and the Engineer agreed to provide additional information to Council regarding industry standards and ranges. Mr. Sellers suggested researching other municipalities, like Doylestown or Ambler, who have dealt with the issue of bollards. Resident Jeanne Haeckel asked about the maintenance/repair of bollards and Ms. Woldorf noted two broken bollards on Penn Street. Mr. Sellers agreed to look into the safety concerns posed by those bollards. The Solicitor said that the proposed ordinance does address maintenance/repair of bollards.

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor Sellers, and carried unanimously, to authorize the Engineer to research bollards, in a timeframe not to exceed 3 hours.

Use Description for Parking Structures

Council received comments from the Borough Planning Commission in response to the Bucks County Planning Commission review letter regarding the proposed "Use Description for Parking Structures/Multifamily Dwelling Unit Parking Regulations." Since there was some confusion on combining both matters in the same draft ordinance, Ms. Woldorf recommended that Council split the two items and only discuss the "Use Description for Parking Structures," since the Borough Planning Commission is continuing their discussion on the parking requirements.

Mr. Sellers referenced the Planning Commission's written response to the BCPC's review of the proposed ordinance, indicating that they accepted most of the BCPC's suggestions, with the exception of their preference on architectural detail and design to include detailed illustrations. The Planning Commission felt that the Borough architecture varies from district to district, as well as within the individual districts, and since the ordinance is not site specific, it would be costly and time-consuming to prepare illustrations of existing neighboring structures as a design guide.

Mr. O'Malley asked if the Planning Commission had contacted other municipalities about parking structure ordinances and the response was yes, but those municipalities do not have them. He also asked how they arrived at the 48' building height and about the dimensions related to the distance between [parking] levels. With regard to the distance between levels, Planning Commission Chair Warren Woldorf responded that ADA standards and building codes require a minimum of 7', with the first level requiring a 9' height to accommodate

vans. Mr. Woldorf noted that the general building height is 35', but there are some special allowances for top-level structure, including parapets and stairwell/elevator shafts. Mr. O'Malley asked if it would not be more cost effective to handle both sections of the ordinance together, rather than splitting them up. Mr. Burke asked the Planning Commission Chair when the Commission planned to discuss the parking for multi-family dwellings, as he understood the BCPC would be attending their meeting. Mr. Woldorf did not know when, or if, the meeting would take place and/or if it would, so Council chose to have the Solicitor draft only the section dealing with parking structures.

Website Proposal – Julia Woldorf

Ms. Woldorf distributed a preliminary draft for a Request for Proposal (RFP) for a website. The consensus of the Website Committee was that the Borough could not reconfigure the existing website to meet their needs, but would need new platforms and ways of handling the website. Ms. Woldorf asked Council to review the draft RFP and provide feedback.

Budget and Finance – Gerard O'Malley

- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Warren, and carried unanimously, to approve the professional services invoices for March, as outlined in the Treasurer's E-mail dated April 14, 2011.
- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Warren, and carried unanimously, to approve the Heritage Conservancy invoice for \$8,337.50

Swing Set Discussion – John Burke

Mr. O'Malley explained that the Borough did not budget funds in 2011 for a swing set purchase and he had raised a question at the previous Council meeting about whether the Borough should proceed or if there were alternative ways to provide funding. An individual contacted Mr. O'Malley and offered to make an anonymous donation of up to \$2000 for the purchase of the swing set, provided there were other private donations, essentially matching funds. The equipment, installation, and mulch would cost approximately \$10,300. Mr. Burke reported that the Newtown Rotary offered to donate \$1000 and the owner of the Black Horse Tavern offered to hold a wine tasting or dinner for fundraising as well. The question was raised whether the Borough could hold a fundraising event. The Solicitor will research fundraising rules, but he noted that the Borough could always receive donations.

