

The September 27, 2005 meeting of the Newtown Village Council was called to order at 7:30 p.m. by Mayor John Hammon, who led the Pledge of Allegiance to the Flag.

**Councilmembers Present:** Doug Evans Ken Pulskamp  
Tracy Hueber Greg Thomas  
Mark Kobasuk

**Councilmembers Absent:** Debbie McCarthy

**Assistant to the Mayor:** David Krings (absent)

**Solicitor:** Doug Miller

**Fiscal Officer:** Keri Everett

**Police Chief:** Daryl Zornes

**Mayor Hammon:** Would anyone like to address Council?

**Dick Weber:** I live at 6570 Baywood Lane in the City of North College Hill. I am here this evening to meet the Mayor and Councilmembers. I recently submitted a resume for your position of Zoning and Property Maintenance Inspector. I understand that sometimes it can be a slow process; therefore, I thought I would take the opportunity to introduce myself and try to get the ball rolling.

**Mayor Hammon:** Before you leave, I need to talk to you to set up an appointment for an interview.

**Mr. Weber:** Thank you Mayor, I'll sit right here and wait.

**Ms. Hueber:** I've heard great reviews about you. Do you do Columbia Township?

**Mr. Weber:** No, I do the City of North College Hill.

**Mr. Evans:** What is your background?

**Mr. Weber:** My background is twenty-five plus years of retail management, nine of those with Furror Building Materials when they were in existence. The last four and a half years I have been doing the code enforcement for the City of North College Hill.

**Mayor Hammon:** Would anyone else like to address Council?

**Police Chief Daryl Zornes:** I have nothing, thank you.

**Mayor Hammon:** HCDC has asked if they should be coming out and I told David two weeks ago I felt they could give us an email update through David if needed. If you want them here you need to let me know to invite them out. I do think you need to bring them out maybe quarterly to get an update from them.

**Mr. Evans:** I would like to have them come and set the agenda and go over what they are going to do for us.

**Mayor Hammon:** You want a time-line, we can do that. We'll have to sit down with them and do that.

**Mr. Evans:** I'd rather have them come in front of Council so everybody would hear it. I'm currently getting things in the mail from them through Anderson Township for business I have in Anderson Township and it was very professional. I don't mind sharing it with everybody. It would be helpful to see what other areas are doing, just to help the businesses here in Newtown.

**Mayor Hammon:** I can call them and set it up for the next Council meeting. On October the 5<sup>th</sup>, at 3:30 p.m. in Fairfax, there is going to be presentation on TIF's and JED's. It's kind of a basic understanding explanation of the two and everyone is welcome to come. I really think you should try and put this on your calendar to come. There has been a lot of talk about annexation and the JED's are one way around that and the same way with TIF's. Doug and I met Friday and we talked about TIF's, especially on the landfills as they come down road so they can generate income to the Village to do some projects. It would help you to become familiar with them, I do think we'll see them in the next year or so.

**Mr. Kobasuk:** Where in Fairfax will the meeting be and about how long will it last?

**Mayor Hammon:** It's in Council chambers and should last about 1-½ hours.

**Mayor John Hammon:**

- 1) **Secretarial/Clerk of Court Position:** September 20<sup>th</sup>, Tracy, Daryl, Keri, David and I met to go over the outline of my expectations of the committee. I asked them to come back within one month to discuss recommendations to separate the secretarial job from the clerk of courts job. Then take a look at the software and how we are using it. They are collecting data at this point-in-time.
- 2) **E-Check Building:** We took a tour of the E-Check building and it's smaller than you would think just looking at it. There are four bays, roughly 21 feet from center to center across and there is roughly five offices in there, probably 10x10 and a kitchen area, 10x20. I think the general opinion is we could get the police in there and make a large meeting hall for the Village. That would be the initial attempt we would try to achieve in there at this time. Comment from John Russell was positive, he encouraged us to move forward. Doug Miller is trying to make contact with the owner. Certainly the property meets the criteria, it's almost dead-center of the town. It's accessible to everyone, it will be in the near future. It's ideal and has potential for growth. The land is more valuable than the building, there is almost five acres there.

