

Call to Order/Pledge of Allegiance/Attendance

The July 12, 2022 Special meeting of the Newtown Village Council was called to order at 6:00 p.m. by Mayor Mark Kobasuk, who led the Pledge of Allegiance to the Flag.

Council Members: Chuck Short (Vice Mayor)
Terry Fairley (excused)
Daryl Zornes (excused)
Peg Quallen
Jerry Schwab
Jeff Drescher

Solicitor Joe Braun
Fiscal Officer Keri Everett
Assistant to Mayor Becky Fairley
Police Chief Tom Synan

2023 Village Budget – Public Hearing

Mayor Kobasuk gave the public an opportunity to ask questions on the 2023 Village Budget. There were no participants. The budget presented goes to the state certifying the Village has ample funds in the budget for 2023. The Village is not held to it when it comes time for appropriations.

Mr. Short made a motion to close the Public Hearing, seconded by Ms. Quallen. All Aye. Motion Carried.

Mayor Kobasuk welcomed Joe Braun, attorney with Strauss Troy. Mr. Braun is filling in tonight for Village Solicitor Emily Supinger. Mr. Braun is the Solicitor for the City of Loveland, Springdale, Miami Township and Georgetown.

Approval of Council Minutes

Mr. Schwab made a motion to approve the 06.14.2022 Regularly-Scheduled Council Minutes, seconded by Mr. Short. All Aye. Motion Carried.

SPECIAL PRESENTATIONS

Engineering - July 5, 2022 Monthly Council Report submitted by CT Consultants

Mr. Short presented the below report from CT Consultants.

1. Moundview Park Septic System Upgrade:
 - The Village is under contract with SCS Engineers to perform the design for an on-site system. At this point, CT is available for any assistance, as needed, but the Village will complete the project with SCS.
2. Short Park Projects:
 - Parking Lot:
 - i. Adding 57 spaces, which includes 3 ADA Spaces.
 - ii. Contractor is DJ Drew Company. Contract amount is \$138,275.00.
 - iii. Construction will begin 7/11 and will last 3 weeks (7/29)
3. Lake Barber Connecting Trail
 - Drawings received from BCI on 3/23.
 - Contractor is JK Meurer. Contract amount is \$49,800.00.
 - Construction scheduled to begin 7/18. Duration is 3 weeks.
4. Lake Barber Trail Pedestrian Crossing (Round Bottom & Valley):
 - 2 pedestrian heads and crosswalk is being proposed on the south leg of Round Bottom and Valley. No intersection lighting is proposed.
 - 2 options:
 - i. Survey, design, bid, build
 1. Survey: \$6,900
 2. Design: \$9,300
 3. Bid: \$2,100
 4. Build: ?
 5. Construction Administration: \$1,600
 - ii. Field Design & Direct Contract with Traffic Contractor (i.e. Capitol Electric)
 1. This would entail meeting with the Contractor in the field to go over the modifications and get a cost from CELB to construct.
 2. This is the preferred most economical alternative. Assumes construction costs are less than \$50,000 and the village can contract directly with their signal maintenance contractor.

