

Council Meeting
August 11, 2009
Chancellor Center

Council held an Executive Session prior to the meeting for discussion of Personnel and Collective Bargaining.

President Mark Craig called the regular semi-monthly meeting of Newtown Borough Council to order at 7:00 P.M. on Tuesday, August 11, 2009. Mr. Craig asked those in attendance to join him in a moment of silence followed by the Pledge of Allegiance.

Present: Councillors Craig, Jaslow, O'Malley, Sellers, Walker and Woldorf; Mayor O'Brien; Solicitor Donald E. Williams and Engineer Larry Young of Gilmore & Associates, Inc.

Mr. Craig announced that Mr. Sellers suggested removing the Newtown Dam report from the agenda in light of the presentation on the Stockburger project. There will be a report on the dam at the September Council meeting.

Stockburger Redevelopment Proposed Plan – Allan Smith

President Craig explained to the public that developer Allan Smith would be presenting his proposed plans for redevelopment of the Stockburger Chevrolet site. Although premature for Council to review a plan at this time, it is not premature to have issues related to this development brought to Council's attention since Council may need to address changes or modifications to move the project forward. Allan Smith and architect/developer Robert Hillier gave a lengthy presentation about the project and discussed their plans for an office building, parking garage, retail and office space with apartments above, a nature preserve, Newtown Creek Walk and movement of the present liquor store to the street side of West Centre Avenue. There was talk of restaurants and a footbridge across the creek to the Chandler Hall ball fields. The developers took suggestions made at the previous public meeting and revised their plans to incorporate those ideas. The developers acknowledged that issues of traffic would need to be addressed during the sub-division/land development process. Mr. Smith said that he welcomed additional input from the community.

Jo-Anne Bintliff-Ritchie, a Newtown Township resident, voiced concern about the density of the project, potential traffic issues, and the fact that the parking garage would only be available for public parking at night and on the weekends. Ms. Bintliff-Ritchie likened the traffic concerns to those at Goodnoes Corner.

Caroline Bennett, of Liberty Street, raised the question of a potentially historic structure on the property, but was advised by Mr. Hillier that the structure in question is not on the Stockburger property and therefore, would not be affected.

Joe Lovi, 151 N. State Street, enthusiastically supported the proposed plan.

Allan Smith noted that the proposed project falls into two separate zoning districts, which would require a change in the zoning ordinance in order to move forward. Mr. Smith was looking to Council for a commitment to support the concept of the proposal and undertake review of the zoning ordinance as it pertains to this particular project.

Mr. Sellers suggested that there are two parts to the process, one being Council's support of the conceptual plan and if that is the case, then the second part is the need to address a change to the TND ordinance.

Planner Thomas Comitta then presented Council with several options for amending the Newtown Borough Zoning Ordinance to address the issues. Splitting the Traditional Neighborhood Development designation into TND1 and TND2 would be one consideration, rezoning both properties so that they are in the same zoning district, Town Center, would be another option, among other suggestions.

Ms. Woldorf, while interested in the concept, had concerns regarding the traffic impact and traffic flow that would result from this project. With regard to the proposed mixed use, regardless of whether it is this project or another project, a zoning change would still be required and Ms. Woldorf felt that it is worthwhile to look at a change in the TND.

In response to Mr. Craig's request for Council input, all members and the Mayor voiced support for the concept of the proposed project and agreed on the need to review the zoning ordinance.

- ❖ A motion was duly made by Councillor Woldorf, seconded by Councillor Sellers, and carried unanimously, to direct the Planning Commission to look at the Zoning Ordinance with regard to the V2 and the TC zoning districts to accommodate mixed use.

Allan Smith was hoping for a 60-day timeframe in which to determine if the zoning changes are feasible, realizing that the formal plan and the details would be addressed in the formal development process.

Although not the formal "Public to be Heard" period, Mr. Craig asked for public input on the proposed project.

George Stockburger, owner of the Stockburger Chevrolet property, voiced his support for Mr. Smith's proposal. Mr. Stockburger did voice concern about his monthly financial obligations and reiterated Mr. Smith's request to keep the process moving in a timely fashion.

Bernie Heyman, a Newtown township resident, voiced concern about the traffic problems and increased density that would result from this project. Mr. Heyman was particularly worried about the traffic flow on Centre Avenue and the impact that this project would have on the Borough.

Jennifer Dix, a Newtown township resident, questioned comments made regarding changes to the proposed plan, asking whether they would be major or minor changes. Mr. Sellers commented that

based on the response to issues that might arise during the sub-division land development process, changes to the plan might be required. Ms. Dix felt that the density of the project would cause many traffic issues. She also questioned the number of proposed employees, feeling that the parking garage would not adequately address the total need.

Larry Fink, 232 Court Street, supported the proposed plan, but was more concerned about the speed limit than traffic issues.

