

June 2, 2014
Middletown, PA 17057

The June 2, 2014 meeting of the Middletown Borough Council was called to order at 7:00 p.m. by Council President Christopher R. McNamara.

Following the opening prayer by Councilor Louer and Pledge of Allegiance, the following Council members answered roll call: John Brubaker, Anne Marino Einhorn, Tom Handley, Benjamin Kapenstein, Robert Louer, Victoria Malone, Christopher R. McNamara, Scott Sites and Sue Sullivan.

Also present were Borough Manager Tim Konek and Borough Secretary Amy Friday.

Council President McNamara reported the Mayor's absence due to a work commitment.

At 7:05 p.m., the regular business council meeting recessed to a public hearing on an application from a business owner for a downtown economic revitalization liquor license.

At 7:15 p.m., the regular business council meeting reconvened from the public hearing.

Councilor Sites made a motion to amend the agenda to include former county commissioner Nick DiFrancesco to discuss regionalization in the area. The motion was seconded by Councilor Brubaker and approved by unanimous 9 – 0 vote.

Mr. DiFrancesco reported the Dauphin County Commissioners recently appointed him to serve on the Dauphin County Police Regionalization Study Commission. He stated his goal is to make all of the communities in this area aware and wants to hear all concerns and input as we go through this process.

Mr. DiFrancesco stated he has talked openly over the years being an advocate for regionalization. He said the point of this is the study and the County Commissioners want to look at the numbers and service areas, then come together to see if this is right for the County.

Mr. DiFrancesco reported on the first meeting and the information that was heard from the Northern York Regional Police Chief about how they put their program together and overcame their challenges with each community. He mentioned the study just got started and he wants to make sure our council is aware and their input is valuable and important.

Mr. DiFrancesco stated he will share any concerns or positive comments council may have back with the Commission. He stated there may be an opportunity for us, the lower end of the County, to certainly work within the framework the Commissioners set out.

Mr. DiFrancesco briefly described the geography and police presence across Dauphin County. He mentioned looking over the numbers at the first meeting and stated this region (Highspire, Steelton, Middletown, Lower Swatara, and possibly Londonderry) of the County is the fourth largest police department.

Councilor Louer stated from an economic standpoint it makes more sense and duplication will be eliminated.

Councilor Kapenstein stated, aside from the cost savings; the other benefit is the training opportunities and having more coverage.

Mr. DiFrancesco explained the service standards and specialization and the use of the highly trained resources.

Councilor Sullivan asked if any of the training courses are accredited. She stated we are striving for accreditation for our police force.

Mr. DiFrancesco was not sure and if the other police forces were or not.

Council President McNamara commented some eighteen months ago as a result of the Early Intervention Program and Management Study, it was suggested to us we pursue the peer to peer consulting through the State Department of Community and Economic Development. He stated

he believes a motion was passed in support of regionalization at that time. Council President McNamara stated it behooves us to move forward and participate.

Discussion took place between Council President McNamara and Mr. DiFrancesco in regards to a shared concern of the Penn State apartment complex.

Council President McNamara thanked Mr. DiFrancesco and Mr. Black with getting together with Councilor Sites and the downtown business leaders to discuss the economic development to move them forward.

Mr. DiFrancesco stated it is such an amazing opportunity right now and he is not sure if people get just how much investment is going to take place in this small community. He said we have a responsibility to manage and leverage it well as some really good things are going to happen as we go along.

Councilor Sites reported the Downtown Business Association drafted a letter to Barnes & Noble inviting them to explore opportunities in the downtown district. Councilor Sites gave Mr. DiFrancesco the letter so that he could see their efforts.

At this time, Council President McNamara called upon Dana Ward, Robin Pellegrini and Dave Kitner to give a presentation on the Middletown Downtown Partnership.

Ms. Pellegrini provided a report to Council on the collaborative effort between the Borough, downtown business owners and Penn State Harrisburg. She said, since Penn State is close by, we are planning on following the Lewisburg model. Ms. Pellegrini asked for Council's support and a resolution to create a partnership so we can advance the revitalization goals of the downtown. She stated the ICDA will provide the seed money to get the partnership started, then the organization will take over and be incorporated as a 501© (3) nonprofit organization. Ms. Pellegrini stated meetings have begun.

