

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

The September 12, 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 8.08.2017 Council Minutes, Mr. Tiettmeyer seconded the motion. Mr. Carroll abstained since he was sworn in on 8.22.2017. All Aye. Motion Carried.**

**Mr. Short made a motion to approve the 8.22.2017 Council Minutes, Mr. Tiettmeyer seconded the motion. All Aye. Motion Carried.**

### **SPECIAL PRESENTATIONS** (MVCA/Short Park Development)

#### Barry Franz, Diversified Environmental Consulting, LLC

Hamilton County Public Health Department is still performing landfill gas readings at the site. They have added an additional four locations and are now monitoring on a monthly basis, rather than a quarterly basis. Since Mr. Franz' May 25, 2017 presentation to Council, readings have been taken on June 20, July 25 and August 31. All readings have been below standards used by Hamilton County Public Health. As of today, all readings taken since 2003 have been below the action standards. For those interested, Hamilton County Public Health Waste Management Group will email copies of the gas readings if contacted.

Grumann Exploration, Inc. conducted a non-intrusive geo-physical survey at the Short Park site, Debolt Street (GEI Project No. 01-37058). The purpose of the survey was to delineate the landfill limits and to determine the relative thickness of the landfill cover. Two geophysical techniques were used: 1) Electromagnetic (EM) Induction Profiling (EMI) and Ground-penetrating Radar (GPR), which is a multi-frequency ground penetrating radar survey. The limited EM scans along the landfill perimeter showed no indication of large concentrations metallic debris or other highly conductive fill. GPR survey showed what appears to be a veneer of mostly sand and gravel cover directly over the waste material. The thickness and condition of the cap needs to be confirmed, as well as the soil make-up of the landfill cover. This investigation will consist of a very limited excavation and will only go through the landfill cover, not the landfill materials. In order to perform this investigation, we will prepare and submit through Ohio EPA a Rule 2713 Permit Application, but it is specifically for this investigation, not for any current planned or future planned construction. The approval for the permit will be handled at the local office in Dayton, Ohio. The investigation, MVCA's design engineer can make some decisions with respect to site grading, excavation and filling. It is currently believed that the site will require additional fill than was originally anticipated. Once the Rule 2713 Permit Application is completed, it is submitted to the Village of Newtown for review and approval and is submitted to the Ohio EPA. The Permit Application will not be in the public domain until we get to that point. The investigation will not take very long, but the permit process will take about two to three months. The easiest way to view the permit application is through Ohio EPA's edocument website (<http://edocpub.epa.ohio.gov/publicportal/>). The report is now available and may be obtained from the Village Municipal Building.

#### Tim Brandstetter, BCI Inc.

BCI, Village Engineers will review and approve plans once submitted by MVCA. As stated by Mr. Franz, the site from an engineering and environment perspective is complicated but BCI is committed to meeting the schedule set forth by MVCA and Village Council.

#### Ragland Road Culvert Project

Tim Brandstetter was present this afternoon for the Open House that took place from 2:00-4:00pm for Village residents that will be impacted by the project. Ragland Road and Harriet Lane is the location where the work will take place. The 100 year storm plan approved by Council is designed to greatly improve drainage issues that have been ongoing for many years. From the Open House, BCI will finalize the design for the project over the next few weeks. Once easements are obtained from residents, the project should go out to bid with construction taking place Winter 2017/Spring 2018.

#### 2017 Street Paving

Mr. Carroll asked for an update on the curb work that is scheduled for Oyster Bay Lane and Pine Isle Court. The residents received a letter stating the work would be done sometime in August. The concrete contractor should be mobilized towards the end of September. Mr. Fairley asked if the 2017 Paving Program for the milling work is on schedule ....rain and other issues control the progress of the work. It appears the project may run about two weeks behind schedule. Mayor Kobasuk

asked when the milling and paving would begin in Ivy Hills. Mr. Brandstetter said it would probably be towards early October. The milling and asphalt leveling will take about a week and a half; therefore, it should be completed by October 13<sup>th</sup>. Mr. Thamann said the contractor needs to post “NO PARKING” signs two days in advance of the scheduled work that will be done on the street.

#### MVCA/Short Park Development

MVCA sent a letter to Village Council asking for an extension of the construction date on the Short Park Athletic Complex. Mr. Nick Rutolo is present to address the situation and submitted the below presentation in Word for the Minutes.

