

Call to Order/Pledge of Allegiance/Attendance

The June 11, 2024 regularly-scheduled 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: Terry Fairley
Jerry Schwab
Peg Quallen
Jeff Drescher
Tracy Boone
Sarah Donohue

Solicitor Emily Supinger
Fiscal Officer Keri Everett
Assistant to Mayor Becky Fairley
Police Chief Tom Synan

Approval of Council Minutes

Mr. Schwab made a motion to adopt the regularly-scheduled 05.14.2024 Council Minutes, seconded by Ms. Quallen. All Aye. Motion Carried.

SPECIAL PRESENTATIONS

Engineering Report, submitted by CT Consultants Engineering

1. Church Street – Funded

- The Small Government Commission has approved our application for funding through OPWC for the project. Funding included \$110,202 in grant and \$47,230 in 0% loan funding.
- Estimated Construction Cost - \$358,000 (2023 Estimate, we have seen increases in asphalt prices this year)
- Grant funding was awarded through the Hamilton County Municipal Roadway Fund (MRF) for Church Street resurfacing work - \$98,360.00.

2. Little Dry Run – Awaiting Funding Notification

- Little Dry Run is an MRF approved funding street. MRF funding was applied for in the amount of \$175,000. A 50% funding match was applied for the total project estimate is \$337,000.
- We expected funding to be announced by the end of February but have not had any indication from the County on when that announcement is going to be made. Once announcement of funding is made, additional funding will be sought through OPWC to complete the project in 2025.
- The project would resurface Little Dry Run from SR 32 to the Village Corp Limit.

3. McCullough's Run – Project Out to Bid

- The project has been bid with advertising dates of May 1, 8 and 15th. A Bid opening will be held May 22 at 10am at the Village Offices.
- Estimated Cost of the project is \$395,000. Hamilton County funding was received in the amount of \$214,000 and State Funding through ODNR has been received in the amount of \$50,000 for the project.

4. Moundview Park Sanitary Sewer – Awaiting Funding Notification

- No change in status from last month's report.
- We are preparing the final documentation necessary for bid of this project.
- We are targeting bidding of the project in June, regardless of the outcome of the funding request due to requirements from the County Health Department to replace the system and to get into dryer weather.

5. Eastern Corridor Project – Funding Application Process Begun

- No change in status from last month's report.
- CT has initiated conversations with ODOT who has begun the preliminary design work for the project that will provide detailed cost estimation that will be used to apply for OKI funds in May of this year.
- ODOT presented an update specific to the Village of Newtown at the June 2023 Council Meeting. A meeting was held with ODOT, OPWC and Village on August 28th and September 7th to discuss additional funding options.
- The first phase would include adding a turn lane on SR 32 from Little Dry Run to East Corp Line:
Based on current estimates, the Village would apply for the following dollar amounts:
 - Total Project - \$4,765,000 (\$3,790,000 for Construction and \$975,000 for ROW)
 - OKI: May 2024, 80% of Construction and ROW – total \$3,812,000 (\$3,032,000 for Construction and \$780,000 for ROW)
 - OPWC: September 2026 - \$758,000 (construction dollars only)
Which leaves a budget shortfall of \$195,000 for ROW acquisition. OPWC will not pay for ROW if applying for LTIP funds (most likely source of funding).
- If OKI funding is not received, the Village and ODOT do not need to move forward with the project.

6. Drywells at Round Bottom and SR32 – Project Funded

- Project Survey and Borings are in process. Once those items are complete, design drawings will begin to be produced.

7. Signal Improvements

- ODOT determined that the project would not move forward. They did, however, provide valuable information regarding the system. I have discussed recommendations with LT McBreen, who will follow up with Capital Electric on those items.

8. General Engineering

- Reviewed a development proposal for a new subdivision and attended a meeting with the developer and their engineer.
- Discussed the need for battery backups on traffic signals within the Village. CT will prepare a proposal for design needed to install at each location.

Audience Participation (3 minute *per* person limit)

The following two speakers: Mr. Norb Mayrhofer and Attorney Daniel Utt spoke regarding the Resolution on the Agenda that would approve a contract with Evans Landscaping for the McCullough's Run remediation project.

