

Council Meeting  
July 13, 2010  
Council Chambers

President Julia Woldorf called the regular semi-monthly meeting of Newtown Borough Council to order at 7:00 P.M. on Tuesday, July 13, 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, Walker, Warren and Woldorf; Mayor O'Brien; Solicitor Paul Cohen and Engineer Maryellen Saylor of Pickering, Corts & Summerson. Councilor Sellers was excused.

### **Mayor's Report – Dennis O'Brien**

- The Police Report for June 2010 was presented

Mayor O'Brien commented on the successful 1<sup>st</sup> Fourth Event held on July 3, 2010. The traditional Bike Decorating Contest was followed by a community picnic and the Mayor thanked the merchants who contributed.

- Special Events Reminder

Antique Auto Show – July 18, 2010 from 10 A.M.-3 P.M., sponsored by the Newtown Business and Professional Association

Movies in the Park – Every Wednesday and Saturday with live music starting at 8 P.M., followed by the movie.

### **Hire of Part-time Police Officer**

Mayor O'Brien explained that because the Borough is losing two of its part-time officers it is necessary to hire another part-time officer.

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor Warren, and carried unanimously, to follow the recommendation of Mayor O'Brien and Chief Anthony C. Wojciechowski and hire, at will, James G. Boone, as a part-time, non-civil service police officer, subject to the day to day supervision of Chief Wojciechowski or the officer in charge in the absence of Chief Wojciechowski, starting salary of \$18.00 per hour. The effective date for employment is July 13, 2010.

Mr. Boone is 51 years old, married with two children and a resident of Southampton PA. Mr. Boone is presently serving as a part time Police Officer with Solebury Township Police Department. Mr. Boone retired in March 2010 from the Philadelphia Police Department where he retired at the rank of Sergeant after 28 years of Service. Mr. Boone graduated from Father Judge High School in 1977 and The Community College of Philadelphia with a degree in Radiology in 2006. Mr. Boone received his ACT 120 Training at the Philadelphia Police Academy and is currently certified as a Police Officer with the State of Pennsylvania.

### **Amendments to the Agenda**

Ms. Woldorf announced that an Executive Session would be held following the meeting for discussion of litigation, personnel and possibly real estate.

The Traditional Neighborhood Development Ordinance modifications will be discussed under Old Business and the PennDOT Winter Services Agreement will be added to the Solicitor's Report.

### **Ovarian Cancer "Turn the Town Teal" Project**

Ms. Carlyn Moore, representing the Ovarian Cancer Foundation in Philadelphia, addressed Council requesting the Borough's participation in promoting ovarian cancer awareness. Ms. Moore would like the Borough to proclaim September as Ovarian Cancer Awareness Month and requested the tying of teal ribbons on approximately 50-100 trees in the Borough.

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Walker, and carried unanimously, to have Mayor O'Brien proclaim September as Ovarian Cancer Awareness Month.

Mayor O'Brien will prepare the Proclamation, which will be presented at the August Council Meeting and he will enlist volunteers to assist in the ribbon tying.

### **President's Report – Julia Woldorf**

There was no president's report or correspondence for the month of July.

### **Public to be Heard**

Newtown Corporation Board Member Josh Horenstein, 21 S. Lincoln Avenue, reported on his review of the Newtown Corporation finances through the month of May. In January of 2010, the Corporation had approximately \$120,000 in assets, but that figure is now approximately \$65-75,000. According to the budget that he received, the Corporation anticipated \$137,000 in income, but he sees an overall loss of \$33,000 as of the first quarter.

Dave Callahan, a member of the Newtown Corporation board, feels that most of the board members are unprofessional, that Mr. Horenstein has been treated horribly and that Council should do something about it.

Verindar Kaur, owner of The Brick Hotel, addressed Council about a bill she received over one year ago from the Borough for removal of a partially fallen tree. Ms. Kaur felt that she could have had the tree removed much less expensively than the amount the Borough charged her. She had paid \$600 of the total bill, but wanted the Borough to waive the remainder of the fee. Mr. O'Malley explained that the tree had fallen on a car and was blocking the street, which necessitated immediate removal. Mr. O'Malley noted that Ms. Kaur had also received a letter last July requiring the total removal of the remaining tree, noting that it was a hazard. Ms. Kaur referred to a previous tree problem for which she used her own contractor, but that tree blocked the sidewalk not the street. Ms. Woldorf asked the Solicitor to look into the matter of possible relief.