**Councilmember Tracy Hueber:**

- 1) **Fire Board:** Mark went to his first meeting. We are still in negotiations so there wasn't much to discuss.

2) **Parks:** I still have not walked the parks with Mark so we can set up something. I have talked to Kokosing probably four times in the last two days regarding the grading and seeding. The walk-paths are all measured properly, there are maybe three low spots and once seeded Rack Seven will come in and take care of the low spots. They all measure out six feet all the way around.

**Ms. Everett:** Greg, can you put in a note to Charlie because I have been walking the path, there are a lot of trees hanging over onto the paths.

**Ms. Hueber:**

3) **Short Park:** We are going to be cutting a check for \$3,000 for trees and anybody can go with me and I guess we can decide where we want to go and buy a decent amount of trees for \$3,000. I think we discussed before to leave that open area where they cleared it where we were going to put it back because now you can see the golf course. There are a lot of low spots where you can put some willows up, I don't know if we're going to have time to do it now or wait until spring. We will be getting a check once this is done for the trees.

4) **Soccer Field at Moundview:** The guy that rented the soccer fields for one of the camps this year wanted to see how Council felt about putting a small camp together for Thanksgiving and Christmas. He is willing to pay, he just didn't want to spend a lot of money since this is not one of his big camps. If nobody has a problem with it, I think we should go ahead and if he has a big turnout, he can pay a minimum of \$100.00 for Thanksgiving and Christmas.

5) **Newsletter:** If we are going to get it out on time, I will not be able to bring it back to Council for approval. If you want me to bring it to you John, we could do that. I'll get it back on Monday or Tuesday, but I don't want to wait for the second Council meeting.

**Mayor Hammon:** I'll sit down with you.

**Mr. Evans:** Are you going to have Halloween information in there too? I think it would be wise for the kids to have the time in there.

**Ms. Hueber:** Daryl gave me his stuff. I'll make sure the time is in there, 6:00-8:00 p.m. I'll call you John.

**Councilmember Doug Evans:**

1) **Civic League:** Did we ever find out about the insurance concern for the Christmas event?

**Ms. Hueber:** Tom Busse left me note that it is taken care of and will be advertised in the Newsletter.

2) **Checklist:** Has everybody seen the checklist dated 9/27/05 and are there any questions?

**Mr. Thomas:** The United Health insurance is awful expensive.

**Mayor Hammon:** We're working on it.

**Mr. Evans made a motion accept the checklist dated 9/27/05, in the amount of \$69,847.24.**

**Mr. Pulskamp seconded the motion. All Aye. Motion Carried.**

3) **Eastern Corridor:** This morning the newspaper had an article on the Eastern Corridor on the front page and you can see where it is coming, just so everybody knows. John, have you heard anymore information on that?

**Mayor Hammon:** I'm not aware of any. If we want to go, I think we have to join Transportation Improvement District, we never did that so we don't have a seat there. We have to buy a seat.

**Mr. Thomas:** The article said they will assess the impact of each community as to how it will benefit them and then they will determine how much each community would have to contribute towards it.

**Mayor Hammon:** We have not approved it; therefore, it can't come in this Village until we approve it. My take has always been until they tell us where it's going to go and what the impact will be, I'm not going to approve it. They'll have to go all the way around us and it's very difficult for them if we don't. That's my stand.

**Mr. Evans:** It's been talked about for forty years and with the growth around here; whether you're an environmentalist or whatever, you will still have to get there some way. You'll have to go on a road and in order to do that, they will have to put it down in this valley somewhere. It's going to take all the municipalities working together to make things work for everybody.

**Mayor Hammon:** There are a lot of issues and I'm not aware it's been answered yet. There is initial park services against it. Our federal government is split, so it's an interesting situation.

