

Council Work Session
August 6, 2014
Council Chambers

The regular monthly Work Session of Newtown Borough Council was called to order at 5:30 P.M. on Wednesday, August 6, 2014, by President of Council Robert Walker.

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

Amendments to the Agenda

Mr. Walker added the Newtown Fire Association Banner, Philips Court Partial Release of Escrow, and Health Care for Employees to the agenda.

Newtown Fire Association Banner

Carl Forsyth, Chief of the Newtown Fire Association, presented a request to hang a banner for the annual Beer Fest on the Washington Avenue side of the firehouse for 30 days prior to the event. It was clarified that the banner will be hung in the same location as last year. The consensus of the Council was to approve the banner.

Public to Be Heard –

No one wished to be heard at this time.

Engineer's Report – Mario Canales

Mr. Canales recommended that the maintenance bond, due to expire on August 14, 2014, be released for the street improvement project on Liberty Street. A motion to release the bond will be included on the August 12, 2014, Council meeting agenda.

Mr. Canales reported that a frontage improvement application had been received for 415 E. Centre Avenue. He said that the owner wants to remove the concrete and install a brick sidewalk, but Council approval is required for replacement of concrete with another material. A motion for replacement of the concrete sidewalk will be included on the August 12, 2014, Council meeting agenda.

Mr. Canales reported that a request was received for partial release of escrow for Phillips Court. The request is for the release of \$20,000, leaving a balance of \$49,000 in the account. Mr. Canales said that the developer was making progress on the punch list items, and he recommended approval of the partial release to enable the completion of the project. He noted that the money would go directly to the contractor. Mr. Walker said that he and Pat Ours had reviewed the documents and determined that there are adequate funds to accomplish the partial release. A motion for partial release of escrow for Phillips Court will be included on the August 12, 2014, Council meeting agenda.

Budget & Finance – Perry Warren

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor King, and carried unanimously, to approve the Professional Services Invoices for the month of May 2014.

- ❖ A motion was duly made by Councillor Warren, seconded by Councillor King, and carried unanimously, to approve the Professional Services Invoices for the month of June 2014.

Mr. Walker reported that a budget schedule was sent to all those who would need to provide budget information.

Solicitor's Report – William Bolla

Mr. Bolla said that he had sent a letter to Mr. Duffy, dated July 22, 2014, regarding the preparation of a second addendum that nullifies the first addendum, which requires that the parking lot agreement regarding additional parking that was proposed for public parking be rescinded because the cost exceeds the merit of the project.

- ❖ A motion was duly made by Councillor Auerweck, seconded by Councillor Grunde-McLaughlin, and carried unanimously, to rescind the additional parking lot agreement between the Borough and Allan Smith.

Discussion of 10 Centre Borough Lot Possible Inclusion in Steeple View Project

Mr. Walker referred to the previously discussed possibility of the developers plans either to build up to but not including the existing State Store or to encompass the State Store property and parking facilities around the State Store and behind Starbucks. He noted that the Borough or the State Street property owners own most of the property there, which is currently for parking. He said that Allan Smith's vision is to build a piazza and develop right up to Centre Avenue. He said that Mr. Duffy has been working with Solicitor Bolla and Jeff Marshall of the Heritage Conservancy to determine a way for the Borough to handle its real estate holdings. The options are either a bidding process, a land swap, or working with the Conservancy to preserve open space, which appears to be the best approach and is consistent with the Borough's Comprehensive Plan.

Mr. Bolla reminded Council of the developer's request to have the Borough recognize his standing to bring the conditional use application to include these two lots and they did at that point. Mr. Bolla said that the development is still subject to the full conditional use process, and that Councils' decisions/approvals would take place during the conditional use hearings.

Council members received a copy of the proposed 3-party land acquisition agreement, which is currently a work in progress. He also sent along a copy of attorney Tim Duffy's letter, which explained the theory behind the proposal for the Heritage Conservancy involvement and set forth the law that gives Council the basis for consideration of this agreement.

Legally these discussions must take place publicly. He advised against pre-judging the plan, as revisions are likely before the conditional use hearing. He noted that the proposed easements would restrict the use of property along the creek and piazza by granting rights to the public, enforceable by Heritage Conservancy or the Borough, which would preclude anything but public use or private use by a permitting procedure.

Although the Borough received appraisals for the 10 Centre properties, Mr. Bolla noted that the Council is not required publically to provide the amount of the appraisals at this time. He said that the Borough can require the applicant to present appraisals during the process and that an

impact study could be required, which would consider additional income from taxes vs. additional costs to the Borough.

Mr. Bolla said that he has some potential changes that Mr. Duffy has seen and agreed to on behalf of the developer, with additional changes to be discussed, but the changes are not binding until the conditional use approval is received.

Mr. Walker said the Borough should consider the revenue benefit to the Borough from this project. He noted that the cost for last years snow removal was \$300,000 and that if this year's snow removal is budgeted for that amount, the Borough would face a possible tax increase. The property development plans could result in a revenue opportunity in the form of increased real estate, income, and local resident taxes and the development could serve to revitalize the downtown district, making it a destination and helping local business and property owners.

