

Council Meeting  
November 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, November 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; and Solicitor Paul Cohen.

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

#### Police Report for October

Mayor O'Brien reported that the police provided coverage for several events, including "Music in the Park," the Newtown 5K Run, the Newtown Brew Fest, and the Goodnoe and Borough Halloween parades. Officers of the Borough and Township conducted a truck inspection detail which resulted in the issuance of 21 traffic citations and violations. A pedestrian safety detail at Lincoln and Washington Avenue was held in conjunction with "Pedestrian Safety Week."

#### Special Events Reminder:

- ✓ Christmas Tree Lighting – November 26, 2010 – 6:30 P.M.
- ✓ Newtown Historic Association Open House Tour – December 4, 2010
- ✓ Holiday Parade – December 5, 2010 – 2-4 P.M.

### **Amendments to the Agenda**

There were no amendments to the agenda.

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

Ms. Woldorf reminded Council about the next dinner meeting of the Bucks County Association of Borough's. The topic of the evening will be "Green Building Codes" and particularly the Doylestown green building code which encourages environmentally sound construction.

### **Correspondence**

Ms. Woldorf reminded Council of the invitation from the Bucks County Water and Sewer Authority for the customer appreciation dinner. The event will be held November 15, 2010, at Middletown Country Club and she encouraged Council members and the Mayor to attend.

A letter was received from State Senator Charles McIlhinney, Jr. congratulating Newtown Borough on being awarded a recycling grant in the amount of \$7962 under the Recycling Performance Grant Program of Act 101 of 1998.

A letter was received from the *First Night Newtown* committee announcing the event and the opportunity to sponsor this activity.

### **Public to be Heard**

No one wished to be heard at this time.

### **Certificates of Appropriateness**

#### **COA 2010-037-H Resident, Monica Morgan, 93 E. Centre Avenue, residence**

The applicant was seeking an amendment to Certificate of Appropriateness #2010-037, previously recommended by HARB and approved by Council, for installation of additional trellis lattice attached to the front porch of the house.

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

#### **COA 2010-044-H Resident, Noelle Finley, 35 Court Street**

The applicant was seeking a Certificate of Appropriateness for the installation of additional fencing to match the existing fence.

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

#### **COA 2010-045-H Applicants, Marv & Andy Kaplan, 11-13 Centre Avenue, Eye Envision dba Shoe Café of Newtown**

The applicants were seeking a Certificate of Appropriateness for the installation of an awning sign and a hanging sign, noting that the bracket would be placed at the same height as the existing bracket and would be located on the opposite side of the door than was indicated on the submitted photograph.

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

**COA 2010-046-H      Resident, Laura Menditto, 103 E. Penn Street, residence**

The applicant was seeking a Certificate of Appropriateness for the replacement of windows, repair/replacement of trim, and installation of new French doors and lighting fixtures, noting that the doors would be wood with simulated divided lites.

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

**COA 2010-047-H      Applicant, Richard Speranza, 32-34 Court Street, residential rental duplex**

The applicant was seeking a Certificate of Appropriateness for the replacement of the upper, main roof only, currently tin installed over cedar shingles, with Duration Premium shingles; all lower porch roofs to remain tin, noting that the shingles would be Owens Corning 30 year shingles in the color teak.

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

**Engineer's Report**

Mr. Sellers reported on the proposed handicapped ramp removal at Lincoln Avenue and Lafayette Street. The ramp is problematic and therefore not used by pedestrians and the engineer has recommended its removal. PennDOT requires that a Pedestrian Study be conducted and Engineer Saylor has agreed that the survey could be conducted by volunteers from the Traffic Committee

between the hours of 11 A.M. and 1 P.M. The final report will be completed by Ms. Saylor based on information from the study.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Warren, and carried unanimously, to authorize the completion of the Pedestrian Study [by the Engineer] for the removal of the handicapped ramp at Lafayette Street and Lincoln Avenue in an amount not to exceed \$600, upon receipt of the pedestrian count conducted by a member of the Traffic Committee.

