

The April 26, 2016 meeting of the Newtown Village Council was called to order at 7:00 p.m. by Mayor Mark Kobasuk, who led the Pledge of Allegiance to the Flag.

**Council Members:** Curt Tiettmeyer (Vice Mayor)                      Chuck Short                      Solicitor: Doug Miller  
Daryl Zornes    Cheryl McConnell  
Joe Harten    Terry Fairley

Hamilton County Commissioner Todd Portune (Reported by Mayor Kobasuk)

Mayor Kobasuk, Vice Mayor Tiettmeyer, Chief Synan and Lt. McBreen met with Hamilton County Commissioner Todd Portune on April 22<sup>nd</sup> to discuss traffic low impact solutions, including a center turn lane at Burger Farms. Mr. Portune seemed receptive to the solutions presented. The low impact solutions have been discussed with the Ohio Department of Transportation, Hamilton County Engineer Ted Hubbard and Hamilton County Commissioner Todd Portune.

The Martin Marietta Mining project was also discussed. Mr. Portune said he would stand by the 2010 resolution where he opposed Martin Marietta mining under the county-owned Broadwell Road. Mr. Portune told Mayor Kobasuk he felt the resolution would stand, as he believes he would have the support of Commissioner Chris Monzel. Mayor Kobasuk plans to meet with Commissioner Chris Monzel to discuss the continued opposition by the Board of County Commissioners.

Becky will invite Hamilton County Commissioner Portune to a future Council Meeting, as he is interested in speaking to Council about the light-rail system.

MVCA Legacy Golf Outing

Mayor and Council are invited to attend the 2016 Legacy Golf Outing fundraiser – Friday, May 13<sup>th</sup>; registration cutoff is May 6<sup>th</sup>. Registration: [mvca-oh.com/golf](http://mvca-oh.com/golf)

6840 School Street Property Update (Reported by Mayor Kobasuk)

Potential property acquisition will be discussed in Executive Session. Several bids for environmental testing were obtained. Environmental testing needs to be done before the demolition of the property is scheduled. Bids were obtained from: Pro Active Consulting (\$680) and Pinnacle Environmental Services (\$400). Mr. Tiettmeyer suggested approving the highest bid, which allows time for Mayor Kobasuk to talk to Property Maintenance Inspector Gerry Stoker to make sure Pinnacle is the right choice.

**Mr. Tiettmeyer made a motion to approve up to \$680 for environmental testing to be performed at 6840 School Street. Mr. Zornes seconded the motion. All Aye. Motion Carried.**

In an effort to be able to move quickly after the environmental testing results are received, Mayor Kobasuk suggested approving an amount to demolish the 6840 School Street property. Bids received: 1) Wayne Contractors, Inc. (\$15,125), 2) Underground LLC (\$17,900) and 3) Evans (\$39,750). Wayne Contractors, Inc. provided recent demolition services for St. John Fisher church.

**Mr. Short made a motion to approve the demolition contract of \$15,125 with Wayne Contractors, Inc. for the 6840 School Street. Mr. Zornes seconded the motion. All Aye. Motion Carried.**

Lake Barber – Revolution Fitness

Mary Beth Knight, Revolution Fitness located at 3652 Round Bottom Road, moved her business to Newtown in 2015. Ms. Knight gave a presentation and talked about activities one can enjoy at Revolution Fitness. Ms. Knight said the main reason for coming to this area was to focus on families and to help others get healthier. Ms. Knight asked for permission to access and use Lake Barber for water activities. Ms. Knight said Revolution Fitness has two insurance policies \$8million/\$1million per incident liability. Two Swim Safe lifeguards are on duty for lake activities that have been previously granted, stated Ms. Knight. Swim Safe provides \$8million/\$1million incident liability also.

Mr. Tiettmeyer asked Ms. Knight if the lake would need to be closed for events held by Revolution Fitness. Ms. Knight said the entrance to the lake would need to be closed for a number of hours for an obstacle race or a triathlon. She said there would be no event that would ever close the lake itself to others.