5. 2022 Paving Improvements:
 - It is CT's understanding that the Village will be paving:
 - i. Municipal Center Parking Lot
 - ii. Police Department Parking Lot
 - iii. Fire Department Parking Lot
 - iv. Lake Barber Trail Sections
 - CT discussed the paving options for the Municipal Center Parking Lot and the Police Department Parking Lot with the Village. Currently each lot has a number of flat areas or "bird baths" that hold water after a rain event. In order to adequately resolve this issue as well as acceptable slopes for ADA accessibility, the lots would need to be surveyed, designed and most likely reconstructed. Our preliminary opinion of engineering and surveying services for the Municipal Center Parking Lot and the Police Department Parking Lot is \$11,000 and \$14,000. The Village does have the option to mill and resurface the parking lots as-is. Please note that bird baths will most likely still be present after construction.
 - i. It was decided that the Village would proceed with Contracting directly and milling and resurfacing the parking lots as-is.
6. 2022 OPWC & MRF Applications:
 - OPWC & MRF applications will be due in September, 2022.
 - CT met with the Village in May to discuss strategy.
 - i. OPWC: Submit Church Street
 - ii. MRF: Potentially Round Bottom Road Bridge – awaiting bridge inspection report from Hamilton County Engineer's Office. If not Round Bottom Road Bridge, then Church Street. Bridge report is expected from Hamilton County Engineer's Office in August, 2022.
7. McCullough's Run
 - Meeting with Emily occurred on 6/8. Emily is going to run title on a few properties that McCullough's Run traverses. Depending on the results, we will reconvene to determine whether or not the Village wants to take ownership of the Run as well as next steps.
8. Eastern Corridor – ODOT
 - CT to hold on review and funding until ODOT has completed their recommendations.
9. Pavement Condition Ratings:
 - It is our recommendation to develop a new 5 Year Street Program. The previous pavement study was performed in 2016 and segmented the streets into 4 categories; mill and resurface, crack seal and pavement repairs, crack seal and no work. We agree with these categories, with the exception of potentially adding another, reconstruction. The pavement study did not include pavement condition ratings, which would apply a condition score to the improvement category. This allows you to build a 5-year street program. If requested, CT could provide a proposal to complete a Pavement Condition Study and Recommended 5-Year Street Program. It is estimated that this cost is \$10,000 - \$12,000. Having a 5-Year Street Program and Pavement Condition Ratings assists with planning, costs and funding applications.
10. SR 32 Near Dry Run Storm Sewer:
 - BCI prepared a set of construction plans for approximately 1,050 linear feet of proposed storm sewer on SR 32. CT to review the set of plans with the Village.

Lake Barber Trail Pedestrian Crossing (Round Bottom & Valley)

Mayor Kobasuk discussed CT Consultants options presented.

Mr. Short made a motion to approve Option 2 (stated above in CT's report), which gives CT Consultants the go ahead to work with Capitol Electric, Newtown Police Department and Newtown Street Commissioner Chuck Morgan to proceed with planning and installation of the pedestrian crossing. This option is the preferred most economical alternative and assumes construction costs to be less than \$50,000. Ms. Quallen seconded the motion. All Aye. Motion Carried.

PUBLIC COMMENTS: None

MAYOR AND COUNCIL MEMBER REPORTS:

Mayor's Report

Request for Proposals "RFP" – Debolt Lot)

RFP's are due to the Village August 16, 2022. The RFP was approved by the Village of Newtown CIC, Inc. The property is located on Debolt Street, Parcel #501-0005-0053-00 – 0.74 acres.

SR 32 Improvements

ODOT reached out to Mayor Kobasuk asking if we wanted to continue with planning for what was the Eastern Corridor Road Improvements in the Village, which have been in the Newtown Newsletter and can be viewed on ODOT's website. ODOT will make a presentation to Council to update everyone at some point, as it is currently in limbo. ODOT provides planning and assist in obtaining the money through grants, but they are Village projects. ODOT has money for planning through STANTEC but low on funds for projects.

Meridian Bioscience Press Release

Meridian Bioscience, Inc. enters into an Agreement to be Acquired by SD Biosensor and SJL Partners in \$1.53 Billion All-Cash transaction. <https://investor.meridianbioscience.com/news-details/?id=b4cd9ca7-9858-4c84-94b5-fc6f6c4d3a1a>.

Second Tranche Payment of American Rescue Plan Act

Money should be received by July 15, 2022 stated Mayor Kobasuk. The Village has received over a half million dollars from COVID-19 Pandemic stimulus money (\$505,000 roughly). These two payments and a grant for the soccer field at Short Park.

Council Members Report:

June Finance Packet

As part of the audit compliance, Mr. Schwab made the following motion:

Mr. Schwab made a motion to accept the June Finance Packet presented to Council. Mr. Short seconded the motion. All Aye. Motion Carried.