**Councilmember Mark Kobasuk:** I don't have anything tonight.

**Councilmember Greg Thomas:**

1) **Employee Andy Bradford:**

2) Andy Bradford from the Maintenance Department has requested two weeks leave of absence starting October 27<sup>th</sup> until November 9<sup>th</sup>, he is getting married and going to Hawaii for his honeymoon. He has forty hours of sick pay and one personal day he would like to put towards this time off.

**Ms. Hueber:** No, I don't think you can use sick pay for vacation.

**Mayor Hammon:** I did not look up the "Personnel Practices", Charlie looked it up and it said, "before you take a leave, you must exhaust everything." That's your last resort.

**Mr. Thomas:** So he is going to exhaust it all and then take five to six days with pay and four days unpaid. He has Charlie's blessing

**Mr. Thomas made a motion to approve a two-week leave of absence for Andy Bradford, October 27<sup>th</sup> through November 9, 2005, allowing him to use one personal day, forty hours of sick pay towards time off, with the remaining four days unpaid. Mr. Kobasuk seconded the motion. Discussion:**

**Ms. Hueber:** I think he should be given a leave of absence, I don't have a problem giving him a leave of absence. I don't think we should pay him sick time, sick time is supposed to be used for sick time.

**Mr. Thomas:** Well, he has to use it by the end of the year. He's going to take it sooner or later.

**Ms. Hueber:** Some people don't use any of their sick time, it's for sick. You're catching the wrong person on this, I can't agree giving sick time for vacation.

**Mr. Thomas:** He's going to take it one way or the other. He's an excellent employee.

**Ms. Hueber:** I don't have a problem with him being an excellent employee. I just don't think sick time should be used for vacation time. I think he should be given the opportunity to be given a leave-of-absence.

**Mayor Hammon:** All right, we're going to go get the Personnel Practices and if it says he can take it, he can take it.

**Mayor Hammon:** Comp-time you can carry year to year.

**Ms. Hueber:** Can't we give it to him unpaid.

**Mr. Thomas:** He doesn't have any vacation days yet, he hasn't been with us long enough.

**Ms. Hueber:** I know, I think he can take it. I remember when I worked in a company, you can take it, you can just take it unpaid. But you don't have to exhaust your sick days.

**Mr. Evans:** It's not like he gets married every week.

**Mr. Kobasuk:** It's an unusual set of circumstances.

**Ms. Hueber:** It will still pass with me voting "NO." A lot of times, the "sick" wording is for sick-time.

**Mayor Hammon:** The Personnel Practices says that you can't give time off until you exhaust all the sick days. May I suggest you review this in the Personnel Practices.

**Mr. Thomas:** So we have to exhaust all the remaining four days. This is the "law", so you can't override it. Any discussion?

**Ms. Hueber-No, Mr. Pulskamp-Yes, Mr. Evans-Yes, Mr. Kobasuk-Yes, Mr. Thomas-Yes.  
Motion Carried.**

**Mayor Hammon:** What about Moundview? The ceiling at Moundview fell, it was coming off.

**Mr. Thomas:** That is what happened. It will be under \$1,000.00 to repair it.

**Ms. Everett:** He has like \$1,600.00.

**Mayor Hammon:** I think this is a result of allowing people to do their own thing up there. They didn't do it properly.

**Ms. Hueber:** Isn't that the original ceiling? There is nothing nobody did.

**Mayor Hammon:** I was told they put adhesive tiles up there, it's not plaster.

**Ms. Hueber:** That whole drop ceiling was done a long time ago. It's an old house and somewhere, somebody did a cheap fix. I don't know who did it, but it has always had that tile. It's been there for a long time, so it has probably needed a ceiling for a long time.

**Councilmember Ken Pulskamp:**

**1) Zicka Property Green Space & Allowing Hunting:** Do you have the quick claim deeds for Zicka, the property for the green space?

**Mr. Miller:** Do you have a copy of it? Okay, I just wanted you to see what it said. We talked about it last time and you all said it was okay. As soon as I receive the title, I'll tell him to send me the deed.

