

Call to Order/Pledge of Allegiance/Attendance

The March 10, 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
 Daryl Zornes Fiscal Officer: Keri Everett
 Chuck Short Assistant to Mayor: Becky Fairley
 Curt Tiettmeyer
 Terry Fairley (excused)
 Sarah Williams

APPROVAL OF COUNCIL MINUTES:

Mr. Short made a motion to approve the regularly scheduled 02.25.2020 Council Minutes. Mr. Tiettmeyer seconded the motion. All Aye. Motion Carried.

SPECIAL PRESENTATIONS:

Engineering Update (Engineer Jeff McMullen)

March 6, 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 construction 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. They are checking field measurements starting on 2/25/20. BCI followed up, on 3/4/20.
- **BCI met with son of homeowner at 3320 Rio Grande. He agreed to saw cut into 5' blocks. Actual homeowner disagreed in a meeting on 3/2/20.**

4. Little Dry Run Wall Lagging (19033)

- BCI received a revised quote on 2/24/20 of \$63,310.00 to replace the lagging south of Ivy Hills Blvd. It includes three signals are proposed to control traffic.
- **BCI to discuss consideration to approve as a change order with Law Director.**

5. Plan Reviews/Meetings

- BCI reviewing SR32/Round Bottom Rd. plans for right-of-way access for the Duke gas main. Comments were sent on 2/25/20.
- **Consider requiring nighttime construction on SR32?**
- Comments include a preconstruction meeting with Duke, their contractor and the Village.

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

- **Revised Application due 3/11/20. An email submission is preferred by OPWC. It will include the legislation to be presented at the 3/10/20 Council Meeting.**
- **If approved, BCI requests signatures from Mayor, Law Director and Fiscal Officer at the meeting.**
- **BCI will have the bid documents complete by 3/9/20 for inclusion in the revised Application.**

8. Miscellaneous

- State Capital Funds are recommended by the County for funding by the State. **Applications being reviewed at the state level.**

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:

Hamilton County Public Health Annual Meeting (Reported by Mayor Kobasuk)

Tim Ingram, Health Commissioner retired in February – Greg Kesterman is the acting Health Commissioner. Dan Meloy, former Police Chief of Colerain Township was elected as a Board Member. COVID-19 coronavirus was discussed – for up-to-date info call 1-833-427-5634. Washing hands and staying out of large gatherings was discussed.

Economic Development (Reported by Mayor Kobausk)

In a recent meeting with Holly Christmann, Assistant County Administrator, she indicated Hamilton County has 1.5 million dollars for a fund in 2020 for possible grants for economic development.

Planning Commission (Reported by Council Member Don Carroll)

Planning Commission met on Feb. 27th and took action on the following: 1) Bob Slattery owner of 3804 Church Street requested a conditional use approval for placement of several Mobile Food Vendors at the referenced address. The property is located within a GB (General Business) zoning district – food vendors were approved five days a week from now thru October. The various mobile food vendors will test the market for a potential restaurant for this location. 2) Planning Commission unanimously recommended that the Village approve and adopt the new Comprehensive Master Plan, which will be presented to Council at a later date.

Solicitor's Report (Solicitor Emily Supinger)

The magistrate has indicated her decision regarding the Cincinnati Soccer Club will be to reverse the Newtown BZA's decision. This information was received by email from the magistrate's clerk. She requested that the attorney for the soccer club and the Kinney's prepare her written decision. We made a request for specific findings of fact conclusions of law which were submitted to the court today by the Kinney's counsel. Everything that has been prepared in terms of the decision was prepared by counsel for the appellant in this case. This is permitted by the local rules – the magistrate has the ability to do this. Solicitor Supinger finds it to be a little unusual – in the past in these types of cases, a written decision has been received from the magistrate. This leads us to the next step – the magistrate's decision is a recommendation to Judge Ethna M. Cooper, not a final decision. Judge Cooper is the assigned Judge to this case; she has the ability to affirm, modify or reverse the decision of the magistrate. Judge Cooper can do this on her own or following written objections, which will be prepared and filed with the court. Once the decision of record is made where the magistrate signs and docketed the decision, there is a fourteen-day period to file an objection. We will request oral argument as well from Judge Cooper, which will be up to her discretion if she wants to hear oral argument on our objections. We anticipate a few months before hearing an outcome. Mayor Kobasuk said in his timeline, the briefing of the objections to the Judge and the Court of Appeals could be eighteen months before a final judgment.

