

Council Meeting
March 9, 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, March 9, 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, Sellers, Walker, Warren and Woldorf; Mayor O'Brien; Solicitor Paul Cohen and Engineer Maryellen Saylor of Pickering, Corts & Summerson.

Mayor's Report – Dennis O'Brien

- **The Police Report for February 2010 was presented**

Amendments to the Agenda

Mr. Cohen noted that two items under the Solicitor's Report listed as "Motions to approve" will actually be "Motions to authorize advertising."

President's Report – Julia Woldorf

Ms. Woldorf reminded Council that their "Statements of Financial Interest" are to be completed and returned to the Borough Secretary by May 1, 2010.

Ms. Woldorf noted that a copy of the Bucks County Planning Commission's Annual Report is available for review at Borough Hall. The report looks at development trends around Bucks County and activities the Commission has engaged in regarding those developments.

The revised Comprehensive Plan should be available by the end of this month and Council will have the opportunity to review it before the authorization of the 45-day review period.

Correspondence

Ms. Woldorf asked if anyone planned to attend the Bucks County Borough's Association dinner meeting on March 23, 2010, as reservations must be made. Ms. Woldorf will be representing Newtown Borough.

Public to be Heard

Paul Salvatore, representing the Newtown Business and Professional Association, reminded the public of the Annual Easter Egg Hunt scheduled at 9 AM on March 27, 2010, at Pickering Field. The NBPA would be happy to accept prize donations from businesses or individuals.

Rob Ciervo, Chairman of the Newtown Township Supervisors, addressed Council about the Skate Park to be built in Newtown Township. Property was donated to the Township for this park and the cost for construction of the project is approximately \$80,000. The Township is looking for \$15,000 in community donations, which are tax deductible if made payable to the Newtown Corporation, which is a 501 (3) (c) entity. Mr. Warren noted that a \$500 Borough donation to the park was authorized at the last work session.

Newtown Corporation - Frank Tyrol

Frank Tyrol, Chairman of the Newtown Corporation, explained to Council that he felt there has been a communication breakdown between Council and the Corporation. Mr. Tyrol provided Council with the mission statement and their goals and objectives for 2010. At the joint meeting held on January 28, 2010, Mr. Tyrol felt that the Corporation had been clear about its goal for unification and betterment of the Newtown community for both businesses and residents. While praising the past Executive Director for her many achievements with the Main Streets Program, Mr. Tyrol explained that the focus changed when the Joint Downtown Newtown Corporation became the Newtown Corporation. Ms. Ortwein felt that her expertise was in the Main Streets program and expressed no interest in expanding her responsibilities to include the larger Newtown area. Since becoming Chairman in January, Mr. Tyrol has focused on correcting insurance issues and changing accounting procedures. Many of the committees had not been active, but have now reorganized and are headed in a positive direction. Interim Director Paul Salvatore reported that several new events have been scheduled, including *Restaurant Week*, a new *First Saturday* event and a wine festival, *Newtown Uncorked*, which will be held at the Newtown Swim Club. A Unification Brunch was recently held to bring Newtown groups together to cross communicate and cross promote.

Mr. Sellers questioned Mr. Tyrol about Ms. Ortwein's dismissal in December, the amount of money expended since December 10, 2010, the check signing procedure, the amount of time provided by the part time secretary and her salary, how the salary for the Interim Director was determined, the plans for hiring a executive director, the awarding of any contracts since January, the mission statement and the strategic plan. During his report to Council, Mr. Tyrol had already explained that the banking procedures had been changed, because Ms. Ortwein had been the only one signing checks. In response to the question about expenditures, Mr. Tyrol stated that the figures would be provided by their accountant and he explained the process for seeking a permanent Executive Director, noting that it would be difficult considering the negative press and the talk of dissolution of the Corporation. In answer to Mr. Sellers' question about Ms. Ortwein, Mr. Tyrol repeated that she had accomplished much during her time as Main Streets manager, but the Board was concerned because she was quite clear that she did not want to pursue the new direction that the Board wished to take. Mr. Sellers questioned the absence of two of the Board members when the decision was made to dismiss Ms. Ortwein, stating that he felt they should have been included for such an important vote. Mr. Tyrol responded that the vote was 7-0 and felt that those two votes would not have changed the outcome. Mr. Sellers felt that the Strategic Plan did not appear to be a professional strategic plan, particularly as it relates to a non-profit organization.

