

Council Meeting  
September 14, 2010  
Chancellor Center

President Julia Woldorf called the regular semi-monthly meeting of Newtown Borough Council to order at 7:00 P.M. on Tuesday, September 14, 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. Mr. Sellers was excused.

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

- The Police Report for August 2010 was presented.  
Mayor O'Brien reported that a speed enforcement detail resulted in eleven written citations.

### **Special Events Reminder**

The Mayor noted that the Newtown Library Company's 250<sup>th</sup> Anniversary Block Party was held on September 5 and was a wonderful event.

- Music Fest – October 1, 2010 from 6-10 P.M. at Linton Memorial Park
- Market Day – Newtown Historic Association, October 2, 2010 from 10 A.M.-4 P.M.
- 5K Run/Walk – Newtown Library Company, October 9, 2010, Registration at 8 A.M.
- Halloween Parade – October 30, 2010, 9-11 A.M. from the Stocking Works to the Newtown Theater

The Mayor reported that he met with a web designer regarding the Borough website and he would like the Ad Hoc Technology Committee to meet to discuss possible options.

Councilor O'Malley asked the Mayor about recognizing the local State Championship 12 year old baseball team that did so well in the regional tournaments. The Mayor said he is usually contacted about such recognitions by the American Legion.

### **Amendments to the Agenda**

There were no amendments to the agenda.

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

Ms. Woldorf reminded the public that September 29, 2010, would be the 5<sup>th</sup> Anniversary of the death of Newtown Borough Police Officer Brian S. Gregg and she asked Council to dedicate a page in the Minute Book in Brian's memory.

IN MEMORY OF THE 5<sup>TH</sup> ANNIVERSARY  
OF THE DEATH OF  
POLICE OFFICER  
BRIAN STEVEN GREGG

Killed in the line of duty on  
September 29, 2005

Brian S. Gregg served Newtown Borough with dedication and compassion. He had a wonderful sense of humor, a warm and generous smile and a way of touching everyone he met. Brian made the ultimate sacrifice in protecting the Borough that he loved and he will always be remembered by a grateful community.

The public was reminded of the new 4-way stop sign installed at Penn Street and Lincoln Avenue and of the reduction of the speed limit on Washington Avenue to 25 M.P.H.

As required by Act 205 of 1984, the law requires the Chief Administrative Officer of each municipal pension plan to inform the governing body of the municipality of the Non-Uniform Pension Plan and the Police Pension Plans expected financial obligation for the plan year 2011, no later than the last business day of September. The financial obligation for the Non-Uniform Plan is \$8,578 and the figure for the Police Pension Plan is \$69,498.

Ms. Woldorf announced that the Ward II polling place would be moved from the Mercer Street garage location to the Newtown Sewer Authority building on S. Congress Street. The official approval for that move is in process, but voters should be aware of the change, which should take place prior to the November 2, 2010, election.

### **Correspondence**

A letter was received from the Department of Community and Economic Development (DCED) acknowledging the closeout of the Borough's Old Skunky Grant.

The Bucks County Borough's Association sent notice of their September 28, 2010, dinner meeting and Ms. Woldorf invited Council members to attend.

An invitation was extended by the Newtown Jointure Committee to attend a presentation at the Upper Makefield Township building on September 16, 2010, discussing the Neshaminy Watershed Stormwater Management Plan.

A letter was received from the office of the Auditor General advising that a state audit of the Borough's pension plans would take place this month.

Notice was received that Bucks County has created a bicycle task force and all Bucks County communities will be questioned regarding their interest in this activity.

### **Public to be Heard**

Charles Swartz, 323 E. Washington Avenue, asked Council and the residents of Newtown Borough to consider placing blue lights in their windows in memory of the 5<sup>th</sup> Anniversary of Officer Brian Gregg's death and in support of all police officers. Mr. Swartz noted that an informal gathering would take place on September 29, 2010, from 6-7 P.M. at the Brian S. Gregg Memorial Park for a time of reflection and silent meditation. Candles will be provided or the public can bring their own to be lit in memory of Brian. As noted, this will be an informal gathering with no speakers or agenda, simply a time to remember Brian and his impact on our community.

### **Budget Presentation – Gerard O'Malley**

Councilor O'Malley provided a power point presentation with an overview of the budget process and he used a pie chart based on the 2010 budget to highlight the basic categories and percentages.

