

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

The July 13, 2021 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)  
Daryl Zornes  
Chuck Short  
Curt Tietmeyer  
Terry Fairley (excused)  
Sarah Williams

Solicitor Matt Fellerhoff  
Fiscal Officer Keri Everett  
Assistant to Mayor Becky Fairley  
Police Chief Tom Synan

### PUBLIC HEARING – ZONE CHANGE

Greg Schulz represented the Powell family, owners of (6620, 6622 and 6624 Main Street.) Currently zoned Residential Two Family (R-2). The current proposed zone change would change the zoning to Planned Village Center (PVC) Small Scale Mixed-Use, stated Mayor Kobasuk. Once the long-term Comprehensive Plan is approved, the next step will be to evaluate zoning in the entire Village.

Linda Powell Schulz, applicant of the potential zone change said they are hoping the zoning is approved so something good can go in the area and help build-up Newtown.

### Letters Opposing the Zone Change

Mayor Mark Kobasuk read the following two letters opposing the proposed zone change. Mary and Bob Fey (6703 Main Street) were unable to attend tonight's Public Hearing and asked that the following letters be read for the record. Solicitor Fellerhoff said the letters can be inserted into the minutes, if there is no objection. There was no objection.

#### Letter 1 from Resident/Business owner Bob Fey

My name is Robert Fey and I am writing this letter in regards to the zoning change being proposed on Main Street. The strongest reasoning that has come from council for the promotion of the zone change is this; trust that the council has the best interest of the Village in mind and would therefore never allow anything unsightly to be put on the properties in question. While the sentiment here is praiseworthy, it is not really a good reason on which to base an unchangeable action.

Let me explain. First, let's assume that every current member of the Village hierarchy is of the utmost character, holding the good of the Village and its citizens in high priority. Who among you can guarantee that you will be here tomorrow, next week or next year to assure a correct decision in the face of a zoning question?

Zoning laws are permanent; council and other seats are temporary.

A second point: Who here can guarantee the faithful integrity of future holders of these important offices? What would be the possibility of perhaps a council member being more self-serving than public serving? It's certainly not unheard of.

In such a circumstance much harm could come about from an ordinance that has too hastily been put in place.

Having built a business here and having since added on to the structure, I could offer a litany of anecdotes where egos, bruised pride and extreme interpretation of regulations have led to delays and unnecessary expenditures. (Most noted is the time when a Newtown official made an interpretation and decision that it would be necessary for me to install an industrial black iron pipe fire extinguishing system in my home hanging from the ceiling and running the length of the living space of my home. It was one man's opinion. Fortunately, reason ultimately prevailed) So let me re-emphasize my two main points.

First, laws are subject to interpretation and interpretation is subject to the individual. Second, ordinances are permanent, those who govern are temporary. We all want a beautiful and thriving Newtown. We don't want to risk losing its charm and attractiveness. How sad it would be to see something unsightly and unexpected go up in this quiet residential spot. If this zoning change passes there will be no assurance that good intentions will be met or maintained either now or in the future.

There is a lot at stake here and this issue can easily be re-visited in the future when more of the "master plan" has presented and proven itself. For these reasons I stand against, and urge council to stand against, passing the zoning change at this time. Thank you.

#### Letter 2 from Resident/Business owner Mary Fey

My name is Mary Fey and I have been a resident of Newtown for 31 years. Throughout those years many changes have taken place in the Village, and it certainly looks a lot different now than when my husband and four children moved here. I think we can all agree that residents

have personally supported many of those changes, and been less than enamored with others. For me, Newtown is and always has been the place I call home, with a small town quaint and personal feel. Many of our visiting friends and family have marveled about the charm of the village, and its ability to combine commercial and residential properties so as not to overpower one over the other. The mix is what makes it unique. While not all the residential properties may be as attractive as others on the main street, one can see the changes that are being made to enhance the homes currently there.

With regard to the zone change request for the properties at 6620, 6622 and 6624 Main Street, it is my opinion that that balance between commercial and residential properties would be adversely affected by the passage of the request and not be an enhancement to the surrounding area. I have mentioned my thoughts at the last council meeting, and certainly would have loved to have been here tonight to continue the conversation. Alas, I am unable to do so. Hence this letter.

