

The September 28, 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 Fiscal Officer: Keri Everett
Joe Harten Terry Fairley Assistant to Mayor: Becky Fairley

WeTHRIVE! Community Discussion

Join Newtown community leaders and residents as we discuss how we can work together to enhance the health, safety and vitality of the Village of Newtown. Event: Thursday, October 6, 2016 (6:30pm to 8:30pm).

Parking on School Street

Carrie Vanderzee, 6836 School Street, talked to Council about being able to park in front of her house on a gravel surface that was recently installed. This surface was a grass surface prior to the gravel being installed. Mrs. Vanderzee presented pictures of other residents parking on a gravel surface in front of their homes in the Village. Mayor Kobasuk will have Building and Zoning Commissioner Gerry Stoker look into the issue and contact Mrs. Vanderzee.

Engineering Update

Engineer Bruce Brandstetter presented the following items:

1. 2016 Paving Program

- Construction complete other than surface course on Plum Street
- Plum Street surface to be applied after Duke installs new services. Duke Energy and Village officials expedited permits

2. Lake Barber

- Quotes to dredge the channel: 1) Evans quote \$9800 2) Carter Construction quote \$22,960
- Evans quoted \$18,000 to complete creek work and remove old bridge (\$9800 + \$9500 if done separately)

Mr. Brandstetter said it is important to take care of the channel since the Village has a responsibility to maintain the channel; the recent storm created a large amount of build-up of gravel. Doug Hall and Zach Peterson with Evans Landscaping contacted Mayor Kobasuk to voice their concern about flooding. Mayor Kobasuk said the Village has a legal obligation with Mr. Hall and an easement agreement to prevent flooding. Mr. Peterson was worried about flooding rising the lake-level causing flooding in Mr. Evans' lake house.

3. Grants

- MRF application submitted on 8/31/2016 for SR 32 East Storm Sewer, \$64,500.00 requested
- OPWC application submitted on 9/16/2016 (should know by mid-December)
 - SR 32 East Storm Sewer Grant, 50% match at \$195,015.00
 - Ragland Road Storm Improvements, 100% loan, \$432,465.00

Mr. Brandstetter is waiting to hear from Pat Arnett, MSD, regarding reimbursement on the Round Bottom Road storm drain. He told Mayor Kobasuk he may need to contact Mr. Arnett if he doesn't get resolution.

Widening SR-32

Preliminary engineering documents were submitted to ODOT for a potential project that would construct a westbound right turn lane at Little Dry Run and widen SR-32 to create a two way left turn lane towards the eastern Village corporation limits at Burger Farm. ODOT has requested additional information to continue with the grant process. Mr. Brandstetter said he feels the possibility is strong to receive grant money from OPWC for the match. Applications would be submitted for the ODOT funds in April 2017 and OPWC funds in September 2017. BCI will meet with Tommy Arnold, P.E., ODOT and report back to Mayor and Council.

4. Miscellaneous

- BCI is working with Newtown Street Committee to prepare a Five Year Paving Program. Alternatives to include mill and pave and micro-surfacing. Submit in October.

LMFRD Settlement Agreement (Reported by Solicitor Miller)

County Prosecutor's office should have approval or a response on the agreement with LMFRD this week.

Council Checklist

Mr. Tiettmeyer made a motion to approve the 9.27.2016 Council Checklist for \$89,849.85, seconded by Mr. Zornes. Motion Carried.

Resolution, Loan Agreement w/Cincinnati Museum Center

Mr. Tiettmeyer made a motion to suspend the rules, seconded by Mr. Zornes.

Mr. Tiettmeyer made a motion to adopt RESOLUTION NO. 28-2016 A RESOLUTION AUTHORIZING AND APPROVING A LOAN AGREEMENT - INCOMING WITH THE CINCINNATI MUSEUM CENTER, DISPENSING WITH THE SECOND AND THIRD READINGS AND DECLARING AN EMERGENCY. Mr. Zornes seconded the motion.