Mr. O'Malley gave a short explanation of each of the funds and noted that the second largest fund is the Operating Reserve Fund, which was originally formed with moneys from the RCN Cable settlement. The General Fund covers the bulk of the day-to-day operating expenses for the Borough. The majority of the funding comes from the Earned Income Tax, Local Services Tax and Real Estate Transfer Taxes, which makes up approximately 66% of the Borough revenues. Only 13% of Borough revenues come from the Real Estate Tax and approximately 7% comes from fines.

With regard to expenses, the Borough Police Department is the single largest expenditure at \$735,000. Because the Borough cares about planning, zoning and its historical architecture, approximately \$102,000 is used for planning, zoning and HARB expenses. Street maintenance and public works are an important part of the Borough expenses, as are professional services and administrative staff expenses. Snow removal expenditures are all dependent on the weather and therefore difficult to anticipate in advance.

In looking at trends over the past 6 years, Mr. O'Malley noted rising revenue growth during the 2004-2007 time frame, due in part to the Frost Watson development. During 2008-2010, tougher economic times were evident. The real estate transfer tax income revenues have diminished, the Earned Income Tax has been flat, with a general trend toward declining and now flattening out. In looking at 2011, Mr. O'Malley suggested looking at those trends, noting that certain expenditures are required, some items are unplanned but realizing the need to prioritize. Tough tradeoffs and decisions must be made and Council must look for greater efficiency in how money is spent and look at grant funding to assist with projects.

### **Certificates of Appropriateness**

Ms. Woldorf explained a change in the procedure for HARB approvals that would include review of each application individually and asking applicants if they have any comments prior to the vote being taken.

### **COA 2010-034-H Applicant: Global Home Improvement, Inc., 207 Penn Street, McCafferty residence**

Mr. McCafferty addressed Council requesting a different roofing material than that approved by HARB. He said the approved tin roof would require periodic painting and would be more expensive to install and maintain than the metal roof he was requesting. Mr. McCafferty also noted that he could obtain energy tax credits for the metal roof and that it would last for 50 years without fading.

In response to Ms. Woldorf's questions, HARB chairman McAuliffe explained that HARB's recommendation, after looking at samples of the proposed metal, was based on several facts: the metal roof would be a new material on an existing structure; HARB has been consistent about the use of replacement materials; and the more traditional painted tin would be more appropriate to the structure, as it would have a hand-hewn look as opposed to the perfect lines of the new material.

Paul Kaslov of Global Home Improvement, Inc. showed a sample of the proposed metal material to Council and noted that a low gloss finish would be used. Brian Parke, president of the company that manufactures the product, explained that it is much like Teflon, in that it does not fade, chalk or peel and is made of recycled materials.

- ❖ 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 Certificate of Appropriateness, thereby approving the historical appropriateness of the application, with final approval by the Code Enforcement Officer.

**COA 2010-034-H Applicant: Global Home Improvement, Inc., 207 Penn Street, McCafferty residence**

The applicant was seeking a Certificate of Appropriateness for an amendment to approved COA-2010-034 for siding on dormers and metal roofing, noting that the lower roofs would be painted tin with a raised seam of 1" or less, and the sidewalls on the dormers would be Hardiplank with exposure to match the original house clapboard.

**COA 2010-035-H Applicant: Randall Therssen, 5 West Washington Avenue, Felix's Caketeria**

- ❖ A motion was duly made by Councilor Burke, seconded by Councilor O'Malley, and carried with Councilor Warren 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 2010-035-H Applicant: Randall Therssen, 5 West Washington Avenue, Felix's Caketeria**

The applicant was seeking a Certificate of Appropriateness for the installation of two signs, one wall sign and one freestanding sign.

**Engineer's Report – Maryellen Saylor**

The 2010 Frost Lane project has begun and storm sewer installation is scheduled for Thursday.

Ms. Saylor asked for clarification on the sidewalk materials approved by Council, noting that bluestone was approved but not slate. Council agreed that bluestone is a type of slate.

With regard to the curb ramps at Washington Avenue and State Street, Ms. Saylor e-mailed the design engineer with concerns about the grade for the two proposed ramps that need to be installed.

