

Council Meeting
January 11, 2011
Chancellor Center

President Julia Woldorf called the regular semi-monthly meeting of Newtown Borough Council to order at 7:00 P.M. on Tuesday, January 11, 2011. Ms. Woldorf asked those in attendance to join her in a moment of silence and to remember those who were victims of the shootings in Arizona over the weekend. This was followed by the Pledge of Allegiance.

Present: Councillors O'Malley, Sellers, Walker, Warren and Woldorf; Mayor O'Brien and Solicitor Paul Cohen. Councilor Burke was excused.

Police Report – Mayor O'Brien

Police Report for December

Mayor O'Brien reported that officers provided coverage and directed traffic for several holiday events. In addition, random DUI patrols under state grants were held with several citations and violations issued.

The public was reminded that all vehicles should be removed from "Snow [Emergency] Routes" when snow begins and those vehicles could be moved to the parking lot behind the Liquor Store at 10 Centre or to the former Stockburger showroom parking lot on South State Street. Sidewalks must be cleared within 8 hours of the end of snowfall and residents are reminded not to shovel or "snow blow" the snow back onto Borough streets. Mayor O'Brien also noted that trash and recycle containers should be removed from the streets. If a snow emergency is declared, then all drivers are requested to stay off the Borough streets and to keep them open for emergency service providers and vehicles.

Mayor O'Brien announced that Newtown Borough has been nominated as one of "America's Coolest Small Towns," with twenty towns vying for the top ten positions. The Borough is currently in 8th place.

Amendments to the Agenda

Ms. Woldorf added discussion and approval of playground equipment installation and discussion of the procedure for personnel appointments to the agenda.

President's Report – Julia Woldorf

There was no President's Report.

Correspondence

Ms. Woldorf reported that she had received a copy of the Pennsylvania State Liquid Fuels Audit, a copy of the State Auditor General's Pension Audit and copies of the Federal Emergency Management Agency (FEMA) digital flood insurance rate maps and flood insurance report. The FEMA maps are available for public review and comment in the Borough office.

Invitations were received from the Red Cross asking for nominations for local heroes who will be honored at the "Breakfast for Heroes" on March 24, 2011; on January 25, 2011, the Greater Philadelphia Chamber of Commerce will hold a breakfast meeting to discuss economic development in the lower part of Bucks County and another breakfast meeting on January 25th hosted by the Bucks County Recreation Council will discuss the County's greenway, open space and trail plans.

PennDOT advised that traffic counts will be conducted between March and June on municipally owned roads and noting that they are not involved with speed traps, but simply for data collection.

Public to be Heard

Paul Salvatore, 148 N. Elm Avenue, thanked everyone for their support of the holiday events in Newtown this year, which included the Angel Tree project which collected 1200 gifts for needy families, a community Christmas brunch for families at the Brick Hotel, the Holiday Parade and Newtown's First Night event, which was a team effort with D.A.R.E. As Vice-Chairman of the Borough Planning Commission, Mr. Salvatore also thanked Kris Bauman and Gerri Lumpkin for their years of service to the Planning Commission, noting that their vision and experience will be missed.

Certificates of Appropriateness

COA 2010-051-H Applicant: Architect Michael Graeff, 222 S. Chancellor Street, Fraher/Ettori residence

The applicant was seeking a Certificate of Appropriateness for exterior renovations and construction of a first floor addition. The applicant submitted revisions to the original and agreed that the 3 windows in the former sunroom on the front elevation would be replaced with 3 new wood window units with 6 over 6 simulated divides lites to match the width of the existing windows, with a sill height raised no more than 4"; with the sill heights of the windows being consistent throughout the former sunroom

- ❖ A motion was duly made by Councilor Warren, seconded by Councilor Walker, and carried unanimously, to follow the recommendation of the Historic Architectural Review Board and direct President of Council to sign COA 2010-051H, thereby approving the historical appropriateness of the application, with final approval by the Code Enforcement Officer.

COA 2010-053-H Resident: Catherine Triverio, 117 N. Chancellor Street

The applicant was seeking a Certificate of Appropriateness for the replacement of 5 storm doors.

- ❖ A motion was duly made by Councilor Warren, seconded by Councilor Walker, and carried unanimously, to follow the recommendation of the Historic Architectural Review Board and direct President of Council to sign COA 2010-053H, thereby approving the historical appropriateness of the application, with final approval by the Code Enforcement Officer.