Council President McNamara asked who have you met with thus far. Ms. Pellegrini responded meeting with Mr. DiFrancesco and Mr. David Black, with a follow up to occur. She said they also took a road trip to Bethlehem, PA, to see how they turned the town around. Ms. Pellegrini said the trip was extremely inviting and helpful.

Mr. Jonathan Hicks updated council on his meeting with Lehigh and how they received help from their local banks, through a shared risk pool. He said he is currently putting something together with local banks in Middletown and is not sure how it is structured, but he is continuing to inquire about it. Mr. Hicks mentioned capital and getting banks involved is the biggest reason for Allentown's success.

Council President McNamara stated you are calling yourselves the Middletown Downtown Partnership and you are asking us for support. Ms. Ward responded yes.

Councilor Einhorn asked how businesses become involved and how many members. Ms. Pellegrini responded we want all businesses and we are here asking to be formed.

Mr. Jonathan Hicks explained the Lewisburg model and said this would be a good town to model after, since the whole community is involved, not just government. He stated that is why it has been so successful.

Mr. Jonathan Hicks updated council on the current grants he is working on. He mentioned the application for the multimodal transportation fund grant through PENNDOT. Mr. Hicks said the funds will be used for the Emaus Street extension for bike paths, walking trails and park. He said the main purpose of this grant is to provide multiple modes of transportation, better access to the downtown and Penn State and beautification to the streetscape.

Councilor Kapenstein asked if this is all being done through the ICDA. Mr. Hicks responded yes, but we would be applying through the Borough. Council President McNamara stated it is a part of the Emaus Street extension.

Councilor Sites reported on a meeting held two weeks ago at the office of our Engineers, HRG, to discuss how Middletown, Penn State University Harrisburg and the Downtown Business Association will work together. He stated an idea was presented to Penn State to have their bookstore located downtown at the Elks Building and it was very well received by the County

Commissioners and our friends at Penn State University Harrisburg. Councilor Sites shared a sketch of the Barnes and Noble bookstore.

Council President McNamara mentioned Barnes and Noble will have the rights to the bookstore and it is similar to the Lewisburg model with the Bucknell University bookstore.

Councilor Sites mentioned it is a good time to focus our efforts on that given Penn State is going through some construction projects, which will result in relocation of their book store.

Mr. Kitner reported on the Lewisburg Campus Theatre across from the bookstore and said it is used for many events. He said it is almost the same set up we have here.

Councilor Einhorn asked what would happen with Alma's Florist. Council President McNamara and Councilor Sites stated this is just a concept right now and we have not been authorized on any procedure to turn the Elks Theatre into a Barnes & Noble bookstore.

Councilor Sites mentioned you would need to go through lease negotiations and follow through with due diligence to make both parties happy.

Council President McNamara stated we have asked PENNDOT and our elected leaders at the County and State level to consider giving us Emaus Street extension so that we can address our underground needs and extend the road while they begin to final the design of the train station. He reported on a small sink hole and investigatory work that was done; as well as, a plan from Josh Fox, Engineer for the Authority, for a pressure problem in the fire suppression that has been detected. Council President McNamara stated the funding is there embedded with the train station and we asked PENNDOT to kick us the funding. He also stated the infrastructure money is there through the PENNVEST loan that the Authority procured, but we can't use the money until we dig the street and we have asked the Secretary of Transportation and our elected leaders to give us the ability to move forward. Council President McNamara reported water and sewer issues in the area of the Westport Center and it was the recommendation from Josh Fox and Mr. Klinepeter.

Councilor Kapenstein made a motion to pass a resolution to give our support as a Council to the Middletown Downtown Partnership. Councilor Handley commented he will be recusing himself from the vote due to property issue and stated to the members of the partnership he supports them. The motion was seconded by Councilor Malone and approved by an 8 – 0 vote, with Councilor Handley recusing.

Ms. Joscelyne Hauserman, a current marketing and communications major/minor at Penn State Harrisburg, made a presentation to Council on a prospective marketing plan for the Downtown Middletown Partnership.

