

Council Work Session
September 7, 2010
Council Chambers

The regular monthly work session of Newtown Borough Council was called to order at 7:00 P.M. on Wednesday, September 7, 2010, by President of Council Julia Woldorf.

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

Ms. Woldorf announced that an Executive Session was held prior to the meeting for discussion of pending litigation and personnel.

Public to be Heard

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

Newtown, Bucks County, Joint Municipal Authority

Ms. Woldorf explained that Newtown Township had asked Council to meet with them to discuss the Act 537 Plan and other unidentified sewer issues. Councilor Sellers questioned the reason for scheduling such a meeting and felt that Council would need more detail to consider such a meeting. Additionally, Newtown Borough recently passed a Resolution extending their charter with the Sewer Authority for another 50 years.

Eric Johnson, Chairman of the Joint Municipal Authority, thanked Council for their support of the charter. Mr. Johnson explained the history with Newtown Township leading to this point and noted that after he and Warren Gormley met with the Supervisors in April, their Solicitor was asked to advertise their Resolution for the 50 year extension, with adoption at the next meeting. Newtown Township never passed the Resolution and when Mr. Johnson asked the Chairman of the Supervisors about it, the response was that it might not be passed until the early part of next year. Mr. Johnson noted that the Sewer Authority Board has always been a mix of political parties, but politics has never come into play in their work. They have simply done what is best for the communities, which is what they will continue to do.

Ed Woyden, with Gannett Fleming Engineers, the engineer for the Newtown Sewer Authority since 1961, explained that the Act 537 Plan is a municipal function, with the municipalities deciding if sewers need to be extended, and updating the plan if there is growth or change in the community. The Authority only comes into play for implementation of the 537 Plan.

Mr. Sellers clarified that both municipalities appoint three members each.

Frank Fabian noted that this board is the longest running joint venture between Newtown Borough and Newtown Township.

Warren Gormley, Manager of the Sewer Authority, responded to Ms. Woldorf's question about planned projects for the Borough by responding that although the sewer system is old, only routine maintenance is

required and as roads are completed, manholes are replaced with a new frame and cover. The Sewer Authority takes an aggressive approach to maintenance and they actively pursue anyone who is illegally discharging into the sewer system.

At the suggestion of Board Member Paul Lewis, Mr. Gormley explained that the Authority has accumulated a cash reserve that could cover pump stations, meter sites, even a catastrophic event. Slip-lining is being added in the Borough from manhole to manhole rather than digging up the streets and all of these expenses are covered with these funds, in addition to various other sewer issues in the Township. The reserve has come from developer tapping fees, but with a reduction in the number of new construction projects, there are fewer fees being accumulated.

Skip Goodnoe, a past member of the Authority, said the Newtown Sewer Authority is a good example for the county of having a tight and a well-metered system. If local control of the Authority was lost, the system would still empty into Philadelphia and the metering would become a significant issue. In his opinion to cede control to someone who does not have the local payers' interest would be a disaster.

Mr. Sellers suggested that Council respond to Newtown Township that they see no reason to meet unless, as Mr. O'Malley commented, there is additional rationale on their part for doing so.

Open Space Plan – Bob King

Environmental Advisory Council (EAC) member, Bob King, distributed copies of the Open Space Plan, as drafted by the Heritage Conservancy, and with changes made by the EAC. Mr. King asked Council to review the draft and make comments with the intention to adopt the plan before December.

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

- Sidewalk Discussion

Ms. Saylor reported that since Council's sidewalk discussion at the last meeting, HARB discussed the issue of materials. HARB was concerned about the use of stamped concrete and pavers and recommended against using those materials. Council concurred with HARB's recommendation and agreed to prohibit them throughout the Borough, not just in the Historic District. The only permitted materials for sidewalks would be brick, bluestone, and standard concrete. The driveway materials would be brick, smooth macadam, or standard concrete.

With regard to ramps, Mr. Cohen reported that he found one municipality that offered a cost-sharing option for ramps when sidewalk replacement was required. Additional clarification from PennDOT is required regarding the timeframe within which to upgrade ramps after a sidewalk repair/replacement.

- Newtown Artesian Water Company State Street Project

Ms. Saylor received revised drawings for the State Street and Washington Avenue curb ramps from the engineering firm of Gannet Fleming. After review of the drawings and discussion, Council made the following motion:

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor Burke, and carried unanimously, to authorize the President of Council to send a letter to Newtown Artesian Water

Company advising them that Council agrees with the revised design for ramp #6 at State Street and Washington Avenue, assuming it meets PennDOT's approval.