**Mr. Thomas:** This is dedicated green space only, we can never do anything to it?

**Mr. Pulskamp:** Right.

**Mayor Hammon:** The first thing you need to do is post it "NO HUNTING". You assume the liability. All the liability issues with kids coming down with bikes and everything else and you assume a lot of responsibility.

**Mr. Pulskamp:** Anderson Township allows hunting on their green space. Doug, will you look into that for us, with us taking this over as green space. The liability allowing people to come and kids playing on there.

**Ms. Hueber:** Do we have immunity like in parks?

**Mr. Pulskamp:** I know Anderson Township allows you to use it in a natural state. They allow hunters onto their green space, archery ONLY. We do have an ordinance where you're not allowed to discharge firearms within the Village limits.

**Mayor Hammon:** The biggest fear is kids go there to play.

**Mr. Miller:** It's state law. I'd be real concerned about people bow-hunting there.

**Mr. Evans:** Mark, you're a hunter and an attorney, what do you say?

**Mr. Kobasuk:** I want to become a bow-hunter that's my personal preference. I have to agree it would be a liability issue with people falling out of tree stands, etc.

**Mr. Pulskamp:** They wouldn't be allowed to build stands, then that would be destroying the natural state.

**Mr. Kobasuk:** They could use tree stands that don't attach to trees and people do slip out of those.

**Mr. Pulskamp:** There has been people hunting up there for years.

**Resident Joan Waits:** I have lived here for twenty-five years and did not know hunting was allowed. I can't believe that with all the kids up there.

**Mayor Hammon:** Joanie, what we don't know is they may have permission to hunt. I remember sitting here giving Council a copy of the meeting on discussing the liability and issues of taking it over when Mike Zicka was there. It was green space, a tremendous amount. That's why this Council has not acted on it for all of these years.

**Mrs. Waits:** John, if Zicka still owned it at that time and then now we are going to take it over, can't we do away with the hunting then?

**Ms. Hueber:** Yeah, that's what the conversation is about.

**Mr. Miller:** I seriously doubt that Mr. Zicka is allowing people to hunt.

**Mr. Evans:** He's not, people are just doing it.

**Mr. Thomas:** It's not monitored.

**Mr. Miller:** My recommendation would be that you "not", it's too close to other houses.

**Mr. Evans:** Which I agree with you, even being a hunter. But if somebody's property adjoins that and they sit in their backyard and they should hunt in their backyard, you really can't stop them because that is personal property rights. But, you can post it so they are not allowed to hunt.

**Mr. Miller:** Well, you can tell them they are not allowed to discharge a firearm.

**Mr. Pulskamp:** That's already in there.

**Mr. Miller:** I understand that but, what I'm saying is you may very well be able to say, "you cannot discharge a bow." If it's not a problem, I'm not in big favor of fixing it. Now you own it and particularly if you know people are hunting up there, it only takes one and particularly if you also allow children to play up there. I have no problem with if it's green space, it's kind of like a park kind of thing, but you are going to allow hunting and playing at the same time?

**Ms. Hueber:** A lot of the kids are not going to know that it's hunting season and they could be playing and come in contact with a bow.

**Mr. Miller:** My recommendation would be not allow hunting on the property. There are plenty of other places.

**Mr. Evans:** I agree with you.

**Ms. Hueber:** That fine, no hunting. Do you we need to make an ordinance?

**Mayor Hammon:** Draft an ordinance.

**Mr. Miller:** I mean, do you have any area where you allow hunting? I guess maybe I ought to ask it the other way, do you have any rules against hunting on any village property?

**Mr. Pulskamp:** No, except for discharging a firearm.

**Mr. Miller:** Which is not a village ordinance, that's a state law. My point is, should we say on any village property. Do we want it to say, "NO HUNTING" on village property?

**Ms. Hueber:** Yeah let's do that. It makes it easier.

**Mr. Pulskamp:** How is that going to be enforced?

**Mayor Hammon:** You have to protect yourself Kenny from the court.

**Mr. Pulskamp:** Does that protect us then Doug?

**Mr. Miller:** As best it can. If you've got it and it's posted, you probably need to post anything as far as "NO HUNTING" in the parks too.