Mr. Burke attended the Unification Brunch and unlike Mr. Sellers, he liked what he heard about expanding beyond State and Sycamore, but not abandoning them in their planning. He noted that this is the fourth meeting on the Newtown Corporation without resolution and Mr. Burke asked whether Newtown Township was contacted regarding their opinion. Mr. Ciervo responded that he had not been contacted, but noted that Mr. Tyrol would be attending the next supervisors meeting. Mr. Burke wanted to see closure on this issue and made a motion to no longer fund the Newtown Corporation but there was no second on the motion.

Mr. Warren commented that the Council is steward of the Borough's assets, and since there is approximately \$120,000 of Corporation money, he would like to know what will be done for the Borough and State Street, in particular, with those funds. Mr. Tyrol responded that he had asked about completing Phase II & III of the State Street project and about adding flag brackets to the streetlights. He commented that State and Sycamore Streets are the core of what this organization is all about.

Ms. Woldorf appreciated Mr. Tyrol bringing to Council's attention what appears to be considerable dysfunction that existed prior to him coming on the Board. She applauded his sincere efforts to clean up the outstanding issues. Ms. Woldorf felt that items on the 2010 plan would help the Board determine what their strategic plan should be for the next 1-5 years, and she suggested that perhaps a new executive director would assist the Newtown Corporation in developing their plan.

Rob Ciervo, Chairman of the Newtown Township supervisors, reported that he met with Chris Ortwein in 2008 and that the Main Street program changed considerably at that time. The Township originally gave \$20,000 and free rent for the Director, but then reduced their donation to \$16,000 last year. Knowing that the State contribution for the Main Streets program was ending, Newtown Township knew a decision needed to be made going forward about their ongoing commitment.

Bill Smith of Newtown Jewelers said that he was not invited to the Unification Brunch, nor has he heard from anyone on the Newtown Corporation board since Ms. Ortwein's dismissal in December. Mr. Smith wanted to clarify that the Newtown Borough Retailers Association never disbanded, but became a sub-committee of the Newtown Corporation and he was amazed that there has been no contact since Ms. Ortwein left. Mr. Smith would like Council to stop funding, stop supporting and remove their board members from the Corporation.

Paul Salvatore, Interim Director, heard that the Retailers were to come under the "umbrella" of the Corporation, but it raised the question of liability and that other organizations might want the same umbrella coverage. He encouraged the retailers to attend the next "Promotions" meeting and become involved. Mr. Salvatore thought Ms. Ortwein did a great job as Main Streets Manager, but she made it clear that she had no interest in working with shopping centers and referred to her contract, which was a Main Streets contract. It was at that point that the Board started reviewing her contract. They recognized that the Township was providing \$15,000 in housing and \$20,000 in funding and Newtown Township asked the Corporation for more Township interaction, but the Board never intended to abandon the State Street/Sycamore Street area. Creating marketing opportunities for all is the goal of the Corporation.

Bob Gilanyi, Love Illuminati, is concerned about making a living. Mr. Gilanyi has not seen any commitment to State Street in the three years he has been in business and would like see something done.

Becky Betz, Becky's Deli, would like to have a group that is independent of Newtown Corporation. She feels that the Brew Fest money should be spent on State Street because of the involvement of the Borough in that event.

Dave Callahan, Newtown Hardware House, voiced the same sentiment as Bill Smith about not being invited to the Unification Brunch. If he were a member of Borough Council, he would vote to disband the group.

Tim Longosky, Mom's Bake at Home Pizza, sees a commonality between the Newtown Corporation and the Newtown Business and Professional Association and that in his opinion it isolates and deals with certain individuals and corporations without true representation. Council needs to make a decision moving forward, which should include a move to help the retailers.

Paul Salvatore clarified that the Unification Brunch included various groups and some representatives from State and Sycamore Streets, but that not all retailers were included. Another breakfast might be held for the retailers, but this brunch included those retailers who were currently working with the Newtown Corporation.

Mr. Tyrol apologized to the State Street retailers as he was never aware that the Retailers Association was under the Corporation umbrella. He noted that all businesses are encouraged to participate.

Mr. Warren suggested, if there was no decision to withdraw from the Corporation tonight, appointing a liaison to the Newtown Corporation. In addition, he recommended some Council members meeting with Mr. Tyrol and Mr. Salvatore to discuss what can be worked out.

In the viewpoint of Mr. Sellers, Council has reached the crossroads for withdrawal. He still has concerns and sees little changing after tonight. He would suggest removing the Borough Directors from the Corporation Board and reappointing directors who would carry out dissolution of the Corporation. Having said that, Mr. Sellers made a motion to withdraw and dismiss the current Board members appointed by the Borough to Newtown Corporation, but the motion did not receive a second.