Ms. Hauserman reported on sitting in on a meeting at Penn State where she gained an understanding of the economic development plan of Middletown and the impact Penn State will have as a part of the plan. After that meeting, she said she received a lot of positive feedback and began working with Ms. Dana Ward as a liaison between the Downtown Middletown Partnership and Penn State.

Ms. Hauserman stated she has developed a website, which has yet to be published, for the Downtown Business Association which is now the Downtown Middletown Partnership listing the goals, mission and recent happenings.

Ms. Hauserman discussed the importance of getting the Penn State students involved in deciding what Middletown really needs to develop and the growth of the University. She stressed the goal of the Middletown Partnership is to provide a positive movement to bring everyone together to make Middletown the best place it can be. As part of the prospective marketing plan, Ms. Hauserman stated she has set up a Facebook page titled, "Penn State Students for a Better Middletown", inviting students to make a difference in Middletown by offering their advice and suggestions. She also mentioned additional parts of the plan are hand-delivered quick surveys for students; coordinate a student-oriented welcoming fair and sending letters to local residents inviting them to visit the website.

In closing, Ms. Hauserman stated this is an excellent opportunity and she is extremely excited to work with everyone and hope we receive your continued support.

Councilor Sites stated this is long overdue and thanked Ms. Hauserman for coming.

Council President McNamara echoed Councilor Sites' statement.

PUBLIC COMMENT – Limited to Items on the Agenda

Jack Still, 37 West Emaus Street

Mr. Still urged council to vote on option A of the water/sewer rates, stating it is the fair way to pay for what you use. He quoted Borough Finance Director, Mark Morgan, stating option A fixes all the sins of the past.

Mike Bowman, 100 Wilson Street

Mr. Bowman commented on Resolution 1303, stating it is pay as you go and it is done the same way as the commercial accounts with the Borough are done now. He stated we need to adopt Resolution 1303 it is the only fair way.

Councilor Einhorn made a motion to authorize and direct the Borough Secretary by the resolution to submit the application (TE-160) for traffic signal approval to PENNDOT on behalf of the Borough. The motion was seconded by Councilor Louer and approved by unanimous 9 – 0 vote.

Councilor Sites made a motion to approve Resolution 596 a resolution of the Borough of Middletown reaffirming adoption of the Dauphin county Emergency Operations Plan.

Council President McNamara reported Middletown is adopting the county wide emergency operation plan and that is what we follow every two years by resolution.

The motion was seconded by Councilor Brubaker and approved by unanimous 9 – 0 vote.

Councilor Sullivan made a motion to adopt Ordinance 1303 amending chapters 226 and 256 of the code of ordinances of the Borough of Middletown to adjust the sewer and water rates of the Borough in accordance with the recommendations presented to the Borough by its Engineer Herbert, Rowland & Grubic, Inc.

Councilor Sullivan commented, of the two ordinances, option A is the more appropriate since there are approximately three thousand people affected. She mentioned there are a lot of elderly on fixed incomes and she is in support of them and it is unfortunate we are being forced to do this because of the budget and deficit in the water/sewer system.

Councilor Brubaker commented on an individual who uses approximately 800 – 900 gallon a month and checks meter right before the billing cycle and turns his water on and lets it run so that he can say he used 2,000 gallons. Councilor Brubaker stated this is a waste of a resource.

Council President McNamara stated the situation in which we inherited was like the perfect storm in terms of finances and the things that were moving across the State. He stated what was done in the past was money was transferred; which was legal according to code, but as a result of the situation in the City of Harrisburg, the Pennsylvania Legislature took action where you could no longer transfer water and sewer money to be used for operating expenses, it could only be used for infrastructure. Council President McNamara said this action took effect in August 2012; which further put us down, and the problem has been that it has been put on the water side to compensate for the lack of the sewer rate. He stated there was a deficit of \$848,000 in the water and sewer fund and to compensate for that, without raising the rates, was to make a transfer from the general fund for \$550,000. Council President McNamara reported without this you are looking at a larger tax increase to make up that deficit because we can no longer transfer the funds for the operations of that department. He stated the Authority's Act states those rates should be sufficient enough to operate and cover the debt and should not be used for anything other than that. Council President McNamara stated for some 10 years now our rates have not been able to accomplish that and we have been borrowing from the general fund to make the water and sewer solvent.

