

Call to Order/Pledge of Allegiance/Attendance

The October 10, 2017 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) Cheryl McConnell Solicitor: Emily T. Supinger
Daryl Zornes Terry Fairley Fiscal Officer: Keri Everett
Chuck Short Don Carroll Assistant to Mayor: Becky Fairley

Approval of Council Minutes

Mr. Short made a motion to approve the 9.26.2017 Council Minutes, Mr. Zornes seconded the motion. All Aye. Motion Carried.

SPECIAL PRESENTATIONS

Tim Brandstetter, BCI Inc.

BCI, Village Engineer gave an update on the following projects:

1) Ragland Road Culvert Project

Alignment revised per general discussions with property owners. Plans will be finalized after meeting with a few additional property owners. G. J. Berding Surveying Inc. began the field work last week in preparation of the easements. Once easements are obtained from residents, the project should go out to bid with construction taking place Winter 2017/Spring 2018.

2) 2017 Street Paving

J.R. Jurgensen is on track with the schedule - milling has begun and will go thru 10/12/17. Leveling 10/12 thru 10/16. Adjustments and repairs thru 10/21. Surface course will be the week of Oct. 30.

3) SR 32 East Storm Project: No change on the project. With pending ODOT Safety Grant, reviewing options to construct storm sewer per OPWC schedule but accommodate future widening with ODOT Safety Grant. BCI has reached out to OPWC and ODOT about constructing as one project.

4) ODOT SR32 Safety Grant

With pending ODOT Safety Grant, reviewing options to construct storm sewer per OPWC schedule but accommodate future widening w/ODOT Safety Grant. Preliminary Engineering award letter. ODOT share is \$42,929. Village share is \$4,770. BCI met w/ODOT on 8/17/17, ODOT will most likely contract with the Engineer. OPWC and ODOT may coordinate funding and construction into one project.

5) 2016 Paving Program – Resolution to curb issues

Replacement curb on Oyster Bay and Pine Isle Court is marked. J.K. Meurer has contracted w/Jackson Concrete, Jurgensen's sub-contractor directly.

6) Lake Barber

Bruce met w/Doug Evans on 10/09/17 – both will review photos.

7) MVCA

BCI is prepared to review the next set of plans from MVCA, which under the recently approved addendum by Council are due 5/01/2018 to the Village of Newtown. BCI should receive prior to this date to allow time for review.

8) Miscellaneous

Grants: Follow-up w/ODOT SR 32 Safety Grant as needed.

Citizen Participation (Two minute limit for each speaker) (Read by Mayor Kobasuk)

We have reached that point in our meeting where a citizen may express an opinion, make a statement, address a concern, or ask a question on any subject that is not otherwise on the agenda. This will allow the statement to be entered into the official meeting record. This portion of the meeting is not for Council to provide responses to citizen comments. If you have a concern or request information, please be sure to leave your contact information with the staff before you leave the meeting. A member of the staff will contact you regarding your request. Please state your name and where you live when addressing Council. Is there anyone present that would like to bring an item, not otherwise on the agenda, before Council?

Matthew McCasland, resident of 6828 Church Street. Mr. McCasland explained that resident Kelly Carlier came to his door a couple weeks ago asking him to sign a petition. Ms. Carlier talked about a few topics that day with Mr. McCasland and said there had not been transparency, so she and a few others wanted to get a council meeting together to discuss these topics. Mr. McCasland said transparency is great and signed the petition. For transparency purposes, he disclosed to Ms. Carlier that his children are students at Miami Valley Christian Academy and he is an employee with MVCA. Mr. McCasland attended the 9/26/2017 Council Meeting and saw the petition presented by Ms. Carlier and Chris Hicks and realized it was not for transparency; therefore, he stated that he would like to have his name removed from the petition. After going back reviewing information and talking to others, Mr. McCasland said he doesn't see where transparency is an issue and feels it is more of a personal issue with somebody. Mr. McCasland said MVCA also wants transparency and does not feel this has been an issue. Therefore, he asked again that his name be removed from the petition he had signed for Ms. Carlier. At the 9/26/2017 Council Meeting, Mayor Kobasuk said the Village is going to be transparent and have a Public Meeting after proper steps have been taken.

Mayor Kobasuk said he cannot imagine any more transparency than the Council Meeting in May when Barry Franz presented a detailed PowerPoint presentation where he explained the history of the site and the next steps. The presentation is available to the public. Mr. Franz was brought in for environmental engineering, at the request of Brandstetter Carroll Inc. The Village of Newtown is following the proper steps laid out in Mr. Franz' presentation. MVCA will have the site assessed and determine the depth of the cap, which will determine how much fill is required. The addendum that will be presented tonight will give MVCA seven months to prepare and submit detailed plans to BCI. Once the plans have been approved by MVCA's licensed engineer, they will be presented to Village engineer BCI. The plans will then be presented to Village Council, and then a Public Meeting will be scheduled; at which time, MVCA can make a public presentation. Mayor Kobasuk told Mr. McCasland he agreed with him that a resident and a non-resident have made this a personal issue. He understands the resident having an issue with the project since her home sits close to the park, but the non-resident is not a business owner or resident and does not pay taxes but wants to kill the project. This project could benefit and be a win-win for Newtown and MVCA.

