

Council Meeting  
April 12, 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, April 12, 2011. 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, Sellers, Walker, Warren and Woldorf; Mayor Dennis O'Brien and Solicitor Paul Cohen.

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

#### Police Report for March

The Mayor presented the March police report, noting that several random DUI patrols were conducted with three individuals charged, ENRAD equipment was used resulting in 52 citations for speeding and a truck detail was conducted with nine citations issued.

#### Special Events

Easter Egg Hunt – April 16, 2011, 9 A.M. at Pickering Field sponsored by the Newtown Business and Professional Association

Arbor Day – April 29, 2011, from 10 A.M. - Noon at Brian S. Gregg Memorial Park

Blue Grass Festival at the Newtown Theatre – May 1, 2011, sponsored by the Community Welfare Council

Memorial Day Parade – May 30, 2011, sponsored by the Morrell Smith Post of the American Legion from 9 A.M. - Noon

Antique Auto Show – July 17, 2011, sponsored by the Newtown Business and Professional Association

Market Day – October 1, 2011, from 10 A.M. – 4 P.M., sponsored by the Newtown Historic Association

The Mayor commented that some individuals have indicated that they feel the \$250 Special Events Fee is excessive and noting that the fee was set by the Police Committee, not Chief Wojciechowski. Ms. Woldorf suggested discussing the fee at the May Council Work Session.

## **Amendments to the Agenda**

The Solicitor clarified that he had been authorized to draft the Residential Parking Permit Ordinance at the last meeting and it is authorization to advertise the ordinance that is requested at this meeting.

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

There was no President's Report

## **Correspondence**

Ms. Woldorf received an invitation to an Eagle Scout Court of Honor for Alexander Chernicoff on May 7, 2011.

Letters were received from the Bucks County Planning Commission regarding the Hazard Mitigation Plan. Ms. Woldorf confirmed that Don Harris, the Emergency Services Coordinator, is attending all meetings related to the Plan and will contact the Borough if any action is required.

A letter was received from the Department of Community and Economic Development regarding the Borough's continued participation in the Community Development Block Grant program.

## **Public to be Heard**

Resident Jon Guy expressed his disappointment at the changes made to Allan Smith's proposed plans for the Stockburger property, which now includes the addition of approximately 300 new residences. Mr. Guy had been cautiously supportive of the original plan that proposed office space, although concerned about the traffic impact. His concern now is for the instant growth potential of over 30% with the addition of these homes and he is concerned about the drain on Borough services. He asked residents and any concerned citizens to request that the plan be re-thought, with new alternatives brought forward.

Paul Salvatore noted that the Easter Egg Hunt on April 16 is for both adults and children with over 140 prizes donated by local businesses. He also thanked Council for waiving the fee for the Antique Auto Show that is also sponsored by the Newtown Business and Professional Association, but commented that he understood from the State Code that a municipality cannot make a profit from a fee, but can only charge for services rendered. Mr. Salvatore noted that Newtown Township only charges a \$30 Special Events Fee.

Resident Ted Schmidt asked Council about painting of the walkway lines at State and Washington Avenue. Mr. Sellers responded that there had been problems with the previous paint application and with the weather now improving, those lines will be re-painted at no charge to the Borough. Ms. Woldorf noted that one of the handicapped ramps at that intersection is being replaced and will require painting when the work is completed.

## **Pickering Field Garden and Wall**

Chris Woroniak proposed installing a paver wall, approximately 2-3 courses high, below the base of the scoreboard at Pickering Field with a flowerbed and he would like to have the work completed

before Memorial Day weekend. Since the field is leased [by the Council Rock Athletic Association], Mr. Cohen suggested obtaining approval from them for the installation.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Warren, and carried unanimously, for approval of the proposed wall and flowerbed at Pickering Field by Christopher Woroniak, contingent on written approval by the lessee for the Field.

## **Certificates of Appropriateness**

### **COA 2011 -005-H      Applicant: Michael Hutchinson, 111 Court Street**

The applicant was seeking a Certificate of Appropriateness for the construction of an addition to replace an existing closed side porch.