**Newtown Corporation**

Councilor Warren explained that since 2006 the Newtown Corporation has applied annually for a Special Events Liquor License from the State Liquor Control Board by identifying itself as an organization with one of its purposes being the preservation of architectural heritage in Newtown Borough. Newtown Borough Council passed a resolution in 2006 recognizing the Newtown Corporation as having architectural heritage preservation as one of its purposes. Mr. Warren felt

that purpose might now be in question. Council sent the Newtown Corporation a letter asking them to provide evidence that this purpose still exists.

Newtown Corporation board member Charles Swartz, chairman of the Design Committee, addressed Council regarding their concerns. From an organizational standpoint, Mr. Swartz felt that there were larger issues that required attention rather than focusing on design plans at this point. Mr. Walker pointed out that over the life of the Corporation the Borough has benefited by approximately \$1,000,000 and he asked Mr. Swartz for his opinion about continuing a relationship with the Newtown Corporation. Mr. Swartz responded that given the potential for Newtown Corporation to present itself as a viable organization, that with the appropriate leadership and government input it could be a very worthwhile organization.

Mr. Warren asked Mr. Swartz specifically if the Newtown Corporation is an organization who has among its purposes the preservation of architectural heritage in Newtown Borough and are there funds allocated for the Design Committee, to which Mr. Swartz responded yes for the 2011 Corporation budget year.

Mr. O'Malley asked Mr. Swartz, as a resident, if he felt that this Resolution supports the interests of Newtown Borough and again Mr. Swartz responded yes.

Board member Joshua Horenstein felt that all of his efforts and motions have been knocked down by a Board that does not support those efforts. Mr. Horenstein was concerned about the expenditures this year and the \$53,000 balance that remain in their account. He feels that leadership is the issue and until there is a change, he is concerned about a continuing financial loss to the Corporation budget. In response to Ms. Woldorf's questions, Mr. Horenstein said that he does not see preservation of architectural heritage as a priority and sees most of the funds being spent on marketing.

Paul Salvatore, 148 N. Elm Avenue, a former board member of the Newtown Corporation, gave a brief history of the Design Committee. Mr. Salvatore said that the committee was originally volunteers, with Allan Smith as the chairperson, and the committee's focus was on streets and facades. He added that when Mike Sellers took over as chairperson, the focus changed to the Newtown Creek. A grant was received for the Newtown Creek, but that was where he believed the direction shifted under Mr. Seller's leadership. Mr. Salvatore said he actually raised some of Ms. Woldorf's issues last year with Newtown Corporation Manager Chris Ortwein, noting that the Creek was fine, but the focus needed to go back to the streets. Mr. Salvatore commented that he felt economic development must go hand-in-hand with preservation and if there is no money, then preservation cannot happen.

Mark Craig, 117 E. Washington Avenue, was a founding member of the Joint Downtown Newtown Corporation and he felt that Council did not understand the basis for the Main Street Program. The Main Street Program was created by the National Trust for Historic Preservation recognizing that unless the focus is on the economic revitalization of downtown areas, those areas will disappear. Mr. Craig commented that rekindling community pride, improving advertising and promoting special events would result in preservation of our towns, but to focus only on specific areas like facades is wrong. Architectural preservation is preserving the whole community. Nothing has changed in the purpose of the Corporation only the name changed from Joint Downtown Newtown Corporation to Newtown Corporation. The focus of the corporation is no different than it has ever been, it has simply expanded since the Corporation now needs to be self-sustaining and find new ways to raise money and promote Newtown.

After all of the discussion, Mr. Warren commented that he was sufficiently satisfied, particularly by Mr. Swartz's statement, that it is still the purpose of the Newtown Corporation to preserve architectural heritage in Newtown Borough and he was therefore not inclined to make a motion tonight to rescind the Resolution, particularly in light of the impact it would have on the scheduled Brew Fest event. Mr. Warren would like to see a renewed commitment to architectural preservation going forward.

Mr. O'Malley said that any action taken should be for the benefit of residents and businesses, not for special interests, friends or Newtown Township and he agreed that no action should be taken at this time.

While Ms. Woldorf appreciated what Mr. Swartz said, she was not convinced that the rest of the Corporation intended to support architectural preservation in Newtown Borough and she was troubled that Council chose not to act on the Resolution.