#### Newtown Village Council Meeting Sept 12, 2017

Good Evening. My name is Nick Rutolo and I currently serve on the Board of Trustees of Miami Valley Christian Academy. Unfortunately, Mr. Tom Rhodenbaugh, who is currently leading the construction phase of our joint agreement for the development of Short Park Athletic Complex is out of town on business this week so he has asked me to pinch-hit for him tonight.

My purpose of being at this meeting and addressing the Village Council is to request a one-year extension to the start of the construction requirement set forth in our joint venture agreement. Before I get to the details regarding this request, I want to remind Council of the tremendous amount of support for the project we have received both from within the school and also from the community. To underscore this, allow me to read a letter that was received regarding the development of Short Park by Mr. John Russell, 43-year resident and former Mayor of Newtown.

(Letter from resident, past mayor John Russell is read)

*MVCA Short Park  
Newtown. Ohio*

*Ladies/ Gentlemen:*

*I am a 43-year resident of Newtown and for 42 of those years have served in appointed and elected positions in the Village, including eight years as Mayor and currently Planning Commission Chair. My wife and I raised six kids in Newtown, all of them participated in sports at some level and we are acutely aware of the need for quality playgrounds and athletic fields.*

*It is my pleasure to offer my support for the referenced project, which will be available for local residents as well as being used for MVCA events. Our Village is small and resources must necessarily be spent wisely for the maximum benefit of our residents, as well as our surrounding neighbors. This project meets those criteria and, as a partner with MVCA, we have leveraged our resources for everyone's benefit.*

*I urge your positive response to the MVCA request.*

*Sincerely: John R. Russell AIA, 3442 Drake Street, Newtown, Ohio 45244*

#### Presentation by Nick Rutolo continued:

Now to the request for a one-year extension. As you are aware, Section 4.1 of the Joint Venture Agreement (signed 9/22/15) states the following:

- MVCA will begin construction of Facilities in either Zone 1 or Zone 2 of the Park, as determined by MVCA, within twenty-four (24) months after the effective date hereof (the “First Phase”). Such First Phase will be substantially completed within thirty-six (36) months after the effective date hereof.

The 24-month period that is referenced ends on September 22, 2017 or 10 days from now. The primary reason for the delay in beginning the project is our efforts to make absolutely sure that any issues regarding EPA concerns as it relates to Short Park and its decades ago use as a landfill are fully addressed within EPA regulations. To this end, MVCA, along with Newtown, have done the following:

- We have worked closely with Ohio EPA and Hamilton County Health Dept. including multiple face to face meetings to more fully understand any environmental issues in the development of Short Park.
- We have improved the level of information needed to obtain building permits. Thus, we have better information to refile for EPA approval and to solidify a bid proposal.

- Mr. Barry Franz, who had been hired by the Village to help understand these concerns, has shared that there are no findings about the landfill that should cause us great concern. We have clearly identified the limits of the landfill and with good confidence we know the discarded materials are mainly construction and landscaping in nature.
- We have learned the public statements about "open dumping" are related to a different landfill, not this Debolt landfill. However, we do need to consider how we excavate based on the recent study and we intend to examine this further before submitting a new site plan for permits.

Two years has gone by faster than we thought but we have been steadily working towards a great result. We have had some unforeseen delays but that does not change the value of the project.

Now let me address "public expense" concern which has been thrown out for the reason of not granting an extension.

- MVCA has relieved at least 400 hours of mowing from the village. That has allowed one maintenance person to do 10 weeks 2+ months of other Village work.
- MVCA has also paid the village \$10,000 in cash and will soon pay another \$40,000 in cash per the contract. Those that want to derail the project will point out that "tax payer expenses are adding up" but always fail to point out some of the offsetting savings.

As mentioned, the current contract calls for another \$40,000 payment by 9/22/17. Ideally, MVCA would like to see approvals to build before making this payment but on the other hand it is our full intention to complete the project. So, as a further commitment to building, MVCA is planning on making this payment as agreed. MVCA would be disappointed to make this \$40,000 payment and then not receive the opportunity to continue with the project with the reasonable extension we are requesting.

In addition, if the one-year extension is granted, we are prepared to commit another \$10,000 payment to the Village on 9/22/18 to further offset some of the costs incurred by the Village. I'm confident that you agree that this underscores MVCA's commitment to completing this project.

