

Call to Order/Pledge of Allegiance/Attendance

The August 8, 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)	Chuck Short	Solicitor: Emily T. Supinger
	Daryl Zornes	Cheryl McConnell	Fiscal Officer: Keri Everett
		Terry Fairley	Assistant to Mayor: Becky Fairley

Mayor Kobasuk wished Mr. Fairley a Happy Birthday!

Approval of Council Minutes

Mr. Short made a motion to approve the 07.25.2017 Council Minutes, Mr. Zornes seconded the motion. All Aye. Motion Carried.

Citizen Participation (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?

Mr. Hicks and Ms. Carlier asked that the below presentation be added to the Council Minutes word for word. Therefore, the below was provided in Word format.

Bold read by Kelly. Non-Bold read by Chris.

We are Kelly Carlier of 3625 Church Street Newtown, Ohio and Chris Hicks of 444 Woodwick Ct. Cincinnati, Ohio

What can we say about Short park now 1,008 days since we voted on November 4, 2014.

How can we forget when MVCA's Tom Rhodenbaugh said on January 10, 2017 in council?

- "We would like to break ground in February."
- "There is nothing in the contract that says all phases need to be completed."
- "We started raising money 18 months ago – we could not start to raise money until an agreement was actually signed."

... only to find out later that MVCA has knew in July of 2016 they would never deliver what was promised and could not raise even ½ the promised money.

... only to find out later the plan you approved that night was the definition of incompetent, incomplete and non-compliant.

... only to find that MVCA had a fundraising launch dinner for the project on September 22, 2012, 24 months prior to the time claimed by Mr. Rhodenbaugh.

... and only to see MVCA change their story in March and May when it was politically expedient to mislead on what they could deliver against their promises.

How can we forget two months after January 10 council when, on March 14, 2017, MVCA's Tom Rhodenbaugh said?

- "I want to assure the Newtown citizens that we are on track as far as progress. So – The goal 18 months ago and still now is to fulfill every amenity that was planned for in the park.

... when only minutes after those statements you passed Ordinance 8-2017, as an emergency, to shrink the scope of the committed project.

How can we forget two months after that meeting, on May 11, 2017, when the newspaper reported MVCA and Tom Rhodenbaugh as follows?

- “Rhodenbaugh said Newtown citizens can rest assured that the Short Park project is on track and that planned amenities for the project — to be built in phases — have not changed.”

... when only 12 days after the article Barry Franz from Diversified Environmental Consulting decimated the incompetence of the MVCA plan and exposed the myriad falsehoods of the EPA filings done by the village.

There is so much more but why are we here to speak now? After so much has happened in just the last 9 months such as:

- You gave MVCA an extra 3 months to get started in order to cover up an improper change to the face of a signed agreement by Keri and Mayor Cosby.
- You spent 10s of thousands of taxpayer dollars on legal fees to hide and conceal MVCA project records and \$6k on an environmental engineer after it became obvious even to you that MVCA was not competent.
- The Mayor signed and filed a false and deceptive EPA request for authorization, assembled by MVCA that still needs to be completely re-done.
- You hid from the public that MVCA has not and could not could not raise anything close to the money they promised.
- You narrowed and shrunk the project via an “emergency” addendum in March of 2017.
- You repeatedly promised a Newtown openness and transparency with the public but spend the public’s money, even now, trying to hide public records fighting public access to project financial records in the Court of Claims.
- You still have not done or required an ounce of proper environmental testing for the protection of the residents you are supposed to represent.

So why speak now? Because we now believe MVCA needs a significant extension to the agreement timetables and cannot pay its share per the agreement.

What a joke. All of this 3 months after everything was “on track” per MVCA in the press for a project they said they were ready to break ground on 6 months ago.

Any extension is complete, utter and shameful complicity and incompetence on the part of Council. It is a disregard of the community who has gotten nothing but misrepresentations. It is utter financial malfeasance as the “free” project racks up 10s of thousands in taxpayer expenses.

You all know what was promised cannot ever be delivered. Where we are today is the result of Council’s incompetence to have gone down this path without doing an environmental assessment years ago. You rubber stamped whatever MVCA said with almost never even a probing question and with utter disregard of the residents around the park.

As we sit here, how much clearer can it be that MVCA does not have the resources or the skills for this. This project will never work. It cannot be done.

And while you play games with resident safety and try to hide what a mess you have made, the park gets worse and worse. It is an embarrassment to our Village now seen by bikers passing through every day.

This has become folly. I hope it becomes a defining Newtown election issue. It needs to be discussed in the open tonight by you all.