Norb Mayrhofer, resident/business owner. Mr. Mayrhofer said he is here to do two things:

First to say thank you. Ivy Hills has an agreement with the Village to be reimbursed at a modest rate for us to keep the culvert coming down Little Dry Run open. We haven't had much in the way of gulley washers over the last two years. We just had one and we did flood but we recovered quickly. We did clean out the pipe recently and I want to thank Council for your support in helping us avoid floods to Ivy Hills in the future as much as possible.

The other reason I'm here is to add a comment on a bid from Council that Doug Evans is involved with. Doug is my partner at Ivy Hills and has been for 10 years. I understand there is some discussion in some places, I don't know if these discussions are taking place on Council or not but as a resident, I want work in Newtown done properly at the lowest possible cost and if Evans is the best price he should get the work. They are authorized to do civil work, personally Doug has paid his debts to society in the past and what is going forward is yet to be determined and shouldn't have an impact on this decision.

Mr. Daniel P. Utt, Attorney for Evans Landscaping, Inc.

As corporate counsel for Evans Landscaping, Inc., Mr. Utt appeared and made statements in support of the Village of Newtown approving a contract with Evans landscaping, Inc. for the McCullough's Run remediation project. As stated to Council, Evans Landscaping, Inc. has considerable experience, skill, equipment and employees to complete work requested by the Village per the Project Specifications provided by the Village's consultant. Further, Evans Landscaping, Inc. has performed and completed similar projects for a number of governmental units in the State of Ohio. Also discussed, in response from questions from Council members, that there is no legal prohibition or restrictions based on prior legal matters involving the Company which would prevent Evans Landscaping being awarded a Contract by the Village of Newtown for the McCullough's Run Project. This was also confirmed by the Village Solicitor in her presentation to Council in response to questions. Finally, Mr. Utt commented on prior successful work Evans has done for Newtown, and the fact that Evans is an important business in the Newtown area, adding to commerce and employing in excess of 200 employees.

Accordingly, based on Evans Landscaping, Inc. presenting the lowest qualified bid for this Work (\$261,710), \$24,750 lower than the next lowest bid. Based on the foregoing, it is fiscally prudent and appropriate to award this Project to Evans Landscaping, Inc. as the lowest qualified bid for the work in question.

NO PARKING ZONES – RIVER HILLS NO PARKING ZONES

Stefani Blankenship Wright, 3345 Scioto was present to follow-up on the sign that needs to be replaced. Mayor Kobasuk directed her to Street Commissioner Chuck Morgan – he will make sure the proper signs are erected.

Ongoing Issue w/Police and Council

Ed Wolfer, resident and business owner, 3458 River Hills Drive. Mr. Wolfer continued the discussion of him being accused of having a meth lab on his property and being called a drug dealer. He also talked about the last meeting where Becky told him she was displeased with the disrespectful way Mr. Wolfer came into the Village Office singling her out specifically and yelling...."HELLO BECKY!!!" Ms. Everett was sitting in her office while Mr. Wolfer proceeded down the hallway where the public restroom is located, towards the back of the building – all while Mr. Wolfer did not use the public restroom. Mr. Wolfer said he just wanted to talk about that because he likes Becky and doesn't have a thing against her – it's just since January Becky said she doesn't want to talk to me. Mr. Wolfer said he is disgusted with everyone down here – he said he submitted a FOIA on a lying police department. Mayor asked Ed Wolfer to sit down multiple times – told him he didn't want to have him removed from the building by the police. Mr. Wolfer kept disrupting the meeting, then left very disgruntled still saying he was called a drug dealer. He said he would be back at the next meeting!

Golf Cart Inquiry/Request

Scott Whitehouse, 5039 Village Drive – along with others in the neighborhood, Mr. Whitehouse said it would be nice to having something in place allowing the residents to legally drive a golf cart on the road. Particularly, for him and his family and others, it would be great to be able to drive from his home to the pool at the country club. After a recent discussion with Lt. McBreen, who informed Mr. Whitehouse that Village Council would need to consider adopting an Ordinance to permit and regulate the operation of certain golf carts/utility vehicles. After more discussion, all decided that Solicitor Supinger would construct a draft and run it by Chief Synan prior to bringing the ordinance before Council.