Traditional Neighborhood Development Ordinance Modifications

Planning Commission Chairman, Warren Woldorf made a presentation about the proposed Traditional Neighborhood Development (TND) Ordinance modifications. Mr. Woldorf noted that TND's are permitted only as a Conditional Use by Borough Council. A TND typically contains mixed uses and evokes the feeling of a small neighborhood on a pedestrian scale. The current TND permits residential use only and at a greater density than in other Borough locations. The proposed TND Ordinance will permit mixed-use development, combining residential and non-residential uses on the same property and within the same building and zoning districts.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Warren, and carried unanimously, to authorize the Solicitor to advertise the Traditional Neighborhood Development Ordinance modifications.

Open Space Plan

The Open Space Plan was formulated last year. It was reviewed and approved by the Bucks County Open Space committee and is now ready for approval by Council.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor O'Malley, and carried unanimously, to approve Resolution 01-11-11 adopting the Open Space Plan of the Borough of Newtown.

Having approved the Resolution, Council may now apply for a planning grant from the Bucks County Municipal Open Space Program in an amount up to \$10,000 to cover the cost of developing the plan.

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor O'Malley, and carried unanimously, to apply for a Planning Grant to offset the Open Space Plan costs.

Presentation of Minutes

- ❖ A motion was duly made by Councilor Warren, seconded by Councilor O'Malley, and carried unanimously, to approve the minutes of the December 8, 2010, Work Session Meeting.
- ❖ A motion was duly made by Councilor Warren, seconded by Councilor O'Malley, and carried unanimously, to approve the minutes of the December 14, 2010, Council Meeting.

COMMITTEE REPORTS

Budget & Finance – Gerard O'Malley and Robert Walker

Consolidated Report

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Walker, and carried unanimously, to accept, subject to audit, the consolidated expenditure report for the month of December 2010 totaling \$210,510.79.

Mr. O'Malley wanted to clarify that for 2011 the Borough budgeted \$80,000 for snow removal, which is an increase over the \$65,000 budgeted in 2010.

Personnel Committee – Perry Warren

Mr. Walker questioned the process for committee appointments, as he noted that at the Work Session the Chairman of the Planning Commission was aware of potential candidates before Council had been given the names. Mr. Walker referred to the Personnel Appointment Process that was approved in May 2008 and commented that nowhere in the process does it call for information to be shared with any committees before first coming to Council. Most importantly, the Appointment Process approval included an annual review of the policy, but it has never been reviewed since being implemented in 2008. Mr. Walker was concerned that the Borough would be doing a disservice to its residents if Council did not review the policy prior to making new appointments. In addition, Mr. Walker asked if discussion of candidates should take place in Executive Session. Mr. Warren felt that the personnel policy was followed. He noted that he contacted the chairs of the committees inquiring whether he felt those with expiring terms would be interested in continuing to serve and asking them to contact those individuals. A short written summary of activities on their committee was requested and although not all were received, Mr. Warren spoke to and/or communicated with each person. Mr. O'Malley concurred with Mr. Warren's comments. Ms. Woldorf reminded Council that the Recreation Board members had offered their preference for an appointment in the past. Mr. Sellers said process could always be discussed but he felt an obligation to fill the vacancies now and Ms. Woldorf asked Mr. Warren to proceed with the nominations.

Reappointments:

- A motion was duly made by Councilor Warren, seconded by Councilor Sellers, and carried unanimously, to reappoint Duane Buck to the *Civil Service Commission* for a 6 year term through December 31, 2016.
- A motion was duly made by Councilor Warren, seconded by Councilor O'Malley, and carried unanimously, to reappoint Henry D'Silva to the *Environmental Advisory Council* for a 3 year term through December 31, 2013.
- A motion was duly made by Councilor Warren, seconded by Councilor Sellers, and carried unanimously, to reappoint Michael Hutchinson to the *Historic Architectural Review Board* for a 3 year term through December 31, 2013.
- A motion was duly made by Councilor Warren, seconded by Councilor O'Malley, and carried unanimously, to reappoint Nancy Freudenthal to the *Joint Historic Commission* for a 4 year term through December 31, 2014.

Mr. Walker questioned whether there was a conflict of interest with Mr. Woldorf serving as Chairman of the Planning Commission and his wife serving as President of Council, especially as it relates to policies that are promulgated by Council. Mr. Walker reminded Council that some members had voiced concern about the appropriateness of Mr. Burke's wife filling a part-time

position in the office last year and he felt that this could be misinterpreted. The Solicitor responded that he knew of no restrictions that would prevent members of the same household from holding two such positions.