In summary:

- We have worked closely with Ohio EPA and Hamilton County Health Dept. we have had multiple face to face meetings.
- We have improved the level of information needed to obtain building permits.
- We have better information to refile for EPA approval and to solidify a bid proposal.
- We have honored our financial commitment of \$50,000 as specified in the original agreement and now have offered an additional \$10,000 payment to off-set anticipated Village of Newtown expenses.

Again, to re-state, two years has gone by faster than we thought but we have been steadily working towards a great result. We have had some unforeseen delays but that does not change the value of the project to MVCA and to the residents of the Village of Newtown.

Finally, it's worth a mention to realize that 21 years ago Newtown received no taxes from MVCA. Today, MVCA is one of the top 10 tax payers in the Village. The school has seen steady net growth for 21 years. We have record attendance this year with over 400 students and 60+ staff. Hundreds of families have the opportunity to shop in Newtown every day and many do. We have gone from having no economic impact on the Village to having a meaningful impact. This project, when completed, helps secure the future of MVCA in Newtown and provides recreational facilities comparable to your surrounding neighbor communities. I would also add that this project creates local jobs and local building taxes for Newtown.

I would like to close with a story that is a good comparison to this situation. About 14 years ago the MVCA Board announced we would start a high school so our rising freshman could stay at and graduate from MVCA. With any big project comes challenges. We failed to have a 9 grade for our rising 8th graders, and we then failed to have a ninth grade for the next class of 8th graders. We had started a capital campaign and began the planning process. While in this planning and fundraising stage and with virtually no funds in hand, we learned that steel prices were soon going up 25%. This would add \$100,000 to the cost of the building. Within 2 days 4 donors rounded up \$316,000 in personal loans and we ordered the steel before we even had a building permit. The next day steel prices did go up but the savings was locked in. The steel was delivered and sat in the MVCA parking lot for another year.

Why did four people take such a personal risk? Two reasons: Faith and Vision. MVCA would not have 400+ students today without the faith and vision to complete the high school or, for that matter, to start a school. We have had multiple challenges over the last 21 years. Yes - at times things take longer to accomplish than planned but, at MVCA, we stick to our plans and have always accomplished our goals. MVCA might not be paying any tax to the Village today without completion of the high school. Three of those four investors are still living and have invested in the Short Park project as well. We still have faith

and we still have vision. I ask you to look past today and think about how tomorrow can look. We ask that you let MVCA have the chance to improve the community, to grow the school and to make this great vision a reality by granting the one-year building extension.

End of Nick Rutolo's presentation to Council. ~~~~~

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?

Candidates for Village Council: Resident Sarah Williams, 7410 Pinehurst Drive, is running for Village Council and said she is looking forward to getting involved. Mayor Kobasuk thanked Mrs. Williams for campaigning and getting involved, like Mr. Ackerman. It's good to have people getting involved in local government. We have five candidates running for four council seats this election cycle; Mr. Tiettmeyer, Mr. Fairley and Mr. Carroll are running for their current council seats.

**ADMINISTRATOR'S REPORT** (Jerry Thamann)

- 1) Storm Water Utility Program: The ordinance that will be presented tonight reflects changes from the original ordinance. The goal of the changes is to make the manner of which our Storm Water Utility is assessed is consistent with how BCI Inc. calculated the fees. Therefore, the ordinance was revised to clarify how the fees will be calculated.
- 2) Rumpke: The current contract for solid waste and recycling is with Rumpke and is up at the end of the month. The contract has an agreement that allows us to extend the contract for a two-year period, which would be January 2018 through December 2019. The current rate is \$11.20 per unit; if contract is extended, the rate would go to \$11.86 per unit. The Center for Local Government consortium pricing was much greater than the Rumpke amount. If Council doesn't object, Ms. Everett will send a letter to Rumpke notifying we accept the option of extending the contract. Mrs. Supinger said a motion is not necessary since the contract has been approved and it contains the provision presented. The appropriated amount for solid waste management and recycling is \$138,000 in the 2017 Budget. The Village of Newtown pays this fee for residents.

**MAYOR & COUNCIL MEMBER REPORTS**

WeTHRIVE! Initiative (Reported by Mayor Kobasuk)

Hannah Smith, Health Education with Hamilton County Public Health will attend a Council Meeting in January 2018 to discuss the WeTHRIVE! Initiative. Health and Fitness, Emergency Preparedness pathways are being considered.

