

Council Meeting
March 23, 2017
Chancellor Center

President of Council Robert Walker called the monthly meeting of Newtown Borough Council to order at 7:00 P.M. on Thursday, March 23, 2017, which was postponed from Tuesday, March 14, 2017 due to a snowstorm. President Walker asked those in attendance to join him in a moment of silence, followed by the Pledge of Allegiance.

Present: Councilors Grunde-McLaughlin, Gusty, King, McDermott, Rodowicz, and Walker; Solicitor Bolla, Engineer Canales, and Mayor Swartz.

An Executive Session preceded the meeting to discuss legal matters and litigation regarding the 516 E. Centre Ave. property.

Amendment to the Agenda - none

Public to be Heard – none

Mayor's Report – Charles F. Swartz, III

Special Events Reminders

Mayor Swartz announced that the Arbor Day Celebration, sponsored by the Recreation Board, will be held on April 21, 2017. Set up begins at 8:30 A.M. and the event lasts until 11:00 A.M. at Brian S. Gregg Park.

- ❖ A motion was duly made by Councilor Gusty, seconded by Councilor King, and carried unanimously, to authorize Mayor Swartz to sign a Proclamation recognizing April 2017 as "Pennsylvania 811 Safe Digging Month".

Councilor Grunde-McLaughlin suggested that safe digging information be posted on the Borough website.

Mayor Swartz read a Proclamation to Ron Fesmire, recognizing him for 20 years of dedicated service to Newtown Borough as a contract employee. Mr. Harry Betz followed with presenting Mr. Fesmire a Good Samaritan Award plaque, thanking him for his service on behalf of the downtown business owners, residents, and all who work on State Street. A basket of items was donated by local businesses and organizations, and was presented to Mr. Fesmire. Mayor Swartz presented Mr. Fesmire with an envelope from Borough Hall.

Mr. Fesmire thanked everyone, and expressed his gratitude and desire in keeping his home town of Newtown Borough maintained properly.

Mayor Swartz reported that Elle Kaplan, resident, promoted the Good Samaritan Award and worked with a committee to deliver tonight's award. Unfortunately, she was unable to attend this evening. The plaque will be permanently displayed at the Newtown Library Company.

Engineer's Report – Mario Canales

MS4 Presentation

Engineer Canales shared his annual MS4 Report with Borough Council and the public, reporting that we are in year three of a five-year permit cycle. This year's report to the Department of Environment Protection (DEP) is due on April 28, 2017. Federal regulations require that Newtown Borough have a storm water permit from DEP. The permit requires implementation of six minimum control measures and numerous best management practices under each of those minimum control measures. The program's goal is to reduce pollution to streams and waterways. Public education and outreach on storm water impact is the first measure and the Borough has developed written publications and outreach programs to address the target audiences. Both the Borough website and the Public Access Channel provide links and information. In addition, there is a poster displayed at the Newtown Library and handouts have been provided at various public events, including the Antique Car Show. Builders receive information with every permit issued, and the public receives information in a newsletter from Newtown Township. He explained to community members and residents the importance of controlling and/or notifying the Borough, or calling numbers for environmental agencies found on the Borough website, of illegal discharges. He encouraged volunteer participation in organizations like the Newtown Creek Coalition (NCC); the NCC has an annual clean-up day and conducted a water monitoring of the creek in conjunction with the Bucks County Community College last year. Clean-up day will occur this year on April 22, 2017, and water testing will occur in either late April or May. In addition, Mr. Canales reminded the public not to rake leaves and yard waste into storm water outlets and encouraged residents to be aware at all time of the importance of keeping the waters in the community safe. All of the Borough's 17 outfalls were inspected this year and no illicit discharges such as oil, gas, anti-freeze, were found. Those residents or residential communities who were required to provide storm water management for their building projects are required to provide annual written inspection reports. Letters and follow-up letters, if necessary, are sent, and if the Borough receives no response, inspections will be scheduled. Mr. Canales noted that annual training is required for the MS4 program, and has already been conducted with office staff and the Borough's contract employees. The Engineer will complete his draft MS4 Report in time for the April Work Session.

President Walker thanked Mr. Canales for his update and commitment to maintaining the Borough's compliance with the MS4 requirements.

Mr. Walker reported that the US Department of Homeland Security-FEMA Office sent a letter commending Newtown Borough for bringing the Floodplain Ordinance into compliance with the National Flood Insurance Program, as required.

President's Report – Robert Walker

President Walker reported that a Public Hearing to consider amending the TND Ordinance, allowing for a Senior Assisted Living Facility on the Steeple View property, will be held on Thursday, April 27, 2017 at 7:00 P.M. at the Chancellor Center. He noted that the TND Ordinance does not currently permit this use.

President Walker informed Council that the Bucks County Board of Health Department requested to treat municipal properties for mosquito control, reducing the spread of the West Nile Virus and monitoring for Zika Virus.

Certificates of Appropriateness – Robert King

- ❖ A motion was duly made by Councilor King, seconded by Councilor McDermott, 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 2017-06, Applicants: Steven & Gloria Cagine - 119 N. State Street, residence

The applicant was seeking a Certificate of Appropriateness for the installation of wood screens.

