

Council Meeting
March 11, 2014
Chancellor Center

President Robert Walker called the regular semi-monthly meeting of Newtown Borough Council to order at 7:00 P.M. on Tuesday, March 11, 2014. Mr. Walker asked those in attendance to join him in a moment of silence, followed by the Pledge of Allegiance.

Present: Councillors Auerweck, Grunde-McLaughlin, King, Walker and Warren; Mayor Swartz and Solicitor Bolla. Councillor Gusty was excused.

Mayor's Report

Special Events Reminders

Arbor Day – April 25, 2014, at the Brian S. Gregg Memorial Park

The dedication and renaming of the Newtown By-pass to the Officer Brian S. Gregg Memorial Highway was postponed until sometime in April. The date will be announced as soon as PennDOT confirms it.

Amendments to the Agenda

There were no amendments to the agenda.

Sewer Authority Update

Eric Johnson and Warren Gormley, representing the Newtown, Bucks County Joint Municipal Authority (NBCJMA), reported that customers recently received notice of a proposed rate hike of 5.5%, which was a direct pass-through resulting from an increase from the city of Philadelphia to the Bucks County Water and Sewer Authority (BCWSA) and then to the Newtown Sewer Authority. The Newtown Sewer Authority absorbed 27% of the last increase, but because of the 1 1/2-year moratorium and the resulting lack of permit fees, this current increase must be passed on to the customers.

DEP lifted the moratorium that had prevented building in Bucks County. The Bucks County Water and Sewer Authority sued DEP, but they reached a settlement before going to court and the Newtown Sewer Authority and Council received a document advising of that settlement and outlining proposed action. Mr. Johnson voiced serious concern about various items in the agreement that had no back-up documentation or exhibits on which to base the action. The Sewer Authority's solicitor filed a "Right to Know" application with the DEP to obtain that information. In addition, the BCWSA wants Newtown Township and Newtown Borough to sign an agreement that they would

monitor infiltration. There is already a signed agreement in place with the Newtown Sewer Authority for 50 years to take care of the sewer system. A meeting is scheduled on March 19, 2014, at the Bucks County Community College with DEP, BCWSA, NBCJMA and representatives from Philadelphia to discuss the document. Mr. Johnson said there had been a longstanding law suit regarding what the Newtown Sewer Authority felt were overcharges by the BCWSA based on inaccurate meter readings. Two days before the scheduled trial, the Bucks County Water and Sewer Authority capitulated and walked away from approximately \$675,000. Because of that, they both signed an agreement over meter readings but that agreement has already been broken by the BCWSA. It has come to the attention of the Newtown Authority that the Bucks County Water and Sewer Authority has been charging for meter readings at Lockheed Martin for many years and there were never meters at that site.

Mr. Walker asked if DEP is concerned about the ratepayers or only about the process of sewer water management. No one from DEP or the BCWSA ever contacted the Borough about this agreement. Mr. Walker felt that the Borough Solicitor should review the standing document, as well as the recently received documents, which indicate another potential rate hike. Mr. Gormley said the BCWSA has done nothing with the overloaded trunk line for 40 years, but the new agreement requires installation of meters, pumping stations, etc. that would be at the cost of the users and ratepayers. The taxpayers would also be impacted by mandates from DEP, which at this point are unknown.

Resident Caroline Bennett is upset at paying double the rate of her actual usage. She appeared before Council before and spoke to the Newtown Sewer Authority about her concerns. In her opinion, she has been overpaying for sewer usage for 17 years and she feels that the rate structure for residential usage does not encourage water conservation, which would also impact sewer usage. Although Newtown has a minimum usage rate, in 2012 that rate was \$154 in Northampton and \$128 in Lower Makefield. Mr. Gormley said the board would consider possibly lowering the minimum at the next budget meeting in August.

- ❖ A motion was duly made by Councillor Grunde-McLaughlin, seconded by Councillor Auerweck, and carried unanimously, to authorize the Solicitor to attend the March 19, 2014, meeting of the DEP and the Bucks County Water and Sewer Authority, representing the Borough, and to review the agreement with the Newtown Sewer Authority and documents that were received by the Borough from the Bucks County Water and Sewer Authority.

Public to be Heard

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

President's Report

- ❖ A motion was duly made by Councillor Walker, seconded by Councillor Warren, and approved, to send a letter to the Bucks County Health Department to allow spraying for West Nile Virus in Newtown Borough.

Certificates of Appropriateness – Robert King

- ❖ A motion was duly made by Councillor King, seconded by Councillor Grunde-McLaughlin, 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 2014-001-H Applicant: DeFrehn Corporation, 318 E. Washington Avenue, Benner residence

The applicant was seeking a Certificate of Appropriateness for the replacement of a slate roof with Slateline shingles, noting that the ridge, hips and valleys would be aluminum, all in a contrasting color to match existing roof details, and that the sides of the dormers would remain in the existing slate.

COA 2014-003-H Residents Jim & Karen Waitkus, 201 E. Penn Street

The applicants were seeking a Certificate of Appropriateness for the construction of a stone wall and installation of a fence with a gate.

COA 2014-004-H Applicant: Deborah Richman, 16 S. State Street, MedEstics

The applicant was seeking a Certificate of Appropriateness for relocation of an existing sign for MedEstics, but the application was denied with the stipulation that the unapproved sign (which had already been installed by the applicant) be removed from its present location.