Mr. O'Malley's chief concern is the economic health of State Street and making sure that it is a viable place for businesses, residents and visitors. He feels this is a time for the Corporation to regroup and feels that is happening. He is in agreement with Mr. Warren's suggestion to sit down with Newtown Corporation representatives, because he is not prepared to dissolve the Corporation today. The retailers want Council to move forward in order to help them and this might be a good first step.

Mr. Walker expressed the feeling that Council has been part of the problem because of the lack of communication with the Corporation. He does not think anyone from Council has ever sat down with the Borough appointed directors to discuss what they want and get the benefit of their perspective. He would like to see a discussion with representatives to find out what the Borough will gain from their investment and what they are looking for.

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Warren, and carried unanimously, to authorize Councilors Burke and Warren to sit down with Newtown Corporation to discuss issues.

Mr. Salvatore asked whether a liaison would be appointed, since there has been no liaison attendance from the Borough since May and prior to that February. Ms. Woldorf suggested having the meeting as soon as possible, with consideration of a liaison appointment after that meeting.

Pickering Field Use Agreement – Gerard O'Malley & Robert Walker

A final draft of a Use Agreement with the Council Rock Newtown Athletic Association was discussed, with Councilor O'Malley explaining the process leading up to this point. Mr. O'Malley stated that concerns of the multiple stakeholders were considered, and he feels the final document addresses the important issues. The agreement outlined a better process for improved communication with quarterly check-ins with Council, Fall Baseball to be reviewed on an annual basis, announcements using the public address system will be minimized, a listing of affiliated team will be attached to the agreement, schedules will be posted and several dates were excluded from CRNAA use.

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor O'Malley, and carried unanimously, for the Solicitor to finalize the facility use agreement between Newtown Borough and Council Rock Newtown Athletic Association (CRNAA) for a period from January 1, 2010 through December 31, 2015, sending the agreement to the president of the CRNAA and to the president of Council for execution.

Kevin O'Shea, president of the CRNAA, extended his thanks to Councilors Walker and O'Malley, Council, league representatives and the neighbors for their input.

Certificates of Appropriateness

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

COA 2010-007-H Applicant: Justin Kaplan, 31 S. State Street, Palate Restaurant

The applicant was seeking a Certificate of Appropriateness for the installation of a double-sided hanging sign, noting there would be no bracket and the sign would be mounted from the soffit with two metal hooks.

COA 2010-008-H Applicant: Eileen Higgs, 408 S. State Street, Higgs & Sons Coins & Precious Metals

The applicant was seeking a Certificate of Appropriateness for the replacement of a wall sign and directory sign for a new retail store, noting that the colors and fonts would match the previous signs.

**COA 2009-041-H Applicant: Moon Landscape for Nicholas & Rochelle Mancini,
111 E. Washington Avenue**

The applicant was seeking a Certificate of Appropriateness for the installation of a brick retaining wall, and steps with Bluestone caps, and fencing with a gate to be installed in the side yard area, noting that there would be a curved extension on the ends of the handrail, which would have a standard handrail profile.

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

A meeting is scheduled with Gary Crossland of Newtown Township to discuss the Frost Lane street project.

Ms. Saylor met with Mr. Gusty at 252 S. State Street to inspect the flooding issue on his property. The storm sewer system is not impeded and Ms. Saylor suggested that Mr. Gusty have his water tested for chlorine to see if there is a break in the water service line to his building. Otherwise, he might want to speak to a geologist to see if there is an underground spring.

Ms. Saylor attended a meeting regarding the Neshaminy Watershed Storm Water Management Plan. A draft plan should be approved by the DEP by June and once approved, municipalities within the watershed are required to adopt a new storm water management ordinance or amend their existing ordinance.

Regarding the continuation of the Old Skunky project, Solicitor Cohen reported that the original Old Skunky project was assigned to Gilmore & Associates. At this time since there is some disagreement about Gilmore's obligation to continue with the project, Mr. Cohen suggested authorizing the engineer to proceed with transition of information to evaluate completion of the study.

Mr. Burke questioned whether this decision would affect any funding of the grant, to which the Solicitor responded that he did not feel there would be a problem.

Mr. O'Malley commented that he agrees that Gilmore should be responsible for completion of the project, and this situation speaks to the value of doing Requests for Proposal, which was not done for the Old Skunky project.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Warren, and carried unanimously, to authorize the Borough Engineer to meet with representatives of Gilmore & Associates to facilitate transition of the Old Skunky Study project.

The Solicitor asked Council for authorization to work with the Engineer to complete amendments to the sidewalk ordinance.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Walker, and carried unanimously, to authorize the Borough Engineer and the Borough Solicitor to work together regarding amendments to the Sidewalk Ordinance and specifications for sidewalks.