HARB recommended the approval of the application, as presented.

COA 2017-07, Applicant: Denise Monahan - 156 N. State Street, Blue Pooch Grooming

The applicant was seeking a Certificate of Appropriateness for the installation of a wall sign, using existing brackets and lighting, and a free-standing sign using the existing post, for Blue Pooch Grooming.

HARB recommended the approval of the application, as presented.

- ❖ A motion was duly made by Councilor King, seconded by Councilor Rodowicz, 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 2017-08, Applicant: Richard Walker, Architect, 246 S. State Street, Stefani residence

The applicant was seeking a Certificate of Appropriateness for the reconstruction of the fire damaged house.

At the last HARB meeting, Mr. Italia, Zoning Officer, distributed a copy of the structural engineer's report, submitted by W.S. Miller IV, P.E., dated March 12, 2014, and cited his letter of 2/12/17 with a report of his inspection of the property. He reported that the roof was unsafe and will need to be completely removed and rebuilt. He indicated that some structural elements, floor and wall framing, would need to be replaced, and all the siding needs replacement. Mr. Italia said that there was no insulation remaining and some studs would need to be replaced. He recommended a complete reconstruction of the building.

HARB reported that, from a building standpoint, this is a reconstruction, but from HARB's viewpoint this would be considered new construction. Therefore, new building materials, parameters and standards could be applied to this project; the design should be modernized and the house should not be a copy of the historic original structure.

HARB approved the application as presented, noting that the project was reviewed as new construction, as substantiated by the engineer's report submitted by W.S. Miller IV, P.E., dated March 12, 2014.

Prior to approving this application, Councilor King noted that, due to the new construction at this property, 246 S. State Street would no longer be recognized as a historic property. He advised that the Newtown Historic Association should change the survey on this house to reflect its revised status.

Approval of Minutes

- ❖ A motion was duly made by Councilor Rodowicz, seconded by Councilor McDermott, and carried unanimously, to approve the February 8, 2017 Work Session Meeting minutes.
- ❖ A motion was duly made by Councilor Rodowicz, seconded by Councilor Grunde-McLaughlin, and passed with Councilor Gusty abstaining, to approve the February 14, 2017 Council Meeting minutes.

COMMITTEE REPORTS

Budget & Finance – Robert Walker, Chris Gusty & Kevin McDermott

Consolidated Report

- ❖ A motion was duly made by Councilor McDermott, seconded by Councilor King, and carried unanimously, to accept, subject to audit, the Consolidated Expenditure Report for the month of February totaling \$231,820.55.

- ❖ A motion was duly made by Councilor McDermott, seconded by Councilor Rodowicz, and carried unanimously, to approve Steeple View Phase I Escrow Release Request No. 8 totaling \$13,650.00.

Personnel Committee – Kevin McDermott

Councilor McDermott reported on the existing open committee positions which include one for Environmental Advisory Council, one Alternate for Zoning Hearing Board, and members for Ad Hoc Traffic & Parking Committee. He welcomed the public to volunteer.

Streets, Lights & Properties – Robert Walker & Chris Gusty

Councilor Gusty reported that funds are available to consider another road project in 2017, since the N. Lincoln Ave. project came in under budget. The proposed additional road work is on Barclay Street between Phillips Court and the bridge.

- ❖ A motion was duly made by Councilor Gusty, seconded by Councilor King, and carried unanimously, to authorize Engineer Canales to prepare bid documents and begin the process for the road work on Barclay Street.

President Walker noted that an extensive mapping of the Borough's road structure, completed by Engineer Canales in 2015, is used as a guideline to prioritize road projects.

President Walker reported that he met with George Forsyth of the Newtown Artesian Water Company. Beginning in either May or June, the final of portion of the water main on South State St. between Washington Ave. and Penn St. will be replaced. The construction will take place between 9:00 PM and 6:00 AM, Monday through Friday, and will take approximately 45-60 days. The water company will be notifying merchants and residents on State Street. Councilor Grunde-McLaughlin asked if the trolley tracks can be removed during this construction. President Walker requested that Engineer Canales relay that question to the Newtown Artesian Water Company.

Solicitor's Report – William J. Bolla

Solicitor Bolla reported on the Bird in Hand property located at 111 S. State St., noting that consideration of the subdivision and land development (SALDO) that has been proposed will take place at a public hearing next month on April 11, 2017. He stated that the Planning Commission made a motion at their last meeting to recommend approval of the SALDO.

The Planning Commission made a second motion for Council to consider the possible rezoning of the proposed new lot being created in the subdivision of the Bird in Hand. Solicitor Bolla noted that the second lot would be located on Court Street, which is predominately zoned residential on the opposite side of the street. He suggested that the Planning Commission consider rezoning more than just the one tax parcel on Court Street, and stated that it could be accomplished in a few different ways. Dividing the

block in half would result in the State Street side being zoned as Town Center (TC), and the Court Street side as Residential (BR-3), however, this would split-zone existing properties, create expense on behalf of property owners, and cause confusion within municipal government and zoning hearing boards. Another consideration would be to rezone the entire block. Solicitor Bolla suggested this deserves more input from the Planning Commission and residential neighbors.