The property in question has always been a "highlight" on Main Street. The well-maintained attractive home that includes a large green space has always added to the beauty of the village. And being so close to the entrance into the village it has brought a positive feel upon entering. On a personal level, to see that change into another commercial property would break my heart, and I venture to say many other residents in the Village would agree. On a practical level, I have a few thoughts/questions I would like to mention.

1. The increased traffic to the entrance of Leonard Street. This would be a detriment to the quiet neighborhood behind the property, in addition to adding to the traffic delays when trying to make a left onto Main Street.
2. The current zoning of the area has been in effect for a long time, obviously surviving
3. g many other changes throughout the village. I can't help but feel that that was done for a purpose. And that purpose being the desired mix in the area, and the opportunities for other commercial properties being readily available elsewhere.
4. And last, but not least, the unsurety of who would purchase the property and what they would put there.

Let me elaborate on the last item. While I agree that the Building Commission and Council must approve the use of the property, and **there are checks and balances, and as stated by** some "We wouldn't approve an undesirable use for the property", we all know how subjective this is. In reality, zoning changes are more permanent than the members of council and the building commission and the building commissioner. There are no guarantees. What other **members down** the road feel is beneficial to the village may not be what the current members **have in** mind. That being said, such thinking and statements do not exactly hold water when deciding on such a zone change. The bottom line is ... currently, we know what is there now, and what will continue to be allowed there in the future if the zoning remains the same.

With all these things in mind, it would be my suggestion to deny the request at the present time until the Master Plan for the village has been accepted and agreed upon by the council and residents. To be honest, I am not quite certain where we stand at this time on that plan, but certainly it would seem logical to put that plan and any zoning changes in place at the same time. This would also give ample time for council members and residents to think through thoroughly the proposed zone change and what would be the best use for these properties for **aesthetics** and enhancements to the Village of Newtown. For such a long-lasting decision, one building commission meeting and one council meeting introducing the proposal to the residents seems insufficient in my eyes.

In summary, I do not support the passage of this zoning change at this time. Mary Fey.

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**Mr. Carroll made a motion to close the Public Hearing at 6:40pm, Mr. Zornes seconded the motion. All Aye. Motion Carried.**

APPROVAL OF COUNCIL MINUTES

**Mr. Short made a motion to approve the 6.09.2021 Council Minutes, motion was seconded by Mr. Zornes. All Aye. Motion Carried.**

SPECIAL PRESENTATIONS

Comprehensive Plan Update

Liz Fields, AICP, McBride Dale Clarion. Ms. Fields replaced Emily Crowe, who became the Community Development Director of Harrison Township, Montgomery County. Ms. Fields thanked Village Council for considering the adoption of the Plan Newtown Comprehensive Plan. Most of the planning work performed for this project was completed in 2019. It was recommended for approval by the Newtown Planning Commission, February 2020. The COVID-19 Pandemic caused the delay of Council's consideration of approval.

The Comprehensive Plan had a pretty robust public engagement process – through its development, there was online surveys conducted, open houses took place, workshops, stakeholder interviews. A steering committee led and guided the process through its development and those ideas and concepts heard from the community those activities formed the foundation of this plan and its recommendations.

The Plan itself includes vision, goals and objectives for the future of Newtown. It includes a future land use plan, which provides a map-based vision for how the community sees growth happening in the future. A Comprehensive Plan is an overall vision document for a community. It is not law, which means you are not required to obey the plan – it serves as a guide book. There may be some circumstances that warrant a cause to go against the guide book from time-to-time. These circumstances should only be done with reason and justification.

Tonight, we are looking for Council's approval of this plan so it can be ratified and serve as the vision for the community moving forward. The next step for this process is to amend the Village's Zoning Ordinance, which is a key implementation step for a Comprehensive Plan. Ms. Fields will work with the Planning Commission on the Zoning Code; the Planning Commission would then make a recommendation to Village Council. The process will take six-nine months, stated Ms. Fields.

Resident Matt Sherman, Church Street. Mr. Sherman spoke regarding the six acres his family owns and asked if the property owners would be notified. Ms. Fields said when the zoning is changed of a property, notice to the property owner and adjacent property owners is required. Mr. Carroll said there will be ample opportunity for input as Planning Commission goes through the process. Public Hearings will be published.