Fire Fund Analysis (Reported by Curt Tiettmeyer)

It was a little over two years ago that we began the process of looking at alternatives for fire and EMS services for the Village of Newtown. The intent was three items: 1) improve quality of service, 2) keep firehouse in Newtown open and active and 3) keep from raising taxes for at least ten years. A little over a year and a half into the agreement with Anderson Township, we are pleased to report we will not be raising taxes for fire and EMS service for what looks to be beyond ten years. This is a very solid estimate on our part, which was part of the Fire Levy campaign. The contract with Anderson Township is a three-year contract with a two three-year option. The Fire Fund Cost Analysis may be obtained from the Village office. Mayor Kobasuk said this is a big deal and was a hard fought campaign.

**Planning Commission**

Planning Commission met on August 24<sup>th</sup> regarding the soccer fields at 3237 Church Street, next to St. John Fisher church. There is a conditional use request for active recreation on the six acres. A Public Hearing was held – most concerns addressed traffic safety on West Jefferson Street. Conditional use standards do address in three different areas having adequate access roads and exit drives. Chief Synan was present and addressed his concerns on the traffic issues. No decision was made at this meeting. The applicant was given an additional thirty days to come up with a resolution that will address these traffic and safety issues. There will be a continuance of the Public Hearing at the next Planning Commission meeting on September 28<sup>th</sup> at 6:00pm.

**Village Solicitor's Report**

Solicitor Supinger reminded Council that every elected official in Ohio must do Open Public Records Act (OPRA) training at some point during every term in office. The Attorney General and Auditor's office offer live training throughout the course of the year. The Attorney General also has a series of thirteen videos of training online. A certificate is issued when training is completed and a copy of the certificate should be provided to the Fiscal Officer's office.

## **LEGISLATION**

### **ORDINANCE, FIRST 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.

### **Mayor Kobasuk would like to have a First Reading to discuss 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.**

Mayor Kobasuk would like to discuss the First Reading. Solicitor Supinger, Brandstetter Carroll Inc. and Village Administrator Jerry Thamann and MVCA worked very hard on the addendum. MVCA took into account the money the Village has spent and put new money on the table to cover some of the expenses. Mayor Kobasuk believes the one year extension is a good compromise. Council put this issue on the ballot for the voters on November 4, 2014 – the people voted to approve and proceed with entering into a Joint Venture with MVCA. The vote was an overwhelming 74% in favor of the agreement with MVCA. Mayor Kobasuk said he views his job as mayor to effectuate the will of the people and is trying to work with MVCA to bring this project to fruition. Mayor Kobasuk read the below letter dated 6/20/2014 from the NBA.

Newtown Business Association, 3537 Church Street.....Newtown, OH 45244 | 513.827.0722

June 20, 2014

Dear Mayor and Village Council:

RE: Short Park Development Plan – MVCA

On behalf of the Newtown Business Association (NBA) and the business leaders listed below, I am writing to voice our support of the Short Park Development Plan proposed by Miami Valley Christian Academy (MVCA).

On December 3, 2013 NBA members voted unanimously to support the plan. The implementation of the Short Park Development Plan will bring more visitors to our community thus extending the customer base, increasing business revenue, supplementing tax revenue and ensuring economic vitality of the Village of Newtown. Furthermore, the NBA believes that the development will attract new businesses to the Village. NBA members are excited that a new athletic and recreation complex so close to the walkable business district will provide great opportunities for events, concerts and festivals.

Finally, MVCA is a critical customer base for the Village. NBA members understand the academy's strategic need for a home athletic complex in order to remain competitive with other private middle and high schools. The business community must help retain MVCA as an integral part of the community.

Thank you for the opportunity to give Council the perspective of the business owners on the Short Park Development Plan.