MAYOR CLOSED AUDIENCE PARTICIPATION AT 6:23PM

MAYOR AND COUNCIL MEMBER REPORTS:

Mayor's Report

Council Members Report:

Maintenance Report for June

Ms. Quallen asked if there were any questions in the report included in everyone's packet. No questions were asked. Duke will be back to correct a few things on SR32. Mayor Kobasuk asked how newly-hired Gary Spires was doing - Ms. Quallen answered "so far, so good!"

TIRC Annual Meeting

Becky and Keri attended the 6.5.2024 annual Hamilton County Tax Incentive Review Committee (TIRC), administered by Alloy Development. The purpose of this Council is to review, per Ohio law, all Enterprise Zone tax incentives. It also reviews commercial Community Reinvestment Area (CRA) agreements. Recommendations made by the TIRC must then be approved by the County Commissioners. Recommendations made by a municipal TIRC must be approved by the local Community Council.

Ms. Donohue made a motion to approve the Village of Newtown CRA & TIF Agreements packet for the Reporting Year 2023. Mr. Drescher seconded the motion. All Aye. Motion Carried.

May 2024 Finance Packet (Mr. Fairley)

With 42% of the year elapsed and reviewing the revenue and spending, we are well under the 42% benchmark. Regarding the Municipal Tax Collections, in the month of May, we exceeded 2023 by 23% - which will help us year-end. In total, we are ahead of 2022 but behind 2023 because Meridian was sold to the Koreans and many got their stock bought out and that was an exception but looks like revenue is picking up. Mr. Fairley said he is using 2022 as a benchmark of how our revenues are going – so far, so good.

Mr. Fairley made a motion to accept the May 2024 Finance Packet presented to Council. Ms. Boone seconded the motion. All Aye. Motion Carried.

Mayor Kobasuk and since Mr. Fairley was unable to attend, Ms. Boone went with Mayor Kobasuk and met with Meridian. Ms. Boone said the meeting went well – Meridian said they have plans to stay in Newtown and have plans for lots of growth in the coming years and are looking for more space/land to expand.

Planning Commission Update (Mr. Schwab)

Members met May 23, at 6pm – discussion: 3511 Debolt Street – the owners requested a Conditional Use approval to convert the old Masonic Temple into a three-family dwelling use, the upstairs is the residence for the owners and their two young children. This was unanimously approved.

The house, two down from the NVT, has a backhoe to tear down the old white house – this is the future location of the new homes by TruLife.

CIC Report (Mr. Schwab)

At 5pm tonight, the Annual Meeting of the Members and Organizational Meeting of the Trustees of the Village of Newtown CIC, Inc. met – followed immediately by the Organizational Meeting of the Trustees. There will be an RFP on the Debolt lot to see what kind of traction we receive from other companies.

Solicitor Supinger explained that the CIC is a separate entity from the Village – it acts as the Economic Development arm of the Village. It's created under a particular chapter of the O.R.C. to promote economic development for municipalities, townships and counties. They can act as a conduit in buying and selling property. Mayor Kobasuk added that they can accept property from the Village and then transfer it to other entities.

Summerfest Update (Ms. Boone) August 3rd (4-10pm)

Ms. Boone applied for a grant back in February for Summerfest and recently learned \$14,000 was granted to put towards the event. The date had to be changed from June – so the date for Summerfest 2024 is August 3, 2024 (4-10pm). There will be free live music, entertainment with some free offerings for children as well. There will be face painting, balloon artists, water features without a dunking booth, inflatables such as obstacle courses, bounce houses, other fun items – possibly a magician or games and other ideas as the budget allows. There will be food trucks, Newtown restaurants and businesses and craft

vendors offering items for sale. The purpose of this event is to engage the community and support our local businesses. The grant does not allow money to be used for food and drinks – so the Winterfest committee has offered to manage this aspect of the event – they would accept applications and vet the vendors. The Winterfest committee also wants to sell 50 West beer and would obtain all required permits and train volunteers – they also offered to manage the craft vendors and the SPCA if the weather permits. In an effort to make the annual Winterfest event bigger and better, the committee would like for all of the proceeds and the money collected from that to go towards Winterfest 2024. The local band, The Naked Karate Girls Band is planned for the event – Mr. Schwab has seen them play at halftime at the Bengals game. Ms. Boone said they are a big part of the budget but also provide a lot of advertising and have a huge following of 57,000 people. We are hoping we can actually save money by spending more on the band since they have such a following.