Discussion

The tusk is on display at the Museum Center – the Village is free to take the tusk back into our possession at any time. This agreement is renewed annually between the Village of Newtown and the Cincinnati Museum Center.

Roll Call: Mr. Tiettmeyer-Yes, Mr. Zornes-Yes, Mr. Short-Yes, Mr. Fairley-Yes, Mrs. McConnell-Yes, Mr. Harten-Yes. Motion Carried.

Resolution, Budget Commission

Mr. Tiettmeyer made a motion to suspend the rules, seconded by Mr. Short.

Mr. Tiettmeyer made a motion to adopt RESOLUTION NO. 29-2016 A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION & AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR. Mr. Zornes seconded the motion.

Discussion

This is done this time each year for the tax levies – format is left blank for the County Auditor to complete.

Roll Call: Mr. Tiettmeyer-Yes, Mr. Zornes-Yes, Mr. Short-Yes, Mr. Fairley-Yes, Mrs. McConnell-Yes, Mr. Harten-Yes. Motion Carried.

BZA Update (Reported by Daryl Zornes)

The BZA met 9.15.2016 concerning the 3234 Church Street property. A variance of 10.3 feet was approved. This set-back matches the corner property across the street.

Lake Barber Liability Issues (Reported by Joe Harten)

Mayor Kobasuk received three proposals from law firms he contacted. Mr. Harten thanked Mayor Kobasuk and will update Council once the proposals have been reviewed.

Council Minutes Approval

Mr. Short made a motion to approve the 9.13.2016 Council Minutes, Mr. Tiettmeyer seconded the motion. All Aye. Motion Carried.

Human Resource Meeting (Reported by Chuck Short)

The HR Committee will meet on 10.11.2016 at 6pm. Personnel Policy and employee benefits will be discussed.

Ordinance, Designating Village of Newtown CIC, Inc.

Mrs. McConnell made a motion to suspend the rules, seconded by Mr. Fairley. All Aye. Motion Carried.

Mrs. McConnell made a motion to adopt ORDINANCE NO. 13-2016 AN ORDINANCE DESIGNATING VILLAGE OF NEWTOWN CIC, INC. AS THE COMMUNITY IMPROVEMENT CORPORATION FOR THE VILLAGE OF NEWTOWN, DISPENSING WITH THE SECOND AND THIRD READINGS AND DECLARING AN EMERGENCY. Mr. Harten seconded the motion.

Discussion

Solicitor Miller said designating the CIC allows the Village to be able to apply for grants for the area.

Roll Call: Mr. Tiettmeyer-Yes, Mr. Zornes-Yes, Mr. Short-Yes, Mr. Fairley-Yes, Mrs. McConnell-Yes, Mr. Harten-Yes. Motion Carried.

Public Hearing

Mrs. McConnell reminded everyone of the Public Hearing scheduled for the 10.11.2016 Council Meeting at 7pm. This is the second Public Hearing for the zone change on Main Street for the Angel's Care Family Home.

Ordinance, Second Reading of Storm Water Utility Program

Mr. Fairley read the Second Reading of AN ORDINANCE ESTABLISHING THE VILLAGE OF NEWTOWN STORM WATER UTILITY, APPROVING ITS OPERATION AND REGULATIONS, PROVIDING FOR THE COLLECTION OF A STORM WATER MANAGEMENT UTILITY FEE TO PROVIDE FOR THE FUNDING OF THE OPERATION, MAINTENANCE, AND IMPROVEMENT OF THE STORM WATER SYSTEM WITHIN THE ENTIRE VILLAGE AND DECLARING AN EMERGENCY.