Jon Guy, 110 S. Congress Street, enthusiastically supported the project and felt that the traffic issues could be addressed.

Denise Kelly of N. Elm Avenue agreed with the charge to move the project along and make the changes necessary within the 60-day timeframe.

Bill Smith, Newtown Jewelers, spoke in support of the proposed Stockburger proposal, noting that his family owns both commercial and residential property in the Borough. Mr. Smith would like to see the zoning changes made in 45 days.

Mayor's Report – Dennis O'Brien

- **The Police Report for July 2009**

The Mayor announced that Officer Rosenfeld broke her leg and will be out of duty for approximately 8 weeks.

With regard to Ms. Woldorf's concerns about the security cameras, Mayor O'Brien spoke to a contact at Council Rock who explained that the school district cameras are not web-based.

With regard to the ENRADD purchase, Mayor O'Brien reported that the police prefer using ENRADD over radar because some types of cancer have resulted from the use of radar equipment.

In answer to Mr. Sellers' question, there were no pedestrian sentinel violations in July.

Special Events

- Music Event – October 2, 2009 – Linton Memorial Park from 6 – 10 P.M.

Public to be Heard

Melissa Lenahan, representing First National Bank & Trust Company of Newtown, explained to Council that the clock, which was installed in 1928, will be removed for approximately 3 months while repairs are made. Since the clock is such a landmark in town, Ms. Lenihan requested that the

bank place a temporary sign near the site explaining that the clock will return after repairs are completed.

- ❖ A motion was duly made by Councillor Jaslow, seconded by Councillor O'Malley, and carried unanimously, to allow First National Bank & Trust of Newtown to place a temporary sign that would explain the removal/return of the clock, with the sign being removed after replacement of the clock, subject to confirmation by the Zoning Officer.

Denise Kelly, 15 N. Elm Avenue, asked Council for assistance in resolving a fence issue with her neighbor. Although installed many years ago, Ms. Kelley was upset about the type of fence installed and problems related to it. Councillor Jaslow will discuss the matter with the Zoning Officer.

Paul Salvatore, 148 N. Elm Avenue, thanked all who participated in the Antique Auto Show. Mr. Salvatore then announced that a community garage sale is scheduled for September and he asked Council to waive the required garage sale permit for that event.

- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Walker, and carried unanimously, to waive the required permit for the community garage sale scheduled for September 26, 2009.

Mr. Salvatore announced that a Community Development Corporation has been formed, sponsored by St. Mark's Church. It is a bi-partisan group that meets monthly with a goal to build a community center and find activities for the youth in the area.

Mr. Salvatore mentioned the removal of the Newtown Dam presentation from the agenda and wanted to confirm that the presentation will be on the agenda in September.

Certificates of Appropriateness

- ❖ A motion was duly made by Councillor Jaslow, seconded by Councillor Woldorf, and carried with Councillor Sellers abstaining, to follow the recommendation of the Historic Architectural Review Board and direct President of Council to sign the following Certificate of Appropriateness, thereby approving the historical appropriateness of the application, with final approval by the Code Enforcement Officer.

COA 2009-023-H 234 S. State Street, DeFrehn Corporation/Michael Sellers, Attorney at Law Offices

The applicant was seeking a Certificate of Appropriateness for the replacement of a slate roof with GAF Slateline shingles.

Engineers Report – Larry Young, Gilmore & Associates, Inc.

General Projects Update

Mr. Young reported that field data has been collected for Old Skunky and results compared with the resident questionnaires. The Engineer will look at options for remediation and there will be a town meeting with the residents to discuss the engineer's findings. The final draft of the study will follow.

The Frost Lane and Lafayette Street projects will begin on August 17, 2009, with Harris Blacktopping responsible for the work.

Mr. Young referred to the issue of the 448 Penn Street driveway. In order to address issues related to the Newtown Station development, Toll Brothers worked directly with Michael Weiss to deal with those problems. The work was completed approximately 3 years ago, but Mr. Weiss is not happy with the results. In the opinion of Mr. Young and Solicitor Williams, Toll Brothers should handle the situation with Mr. Weiss directly, as Newtown Borough was not involved in the decisions made regarding the work. Mr. Williams will speak to Mr. Weiss to advise him of the Borough's position.

Escrow Release for Cologne Associates

Mr. Young recommended the release of the escrow, noting that ample funds remain to address the outstanding sidewalk issues. The escrow was for public improvements.

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor Jaslow, and carried unanimously, to authorize Escrow Release #15 to Cologne Associates for public improvements at the Phillips Court development for \$12,000.

Ms. Woldorf asked about issues with the Newtown Station basin and whether the appropriate plantings were used in the basin. Mr. Young explained that an 18-month maintenance bond will be in effect, which should address any outstanding problems and he will confirm the basin plantings.

