

Call to Order/Pledge of Allegiance/Attendance

The February 25, 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: **Don Carroll** (Vice Mayor) Solicitor: Emily Supinger (not present)
Daryl Zornes Fiscal Officer: Keri Everett
Chuck Short Assistant to Mayor: Becky Fairley
Curt Tiettmeyer
Terry Fairley
Sarah Williams

APPROVAL OF COUNCIL MINUTES:

Mr. Fairley made a motion to approve the regularly scheduled 02.11.2020 Council Minutes. Mr. Short seconded the motion. All Aye. Motion Carried.

SPECIAL PRESENTATIONS:

Newtown Fill Update (Barry Franz, Diversified Environmental Consulting LLC)

Mr. Franz spoke to the following points regarding an update on Newtown Fill – the below was submitted by Mr. Franz:

HCPH submitted a letter (February 4th) to Newtown Fill addressing a number of issues, paramount which was no infringement from the landfill within the Village's right-of-way along SR 32. HCPH indicated that the most recent drawing they reviewed of the landfill appeared to present the storm water ditch as being within the Village's right-of-way. It should be noted that the right-of-way in this area is not a straight line but is quite complex. 2. Newtown Fill retained a surveyor to research and then field locate the right-of-way line. HCPH requested that the ODOT field check this survey and confirm that the right-of-way as surveyed was correct. ODOT confirmed that the surveyed line was correct in late 2019. 3. HCPH responded on September 9th to the letter from the Village dated August 30th concerning five specific issues the Village has with the Landfill. Each of the five issues were addressed in detail. HCPH committed to making the Village aware of any variance request or other issues which the Village identified in their letter. • Unacceptable Waste • Fire Prevention and Covering Waste • 2019 Survey Requirements • Use of Right of Way • Slope Variance 4. Based upon a discussion with HCPH and myself on September 9th , HCPH indicated the following: • HCPH has requested that ODOT confirm the location of the right-of-way along SR 32. BCI, the Village's Engineer, indicated that the right-of-way width varies within the Village's right-of-way. • It was noted that the removal of the trees and vegetation on the landfill's property was necessary to allow the landfill to continue operations along SR 32. • HCPH was aware of a number of informal complaints: i. Mud on the roadway ii. Dust on personal property iii. Overall height of the landfill iv. Nuisance odors. However, only one formal complaint has been made by the Newtown police chief about mud on the road. The landfill was notified changed some operational issues to reduce the mud on the road. 5. On September 11th, a meeting was held at the Village's offices with a representative from ODOT, HCPH, Newtown Fill, the Village and myself. The purpose of the meeting was a broad discussion of issues associated with the landfill. • ODOT explained their process from conceptual design to public meetings to the Environmental Impact Statement to initial design, final design and construction. Each step is fully dependent on the previous and the next step cannot be DEC Project No. 19.110.0002 Page 2 of 4 Date: 02/25/2020 started until the previous step is done, approved and funding in place for the next step. • ODOT indicated that the conceptual design and public meetings are completed and that the EIS is being negotiated with an engineering consultant. ODOT also indicated that it would be at least 18 months to 2 years before the EIS is completed. Therefore, the purchase of any additional land for a right-of-way easement is quite some time off. • HCPH made it quite clear that no infringement into the Village's right-of-way would be allowed. • The representatives from Newtown Fill answered a number of questions that had been posed over the past couple of weeks: i. At the location where the landfill removed the trees and vegetation, a limited number of trees will be replanted. ii. The landfill will be placing a temporary cover, with grass on portions of the exposed landfill. This will reduce dust and the presence of bird scavengers. iii. Occasionally operations will grade into the landfill to create the stormwater berms as required in their final closure plans for the landfill. Residents may see the landfill cutting into the slopes and exposing the compacted waste. A small section of the berm will be cut, graded and the waste re-covered. iv. The issue of a slope variance came up. There is a section of the landfill approximately 20 feet wide that may require a slope variance for a steeper slope under the powerlines. Based upon the discussion, the slope variance may not be readily noticeable to the public without looking at the final topographic map of the landfill. HCPH indicated they would discuss any slope variance with the Village, but if the area to be changed is as small as indicated, they could see no reason to deny the request. v. Newtown Fill requested a delay in the preparation of the 2019 topographic map. The landfill prepares the topographic map using aerial photography and a delay until late October is needed to allow the leaf cover to be reduced. HCPH indicated that they would approve this request for this delay. 6. On September 13th, a meeting was held at the Village's offices with representatives from HCPH and the Village. The purpose of the meeting was a broad discussion of various issues associated with the landfill. I was unable to attend the meeting, but the Mayor was present. 7. On September 17th, HCPH investigated a complaint raised by Mr. Zeitler on the 12th concerning his waste observations. HCPH prepared a formal response to the complaint. HCPH noted five specific items and a finding related to the complaint: • The facility has a sign near the entrance which indicates types of waste that are not accepted at the facility. • HCPH inspected the landfill's compactor. There was no visible staining in the colors described in the complaint. The compactor body is approximately 10 feet tall and the cab is approximately 15 feet tall. That would put the observed spray of liquid at approximately 20 to 30 feet in the air. DEC Project No. 19.110.0002 Page 3 of 4 Date: 02/25/2020 • HCPH spoke with the employee who was operating the compactor on the day of the complaint. He did not remember hitting anything that caused a spray of liquid as described by the complainant. • HCPH walked over the area noted in the complaint. The area checked started east of Little Dry Run and approximately 250 feet to the west. HCPH walked the area in a grid pattern. No readings from the instrumentation was detected. • HCPH reviewed daily logs for the day of the reported observation. No unusual loads were recorded. • HCPH concluded that the cause of the unknow release could not be adequately determined. 8. A groundwater monitoring report was prepared (August 20th) and submitted as part of the landfill's 2019 permit submittals. Conclusions reached in the report include: • Comparison of the up gradient well, MW-1, to the down gradient wells MW-3, and MW-5 indicates higher levels of COD, Iron, Potassium, Manganese, Ammonia, Sulfate, Arsenic, and Nickel leaving the