- A motion was duly made by Councilor Warren, seconded by Councilor Sellers, and carried with Councilor Woldorf abstaining, to reappoint Warren Woldorf to the *Planning Commission* for a 4 year term through December 31, 2014.
- A motion was duly made by Councilor Warren, seconded by Councilor Sellers, and carried unanimously, to reappoint Paul Snyder to the *Planning Commission* for a 4 year term through December 31, 2014.
- A motion was duly made by Councilor Warren, seconded by Councilor O'Malley, and carried unanimously, to reappoint Mary Jane Leonard to the *Vacancy Board* through December 31, 2011.
- A motion was duly made by Councilor Warren, seconded by Councilor Sellers, and carried unanimously, to reappoint Kimberly O'Neill to the *Zoning Hearing Board* for a 3 year term through December 31, 2013.

Appointments:

- A motion was duly made by Councilor Warren, seconded by Councilor Walker, and carried unanimously, to appoint Kevin Dippolito to the *Building Board Code of Appeals* for a 5 year term through December 31, 2015.
- A motion was duly made by Councilor Warren, seconded by Councilor Sellers, and carried unanimously, to appoint Jayne Spector to the *Planning Commission* for a to fill an unexpired 1 year term through December 31, 2011.
- A motion was duly made by Councilor Warren, seconded by Councilor O'Malley, and carried unanimously, to appoint David Young to the *Planning Commission* for a 4 year term through December 31, 2014.
- A motion was duly made by Councilor Warren, seconded by Councilor O'Malley, and carried unanimously, to appoint Theodore Schmidt to the *Shade Tree Commission* for a 3 year term through December 31, 2013.

Mr. Warren reminded the public that positions on the Environmental Advisory Council, the Historic Architectural Review Board and the Newtown Corporation are open, as is the need for a Grants Facilitator.

Mr. O'Malley, in response to Mr. Walker's earlier question about Executive Session said, from his recollection, discussion of candidates is not appropriate for Executive Session. Mr. Cohen felt that, given his interpretation of the statute, he does not think this would be an appropriate matter for Executive Session. If Council desired, he could do additional research, but whether it is an Executive Session issue or not is up to Council. Any matter that is appropriate for Executive Session can, if Council chooses, be discussed in an open meeting as well.

Streets, Lights and Properties – Michael Sellers

Mr. Sellers explained the need for an emergency generator at the Newtown Borough Police Department, noting that it would allow the computers and other critical equipment to operate during an electrical outage. Three proposals were obtained for this installation and Mr. Sellers made the following motion, recommending the lowest bid.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Walker, and carried unanimously, to accept the proposal of Knott Electric dated December 28, 2010, for an emergency generator for the Police Department in a total amount of \$4700.

Mr. Sellers reported that the split rail fence in the Newtown Commons was replaced in late November.

Playground Equipment Installation

In the absence of Councilor Burke, Ms. Woldorf explained that three proposals were received for the installation of new play equipment in Linton Memorial Park, removal of some existing equipment at Linton and replacement of 2 items at the Brian S. Gregg Memorial Park. Only one of the three proposals includes removal of the existing equipment. Mr. Burke's recommendation was to select Park Constructors proposal of \$4650. Mr. O'Malley questioned the process used by Mr. Burke for purchasing/installation of the equipment and Ms. Woldorf voiced similar concerns about not receiving the details of the proposals and installation sooner.

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor Warren, and carried unanimously, to approve the installation of playground equipment and removal of some existing equipment for Linton Memorial Park and Brian S. Gregg Memorial Park by Park Constructors Corp. of Limerick in the amount of \$4650.
- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Walker, and carried unanimously, to approve a dumpster rental from George Leck & Sons., Inc. at a price not to exceed \$300.

Grants Updates

Mr. O'Malley reported on the status of the Pennsylvania Transportation Initiative Project, otherwise known as the Smart Transportation project. The intent of the grant is to fund an integrated transportation circulation study to find environmentally friendly and cost effective solutions designed to improve the quality of life for Borough residents and visitors by insuring the ability to safely walk and bike in the Borough. Although the grant was approved in May of 2009, the Borough spent time in the selection process to find a consultant to prepare the study. The price proposal from the consultant was a separate process and it was submitted to the Delaware Valley Regional Planning Commission for PennDOT review and approval in November 2010. Once PennDOT approves the proposal and a Consultant's Agreement and Professional Services Agreement are signed, the study can begin.