Councilor Kapenstein commented he has been weighing both options. He asked for public comment and received feedback from some individuals who are not happy with either option, but would prefer option A. He said he wanted to give the public a chance to voice their concerns to him on which option they prefer.

The motion was seconded by Councilor Louer and approved by a 6 – 3 vote with Councilors Einhorn, Handley and McNamara dissenting.

Council President McNamara stated the outcome of the vote defeats the purpose of entertaining Ordinance 1306.

Councilor Louer made a motion to accept ownership of the Dauphin County Public Safety Communications Equipment and direct Council President to execute the “Bill of Sale” and authorize the payment of \$1.00 to complete the transfer of ownership.

Borough Manager, Tim Konek, reported a year or so ago Dauphin County modernized the radio communications for the entire county. He said the County purchased the radios, chargers, hand-held and other equipment to be installed and put into use in the emergency vehicles as soon as possible. Mr. Konek reported it was their intention all along to give that property over to the individual communities that are using it. He said they are finally at the point to finalize the transfer of ownership. Mr. Konek mentioned we have a list of the specific pieces of equipment which were sent out to fire, police and the emergency management association verifying we have the equipment in place and are taking legal ownership.

Councilor Handley asked who has been responsible for the maintenance of the equipment.

Mr. Tom Foreman responded the county has been responsible, but once we take ownership it will be us.

Councilor Handley asked if there is a budget for this.

Mr. Konek responded certainly EMA has a budget, the police have a sinking fund for police radios and the fire department has some equipment money. He stressed we are going to have to account for and what the history will be.

The motion was seconded by Councilor Sites and approved by a unanimous 9 – 0 vote.

Councilor Kapenstein asked to move public comment to before the executive session. Council President McNamara stated the opportune time would have been before we got into the meeting and he asked for any objections to Councilor Kapenstein’s request. Councilor Louer objected to this request and stated we should have our executive session as we have in the past. He stated this will give the public an opportunity to comment on executive session topics disclosed after the executive session.

At 8:08 p.m. Council President McNamara stated Council is going to recess to Executive Session to discuss matters of personnel.

At 8:51 p.m. Council reconvened from Executive Session and Council President McNamara said several items pertaining to personnel were discussed.

Councilor Sites reported on discussions held in regard to the hiring of the chief of police. He stated the chief of police hiring will be discussed at the next public safety committee meeting on Wednesday, June 4th at 1:00 p.m.

Councilor Sites made a motion to enter into a professional agreement with Transparency Matters, LLC. of Harrisburg, Pennsylvania to assist with the consultation and hiring process for the new Chief of Police for the Borough of Middletown.

Council President McNamara reported Transparency Matters is owned and operated by a Middletown native, Rick Brown, who retired as a Lt. Colonial from the Pennsylvania State Police and was a deputy to Commissioner Jeffrey Miller for administration.

The motion was seconded by Councilor Sullivan and approved by unanimous 9 – 0 vote.

Unfinished Business

Councilor Sites reported speaking with Officer Rux regarding National Night Out. He stated Officer Rux asked for feedback from Council on a location for National Night Out and a few options and concerns were discussed by council. Council President McNamara stated Officer Rux’s challenge to the council was to do it by wards and pick a place where council would represent that area and he is asking from council where those sites are going to be.

Councilor Kapenstein reported at the last meeting we chose holding the event at Oak Hill Park with a secondary site at either Hoffer Park or Susquehanna Street. He stated the only problem was waiting to hear back from the Airport Authority to see if we could use Susquehanna Street.

Councilor Sites reported on concerns he received for National Night Out pertaining to parking and traffic. Councilor Kapenstein stated the plan discussed at the meeting was for people to park at memorial field and take the shuttle to the National Night Out location.