### **Certificates of Appropriateness**

- ❖ A motion was duly made by Councilor Burke, seconded by Councilor O'Malley, 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 2010-026-H      Applicant: George Repitsky, 212 S. State Street, George's Floor Center & Supplies**

The applicant was seeking a Certificate of Appropriateness for the installation of a freestanding sign and a wall sign, noting that the top of the signposts will extend up to approximately where the arched top of the sign begins and that the posts will be covered with matte finish white fiberglass sleeves and capped with ball finials.

**COA 2010-027-H      Applicants: Sharon Huss & Nancy Murray, 17 S. State Street, The Tubby Olive**

The applicants were seeking a Certificate of Appropriateness for the installation of an awning with signage, noting that the lettering on the awning flap will be arranged so that there is sufficient spacing above and below, and that the store name will be in capital letters.

**COA 2010-028-H      Applicant: Keith Coleman, 201 S. State Street, Hamilton Building Supply**

The applicant was seeking a Certificate of Appropriateness for two signs on existing awnings.

**COA 2010-025-H      Applicant: Jodi Smith – Comcast Building, 139 N. State Street**

The applicant was seeking a Certificate of Appropriateness for the replacement of siding, trim, roof, gutters & downspouts, cornices & soffits, and windows; and the replacement of a screened porch with a new storage structure. The applicant presented additional elevations and details to update the previously submitted application, noting the following

- The windows will be Marvin wood windows with 5/4" x 4 1/2"-5" exterior flat casings and 1 1/2" thick sills

- Exterior corner boards will be 5/4" x 4 1/2"-5" or match existing corner boards; applicant will verify existing corners
- Soffit fascia will match that pictured on the front elevation
- Window heads will have 3" crown molding applied to the top of the head casing on side and front windows
- Siding will be Hardiplank with smooth finish, exposure to match existing clapboard siding on house
- Gutters will be 1/2 round painted aluminum, with 3" smooth round downspouts.

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

- **General Projects Update**

Ms. Saylor reported that because of outstanding issues related to the 2009 Frost Lane paving project, she is not recommending release of the 5% retainage to Harris Blacktopping at this time.

The developer of 400 E. Washington Avenue is requesting release of his escrow, but he has not yet installed a street lamp that is shown on the approved plan. Ms. Saylor informed him that this issue needs to be addressed by Borough Council. In response to Mr. O'Malley's question about whether the landscaping plan had been met, Ms. Saylor wanted to confirm that with Zoning Officer Brown and check whether a street lamp had been approved by HARB.

Ms. Saylor reported that she had reviewed the Old Skunky Report and had received answers from Gilmore to her questions regarding the report. Mr. Walker felt that Gilmore should make a presentation to Council regarding the report and it was decided to have them come to the September Council Meeting.

Ms. Saylor reported on the Quad I and Quad II sidewalks that have not been completed. She asked Council for direction in moving forward, but the sidewalk ordinance needs to be amended prior to pursuing the completion of the work.

- **2010 Frost Lane Project**

With regard to the 2010 Frost Lane project, Ms. Saylor reported that bids had been received, with A.H. Cornell & Sons Paving having the lowest bid. Mr. Walker questioned the replacement of a sidewalk for the project, particularly if the sidewalk is in Newtown Township. After discussion, it was determined that the sidewalk in question is in the Township. The concern then is whether this would set a precedent since the Borough has always required the property owner to assume responsibility for sidewalk maintenance.

Ms. Saylor asked Council how much involvement they wanted from the Borough engineer on this project. Mr. Walker wanted assurance that the Township engineer would be responsible for any issues from Borough property owners on Frost Lane related to work done along their properties and did not feel that the Borough engineer needed to oversee the work. Ms. Woldorf and Mr. Warren were concerned about the potential for driveway issues with the Borough properties and felt that the

Borough engineer should be involved. The Solicitor suggested that the contract include an additional sentence, worded in such a way that the Borough engineer may from time to time review the status of the project at the request of Borough Council or Borough residents. The change in wording would allow the Borough to be reimbursed for those Borough engineering expenses because currently the contract does not allow for that.