Mr. Sellers reported on the status of the Newtown Creek Watershed Conservation Plan grant. Since the watershed primarily includes Newtown Township and Newtown Borough, both municipalities will provide in-kind work in conjunction with the previously approved consultant, Heritage Conservancy. The approval date for the grant was in 2009 in the amount of \$12,100. A steering committee has been formed and there will be a finalization of planned goals, collection and review of data, an inventory of resources, development of a web-based public survey and initial base mapping. The grant has a required completion date by the end of 2011, but Heritage Conservancy

anticipates completion by mid-summer. In response to Ms. Woldorf's question about the required match of in-kind donations from Newtown Township and the Newtown Corporation, Mr. Sellers responded that Heritage Conservancy has advised that there are more than enough in-kind contributions from [Newtown] Township activities.

Solicitor's Report – Paul Cohen

Mr. Cohen announced that the proposed Ordinance was duly advertised in the Bucks County Courier Times as required by the Municipalities Planning Code and deposited at the Bucks County Law Library. For the record, Mr. Cohen clarified that this matter was discussed previously by Council at open meetings addressing the substance of the ordinance.

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor Sellers, and carried unanimously, to adopt Ordinance #710 revising the Sub-Division and Land Development Ordinance (SALDO) by modifying the definition of woodlands and creating a Fee-in-Lieu for the removal of protected trees and woodlands.
- ❖ A motion was duly made by Councilor Walker, seconded by Councilor Warren, and carried unanimously, to pass a Resolution adopting the 2011 Newtown Borough Fee Schedule.

Mr. Cohen explained that under a recent court order, all police stations are required to use advanced technology fingerprint scanning for “booking” and since Newtown Borough does not have the required equipment, they have been utilizing the equipment at the Upper Makefield Police Department. Upper Makefield has requested a “release and hold harmless” letter from Newtown Borough for use of their facility.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Walker, and carried unanimously, to authorize the President of Council to sign a “hold harmless” letter for use of the Upper Makefield Police Department holding facility, subject to approval by the Solicitor.

Under the Emergency Management Services Code, the governing body of a municipality is authorized to declare a State of Emergency and to delegate that power to the Mayor. A State of Emergency was declared on December 26, 2010, and carried through December 27, 2010. This declaration must be ratified by the municipality.

- ❖ A motion was duly made by Councilor Warren, seconded by Councilor Walker, and carried unanimously, to ratify and affirm the State of Emergency that was declared by Mayor O'Brien on December 26, 2010.

Old Business

Mr. O'Malley announced that the Long Term Parking Committee would meet on January 12, 2011, to discuss the matter of parking permits and the issue of residential parking near the business district on Court Street, Centre Avenue and Penn Street.

Mr. O'Malley would like Council to consider the idea of establishing a Facebook presence from the governing body of Newtown Borough and felt that it would be a potential way to reach the Borough with information. Mr. O'Malley provided Council with articles regarding the use of Facebook and legal concerns that have recently been addressed about its usage.

Ms. Woldorf reminded the public that anyone interested in serving on a committee to update the Borough website should contact her.

New Business

Ms. Woldorf noted that the November Election Day this year falls on the same day as Council's scheduled meeting. Ms. Woldorf suggested moving the meeting to Wednesday, November 9, 2011.

Ms. Woldorf received notification from PennDOT about upcoming free seminars. PennDOT will provide a half-day presentation on a topic at a municipalities' facility, as long as there are 10 or more participants. Ms. Woldorf felt that "The Americans with Disabilities Act Requirements for Municipal Transportation Facilities" seminar, which includes sidewalks, ramps, driveways, and curbs, might be of interest to Newtown Borough and surrounding municipalities.

Ms. Woldorf suggested making copies of the newly adopted Open Space Plan for the Borough office, the Newtown Library and for purchase by individuals.

Public to be Heard

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

The meeting adjourned at 8:45P.M

Respectfully submitted,

Marcia M. Scull
Borough Secretary

ATTENDEES

Warren Woldorf
Jeff Werner
Jim McAuliffe
Ted Schmidt
Mary R. Hunter
Liz Warren

440 Washington Avenue
The Advance
545 E. Centre Ave.
32 N. Lincoln Avenue
32 S. Chancellor Street
149 Andrew Drive

Paul Salvatore
Josh Horenstein
Bill Heinemann

148 N. Elm Avenue
21 S. Lincoln Avenue
35 N. Chancellor St.