- **Handicapped Ramp at Lafayette Street and Lincoln Avenue**
An existing curb ramp at Lafayette and Lincoln Avenue is very steep and non-compliant with ADA regulations. In speaking to PennDOT about removing the ramp, Ms. Saylor was told that a pedestrian study would be required to prove that there are very few pedestrians using that sidewalk area, but she will need to contact PennDOT again for the specific study criteria.
- **Act 187 Neshaminy Creek Watershed Ordinance Stormwater Management Plan**
The Bucks County Planning Commission approved the draft of the Neshaminy Creek Watershed Ordinance Stormwater Management Plan and the Department of Environmental Protection (DEP) is now reviewing it. Once DEP approves it, the municipalities then have 6 months to revise their plans to comply.
- **2009 Frost Lane Update**
The contractor took core samples to address concerns about the cracking of the pavement from the 2009 Frost Lane paving. As a result, Ms. Saylor recommends that the contractor return, mill-out and overlay the sections in question.
 - ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Walker, and carried unanimously, to accept the engineer's recommendation for Frost Lane for the work to be completed by the contractor, in accordance with those recommendations and to the satisfaction of the Borough engineer.

Playground Audit Update

Councilor Burke reported that the recently completed playground audit prioritized safety concerns on a scale of 1-4 based on the urgency to make changes. He noted that the Recreation Board does not feel comfortable in reviewing the document and making recommendations, so Councilor Burke has taken the responsibility of the review. Ms. Woldorf commented that the playground audit consultant felt that the Borough should contact the manufacturer of the equipment about retrofitting, rather than the Borough attempting to make those corrections. Mr. Burke asked who would be responsible for the daily inspection of equipment once repairs are completed, to which Mr. Sellers responded that someone like Ron Fesmire could handle that on a daily basis. The matter of cost for addressing specific recommendations is also a concern, as some items are quite costly.

R-8 Letter of Support

Council discussed sending a letter of support for additional studies related to reactivating the R-8 line.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Walker, and carried unanimously, to send a letter of support regarding reactivation of the R-8 line.

Budget and Finance – Gerard O’Malley

- ❖ A motion was duly made by Councilor O’Malley, seconded by Councilor Walker, and carried unanimously, to approve the professional services invoices for the month of August 2010, including the playground audit.
 - ❖ A motion was duly made by Councilor O’Malley, seconded by Councilor Walker, and carried unanimously, to approve payment of invoices from Newtown Township for the 2010 Frost Lane Project, invoice #1 dated June 2010 and invoice #2 dated July 2010.
- Earned Income Tax (EIT) and Local Services Tax (LST) Collection
Mr. O’Malley explained that Keystone Collections Company would be handling EIT and LST tax collection beginning January 2011. The Borough must coordinate the transition process prior to the change from Berkheimer Associates to Keystone Collections. Solicitor Cohen will investigate the procedure and whether a separate ordinance would be required to appoint a specific tax collector.

Website Redesign – Dennis O’Brien

Mayor O’Brien reported that one system he had been investigating involved a \$2000 annual fee and additional software for each user, so he felt that would not be feasible for the Borough’s purposes. Ms. Woldorf voiced concern about the inability of staff and committee heads to post information directly and about the delay in posting agendas and minutes in a timely fashion.

Newtown Corporation and Resolution 08-08-06

Mr. Warren referred to Resolution 08-08-06, which is the basis for Newtown Corporation’s Liquor License. The Resolution acknowledges that the Newtown Corporation’s application for the license was based on the Borough recognizing that one of the purposes of the Corporation was the protection of the architectural heritage of Newtown Borough. Mr. Warren felt that was no longer one of the purposes of the Corporation and he noted that the Beer Fest event is no longer held in Newtown Borough. If the Newtown Corporation confirms that one of their purposes is still protecting the architectural heritage of Newtown Borough then Mr. Sellers would like to see the Newtown Corporation commit Brew Fest funds to the Borough for that purpose.