site. • Comparison of the up gradient well MW-6 to down gradient well MW-5 indicates higher levels of Bicarbonate, Calcium, Chloride, COD, Iron, Potassium, Magnesium, Manganese, Sodium, Ammonia, Sulfate, Arsenic, Barium, Nickel, and Strontium leaving the site. • Comparison of the up gradient well, MW-2 to down gradient wells MW-3 and MW-5 indicates higher levels of Bicarbonate, Calcium, Chloride, COD, Iron, Potassium, Magnesium, Manganese, Sodium, Ammonia, Nitrate, Sulfate, Arsenic, Barium, Nickel, Strontium and Boron leaving the site. • Some comparison exceedances include: i. MW-1: Boron was exceeded ii. MW-2: Sulfate was exceeded in 2018 and 2019 iii. MW-6: No analytes exceeded iv. MW-3: Potassium was exceeded in 2015 through 2019, and Arsenic was exceeded. v. MW-5: Barium was exceeded. • The groundwater report concludes there is no indication of a negative impact on the groundwater from the landfill. The down gradient wells are showing improvement in the overall quality of the groundwater leaving the site. The groundwater entering the landfill has elevated values of Boron and Sulfate, but are below the MCL. 9. On September 27th, the Mayor was made aware of a complaint from a citizen. The complaint was forwarded from the Newtown Police Department to the Mayor. The complaint was about the observation of at least two large tires present on the landfill. The Mayor sent an email to HCPH requesting clarification that the tires were not part of the landfill but related to the operations at the landfill. HCPH responded that the tires are temporary markers used by the landfill operator to designate and mark the unloading zone at the operating face of the landfill. DEC Project No. 19.110.0002 Page 4 of 4 Date: 02/25/2020 10. In December, Newtown Fill submitted the remaining documents as required by their 2019 license renewals. Two important submittals are the final grade and drainage drawing and a drawing showing the differences between the current fill and the base of the final cap. 11. Working with Mr. Zeitler, various issues were reviewed including slope variations, the location of the storm water ditch, and the design of the storm water ditch. • A review of the slope indicated that the existing slope is approximately a 1 vertical to 4 horizontal. The configuration of the final grade is a 1 vertical to 4 horizontal. • The location of the storm water ditch appears to be outside the landfill proper but not within the Village's right-of-way. The ditch appears to be a single line drawn on the map rather than showing the width of the ditch. • The design of the ditch appears to be a simple channel design. A concern was raised about heavy rainfall and the flow rushing over the edge of the ditch. 12. On January 23 th , a complaint was made concerning mud on the roadway as well as un-covered CD&D materials. The Village Police Chief documented the mud on the roadway and pulled a driver over to discuss this issue. The Police Chief, the following date, issued a NOV to Newtown Fill LLC concerning the mud. The Mayor reached out to HCPH on the 29th. HCPH conducted an inspection also on the 29th and issued a NOV to Newtown Fill as well. According to the Police Chief, the issue is not the truck drivers, but the lack of effort by the Landfill in washing the trucks and the lack of a suitable/stable roadway once the trucks are washed. 13. A request was submitted to HCPH on the behalf of the Village asking for clarification about the design of the ditch. In response, HCPH submitted a letter to Newtown Fill requesting clarification on the design of the storm water ditch as well as a number of other items HCPH felt required responses from Newtown Fill. 14. As part of the request from HCPH, they recognized that Newtown Fill will be finalizing their financial assurance arrangement for the long-term (30-year) care of the facility. To that end, Newtown Fill will be submitting a request to reduce the size of the active portion of the landfill which will result in a lower financial assurance requirement. This is an administrative matter between HCPH/OEPA and Newtown Fill. It has no effect to the Village. 15. There is a small slope variation which has been tentatively granted by HCPH. The location is beneath the powerlines running along the eastern edge of the landfill. It is virtually un-noticeable and was requested by Duke Energy and Newtown Fill to better manage storm water in this area. 16. In discussions with HCPH, the landfill is expected to be completed by the end of 2021. During this period, one may see some exposed waste as the landfill prepares the final topography and readies it for final cap placement. 17. HCPH is under the impression that the recycling portion of the Newtown Fill business will continue after the landfill is closed and capped. This has become an integral part of their overall CD&D business and is reportedly quite profitable. This does mean that the Village will continue to see heavier traffic through the Village.