### **Presentation of Minutes**

- ❖ A motion was duly made by Councilor Warren, seconded by Councilor Walker, and carried with Councilor Burke abstaining, to approve the minutes of the August 4, 2010, Work Session Meeting.
- ❖ A motion was duly made by Councilor Warren, seconded by Councilor Walker, and carried with Councilor Burke abstaining, to approve the August 10, 2010, Council Meeting.

## **COMMITTEE REPORTS**

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

#### **Consolidated Report**

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor O'Malley, and carried unanimously, to accept, subject to audit, the consolidated expenditure report for the month of August 2010 totaling \$108,586.55.

### **Environmental Advisory Council – Bob King**

Bob King, co-chair of the Environmental Advisory Council (EAC), presented Council with a draft of the Open Space Plan at the September Work Session. He asked Council if they had any comments or suggestions prior to scheduling a public hearing. In response to Mr. Walker's question about consideration of maintenance costs and liability insurance or additional expenses that might be incurred by the Borough, Mr. King responded that the Borough is entitled to receive \$234,306 in Open Space funds but the decision to implement the Open Space Plan would be the responsibility of Borough Council. Approving the Open Space Plan does not obligate the Borough to spend the funds. The EAC's focus has been to preserve property along Newtown Creek.

A public discussion will be held at the October 12, 2010, Council Meeting and the Open Space Plan will be posted on the Borough website for review by the public.

### **Joint Historic Commission – Julia Woldorf**

Ms. Woldorf reported that the Joint Historic Commission recommended approval of a partial demolition at 127 Liberty Street.

### **Personnel – Perry Warren**

Mr. Warren announced that the Borough is looking for a Grants Facilitator to assist the Borough. There is also an opening on the Environmental Advisory Council and on the Building Codes Board of Appeals.

### **Solicitor's Report – Paul Cohen**

A public hearing was opened to discuss the passage of an ordinance for the Borough of Newtown, County of Bucks, Commonwealth of Pennsylvania, regulating Special Events occurring in the Borough of Newtown. This ordinance was duly advertised in The Advance of Bucks County on August 19, 2010, and sent to the Bucks County Law Library on August 20, 2010. The Solicitor clarified that any events currently scheduled in the Borough that were previously approved will not be affected by this ordinance.

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor Burke, and carried unanimously, to adopt Ordinance #707 regulating Special Events occurring in the Borough of Newtown.

The Solicitor addressed the transition process for tax collectors. The Borough would be required to terminate their agreements with Berkheimer Associates for the collection of earned income tax and local services tax.

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Walker, and carried unanimously, to authorize the Solicitor to send written notice to Berkheimer Associates of termination of the existing agreements. One dated November 14, 1995, as amended, revised and renewed, and an agreement dated November 9, 1993, as amended and renewed, as well as any other agreements that were entered into by Berkheimer and Newtown Borough for the collection of taxes.

Notice was received that a sound test would be performed on September 30, 2010, at 8 P.M. at LaStalla Restaurant. Any interested parties are invited to attend. Mr. Cohen noted that LaStalla has continued to play outside music despite the fact that the owner had agreed to discontinue outside music. A notice of violation from the Liquor Control Board was sent. The Conditional Use Hearing has been continued until October 13, 2010.

Council will decide at the October Work Session whether to oppose the Zoning Hearing Board application of Toll Brothers for changing a fence at the Newtown Station property.

### **Old Business**

There was no old business.

## **New Business**

There was no new business.

## **Public to be Heard**

There was no one who wished to be heard.

The meeting was adjourned at 10:00 P.M.

Respectfully submitted,

Marcia M. Scull  
Borough Secretary

## ATTENDEES

Warren Woldorf	440 Washington Avenue
Jeff Werner	The Advance
Jim McAuliffe	545 E. Centre Ave.
Jon Guy	110 S. Congress St.
Liz Warren	149 Andrew Dr.
Marlowe Gordon	136 N. State St.
Robert King	242 S. Chancellor St.
Brian Parke	Ivyland, PA
Paul Salvatore	148 N. Elm Ave.
Charles Swartz	323 E. Washington Ave.
Gerlyn Williford	218 N. State St.
Paul Kazlov	Global Home Improvement, Inc.
Jen Pennington	524 Penn St.
Mark Craig	217 Washington Ave.
Josh Horenstein	21 S. Lincoln Ave.
Gemme Duarte	Bucks County Courier Times