How about these ideas:

- A motion from one of you that the Administrator develop an exit plan from the agreement for review by council at the next meeting?
- How about a motion that you quit spending taxpayer dollars fighting transparency in the Court of Claims and elsewhere and instead insist on MVCA disclosing the true full and complete financial status of the project?

How about something other than being in the tank for MVCA?

THANK YOU ----- *(End of presentation from Mr. Hicks and Kelly Carlier)*

Mayor Kobasuk said Mr. Thamann will provide an update of the MVCA project.

ADMINISTRATOR'S REPORT (Jerry Thamann)

1) MVCA/Short Park Update: The Village sent a letter to the Ohio EPA (Request for Rescinding of the Letter of Compliance (January 17, 2017) and Request for Authorization (December 1, 2016) under OAC 3745-27-13 for the Redevelopment of Short Park.) The reason for the request was made because of the development of Short Park has evolved differently than originally anticipated, based on the 2016 permit application. The re-submittal of the Rule 13 permit application will be recommended once the redevelopment plans reach a more complete state of design.

2) Short Park Geophysical Assessment: The geophysical assessment of the Short Park was completed – the company was to determine the limits of the landfill and the depth of the landfill cap. The company will report the findings of the Geophysical Study of the Debolt Landfill at Short Park to Mr. Barry Franz by the end of August. Mr. Franz will present the findings of the report to Council at the 9.12.2017 Council Meeting.

3) MVCA Letter: The original start date of the Short Park Athletic Recreational Complex (SPARC) was September 22, 2017. Council received a letter dated 07/21/2017, from MVCA Board of Trustees requesting an extension of the construction start date by one year to September 22, 2018. The request to extend the agreement will be considered after the findings of the geophysical study have been presented from Mr. Franz.

Mr. Short said he wants MVCA to succeed but not sure if they don't have the money now that they will have at a later date. Mr. Short was in favor in making a motion to stop – Mr. Tiettmeyer said in order to make an educated decision, he agreed Council should wait until all facts have been presented. Mrs. McConnell would like to know if the reason for the delay is just monetary or are there planning and permit issues or unresolved design issues. Mr. Fairley said while he would be more in favor of a six month extension versus an entire year, he agrees it is best that Council have all of the information before making a decision on the extension. Mr. Tiettmeyer suggested Council present a list of expectations to MVCA for them to respond as to why Council should grant the extension. Mayor Kobasuk asked Mr. Zornes for his thoughts. Mr. Zornes said in light of the letter from MVCA Board of Trustees, Council has been told all along they have the funding and now they are saying they don't. Mr. Zornes agreed to wait for the report in order to make a qualified decision, but as of right now he is not in favor of extending the contract, period. Mayor Kobasuk said MVCA has made representation to him that they have 1.5 million dollars in funding. Mayor Kobasuk said the report will show the contours of the landfill and give Mr. Franz and BCI an opportunity to assess what needs to be done at the site. The Village will then be able to determine if it is economic to do this with the money MVCA has on hand. Mayor Kobasuk said MVCA will have an opportunity to come address the issues and discuss their financing. Mayor Kobasuk said the Village is being very transparent and following the next steps indicated by Mr. Franz.

4) Flag Spring Cemetery: Mr. Morgan submitted quotes from three roofing contractors to replace the roof on the chapel building at the cemetery. All quotes exceed the budgeted amount of \$7,000. Converting the building into a full mausoleum as well as building a memorial have been discussed. Mr. Thamann will report back to Council after researching regulations of storing urns for eternity and the cost of converting the building before we act on replacing the roof. Mr. Tiettmeyer said the building was installed by the Odd Fellows and feels we have an obligation to maintain the building. Council will discuss the suitable use of the building after Mr. Thamann's report.

5) Ragland Road Culvert (Ragland Road Drainage Improvement Project) 100 Year Storm culvert cost is \$457,000; \$484,000 has been appropriated for the project. This culvert will go under Ragland Road. Temporary easements will need to be obtained since the road is narrow.

PROJECT STATUS REPORT: (Tim Brandstetter, BCI)

1) McCullough Run Drainage/Clusters: Jerry will schedule meeting with concerned property owners. Last week he met with Mr. Moore and Bob (BCI) to discuss the difference between the public and private systems, which brought some relief to the residents. Mr. Thamann will discuss the watershed areas, what is draining down the hill and what the creek is collecting and explain the public vs. private. County Engineer told Mr. Thamann that MRF money might be available if it is used only on dedicated right-of-way and not private property. This would help we ever needed to stabilize the wall. BCI is working on estimates for temporary solutions.