- ❖ A motion was duly made by Councilor Warren, seconded by Councilor O’Malley, and carried unanimously, to authorize the President of Council to send a letter to the Chairman of the Newtown Corporation addressing the issue of Resolution 08-08-06, and requesting that the Newtown Corporation provide evidence that it does in fact maintain, as one of its purposes, protecting the architectural heritage of Newtown Borough, and if it does not then a motion would be made at the September 14, 2010, Borough Council Meeting to rescind the Resolution and that the Newtown Corporation be so advised so that they could modify their application and take other action and that Newtown Borough would then notify the Pennsylvania State Liquor Control Board of their action.

Solicitor’s Report – Paul Cohen

For the record, the Solicitor noted that there was an Executive Session held prior to the meeting. Topics of discussion included litigation: the Smith/Scherer appeal, Bucks County Court of Common Pleas Docket #10-

03510; Langweiler litigation, Eastern District of Pennsylvania Docket #2010-cd310; as well as personnel matters.

The process for handling of council minutes, how they are prepared and reviewed by Council was then discussed. Currently a rough draft of the minutes is prepared, which Council President reviews before it is forwarded to the rest of Council for review. Council members do not discuss the minutes among themselves. Discussion takes place at an open meeting, after which Council formally approves them.

The other discussion involved the terminology of “work session.” Newtown Borough clearly holds an open advertised meeting, but the use of the term “work session” might imply that it is not an open meeting. It was clarified that Borough Council does comply with the sunshine laws and that the use of “work session” can continue.

The Zoning Hearing Board ruled against the Smith/Scherer application for 516 E. Centre Avenue and the applicant appealed. The appeal is ongoing in the Court of Common Pleas and the applicant has requested a continuance, while they seek an alternative proposal.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Warren, and carried unanimously, to authorize the Solicitor to declare no objection to a continuance of the Smith/Scherer appeal.

Ms. Woldorf announced that there would be an Executive Session prior to the Council Meeting on Tuesday for discussion of personnel.

Old Business

Mr. O'Malley discussed the fee-in-lieu of trees issue, which has yet to be resolved. The Shade Tree Commission made a recommendation, but both the Bucks County Planning Commission and the Newtown Borough Planning Commission had additional comments about the proposal. Mr. Burke is now the liaison to the Shade Tree Commission and the Commission will discuss the issue and try to come to some resolution so that a formal ordinance can be adopted.

Mr. Sellers reminded everyone about the installation of stop signs at Penn Street and Lincoln Avenue. He also reported the installation of 25 M.P.H. signs on Washington Avenue and that the crosswalks were painted.

Ms. Woldorf discussed the Comprehensive Plan. The approved plan should be posted on the website with several color copies available in Borough Hall and one at the Newtown Library. Black and white copies with colored maps would be available for purchase. Mr. O'Malley felt that the “Action Plan” should be given to Council and to the Committee Chairs.

Mr. Burke asked about the process for HARB approvals and Council decided that each application should be approved individually.

New Business

Mr. O'Malley announced that the next Joint Traffic Committee meeting with Newtown Township would be on September 23, 2010 at 7 P.M. The Committee would like to have the police chiefs of Newtown Borough and Newtown Township in attendance, with the topic being pedestrian safety and the enforcement of crosswalks.

The Newtown Library Company will be holding its 250th Anniversary Block Party on September 12, 2010, and the Mayor suggested having a Proclamation for the event.

Public to be Heard

Jen Pennington, 524 Penn Street, thanked Council for the stop sign at Penn Street and Lincoln Avenue. Ms. Pennington commented on the Playground Safety Audit, but voiced concern about the recommendation to remove the swing set at Linton Memorial Park. Ms. Pennington would like Council to consider that entire area of the park before making a decision.

There was a motion to adjourn at 9:49 P.M.

Respectfully submitted,

Marcia M. Scull
Borough Secretary

IN ATTENDANCE

Warren Woldorf	440 E. Washington Avenue
Danny Adler	Bucks County Courier Times
Jeff Werner	The Advance
Eric Johnson	242 S. State Street
Warren Gormley	Newtown Sewer Authority
H. Paul Lewis	Newtown Sewer Authority
Frank Fabian	Newtown Sewer Authority
Skip Goodnoe	Newtown Sewer Authority
Dave Callahan	Newtown Sewer Authority
Marty Sutton	Newtown Sewer Authority
Bill Palkovics	Newtown Sewer Authority
Jen Pennington	524 Penn Street
Mark Craig	E. Washington Avenue