Planning Commission (Reported by Mr. Schwab)

Planning Commission met on 6/23/2022 - Owner Katie Smith, 6713 Main Street is requesting a Conditional Use to establish a Florist Shop, by appointment only. The property is zoned PV (Planned Village Center). Next meeting is scheduled for 7/18/2022 at 6PM. This was unanimously approved for a conditional use, stated Mr. Schwab.

Property Maintenance Inspector Upcoming Vacant Position (Reported by Mr. Schwab)

Mr. Schwab will meet with Gerry Stoker to discuss the details of this position. The Village is actively searching for someone to fill this position by November 1, 2022.

Fire Department Station No. 22 (Reported by Mr. Drescher)

The firehouse is located at 7036 Main Street – Bids to tint the windows at the fire house were received from Solar Tint Window Films and Jay's Window Tinting and Vinyl Graphics Inc. – Council decided to go with Solar Tint.

Mr. Drescher made a motion to approve \$4,632 to Solar Tint Window Films to tint the Kitchen windows (8 panels) \$2,863 and the entrance by fire bell upper window (7 panels) \$1,769 = Total \$4,632.00. Mr. Short seconded the motion. All Aye. Motion Carried.

Solicitor's Report: Nothing to report.

New Business

Council Checklist

Ms. Everett explained that the \$9,991.30 to Capitol Electric is a charge due to an accident in the Village. The Village has been reimbursed from the insurance company for this amount.

Mr. Short made a motion to accept and approve the 07/12/2022 Checklist for \$253,881.29; Mr. Schwab seconded the motion. All Aye. Motion Carried. (The Village has been reimbursed \$9,991.30)

Ordinance Opting-Out of H.B. 172 (Original discussion of this issue at the 6.14.2022 Council Meeting is inserted below.)

Ordinance No. 13-2022 was adopted by Village Council at the June 14, 2022 Council Meeting. This ordinance opted-out of H.B. 172 which allowed 21 days of fireworks. At the June 14th Council Meeting, Solicitor Supinger told everyone the law in the Village of Newtown would stay the same that Ordinance No. 13-2022 just opted-out of the new state law (H.B. 172).

This past July 4th, there was some confusion conveyed to local residents by a few of police officers that were unclear on everything, as H.B. 172 itself has had quite a bit of confusion to it!

Police Chief Tom Synan said it is and has been illegal in the Village of Newtown to set off fireworks. Opting out of H.B. 172 did not change anything with the law in Newtown. Chief Synan said as with every year in the past, this year was no different as numerous complaints were dispatched. Edith, Pine, Jefferson and Harriet were troubled neighborhoods that received a significant number of calls complaining about the fireworks. One of these residents called our officers extremely harsh names.

The police officers on duty were confused and handed out the ordinance adopted by Village Council at the 6.14.2022 Meeting – this ordinance opted-out of H.B. 172 which. Chief Synan said a copy of the ordinance from the Ohio Basic Code (91.02) “Possession, Sale and Use of Fireworks -is what the officers should have handed out to the residents. The officers had told the residents that the ordinance they handed out had just been adopted by Council on Friday July 1, 2022, which was not the case. The confusion came in where the officers had been given a copy of the Ordinance opting-out of H.B. 172 on July 1, 2022, not that Village Council adopted the ordinance on July 1st, as it was in fact adopted by Council on June 14, 2022. Chief Synan has discussed this issue with officers that were on duty July 4th, 2022.

Chief Synan said he had to get on social media since a few of the residents were spreading untruths; one being that Council had just adopted the Ordinance on July 1st, instead of quoting the correct date which was June 14, 2022. Chief Synan made it clear on the Newtown Ohio Residents and Friends Facebook post that was started by a resident that Council did not do this behind closed doors, explaining that the ordinance just opted-out of the new state law and local municipalities had the right to opt-out of H.B.172. Chief Synan said it has always been and remains to this day illegal to set off fireworks in the Village of Newtown. It is Chief Synan’s understanding, the issue has been squashed – he has also learned that the resident that listed the incorrect information on this FB post was removed by the Admin of this FB group since she had called out several people in a rude and defaming manner.