- ❖ A motion was duly made by Councillor Burke, seconded by Councillor Walker, and carried unanimously, to follow the recommendation of the Historic Architectural Review Board and direct President of Council to sign COA 2011-005H, thereby approving the historical appropriateness of the applications with final approval by the Code Enforcement Officer.

### **COA 2011 -006-H      Residents Jason & Dana Pikul, 120 N. Lincoln Avenue**

The applicants were seeking a Certificate of Appropriateness for the replacement of a fence along the side property line, noting that the fence would be cedar, with vertical/horizontal lattice on top if possible, otherwise lattice would be diagonal.

- ❖ A motion was duly made by Councillor Burke, seconded by Councillor Walker, and carried unanimously, to follow the recommendation of the Historic Architectural Review Board and direct President of Council to sign COA 2011-006H, thereby approving the historical appropriateness of the applications with final approval by the Code Enforcement Officer.

### **COA 2011 -007-H      Residents Ralph & Barbara Posmontier, 32 N. Lincoln Avenue**

The applicants were seeking a Certificate of Appropriateness for the replacement of the slate roof on the front gable with CertainTeed Grand Manor asphalt shingles in slate color, with the design of the shingles to match the existing roof shingle design and noting that the pole gutters and downspouts would be restored or replaced in kind.

- ❖ A motion was duly made by Councillor Burke, seconded by Councillor Walker, and carried unanimously, to follow the recommendation of the Historic Architectural Review Board and direct President of Council to sign COA 2011-007H, thereby approving the historical appropriateness of the applications with final approval by the Code Enforcement Officer.

## **Presentation of Minutes**

Mr. Walker questioned whether minutes can be voted on by someone who was not in attendance for the entire meeting. The Solicitor clarified that minutes could be voted on by an individual who

came late or left early, unless the individual felt that they did not have adequate information to vote on those minutes, in which case they could abstain.

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor O'Malley, and carried unanimously, to approve the minutes of the March 2, 2011, Work Session Meeting.
- ❖ A motion was duly made by Councillor Warren, seconded by Councillor O'Malley, and carried unanimously, to approve the minutes of the March 8, 2011, Council Meeting.

## **COMMITTEE REPORTS**

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

#### **Consolidated Report**

- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Walker, and carried unanimously, to accept, subject to audit, the consolidated expenditure report for the month of March 2011 totaling \$268,205.03.
- ❖ A motion was duly made by Councillor O'Malley, seconded by Councillor Walker, and carried unanimously, to authorize payment of the Gilmore & Associates invoice dated March 14, 2011, in the amount of \$139.38.

Mr. Burke asked about the snow removal figures, with a response that \$85,000 was budgeted and the invoices totaled approximately \$177,000.

### **Personnel Committee - Perry Warren**

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor Walker, and carried unanimously, to approve Resolution 04-12-11A re-appointing William E. Palkovics as an alternate to the *Zoning Hearing Board* for a one-year term through December 31, 2011.
- ❖ A motion was duly made by Councillor Warren, seconded by Councillor Walker, and carried unanimously, to approve Resolution 04-12-11B re-appointing Harry V. Tomlinson as an alternate to the *Zoning Hearing Board* for a one-year term through December 31, 2011.

### **Planning Commission – Michael Sellers**

Mr. Sellers reported on the Stocking Works II project and the presentation of the sketch plan at the Planning Commission meeting. Office space was eliminated from the plan but with an increase in residential use for the property, which is a significant change from prior proposals. Although the developer said a 25% reduction in traffic would result from the change, Mr. Burke voiced concern about having up to 300 condominiums on 9 acres and wanted assurance that a new traffic study would be completed to address traffic. Mr. Sellers agreed that Mr. Burke's concern about traffic would need to be addressed. In response to Mr. O'Malley's question about the timeframe, Mr. Sellers said it is dictated by the TND Ordinance and the developer is in the "sketch plan phase," but it would most likely be a one-year timeframe. Mr. Walker expressed concern about accommodating the parking requirements for 60,000 sq. ft. of retail space and up to 300 residential units while the

Borough would be losing 75 parking spaces in the municipal parking lot. Mr. Walker said the Borough should consider evaluating the idea of impact fees.

### **Streets, Lights and Properties – Michael Sellers**

Mr. Sellers reported that potholes continue to be a problem and the Borough has been pro-active in repairing them. With the change to warmer weather, the method for repair of potholes will change from cold patch to hot product.