Mr. Sellers explained that the 2010 Frost Lane project is a joint venture between Newtown Borough and Newtown Township. The Borough engineer confirmed that work has been done and the first payment release is ready for approval. Ms. Woldorf reminded Council that all payments are jointly approved by the Borough and Township and total payment is evenly divided between both municipalities.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Walker, and carried unanimously, to approve Payment Release #1 for the 2010 Frost Lane Rehabilitation project in the amount of \$61,636.50.

The Borough engineer advised that the Washington Avenue and State Street ramp designs have been reviewed by her and will be forwarded to PennDOT so that work can hopefully be approved and completed before winter.

### **Traditional Neighborhood Development Ordinance Modifications – Michael Sellers**

Mr. Sellers explained that Council requested that the Planning Commission review the comments from the Bucks County Planning Commission (BCPC) regarding the Traditional Neighborhood Development (TND) Ordinance modifications. That has been done, with revisions made by Chairman Woldorf, and the TND is ready to again be reviewed by the BCPC.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor O'Malley, and carried unanimously, to authorize the President of Council to send the revisions for the Traditional Neighborhood Development modifications to the Bucks County Planning Commission for review.
- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Warren, and carried unanimously, to authorize the Solicitor to review the final version of the ordinance. [Traditional Neighborhood Development Ordinance]

### **Presentation of Minutes**

- ❖ A motion was duly made by Councilor Walker, seconded by Councilor Warren, and carried with Councilor Woldorf abstaining, to approve the minutes of the October 6, 2010, Work Session Meeting.
- ❖ A motion was duly made by Councilor Warren, seconded by Councilor Burke, and carried unanimously, to approve the amended minutes to include "An executive session was held prior to the meeting at 6:30 P.M. for discussion of personnel and litigation" for the October 12, 2010, Council Meeting.
- ❖ Approval of the minutes for the October 21, 2010, special meeting was tabled.

## COMMITTEE REPORTS

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

#### Consolidated Report

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Burke, and carried unanimously, to accept, subject to audit, the consolidated expenditure report for the month of October 2010 totaling \$143,898.49.
- ❖ A motion was duly made by Councilor Walker, seconded by Councilor O'Malley, and carried unanimously, to pay down the unfunded liability of \$43,899 for the Newtown Borough Pension Plan(s) over the next five years, to be accomplished by paying \$8,500 into the plan in 2010, and \$8,224 in years 2011 through 2014.

#### 2011 Budget Discussion

In considering the 2011 budget, Mr. O'Malley noted two options: using money from the Operating Reserve Fund and/or a possible 2 mill increase in the tax millage, with both scenarios using money from the Operating Reserve Fund, but only one of the scenarios requiring the tax increase. The Police Department and road expenditures, which include snow removal, account for the largest percentage of the Borough budget. The Earned Income Tax, real estate transfer tax, and local services tax generate approximately 66% of the revenue coming into the Borough, with only 13% of the Borough income generated by real estate taxes. The balance forward each year should be approximately 25% of the Borough's expenses for the year or \$300,000, to be used against bills for the first quarter. At the end of 2010, the Borough will only have \$100,000 available, which would necessitate transferring funds from the Operating Reserve to make up the difference.

Mayor O'Brien asked what the 2 mill increase equates to and Mr. O'Malley responded that the average taxpayer would have an approximate \$90 increase. Mr. Walker voiced concern about depleting the Operating Reserve over the next two years with no foreseeable way to replace those funds and Mr. Burke was concerned that the increase in 2013 would be a 4-5% increase if everything else remained the same.

Mr. O'Malley felt that Council's focus in a difficult economy should be on 2011, rather than projecting forward. Mr. Sellers would rather see the Operating Reserve Fund used to avoid a tax increase. Although the Borough may be facing the same situation next year, Mr. Sellers would prefer to use these funds and hope for an improved economic picture in 2012.

Mr. Burke felt that it was his responsibility to be fiscally responsible and although the cost of expenses and taxes is a consideration, he felt that a tax increase now is heading off a major issue in the foreseeable future. He did not feel that a \$90 increase was a significant burden considering that the increase next year could be three times that amount. Mr. Burke was concerned that if grants are obtained and the Borough would need to match funds, depletion of the Operating Reserve might mean those funds would not be available. Planning and trying to

stay ahead of a financial crisis is, in Mr. Burke's opinion, a more conservative and cautious approach.