2) Ragland Road Culvert: The alignment of the pipe is being reviewed before being finalized with direction from Council. We need to move forward with the final design so we can begin the easement process, solicit survey proposals.

Mr. Fairley made a motion to approve the 100 Year Storm culvert (\$457,000) and move forward with the project. This amount has been qualified with Finance Chair Curt Tiettmeyer. Mr. Short seconded the motion. All Aye. Motion Carried.

3) 2017 Street Paving Program: Curb removal begins 8/9/2017. Asphalt, milling and curb repairs and Level will take place in September, followed by surface course in October. Private streets: Lake Forrest and Legends Lane costs have been shared with property owners. Lake Forrest residents are in favor in participating in having their lane paved. Tim Brandstetter said the curbs are marked to give a visual notification to the residents. He was unsure if the contractor or Village would also send a letter. After discussion, Mr. Brandstetter said BCI will provide a letter to the Village. Mr. Fairley said at the pre-construction meeting, it was his understanding residents that would be impacted by the project would be notified.

4) SR 32 East Storm: With pending ODOT Safety Grant, reviewing options to construct storm sewer per OPWC schedule but accommodate future widening with ODOT Safety Grant. Survey proposals being sought for Right-of-Way within limits of this project only.

5) ODOT SR 32 Safety Grant: Preliminary Engineering award letter. ODOT share is \$42,929. Village share is \$4,770. ODOT award letter is attached to project status report from BCI.

6) 2016 Paving Program: Warranty work to replace curb on Oyster Bay and Pine Isle is to be completed in August.

MAYOR & COUNCIL MEMBER REPORTS

Council Member Cheryl McConnell: Planning Commission held a Public Hearing on July 27th to review the final draft of the text changes on the Zoning Code. It was very helpful having Solicitor Supinger present. The administrative and sign sections had text changes, which were approved by the Planning Commission and recommended approval to Council. Mr. Stoker is currently finalizing the hard copy. The Third Reading will take place in October, which gives Council time to have a Public Hearing. The First Reading will take place on September 12th, Second Reading on September 26th and the Third and Final Reading on October 10th. A site plan to expand parking at 6617 Main Street, Urban Grill was also approved at the July 27th Planning Meeting.

Mrs. McConnell made a motion to set the Public Hearing on Tuesday, October 10th at 6:30pm. Mr. Tiettmeyer seconded the motion. All Aye. Motion Carried.

LEGISLATION

Resolution, Opposing Ohio HB 267

Chapter 2744 of the Ohio Revised Code, entitled the Ohio Political Subdivision Tort Liability Act, grants immunity to political subdivisions and their employees when acting within the scope of their employment. Solicitor Supinger said HB 267 was introduced in July and the intent is to remove the political subdivision immunity that currently exists when emergency vehicles are responding to an emergency call. Adopting the resolution is a statement of policy.

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

Mr. Fairley made a motion to adopt RESOLUTION NO. 24-2017 A RESOLUTION OPPOSING OHIO HOUSE BILL 267, WHICH PROPOSES TO ELIMINATE CERTAIN IMMUNITIES AFFORDED TO POLITICAL SUBDIVISIONS UNDER CHAPTER 2744 OF THE OHIO REVISED CODE. Mr. Zornes seconded the motion. Roll Call: Mr. Zornes-Yes, Mr. Short-Yes, Mr. Tiettmeyer-Yes, Mr. Fairley-Yes, Mrs. McConnell-Yes. Motion Carried.

NEW BUSINESS

Council Checklist

Mr. Tiettmeyer made a motion to approve the 08.08.2017 Council Checklist for an amount of \$65,227.84, seconded by Mr. Fairley. All Aye. Motion Carried.

Executive Session

Council dismissed at 7:42pm to enter into Executive Session pursuant to Section 121.22G3 of the Ohio Revised Code to discuss pending litigation. **Mr. Tiettmeyer made the motion, which was seconded by Mr. Fairley. Roll Call: Mr. Zornes-Yes, Mr. Short-Yes, Mr. Tiettmeyer-Yes, Mr. Fairley-Yes, Mrs. McConnell-Yes. Motion Carried.**

Council reconvened at 8:09pm; motion was made by Mr. Zornes. No action was taken. All Aye. Motion Carried.

Mr. Short made a motion to adjourn at 8:10pm. Mr. Zornes seconded the motion. All Aye. Meeting adjourned.

Transcribed by Becky Fairley.