Lower Ragland Road (Solicitor Emily Supinger)

Generally speaking, the Village can vacate on its own authority or upon a petition from a property owner. In either event, a public notice of the intent to consider the vacation of a public road would be required. Council could then approve by ordinance which would then be filed with the Recorder's office so that is of record. At that time, the property that was desisted of the right-of-way is divided in half between property owners on either side of the road. There would then be no additional obligation with respect to the road – it becomes private property. Solicitor Supinger recommended the Village allow the County to do what they intend to do first.

LEGISLATION

Ordinance, Third and Final Reading Permanent Appropriations Ending 12/31/2020

Mr. Tiettmeyer explained that at the last council meeting, expenditures were approved pending some changes to the appropriations. Mr. Brandstetter had stated that funding was left over from the Ragland Road Storm Water Project – this was not the case since the funding remaining is to be used for the paving of Harriet Lane, which Council agreed to defer. Therefore, there is no extra money coming from that project. With that being said, there is not enough money in the Street Fund to account for the increase in the Lagging Wall project on Little Dry Run and the increase to the Church Street project. Therefore, the Church Street project has been moved to the Permissive Motor Vehicle Fund. The Lagging Wall project will come from the Street Fund. Funds are available for both projects.

Mr. Tiettmeyer made a motion adopt ORDINANCE NO. 09-2020 AN ORDINANCE TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE VILLAGE OF NEWTOWN DURING THE FISCAL YEAR ENDING DECEMBER 31, 2020. Mr. Carroll seconded the motion. Roll Call: Mr. Tiettmeyer-Yes, Mrs. Williams-Yes, Mr. Carroll-Yes, Mr. Short-Yes, Mr. Zornes-Yes. Motion Carried.

Ordinance, Third and Final 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 adopt ORDINANCE NO. 10-2020 AN ORDINANCE APPROVING THE EASTERN COMMUNITIES ENERGY SPECIAL IMPROVEMENT DISTRICT PROGRAM PLAN – RESIDENTIAL PLAN; AUTHORIZING AND APROVING 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. Mr. Tiettmeyer seconded the motion. Roll Call: Mr. Carroll-Yes, Mr. Short-Yes, Mr. Zornes-Yes, Mrs. Williams-Yes, Mr. Tiettmeyer-Yes. Motion Carried.

Resolution, Engineering Services w/Brandstetter Carroll Inc.

Council of the Village of Newtown wishes to approve an agreement with Brandstetter Carroll, Inc. for professional engineering services related to the Church Street Rehabilitation Project Main Street to North Corporate Line. The following legislation is for the 2/25/2020 oral motion to approve:

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

Mr. Short made a motion to adopt RESOLUTION NO. 08-2020 A RESOLUTION APPROVING AN AGREEMENT WITH BRANDSTETTER CARROLL, INC. FOR ENGINEERING SERVICES RELATED TO THE CHURCH STREET REHABILITATION PROJECT MAIN STREET TO NORTH CORPORATE LINE. Mr. Zornes seconded the motion. Roll Call: Mr. Short-Yes, Mr. Zornes-Yes, Mr. Carroll-Yes, Mrs. Williams-Yes, Mr. Tiettmeyer-Yes. Motion Carried.

Resolution, OPWC Application

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

Mr. Tiettmeyer made a motion to adopt RESOLUTION NO. 09-2020 A RESOLUTION AUTHORIZING THE MAYOR TO PREPARE AND SUBMIT AN APPLICATION TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION STATE CAPITAL IMPROVEMENT AND/OR LOCAL TRANSPORTATION IMPROVEMENT PROGRAM(S) AND TO EXECUTE CONTRACTS AS REQUIRED. Mr. Zornes seconded the motion. Roll Call: Mr. Tiettmeyer-Yes, Mrs. Williams-Yes, Mr. Carroll-Yes, Mr. Short-Yes, Mr. Zornes-Yes. Motion Carried.

Checklist

Mr. Tiettmeyer made a motion to approve the 03.10.2020 Checklist for an amount of \$125,967.04. Mr. Carroll seconded the motion. All Aye. Motion Carried.

Executive Session

Mr. Carroll made a motion to enter into Executive Session Pursuant to Section 121.22(G)(3) of the Ohio Revised Code at 6:55pm to discuss pending litigation. Mr. Short seconded the motion. Roll Call: Mr. Tiettmeyer-Yes, Mrs. Williams-Yes, Mr. Carroll-Yes, Mr. Short-Yes, Mr. Zornes-Yes. Motion Carried.

Mr. Carroll made a motion to reconvened at 7:12pm; Mr. Short seconded the motion. No action was taken as a result of the Executive Session. All Aye. Motion Carried.

Mr. Short made a motion to adjourn at 7:13pm; Mr. Carroll seconded the motion.

Transcribed by Becky Fairley