In response to Mr. Walker's concern about an exit strategy to provide for the ability of the Borough to get out of the agreement if it should fail, Mr. Bolla said that he could word the agreement to accomplish this.

Ms. Grunde-McLaughlin asked about responsibility for the creek walk and Mr. Duffy said that the developer would complete any necessary improvements. In addition, Mr. Bolla clarified that maintenance of greenways and the piazza would be the responsibility of the developer with language clarifying that in the agreement, which would include easements to protect the public use of the site. Mr. Bolla noted that decisions regarding greenway and a creek walk would lie with Council.

Mr. Smith presented architectural renderings of the proposed streetscape, including the existing view along Centre Avenue and proposed view of the piazza from Centre Avenue, noting that the drawings are not yet finalized and that future application would be made to HARB. He suggested that there could be a large screen on the piazza for public events, which would fold into a building façade and that a balcony on the front façade of the building could provide a speaker's platform.

Mr. Smith said that he would relocate parking to the proposed garage. The parking garage would be multilevel at an approximate cost of \$1.375M. Mr. Walker noted the Borough is responsible for parking lot maintenance, but the developer would maintain any parking that is part of this project (i.e. snow plowing, etc.)

Mr. Smith clarified that proposed units south of Penn Street would be residential on the upper floors and those north of Penn Street would be office on the upper floors, as required by zoning. Currently proposed are approximately 100 2-bedroom units with condominium ownership. He noted a reduction in the number of residential buildings from five to four in the latest engineering plans.

Mr. Walker noted that Mr. Smith is prepared to proceed with the project with or without the 10 Centre lot. Mr. Walker suggested making the wetlands part of the greenways open space and he said there could be an opportunity for a bridge across the creek which would connect the Borough and Township.

Jeff Marshall from the Heritage Conservancy said that they were there to assist the Borough and that they would like to see as much green space in the development as possible. He said that they have not yet concluded whether or not there is enough open space in the present plan but they should know later this month.

Mr. King voiced concern about traffic congestion and the impact on the historic Centre Avenue Bridge. Even if there was a previous traffic study, Mr. King suggested the possibility of a new traffic study. Although buildings 1 and 2 in the piazza area will be retail and office, he is still concerned about rush hour traffic.

Mr. King views the area more as open space but he suggested that the barn behind Starbucks be relocated towards the wetlands and be used as a nature center. Mr. Walker noted that the springhouse was also available and Mr. Smith said that the springhouse could be located along the piazza. Mr. Walker asked if covering areas with concrete diminishes the value of the open space. He asked Council for their vision of a creek walk.

Ms. Grunde-McLaughlin said she would like to see paving to allow strollers and wheelchair access, which would allow a wider range of people to utilize the path. Mr. Walker asked about a bike path and Mr. Canales said that a standard 8' wide path would accommodate both pedestrian and bike use.

Mr. Warren said that he was unsure of his vision of a creek walk, hard surface or natural, so he would like to keep an open mind. He said he would like to review the finances involved, i.e. appraisals, as well as projected tax revenues.

Mr. Bolla recommended an impact study, which would include appraisal estimates. Mr. Walker said he has asked Ms. Ours to review the Borough's revenues prior to Newtown Station and after to establish the financial impact of new development.

In response to a question from Mr. Auerweck regarding the maintenance of a creek walk, Mr. Bolla clarified that the developer would be responsible for maintenance and would also carry any related liability. Mr. Marshall said that the Conservancy would oversee agreed upon restrictions, but the Borough would handle enforcement issues. He said that the Conservancy is working with the County on a greenway plan along the Neshaminy Creek and that he will provide Mr. Walker with a copy of the plan.

Ms. Grunde-McLaughlin said that she liked the proposed piazza as a place for people to meet, which adds to the sense of community, improves the quality of life in Newtown, and helps build Newtown as a destination.

Business owner and resident Tony Godwin voiced concern that if there was no longer parking behind Starbucks, the businesses along State Street would lose customer parking. He doubted that customers would be willing to walk 1 1/2 blocks to or from the proposed parking garage. Mr. Walker suggested employees parking in the garage thereby leaving more customer space available. In response to a question by Mr. Godwin about the new residents using the parking garage, Mr. Smith said that the project would provide 150 additional parking spaces, over and above the spaces required for the project and for replacing existing parking lot space.

Business owner Glenn Blakely asked if there would be a charge for parking in the garage. Mr. Smith said that if the Borough decided to charge for parking, he would do the same in the garage.

Business owner Becky Betz suggested that the Borough should charge for parking. Mr. Walker said that the roads budget is used to maintain parking and the Borough may need to consider paid parking to increase its ability to support itself. Mr. Blakely said that he had no objection to parking meters, but was concerned with the distance to the garage.

Resident John Guy said that he was enthusiastic about the proposed project, but that traffic flow could be a problem and he would like to support Mr. King's suggestion of a new traffic study. He said that Council should consider traffic flow in and out of the property, including how services and trucks would move around. He recommended new technology for advanced monitoring with the possible use of sensors.