**Ms. Hueber:** If somebody trespasses, we can't control that.

**Mr. Miller:** The rule is "you're not allowed to hunt on somebody else's property without having permission." So, it's a violation. It would probably behoove us in those areas that somebody might be tempted to do that to actually post them. So somebody could say, "you don't allow hunting but you never put any signs up to deter anybody." Particularly when you knew what was going on. When I get the approval, I'll do a rough draft and come back to you.

**3) Cell Tower:** Anything on the cell tower?

**Mr. Miller:** No, I called down and we missed one another, so I really don't know anything on that.

**Mr. Pulskamp:** It is kind of weird they want to lower the rent. Greg, their contract is up for renewal and they sent in a new contract with a much lower rent than we are getting now.

**Mr. Thomas:** How much lower?

**Mr. Miller:** A littler more than half.

**Mr. Thomas:** Why, our costs are going up?

**Mr. Miller:** If they say they can go and use someone else's tower, do you want me to tell them to go ahead. They would have to take the tower down.

**Ms. Hueber:** I say NO, we can use the tower for somebody else. Yeah, go ahead. They probably won't do that that would cost them more.

**Mr. Miller:** Is the Fire Department using that tower? I thought we had located some equipment on there for them?

**Mr. Pulskamp:** We had the right to, but I don't believe we ever put anything on it of the new system.

**Mr. Miller:** I guess I better check with the Fire Department before we make a decision.

**Mayor Hammon:** Yeah, we should. We talked about it, but I don't think we ever did anything.

**Ms. Hueber:** If they don't want to pay us the full rent, then they can remove it. We don't need that.

**Councilmember Tracy Hueber:** Doug, did you find out what we're doing with Little League?

**Mr. Miller:** I had prepared a contract and I cannot find the woman's name. Does anybody know?

**Resident Becky Fairley:** Debbie Blanford.

**Mr. Miller:** I took last year's contract and put the addendum in it about allowing them to cut the grass once a week.

**Ms. Hueber:** Does it still just have the one field on it?

**Mr. Miller:** Yeah, Moundview. It does not have Short Park.

**Solicitor Doug Miller:**

**1) Court:** Our court seems to be running over and over. As much as I try to move things along, do you want me to talk to John about doing them on the opposite Tuesday or do you guys have a problem if I'm half an hour late coming to the table?

**Ms. Hueber:** Are we getting double charged?

**Mr. Evans:** Yeah, are we getting double dipped?

**Mr. Miller:** No, but if I have to come down on the opposite Tuesday night, you will be.

**Mr. Evans:** Would it be easier to start fifteen minutes earlier?

**Mr. Miller:** Well, we have gone to a half an hour earlier. I keep trying to impress on John that we need to move these things along. John is interested in making sure everybody gets their fair share in court. I don't know how much of a problem it is for you guys if I don't sit down to the table until 8:00 p.m.

**Ms. Hueber:** We can wait like he did. Legally, I don't have a problem.

**Mr. Miller:** If you don't have a problem with it, I'll just leave it the way it is.

**Mr. Evans:** Leave it the way it is.

**Mr. Miller:** If it gets to be a problem just let me know and we'll try to figure something else out. We moved it up to 5:00 p.m. and I'm not sure everybody can start getting here at 4:30 p.m.

**Ms. Hueber:** Let's keep it like this and if it becomes an issue we can discuss it.

**Solicitor Miller:**

2) **Executive Session:** I need to discuss E-Check building briefly, the property acquisition.

3) **License Agreement with Railroad:** I gave you a copy of the amendment to a Leased License Agreement. That is this pipeline thing I was talking about last time. Greg you weren't here. Where the railroad goes across Church Street, about fifteen hundred feet west of that, the Village has a license from the Railroad to put a storm water pipe. For that license which was taken out in 1979. Keri did I give you a copy of the original? If not, I have one for you. For that, we have paid \$70.00 per year. Now they have come to us and said, "we want to make this a permanent license and you pay us a one-time fee of \$2,000.00." Then that is it, you don't pay the \$70.00 per year. It might sound like a fair deal, but that is thirty years worth on those of payments. The problem that I have is the amendment they sent us, basically says, "for a reasonable excuse we can kick you off the property anyway." Which maybe I'm not as concerned about, but Doug had an idea that they might actually be selling that track, which means we have nothing. Unless we were to get a recordable document.