Mr. Schwab said if you are not familiar with the band, they are fully-clothed people! Ha..

Solicitor Supinger explained that the grant is a reimbursable grant, so the Village will expend the funds first and then be reimbursed by the county.

Ms. Boone made a motion to move forward with the 2024 Summerfest Event on August 3rd from 4-10pm, as presented, Mr. Fairley seconded the motion. All Aye. Motion Carried.

Police Department (Mr. Drescher)

This is a budgeted item - A renewal quote was received for App, Traffic Suite (12mo); it counts the cars and is described below:

Mr. Drescher made a motion to approve \$1,500 to All Traffic Solutions Inc. for the App, Traffic Suite (12 mo.); Equipment Management, Reporting, Image Management, Alerts, Mapping and PremierCare. Mr. Fairley seconded the motion. All Aye. Motion Carried.

Ordinance, NO PARKING – RIVER HILLS SUBDIVISION – TABLED at May meeting.

Mr. Drescher made a motion to remove from the table since the ordinance was tabled last month and pass a third reading. Ms. Boone seconded the motion. All Aye. Motion Carried.

Anderson Fire Services Contract (Mr. Drescher)

After a couple of meetings with Anderson Township officials, they submitted a Fire Contract Proposal. Council felt the terms were fair and a win-win for both Newtown and Anderson. Ms. Everett will get with Solicitor Supinger to finalize the terms discussed.

Mr. Drescher made a motion to approve the Anderson Township Fire Contract Proposal, Mr. Fairley seconded the motion. All Aye. Motion Carried.

Village Solicitor's Report: (No updates at this time.)

LEGISLATION

ORDINANCE, NO PARKING ZONES – RIVER HILLS

The First Reading took place on March 12, 2024 with the Second Reading on April 9, 2024. This will be the Third Reading.

Ms. Quallen made a motion to have the Third and Final Reading adopting ORDINANCE NO. 13-2024 AN ORDINANCE ESTABLISHING NO PARKING ZONES WITH THE RIVER HILLS SUBDIVISION. Mr. Drescher seconded the motion. Roll Call: Ms. Quallen-Yes, Mr. Drescher-Yes, Ms. Boone-Yes, Ms. Donohue-Yes, Mr. Schwab-Yes, Mr. Fairley-Yes. Motion Carried.

Resolution w/ODNR (McCullough Run waterway easement)

The Village of Newtown and the Ohio Department of Natural Resources entered into a Capital Improvement Community Park, Recreation/Conservation Project Pass Through Grant Agreement dated August 8, 2023 for the purpose of acquiring a permanent easement on the McCullough Run waterway. The Village and ODNR desire to extend the project completion date by six months to allow additional time to complete the project.

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

Made a motion to adopt RESOLUTION 21-2024 A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE CAPITAL IMPROVEMENT COMMUNITY PARK, RECREATION/CONSERVATION PROJECT PASS THROUGH AGREEMENT WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES. Mr. Drescher seconded the motion. Roll Call: Mr. Fairley-Yes, Mr. Drescher-Yes, Ms. Donohue-Yes, Ms. Quallen-Yes, Mr. Schwab-Yes, Ms. Boone-Yes. Motion Carried.

Resolution, Natural Gas Aggregation Agreement

The Village has engaged Energy Alliances, Inc. as a consultant on its natural gas aggregation program. Energy Alliances Inc. is currently seeking rates for a natural gas supplier for the Village.