Ivy Hills Country Club

Mayor Kobasuk made Council aware of an email he received from a resident that is one of the owners of the Ivy Hills Country Club. The email from Norb Mayrhofer said Ivy Hills Country Club is spending \$375,000 to repair the storm water pipe leading from the retention pond out to the drainage area. It's estimated that the retention pond takes water from 452 acres, which is about three times the footprint of the country club. They are asking for a dispensation on the storm water fee. The email said adding a tax on top of this seems unfair.

Lake Barber – Dredging stream bed channel and removing old existing bridge

Mr. Fairley presented the two bids discussed earlier by Bruce Brandstetter.

- Quotes to dredge the channel: 1) Evans quote \$9800) 2) Carter Construction quote \$22,960
- Evans quoted \$18,000 to complete creek work and remove old bridge (\$9800 + \$9500 if done separately)

Mr. Fairley said he was hesitant to broach the subject tonight until he made certain the Ragland Road Drainage Issue remains in front of Council and remains a priority. After talking with Mr. Brandstetter and Mayor Kobasuk, it was confirmed that the loans for this project have been applied for. Mr. Fairley said he feels comfortable recommending approving the \$9800 to dredge the stream bed. Due to the Village being liable for the old bridge, Mr. Fairley also believes it is important to move forward with removing the old bridge. The negotiated amount to take care of both projects is \$18,000.

Mayor Kobasuk said Keri reported to him that the money can come from the General Fund, Contingency Line or the Street Fund. Mr. Hall and Zach Peterson, Evans Chief Counsel and CFO approached Mayor Kobasuk with concerns of the flooding. Below is Section 8 of the 10.18.2013 agreement with Doug Hall:

- Section 8: In the event flooding occurs to Eureka property from Lake Barber or from property owned or controlled by the Village of Newtown, the Village will promptly take reasonable, prudent and necessary steps to stop or prevent such flooding or threat of flooding.

Mr. Hall has been generous to the Village paying the \$20,000 for the Village to acquire Lake Barber and gave the easement to use his land for the parking lot. Mayor Kobasuk believes the Village should pay to dredge the creek bed. Removing the bridge was added to the proposal after Becky asked Evans if they would give the Village a break to do both projects. Mayor Kobasuk said he has walked Lake Barber with two separate risk managers and both said the Village needed to either repair the old bridge or get rid of it. The bridge is a liability and needs to be removed, stated Mayor Kobasuk.

Mayor Kobasuk urged Council to approve the Evans bid of \$18,000 to remove the bridge and dredge the creek. The estimate from Carter Construction was more than the total for the bridge removal and the dredging. In the past, Chris Manning, Park Consultant identified the need to dredge the creek bed. At which time, Mr. Manning said ODNR had significant grant funds available for water retention-type issues. Mr. Harten said the Village is unable to apply for this type of grant because Lake Barber is not public at this time. Mr. Harten said he is in favor of dredging the creek bed at this time. Mr. Tiettmeyer asked if we could get other quotes to prove the number from Evans is correct since the two bids obtained were so far off. He also expressed his concern about taking money from the Contingency line when we could be receiving money from a Duke grant. Mr. Tiettmeyer asked if this really needed to be done now. He agrees Mr. Hall's complaint is legitimate – Council has known about the creek bed needing to be dredged for some time, as well as knowing the bridge has been in the lake for some time. It may appear to some that two individuals in the village are receiving favors, exclusively, while there are other pressing matters of storm water issues and Council tells those people to wait another five or ten years, stated Mr. Tiettmeyer. He read the agreement Mayor Kobasuk pointed out and agrees the dredging needs to take place, but not sure we should drop everything and spend all this money at this time. He suggested deferring the project until Spring 2017 since we are at the end of the season for the park to be used. This would give Council more time to examine other matters regarding Lake Barber and come to the right conclusion of how this gets done and where the money is coming from. Mr. Tiettmeyer said he doesn't think it's fair to just say one brought it to your attention and has an agreement so the Village has to do something. He said what about the people who live on Edith Street and Ragland Road whose backyards have been flooded for years and Council sits here and does nothing about it. And we tell those people they can wait longer because we don't even know if we are going to be able to do that project next year. Mr. Tiettmeyer said if we don't get the loan we applied for then that project will not happen because we don't have the money.