The ramp at Lafayette Street and S. Lincoln Avenue will be removed, replaced with a curb and reseeded, as the current handicapped ramp is very steep and not acceptable. Although not a budgeted project, Mr. O'Malley reported that the money could come from the "emergency repairs" budget line in streets.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Burke, and carried unanimously, to authorize preliminary work and survey by the Engineer for removal of the handicapped ramp located at S. Lincoln Avenue and Lafayette Street in an amount not to exceed \$800.

Mr. Sellers reported on the culvert that goes under S. Lincoln Avenue between Centre Avenue and Penn Street. After discussion at the work session, it was determined that an assessment of the culvert is required, as the liner in the culvert is deteriorating and there is a crack in the pavement.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Warren, and carried unanimously, to authorize the Engineer to do an assessment of the culvert at S. Lincoln Avenue between Penn Street and Centre Avenue at a not to exceed cost of \$320.

### **Traffic Committee – Gerard O'Malley**

Mr. O'Malley reported that a meeting is scheduled on April 15, 2011, with Jacobs Engineering and members of the Traffic Committee to discuss the Smart Transportation project. The project involves Federal funding, administered through PennDOT with the assistance of the Delaware Valley Regional Planning Commission, to study increasing the walk-ability, bike-ability and connections between Newtown Borough and Newtown Township. A series of stakeholder meetings will be scheduled to obtain public input and assess the study. The Solicitor did not feel that a "Letter to Proceed" was necessary for this project.

The Traffic Committee is working on plans for *Pedestrian Safety Week* at the end of May and reported that the Council Rock School District sent a letter of support for the Traffic Committee's request to participate in and help plan *International Walk to School Day* in October.

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

#### Stormwater Management Ordinance

Council reviewed the proposed Stormwater Management Ordinance and this ordinance is required to be adopted by May 22, 2011.

- ❖ A motion was duly made by Councillor Sellers, seconded by Councillor Burke, to authorize advertising the Stormwater Management Ordinance for Newtown Borough.

#### Residential Parking Permit Ordinance

Mr. Cohen redrafted the Residential Parking Permit Ordinance and asked for a motion to authorize advertising the ordinance. Mr. O'Malley suggested delaying for one month until the residents in the potentially affected areas are notified about the proposed ordinance and can voice their opinions. Long Term Parking Committee members also had comments and suggestions on the proposed ordinance that will be discussed at the next meeting.

#### Sidewalk/Bollard Ordinance

Council received comments from the Bucks County Planning Commission and the Newtown Borough Planning Commission regarding the proposed Sidewalk/Bollards Ordinance. After review by the Engineer, Ms. Saylor changed the specifications for installation of bricks and pavers. Council will address the comments made by both planning commissions at the May work session.

#### Phillips Court Development

The issue of primary concern with the Phillips Court Development is that the installed lights are not the lights approved on the Final Plan. Letters have been sent to the developer requesting action, but the lighting issue has not been addressed. Funds currently remain on the Irrevocable Letter of Credit and Mr. Cohen asked Council if they wished to use those funds to replace the lights due to the failure of the developer to address the issue or whether Council wished to take legal action against the developer. The Phillips Court property manager estimates that the cost of installation and equipment would be approximately \$4500, which is less than the amount remaining in escrow. Although there are other issues raised by the Homeowners Association, Mr. Cohen does not believe that those issues fall within the developer's agreement.

Neil Model, president of the Phillips Court Homeowners Association, expressed concern because the residents feel that the issues are not simply aesthetic, but also safety related. Railings have not been installed and Mr. Model is concerned about the safety of children. With regard to the lights, although the lights bear no resemblance to those that should have been installed, the larger concern is that they have all blown over with the bulb melting the fixture, which is a fire hazard or could blow completely off injuring someone.

Jeffrey Cooper, a resident of Phillips Court, proposed that Council release the funds and sue the developer to replace those funds. Mr. Cooper reaffirmed the comments made by Mr. Model regarding the railing and lighting issues and felt that the lights are an urgent issue that need to be addressed.

Mr. Cohen suggested waiting for the formal lighting proposal from the property manager and then taking action at the May Work Session to pass a Resolution declaring default.