Mr. Walker felt that, although a difficult decision, the Borough residents would accept a calmer, staid approach rather than sitting back hoping it [the economy] turns around. He was concerned that there could be runaway inflation and the Borough would find itself in a difficult situation.

Mr. Sellers disagreed saying that conservative management principles in maintaining a healthy fund balance should not be the absolute number one priority when the fund is there to avoid the additional tax burden this year.

Ms. Woldorf expressed concern about asking for a tax increase when the Operating Reserve Funds are available and she would rather see the residents put that tax increase into the businesses and local economy.

Mr. Warren said he is not prepared to ask the residents to incur a tax increase, particularly when the Operating Reserve funds could be used. He would prefer to look ahead to 2012 and see how the economy is at that time.

Joshua Horenstein, 21 S. Lincoln Avenue, would not support option 1 [with a tax increase], but would prefer option 2, utilizing the Operating Reserve. Mr. Horenstein felt that being fiscally prudent does not mean not spending money, but knowing when and when not to spend money, and he did not feel that it was the right thing to do this year.

### **Year 2011 Tax Rate Ordinance**

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Sellers, and carried with Councilors Burke and Walker voting nay, to direct the Secretary to advertise an Ordinance setting the Tax Rate for 2011 as follows: General Fund 4 mills; Lighting Fund .50 Mills; Fire Tax Fund .875 Mills; Street Improvement Fund .625 Mills; Earned Income Tax @ 1%; Realty Transfer Tax @ 1%; and Local Services Tax @ \$52.00.

### **Year 2011 Budget**

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Walker, and carried unanimously, to direct the Secretary to advertise the Year 2011 Proposed Budget.

### **Year 2011 Tax Ordinance Fixing Salaries**

- ❖ A motion was duly made by Councilor O'Malley, seconded by Councilor Walker, and carried unanimously, to direct the Secretary to advertise an Ordinance Fixing Salaries and other compensation for elected tax collector, auditor and Council appointees for Year 2011.

### **Police Committee – Perry Warren**

Mr. Warren reported that Chief Wojciechowski would like Council to consider making more parking permits available for the municipal parking lots and increasing the annual fee for those permits. Currently, parking permits are only available to individuals without off-street parking. The proposal would make the permits available to any interested parties, but with a maximum of 75 permits to be sold and at a fee of \$120.

- ❖ A motion was duly made by Councilor Sellers, seconded by Councilor Walker, and carried unanimously, to authorize the Solicitor to review the current parking permit enactment and fee and make appropriate recommendations, returning them to Council as soon as possible as to form and substance.

Centre Avenue resident Monica Morgan asked about the plans for parking permits on Court Street. Mr. O'Malley explained that the Parking Committee would be discussing the possibility of residential parking permits for Court Street, Centre Avenue and Penn Street at their next meeting. The idea was brought to the work session in November and Council felt that the issue should be discussed by the Committee before making any decision.

Mayor O'Brien reported on the possible purchase of a generator for the police department. At the suggestion of Mr. Walker, a possible tie-in to the Fire Association generator was investigated, but that was found to be problematic. Newtown Mechanical suggested the purchase of a smaller generator at a cost of approximately \$2,500 plus installation and felt it would meet the needs of the police department. Mr. Sellers asked for specific information on the model, cost and installation in writing before making a decision.

### **Recreation Board – John Burke**

Based on the recent audit, Mr. Burke and Mr. Sellers met to determine what was required to bring the Brian S. Gregg Memorial Park into compliance. For Linton Memorial Park, the swing set, the small tire, the seesaw and the play structure [in the Peaceable Kingdom] must be removed. Since the Solicitor has determined that bidding is required, the purchase of proposed new equipment at a 50% discount might not be possible. Purchase of all of the equipment for Linton Memorial Park will not be possible in the original timeframe if the Borough cannot take advantage of the discounted price and the swing set must be deferred to the following year.

- ❖ A motion was duly made by Councilor Burke, seconded by Councilor Sellers, and carried unanimously, to authorize the purchase of one arch climber from Boyce Associates in the amount of \$294 and the purchase of one swing seat at a cost of \$27 from George Ely Associates, Inc. for the Brian S. Gregg Memorial Park to meet the requirements of the audit.