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

Mr. Fairley made a motion to adopt RESOLUTION NO. 22-2024 A RESOLUTION APPROVING A NATURAL GAS AGGREGATION AGREEMENT WITH A SUPPLIER RECOMMENDED BY ENERGY ALLIANCES, INC. Mr. Drescher seconded the motion. Roll Call: Mr. Fairley-Yes, Mr. Drescher-Yes, Ms. Donohue-Yes, Ms. Quallen-Yes, Mr. Schwab-Yes, Ms. Boone-Yes. Motion Carried.

Resolution, Contract w/Evans Landscaping

After reviewing the submitted bids for the McCullough's Run Remediation Project, the Village Engineer advised that the bid submitted by Evans Landscaping in the amount of \$261,710.00 is the lowest and best bid – Council desires to enter into a contract w/Evans Landscaping for the McCullough's Run Remediation Project.

Mayor Kobasuk said Evans bid was \$24,750.00 lower than the next lowest bid. Evans Landscaping has not been disbarred from public contracting – there is no reason to not consider Evans Landscaping, unless one doesn't believe they are the best for the project. There is no prohibition on awarding the contract with Evans. A public records request was received today.

Mr. Schwab asked if we had had issues with the company in the past. Mayor Kobasuk said Evans Landscaping did the Little Dry Run/Ivy Hills clean out for the Village - a number of years put some rip-rap and fixed Little Dry Run. We have used them on a few things and have come back when needed to fix something.

Solicitor Supinger provided Mayor Kobasuk with this information: 1) Evans was never disbarred from being awarded public contracts, 2) the criminal conviction was 2018, which is more than six years ago. 3) there is nothing in the agreement from the grant that would preclude the Village from awarding the contract to Evans Landscaping. Mayor Kobasuk said many communities have taken the position they will not award contracts to Evans Landscaping.

Jeff Drescher asked who would oversee the inspection of the project – CT Consultants will oversee the project – Mayor Kobasuk said he talked with CT Consultants today and they canvassed their firm and they didn't any problems with Evans Landscaping. In fact, they recommended Evans Landscaping as the low bidder – they had previously submitted a letter stating this. Mayor Kobasuk said it's a Council decision.

Ms. Donohue said she doesn't have any reservations about whether Evans is competent and qualified to do the work – it's more of a question of their record in terms of environmental issues. In reviewing the bids, she said there is not a lot of details in terms of vegetation – will it just be grass, on the creekbank. Mayor Kobasuk said the companies in their bid have followed the specs laid out by CT Consultants. They would be doing rip-rap and vegetation – it is more environmentally correct. Mr. Drescher said he would think it would be grass – Mr. Fairley said he believed he saw grass seed (reseeding) in the specs. Mr. Drescher said trees would cause another problem down the road. He would think on the slope it would be large rock and grass.

Mr. Fairley said after he saw Ms. Donohue's email today, he too was bothered by what he read as far as what was done in the past. He said he knows they have attempted to correct what they had done, but they did it knowingly that it was wrong. Mr. Fairley said the next lowest bidder is Rack and Balluer who redid the streets on Edith, Pine and Jefferson and they do excellent quality work. There was never a need to call them back to do a repair or address an issue when they did the paving. Mr. Fairley said he is a little torn with going with Evans just from the research he did today. Mr. Fairley said everyone is due a second chance when you've paid your debt to society – that has nothing to do with the hesitation. According to what Mr. Fairley read today, there have been some secret landfills, some leeching of groundwater from of the construction debris they secretly buried. The state of Ohio was very close to suing Evans then they showed an effort in correcting it – as the attorney said, they paid their fine. Mr. Fairley said he believes they are trying to make it right but the fact they did it in the first place knowing it was wrong – it bothers him.

Ms. Boone said that is a valid concern but one disadvantage for Evans in this case is that no one else's problems have been researched and dug up so with Evans company already having the issues. The one email we received, it sounds like this person is just hunting after Evans and doing all kinds of things. Ms. Boone said she doesn't think it would be fair to not award the lowest bid since it's of significant difference – unless, we dug into the any kind of infractions the other companies have had that maybe didn't make the news.