Tax Certification Fee Increase – Judy Musto

Tax Collector Musto explained her request to increase the tax certification fee from \$20 to \$35. All other municipalities within Council Rock School District charge \$30-35. A three-year tax certification is requested as part of the closing costs at settlement or for refinancing a property. The work involved is verifying the accuracy of the taxes paid for the past three years.

During Ms. Musto's request for the tax certification increase at the previous work session, Mr. Warren said he was persuaded to consider the increase because in the Council Rock School District Ms. Musto only receives \$2.05 per tax bill. Other school districts pay \$3.50 per tax bill, so this increase would help offset the lower payment, including that she receives no health benefits or pension.

Mr. Sellers questioned Ms. Musto about the amount of weekly hours devoted to the job. Ms. Musto responded that it is difficult to quantify, since the work is cyclical, especially during the discount periods and especially through the summer months.

Resident Bob King, who has been involved in real estate for 31 years, confirmed that a timely response to the request is imperative, that without the tax certification a settlement cannot take place and three years tax verification is the norm. He felt Ms. Musto should be compensated.

Mr. Warren asked if, at the time of the public hearing, Council decided to change the amount of the increase, would the change need to be re-advertised, to which Mr. Cohen responded affirmatively.

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor Burke, and carried with Councilor Sellers voting nay, to authorize the Solicitor to advertise an ordinance amending to Article IV, Chapter 139 of the Code of the Borough of Newtown increasing the fee to be paid to the Tax Collector for tax certifications from \$25 to \$35.
- ❖ A motion was duly made by Councilor Walker, seconded by Councilor Burke, and carried with Councilor Sellers voting nay, to approve Resolution 03-09-10A amending the 2009 Fee Schedule of Newtown Borough to reflect an increase in the fee to be paid to the Tax Collector from \$25.00 to \$35.00 per tax certification.

Presentation of Minutes

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Walker, and carried unanimously, to approve the February 3, 2010, Work Session Minutes.
- ❖ A motion was duly made by Councilor Walker, seconded by Councilor Burke, and carried unanimously, to approve the February 9, 2010, Council Meeting Minutes.

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 February 2010, totaling \$98,197.22.

Ms. Woldorf reminded Council of a discussion to provide quarterly budget reports. Mr. O'Malley said he and Mr. Walker would discuss the issue before the next work session.

Environmental Advisory Council – Robert King

Mr. King reported that the Environmental Advisory Council is looking at LED or induction lighting for the Borough and what the cost saving might be for Newtown. A lighting contractor will attend the next meeting on March 16, 2010, to discuss the options and the cost of conversion.

The last changes to the Open Space Plan were forwarded to the Heritage Conservancy. The completed plan should soon be available.

Mr. King expressed the importance of protecting Newtown Creek and suggested asking Allan Smith to donate the portion along the Creek to the Borough after completion of the Stocking Works II project, but allowing Mr. Smith to calculate the open space into his planning for the development.

Police Committee – Perry Warren

Mr. Warren referred to a previous discussion about a letter from Council President to the Bucks County Commissioners requesting funding for police car radios. Ms. Woldorf will draft the letter for approval at the April Work Session.

Mayor O'Brien explained that money has been set aside for the past three years for purchase of a new police vehicle. Four different cars and proposals were shared with Council and the Mayor noted that there would be some offset to the total purchase price with the sale of the used police vehicle.

- ❖ A motion was duly made by Councilor Warren, seconded by Councilor Walker, and carried unanimously, to approve the purchase of a 2010 Ford Expedition 4 x 4 police car in the amount of \$36,179.12.

Mr. Burke questioned the process for notifying Council members about incidents in the Borough, as he was concerned that he is not notified more quickly. Ms. Woldorf explained that with an on-going investigation, some information is kept confidential but she said the Police Committee would discuss the issue.

Resident Jeanne Haeckel, 123 Penn Street, told Council that she had found empty over-the-counter cold/cough packets. She was concerned because they are one of the most abused drugs by teenagers. There were also empty cigarette packs/butts and she suggested that the Recreation Board might consider "No tobacco" zones, as does New Jersey.

Streets, Lights & Properties – Michael Sellers

Mr. Sellers referred to a proposal from Hepp Electric for electrical work in Borough Hall, which includes three programmable thermostats.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Warren, and carried unanimously, to accept the proposal of Hepp Electric, Inc., dated February 20, 2010, for the installation of two all purpose electric outlets (\$125/ea) and three programmable thermostats (\$354) for a total of \$654.