Ms. Woldorf asked the Engineer about mud that appeared after the latest heavy storm and questioned where the mud was coming from. The Engineer will look into the matter.

Mr. O'Malley asked about the ADA ramp plans for the Newtown Artesian Water Company project. Mr. Young stated that the ramps were part of the Water Company's permit with PENNDOT and plans will be available.

Presentation of Minutes

- ❖ A motion was duly made by Councillor Jaslow, seconded by Councillor Woldorf, and carried unanimously, to approve the July 8, 2009, Work Session Minutes.

Mr. O'Malley voiced concern that the July 14, 2009, Council minutes should have included at least a summary of Council comments on several issues, since Mr. Craig had requested Council input. Mr. O'Malley suggested holding off approval of the minutes pending some adjustments to the minutes. Mr. Craig felt that Council had agreed to simplify the minutes and include only "public" comment, since the DVD's provide the complete wording and that is why he had the secretary remove the individual Councillor comments. Mr. Sellers felt that there is a difference between the complete

absence of comment and brevity and he felt that there should be a balance. Ms. Woldorf wanted the opportunity to see the summarized comments that were removed from the minutes. There was no specific response to Mr. Walker's question about what expectation Council should set for the secretary in terms of her ability to adequately summarize the comments of Council. Mr. Jaslow felt that the minutes speak for themselves and the section in question was the President's Report and his comments were the ones recorded.

- ❖ A motion was duly made by Councillor Jaslow, seconded by Councillor Walker, and carried with Councillors Craig, Jaslow and Walker voting to approve, Councillors O'Malley, Sellers and Woldorf voting nay and with Mayor O'Brien breaking the tie by voting to approve, the Council Meeting minutes for the July 14, 2009, meeting.

Mr. Sellers admonished the Mayor for his handling of the vote. Mr. Jaslow expressed his disappointment that the Mayor was reprimanded for his vote and suggested discussing the issue of the minutes at the next work session.

COMMITTEE REPORTS

Budget & Finance – Robert Walker

Consolidated Report

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor O'Malley, and carried unanimously, to accept, subject to audit, the consolidated expenditure report for the month of July 2009, totaling \$171,980.38.
- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Jaslow, and carried unanimously, to authorize payment to Reed Smith LLP for \$2003.45, pending confirmation that the April 17, 2009, invoice has not already been paid.

2010 Budget Schedule

Mr. Walker reminded Council of the 2010 budget schedule and the need for their respective boards and committees to provide the budget information to the Treasurer.

Newtown Corporation – Christine Ortwein

Ms. Ortwein reported that the Economic Restructuring Committee has completed their revised Strategic Plan. In reviewing the Borough's draft Comprehensive Plan, the committee made recommendations to the Planning Commission with regard to the Economic Development Chapter and the Land Use Chapter. The Committee continues to advocate for zoning changes on North State Street to allow light retail to be a use by right rather than by special exception. The 325th Anniversary Celebration will conclude with the last performance of the *Sweet Land* production on August 27, 2009.

Personnel Committee – Julia Woldorf

Ms. Woldorf commented on the number of applicants for the Recreation Board position and noted that Joshua Horenstein had withdrawn his name from consideration. The other interested individuals were Maryellen Raymond, Betsy Stucker, Frank Brassell and Kevin Guest. Mr. Walker referenced the Recreation Board's recommendation and both Mr. O'Malley and Mr. Jaslow felt the Committee's recommendation was important to consider.

- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Woldorf, and carried unanimously, to appoint Maryellen Raymond, 120 N. Chancellor Street, to the Recreation Board to fill an unexpired term through December 31, 2011.

Ms. Woldorf announced that the Borough is accepting applications for an opening on the Environmental Advisory Council.

Planning Commission – Michael Sellers

Mr. Sellers read Chairman Woldorf's report and asked that it be included in the minutes:

1. No formal actions were taken on discussions at the meeting.
2. Members present continued their discussion of draft 2009 Comprehensive Plan review comments received since the 07-06-09 NBPC meeting, comments received the day of that meeting, and comments received prior to the July meeting.
3. As no comments received were determined to alter its 06-01-09 formal motion, the members reaffirmed their recommendation that Borough Council send the draft 2009 Comprehensive Plan with addenda (provided to Borough Council president on 06-08-09) to Newtown Township and the Council Rock School Board Superintendent to begin the 45-day review period required by Section 302 of the PA Municipalities Planning Code.

Mr. Jaslow questioned the fact that the Planning Commission did not consider over 30 recommendations significant enough to be addressed. Since the Planning Commission offered no comments, Mr. Craig said that Council must review the comments and discuss the issues at a Work Session. Although Ms. Woldorf stated that until final adoption of the Plan there is always an opportunity for comment, Mr. Jaslow saw no reason to forward a plan to other entities when it is still a work in progress. Mr. Sellers and Ms. Woldorf felt that the Comprehensive Plan is simply a planning document and does not require review by the Borough professional consultants.