Mr. Schwab said he was at one of the homes on Edith Street that the officers responded to due to a complaint and the officers were awesome how they handled the situation. The officer explained that fireworks have never been allowed and asked the residents to please cease with the fireworks.

Mr. Drescher said he lives on Harriet but wasn’t home until 10pm – he said what bothers him is that people got on Facebook and keyed everyone up. Mr. Drescher said the people probably could have set off a few fireworks without having any problems but he heard they got a little out of control.

Chief Synan said never in his thirty years has social media been so impactful. He said the officer was called an overpaid monkey by a resident when they responded due to a complaint on Pine/Jefferson Street. It was derogatory and inappropriate and that person was inappropriate on Facebook. This was blown out of proportion and many inappropriate accusations were made on Facebook. Chief Synan responded to the Facebook post stating the facts. The officers made an innocent mistake and the Facebook post and comments were not innocent – they were malicious and derogatory against the police department and everyone else. Chief Synan said he first was not going to comment on the Facebook post but people were upset and many tagged him to alert him to what was being said about Village officials. People were mentioned that had nothing to do with it – Council was accused of going behind closed doors. This gave the public perception something was done wrong by Council when they did not – the issue opting-out of the new fireworks state law was discussed in public at the June 14th Council Meeting. Ms. Quallen said she was out of town but received texts from her neighbors asking what the heck had she voted on regarding the fireworks.

Chief Synan apologized for the misinformation from their end – Chief Synan said he does not appreciate and he is calling out the malicious comments made to the individual officer – “you are an over-paid monkey doing the work of Council and the Police Chief!” Chief Synan said he is also calling out the misinformation on social media to individuals and this group as a whole because Council and others did nothing wrong as the posts implied. The police department owns their mistakes and the others responsible for the comments need to own their comments!

Also, for the record, Chief Synan said it is illegal, until Council decides if they want to change – this past July 4th and the previous ones for the past thirty years – it is illegal to shoot fireworks in the Village of Newtown! Business will continue to be conducted the way it has been done no matter what people say or quote on social media.

Mayor Kobasuk reiterated the existing law in Newtown prior to Council adopting to opt-out stayed the same, which was explained by Solicitor Supinger at the June meeting.

Solicitor Joe Braun said Strass Troy represents fourteen communities and the new law has been quite confusing. He believes when folks in Columbus passed H.B. 172, they didn't realize the confusion it would create. The new law doesn't allow for commercial fireworks and they really don't define well what that is. He believes after the first-time people will catch on. None of Solicitor Braun's five communities opted-out of H.B.172, allowing the new state law to go into effect - which means there are certain weekends and dates they can let non-commercial grade fireworks off. People have been doing it for a long time and getting away with it. His five communities did not exercise their right "not" to have fireworks. These communities did put in place regulations. Mr. Braun said he is aware that at least one of his communities plans to reign it in next year.

Mayor Kobasuk reiterated that the new H.B. 172, the new fireworks law allows twenty-one (21) days, holidays that some have never heard of. Newtown did not want this so we opted out, but Council did not change the underlying ordinance which is against discharging fireworks in the Village, stated Mayor Kobasuk. Mr. Drescher said he is aware of one community that allows fireworks from noon until 10pm on July 4th only.

Mayor Kobasuk asked Chief Synan his opinion on Council revisiting the issue and allowing one day for fireworks.