Sincerely, Matt Cuff, President, NBA

#### **Mayor and Council discussion on addendum to MVCA agreement:**

Mayor Kobasuk said the letter is a good statement of why we want the Athletic Complex and keep MVCA in our community. Mr. Tiettmeyer said he is in favor of approving the second addendum to the agreement with MVCA. He explained that by allowing the one-year extension, it is not costing the Village anything. As a matter of fact, MVCA is making a significant contribution. It doesn't prohibit any use of the park by Newtown residents. MVCA will still be required to acquire Planning and Zoning and Village Council approval of their plans. The Village is not giving up anything from that perspective; we are just allowing them additional time, stated Mr. Tiettmeyer. Mrs. McConnell agreed with Mr. Tiettmeyer, as she doesn't feel this is an unreasonable request. In fact, it gives MVCA a greater opportunity to do their due diligence for the environmental concerns and fundraising for their needs, which all is for the benefit of Village and nearby residents. There are always delays with any kind of construction projects. Mrs. McConnell said she does support approving the second addendum. Mr. Fairley said he echoed everything said and discussed three points: 1) \$10,000 contribution from MVCA will offset some of the Village's expenses, 2) there are always construction obstacles large projects entail and thinks it is reasonable to grant MVCA a twelve month extension and 3) the very worst that can happen is that the residents remain able to use this beautiful park so there is no reason not to grant MVCA the extension. Mr. Short said it is admirable to build a complex for the kids since the property was secured for the purpose of doing something for kids. Mr. Short said his concern remains the funding and believes it will end up costing MVCA more than projected. He feels the equity line is not the same as cash in hand. Mr. Short

questions if MVCA will be able to raise more money in one more year. Mr. Carroll agrees with many of the comments and sees no reason not to grant the one-year extension to the agreement. Mr. Carroll has been involved in fundraising and is not sure we are in a position to challenge fundraising, as it is a difficult and obtuse process. MVCA has secured 65% of the funds in one way or another. Mr. Carroll is in favor of granting twelve months to secure the additional funds and to go through the other steps of the project and the analysis. Mr. Zornes previously was in favor of ending the agreement, but after due diligence and hearing MVCA's side of the story and why they need the extension, he supports Council approving the second addendum to the agreement.

**ORDINANCE, FIRST READING AMENDING STORM WATER UTILITY PROGRAM** Presented by Curt Tiettmeyer  
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. Various changes were discussed.

**Mr. Tiettmeyer discussed the First Reading of AN ORDINANCE AMENDING THE VILLAGE OF NEWTOWN STORM WATER UTILITY ORDINANCE AND DECLARING AN EMERGENCY.**

**ORDINANCE, FIRST READING AMENDING THE ZONING CODE**  
**Mrs. McConnell discussed the First Reading of AN ORDINANCE AMENDING THE ZONING CODE OF THE VILLAGE OF NEWTOWN.**

Parking Fees: Previous ordinances pertaining to Park Rules have been repealed. Parking fees to park at Lake Barber were dropped from the recently revised Park Rules.

Personnel Practices: Solicitor Supinger and Village Administrator are working on updating the Personnel Practices. Mr. Zornes questioned why the employees have not been involved in the process. Mr. Thamann said he is reviewing the policies and this will be a legislative matter as to what will be adopted. Mr. Thamann and Mrs. Supinger will provide recommendations. Mayor Kobasuk said the plan was to get a draft then share with the employees. Mr. Zornes said months ago when he met with Mr. Thamann, he told him to get the employees involved in the process. Mr. Thamann said he has been tackling several projects, but the Personnel Practices are also on his plate.

## **NEW BUSINESS**

### Council Checklist

**Mr. Tiettmeyer made a motion to approve the 09.12.2017 Council Checklist for an amount of \$70,133.81, seconded by Mr. Short. All Aye. Motion Carried.**

Halloween Costume Party: In the place of the annual Trunk or Treat, sponsored by the Newtown Civic League, there will be a Halloween costume party for kids 12 and under. This will take place at the Newtown Firehouse, Station No. 22, on Sunday, October 22<sup>nd</sup> from 6:00pm to 8:00pm. Parents are welcome. Food, games, activities and candy bags for everyone will be provided. Mr. Short will be assisting with grilling.

### Executive Session:

**Mr. Zornes made a motion to enter into Executive Session at 8:17pm to discuss the investigation of a complaint against a public employee. Mr. Short seconded the motion. Roll Call: Mr. Zornes-Yes, Mr. Short-Yes, Mr. Tiettmeyer-Yes, Mr. Fairley-Yes, Mrs. McConnell-Yes, Mr. Carroll-Yes. Motion Carried.**

Council reconvened at 8:42pm. No action to be taken as a result of the Executive Session.

Mr. Fairley made a motion to adjourn at 8:43pm, seconded by Mrs. McConnell. Meeting adjourned.

Transcribed by Becky Fairley.