Solicitor's Report – Paul Cohen

- Upper Makefield Police Department Hold Harmless Letter
Mr. Cohen provided proposed language for the Hold Harmless Letter to the Solicitor for Upper Makefield and he is awaiting a response.
- Parking Lot Lease for Ten Centre
The Solicitor provided Allan Smith with a proposed lease for the parking lot behind the Ten Centre building. Mr. Smith will review the lease.
- Noise Ordinance

As instructed by Council, the Solicitor drafted a revision to the existing Noise Ordinance, with the goal of shifting enforcement from the Code Enforcement Officer to the Police Department. The section related to emergency construction would remain with the Code Enforcement Officer. Mr. Warren offered some revisions to correct grammar and intent.

Michael Pilon, one of the owners of the Blackhorse Tavern, reported that in their effort to be good neighbors, they have attempted to mitigate sound emanating from their facility. The owners have spoken to the bands about reducing the volume, particularly the bass. They have closed all exterior doors, reduced the entertainment from five days a week to three days, and moved the percussion instruments away from any exits, both windows and doors. In addition, they have installed soundproof buffer panels on the interior windows throughout the first floor, replaced the glass and wood door with a soundproof foam and metal security door, and they will be installing a studio-grade sound-deadening material to be custom fit to the windows.

- Litigation

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Warren, and carried unanimously, authorizing the Solicitor to execute a stipulation, on behalf of Newtown Borough, for litigation concerning The Temperance House, Bucks County Court of Common Pleas, Docket #05-07968.

Mr. Cohen reported for the minutes that this stipulation is a procedural matter and not regarding any settlement or substantive resolution of the matter.

The Solicitor announced that Council held an Executive Session prior to the meeting for discussion of the issue noted in the previous motion and for potential litigation.

- Sex Offender Residency Restrictions

Mr. Cohen reported that a case recently came down from the Pennsylvania Supreme Court regarding the Sex Offender Residency Registration law in Allegheny County. Mr. Cohen said that many of the existing municipal Sex Offender Residency ordinances, including Newtown Boroughs, were based on the Allegheny County ordinance. This opinion rules that the Allegheny ordinance, which restricts sex offenders from living within a certain distance from schools or play areas, was unlawful and, although not found to be unconstitutional, the ordinance was preempted by State law. Mr. Cohen recommended that the Borough not attempt to enforce their existing ordinance and Council could repeal the ordinance. In response to Ms. Woldorf's question whether protections are still in place, Mr. Cohen explained that the State law establishes a process for when a sex offender is sentenced and eventually paroled. The individual must review what their plans are and where they are planning to live, which cannot be within a certain distance from schools or playgrounds.

Old Business

The developer of Phillips Court requested a delay in use of the escrow funds for the lighting at Phillips Court. In light of the timing, the funds would probably not be used until July, because proposals still need to be received in order to make a decision.

Mr. Burke asked about applications for the vacancy on the Planning Commission. Mr. Warren responded that the Borough received one application and Council would act on that application at the Tuesday Council Meeting.

Mr. Burke asked if the Bucks County Planning Commission had been asked to attend the next Borough Planning Commission meeting. Chairperson Woldorf responded that the BCPC would be formally invited, based on a list of questions from Planning Commission members that he is awaiting.

New Business

Ms. Woldorf referenced a letter notifying the Borough of a Land Development on Sycamore Street for Beneficial Savings Bank. The bank is required to go through a Conditional Use Hearing with Newtown Township and Council could make the decision to oppose the application. The showroom on the property would be demolished and replaced with a small building, with three drive-thru areas and leaving a large amount of blacktop/parking area. Mr. O'Malley hoped that the traffic impact would be reviewed by the Joint Borough/Township Traffic Committee. Council will await the hearing date.

Public to be Heard

There was no one 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

Gema Duarte
Jeff Werner
Warren Woldorf
Paul Salvatore
Dave & Mary Callahan
Jeanne Haeckel
Larry Auerweck
Bob King
Diane LeBas
Lance M. Pilon
Michael Pilon
Warren Gormley
Marlowe Gordon
Noelle Finley