Presentation of Minutes

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor King, and carried unanimously, to approve the February 5, 2014 Work Session minutes.
- ❖ A motion was duly made by Councillor Warren, seconded by Councillor King, and carried unanimously, to approve the February 11, 2014 Council Meeting minutes.

COMMITTEE REPORTS

Budget & Finance – Robert Walker & Perry Warren

Consolidated Report

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor King, and carried unanimously, to accept, subject to audit, the consolidated expenditure report for the month of February 2014 totaling \$320,541.99.

Solicitor's Report – William J. Bolla

139 N. State Street Proposal

Mr. Bolla announced that Council held an Executive Session prior to the meeting to discuss the 139 N. State Street submission that the applicant may make to the Zoning Hearing Board.

Mr. Bolla explained that the original plan for 139 N. State Street was for office space. Neighbors and members of the public felt that the two-story barn structure at the back of the property had historic value and requested maintaining it. Council also indicated the desire to see the barn retained and the property owner, Jodi Smith, then asked for a hearing under the Local Agency Act to determine whether this was indeed an historic structure. After discussions between the Solicitor, the applicant and her attorney, the applicant decided to save the barn, but doing so would require variance relief. The original plan provided enough parking spaces to serve the office use, but retaining the barn would require additional parking spaces and a variance from the impervious surface requirements of the ordinance. Additionally, in saving the barn, the applicant proposes to move the barn closer to the rear property line, which would also require a variance. Ms. Smith plans to utilize the second floor of the barn as a residential apartment, which also requires additional parking. The apartment use is permitted in the district by special exception and the offices are permitted in the district by right. Council could take a position on the application or simply rely on the Zoning Hearing Board to make the right decision, because retaining the barn necessitates the variances. There are several encroachments on the applicant's property from neighboring properties and the applicant would provide for the continued existence of those features by easement, if the property owners who have the infringing structures do not continue to oppose the application.

Resident Esther Novotney, 145 N. State Street, asked if the easement offer includes all of the infringing properties. She also asked if they would be permanent easements that would stay with the property. In addition, Ms. Novotney asked whether the property behind 143 N. State would be used for parking. Mr. Bolla was not familiar with the merger of the two properties, so could not address her question at this time.

Belva Hackett, 138 N. Liberty Street, asked if this was just a proposal, and if so, when a final decision would be made. Mr. Bolla explained that the applicant would formalize the proposal into a final plan and submit it to the Zoning Hearing Board for consideration of the variances and special exception. Ms. Hackett asked if there were stipulations when moving such a large structure close to the property line. Mr. Bolla suggested that she ask for party status at the hearing to express her concerns.

Joseph White, 143 N. State Street, asked when the public would be able to view the proposed plan. Mr. Bolla said the plan would be presented as part of the Zoning Hearing Board application and when the neighbors receive hearing notification, they may view the plan at the Borough Office.

In his reading of the Zoning Ordinance, Warren Woldorf questioned the ability of the applicant to obtain a special exception for an apartment in that district.

Mr. Auerweck asked who is responsible for sending the hearing notice to the property owners and the answer was the applicant. Mr. Auerweck noted two instances when he did not receive notice and Mr. Bolla said that is at the applicant's risk, as the decision could be reversed on appeal if notice is not received.

First National Bank

In response to a question asked by First National Bank at the Council Work Session, regarding a 1990 Zoning Hearing Board decision regarding a parking area on Mercer Street, Mr. Bolla said that in reviewing the decision, it is his opinion that the bank would need to seek a modification of that decision by reapplying to the Zoning Hearing Board. The Bank has had problems with non-employees leaving cars in their parking lot and creating issues for employee parking. The original ZHB decision permitted resident parking after banking hours.

Old Business

Ms. Grunde-McLaughlin reported at the Work Session that a resident wished to donate a portable basketball stand and net to the Borough. It was determined that this would not be suitable for a public playground, but the Borough appreciated the offer.

Mr. Warren raised the issue of the DCNR grant application and Ms. Woldorf explained that in researching the issue, she found that the application required a site development plan. The most current survey of the Newtown Common was from 1934, but after further discussion with a DCNR representative, Ms. Woldorf found that a site plan would not be necessary at this stage of the application. If the Borough receives the grant and a survey is required at that point, then the cost could come from the budget for the grant. In response to Mr. Walker's question of the amount of the grant, Ms. Woldorf felt that it could be between \$150,000 and \$200,000, but that might be on the high end and the grant requires a 50% match. Ms. Woldorf learned that the Borough could use the Bucks County Open Space grant funds toward part of the match.

New Business

There was no new business

Public to be Heard

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

The meeting adjourned at 8:10 P.M.

Respectfully submitted,

Marcia M. Scull
Borough Secretary

ATTENDEES

Julia & Warren Woldorf
Ted Schmidt
Charles Machion
Eric Johnson
Warren Gormley
John Duggan
Caroline Bennett
Esther Novotney
Joe Gordon
Liz Dobuski
Carolyn Gabbe
Chris Mangano
Joe White
Chris English
Jeff Werner
Jim McAuliffe
Craig & Belva Hackett
Mike Molloy