

## **Call to Order/Pledge of Allegiance/Attendance**

The October 18, 2018 meeting of the Newtown Village Council was called to order at 6:30 p.m. by Mayor Mark Kobasuk, who led the Pledge of Allegiance to the Flag.

**Council Members:** Curt Tiettmeyer (Vice Mayor)  
Daryl Zornes  
Chuck Short

Terry Fairley  
Don Carroll  
Sarah Williams

Solicitor: Emily Supinger  
Fiscal Officer: Keri Everett  
Assistant to Mayor: Becky Fairley

## **SPECIAL PRESENTATIONS** (none)

### **Anderson-Newtown Emergency Responses Update**

Fire Chief Rick Martin discussed stats of emergency responses from January through September 2018. Assistant Fire Chief Bob Herrlinger was also present.

### **BCI – Project Status Update**

Mayor Kobasuk explained to the citizens sitting in the audience that we had a plan to deal with the Ragland Road flooding; however; at present time, there is one resident that is not providing an easement to the Village for this project. BCI has looked at other engineering options of laying pipe through the resident's property and doing so would dramatically increase the cost of the project. Mayor Kobasuk assured the residents the Village is working on the problem and has been for years, it makes it more difficult if everyone doesn't cooperate.

#### 1. **2018 Street Program**

- Duke is scheduled to complete their work by October 19, 2018, on Crull Street where new gas mains were installed
- JK Meurer plans to pave the first of November – BCI will monitor weather conditions

#### 2. **Lake Barber Pathway Repairs**

- Paving has been completed; BCI received final invoice 10/4/18 – project came in a bit under budget
- Recommended crack sealing of parking lot and trail in 2019

#### 3. **SR 32 East Storm**

- On 9/5/18, ODOT indicated their preference that the Village proceed with construction of storm project
- BCI is coordinating schedule with OPWC – They are funding \$200,000 of the \$400,000 of the storm replacement. The OPWC money has a timeframe it needs to be utilized. Bid most likely Jan 2019.

#### 4. **ODOT SR 32 Safety Grant** (BCI coordinating w/ODOT on Stage 1 Plan)

#### 5. **Burger Farm** (Meeting scheduled for 11/13/18 at 8:30am to discuss storm water issues)

#### 6. **Sidewalk Program, River Hills Subdivision**

- Inspections completed / resolution will be mailed out with the letter to the residents
- Property owner will have until 4/30/2019 to complete repair work to the sidewalk on their property

#### 7. **Plan Reviews**

- MVCA desires to widen School Street to improve the entrance which should improve traffic flow on Church Street
- The Motz Group is considering combining offices
- Barrett Paving is looking at bringing their drive out opposite Ivy Hills Place. They would have to have a signal face that way – this would be much better with bringing everything in and out there instead of the current large curb cut

#### 8. **Miscellaneous**

- BCI met with Terry Fairley on 10/15/2018 – BCI will update Street Pavement Inventory and other 2019 budget items

Mr. Carroll said several months ago Council approved two-three crack-sealing projects – Crack-sealing and seal coating has been completed at Moundview Park and the Municipal Parking Lot, stated Mr. Brandstetter. Mr. Carroll said Oyster Bay Lane has not been completed, which was also part of this project.

#### 9. Ragland Road Storm Water Project

- Alternatives going through Harvey Yeager's property were presented and discussed.

#### Discussion

Plan A, which has been the original plan, was and currently is to run a pipe that would flow through Mr. Yeager's pond, coming out at low end and upgrade the current 6-8" outlet to a 24" outlet pipe. (This plan is in the \$500,000-\$550,000 range). Until Council makes a decision on moving forward, an Interim Phase is being considered. Discussion will continue at the 11/13/18 Council Meeting. Mayor Kobasuk, Engineer Bruce Brandstetter and Solicitor Supinger will meet with Mr. Yeager on Oct. 25th and explain that his desired alternatives are too costly for the Village. If Mr. Yeager grants the easement, Mayor Kobasuk asked Council if they are prepared to move forward with Plan A since its always been the intention of Council. Mrs. Williams told Mayor Kobasuk he has had previous meetings with Mr. Yeager and he said no, so she doesn't it happening. Mr. Tiettmeyer asked what amount was currently set aside for this project – Mayor Kobasuk said \$583,000 minus engineering costs. Mr. Tiettmeyer said if it stays within the original budget, he doesn't see a problem with moving forward since we set aside that money and borrowed that bond issue specifically for this project. Mayor Kobasuk said he thought that was the case and wanted to ask before sitting down with Mr. Yeager, but someone led him to believe there might be a change of heart.