Ms. Donohue said she doesn't think the other companies have landfills along the river and that's what disturbs her most about the situation – they are knowingly and have a history of putting construction debris in the ground and burying it and it's breaching into the river. They've been caught, sure they paid their fines. But it's a question of ethics for her and she struggles awarding such a large bid to someone with this kind of history when we have other companies that are not doing these kinds of things to our environment. Also, what will they put on the shoreline, she said she is a big environmentalist and wants to see the specs.

Evans attorney Dan Utt said there is a consent decree concerning the litigation of construction debris. There is a mass difference of opinion on what constitutes construction debris – the Company and the State arrived a Consent Decree which was a settlement and resolution of the matter, and the Company is performing its obligation under the Consent Decree, which includes removal of construction debris and monitoring requirements to confirm the Company is performing its obligations under the Consent Decree. In terms of the work covered by the bid, the Company will perform the work consistent with the specifications and requirements of the bid, including materials provided for erosion control.

Ms. Donohue told Mr. Utt she understood his perspective but her concern is not that of competence. She doesn't agree with things that have happened in the past and that's a concern for her!

Mayor Kobasuk said we have grants for this project of \$214,000.00 from Hamilton County and \$50,000 from the state of Ohio so there is enough money that covers the Evans contract amount of \$261,000.00. The difference of \$24,750.00 is a sizeable amount of money to the Village – we could put that toward employee compensation. Mr. Fairley said he was thinking of a “gentleman's handshake” on if we would take that difference between this bid and the next lowest bid (\$24,750) and commit to applying that amount to employee raises later this year, he could see his way in voting this way.

Mayor Kobasuk said CT Consultant's estimate for the project was \$331,650.00 – like Mr. Fairley mentioned, we could use that money for other purposes – employee compensation with inflation everyone needs to make more money.

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

Mr. Fairley made a motion to adopt RESOLUTION 23-2024 A RESOLUTION APPROVING A CONTRACT WITH EVANS LANDSCAPING FOR THE MCCULLOUGH'S RUN REMEDIATION PROJECT IN THE VILLAGE OF NEWTOWN. Ms. Boone seconded the motion. Roll Call: Mr. Fairley-Yes, Ms. Boone-Yes, Mr. Schwab-Yes, Ms. Quallen-Yes, Mr. Drescher-No, Ms. Donohue-No. Motion Carried.

Resolution, Agreement w/CT Consultants

Council wishes to approve an agreement with CT Consultants for professional engineering services related to the Church Street Improvements Project. (\$35,000)

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

Discussion

Mr. Drescher thought the \$35,000 is high for a half-mile of a street that has curb and gutter. They will mill it and pave it and not dig it out and put in brand new street. Ms. Everett said “accept it or reject it!” Mr. Fairley said unfortunately, it's the cost of doing business.

Mr. Fairley made a motion to adopt RESOLUTION 24-2024 A RESOLUTION APPROVING AN AGREEMENT WITH CT CONSULTANTS FOR ENGINEERING SERVICES RELATED TO THE CHURCH STREET IMPROVEMENTS PROJECT. Ms. Quallen seconded the motion. Roll Call: Mr. Fairley-Yes, Ms. Boone-Yes, Mr. Schwab-Yes, Ms. Quallen-Yes, Mr. Drescher-No, Ms. Donohue-No. Motion Carried.

New Business

Council Checklist

Mr. Fairley made a motion to approve the 6/11/2024 Council Checklist for \$316,283.14. Mr. Drescher seconded the motion. All Aye. Motion Carried.

Executive Session

Mr. Fairley made a motion to adjourn the council meeting at 7:25pm to enter into Executive Session Under Section 121.22(G)(1) and (G)(3) of the Ohio Revised Code to discuss compensation benefits for a public employee and pending litigation with the Village Solicitor. Mr. Schwab seconded the motion. Roll Call: Mr. Fairley-Yes, Ms. Boone-Yes, Mr. Drescher-Yes, Mr. Schwab-Yes, Ms. Quallen-Yes, Ms. Donohue-Yes. Motion Carried.

Council reconvened at 7:53pm – Mr. Fairley made a motion to waive the attorney-client privilege with respect to communications between Village officials and Attorney Douglas Duckett.

Council adjourned at 7:54pm

Transcribed by Becky Fairley