In response to Councilor Grunde-McLaughlin's question regarding the biggest obstacle in rezoning the second lot at the Bird in Hand, Solicitor Bolla stated it is costly. The Borough would go through a Zoning Ordinance Amendment, Planning Commission review, advertise, hold a public hearing, and then enact the Amendment. Legal and administrative fees are estimated to cost between \$4,000-\$5,000. Solicitor Bolla also shared his concerns with regards to rezoning one lot, noting potential neighbor complaints.

President Walker requested input from the public. Mr. Rob Weiss, Court Street resident, noted that the Bird in Hand owners brought the subject of subdivision to the Borough. He questioned Mr. Bolla as to why the scope would need to extend to other properties on Court Street when no other property owners are requesting changes. Solicitor Bolla noted that the idea of rezoning lot #2 came from the Planning Commission, not the property owners. Mr. Weiss responded to Solicitor Bolla, stating that he had no knowledge of any other property owners on Court Street requesting for the west side of the street to be rezoned BR-3. Mr. Weiss reported that there are two individual properties on the west side of Court Street that are already zoned BR-3, both to the north and south. Mr. Weiss offered to contribute money towards the rezoning of the Bird in Hand property, lot #2.

Ms. Mary Callahan, Court Street resident, stated that she also would like the Bird in Hand lot #2, to be zoned for residential use only. She and her husband would be willing to contribute to the cost of rezoning from TC to BR-3. Ms. Callahan expressed dissatisfaction that this beautiful historic property will be split up and built upon.

- ❖ A motion was duly made by Councilor McDermott, seconded by Councilor King, and carried unanimously, to remand back to the Planning Commission, the topic of reevaluating the change in zoning for the subdivision of the Bird in Hand property, with the possibility of including additional properties on Court Street.

Mr. Charles Machion, Planning Commission Member, stated that the Commission was concerned that a commercial building could be constructed on the corner of Court and Mercer Streets, prompting them to recommend that lot #2 be rezoned.

Solicitor Bolla reported that he and Mike Italia, Zoning Officer, had been working together on the International Property Maintenance Code (IPMC) of 2015. He described it as a comprehensive nationwide code that has come into general acceptance across the country. He noted that a limited number of changes had been made to the IPMC by him and Mr. Italia and asked for Council input.

Councilor Grunde-McLaughlin cited several specific areas where she had questions and concerns. President Walker noted that the IPMC may need to be remanded back to the Planning Commission for an in-depth review, especially as it relates to property owners' rights, regardless of whether their home is historic or new. Solicitor Bolla agreed that the IPMC should be reviewed by the Planning Commission to determine its suitability from the viewpoint of Newtown Borough.

President Walker stated that property issues raised by Borough residents at previous meetings initiated Council's interest in pursuing the IPMC. Councilor King noted his concerns regarding how the IPMC will be implemented and enforced.

President Walker suggested that all Council members refer their questions to Councilor McDermott, Planning Commission Liaison, who will then share their feedback with the Planning Commission. Mr. Walker suggested tabling the IPMC until recommendations from the Planning Commission and possibly HARB can be reviewed.

- ❖ A motion was duly made by Councilor King, seconded by Councilor Grunde-McLaughlin, and carried unanimously, to table the consideration of advertising a hearing to consider an ordinance to adopt the International Property Maintenance Code of 2015.

Old Business

Mayor Swartz reported on the upcoming Council Rock School Board vacancy, stating that according to Pennsylvania Public School Code, Section 3-315, the School Board is responsible for filling the vacancy with a qualified elector of the voting districts represented. The successful candidate will fill out the remaining two years of Dr. Bill Foster's term. President Walker inquired if it would be appropriate for the Secretary to advertise the vacancy on the Borough website, to which Mayor Swartz replied in favor. Mayor Swartz stated that Dr. Foster informed the School Board that he will be vacating his position in July.

President Walker reported that Mr. Allan Smith had requested feedback from Council, regarding the Steeple View development, at the last Work Session. Councilor Grunde-McLaughlin stated that the color selected for the concrete walkway was Silver Smoke. In response to President Walker's question about the naming of the new street in the development, Councilor King reported that neither HARB nor the Joint Historic Commission had selected a name. President Walker reported that a time capsule had been requested of Goodnoe Elementary students, to which Councilor Rodowicz volunteered to lead the project.

New Business -none

Public to be Heard -none

The meeting adjourned 8:12 P.M.

Respectfully submitted,

Judy S. Musto
Borough Secretary

ATTENDEES

Pat Ours
Peggy Levin
Ron, Wendy, and AJ Fesmire
Gina Pine
Harry & Becky Betz
Marv Cohen
Ted Schmidt
Mary Callahan
Warren Woldorf
Chuck Machion
Marga Rogers
Robert Weiss