Mr. Sellers discussed an estimate from Hepp Electric for lighting in Linton Memorial Park. Mr. Hepp recommended a sodium lamp as providing the best light and suggesting placing a light on the peak of the shed facing CVS pharmacy, one on the back of the shed facing down and using timers, as opposed to a motion detectors.

There was discussion about replacement of a light at Veteran's Plaza, which lights one of the flagpoles.

Traffic Committee – Gerard O'Malley

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Warren, and carried unanimously, to approve submitting Requests for Proposal to potential consultants for the Newtown Borough Integrated Transportation Circulation Study.

Mr. O'Malley explained that because of the change in Council positions since the original signing, the new president of Council should re-sign the agreement.

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Walker, and carried unanimously, to authorize the President of Council to re-sign the Smart Transportation Reimbursement Agreement.

Solicitor's Report

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor Burke, and carried unanimously, to adopt ordinance #700 prohibiting parking, except for Emergency Vehicles, on the east side of Liberty Street for a distance of 200 feet north from Washington Avenue.
- ❖ A motion was duly made by Councilor Burke, seconded by Councilor Walker, and carried unanimously, to authorize the Solicitor to advertise a resolution amending the Articles of Incorporation of the Newtown, Bucks County, Joint Municipal Authority to extend its term of existence to May 15, 2061.
- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Walker, and carried unanimously, to authorize the Solicitor to advertise an ordinance amending Article 1, Chapter 75 of the Code of the Borough of Newtown entitled "Emergency Management Organization" by modifying the succession of authority to declare a local disaster emergency, specifically succession first to Mayor, then to president of Council and then vice-president of Council.

Prior to this meeting and following the Work Session on March 3, 2010, Executive Sessions were held for discussion of pending litigation docket #'s E.D.Pa. No. 07-cv-01022, No. 07-cv-00165, No. 05-cv-02727, No. 06-cv-05312, and in Bucks County Court 2009-12884 and 2009-12891 and leasing and property issues.

Old Business

Ms. Woldorf reminded Council that there were to be regular updates on each of the outstanding Borough grants. She asked that brief reports be circulated to Council prior to discussion at the next work session.

Ms. Woldorf received feedback from the Solicitor regarding proposed by-laws, rules and regulations and meeting format. She is working on a more flexible version that will be circulated to Council for discussion at the work session.

Mr. Walker would like to have Executive Sessions held prior to the meetings rather than at the end of each meeting. Ms. Woldorf commented that the executive sessions were held at the end of work sessions because Council members had difficulty arriving early from work. Mr. Walker reminded her that the work sessions were moved from 5 P.M. to 7 P.M., which should make it easier.

New Business

Mr. Warren announced that there were two open positions on the Board of Directors of the Newtown Corporation, one on the Environmental Advisory Council and one on the Building Code Board of Appeals.

Public to be Heard

No one wished to be heard at this time.

The meeting was adjourned at 10:40 P.M.

Marcia M. Scull
Borough Secretary

ATTENDEES

Diane LeBas	104 Penn Street
Warren Woldorf	440 Washington Avenue
Paul Salvatore	148 N. Elm Avenue
Bob & Judy Musto	118 S. Congress St.
Bill Smith	21 S. State Street
Harry & Becky Betz	30 S. State Street

Robert King	242 S. Chancellor Street
Dave & Mary Callahan	113 Court Street
Jeanne Haeckel	123 Penn Street
Frank Tyrol	Newtown Corporation
Eric Johnson	242 S. State Street
Glenn Seibert	CRNAA
Charles F. Swartz	323 E. Washington Avenue
Justin Kaplan	31 S. State Street
Rob Ciervo	14 Periwinkle
Cathy Triverio	117 N. Chancellor Street
Bob King	242 S. Chancellor Street
Mike Hutchinson	132 N. State Street
Kevin O'Shea	245 Stanford Place
Chris Amazeen	115 Washington Avenue
Deb Donofry	16 S. Norwood Avenue
Charles Lewis	Newtown Book & Record
Harry & Becky Betz	Newtown Bike & Becky's Deli
Jeanne Haeckel	123 Penn Street
Joe Michelin	20 N. Lincoln Avenue
Ed Hipps	408 S. State Street
Michael Sciarretta	13 S. Chancellor Street
Bruce Clark	Moon Landscaping
Tim & Darlene Longosky	19 S. State Street
Sally Thompson	200 N. Chancellor Street
Jerry Schenkman	Newtown Township Supervisor
Liz Warren	149 Andrew Drive
Jeff Werner	The Advance