Mr. Short asked what the timeframe would be from start to finish, in the event Mr. Yeager agrees. Delivery of pipe would be four to six weeks – total project from pipes being installed to restoration should be six months. Mr. Short said if we get the go ahead to move forward with the project, would the construction of the 54" pipe block up and cause more flooding for the residents, should there be a heavy rain occurrence. (Steel reinforced polyethylene storm pipe has been suggested by BCI, instead of corrugated metal or the plastic corrugated plastic that was on Round Bottom Road). Mr. Brandstetter said the process should begin at the creek installing the new pipe through the pond then come up the hill at Harriett Lane. Working the way upstream is the proper way to begin with this type of project. PRUS construction assessed the site a few years ago with BCI and offered their thoughts on constructability. Ragland Road is a dead-end street; therefore, maintaining traffic and keeping an access point for emergency services will need to be considered during the construction phase.

Mayor Kobasuk asked Mr. Brandstetter if Mr. Yeager doesn't comply with the remaining easement and Plan A, when would the Interim Phase begin. Mr. Brandstetter said after putting the project out to bid, the construction of the 18" storm pipe and three inlets would probably not begin until spring 2019. Hopefully, before heavy spring rains. Discussion on this topic will continue at the 11/13/18 Council Meeting.

#### 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?

Jody Johnson, 6936 Ragland Road. Mr. Johnson's home and his next-door neighbor Mike Hedrick's property are greatly affected by the ongoing flooding. Mr. Johnson asked if the grading suggested by CT Consultants would be considered. Grading would help with any overflow, should the inlet become blocked. Mr. Johnson asked about the extra water that would go into the creek – he asked if the proposed changes would affect the other end where the water would go, into the creek. Mayor Kobasuk said Mr. Brandstetter assured officials it would not be a problem putting the water into the creek. Mr. Brandstetter said it is such a large drainage area that the additional water would be much less, a percentage of what flows. According to USDS records, Mr. Brandstetter said Yeager's pond was not there in the early 1900's; it started to show up in the 1950's. The pond is a result of gravel mining that took place.

Joe DuBois, 3300 Pine Street. Mr. DuBois has resided here since March 2017. Two weeks after moving in, their property was flooded – a neighbor actually was able to kayak in his yard. There have been three flood-events since moving here with the worse flooding taking place June 1<sup>st</sup>. Mr. DuBois' basement floods with these flooding events. Mr. DuBois said something must be done – the flooding is getting worse with each event.

David Turner, 3202 Harriett Lane. The creek is next to Mr. Turner's home and the flooding of June 1<sup>st</sup> brought the water one or two inches from Mr. Turner's back sliding door, which has never happened before. Mr. Turner voiced his concern about the water backing-up, unless it is flowing. Duke has an easement in the fields and when it floods, the water comes down the middle of Mr. Turner's backyard into the creek. Mr. Turner said while his home has never flooded the past twenty-three years, his property cannot accept any more water!

Dale Myers, 6920 Ragland Road. Mr. Myers said Mr. Yeager damned the creek up to make the pond, soon after he built the house, back in the early 60's. Mr. Myers is 78 years old and has lived in the Village for seventy years, living on Ragland Road since 1961, across from the Yeager's and knows the history of the pond. Mr. Myers asked why the Village couldn't make Mr. Yeager un-damn the pond.

Steve (last name inaudible), 6928 Ragland Road. He is present tonight in support of the neighbors two-three doors down who have experienced flooding in the past eighteen years he has lived on Ragland. Everyone is talking about drainage of the water, none asks the question, where is the water coming from. Why isn't the water being dealt with at the source before it comes down the hill from River Hills creating the ongoing flooding problems for the homeowners. Somewhere in the past, Council/Village officials authorized construction that didn't provide proper water drainage for all of the properties up on the hill, River Hills. Some where along the way, a permit was approved that created this problem and Council/Village officials needs to fix the problem! Stop endangering everyone else downstream because of decisions that were made in the past. It's pretty simple - find the source of the water and divert it at the source, not at the culmination point.

