

Council Work Session
July 6, 2011
Council Chambers

The regular monthly Work Session of Newtown Borough Council was called to order at 7:00 P.M. on Wednesday, July 6, 2011, by President of Council Julia Woldorf.

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

Amendments to the Agenda

There were no amendments to the agenda.

Public to be Heard

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

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

- Sink Hole at Penn and South State Street

Ms. Saylor reported that after the last work session she contacted PECO, the Sewer Authority [Newtown Sewer Authority] and Newtown Artesian Water Company and arranged a meeting to discuss how to handle the sinkhole on Penn Street. PECO agreed to perform the excavation and after investigation, they found a puncture underneath the storm sewer, which indicated that it was the Borough's responsibility, not PECO's, as was originally assumed. Ms. Saylor looked into various options for repairing the pipe. Patching the hole, filling the void with non-shrink grout, backfilling and restoring the paving in that area would cost approximately \$4800. The other option would be to replace the existing pipe with new concrete pipe and backfill at an approximate cost of \$12,000. With this option, there is the possibility that the brick inlets on either side of the pipe might be damaged during the removal. In that case, the additional expense for curbs and inlets might be \$11,000 (\$5500 for each inlet.) In response to Mr. Sellers request for a recommendation, Ms. Saylor said that she would suggest the patch repair at this point. Mr. Walker questioned why the Borough is required to get bids for emergency street work, when Scott Dengler is hired by the Borough to provide street and road maintenance. The Solicitor wanted to review the contract with Mr. Dengler and would then give an opinion. Mr. Sellers asked the engineer to provide a project description for the work required.

- Washington Avenue Curb Ramp Update

Ms. Saylor had still not received a schedule from the Water Company for the curb ramp project at State and Washington Avenues.

- Neshaminy Creek Stormwater Management Ordinance Application Forms/Fee Schedule

Ms. Saylor reported that she has been working with the Zoning Officer and Solicitor on the Neshaminy Creek Watershed update of the application and packets. The Solicitor noted that they have also been

working on the FEMA flood maps and Stormwater Management Ordinance changes. The Borough has until November of 2012 to complete the updates. With regard to Stormwater management, they are working on changes to the Zoning Ordinance and SALDO ordinance. The Solicitor expects to circulate a draft before the August Work Session.

- Sidewalk Ordinance
Mr. Cohen noted that after discussion of the sidewalk/bollard ordinance, he added the term “posts” to the section on bollards. He expanded the list of accepted materials for sidewalks and added the physical features for posts and bollards. Unless there are additional comments or changes, Council could authorize advertising the ordinance at the next Council meeting.
- Stormwater Management Fee Schedule
Solicitor Cohen noted that a change was made since the last draft, which eliminated an escrow fee for small [stormwater] projects.
- Ramp Removal at Lafayette and S. Lincoln
Mr. Sellers said he has had difficulty obtaining bids for the project, so there is a continuing effort to receive the necessary three bids.

Event Application – Mayor O’Brien

The Mayor presented the Special Event Application for the Newtown Beer Fest, scheduled for September 24, 2011, and sponsored by the Newtown Fire Association. The applicant agreed to the terms of the contract regarding hours of operation and police officers required for coverage. There were no waiver requests and Council had no comment.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Warren, and carried unanimously, to approve the Special Events Application for the Newtown Beer Fest on September 24, 2011.

Holiday Parade Fee Waiver Request

Ms. Woldorf reminded Council that they discussed the Special Event Application for the Holiday Parade at the last Council meeting and approved the date, but they postponed a decision on the waiver request for the fee and the police coverage costs.

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor Sellers, and carried with Councillor Walker voting nay, to require the payment of the \$25 fee and to deny the request for waiver of the \$25 fee.

Council then discussed the lack of payment for police coverage from last year’s parade. Mr. Walker reminded Council that last year’s fee had been waived, but Ms. Woldorf commented that after Council discovered that parade participants were paid and Newtown Township received reimbursement for police coverage, the Borough then decided to request a donation from the Newtown Corporation to reimburse the cost of police coverage of \$662.40. The Borough sent a letter in December requesting the donation, but has never received the money. Mr. Walker questioned the legality of a municipality soliciting donations. Although Solicitor Cohen

said that municipalities might accept donations, Mr. Walker questioned asking for a specific donation and he noted that there is now a paper trail requesting a donation.