Mayor Kobasuk thanked Ms. Knight for her presentation. Lake Barber is owned by Newtown residents and employees working in the village because they pay 1% tax earnings. Mayor Kobasuk asked Ms. Knight how the Village would deal with other businesses or residents that want to profit from the lake. He said a resident in River Hills could possibly want to have a kayak rental operation on the lake. Mayor Kobasuk said the Village has to be careful how we treat people who want to profit from the lake. He asked Ms. Knight for a response. Mayor Kobasuk told Ms. Knight Lake Barber is a public asset opened to

Newtown residents and employees working in Newtown – and she wants to use it for a business purpose. Ms. Knight said it would create tax revenue for the Village. Mayor Kobasuk said then the question is “why you” and not somebody else. He said he is just trying to be a good steward, as the lake is a public asset. Ms. Knight said she is on the lake and wouldn’t need to set up shop in the parking lot like others would have to do. Mayor Kobasuk asked Ms. Knight if she was physically on the lake; he thought she didn’t have lake access. Ms. Knight said she is on the lake with an access to the lake. Mayor Kobasuk said he saw in the contract where Doug Evans was charging Revolution Fitness for lake access. Ms. Knight said that was not her idea and Mr. Evans is no longer charging them but they do have the right to use the lake access. Ms. Knight said if approved, they would also like to build a dock which could be for public use.

Resident Dale Myers said it would be a crime to allow a business to take over the lake, as he enjoys spending two to four hours a day at Lake Barber. Mr. Myers said the way he sees it from Ms. Knight’s presentation, Ms. Knight is actually giving her customers more rights than a Newtown citizen. Mr. Myers said he has seen people take fish from the lake and a citizen must return their fish. The lake rules state “catch and release.” Mr. Myers said the Village finally has a place the citizens can enjoy and said he doesn’t understand why Council would allow it to be turned over to the public. Mr. Myers said Revolution Fitness is making money off of the lake and the citizens don’t make a dime off of the lake. Mayor Kobasuk said he appreciates Mr. Myers opinion but at this point, Ms. Knight is just presenting a proposal.

Mayor Kobasuk asked Ms. Knight to explain about the \$110,000 she said she lost during her presentation. Ms. Knight said she did \$200,000 of upgrades to the property. Ms. Knight said looking at her profit and loss from the first year she moved from a 10,000 sq.ft. place to a 40,000 sq.ft. facility and purchased \$30,000 to \$40,000 worth of equipment and upgraded the property. Mayor Kobasuk said some of that is a capital improvement. Ms. Knight said yes but all of that hits the bottom line. Ms. Knight said she slightly takes offense that she is making money when a couple of people are on kayaks. Mayor Kobasuk told Ms. Knight he didn’t want her to take offense to his question, but public officials have to consider if a business should make money off of the lake.

Mr. Fairley asked Ms. Knight if a membership at Revolution Fitness gives the members full access to the lake. Ms. Knight said, no because they don’t know what the terms here are yet. Mr. Fairley, said so the members are restricted to the frontage of the club. Ms. Knight said they do and when she sat with a few members of Council last year, they were given the right to proceed with people using the path around the lake, kayaking and paddle boarding on the lake. Ms. Knight said she was given verbal permission and has the emails to back that up, which was prior to the rules and regulations being put into place by Council. Ms. Knight said and now it’s back to having more discussions about the parameters. Ms. Knight said so she is here explaining what they have been doing and would like to continue to do, given Council’s approval.

Mayor Kobasuk told Ms. Knight he and Council would study her presentation and maybe invite her back for more discussion. He thanked Ms. Knight for coming tonight.