On February 28, 2020, Mayor Kobasuk wrote a letter to Hamilton County Public Health, in reference to the Newtown Fill landfill tracking mud and sand onto State Route 32. We are waiting on their response.

Mayor Kobasuk thanked resident George Zeitler for his expertise assisting the Village at no charge. Mr. Zeitler is a retired engineer – he and Mr. Franz have had many useful discussions regarding the landfill.

Engineering Update (Engineer Bruce Brandstetter)

February 21, 2020

1. Ragland Road Culvert (17053)

- Have not received a response from David Yeager from 2/5/2020. BCI requested for a follow-up meeting.
- Final Pay request from Majors is \$141,854.90. Total contract amount is \$655,290.00. \$34,450 below the contract price.

2. 2018 Street Program (18081)

- JK Meurer has agreed to address the Villages' concerns in the Spring of 2020.

3. Sidewalk Inspection, River Hills Subdivision (18085)

- Final quantities need to be agreed to with Adleta.
- BCI met with homeowner at 3320 Rio Grande. Adleta will saw cut into 3' blocks.

4. Little Dry Run Wall Lagging (19033)

- BCI received a quote on 2/21/20 of \$69,630.00 to replace the lagging south of Ivy Hills Blvd. BCI is reviewing, will report more on 2/25/20.

Mr. Brandstetter said if Solicitor Supinger will allow it, we can do a change order with Adleta since this much was not budgeted. Mr. Tiettmeyer feels the amount we came under on Ragland Road project may be enough to add to this project as it is storm-water related. Mayor Kobasuk said Solicitor Supinger will prepare the proper legislation to back-up the change-order.

Subject to Solicitor Supinger preparing the legislation and verifying the dollar amount with the Fiscal Officer, Mr. Carroll made a motion to move forward with the change-order for the above project. Mr. Tiettmeyer seconded the motion. All Aye. Motion Carried.

5. Plan Reviews/Meetings

- BCI reviewing SR32/Round Bottom Rd. plans for right-of-way access for the Duke gas main. **Comments will be sent by 2/24/20.**
- **Consider nighttime construction on SR32?**

Duke Agreement – Lake Barber Easement

Mayor Kobasuk explained that due to a small re-route because of a lack of landowner agreement execution, there is a need to minimally change the current alignment on the Lake Barber property. Solicitor Supinger asked that Council approve the rerouting tonight, which goes next to Enquirer Printing.

6. McCullough's Run (20007)

- BCI inspected the channel on 2/20/20. Example photos attached.
- Follow up report to be provided by 3/24/20 Council Meeting.

7. MRF/OPWC Applications

- Church Street has been recommended for Small Government Funding – paving from Main Street to North Corp Line. Small Government Funding is a Statewide competitive program for Villages and Townships under 5,000 population. Scoring criteria is different than at the District Level. Construction cost is estimated at \$306,000. Proposed funding was 50% local funds or \$153,000.
- BCI to provide more information on 2/25/20.