Council President McNamara recommended Oak Hills and Hoffer Park locations and asked Councilor Sites to inform Officer Rux. Councilor Handley reported attending a meeting where the number of vendors was discussed and the reason to use Oak Hills Park and Susquehanna Street was suggested. He said Hoffer Park was discounted due to size. Council President McNamara recommended contacting the Airport Authority and the Fish & Boat Commission for use of Susquehanna Street and the boat landing.

New Business

Councilor Handley reported from the Community Development Committee on May 21, 2014 there was a request for Labor Day fireworks. He said the committee agreed for the requested party to attend tonight's council meeting and provide some cost figures and information requested from the Borough, which they have not received. Councilor Handley asked the Borough Manager, Tim Konek, to contact Ms. Jenny Miller and provide her with the information they are requesting.

At this time, Ms. Miller and council members discussed sponsorship and financial support for the fireworks. Ms. Miller stated having the information from the Borough will provide some guidance. Councilor Handley stated he believes some financial support was given by the Borough last year. Council President McNamara stated if you want to do what was done last year and that the Borough becomes the sponsor from a liability standpoint it will have to be ratified tonight.

Councilor Handley made a motion to approve sponsoring the fireworks for the Labor Day weekend celebration. The motion was seconded by Councilor Sullivan and approved by unanimous 9 – 0 vote.

Councilor Kapenstein reported receiving a statement from Mayor Curry regarding his absence at tonight's meeting. He said Mayor Curry is unable to attend tonight's meeting in person, but would have liked to attend via teleconference. Councilor Kapenstein said unfortunately council has not yet adopted an ordinance to allow participation in meetings by phone or video conference, so he was unable to attend. He stated, therefore; Mayor Curry asked him to relay the following message.

Mayor's message:

Please be informed my presence is not required in order to veto an ordinance that passes by majority vote. The ordinance can only become law with my signature. When presented with the ordinance for signature, I can veto the same at that time. This fact has been confirmed by the Solicitor. I apologize for my absence tonight and I will be brought up to date after the meeting. I thank you all for your understanding.

Councilor Kapenstein commented there was already a resolution written for participation by way of teleconference that the solicitor gave us. He stated he would like to make a motion about this resolution so that in the future we can participate via telephone conference. Council President McNamara stated you can certainly do as you wish but I would suggest in the format we have created to pass it to the committee and allow the staff to develop the resolution to review for adoption at the committee meeting. Councilor Sullivan recommended executive session should be excluded from teleconferences.

Councilor Brubaker mentioned a report he gave at the last meeting in regards to discontinuing the shutoff policy for electric customers in June 2013.

Councilor Brubaker made a motion to institute the shutoff policy that was discontinued in June 2013 and to start the shutoff policy effective July 1, 2014.

Council President McNamara asked has the Finance Committee looked at it yet. Councilor Kapenstein responded he has not received the information on the back bills to review. Council President McNamara stated as the ordinance is written right now, the Borough Manager has the ability to do as he wishes with the utility account. Councilor Handley stated we can always change policy, but the fact is this has been sitting here and some people are not paying their

bills. He said we need to put a stop to it and move forward with the shutoffs. Council President McNamara recommended the Finance Committee get together and have the solicitor rewrite that portion of the code so that the Borough Manager does not have the ability to decide who is and is not getting shutoff and it is one flat policy.

The motion was seconded by Councilor Sites and approved by a 7 – 2 vote with Councilors Kapenstein and McNamara dissenting.

Councilor Brubaker reported receiving a municipal agreement between the Borough of Watsonstown and the Borough of Middletown. He stated Middletown has requested in exchange for utilizing Middletown's bucket truck that Watsonstown allow two of Middletown's employees to participate in the operation of Watsonstown's electric system in order to gain training in the electrical field. He stated he would like to have the contact person listed in item number three of the agreement changed from the Director of Communications to the Borough Manager or Supervisor of Public Works in regards to reporting any issues concerning the Middletown employee's behavior, performance or ability to perform their work.

Councilor Brubaker made a motion to enter into a Municipal Agreement with the Borough of Watsonstown and Borough of Middletown, pending Middletown's solicitor review.