**Mr. Evans:** Then we would have to pay again.

**Mr. Miller:** Well, somebody could say we're kicking you off of here now. It says it has to be with their good faith, I forget the language it is in the document. If they determine in good faith that it is interfering with their operation then they can kick us out. Is the pipe still used?

**Mayor Hammon:** It drains the storm water out of the Village.

**Mr. Pulskamp:** I don't have a problem with the \$2,000.00, but I think it should be a permanent easement.

**Mr. Miller:** That's my problem with it, if you're going to pay it that is fine. Particularly if it's that important of a pipe, but I can't guarantee you that you'd have the right to use it tomorrow.

**Mr. Pulskamp:** Right, this needs to become a permanent easement.

**Mr. Miller:** If they were to agree with that, we probably need to have some type of legal description to describe the property. Do you want to authorize me to go ahead and get that if I can strike while the iron is hot? I just want everyone to know what is going on and make sure you are aware of where this stands and what the problem is. That's my problem also, I might be willing to pay something for a permanent easement.

**Mr. Evans:** Make them give us a description of their property so we can record it.

**Mr. Miller:** They may say, "we'll give you an easement, but we're not going to pay a surveyor to go out there."

4) **Meridian Property:** The property has now been staked, so we're about there on that.

5) **Resolution:** I have this resolution that Bruce requested for SR 32 for the Capital Improvements Fund.

**Mr. Pulskamp:** What exactly is that?

**Mr. Miller:** There is an IRS regulation that says if you are going to spend money on a project and then reimburse yourself out of proceeds, you have to have passed a resolution. I always thought it was prior to spending the money. OPWC is saying within sixty days of spending the money. You have to pass a resolution that says you are going to reimburse yourself. It's for the loan part of the project. I'm not convinced that we need this because we are having OPWC pay the contractors directly. As far as I know, we are not going to be reimbursing ourselves. That's the IRS regulation, in order to reimburse yourself from proceeds from tax-exempt bonds you have to pass this resolution. It's merely as a safety valve, in case that ever happens.

**Mr. Pulskamp made a motion to suspend the rules. Mr. Thomas seconded the motion. All Aye. Motion Carried.**

**Mr. Pulskamp made a motion to adopt RESOLUTION 17-2005 A RESOLUTION DECLARING OFFICIAL INTENT AND REASONABLE EXPECTATION OF THE VILLAGE OF NEWTOWN ON BEHALF OF THE STATE OF OHIO (THE BORROWER) TO REIMBURSE CAPITAL IMPROVEMENTS FUND FOR THE CT74C ROUTE 32 IMPROVEMENTS PROJECT WITH THE PROCEEDS OF TAX EXEMPT DEBT OF THE STATE OF OHIO, DISPENSING WITH THE SECOND AND THIRD READINGS AND DECLARING AN EMERGENCY. Ms. Hueber seconded the motion. Ms. Hueber-Yes, Mr. Pulskamp-Yes, Mr. Evans-Yes, Mr. Kobasuk-Yes, Mr. Thomas-Yes. Motion Carried.**

**Mr. Miller:** I need an Executive Session to discuss property acquisition and litigation.

**Mayor Hammon adjourned meeting for Executive Session. Roll Call for Executive Session. Ms. Hueber-Yes, Mr. Pulskamp-Yes, Mr. Evans-Yes, Mr. Kobasuk-Yes, Mr. Thomas-Yes. All Aye. Motion Carried.**

**Mayor Hammon called meeting back to order at 8:40 p.m. no action to be taken as a result of Executive Session.**

**Mr. Thomas made a motion to adjourn meeting. Mr. Evans seconded the motion.**