## Engineering Update – Bruce Brandstetter

July 9, 2021

1. **McCullough's Run (21007)**
  - BCI met with Don Carroll on 08/09/2021 to review a third option. It has access opposite Village Drive.
  - Follow up meeting will be scheduled for a more detailed review with Committee.
2. **Church Street North Paving (20045)**
  - Pre-Construction meeting minutes dated 06/03/2021 are attached.
  - Construction is expected to commence the week of 08/16/2021.
3. **Moundview Park (20078)**
  - Soil absorption test was completed on 06/30/21. Upper grass area did not test well. BCI and the city will coordinate to excavate test holes.
  - Lower turf area north of the ball field is a possible option.
4. **Short Park Improvements, Phase I – Trail Improvements (21041)**
  - Pre-Construction meeting minutes, dated 06/08/2021, are attached.
5. **Short Park Parking Lot (21064)**
  - Grading Plan will be presented at the Council meeting.
6. **Short Park New Soccer Field (21065)**
  - Plans for the soccer field will be presented at the Council meeting.
  - The grant for the soccer field expires 9/30/2021.
7. **Municipal Building Parking Lot (21007)**
  - BCI proposal to assist in obtaining quotes as requested.
8. **MRF/OPWC Applications (21007)**
  - Applications for next year typically due the third Friday in September. BCI/Village to discuss strategy in more detail.
  - Consider South Church Street and Little Dry Run Road.
9. **Turpin Lane Drainage**
  - Ultimate solution to involve Hamilton County, USACOE, Anderson Township and possibly ODOT to clean the ditch line.
  - A flap valve being reinstalled in a catch basin in the drainage swale on the east side of Turpin Lane is an alternative solution.

**Mr. Short made a motion to allow Engineer Bruce Brandstetter, BCI to solicit quotes for the new soccer turf field (110 x 60 yds) at Short Park. Mr. Carroll seconded the motion. Roll Call: Mr. Short-Yes, Mr. Carroll-Yes, Mr. Zornes-Yes, Ms. Williams-Yes, Mr. Tiettmeyer-Yes. Motion Carried.**

**Mr. Short made a motion to approve the \$5500 quote to drill a well at Short Park. (Motion was not seconded by Council)**

### Short Park Well for Lower Field - Discussion

Mayor Kobasuk asked Council if they wanted to revisit the well-issue. If we don't act on the \$5,500 to drill the well, which includes the casing and capping, the Village will be looking at a much higher quote than the one presented by the current contractor. The well would be used for sod irrigation and cleaning park structures. Mr. Carroll said there is not enough info to make a decision for a second to the motion. Mayor Kobasuk said competitive bidding is not required on something of this magnitude.

### Duke Energy Grant for Lake Barber Trail Connector

Becky recently applied for a \$5,000 Local Impact Funding for Lake Barber. This grant will be used to construct a connecting walking path from the Lake Barber walking path to a high-traffic sidewalk within the village limits. The connector will provide an additional convenient, safe and easy access point to the Lake Barber walking path. The Village was awarded the \$5,000 for the Lake Barber Trail Connector. We appreciate our partnership with Duke Energy, said Ms. Fairley.

PUBLIC COMMENTS There was no participation from the audience.

### MAYOR AND COUNCIL MEMBER REPORTS:

#### MAYOR KOBASUK'S REPORT

ODNR Grant: The grant is for \$50,000 and can be used to pave the gravel parking lot – funds expire June 2022.

Short Park Grant: Expires Sept 30, 2021

#### COUNCIL REPORTS

Planning Commission: Mr. Carroll said there is no report to give since Planning did not meet in June.

McCullough's Run: Once more data is received, Mr. Carroll said they will engage Mr. Short and his committee. Some sort of an easement, license or permit from Solicitor Supinger to the homeowners affected. There are nine or ten homeowners that back up to the run and their property line goes up to the right-of-way. We will need their permission to work in that run.

Mr. Carroll asked Mr. Brandstetter to give some indication what, if any, share the Ivy Hills County Club may have with regards to the removal of some of the silt that has been pushed up behind the two homeowners. Once info from Mr. Brandstetter is given, Mr. Carroll said Mayor Kobasuk could have the discussion with Mr. Mayrhofer.