Ms. Woldorf suggested contacting Code Enforcement Officer Brown since the railing issues may be a matter for the building inspector. If it does not fall under the developer's agreement, then it is a matter for the Code Enforcement Officer.

### Newtown Station Maintenance Bond

Mr. Cohen acknowledged receipt of a letter from Toll Brothers regarding the punch list for Newtown Station.

### Executive Session

An executive session was held prior to the meeting addressing potential litigation.

### Ordinance Updates

In updating the FEMA maps, there are updates required to the Borough ordinances that reference the FEMA maps. The Solicitor will review those ordinances with the Engineer to propose those changes.

### **Old Business**

Mr. Burke reported that he has compiled information on replacing the swing set at Linton Memorial Park. The Recreation Board meets this week and after reviewing the information with them and discussing the swing set location, Mr. Burke will supply Council with copies of the quotes for equipment and installation. The equipment will be purchased through COSTARS and he has three quotes for the installation, which can be discussed at the May Work Session.

Mr. Sellers raised the 3/50 project that he had discussed last fall. If half the employed population spent \$50 each month in locally owned independent businesses, it would generate a tremendous increase in revenue. The example that he used at that time was the Newtown Hardware House and ironically, the Hardware House is now facing economic difficulties. Mr. Sellers asked everyone to commit themselves to spending at least \$50 a month and recognize the importance of supporting our businesses which keeps our property values up.

Mr. Walker applauded Mr. Sellers' comments, but struggled with those comments considering the addition of 60,000 sq. ft. to the Stockburger property and concerns about possibly losing those stores on State Street. Mr. Walker felt that the new development would steer consumers over Sycamore into the new retail stores, bypassing State Street and having more of a negative impact. Mr. Sellers felt that the opposite might also be true and what has been expressed to him is that Newtown would become more of a destination. He agreed that revenue and traffic need to be considered as well.

Ms. Woldorf reported that the Website Committee is putting together a Request for Proposal, knowing there is a limited budget, and plan to bring a presentation to Council.

### **New Business**

Mr. Sellers reported on the presentation of the Heritage Conservancy regarding the grant [the River Conservation Grant]. A survey is available at the Newtown Creek Coalition's website, [newtowncreekcoalition.org](http://newtowncreekcoalition.org), and the public is asked to participate in this survey.

### **Public to be Heard**

Paul Salvatore, a member of the Parking Committee, commented on the poor condition of the Municipal Parking Lot behind Isaac Newton's Restaurant. The entire back row, 46 parking spots, is often under water and it the problem needs to be addressed in order to provide the needed parking.

Mr. Salvatore wanted clarification from the Solicitor on the Planning Commission's ability to "reply all" to e-mails, as he was told that it is a violation of the Sunshine Law. Mr. Cohen explained that he felt "reply all" could qualify as a virtual meeting, but that he was not saying that it is always a violation. Mr. Salvatore questioned the simple sharing of information without any discussion. Mr. Cohen did note that if it is a forwarding of an ordinance without any comment that might be acceptable, but as a general policy to avoid the potential for violating the Sunshine Law he would recommend against it.

Resident Frank Brassell commented about the waiving of fees for the police station generator and noted that he understood that permits were not pulled for the work prior to the installation. Mr. Brassell has no problem with waiving of the fees, but his concern is about the application for permits, as the reason is to protect the homeowner/borough/business owner and he asked Ms. Woldorf to look into the matter. Mr. Brassell talked about the great Newtown Creek presentation, and noted a thank you to T & T Tree Service for removal of trees along the creek. He asked whether permits were applied for or approved by Council for the tree removal. Mr. Brassell also reminded Council that this is Restaurant Week and twelve restaurants are participating.

The meeting adjourned at 9:20 P.M.

Respectfully submitted,

Marcia M. Scull  
Borough Secretary

ATTENDEES  
Warren Woldorf  
Jeff Werner  
Jim McAuliffe  
Ted Schmidt  
Paul Salvatore  
Tony Blancato  
Larry Auerweck  
Frank Brassell  
Jason Pikul  
Chris Woroniak  
Gerlyn Williford  
Jon Guy  
Neil Model  
Frank Brassell