Jeff Hubbard, resident on Drake Street. Mr. Hubbard said Chief Synan goes above and beyond working on the heroin epidemic and thanked him for his time and commitment to the cause. Mr. Hubbard said he voted in the Nov. 4, 2014 General Election and voted yes on Issue 27 for the Village of Newtown to negotiate with MVCA for a twenty-five year joint venture for the development of an athletic field. Mr. Hubbard discussed the joint venture and wanted to confirm that residents will have access to walk the track when not in use by MVCA. Mr. Hubbard asked why the legislation would be an emergency. Mayor Kobasuk said some of the complaints now are the project has taken too long, as MVCA was due to begin construction by September 27, 2017, which is two years from when the agreement was signed. Dealing with the park and landfill issues was more problematic than anticipated. The addendum that will be discussed tonight will allow MVCA to move forward with testing of soil samples and having an engineering firm look at the depth of the cap of the landfill. Mayor Kobasuk told Mr. Hubbard that the track will be available to the residents when not in use by MVCA. Solicitor Supinger spoke to the emergency clause and said typically, an ordinance goes into effect thirty (30) days after it has been passed. The addendum is written as such that MVCA needs to begin construction by September 22, 2018. The emergency clause was included so that there is adequate time in the addendum and that there is not an additional delay that would prohibit MVCA from being able to meet the deadlines in the addendum, explained Solicitor Supinger. Mayor Kobasuk explained that MVCA has to determine how much fill needs to be brought in and prepare detailed plans of the whole project that BCI can sign off on. The deadline for MVCA to get plans to the Village is May 1, 2018. Mr. Tiettmeyer said what Council is doing by approving the addendum tonight is not allowing MVCA to go out and begin building tomorrow. After MVCA has everything in place that is required of them, then it is up to Newtown's Building Commissioner to approve what they want. Finally, MVCA will need to present evidence of adequate funding to Council for approval to move forward. MVCA can begin construction of the project after everything has been done and not until then, stated Mr. Tiettmeyer. The deal is not final until stipulations have been satisfied. Mr. Tiettmeyer disputed the statement "they are taking over the park," which is simply not true. The Village of Newtown retains ownership of Short Park. The Village has an agreement that this will be a joint venture to do the improvements and operate it jointly for school activities, as well as Village activities for the use of Newtown residents, stated Mr. Tiettmeyer. Mayor Kobasuk said the addendum presented tonight only gives MVCA more time to get construction plans finalized before the Village has the Public Meeting. Mr. Tiettmeyer reminded Mr. Hubbard that the lower level at Short Park will not be used by MVCA, as the Village will determine how this space will be utilized. Playground equipment will definitely be in the plans for the lower level. The ball field area will be renovated, as well as relocating the basketball court, stated Mr. Tiettmeyer.

ADMINISTRATOR'S REPORT: No business to report, due to Mr. Thamann's recent return from vacation.

Clinton Foundation/John Hopkins Opioid Crisis Event: Chief Synan will be attending this event on Monday, October 30th to discuss America's Opioid Epidemic. Chief Synan thanked Mayor, Council and the community for their continued support as he and others continue to combat this nation-wide epidemic.

MAYOR & COUNCIL MEMBER REPORTS

Planning Commission (Reported by Cheryl McConnell)

Planning Commission met on September 28th at 6:00pm. A Public Hearing to continue the August 24th discussion regarding the soccer fields at 3237 Church Street, next to St. John Fisher church took place. This is a conditional use request for active recreation on the six acres. There was a unanimous denial of this application; the applicant failed to address many of the traffic congestion and ingress and egress issues. Their program will be ending at this location on October 31st.

A conditional use for a bakery "Fork and Pie Bakery" at 6836 and 6838 Main Street was also discussed and approved by the Planning Commission. These two lots will be consolidated with a one-way entry and eight parking spaces.

The Planning Commission will meet on October 26th at 6:30pm, which will also be a Public Hearing for a zone change request for two lots on Round Bottom Road, 3669 and 3679. This property is on the left just past Valley Avenue on Round Bottom Road and currently zoned multi-family residential, surrounded by light industrial, general business and office research. The applicant is requesting to operate a business out of this location.