Paul Salvatore said that Mr. Tyrol met with both police chiefs prior to last year's parade and was told that the Township charges would be approximately \$1000, which was then budgeted. The Borough Police Chief said that the Borough did not charge for parades and so nothing was budgeted. Mr. Salvatore said that parades are not moneymakers and last year's parade cost \$12,000 with only \$5000 in donations.

Mr. Sellers questioned why, if there was money to pay parade participants and Newtown Township, then why should the Borough not be paid? Mr. Sellers suggested giving the Corporation the opportunity to pay the \$600+ and the Borough might then entertain the Holiday Parade in a different light.

Mr. O'Malley said that he felt the Newtown Corporation has the right to say to the Borough, you waived the fee and we are not paying it. He is less worried about last year, but he would rather capitalize on cooperation between the municipalities, the police chiefs, and the Newtown Corporation to determine the best way to handle it going forward. Mr. O'Malley felt that the various parades add to the quality of life in Newtown Borough and part of that is public safety and police protection. In certain cases, he feels the Borough should continue the policy of not being reimbursed for those costs.

Mr. Warren was willing to entertain a waiver or partial waiver of police costs if there is a cooperative agreement, but from a budgeting and cost benefit standpoint, not all fees should be waived just because someone wants to have a parade. The Memorial Day Parade and Holiday Parades bring people and business into town, but Mr. Warren is not sure that the Halloween Parade and Fourth of July Parade really benefit the quality of life and he questioned whether they warrant, in a time of tight Borough budgets, the expending of these funds. He agreed with Mr. O'Malley about trying to work cooperatively for a month and then address the issue.

The anticipated cost of police coverage for this year's parade would be approximately \$1680. Ms. Woldorf explained that the cost is higher this year since there was an increase in the hourly cost from \$40 to \$60, and depending on whether the police department uses full or part-time officers for the coverage.

Request for Bucks County Planning Commission Consultation with Borough Planning Commission

Planning Commission Chairman Woldorf said that while doing research he found in the Municipalities Planning Code (MPC) that the Planning Commission does not invite the Bucks County Planning Commission (BCPC) for consultation, the Borough Council does.

Solicitor Cohen explained that all municipalities are required to submit any proposed changes to their zoning ordinances and sub-division/land development ordinances to the Bucks County Planning Commission for their review. The MPC does not require the municipalities to accept comments made by the BCPC, but it is part of the process to receive their input and address their concerns to the extent that the municipality feels is appropriate. Municipalities can retain the services of the BCPC to provide consulting services and compensate them for those services.

Mr. Burke noted that at the last two meetings, when there had been discussion about the BCPC attending a Planning Commission meeting, the Borough Planning Commission had voted to have them attend.

Mr. Woldorf voiced concern about the BCPC's attendance at the meeting and possibly going into areas other than simply the parking requirements, at which point he felt they would be consulting. Mr. Woldorf felt parameters must be set prior to the meeting.

Mr. Walker commented that the Borough had compensated the BCPC for Comprehensive Plan services, which was money well spent, but had paid a consultant \$5000 for TND services, which was not money well spent. Mr. Walker felt that it would be in the best interests of the Borough if the BCPC consulted with the Borough, and if compensation were required, then it would be well worth it.

Ms. Woldorf had not been able to clarify with the BCPC (Ms. Bush), if they would require payment for their services or whether they would simply provide the service. She will continue to try and contact Ms. Bush.

Mr. O'Malley noted that this all stemmed from the draft ordinance on parking for multi-family dwellings and he felt that the BCPC is simply being asked to clarify their review. In his mind that does not involve a consulting arrangement with them, it is a discussion on their letter to the Borough, and that seemed reasonable to Mr. O'Malley.

Mr. Sellers was worried about application of the ordinance to a site-specific project and he felt that there should be a narrow focus to the discussion. He did not feel that Council needed to take any formal action though.

