

Council Work Session
September 7, 2011
Council Chambers

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

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

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.

Banner Request for Newtown Beer Fest – Newtown Fire Company

Pat Foster, representing the Newtown Fire Association, requested permission to hang a banner at the Fire House advertising the Newtown Beer Fest.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Burke, and carried unanimously, to approve the request of the Newtown Fire Company to hang a banner advertising the Newtown Beer Fest at the Fire House, with removal of the banner the day of the event, September 24, 2011.

Request to Televisе Candidate's Forum – Bill Heinemann and Paul Salvatore

Mr. Heinemann explained that he and Mr. Salvatore have been working with the League of Women Voters to schedule a Candidate's Forum on October 10, 2011, at the Chancellor Center starting at 7:30 P.M. They are arranging to videotape the Forum and requested that Council approve rebroadcasting the Forum on the Borough's cable channel. In response to Mr. Warren's question, Mr. Heinemann said that both political parties would split the expense of the taping.

Mr. Walker asked the Solicitor if the Borough could permit the use of the government access channel for political purposes, to which Mr. Cohen responded that he saw nothing that would prohibit it, since it is a forum for both political parties. Mr. Cohen added that he did not see a conflict of interest with three members of Council voting on this issue, even though they are candidates who would be participating in the Forum. Mr. Cohen said that since this vote is taking place prior to their participation in the Forum it is not a conflict, however, if the Councillor candidates voted after their participation that could be a potential

conflict. Mr. Walker voiced concern about the perception of impropriety and he did not feel that it was appropriate for the candidates to vote. Mr. Sellers felt that conflict only arises if there is a pecuniary interest, which there is not in this case. Mr. O'Malley asked about the schedule for playback of the Forum suggesting that perhaps the Forum run in place of the Council meeting rebroadcast. Mr. Heinemann suggested scheduling the playback twice a week for three weeks, but Mr. Heinemann and Mr. Salvatore will make a formal recommendation prior to the Tuesday Council meeting.

Long Term Parking Committee Proposal for Valet Parking – Gerard O'Malley

The Long Term Parking Committee discussed utilization of the parking spaces behind the Ten Centre building. Mr. O'Malley said that one suggestion was for employee parking exclusively. The Committee also discussed the possibility of valet parking, including the potential benefits for the business district. In discussions of valet parking in 1996, the area available for the parking was not close to the business district, but with the availability now of spaces behind the 10 Centre Building, the idea of valet parking is much more feasible. Although the Borough cannot provide a valet parking service, it might be able to provide some assistance in providing the space for the service.

Erica Darragh, General Manager of The Temperance House, contacted several valet parking companies, but before moving forward, she wanted to receive approval from Council for 3-4 parking spaces on State Street, ideally between David Witchell's and The Temperance House. The proposal would be for valet parking on Thursday, Friday, and Saturday, which she felt would alleviate some of the parking issues in Newtown. There would be no cost to the Borough, other than signage, and the valet parking company would provide the insurance. Ms. Darragh clarified that the valet parking would not be exclusive to Witchell's and The Temperance House, but would be available to anyone. Mr. Witchell suggested trying this as a pilot program for one year. The valet company needs to park 40-50 cars a day in order to be profitable, so they would require a minimum of 40 spaces for parking those cars. If Council approves the project now, the business community could have it in place for the holiday season and it would be a great marketing opportunity that could benefit all the Borough businesses.

The Solicitor must review the lease for the 10 Centre lot to ascertain whether the Borough can use the lot for valet parking purposes. In reviewing the ordinance, Mr. Cohen questioned the designation of specific spaces for valet parking and he voiced concern about potential liability to the Borough. The Solicitor asked about the route for moving the cars to the 10 Centre lot. Mr. Witchell said that a specific route was required in 1996.

Mr. Walker suggested approaching Allan Smith for use of the Stockburger parking lot to gain additional parking spaces, which could provide a greater opportunity to try the valet program and to accomplish permit parking for employees.

Mr. O'Malley felt that this is a perfect opportunity to be innovative, creative, and experimental to see if this approach could work with the valet parking and some type of permit parking in the remaining spaces. Moving some of the employee parking should alleviate parking issues on the residential streets.

The Solicitor said that someone must take responsibility for the valet project, which would include signage, insurance, keeping the [designated] spots clear, and assuring that the process runs smoothly. However, he

said the Borough should not take on that responsibility. As soon as an agreement with the valet parking company is available, Mr. Cohen would like to review it. Signage and a small area for the valet parkers to work from must be determined.

Mr. Sellers suggested having a representative from the valet parking company attend the Council meeting on Tuesday, where discussion will continue.

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

Neshaminy Creek Watershed SMP Exemption Modification

Ms. Saylor reported that the Bucks County Planning Commission decided that volume control would no longer apply to proposed projects that have less than 1000 sq. ft. of impervious surface. Mr. Cohen recommended that during the comprehensive updating of the SALDO and Zoning Ordinance, he and the engineer could address this change.