Paul Salvatore, a member of the Planning Commission, said that he submitted a list of his recommendations and his request for consultant reviews. The Planning Commission felt that Council should be responsible for any further discussions.

Police Committee – Robert Walker

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor Jaslow, and carried unanimously, to approve the purchase of the ENRADD equipment at a cost of \$3,925.00

Shade Tree Commission – Gerard O'Malley

Mr. O'Malley noted that the N. Lincoln Avenue trees need trimming and the Commission is looking at the best approach. He also commented that the Commission has \$5000 each year for tree maintenance. Property owners remove trees but do not always replace them and the Commission would like to encourage replacement of those trees. One idea was a grant program or lottery, sponsored by the Borough using the \$5000. Additional research about the use of public funds for this purpose is required, but it might be a way to encourage replacement. The Commission is considering placement of trees along N. Congress Street next to the park.

Traffic Committee – Gerard O'Malley

The first Joint Traffic Committee meeting with Newtown Township was a very productive meeting. The Sycamore and State Street circulation area was of high priority. Pedestrian safety, improvements to the bypass and linkage between the Borough and Township with bikes paths were other areas of discussion.

Mr. O'Malley commented that a meeting on the Smart Transportation Grant project should take place in mid-September.

Solicitor's Report – Donald E. Williams

Mr. Williams reported that discussion on the Sidewalk Ordinance, Public Art Ordinance, and a Use Ordinance will be discussed at the September Work Session.

Old Business

Mr. Walker reminded the public about the next Hazardous Waste Pick-up scheduled for August 15, 2009, at the Bucks County Technical School.

Public to be Heard

Jon Guy, 110 S. Congress Street, asked that Council resolve their issues with minutes as much time is wasted at each meeting. Mr. Guy found Mr. Sellers earlier comments regarding the Mayor's vote offensive and inappropriate and he appreciated Mr. Jaslow coming to the defense of the Mayor.

Councillor O'Malley spoke under Public to be Heard in order that his comments be included in the minutes. Mr. O'Malley noted that Mr. Craig had asked Council for their input regarding surveillance cameras at the previous meeting, so Mr. O'Malley chose this avenue to have his thoughts from that meeting included as part of the record. He had commented that time be taken, basic assumptions be tested and that there be full public debate on the camera issue. Mr. O'Malley noted that there are many sides to the discussion on whether cameras are necessary and there are costs beyond the financial, which is why full discussion is needed, prior to taking any action.

Paul Salvatore, 148 N. Elm Avenue, agreed with Mr. O'Malley about having a full discussion but felt Council needs all information, including the information that Mr. Sellers had previously offered to provide on communities where cameras had not worked. As a father, Mr. Salvatore feels better knowing that there are cameras in certain areas and that it might be a deterrent.

Patty Lovi voiced concern about the work environment created for the Secretary with the continued discussion on minutes. Ms. Lovi felt that Council had not given the Secretary direction on the policy and procedures for handling the minutes, but it needs clarification.

The meeting was adjourned at 11:18 P.M.

Respectfully submitted,

Marcia M. Scull
Borough Secretary

IN ATTENDANCE

Melissa Lenahan	First National Bank of Newtown
Nicole Tshudy	First National Bank of Newtown
Mary & David Callahan	113 Court Street
Paul Snyder	1 Brynwood Lane
Joanne Bintliff-Ritchie	4 Hansel Road
Jennifer Pennington	524 Penn Street
Bill Heinemann	35 N. Chancellor Street
Isabel Godwin	144 Liberty Street
Diane LeBas	104 Penn Street
Kirk Jones	109 S. Norwood Avenue
Nancy Terry	423 Washington Avenue
Kerry Brown	423 Washington Avenue
Paul Salvatore	148 N. Elm Avenue
John Leonard	446 E. Centre Avenue
Jim McAuliffe	545 E. Centre Avenue
Frank Brassell	538 Penn Street
Jon Guy	110 S. Congress Street
Lorraine Pentz	98 Penn Street
Liz, Perry & Rebecca Warren	149 Andrew Drive
Ralph Posmontier	32 N. Lincoln Avenue
Jack & Denise Kelly	15 N. Elm Avenue
Joe & Patty Lovi	151 N. State Street
Caroline Bennett	Liberty Street
Allan Smith	Developer

Robert Hillier
Jennifer Dix
Bernie Heyman
Larry Fink
Bill Smith
Christine Ortwein

Developer
Newtown Township
Newtown Township
Court Street
Newtown Jewelers
Newtown Corporation