Ms. Saylor suggested that the contract language be expanded to cover the 18-month period of the maintenance bond, since the contract currently covers only one year.

Mr. Cohen voiced concern that the project bid only includes the construction costs, but does not include the engineering or legal costs, nor is there a cap on those expenses. Mr. Cohen is concerned that in accepting the bid the Borough should have an estimate of those additional costs. Ms. Saylor said that the costs are 15% of the contract price, which is approximately \$26,000. Council felt that “not to exceed” wording should be included.

- ❖ A motion was duly made by Councilor Burke, seconded by Councilor Walker, and carried unanimously, to approve the bid of A.H. Cornell & Sons Paving for the Frost Lane project in the amount of \$167,220.

- **Newtown Artesian Water Company State Street Project**

Ms. Saylor reported that after a meeting with PennDOT, Council members, the engineers for the Borough and the Water Company, and representatives from the Association for the Blind, PennDOT agreed that some of the curb ramps at the intersection of Washington Avenue and State Street needed to be redesigned and one of the ramps will be removed.

Resident Eileen Molloy of Liberty Street asked about the intersection at State Street and Washington Avenue and what the timeline was for completion of the work. Ms. Saylor reported that new designs must be drawn and submitted by Newtown Artesian Water Company’s engineer, Gannett Fleming, to PennDOT for review. She said that process could take at least several weeks. Ms. Woldorf reported that Council representatives were unable to convince PennDOT to permit re-installation of the bollards at the intersection, even though large trucks turning the corner create a potential hazard to pedestrians.

- **4-Way Stop Sign Ordinance**

A public hearing was held to discuss proposed Ordinance #703, which was duly advertised in The Advance of Bucks County on June 24, 2010, and a copy of the ordinance was deposited with the Bucks County Law Library on/about June 25, 2010. There is currently an ordinance for a stop sign at Penn Street as it crosses Lincoln. That section will be removed and S. Lincoln Avenue and Penn Street will be added to Chapter 146, Section 146-14.2, which establishes 4-way stop signs.

Mr. O’Malley noted that this stop sign was a priority of the Traffic Committee and he is pleased to see this ordinance being adopted.

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Burke, and carried unanimously, to adopt Ordinance #703 creating a 4-way stop at the intersection of South Lincoln Avenue and Penn Street.

Discussion continues with the engineer and the Traffic Committee on a solution for the N. State Street/Edgeboro curve.

### **Presentation of Minutes**

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Burke, and carried with Councilor Walker abstaining, to approve the June 2, 2010, Work Session Minutes.
- ❖ A motion was duly made by Councilor Warren, seconded by Councilor O'Malley, and carried with Councilor Burke abstaining, to approve the June 8, 2010, Council Meeting Minutes.
- ❖ A motion was duly made by Councilor Warren, seconded by Councilor Walker, and carried with Councilor Burke abstaining, to approve the June 24, 2010, Special Council Meeting minutes.

### **COMMITTEE REPORTS**

#### **Budget & Finance – Gerard O'Malley and Robert Walker**

##### **Consolidated Report**

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Walker, and carried unanimously, to accept, subject to audit, the consolidated expenditure report for the month of June 2010, totaling \$155,454.04.

Mr. O'Malley reminded Council that the 2011 Budget process is beginning.

##### **Solicitor's Report**

A public hearing was held to discuss proposed Ordinance #704, which was duly advertised in The Advance of Bucks County on June 24, 2010, and was deposited with the Bucks County Law Library on/about June 25, 2010. This ordinance was at the request of the Police Chief out of concern for the ability of emergency vehicles to pass through if vehicles are parked on both sides of the road.

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor O'Malley, and carried unanimously, to adopt Ordinance #704 restricting parking on the West side of S. Chancellor Street between Sterling and S. State Street.

A public hearing was held to discuss proposed Ordinance #705, a copy of which was provided to the Newtown Borough Planning Commission and the Bucks County Planning Commission, who received a letter on May 20, 2010, from the Newtown Borough Planning Commission recommending approval of the ordinance. In addition, Mr. Cohen received a letter from the Bucks

County Planning Commission dated July 7, 2010, recommending adoption of the ordinance as submitted. The proposed ordinance was duly advertised in The Advance of Bucks County on both June 24, 2010, and July 1, 2010, in accordance with the requirements of the Municipalities Planning Code and a copy of the ordinance was deposited with the Bucks County Law Library on June 25, 2010. There are two components of this ordinance. The first is to allow a charge for a fence permit fee and that fee will be incorporated into the Borough's Fee Schedule, which will be advertised and voted on at next month's meeting. The second part of the ordinance is modifying the language of Section 500d (2) of the ordinance, which addresses the requirements for applicability of dimensional requirements for condominiums and clarifies that section to eliminate any chance of ambiguity.