Mayor Kobasuk said, we did look upstream; the water is draining into this area from River Hills and some of Ivy Hills. "The existing storm sewer system up to the upstream end of the culvert collects drainage from approximately 74 acres, while an additional 8.5 acres enters the system via local catch basins and inlets," quoted from the analysis dated 8/01/2018, prepared by CT Consultants. Mayor Kobasuk said it's a watershed that drains in and pushes the water through the Ragland Road culvert. Mayor Kobasuk said we do know the source; it goes back to the development of the River Hills subdivision. There is no good area to do a retention pond in that area to catch the water running down – it's very steep area with hills and very wooded. The second opinion, provided by CT Consultants, agreed with BCI, which is to increase the existing pipe to 54" – the existing pipe is undersized. The 54" pipe will carry the water down and BCI has assured us that there will not be a problem with the water discharging into the creek, stated Mayor Kobasuk.

Steve, 6928 Ragland: The amount of water he has seen is unsafe and needs to be dealt with quickly. With each subsequent flooding event, the water has increased. The water has gotten higher and faster - the water that runs across Ragland Road onto Harriett has gotten deeper and faster. It just makes one wonder if something has changed causing the water to be diverted. Mr. Johnson's and Mr. Hedrick's property floods partly because of the inadequate drain at the roadway – looking at this could partially solve their problem. It wouldn't solve the problem of where the water is coming from. He said he is hoping Council doesn't push this project down the road, again, and deal with the problem quickly as possible. We realize the project is expensive but the longer we wait the cost will increase.

Mr. Fairley told the residents impacted by the flooding that he hears their frustrations and has remained quiet tonight because exponentially he shares frustration and anger because just this afternoon, he was told he can no longer be a voice for the residents impacted by this flooding. It was suggested that Mr. Fairley recuse himself because of a potential conflict of interest. He apologized to the residents – when he ran for Council, he promised those affected by the flooding that he would do his best to see this issue that has been going on for many years to its fruition and conclusion. Mr. Fairley said he feels as though he is letting people down since he is unable to keep his word. Mr. Fairley said while there are some happy about this development, the same ethic presented to him today says he is able to speak as a citizen and a resident of this Village and promised to stand with each resident to make sure this issue does not go ignored and that Council keeps this issue in the forefront. Mr. Fairley said for the record, with 100% certainty, if this same problem had existed in Ivy Hills, it wouldn't be a problem because it would have been addressed years ago.

Mayor Kobasuk pointed out that Mr. Fairley did not do anything wrong. It's just an abundance of caution so he is going to remove himself from the fray. Mayor Kobasuk asked Solicitor Supinger to speak to the ethics opinion. Solicitor Supinger said the Ohio Ethics Commissions issues advisory opinions to lend guidance to make sure that people who are in public office do not act in a manner that potentially could be a conflict of interest or violates any ethical laws set forth in the Ohio Revised Code. Solicitor Supinger said when she was asked to look into those two opinions to make sure we were compliant and there are advisory opinions that indicate that if a council member would be particularly affected by an infrastructure improvement or project that would affect their property in a manner that is a little disproportionate to the Village in general, they should abstain from discussion or voting on that matter. Therefore, Solicitor Supinger provided the information to Mr. Fairley so he could make a decision on how he wanted to proceed. Mayor Kobasuk said Council will continue working on this issue.

Mr. Short said we have been working on the flooding issue for a very long time and shares Mr. Fairley's frustration as well. The Village has performed a few tasks in an attempt to ease up the flooding issue by keeping the creek cleared and dredged. He said it's not a cure but something we do to try to keep the water from rising up as fast as it does. Silk and debris fill in the creek very quickly. Mr. Short said this is an urgent and a pressing problem and assured the residents Council/he would not let them down.

Mr. Carroll said everyone in this room should understand that this is not and never has been and never will be an issue that involves some decent or disagreement between Ivy Hills and historic Village of Newtown. Council was elected as an at-large member receiving votes from all over. If anyone here, including Councilman Fairley, believes that if this issue existed in Ivy Hills it would be dealt with differently, you are wrong.