Councilor Handley noted another correction to the agreement on page two, paragraph one, and second sentence changing Watsonstown to Middletown.

Council President McNamara stated it is a good idea of neighbor helping neighbor and gives the two junior linemen some high voltage training.

The motion was seconded Councilor Louer and approved by unanimous 9 – 0 vote

PUBLIC COMMENT - For the good of the community

Jason Kreider Grant, 1704 Pineford Drive

Mr. Kreider Grant commented on Kids Kastle in Hoffer Park. He stated reaching out to residents a year ago to have a twenty year anniversary of Kids Kastle.

Mr. Kreider Gant stressed Kids Kastle is in need of some TLC. He mentioned he and members of the community have been trying to come up with ideas on how to maintain it, since there are now safety and liability issues.

Mr. Kreider Grant reported generating \$90,000 for Kids Kastle and the cost of building it was \$75,000. He stated roughly \$18,000 - \$19,000 was handed over to the Borough to maintain it over the course of time.

Mr. Kreider Grant said he is trying to figure a way to get a litmus test of the current condition of Kids Kastle from a playground liability aspect. He reported contacting the contractor who built Kids Kastle and stated their under the mentality of not just building playgrounds as a business, but as a community interaction to be with us long term.

Mr. Kreider Grant said before anything can be done with the contractor, they would need to have the blessing from the owners which is the Borough of Middletown.

Council President McNamara stated we are not the owners. He reported Hoffer Park was donated with restrictions to the Borough. Council President McNamara stated what we would have to do just for clarity and he does not know how they did twenty years ago, but there are certain parameters within that arrangement with the land being donated by the Hoffers.

Mr. Kreider Grant gave an example of a potential liability and commented on Boroughs and municipalities being sued for playground negligence. He said the original donors of the playground setup a long term care guide to comply with all the playground standards.

Mr. Kreider Grant stated there is a group of community people willing to help with this effort as well as a company from New York would come and do an evaluation on Kids Kastle and provide a summary report. He would like to have the blessing of the Borough to be able to setup something to either clean it up or get to a place to where we are not necessarily holding onto a liability.

Councilor Kapenstein recommended Mr. Kreider Grant speak with the Borough Manager about this.

Dawn Knoll, 123 State Street

Ms. Knoll asked for a status update on the sewer repairs and when the detour will end.

Mr. Ken Klinepeter, Superintendent of Public Works, responded the detour was discussed at the preconstruction meeting and he said it should end around mid-June. He reported the manhole is in and the next steps are to run water lines through the intersection and install a temporary access to the sewer.

Ms. Knoll asked if anyone from the Borough or Authority has taken a ride on the detour and saw the pot hole at the rescue and in front of her house. Mr. Klinepeter stated he has taken a ride on the detour, but has not noticed the pot holes. He said the alternative would be to use a side street.

Ms. Knoll commented on the number vehicles being pulled over for running the stop sign at State Street. She recommended the need for more police officers to monitor.

Ms. Knoll commented on a private tip message link with Nixle the Borough should look into putting on their website. She stated the link is a way to send a private tip message to the administrator of Nixle, who will respond back to the initiator of the private message.

Mike Bowman, 100 Wilson Street

Mr. Bowman commented on Kids Kastle in Hoffer Park. He stated he is not sure about Kids Kastle twenty years ago, but for the past eight years he has visited Kids Kastle with his grandson and stated he is sure Sol would be insulted to have someone say there has been no maintenance completed. Mr. Bowman said it is not true the park has not been maintained. He said if he saw something wrong with a piece of the park equipment he would fix it and if he did not have the proper tools he would call Sol to have it fixed. Mr. Bowman said the park has been taken care of by the Borough.

Jack Still, 37 W. Emaus Street

Mr. Still commented on the July 1, 2014 shutoff date. He stated he is not sure why you are waiting until July 1 to start the shutoffs, if the Borough Manager has the authority it should be started with the next billing period.

Councilor Louer made a motion to adjourn. The motion was seconded by Councilor Handley and approved by unanimous consent. At 9:34 p.m., the meeting was adjourned.

Amy J. Friday
Borough Secretary