Chief Synan said he is opposed to allowing fireworks in the Village of Newtown and in confident the fire chief is also opposed to it. Chief Synan said the state law is so vague; in his opinion, from a police chief's standpoint and enforcement. Chief Synan said Council has the right to change it, but if you start breaking it down into a specific time-frame, it ends up making it very challenging for enforcement. Many get away with it already because it's challenging for the police to enforce now. Chief Synan said he is not happy with new state law H.B.172. The Village has noise ordinances in place and if fireworks is allowed with specific times, it could be confusing to be enforced. It just adds too much of a mix-up! The City of Cincinnati opted-out of the new H.B.172 law for these various reasons, stated Chief Synan. People would complain about "noise" with fireworks and Newtown has a noise ordinance in place. Chief Synan said in his professional opinion, if Council starts mincing it, it will put them in a downward spiral of figuring out each detail of the firework and adopt an ordinance we would be stuck with until it was repealed.

Solicitor Braun said if the Village changes the law allowing fireworks, it does not create liability issues, but it does create serious enforcement issues. He said Chief Synan is right, if you don't actually see someone lighting them off and there is a huge issue about what is and is not commercial grade. Solicitor Braun said the fireworks going off in Miami Township were probably not commercial grade but they were shaking his house. He said then do the officers go and check to see if it was a commercial grade?!? Solicitor Braun said Chief Synan is right, from an enforcement mechanism, it is easier to keep it the way it is. Realistically, as a result of the confusion, he believes the state will tweak H.B.172.

Mr. Short told Chief Synan he and his guys do a great job and he is sorry the officers endured the verbal abuse from the residents regarding fireworks. It's a shame someone felt the need to chastise the officers.

Mayor Kobasuk asked Chief Synan, to be clear, if he is opposed to changing the fireworks law, does he want the ban to remain into effect? Chief Synan said, Yes he is opposed! If Council keeps it the way it is, no one can say they were singled out. Chief Synan said they rarely give a ticket regarding fireworks unless the residents do not listen and keep shooting off the fireworks after being asked not to. Chief Synan said when they looked it up, the second time one is charged with discharging fireworks is a felony.

Solicitor Braun told Mayor Kobasuk if he is entertaining the idea of allowing fireworks, he believes Chief Synan is right that you might want that to be driven by the police chief and the fire chief and have them make a recommendation. Solicitor Braun said as he indicated, most of his communities opted to go with the state law and based on some of the feedback he has heard over the last week, they are going to reigning those in.

Resident Becky Fairley, Edith Street, personally, she opposes discharging fireworks in a neighborhood where our lots are so small. Ms. Fairley said fireworks are meant for events and not in small neighborhoods. Ms. Fairley was told the fire department receives two-three calls per season for property fires from fireworks. The fireworks Ms. Fairley said what she witnessed, sight and sound, coming from Harriet/Ragland Road, it sounded like the current happenings in the Ukraine. Mr. Schwab agreed it was very loud as he could also hear it where he was on Edith Street.

Mayor Kobasuk said an email clarifying the fireworks ordinance will be sent out to residents.

Below is the discussion that took place, along with Ordinance No. 13-2022 adopted by Village Council on June 14, 2022.

Discussion – 6.14.2022 Council

New Ohio Fireworks Law – H.B. 172

Governor Mike DeWine signed the Amended Substitute House Bill 172, November 2021. Solicitor Supinger spoke to the ordinance opting out of H.B. 172, which pertains to fireworks. This allows consumer fireworks to be discharged in all locations within the state of Ohio on specific days enumerated in the statute. It equals approximately twenty days per year that fireworks can be discharged. Part of this law allows communities to opt-out of it – meaning the current status quo would be maintained that consumer fireworks are not legal in those areas. The number of days could be reduced and have been by some communities. Some have completely opted-out of the H.B. 172 law. Solicitor Supinger identified what others are doing and more urban areas and more dense areas are opting-out of the law, whereas more rural areas with larger lot sizes are allowing either the law to go into effect or are allowing fireworks but on fewer days of the year. After discussions with both Police Chief Tom Synan and Fire Chief Rick Martin, Solicitor Supinger recommended Council opt-out of H.B. 172 entirely at this time. Council can always revisit the issue. Given the community of Newtown has smaller lot sizes and is more compact, it makes sense to see how this plays out in other communities before Newtown authorizes fireworks within its community.