- ❖ A motion was duly made by Councilor Burke, seconded by Councilor Warren, and carried unanimously, to adopt Ordinance #705 amending the Newtown Borough Zoning Ordinance regarding fence permit fees and for the applicability of dimensional requirements for condominiums.

- **Intergovernmental Agreement with Newtown Township**

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor Burke, and carried unanimously, to authorize the Solicitor to advertise an Ordinance for an Intergovernmental Agreement between Newtown Township and Newtown Borough for the Frost Lane improvements project, which would include an 18 month Maintenance Bond.

- **Winter Services Agreement with PennDOT**

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor O'Malley, and carried unanimously, to adopt Resolution 07-13-10 directing the President of Council to execute the Winter Services Agreement and enter into a five year Winter Services Agreement with the Commonwealth of Pennsylvania commencing October 15, 2010 through April 30<sup>th</sup> of each year for the next five years.

Mr. Cohen discussed the proposed Event Ordinance, noting that he made several changes since the last draft. The actual definition of a special event is difficult to define and open for interpretation. Mr. Walker suggested clarifying the section regarding who has the authority to cancel an event if the Police Chief is not present at the event. Mr. Cohen will confer with Chief Wojciechowski about the wording. Mr. Warren asked about a process to approve an event if there is less than the 90 day required notification. Solicitor Cohen will attempt to redefine the definition of special event and address the other concerns discussed.

## **Old Business**

Ms. Woldorf referred to the letter received from the Newtown Borough Planning Commission regarding their action relative to the proposed Traditional Neighborhood Development ordinance modification received from Town Planning Partnership LLC. Mr. O'Malley was unclear about the information received and the proposed forming of a hybrid ordinance. Planning Commission Chairman Woldorf explained the work done by Town Planning Partnership was a combination of information from various sources, some of which was superfluous. The Planning Commission felt that a hybrid ordinance based on the appropriate information from the document would be the best

approach. Mr. Woldorf felt that it does not make sense to pay the consultant to remove information that they should not have included to begin with or that was in conflict with the Borough's existing ordinances.

- ❖ A motion was duly made by Councilor Warren, seconded by Councilor O'Malley, and carried unanimously, to authorize the Council President to send a letter to Town Planning Partnership LLC advising them the Borough wishes to terminate its contract with them.

### **New Business**

Mr. Walker is happy to see the planting of new trees on State Street but is concerned that the growth from those trees is now obscuring signage. Trimming of the trees may be required.

Mr. O'Malley referenced information received from a resident regarding La Stalla Restaurant's request for a Conditional Use for outdoor entertainment and expanded hours from the Newtown Township Planning Commission. The resident is concerned about the noise that is currently generated by outdoor entertainment from the restaurant and the Newtown Borough office and Police Department have received noise complaints over the past year.

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Walker, and carried unanimously, to authorize Council President to send a letter to the Newtown Township Planning Commission expressing Newtown Borough's concern about La Stalla's Conditional Use request for expanded hours and outdoor music.

### **Public to be Heard**

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

The meeting was adjourned at 9:10 P.M.

Council entered into Executive Session at this time.

Respectfully submitted,

Marcia M. Scull  
Borough Secretary

### **ATTENDEES**

Warren Woldorf  
Dave Callahan

440 Washington Avenue  
113 Court Street

Jeff Werner  
Joshua Horenstein  
Carlyn and Brian Moore  
George Repitsky  
Sharon Huss & Nancy Murray  
Diane LeBas  
Keith Coleman  
Charles Swartz  
Eileen Molloy

The Advance  
21 S. Lincoln Avenue  
1428 Polo Run Dr., Yardley, PA  
14 Teaberry Ln.  
17 S. State St.  
104 Penn St.  
201 S. State St.  
324 E. Washington Ave.  
126 Liberty St.