Ms. Betz said that she was in favor of the plan, which would enhance business and she referred to the success of the Princeton plan. She said increased parking could only help.

Resident and business owner Bill Newell liked the idea of a piazza and is totally in favor of the project as long as it is done intelligently. Mr. Smith said that this is an historic opportunity to take advantage of low interest rates but he would like to proceed quickly before those interest rates rise.

In response to Ms. Woldorf's question regarding land around the creek, Mr. Bolla said that the developer would own the land, with easements for the piazza and creek walk for perpetual public use. The Borough would transfer the land to the Heritage Conservancy and Heritage would transfer the land to Steeple View in exchange for deeds of easements for the piazza and entire length of the greenway.

Ms. Woldorf said that the gaining of easements along the creek and piazza would be beneficial. She noted that much of the creek edge is privately owned and it would be beneficial for the Borough to gain access to the greenway along the creek with the easements. Ms. Woldorf said that any path should be a natural environment and handicapped accessible. She noted that the overall Borough plan recognizes and includes preservation of the creek.

Business owner David Witchell said he applauded Allan Smith as a visionary, and that the proposed project would enhance Newtown. He suggested moving the parking garage forward and use a building façade to disguise the garage. He said that the parking spots are important, but that the size of the buildings is important to draw retailers as well. He said that the inclusion of a retail anchor benefits smaller businesses. Mr. Witchell cited a depressed area in NY that was developed and became a center for the community. He said that Newtown could become unique in the area and that change is necessary to prosper and flourish.

In response to a question regarding prospective tenants, Mr. Smith said that he does not have any tenants lined up presently. He said that the first floor would be approximately 12,000+ square feet and that he is hoping to bring in a big retailer.

Resident Ted Schmidt asked about the maintenance of the greenway and piazza and Mr. Bolla reiterated his previous statement about the developer's responsibility for both areas. Mr. Smith said that the engineer and Council will determine landscaping and reclamation along the creek. Mr. Newell suggested the use of Stabilizer, which could support pedestrian traffic and not increase impervious surface.

Mr. Duffy said that traffic and other issues would be addressed during the conditional use process; there will be a traffic study. He said that the agreement being considered now only becomes effective after the conditional use approvals.

- ❖ A motion was duly made by Councillor Grunde-McLaughlin, seconded by Councillor King, and carried 4-1 with Councillor Auerweck voting nay, to authorize the Solicitor to continue to negotiate the agreement with the developer for presentation to Council.

Old Business

No Smoking Signs

Ms. Grunde-McLaughlin said that the Borough could not have an ordinance prohibiting smoking, but that they could suggest that there would be no smoking where children play. She presented a free sign available from the PA Department of Health that could be posted in the parks. Mr. Walker said that this could be a friendly way to post no smoking at the ballpark, Linton and Gregg Park, and the tot lot. Ms. Grunde-McLaughlin said that Ms. Scull was waiting to order the signs upon her return from vacation. Mr. Walker said he was unsure if there was a limit to the number of signs could be ordered from the health department.

Health Care for Employees

Mr. Walker said that on November 11, 2014, in accordance with the new health care law, the current health care coverage for employees will end with Independent Blue Cross. He said that a new plan will be suggested. They do not presently know what the new rates will be; they should find out in October. Mr. Walker said that the new coverage should be comparable to the present health insurance plan; he will keep everyone posted.

Miscellaneous

Mr. Walker said he had received notice of the clean water act. Mr. Bolla cited a recent article in the Intelligencer.

Mr. Walker said he had received a notice that there is a movement towards a change of PA One Call to the PA Public Utility Commission. He said that pricing for PA One Call is good now, with decent rebates to the Borough; he is concerned that costs might rise as a result of such a change.

Mr. Walker said that the new speed board has been up and working 10-15 days on Penn Street; an officer has been assigned to monitor. During that period, the highest speed recorded was 37 mph and approximately 3000 cars crossed Penn Street. He said that the board is now operating in stealth mode, monitoring speed and amount of traffic, to see if results change. Mr. Walker said that when the final results are gathered, a letter will be sent to Penn Street residents with the results; the first letter will go out in about one week.

Ms. Woldorf reported that the creek coalition had a table at the recent Antique Car Show and that they had handed out stormwater management brochures.

Mr. Woldorf said he was concerned with the stormwater management at the Promenade/Old Acme site. He said that a Rip Rap system of open pipe to trench and into the creek has been discussed; it is claimed that there would be no more stormwater let into the creek than is presently. There is a negotiation period with a property owner, and if he/she doesn't want the Rip Rap, the stormwater management would remain as existing.

New Business

There was no new business.

On a motion by Mr. King and second by Mr. Warren, the meeting adjourned at 7:35 P.M.

Respectfully submitted,

Leslie P. Dunleavy
Recording Secretary

ATTENDEES

Julia & Warren Woldorf
Ted Schmidt
Jeff Werner
Allan Smith
Tim Duffy
Jeffrey Marshall
Dave Callahan
Cathy Fink
Carl Forsyth
Shawn Ward
Glen Blakely
David Witchell
Becky Betz
Bill Newell