Points can be increased if the match is increased to 56% - points go from 8 to 10 by doing so – this would be less than \$20,000. Another criterion is if the engineering is complete – it would go from 0 points to 5 points. BCI can prepare the bid documents if Council moves forward with these suggestions.

Mr. Tiettmeyer said the original 50% was included in the (Street Fund) Appropriations for the Budget – this would not impact the General Fund. There is one more reading on the Appropriations – Mr. Tiettmeyer suggested approving increasing the allocation – the appropriations for the Street Fund by the \$20,000. The money is in the Street Fund, we just do not appropriate any more than we feel is needed. This will need to be changed for the Final Reading of the Appropriations.

Mr. Tiettmeyer made a motion to approve the MRF/OPWC Applications for the Church Street North improvements from the Small Government Fund for a total of \$173,000. Mr. Short seconded the motion. All Aye. Motion Carried.

Mr. Brandstetter said they will go ahead with the plans and if it doesn't get funded this year, the Village could use them the subsequent year. Mr. Brandstetter asked for a motion for the engineering fees which will help with the application.

Mr. Tiettmeyer made a motion to approve \$10,000 to BCI for Engineering Fees for the Church Street North Paving program. Mr. Short seconded the motion. All Aye. Motion Carried.

8. Miscellaneous

- State Capital Funds are recommended by the County for funding by the State. Amount of award will be lower than requested.
- **Update on meeting with County Engineer on 2/12/20.**

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?

PUBLIC COMMENTS/PARTICIPATION (No participants)

MAYOR AND COUNCIL MEMBER REPORTS:

Lower Ragland Road Meeting (Reported by Mr. Carroll)

On February 12th, Mayor Kobasuk, Vice Mayor Carroll and Council Member Short met with Hamilton County Engineer Ted Hubbard and his successor Eric Beck. The Engineer's office has been cleaning up debris on Lower Ragland Road, west of Church Street when flooding occurs. This area is within the Village limits – they also maintain Turpin Lane. The County is approaching several owners at the south end - middle of lower Ragland to vacate and abandon this area. The owners seem to not be opposed. If the road is vacated, it would then be closed at the west end up to the point where the County just repaved which is about where the Village limits are. The creek bed runs through this area which is about 100 yards.

We would work with Solicitor Supinger to determine necessary steps to close down the road at the Village limits around east of where the creek runs through. We would allow the debris build up in there and probably need to build a T-turn around – our Maintenance currently does not maintain this road for snow removal and if this road is dead-ended, we would probably have to take on this responsibility. This part of the road may need to be paved if we are going to close it down and build a T-turn around there. Mayor Kobasuk said Solicitor Supinger has been working on this and will report at the 3/10/20 Council Meeting.

Duke Energy Natural Gas Service Line Replacement Easement

Due to a small reroute because of a lack of landowner agreement execution with Rack Seven, there is a need to minimally change the current alignment on the Lake Barber property (yellow on aerial map presented) Duke has asked for permission to change the exhibit on the agreement. The newly proposed drawing of Duke Gas Main has moved westward to Enquirer Printing driveway between Mojave East. The gas line would come in from SR 32 up to Lake Barber. The documentation needs to be amended to reflect these changes.

Mr. Carroll made a motion to authorize the Village Solicitor to approve a new exhibit to the easement agreement between Duke Energy Ohio and the Village of Newtown, which reflects the newly proposed gas main. Mr. Short seconded the motion. All Aye. Motion Carried.

Solicitor's Report (None)

LEGISLATION

Resolution, Agreement w/Anderson Township Little League

Council wishes to enter into an agreement with Anderson Township Little League for the use of baseball fields at Moundview Park.

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

Mrs. Williams made a motion to adopt RESOLUTION NO. 6-2020 A RESOLUTION APPROVING AN AGREEMENT WITH ANDERSON TOWNSHIP LITTLE LEAGUE, INC. FOR USE OF ATHLETIC FIELDS. Mr. Short seconded the motion. Roll Call: Mrs. Williams-Yes, Mr. Short-Yes, Mr. Carroll-Yes, Mr. Tiettmeyer-Yes, Mr. Fairley-Yes, Mr. Zornes-Yes, Motion Carried.

Ordinance, Engineering Fee Schedule

Mr. Fairley made a motion to have the Third and Final Reading of ORDINANCE NO. 08-2020 AN ORDINANCE ADOPTING A FEE SCHEDULE FOR ENGINEERING SERVICES BY THE VILLAGE ENGINEER AND DECLARING AN EMERGENCY. Mr. Short seconded the motion. Roll Call: Mrs. Williams-Yes, Mr. Short-Yes, Mr. Carroll-Yes, Mr. Tiettmeyer-Yes, Mr. Fairley-Yes, Mr. Zornes-Yes, Motion Carried.

