

The October 26, 2010 meeting of the Newtown Village Council was called to order at 7:00 p.m. by Mayor Curt Cosby, who led the Pledge of Allegiance to the Flag.

Councilmembers: Brian Burns Mark Kobasuk
Doug Evans (left 7:50p) Curt Tiettmeyer
Joe Harten Daryl Zornes

Mayor: Curt Cosby
Solicitor: Doug Miller
Fiscal Officer: Keri Everett
Police Chief: Tom Synan

Mayor Cosby welcomed everyone; a special welcome to resident Sara Knefle (Aunt Bee).

Halloween ~Trick or Treat: Sunday, October 31st 6:00pm to 8:00pm

Cancelled – Upcoming Council Meetings: At the 9-14-2010 Council meeting, Council made a motion to cancel the 11-23-2010 Council meeting, due to Thanksgiving. Mayor and Council discussed and agreed to cancel the 12-28-2010 Council meeting, due to the holidays. Mr. Burns will make a motion.

Employee Christmas Party: Mayor Cosby asked Council to consider having an employee Christmas party at Moundview Community Center. Mr. Burns suggested bringing a plan and numbers back to the table at the 11-09-2010 Council meeting.

Burger Farm – Vehicles Passing on Right: Lynn Burger contacted Mayor Cosby with concerns of people passing on the right during Pumpkin Fest, due to high volumes of traffic. Mayor Cosby also discussed the issue with Chief Synan and Ron Dickerson. Maintenance strategically placed an additional “NO Passing on Right” sign, in between two other existing signs, preventing extra space so cars cannot go in between the signs. Chief Synan said, although, a short-term fix to the problem, the extra sign was effective. He suggested a more permanent solution would be to extend the center lane all the way out to the east corporation line, due to truck traffic. Mayor Cosby said something does need to be done since there has already been one accident and many citations have already been written. Mr. Evans said we need to look at the whole picture. He said traffic is never going to go away; in fact, it has been increased from traffic generated by the new fields Anderson Township recently installed on Round Bottom Road. Mr. Evans said, as time goes by, traffic is going to become a larger issue in Newtown. And whether it is a bypass down the road or something else, eventually, there is going to be too much traffic for Newtown to handle, said Mr. Evans. Mayor Cosby said Chief Synan may have somewhat of an answer and long-term we look at the center turn lane. Chief Synan said accidents are happening due to people trying to pull out of the businesses not necessarily people coming down the hill. He said we need a safe long-term solution to get people in and out of the businesses. Mayor Cosby and Council suggested having Engineer Bruce Brandstetter looking at it now for grant monies for next year and go from there. Lowering the speed from to 40 from 50mph was also discussed. Mayor Cosby said a current traffic study would need to be done by Brandstetter Carroll.

Meet Dr. Dallas Jackson, Superintendent of Forest Hills School District

Newtown Village Office will host two dates for you to meet Dr. Dallas Jackson. The dates and times are below:

Date/Time/Location: Monday, November 22 ~ 7:00-8:00pm ~ Village Office (3536 Church Street)
Date/Time/Location: Thursday, December 9 ~ 7:30-8:30am ~ Village Office (3536 Church Street)

Executive Session: Mayor Cosby requested two Executive Sessions: one for possible personnel termination and the other to discuss Lake Barber.

WinterFest – 4th Annual – Save the date!

Joe Motz, WinterFest Committee Chairman, updated Council on details for the 4th Annual WinterFest, sponsored by Newtown Business Association. The 2010 WinterFest is Saturday, December 11th from 4:00-9:00pm. Please call the Village Office at 513.561.7697 with any questions. Please join us for a “Hallmark” evening.

Short Park Restrooms Bids (handout)

Bids have been submitted for the electric and plumbing for Short Park restrooms. Four companies submitted bids for the sewer and water tap: Carrigan & Grimm, Inc., Newhall Plumbing, A.L. Miller Plumbing and Midwestern Plumbing submitted plumbing bids with Carrigan & Grimm, Inc. being the lowest bid at \$9,368. The \$9,368 is with the Village Maintenance Department backfilling the trenches. Carrigan & Grimm is also the plumbing company doing the plumbing for the construction company installing the bathroom. The \$9,368 includes a 6 inch sanitary line, 1.5 inch water supply line and all necessary permits and inspections.

Three companies submitted bids for the electric: Jason Rodenberg (KEP Electric), Tim Curry (Curry Electric) and Cosby Electric. Cosby Electric was lowest bid at \$3,745 or \$3,005 if Village fills the trenches. Mr. Dickerson said the price to rent a trencher is \$160.

Maintenance Department – Snow Plow

Crescent Springs Hardware has the best price of \$7,800 for Blizzard 7600 HD Snow Plow with Poly Salt Dogg Spreader 2cu yd V-box Spreader. This includes installation. Council previously approved \$10,747 to Affordable Hose and Fitting; they are currently unable to do the job.