Mayor Kobasuk said twenty days is excessive to allow fireworks in the Village – the law has holidays not familiar to many. Solicitor Supinger said there is evidence that fireworks going off within any compact community triggers PTSD, issues for Veterans, disturbing and traumatizing to animals and small children. On the other hand, some think the fireworks law is dumb because people will do it anyway. The recommendation based on discussion with our safety officers is for the Village of Newtown opt-out for the time being, stated Solicitor Supinger.

Mr. Short asked what type of burden does this place on the police officers trying to enforce banning the fireworks? Solicitor Supinger said it is exactly the same as it is right now, nothing changes – things remain status quo, nothing changes in Newtown!

Resident Robert Bruyer, 6928 Edith Street. Personally, fireworks are great on the Fourth of July to celebrate our nation's independence. Too many days, like Memorial Day when we are remembering our fallen veterans which are not good times to celebrate by setting off fireworks. Silence and reflecting are more appropriate ways to remember. In the Village of Newtown, there are many properties that are less than one-eighth of an acre in size. Mr. Bruyer said he agrees when fireworks are set off there are those impacted with PTSD, including traumatizing the pets. More importantly, the fireworks can set fires on people's shed, in their coops, garages – much of Newtown is very urban. Mr. Bruyer said unless it's the fourth of July, fireworks should not be allowed to be set off. It's deplorable to set them off at all near one's property line!

Mayor Kobasuk reiterated that the H.B. 172 law allows twenty days of the year for fireworks to go off. This is why we are considering opting-out of it – what we have done in the past remains the same. The police will enforce the issue as they have in the past. The Village would be just opting out of this twenty-day fireworks, including holidays never imagined that would be celebrated with setting off fireworks.

Mayor Kobasuk asked if anyone else would like to comment regarding the fireworks legislation before we move on.

Ordinance Adopted on 6.14.2022 by Village Council

Ordinance Opting-Out of H.B.172

Council desires to opt-out of H.B. 172 and reaffirm the ban on the discharge, ignition and exploding of fireworks in the Village of Newtown. Governor DeWine signed H.B. 172 into law on November 8, 2021, with an effective date of July 1, 2022.

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

Mr. Short made a motion to adopt ORDINANCE NO. 13-2022 AN ORDINANCE OPTING-OUT OF H.B. 172 AND REAFFIRMING THE BAN ON THE DISCHARGE, IGNITION, AND EXPLOSION OF FIREWORKS IN THE VILLAGE OF NEWTOWN AND DECLARING AN EMERGENCY. Ms. Quallen seconded the motion. Roll Call: Mr. Short-Yes, Ms. Quallen-Yes, Mr. Drescher-Yes, Mr. Fairley-Yes, Mr. Zornes-Yes, Mr. Schwab-Yes. Motion Carried.

End of Discussion and vote carried over from the 6.14.2022 Council Meeting.

7.12.2022 LEGISLATION

The 2023 Tax Budget is due July 20, 2022. Five members are required to suspend the rules. Mr. Zornes was not present for tonight's Council meeting up until this point in the meeting (6:30pm), as he came just long enough to vote on this resolution since it is due 7/15/2022. Mr. Zornes left the meeting after the vote took place.

Resolution Adopting 2023 Tax Budget

The Council of the Village of Newtown is required to adopt a Tax Budget for calendar year 2023.

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

Mr. Short made a motion to adopt RESOLUTION NO. 33-2022 A RESOLUTION ADOPTING THE 2023 TAX BUDGET FOR THE VILLAGE OF NEWTOWN. Ms. Quallen seconded the motion. Roll Call: Mr. Short-Yes, Ms. Quallen-Yes, Mr. Drescher-Yes, Mr. Zornes-Yes, Mr. Schwab-Yes. Motion Carried.

Mr. Short made a motion to adjourn at 6:46p.m., seconded by Ms. Quallen. Meeting Adjourned.

Transcribed by Becky Fairley