Ordinance, Second Reading Permanent Appropriations Ending 12/31/2020

Mr. Tiettmeyer pointed out that revisions have been made to the appropriations – these revisions included most of the requested items. An additional revision will take place at the 3/10/2020 Council Meeting – this revision is related to the Church Street paving project, previously discussed. Mr. Tiettmeyer noted that this year Council will need to take a thorough look at revenues and expenses line by line and focus on priorities. And by doing so, Council will be prepared on what action to take should a deficit arise. Mayor Kobasuk, Mr. Tiettmeyer and Mr. Carroll have had discussions regarding the budgetary process and planning for year 2021.

Mr. Tiettmeyer made a motion to have the Second Reading of AN ORDINANCE TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE VILLAGE OF NEWTOWN DURING THE FISCAL YEAR ENDING DECEMBER 31, 2020. Third Reading will take place at the 3/10/2020 Council Meeting.

Resolution, Purchase of Police Radios and Related Equipment

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

Mr. Zornes made a motion to adopt RESOLUTION NO. 07-2020 A RESOLUTION AUTHORIZING THE PURCHASE OF POLICE RADIOS AND RELATED EQUIPMENT FROM MOBILCOMM. Mr. Short seconded the motion. Roll Call: Mrs. Williams-Yes, Mr. Short-Yes, Mr. Carroll-Yes, Mr. Tiettmeyer-Yes, Mr. Fairley-Yes, Mr. Zornes-Yes, Motion Carried.

Ordinance, Second Reading Approving Eastern Communities Energy Special Improvement District Program Plan
Adoption of this ordinance approves the Eastern Communities Energy Special Improvement District Program Plan – Residential Plan for the Village of Newtown.

Mr. Carroll made a motion to have the Second Reading of AN ORDINANCE APPROVING THE EASTERN COMMUNITIES ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN – RESIDENTIAL PLAN; AUTHORIZING AND APPROVING THE EXECUTION, DELIVERY, AND PERFORMANCE OF A VILLAGE RESIDENTIAL PACE COOPERATIVE AGREEMENT WITH RESPECT TO PROPERTY ASSESSED CLEAN ENERGY TRANSACTIONS IN COOPERATION WITH THE EASTERN COMMUNITIES ENERGY SPECIAL IMPROVEMENT DISTRICT AND THE TOLEDO-LUCAS COUNTY PORT AUTHORITY; AUTHORIZING THE TOLEDO-LUCAS COUNTY PORT AUTHORITY TO APPROVE PETITIONS AND PLANS FOR PUBLIC IMPROVEMENTS OR PUBLIC SERVICES SUBMITTED BY THE OWNERS OF REAL PROPERTY WITHIN THE VILLAGE REQUESTING THAT THEIR PROPERTY BE ADDED TO THE TERRITORY OF THE EASTERN COMMUNITIES ENERGY SPECIAL IMPROVEMENT DISTRICT AND ASSESSED FOR THE COSTS OF SUCH PLANS ON BEHALF OF THE COUNCIL OF THE VILLAGE. The Third and Final Reading will take place on 3/10/2020.

Checklist

Mr. Tiettmeyer made a motion to approve the 02.25.2010 Checklist for an amount of \$89,462.50. Mr. Carroll seconded the motion. All Aye. Motion Carried.

Hamilton County Commissioners in Newtown - March 19 at 6:30pm at Newtown Municipal Center

In 2019, the Board of County Commissioners began holding evening meetings every third Thursday, with a different jurisdiction hosting the BOCC each month. March 19th, 2020, the Village of Newtown will be hosting. All are welcome!

Annual Lenten Fish Fry – (February 28th – April 10th from 5:00pm to 7:30pm)

The Civic League sponsors the annual Lenten Fish Fry, held at the Newtown Fire Station 22, located at 7036 Main Street. We appreciate the assistance from Anderson Township Firefighters, who help to make this event such a success. The Fish Fry begins Friday, February 28th and runs through lent with the last day being Good Friday, April 10th. Please join us...the menu is extensive and has something for everyone! ALL ARE WELCOME!

Mr. Short made a motion to adjourn, seconded by Mr. Carroll. Meeting adjourned at 7:52pm.

Transcribed by Becky Fairley