Mr. Evans made a motion to approve \$7,800 to Crescent Springs Hardware for purchase and installation of Blizzard 7600 HD Snow Plow with Poly Salt Dogg Spreader 2 cu yd V-box Spreader for the new service truck. Mr. Harten seconded the motion. All Aye. Motion Carried.

Checklist

Mr. Tiettmeyer made a motion to approve the 10-26-2010 Checklist in the amount of \$48,931.81, seconded by Mr. Kobasuk.

Discussion

Mr. Kobasuk inquired about the expense to Fountain Specialists, Inc. for \$744.26. Ms. Everett said this amount was to purchase parts for the fountain in April. Mr. Dickerson said the parts were to repair the lights submerged on the fountain. These parts were ordered last year but never picked up; Mr. Dickerson reordered the parts and repaired the lights. Mr. Kobasuk asked if this would be an annual expense. Mr. Dickerson said that we will not have this expense every year.

All Aye. Motion Carried.

10-12-2010 Council Minutes

Mr. Zornes made a motion to approve the 10-12-2010 Council Minutes, seconded by Mr. Tiettmeyer. All Aye. Motion Carried.

Human Resource Meeting

The HR Committee will meet Monday, November 8th at 7:00pm to discuss health insurance benefits for employees. Mr. Zornes is Chairman of HR Committee.

LMFD Fire Board Update

Mr. Kobasuk was unable to attend the recent meeting. Resident Terry Fairley attended the meeting and gave a summary to Mr. Kobasuk. The Fire Board will close on the E-check property around November 19th. The survey disclosed an old barn on the property, which will be removed; costs will be passed onto the seller. The Fire Board is moving forward with the application for OKI Transportation Enhancement Funds. All board members have signed the bonds.

Mayor's Monthly Statement to Council

Mr. Kobasuk made a motion to approve the September 2010 Mayor's Monthly Statement to Council, seconded by Mr. Burns. All Aye. Motion Carried.

Ohio Division of Liquor Control

Perimeter Technologies Inc. (dba Wagspark) has applied for a Members Only Permit Class D4. Council is to make a motion to either request a hearing or a motion that Council does not request a hearing. Mr. Kobasuk said he sees no need to request a hearing; this application is for special events.

Mr. Kobasuk made a motion that Council does not request a hearing to the Ohio Department of Commerce – Division of Liquor Control for the Members Only Permit Class D4 application, made by Perimeter Technologies Inc. (dba Wagspark). Mr. Burns seconded the motion. Roll Call: Mr. Tiettmeyer: Yes, Mr. Zornes-Yes, Mr. Evans-Abstain, Mr. Kobasuk-Yes, Mr. Burns-Yes, and Mr. Harten-Yes. Motion Carried.

Anderson Township Little League

Mr. Burns met with ATLL to discuss details of a new contract. They are trying to work with the Reds Community Fund to improve the Short Park field. Mr. Burns will discuss details further with ATLL and report back to Council.

12-28-2010 Council Meeting Cancelled

Mr. Burns made a motion to cancel the 12-28-2010 Council meeting. All Aye. Motion Carried.

Planning Commission Update

The Planning Commission will meet Thursday, November 4th at 7:00pm. at Town Hall to discuss and pass the Zoning Code to Council for final adoption. Mr. Harten is Chairman of Planning Commission.

Executive Session

Mr. Burns made a motion to adjourn at 7:38pm and enter into Executive Session to discuss personnel and property acquisition. Mr. Kobasuk seconded the motion. Roll Call: Mr. Tiettmeyer: Yes, Mr. Zornes-Yes, Mr. Evans-Yes, Mr. Kobasuk-Yes, Mr. Burns-Yes, Mr. Harten-Yes. Motion Carried.

Mr. Evans did not participate in the second Executive Session for property acquisition. Mr. Evans left the council meeting at 7:50pm.

Council reconvened at 7:54pm; no action to be taken as a result of the Executive Session.

Plumbing and Electrical Bids Discussion

Mayor Cosby left the room due to consideration of the bid submitted by Cosby Electric. Vice Mayor Burns presided over the remainder of the council meeting.

Short Park Restroom Bids

Mr. Kobasuk made a motion to approve the plumbing bid of \$9,368 to Carrigan & Grimm, Inc., seconded by Mr. Zornes. All Aye. Motion Carried.

Electric Bid

Mr. Kobasuk made a motion to approve the lowest electric estimate of \$3,050 to do the electrical work at the Short Park Restroom.

Discussion

Solicitor Miller said the issue for Mr. Cosby is having an interest in a public contract, which you are not allowed to do as a public official, but there is one exception. There are four parts to the exception that one has to meet all of them. Mr. Miller said three will be met. Solicitor Miller said Cosby Electric submitted an *estimate* because it is not a competitive bid.