Mr. Burke said the removal of the equipment at Linton Memorial Park should take place as soon as possible.

- ❖ A motion was duly made by Councilor Burke, seconded by Councilor Sellers, and carried unanimously, to authorize the removal of the swing set, small tire, seesaw, and play structure, as soon as possible, as a response to the audit to address the safety issues, in an amount not to exceed \$1000.

Ms. Woldorf suggested redesigning the park, particularly taking into consideration usage by the older children and recommended having the Recreation Board encourage people and pre-teens to join a committee to discuss ideas. Mr. Burke agreed that was a good idea, but from a financial standpoint redesigning might not be feasible.

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

Mr. O’Malley explained that Council must forward the price proposal from Jacobs Engineering for the grant work to the Delaware Valley Regional Planning Commission (DVRPC) for review. The consultant will be paid by the Borough and the Borough will then be reimbursed by PennDOT after certification by the DVRPC. The Solicitor wanted clarification in the contract regarding a “not to exceed” amount and he will speak to Jacobs Engineering about clarifying the wording.

- ❖ A motion was duly made by Councilor O’Malley, seconded by Councilor Walker, and carried unanimously, to forward the Pennsylvania Community Transportation Initiative (PCTI) price proposal from Jacobs Engineering through the Delaware Valley Regional Planning Commission (DVRPC) to PennDOT for review.

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

The Solicitor noted that an Executive Session was held prior to the meeting for discussion of potential and existing litigation.

### **Old Business**

Mr. Warren referred to House Bill 1231 regarding worker’s compensation for firefighters who develop cancer after serving as a firefighter. Council was originally in opposition to the bill, but since amendments have been made, Council feels more comfortable with the changes.

Mr. Burke asked the Solicitor about his follow-up on changes to the Shade Tree Ordinance regarding fee-in-lieu of trees.

- ❖ A motion was duly made by Councilor Burke, seconded by Councilor Walker, and carried unanimously, to authorize the Solicitor to review and draft changes to the Sub-division and Land Development Ordinance (SALDO) related to fee-in-lieu of trees prior to the December work session.

Ms. Woldorf raised the question of amending the Geo-Thermal Ordinance and suggested that the engineer review it. She will speak to the engineer about the cost for this review.

### **New Business**

Mr. O'Malley was asked by a resident to revisit the issue of leaf collection in the Borough. It had been cost prohibitive but Mr. O'Malley wondered if there might be alternative ways to accomplish the collection. Ms. Woldorf will raise the issue with the Environmental Advisory Council.

Mr. Burke was approached by a [Newtown] township resident who was interested in volunteering as the grants writer, but asking if the individual was required to live in the Borough. The Solicitor will check to see if there are any restrictions.

Mr. Sellers reported that an Eagle Scout wished to make a presentation to Council at the December work session about a potential Eagle Scout project.

### **Public to be Heard**

Paul Salvatore, 148 N. Elm Avenue, announced that there will be a *First Night Newtown* event this year and the committee is teaming with D.A.R.E., since their funding has been totally cut by the state. The [Newtown] township police are currently using their budget to pay for the program and the *First Night Newtown* committee is hoping to raise enough funds to cover expenses, with anything additional being dedicated to D.A.R.E. Venues will include the high school, St. Mark's Church and Chandler Hall and all sponsors are welcome.

Josh Horenstein, 21 S. Lincoln Avenue, was upset that there would be no equipment in the playground [Linton Park] during the winter. Mr. Horenstein encouraged the Recreation Board to get this project done as soon as possible and emphasized to Council to act quickly.

The meeting was adjourned at 10:50 P.M.

Respectfully submitted,

Marcia M. Scull  
Borough Secretary

### ATTENDEES

Warren Woldorf	440 Washington Avenue
Jeff Werner	The Advance
Jim McAuliffe	545 E. Centre Ave.
Andi & Marv Kaplan	13 Centre Ave.
Laura Menditto	103 Penn Street
Karolyn Fisher	215 S. Chancellor
Marian Disken	400 Washington Ave.
Josh Horenstein	21 S. Lincoln Ave.

Paul Salvatore

148 N. Elm