Reflective Street Signs

Ms. Saylor reported that there is a proposal to remove the deadline for replacement of the required reflective street signs. The proposal would leave it in the hands of each municipality to determine which signs do not meet the standards. Mr. Walker suggested revisiting the recently submitted grant application for funding sign replacement, in which the Borough committed to minimum financial requirements.

Newtown Station Bollards

Council asked Ms. Saylor to look into breakaway bollards that were more decorative to replace those currently installed at Newtown Station, but she found that there are no decorative bollards available. The issue with the bollards is difficulty in removing them when there is a situation requiring emergency equipment to access the area. Two of the existing bollards could be removed and replaced with a chain, but chains can also be a problem. Mr. Walker suggested installing a universal lockbox with a hex key to facilitate removal of stationary bollards. Toll Brothers asked if Council would lift the maintenance bond and accept cash escrow for the bollards. The Solicitor would prefer to have cash escrow based on an estimate from the engineer.

Phillips Court

The Phillips Court developer has agreed to replace four lights with the Clarktown fixture and he provided the Borough with a copy of the lighting order. The developer also agreed to install the railings and said he would speak to the builder.

Dr. Zamerowski, a resident of Phillips Court, asked if the railing installation was around the periphery of the property. Ms. Saylor explained that the railings were only for two properties that did not have them on retaining walls. Dr. Zamerowski said that she had documents illustrating a decorative fence at the time she purchased the home. Based on the drawing, she felt that the fence work was incomplete, but Ms. Saylor saw no fence on the approved plans for Phillips Court. Although very happy with the Newtown Borough community and its residents, as a homeowner Dr. Zamerowski expressed frustration with several issues of workmanship that created both expensive repair and/or safety concerns for her. While understanding her frustration, Council

explained that the Engineer is only responsible for site improvements and the building inspector is limited to approving specific building requirements, not matters of quality or poor workmanship.

Newtown Artesian Water Company Curb Ramp Update

The traffic loops at the Washington/State Street intersection were to be replaced as part of the curb ramp replacement because they were damaged when the first work was completed. The Water Company is working with Armour & Company.

Newtown Borough Sidewalk Quadrants

Now that Council has approved the Sidewalk Ordinance, Ms. Saylor asked about resending letters to the property owners who had not completed their sidewalk repairs. Ten sidewalks from the 2005 Quadrant I have not be repaired and twenty-four from the 2008 Quadrant II are still in need of repair. Since the Borough sent the original letters, several properties were sold and some may have been repaired without permits.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Walker, and carried unanimously, to authorize the Engineer to re-inspect the Quadrant II sidewalks.

Penn Street Sinkhole Repair

Ms. Saylor reported on completion of the sinkhole repair and that the work was well done.

Provenzano vs. The Gap

The Solicitor reported on pending litigation regarding a slip-and-fall in front of The GAP and the Borough is named as a third party defendant in the action. The deposition of a Borough representative is requested and the Solicitor recommended that Ms. Saylor or another representative of Pickering, Corts & Summerson be authorized to represent the Borough at the deposition.

- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Warren, and carried unanimously, to authorize a representative from Pickering, Corts & Summerson to attend the deposition for Provenzano vs. The Gap.

Anti-Discrimination Ordinance – Julia Woldorf

Ms. Woldorf forwarded the Solicitor's draft Anti-Discrimination Ordinance to Council for review. Councillor Warren stated that he supports the proposed ordinance and suggested several modifications, including that the number of required commission members be reduced from fifteen to seven. Mr. Warren suggested that Council should discuss including an exception from the housing provision for owner-occupied 1 and 2 family residences.

Mr. O'Malley asked for clarification on the section regarding "expanded procedures" and whether there is a mechanism in place to close the "expanded procedures" process. Mr. Cohen explained that if the Commission determines that the fact-finding procedure does not resolve the issue, then the "expanded procedures" section would apply and Council could decide if they wanted an open hearing on the matter.

Mr. Burke asked about the enforceability of this ordinance and at what point the Borough steps back from the process. Mr. Cohen explained that the Human Relations Commission and the EEOC are part of the necessary process before a suit can be brought to State Court for violation of a person's civil rights.

Mr. Salvatore asked what effect this ordinance would have on businesses. Mr. Cohen explained that if someone felt that there had been a discriminatory act because of their sexual orientation, they could file a complaint, but there would be no immediate effect on the landlord/business. The individual would be required to go through the process and could then potentially bring action against that business. Mr. Burke asked if the Borough could be sued if a business thought their reputation had been tarnished. Mr. Cohen could not confirm it, but he felt that unless there was a finding that someone on the Commission committed fraud, the Borough would not be liable for exercising its duties.

In addition to providing a local venue, this ordinance would expand the protections to include classes of individuals currently not covered by the state law. If the allegation of discrimination is not a protected class that the state law covers, then the coordination with the state does not exist and the state cannot enforce it.

In response to Mr. Walker's question about the Human Relations Commission, Mr. Cohen explained that they would be functioning in a quasi-judicial manner. Mr. Walker voiced concern that Council has not thought through the process and the practical implementation of this ordinance.