#### Revised Storm Water Utility Program

Mayor Kobasuk recently met with several Newtown businesses to discuss the proposed Storm Water Utility program. He also met with Bruce Sylvester, Brandstetter Carroll Inc. to review properties. A term sheet showing the residential rates for ≤ .25 acre = \$3.25 per month / ≥ .25 acre = \$5 .50 per month which is estimated at bringing in \$44,450 on the residential side. There are 213 non-residential properties. BCI previously gave Council a proposal to measure all of these properties. In talking with Bruce Sylvester, he and Mayor Kobasuk thought it would be reasonable to charge a residential rate for the smaller non-residential properties. There are 48 properties at ≤ .25 acres so they would pay \$3.25 per month. There are 49 parcels between ≥ .25 acres and up to .50 acre. Mayor Kobasuk and Mr. Sylvester thought it was reasonable those would pay \$5.50 per month because the impervious surface area would not differ that greatly from the residential. Various specific properties and what they would pay were discussed. BCI submitted a proposal of \$14,000 to measure 116 non-residential properties that are greater than 0.50 acres. Measuring the properties is very time consuming and subjective. Mr. Tiettmeyer said the pervious versus impervious method has been tested in the courts in Ohio and other states. Mr. Tiettmeyer said he thought the conservative measure is to measure all of the properties, as it would be a one-time event. Mayor Kobasuk said he is absolutely opposed to a big burden on the businesses. Charging a business \$418 or \$460 per month is absolute insanity and they should throw us out, stated Mayor Kobasuk. Mr. Tiettmeyer said he never said \$500 a month was right. Council has the ability to put caps on the monthly fees. Mr. Harten thought it would be best to do it right and measure all of the impervious non-residential properties. Mr. Fairley said his position is Council should have BCI measure every non-residential impervious property. Mr. Fairley said to go ahead and spend the money to have the impervious study done because one good lawsuit will cost \$14,000 or more. That way we will have real numbers to work with to figure out if Council wants to go with a flat rate. We would have good legal standing to charge that legal rate then be able to determine what that number is based on fair and equitable distribution, stated Mr. Fairley. Mr. Zornes said he agrees with Mr. Fairley. Mayor Kobasuk told Bruce Brandstetter to be conservative in the estimates for the impervious areas. After much discussion, the following motion was made:

**Mr. Tiettmeyer made a motion to measure all of the impervious non-residential properties and approve a contract with Brandstetter Carroll, Inc. for \$17,500. Mr. Harten seconded the motion. Roll Call: Mr. Tiettmeyer-Yes, Mr. Zornes-Yes, Mr. Short-Yes, Mr. Fairley-Yes, Mrs. McConnell-No, Mr. Harten-Yes. Motion Carried.**

Mr. Tiettmeyer said he believes Council can come to a resolution of a fair amount to charge people once all of the facts are provided by BCI.

#### Division of LMFR Assets Update

Solicitor Miller has an upcoming meeting with LMFR's attorney and the bond counsel to discuss the ultimate potential resolution of the debt and equipment issues. Mr. Tiettmeyer met with LMFR Acting Chief Terry Timmers and clearly the cash was already defined and properties appraised. Larger fixed assets were appraised already and there were other items to bring clarity. Mr. Tiettmeyer said he thought he and Chief Timmers were on the same page and offered to summarize the meeting in an email. Chief Timmers later told Mr. Tiettmeyer he is not allowed to handle this and was told to stay out of it and let the attorney's handle. Mr. Tiettmeyer said he feels the right answer is it can't be just the two attorneys resolving the issues regarding assets that haven't been fully disclosed. Mr. Tiettmeyer said it may come down to him and Solicitor Miller meeting with LMFR's attorney and one of their representatives to come up with an agreement for Council and the LMFR Fire Board for approval.

#### Council Checklist

**Mr. Tiettmeyer made a motion to approve the 4.26.2016 Council Checklist for \$97,281.91, seconded by Mr. Zornes. All Aye. Motion Carried.**

#### Hamilton County Storm Water District

The Hamilton County Storm Water District (District) is offering the same levels of service in the 2017 program year as were offered to Member Jurisdictions in the 2016 program year. The \$25,203 can be collected through property owner tax bills or a direct bill. Mr. Tiettmeyer said about five to six years ago, the Village of Newtown paid this fee on behalf of every resident and business property owner. Council then made the decision to move it to one's property tax bill which is estimated at \$8.13 per year. This fee is not related to the Storm Water Utility Program previously discussed tonight. This fee is just for Hamilton County's responsibility as it relates with Ohio EPA permit compliance.

**Mr. Tiettmeyer made a motion to approve collecting \$25,203 through property owner tax bills. Mr. Harten seconded the motion. All Aye. Motion Carried.**

#### Regional Income Tax Agency

R.I.T.A. administers the earning tax program for the Village of Newtown. Mr. Tiettmeyer explained that in 2010, R.I.T.A. subpoenaed 466 people in a delinquent program. R.I.T.A. charges a fee for collecting these taxes.

**Mr. Tiettmeyer made a motion to approve participation in R.I.T.A.'s delinquent tax program. Mr. Fairley seconded the motion.**

Mr. Fairley asked if R.I.T.A.'s fee was based on a percentage collected by R.I.T.A. Ms. Everett said she thought R.I.T.A. charges \$8.00 per subpoena.