Mayor Kobasuk said discussion will continue at the 11/13/2018 Council Meeting. Mr. Brandstetter will be present and we will have a report from the meeting with Mr. Yeager. Should Mr. Yeager not consent, an interim solution for relief will be considered. Mr. Tiettmeyer said we looked at ways of financing this project, along with the SR32 project discussed. The money for both projects came from a bond issue and at the time, we had no idea the numbers would change. Mr. Tiettmeyer said that is why he said he would support it for the level we borrowed money for because that was the intent. The hope is we won't be faced with trying to figure out how to come up with an additional \$300,000 to \$400,000.

Becky Fairley, 6931 Edith Street. Mrs. Fairley has been a resident since 2001 and has been employed by the Village of Newtown supporting Mayor and Council since July 2005. And during this time, she witnessed a division growing and has always made an effort to treat all equal as it's been her position that Ivy Hills and historic Newtown are one. Mrs. Fairley said what Mr. Fairley was referring to is that it has been stated at this Council table by Mayor Kobasuk and a member of council on several occasions that the residents from Ivy Hills would not put up with this issuing going unresolved. I don't believe he meant the Village would fix it because it was Ivy Hills, but because the people from Ivy Hills would not put up with it. Mrs. Fairley said, Mark, you even said you'd be demanding action after all of these years and that people from your neighborhood would have been down here with a petition if this were going on in Ivy Hills. Mrs. Fairley said she too would have been down here demanding action for the people and not would have been as respectful about this unresolved flooding issue, if she were not an employee representing the Village. Mrs. Fairley said the Fairley family does not promote division between any of the neighborhoods. Division does not promote accomplishments.

## MAYOR / COUNCIL REPORTS

Third Quarter Financial Report: Council received this report via email – direct specific questions to Mr. Tiettmeyer or Ms. Everett

Village Solicitor's Report (Emily Supinger)

Once the resolution declaring the necessity of repairing the sidewalk areas, curbs and gutters is adopted, a copy of the resolution will need to accompany the letter of notice to the residents that need to make repairs.

## NEW LEGISLATION

Ordinance, Zone Change

On October 27, 2018, the Village of Newtown Planning Commission held a public hearing to consider the application of Ben Elass, Christina Rudzinski, and Eugene Martin, the prospective and current owners of 7202 Main Street, more particularly described as Hamilton County Parcel No. 501-0011-0027-00 (the "Property") for a proposed amendment to the zoning map of the Village of Newtown (the "Application"); and the Application sought a rezoning of the Property from Office Research Park (ORP) to General Business (GB). Mojave East is a proposed event and wedding reception center.

Mayor Kobasuk explained that a Zone Change is a legislative act for Council. The Planning Commission voted 4:1 to advance it so they approved the zone change 4:1. This has been zoned ORP for decades and nothing has happened. This is the first business of interest. Mayor Kobasuk said John Russell's view is this may jump start this area with Wendy's, etc.

**Mayor Kobasuk read the Second Reading of AN ORDINANCE APPROVING A ZONE CHANGE FOR PROPERTY LOCATED AT 7202 MAIN STREET IN THE VILLAGE OF NEWTOWN.**

The third and final reading and a vote will take place at the 11/13/2018 Council Meeting.

Resolution, Sidewalk Repair Program

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

**Mr. Fairley made a motion to adopt RESOLUTION NO. 27-2018 A RESOLUTION DECLARING THE NECESSITY OF REPAIRING AND/OR CONSTRUCTING SIDEWALKS, SIDEWALK AREAS, CURBS, AND/OR GUTTERS IN THE VILLAGE OF NEWTOWN, OHIO. Mr. Zornes seconded the motion.**

Discussion

Mr. Fairley said this was budgeted for \$155,000 and it is fair say we are at 50% of what we had planned on.

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

NEW BUSINESS

Checklist

**Mr. Tiettmeyer made a motion to approve the 10.18.2018 Checklist for \$50,624.94. Mr. Zornes seconded the motion.  
All Aye. Motion Approved.**

Mr. Fairley made a motion to adjourn at 7:41pm; motion seconded by Mr. Carroll. Motion Carried!

Transcribed by Becky Fairley.