Mr. O'Malley felt that the standard procedures are very straight forward and simple, as are the outlined expanded procedures.

Proposal for Newtown Borough Facebook Page – Gerard O'Malley

Mr. O'Malley would like Newtown Borough to have an official Facebook page and he felt that it would be an additional way to connect with residents and businesses. It would be helpful in communicating emergency information, public service announcements, basic contact information and meeting notifications. Basic policies and procedures should be addressed, such as a policy for responding to questions, Sunshine Law considerations, administration of the site, and removal of inappropriate postings.

Streets, Lights & Properties – Michael Sellers

Mr. Sellers spoke with a number of contractors who have expressed interest in the removal of the ramp at Lafayette Street and S. Lincoln Avenue and he expects to have three quotes for Council consideration.

Budget and Finance – Gerard O'Malley

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor O'Malley, and carried unanimously, to approve the professional services invoices for July, as outlined in the Treasurer's E-mail dated August 5, 2011.

Mr. O'Malley reported that the Bucks County Tax Collection Committee met and discussed the 2012 budget, noting that there would be no additional assessment to Newtown Borough. Transition has gone smoothly with few complaints.

Solicitor's Report – Paul Cohen

Newtown Corporation

Newtown Township reiterated their desire to have Newtown Borough detach itself from the Newtown Corporation. Borough Council again requested additional information from the Newtown Corporation, which included updated financial statements, a year-end summary, and 2011 meeting minutes.

Alarm Ordinance

Solicitor Cohen met with Chief Wojciechowski regarding changes to the Alarm Ordinance. There is a \$10 fee currently in place for review and approval of the alarm application, which would increase to \$25. In addition, there is a mechanism in place for fining individuals for false alarms with a one-time warning before charging a \$35 fine. The Chief would like to change that to two warnings before charging the fine. Some of the authority in the current ordinance is assigned to a Borough Manager, which the Borough has never had, so that correction should be made. The Zoning Officer suggested reviewing the Lansdale Ordinance for updated language regarding alarm systems.

Loading Zones

Mr. O'Malley said that after discussion with Chief Wojciechowski and the Long Term Parking Committee, there was consideration of changing the loading zones on Centre Avenue and on N. State Street to 30-minute parking spaces. The change was suggested because of confusion/interpretation of "loading zones," although Mr. O'Malley said that several of the business owners near the Centre Avenue zone feel that it is working as planned. Mr. O'Malley will have follow-up discussions with the Chief and the Committee.

Pension Plan Update

Mr. Cohen reported that he received the revised agreement from Pennsylvania Municipal Retirement Services (PMRS) and he is reviewing the changes. A new ordinance must be adopted incorporating the agreement and updating the Collective Bargaining Agreement confirming their [the officers] acceptance of the changes.

Old Business

Ms. Woldorf received eight Requests for Proposal for the website update, which the Website Committee will review on September 21, 2011. The Committee will select several proposals for future presentations to Council.

Jayne Spector prepared an excellent *Growing Greener* Grant application. Ms. Woldorf clarified that the 15% match could be entirely "in-kind" donations and even though the grants are not awarded until 2012, the "in-kind" matches can be applied retroactively, if documented. Originally, the Newtown Creek Coalition was to be the applicant, with the Borough as sponsor. However, since the Borough is the entity with the funds, the Borough must be the applicant with the Creek Coalition providing "in-kind" or cash matches.

Mr. Burke reported that the swings were installed in Linton Memorial Park. With regard to the funds for the project, Mr. Burke noted that the Rotary donated \$1000, Newtown Corporation committed to \$300 and the Recreation Board planned to donate the Movies in the Park collection of approximately \$300 to the swing fund. Mr. O'Malley said the Borough received several other miscellaneous donation and an anonymous donor offered to match the funds up to \$2000.

New Business

Mr. Sellers reminded Council that Fall Ball will begin at Pickering Field this coming weekend and will run for three consecutive weekends. Plans are to hang a banner on the third base line noting the sponsor, but it will be removed after each game. On September 11, 2011, an American Legion Post 440 color guard ceremony will be held recognizing the victims of 9-11.

Ms. Woldorf will provide Council with the Comprehensive Plan matrix and there will discussion at the October Work Session.

Public to be Heard

Regarding a previous comment by Mr. Sellers about the Newtown Corporation not providing information, Paul Salvatore asked Mr. Warren from whom he had requested information. Mr. Warren responded that he had e-mailed Frank Tyrol and Frank Brassell, two officers of the Newtown Corporation. In addition, Mr. Salvatore confirmed that the Corporation was donating \$300 to the swing set fund.

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

There was a motion to adjourn at 10:12 P.M.

Respectfully submitted,

Marcia M. Scull
Borough Secretary

IN ATTENDANCE

Jeff Werner
Warren Woldorf
Paul Salvatore
Larry Auerweck
Erica Darragh
Becky Betz
Bill Heinemann
Bob King
Suzanne Zamoski
David Witchell

The Advance

Temperance House
Becky's Deli

Gema Duarte
Dave Callahan
Pat Foster

Bucks County Courier Times

Newtown Fire Association