Streets, Lights & Properties – Michael Sellers

Mr. Sellers explained that Council annually attempts to take advantage of a pre-winter season price for salt. Based on the information supplied by Scott Dengler of Scott's All Seasons, the price would be \$80/ton. In response to Mr. Walker's question, Mr. Sellers' said three telephone bids were received and this was the best by far.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor O'Malley, and carried unanimously, to authorize Scott's All Seasons Landscape to purchase 120 tons of bulk salt at a total price of \$9,600 at the quoted price of \$80/ton in accordance with his proposal of June 13, 2011.

Approval of Minutes

Ms. Woldorf reminded Council that they postponed approval of these minutes because Mr. Walker felt more of Mr. Sellers' comments should have been reflected in the minutes. Mr. Sellers said he was satisfied with the minutes as written.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Warren, and carried with Councillor Walker voting nay and Councillor Burke abstaining, since he was not at the meeting, to approve the May 10, 2011, Council meeting minutes as originally presented to Council.

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 May, as outlined in the Treasurer's E-mail dated June 7, 2011.

Mr. Walker advised Council that Chief Wojciechowski's eligibility for Medicare will arise later this year and the contract provides that he have a comparable program for both he and his wife. CB Administrators supplied three options, with only two providing the comparable coverage. The Finance Committee recommended that those two options be available. The Chief intends to accept the Medigap coverage, with an independent pharmaceutical provider for prescriptions.

Solicitor's Report – Paul Cohen

An executive session was held prior to last month's Council meeting where matters of real estate and pending litigation of the pending Zoning application were discussed.

There was also an executive session prior to this meeting where potential litigation was discussed. In addition, the Zoning application of State Street Rentals, LLC for a variance related to the property at 29 S. State Street was discussed. For the record, that hearing was held July 5, 2011, and the application was denied.

- Upper Makefield Police Department Hold Harmless Letter
Mr. Cohen explained that due to County regulations Newtown Borough must process detainees through Upper Makefield's facility because they have equipment that the Borough does not have. Upper Makefield requested a Release and Hold Harmless, which would release them from any liability for injuries or losses it might suffer due to Newtown Borough's use of their facility. The Solicitor had concerns about the language, feeling that it was overly broad. Mr. Cohen's proposed alternate language was accepted by the Solicitor for Upper Makefield.
- ❖ A motion was duly made by Councillor Walker, seconded by Councillor Burke, and carried unanimously, to authorize the President of Council to sign the Hold Harmless Agreement on behalf of Newtown Borough.
- Parking Lot Lease for Ten Centre
Because of comments from Council, the Solicitor went back to Allan Smith and proposed that after the first year of the lease it would renew quarterly, with a 60 day termination provision throughout each of those terms. Mr. Cohen has not heard back from Mr. Smith.
- Fee Schedule Changes
The Right-to-Know law limits the fees charged to those established by the Open Records Office for local agencies. The only fee established is for certified copies or photocopies at a rate of 25¢ per copy. The charge for DVDs or CDs cannot be more than the actual cost. Because it is a statutory fee structure, it does not require addition to the Borough Fee Schedule.

Old Business

Mr. O'Malley reported that the Chief had concerns about the ability to enforce the proposed Residential Parking Permit area, so the Long Term Parking Committee is looking into having the area behind 10 Centre available for employee parking. The Committee is also looking into the potential cost to the Borough of enforcement, with the possible hiring of a part-time enforcement individual.

Mayor O'Brien reported that a resident has requested a handicapped parking space at 207 Court Street. The formal request will be discussed at the next Council meeting.

Ms. Woldorf reminded everyone that the next Council meeting will be held at the Sewer Authority Building and it will not be televised.

New Business

Mr. Sellers suggested holding a meeting dedicated to a discussion of the Borough business district, with a specific invitation to business owners and operators on State Street. Discussion should include issues that Council should be aware of going forward that may be beneficial to retaining our businesses.

Ms. Woldorf mentioned that the Delaware Valley Regional Planning Commission had notified her of a new wave of grants that are available. The information was given to Mr. O'Malley for his review.

Public to be Heard

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

There was a motion to adjourn at 9:00 P.M.

Respectfully submitted,

Marcia M. Scull
Borough Secretary

IN ATTENDANCE

Gema Duarte
Jeff Werner
Warren Woldorf
Paul Salvatore
Dave Callahan
Larry Auerweck