O.R.C. 2921.42 *Having an unlawful interest in a public contract: the section on having an unlawful interest in a public contract does not apply to a public contract in which a public official has an interest when all of the following apply: 1) the subject of the public contract is necessary supplies or services for the political subdivision. (Mr. Miller said there is no problem here in this case), 2) the treatment according to political subdivision is either preferential to or the same as that accorded other customers or clients of the contractor. (you can't charge any more than somebody else) 3) the entire transaction is conducted at arm's length with full knowledge by the political subdivision of the interest of the public official and the public official takes no part in the deliberations. (which is why Solicitor Miller asked Mayor Cosby to step out of the room; Mayor Cosby will not take a vote on this even though he has no vote) 4) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the political subdivision or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the political subdivision or governmental agency or instrumentality involved (which we don't have). Solicitor Miller said the determination is really whether these services or supplies are unobtainable elsewhere for the same or lower costs.*

Mr. Kobasuk asked if Council would be at any risk or is this Curt's issue. Solicitor Miller said it is up to the Mayor to prove the Village could not get these services cheaper elsewhere. Mr. Harten said on general principle, he believes it is not the way anyone on Council should conduct business. Mr. Harten asked if Council could select anyone since this is not a bid situation. Solicitor Miller said yes because it is not a requirement of the lowest and best bid because it is not a competitive bid. Mr. Burns said the Village does purchase a lot of things from Mr. Evans's company and he has to meet all four rules.

Mr. Tiettmeyer said there is a great of deal of difference in the details between the three proposals. Mr. Dickerson said he did not have a detailed list of instructions from the engineer's office. He said everyone that submitted a proposal has verbally said they could get everything done by code.

Mr. Kobasuk asked how the proposal submitted by Mayor Cosby is any different from the Village doing business frequently with Evans. Solicitor Miller said there is an exception if the supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the political subdivision or governmental agency or instrumentality as part of a continuing course of dealing established prior to him being on Council. Mr. Tiettmeyer said he doesn't have a problem awarding the lowest bidder, but does have a problem with the current bids not matching. Mr. Dickerson said he has had very vague descriptions of what is required by the installation of the restrooms. He doesn't have stamped drawings from the engineer. Mr. Dickerson said he can have everyone and additional proposals match Curry Electric's bid, which seems to have more detail. Solicitor Miller suggested Mr. Dickerson obtain a couple of more bids for the electric job for the restrooms at Short Park. Solicitor Miller said if Mr. Dickerson cannot obtain two more bids to document the details of who you called and the reason they would not bid on the job and document who would bid on the job. The fact that you cannot get a bid from an electrician is evidence that you can't obtain it elsewhere at a cheaper price, said Solicitor Miller.

Mr. Kobasuk commented for the record: 1) Mr. Kobasuk said he thinks Council should have had this discussion many times when another councilmember was supplying services. 2) Mr. Kobasuk said he thinks Council is treating one person a little unfairly if we have done this in the past with Frede and Evans.

Solicitor Miller said the same discussion went through with Frede, as a matter of fact, someone called the Ethics Commission. Solicitor Miller said, unless someone asks, he is assuming we can't get it done cheaper anywhere because that is the exception. Mr. Tiettmeyer said his only issue is to make sure the bids are equal in description. He said he will support Cosby's proposal if he remains the lowest bidder and the descriptions match in all of the bids. Mr. Tiettmeyer said it is important to document the fact that it is very clear that the content of the bids are the same.

Mr. Kobasuk rescinded his motion to approve the lowest electric estimate of \$3,050 to do the electrical work at the Short Park Restroom.

Discussion

Mr. Kobasuk stated his comments stand and hopes next time the process is followed for everyone else. Solicitor Miller said there is another part B of the exception of (you can't get it cheaper elsewhere) or if (you had a continuing course of dealing this way prior to becoming a public official.) The Village purchased supplies from Evans long before he was on Council, said Solicitor Miller. Mr. Miller said it is not a bad question to ask anyway, "can we get it any cheaper?"

Mr. Kobasuk asked if obtaining more electrical bids would delay the restroom in any way. Mr. Dickerson said he doesn't see that trenching it out would be delayed as long as a decision is made at the next Council meeting.

Mr. Tiettmeyer said Mr. Kobasuk's point is well taken; a better job of documenting needs to be done in the future. Instead of a verbal, we need to send out a written document of request so everyone understands the exact same thing. Mr. Kobasuk said, and treating people fairly and not singling anyone out holding them to a higher standard.

Solicitor Miller said if it is the cheapest price for the Village; it's the cheapest price for the Village. It's not the Village's problem.

Mr. Kobasuk said, for the record, since he made the motion, it was by far the cheapest estimate presented.

Meeting adjourned at 8:10pm.