Speed Study: Mr. Carroll asked Mr. Brandstetter to begin to put down the appropriate equipment to calculate speed, count cars, trucks, pedestrians, etc. on Little Dry Run. Signage has been discussed indicating a reduced speed limit, should this happen. The data will be submitted to ODOT before moving forward.

Village Solicitor's Report (Solicitor Fellerhoff) Solicitor Fellerhoff had no formal report, Solicitor Supinger is on vacation.

#### Kinney Soccer Brief

There will be most likely an oral argument that won't be scheduled until the briefs are filed, stated Solicitor Fellerhoff. Mayor Kobasuk said the Kinney brief is due next week; the Village has a reply brief that we submit and the court will set the oral argument. Solicitor Fellerhoff said this will probably be late into the fall or early next year, as far as the oral argument.

### LEGISLATION

#### Ordinance, Amending Newtown Zoning Code

Newtown Planning Commission met on May 27, 2021 and voted to remove Section 4.23 (I) of the Newtown Zoning Code in order to eliminate the 90-day limitation contained therein related to mobile food vendor operations and delete unnecessary verbiage.

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

**Mr. Carroll made a motion to adopt ORDINANCE NO. 09-2021 AN ORDINANCE AMENDING THE ZONING CODE OF THE VILLAGE OF NEWTOWN. Mr. Short seconded the motion. Roll Call: Mr. Carroll-Yes, Ms. Williams-Yes, Mr. Short-Yes, Mr. Tietmeyer-Yes, Mr. Zornes-Yes. Motion Carried.**

#### Ordinance, First Reading Zone Change

**Mr. Carroll made a motion to have a First Reading of AN ORDINANCE APPROVING A ZONE CHANGE FOR PROPERTY LOCATED AT 6620, 6622 AND 6624 MAIN STREET IN THE VILLAGE OF NEWTOWN. Mr. Short seconded the motion.**

Ordinance, 2021 Comprehensive Plan Update

**Mr. Carroll made a motion to suspend the rules, Ms. Williams seconded the motion. All Aye. Motion Carried.**

**Mr. Carroll made a motion to adopt ORDINANCE NO. 10-2021 AN ORDINANCE ADOPTING THE 2021 COMPREHENSIVE PLAN UPDATE. Ms. Williams seconded the motion. Roll Call: Mr. Carroll-Yes, Ms. Williams-Yes, Mr. Short-Yes, Mr. Tiettmeyer-Yes, Mr. Zornes-Yes. Motion Carried.**

Resolution, ODOT

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

**Mr. Carroll made a motion to adopt RESOLUTION NO. 19-2021 A RESOLUTION APPROVING AND GRANTING CONSENT TO THE DIRECTOR OF THE OHIO DEPARTMENT OF TRANSPORTATION TO APPLY, MAINTAIN AND REPAIR STANDARD LONGITUDINAL PAVEMENT MARKINGS AND ERECT REGULATORY AND WARNING SIGNS ON STATE HIGHWAYS INSIDE VILLAGE CORPORATE LIMITS, TO REMOVE SNOW AND ICE AND USE SNOW AND ICE CONTROL MATERIAL ON STATE HIGHWAYS INSIDE THE VILLAGE CORPORAT LIMITS, AND TO PERFORM MAINTENANCE AND/OR REPAIR ON STATE HIGHWAYS INSIDE THE VILLAGE CORPORATION. Mr. Zornes seconded the motion. Roll Call: Mr. Carroll-Yes, Ms. Williams-Yes, Mr. Short-Yes, Mr. Tiettmeyer-Yes, Mr. Zornes-Yes. Motion Carried.**

New Business

Council Checklist

**Mr. Tiettmeyer made a motion to approve Council Checklist dated 07/13/2021 with an amendment of \$25,486.14 for Police and Fire Pension, for a total of \$278,304.57. Mr. Carroll seconded the motion. All Aye. Motion Carried.**

Mr. Short made a motion to adjourn at 7:18pm. Mr. Zornes seconded the motion. All Aye. Motion Carried.

Transcribed by Becky Fairley