**All Aye. Motion Carried.**

#### Police Department

Mr. Short asked for an update. Mr. Tiettmeyer said the project is near completion. Landscaping is almost completed also. Ms. McConnell asked if the \$60,000 balance remaining is allocated funds and asked if that will go down to zero. Ms. Everett said yes. Mrs. McConnell asked if there were any anticipated costs outside of this balance at this point. Ms. Everett pointed out the 2016 encumbrances on the spreadsheet presented to Council where it shows what was spent in 2016 then it shows encumbrances still to be paid for 2016. Mayor Kobasuk asked if the total project cost was \$519,244. Ms. Everett said that is correct. Mr. Short said that is a far cry from the original budget. Mr. Tiettmeyer said close to \$50,000 was spent on repairs unanticipated from poor workmanship of work that was done improperly or lack of work that should have been done. The building was not maintained in a proper manner as evidence by the water problems in the basement that cost \$10,000. To repair the back door way/wall which was the original entrance to the PD cost \$20,000 because of the way the awning was constructed. Mr. Tiettmeyer said there were several other electrical issues also.

#### Board of Zoning Appeals (Reported by Daryl Zornes)

The BZA will meet Wednesday, April 27<sup>th</sup> at 6pm. The BZA will meet to review an application for appeal of a sign for MVCA.

Lake Barber (Reported by Joe Harten)

Civil & Environmental Consultants, Inc. submitted a proposal of \$2,950 to prepare an invasive species management plan for Lake Barber. In an effort to save the Village money and since Mayor Kobasuk and Mr. Harten had previously met with Dr. Curran with the Sierra Club, regarding the invasive species at Lake Barber, Mayor Kobasuk reached out to Dr. Chris Curran for her thoughts regarding the necessity of paying for this invasive species management plan. Dr. Curran told Mayor Kobasuk with the help of Sierra Club volunteers, they should be able to assist in removing the honeysuckle and other invasive species at Lake Barber. Dr. Curran will also reach out to colleagues at NKU and UC to see if an experienced field botanist can take on this project as a community service. While the proposal from Civil & Environmental Consultants, Inc. provides coordination and integration, Mr. Harten doesn't believe it is appropriate at this time to spend the money. This invasive species management plan would be beneficial in applying for potential future grants should the Village decide to move forward with the proposal at a later date. Mayor Kobasuk said he agreed with Dr. Curran that instead of spending the money on this management plan, the money could go towards buying trees that could be planted along the steep slope near the landfill side of the lake.

Council Minutes

**Mr. Short made a motion to approve 4.12.2016 Council Minutes, seconded by Mrs. McConnell. All Aye. Motion Carried.**

Planning Commission (Reported by Cheryl McConnell)

Planning Commission will meet Wednesday, April 27<sup>th</sup> at 7pm. following the BZA meeting. Great Parks of Hamilton County owns land around the Little Miami trail and they are proposing to put up a couple of fences to protect people from the railroad and to provide privacy for a neighbor adjacent to the trail.

Salt Purchase (Reported by Terry Fairley)

The following motion to approve \$11,821.12 is a budgeted amount to purchase salt for the upcoming winter season. The current balance of salt is 136 tons with a total capacity of 300 tons.

**Mr. Fairley made a motion to approve \$11,821.12 for the purchase of 164 tons of salt. Mr. Short seconded the motion. All Aye. Motion Carried.**

Executive Session

**At Mayor Kobasuk's request, Mr. Short made a motion to enter into Executive Session at 8:32pm to discuss potential property acquisition and the employment of a Village employee. Mr. Harten seconded the motion. Roll Call: Mr. Harten-Yes, Mrs. McConnell-Yes, Mr. Fairley-Yes, Mr. Short-Yes, Mr. Zornes-Yes, Mr. Tiettmeyer-Yes. Motion Carried.**

Mayor Kobasuk called the meeting back to order at 8:40pm; the following motion is a result of the Executive Session.

**Mr. Fairley made a motion to promote Chuck Morgan as Maintenance Supervisor, Street Commissioner and Cemetery Sexton. Mr. Short seconded the motion. Roll Call: Mr. Tiettmeyer-Yes, Mr. Zornes-Yes, Mr. Short-Yes, Mr. Fairley-Yes, Mrs. McConnell-No, Mr. Harten-Yes. Motion Carried. Motion Carried.**

Mr. Short made a motion to adjourn at 8:43pm, seconded by Mr. Fairley. Motion Carried.

Transcribed by Becky Fairley