We're going in all different directions for different reasons, but my objection is predominantly because this is thrown at Council tonight, stated Mr. Tiettmeyer. Mayor Kobasuk said the bridge is defective and either needs to be fixed or disposed of. Bruce Brandstetter said the creek bed was much lower when the bridge was installed. A lot of gravel and sand has washed down making it shallower. Mr. Brandstetter said the creek bed will need to be maintained after it is dredged to keep it from filling back up. Mr. Brandstetter thought it was best to take care of removing the bridge while dredging the creek; doing both will save the Village some money. Mr. Tiettmeyer said he finds it unacceptable to not find out who was responsible for installing the existing bridge and make them participate in the cost of removing the bridge. Mayor Kobasuk said the Village owns the lake; it's our property and we are responsible for it. The Village would incur legal fees to figure out who put the bridge in. Solicitor Miller said the risk is not only flooding if Council doesn't comply with the agreement; the risk is also the Village could lose the easement. Solicitor Miller said the bridge was there when the Village acquired Lake Barber. It's irrelevant who installed the bridge. The bridge was there when Lake Barber was purchased by the Village. Council knew it was there and it's the Village's responsibility, stated Solicitor Miller. Solicitor Miller said it could be a means of negotiation knowing who installed the bridge, but it's the Village's property and responsibility. Mrs. McConnell said this is a consequence of the decision to make Lake Barber private. All expenses that come up at the lake are on the Village, unless grants are obtained, stated Mrs. McConnell. Mrs. McConnell believes Council should honor the legal contract. After more discussion, the following motion was made:

Mr. Fairley made a motion to approve the Evans quote of \$18,000 for the dredging of the creek bed and removing the old bridge at Lake Barber. Mrs. McConnell seconded the motion. Roll Call: Mr. Harten-No, Mrs. McConnell-Yes, Mr. Fairley-Yes, Mr. Short-Yes, Mr. Zornes-No, Mr. Tiettmeyer-No VOTE: 3:3 - Mayor Kobasuk-Yes. Motion Carried.

Ivy Hills Country Club

Mr. Short said he feels their pain regarding the \$375,000, but it's on their property and they knew about the problems when the land was purchased. Mr. Short asked for an explanation of 452 acres draining into the retention pond. Mr. Brandstetter said when Dravo closed out the gravel mine; the Village had the right of first refusal. The purchaser was required to implement the plan of storm water retention as designed by Dravo. Had the pond not been constructed, Newtown would have been flooded at McCullough's creek. The owner of the property has the responsibility to maintain the storm water retention. It's clearly their responsibility and they know it, stated Mr. Brandstetter. The Storm Water Program has an appeals process. Mr. Tiettmeyer said, the owner's of the golf course were well aware of the condition and used it as leverage with the owners of the property, Textron to lower the price of the golf course. They also went to the County Auditor's office to have the taxes reduced. The value of the property before they bought it was 2 million dollars. They paid 1 million dollars for the land, building and equipment. When they went to have the taxes reduced, they declared to the Hamilton County Auditor's office they paid \$500,000 for the golf course, land and building. This amount is less than the average home in Ivy Hills subdivision and they were approved for the \$500,000 at the auditor's office. Mr. Tiettmeyer said his point is the owners of the golf course got their concessions and were compensated. They presented evidence to the Board of Revision that showed the cost of the repairs was between \$300,000 and 1.5 million. The 1.5 million was to remove the entire pipe replacing it with concrete pipe, so it was the extreme, which is not what they are doing. The pond benefits the golf course owners since they use it to water the golf course.

Mr. Harten made a motion to adjourn at 8:07pm.

Transcribed by Becky Fairley.