Emails from Chris Hicks - Statement by Curt Tiettmeyer:

Mayor and Council have received numerous emails from Mr. Hicks of his view of their progress on the MVCA/Short Park project. Mr. Tiettmeyer read the below:

Mr. Hicks,

I watched a video this morning that related to the replacement for Joe Harten's council seat, where Council appointed Don Carroll to Village Council. I find your comments offensive to all of Village Council. Your reference to Ivy Hills, attorneys on Council and "the fix is in" is not only inappropriate but totally false.

Before I joined Council, I had the opportunity to attend several Council meetings. I observed a council member who made references on more than one occasion referring to "those people" when referring to those who live in Ivy Hills. This council has worked extremely hard at unifying our community. And to make certain fair representation to the historic district, as well as the Ivy Hills residents is preserved. We want everyone in our village to be treated equally and not differentiate the two.

Your comments are aimed at driving a wedge in our community. For the record, when Council appointed Mr. Carroll, all five council members voted in favor of the appointment. I was the only voting member from Ivy Hills, the other four members live in the historic part of the village.

While I respect your right to be here, I do not appreciate the tactics aimed at your vicious attack on council members, which are untrue and in some cases, totally inappropriate comments that have been made about us.

End of Mr. Tiettmeyer's statement to Chris Hicks.

Village Solicitor's Report (Reported by Solicitor Emily Supinger)

In the past couple years; the state legislature has taken substantial steps to limit municipalities' ability to collect their municipal income taxes. It began in 2014 with the passage of HB-5, which required all municipalities to have strict compliance with the ORC, in order to collect a municipal income tax. More recently, HB-49, the General Assembly has further restricted municipal income tax collection by providing a centralized collection of net profit tax, which is now an option for businesses. There is a coalition of municipalities obtaining special counsel to challenge the state's action in that respect. Frost Brown Todd is acting as special counsel in their Columbus office and they have asked whether municipalities with municipal income tax collections are interested in joining in their litigation. There is a fee structure based on the size of the community; the cost for Villages to participate in the lawsuit is \$1,000. Loveland, Wyoming and Woodlawn have joined the litigation. It is an infringement on home rule – if the litigation doesn't achieve a stay or an injunction, then changes will need to be made to the Municipal Income Tax Code before the end of the year. After more discussion, the following motion was presented:

Mr. Tiettmeyer made a motion to approve \$1,000 to join the litigation with Frost Brown Todd to help fight the consolidation of the income tax collection. The Village of Newtown will be named a party in the litigation. Mr. Short seconded the motion. All Aye. Motion Carried.

STORM WATER UTILITY PROGRAM AMENDMENT

Solicitor Supinger explained that following the first reading on the changes to the Storm Water Utility Ordinance, she met with Mr. Tiettmeyer to discuss his concerns regarding the ordinance and the proposed changes. Based on their conversation, Solicitor Supinger proposed that we further amend Section 2.1. In order to incorporate this change to the proposed ordinance prior to adoption, a councilmember will need to make a motion to amend the proposed language to include a revised Section 2.1, which is listed below. Once the motion passes, the Third Reading and vote of the ordinance can take place. The suggested amendment is highlighted in yellow.

Proposed Section 2.1 currently reads:

2.1 STORM WATER UTILITY PROGRAM DIRECTOR

The Storm Water Utility Program shall be administered by the Director and shall have the responsibility for the operation and maintenance of the Storm Water Utility Program including but not limited to, the organization of the operation and maintenance staff, the planning and assessment of storm water utility facilities, the management of capital improvement projects, collecting fees and charges for the utility; **the exercise of reasonable discretion in implementing and enforcing the provisions of this ordinance**; and other related duties as directed by Village Council. The Director shall also be responsible for ensuring that an accurate record of all properties using the services and facilities of said storm water management system of the Village is kept, and changes are made to update the records and keep it current in accordance with the Storm Water Utility Program Ordinance.

Consider changing to:

2.1 STORM WATER UTILITY PROGRAM DIRECTOR

The Storm Water Utility Program shall be administered by the Director and shall have the responsibility for the operation and maintenance of the Storm Water Utility Program including but not limited to, the organization of the operation and maintenance staff, the planning and assessment of storm water utility facilities, the management of capital improvement projects, collecting fees and charges for the utility; and other related duties as directed by Village Council. **The Director shall exercise reasonable discretion in implementing and enforcing the provisions of this ordinance, provided, however, any decision which may have a financial impact on the Storm Water Utility Program must also be approved by the Fiscal Officer.** The Director shall also be responsible for ensuring that an accurate record of all properties using the services and facilities of said storm water management system of the Village is kept, and changes are made to update the records and keep it current in accordance with the Storm Water Utility Program Ordinance.

PENDING LEGISLATION

ORDINANCE, THIRD READING APPROVING ADDENDUM TO MVCA AGREEMENT

In June 2015, the Council of the Village of Newtown passed Ordinance No. 12-2015, which authorized the execution of a Joint Venture Agreement with Miami Valley Christian Academy to govern the construction and operation of a new sports complex at Short Park in the Village of Newtown. On March 14, 2017, Council passed Ordinance No. 08-2017, which authorized the execution of an Addendum to the Joint Venture Agreement with Miami Valley Christian Academy in order to clarify certain provisions of the Agreement.

Mr. Fairley made a motion to adopt the Third Reading of ORDINANCE NO. 22-2017 AN ORDINANCE APPROVING A SECOND ADDENDUM TO THE AGREEMENT WITH MIAMI VALLEY CHRISTIAN ACADEMY TO CONSTRUCT A SPORTS COMPLEX AT SHORT PARK, AND DECLARING AN EMERGENCY. Mr. Tiettmeyer seconded the motion.

Discussion

Mayor Kobasuk explained that various benchmarks were added to the addendum, after Solicitor Supinger reviewing with Village Engineer Brandstetter Carroll Inc. Final complete construction plans are due 5/01/2018, final and complete bid documents must be submitted to the Village by 6/15/2018. Project shall be advertised for bid on or before 7/15/2018. Construction would commence on or before 9/22/2018. MVCA has paid the Village of Newtown the \$40,000 under the addendum. Therefore, as of tonight, we have been paid \$50,000, under the MVCA agreement so they have complied with their part.

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

ORDINANCE, THIRD READING AMENDING STORM WATER UTILITY PROGRAM

On October 25, 2016, the Village of Newtown, by Ordinance 16-2016, adopted a Storm Water Utility Ordinance in order to finance the operation and maintenance of the Village's Storm Water Utility, as well as to provide funding for necessary repairs, replacements, improvements, and extensions to the users of the system. In order to incorporate this change to the proposed ordinance prior to adoption, a councilmember will need to make a motion to amend the proposed language to include a revised Section 2.1, which is listed below. Once the motion passes, the Third Reading and vote of the ordinance can take place. The following motion was made, after Solicitor Supinger's above discussion:

Mr. Tiettmeyer made a motion to amend the proposed language to include the revised Section 2.1 per above discussion. Mr. Carroll seconded the motion. All Aye. Motion Carried.

Mr. Tiettmeyer made a motion to adopt ORDINANCE NO. 23-2017 AN ORDINANCE AMENDING THE VILLAGE OF NEWTOWN STORM WATER UTILITY ORDINANCE AND DECLARING AN EMERGENCY. Mr. Fairley seconded the motion. Roll Call: Mr. Zornes-Yes, Mr. Short-Yes, Mr. Tiettmeyer-Yes, Mr. Fairley-Yes, Mrs. McConnell-Yes, Mr. Carroll-Yes. Approved Unanimously.

ORDINANCE, THIRD READING AMENDING THE ZONING CODE (Reported by Cheryl McConnell)

A Public Meeting took place this evening prior to Council at 6:30pm. Mayor Kobasuk discussed the summary of the changes to the Zoning Code, prepared by Solicitor Supinger. No comments were presented by the public. Mrs. McConnell said some of the changes to the Zoning Code deal with establishing regulations for pods or mobile storage structures, regulations parking of (RV's) recreations vehicles. A section was adding prohibition of medical marijuana cultivation, processing and dispensaries in the Village of Newtown. Regulations for mobile food vendor requirements, entire section on sign regulations that bring it up to compliance with current laws. And the final area of the administration and enforcement was re-written to clearly delineate everyone's role in regards to the Zoning Code. The roles of the Building Commissioner, Planning Commission, Board of Zoning Appeals and Council.

Mrs. McConnell made a motion to have the Third Reading and adopt ORDINANCE 24-2017 AN ORDINANCE AMENDING THE ZONING CODE OF THE VILLAGE OF NEWTOWN. Mr. Fairley seconded the motion. Roll Call: Mr. Zornes-Yes, Mr. Short-Yes, Mr. Tiettmeyer-Yes, Mr. Fairley-Yes, Mrs. McConnell-Yes, Mr. Carroll-Yes. Approved Unanimously.

OLD BUSINESS

Mr. Short asked about the Purchasing Policy revision. Mayor Kobasuk said Solicitor Supinger preferred to wait until Jerry returned from vacation.

NEW BUSINESS

Council Checklist

Mr. Tiettmeyer made a motion to approve the 10.10.2017 Council Checklist for an amount of \$101,250.80, seconded by Mr. Short. All Aye. Motion Carried.

Mr. Fairley made a motion to adjourn at 7:44 pm, seconded by Mr. Zornes. Meeting adjourned.

Transcribed by Becky Fairley.