

June 15, 2015
Middletown, PA 17057

The June 15, 2015 meeting of the Middletown Borough Council was called to order at 7:00 p.m. by Council President Christopher McNamara.

Following the invocation by Pastor Eckert of St. Peter's Lutheran Church and pledge of allegiance, the following Council members answered roll call: Mike Bowman, John Brubaker, Anne Marino Einhorn, Benjamin Kapenstein, Robert Louer, Christopher McNamara and Scott Sites. Councilors Malone and Sullivan were absent from the meeting.

Also present were Mayor James H. Curry III, Borough Manager Tim Konek and Borough Secretary Amy Friday.

PUBLIC COMMENT

Jenny Miller, 227 W. Water Street

Ms. Miller commented on the Historical Society's Craft Fair held over the weekend. She thanked the Mayor, Police Chief and Council for all the help they gave with the Craft Fair and stated it was a successful event.

Councilor Sites thanked Ms. Miller for everything that she did for the Craft Fair.

Mayor Curry asked for a motion from the floor to amend the agenda for a quick executive session to discuss a matter related to personnel. The motion was made by Councilor Kapenstein and seconded by Councilor Bowman for an executive session following Ms. Nancy Hess' report.

At this time, Council President McNamara introduced Ms. Nancy Hess of N.J. Hess Associates, Inc. He said the Borough was awarded a grant through the Early Intervention Program and this is Phase Three of the program which pertains to Human Resource support. Council President McNamara reported Ms. Hess has been tasked with developing a policy manual, job descriptions and performance factors and ratings and she is here to provide an update on the process.

As of March 31, 2015, Ms. Hess reported the work has begun on personnel policies and job descriptions. She mentioned two other jobs involved pertaining to work processes, staffing and management development to help the Borough prepare for the future will be addressed later.

Since beginning their meetings in late March, Ms. Hess said their focus has been going through the personnel policies and working on a draft. She mentioned she has received a lot of input from staff on both the personnel policies and job descriptions and it has been a very important aspect of the work they have been doing in order to build a foundation for looking at how work gets done around the Borough. Ms. Hess stated it is particularly important to integrate some of the other work that you are doing with respect to technology. She said what they are finding, as they work with the staff through the job analysis interviews, has been gaining some institutional knowledge of how the work is performed and that there is a lot of important history. Going forward, Ms. Hess recommends focusing on how the information is processed and the best way to optimize the work.

In closing, Ms. Hess stated they will be finishing up with the job descriptions and personnel policies within the next month and the next phase will involve more stakeholders and discussions on what they have learned from the first phase to move forward in a very efficient and optimal way with the staff currently in place. She reported the staff has been doing very good work to build a foundation that will lend itself to more grant work and help you with the Borough's progress. Ms. Hess reported the DCED is very pleased with what we have been doing and a more formal report to the Council will be given as they finish up with the job descriptions and the personnel policy.

At 7:11 p.m., council recessed into an executive session, to discuss a matter relating to personnel

At 7:47p.m., council reconvened from executive session and Councilor Bowman reported a matter pertaining to personnel was discussed and no decision was rendered.

Councilor Bowman made a motion to adopt Resolution 626 for the year 2015 authorizing the application for a commonwealth financing authority greenways, trails, and recreation program grant for the renovation of Kids Kastle. The motion was seconded by Councilor Louer and approved by a unanimous 7-0 vote.

Mr. Konek provided an update on the Kids Kastle renovation project and the GTRP grant to support it.

STAFF REPORTS

Mayor's Report

Mayor Curry provided a report on the two new part-time police officer hires stating they have been sworn in on May 18, 2015. He reported the next two new part-time police officers background checks are currently being finalized and hoping to be sworn in by the July 8th meeting and the last new part-time police officer had recently completed and passed his physical and drug testing and the background check is in the beginning stages.

Mayor Curry provided the police department call totals for the months of January 545 calls, February 524 calls, March 538 calls, April 574 calls and May 642 calls and provided the Borough Secretary with the breakdown of all calls.

Mayor Curry commented on the Historical Society's Arts and Crafts Fair. He said it was a great event with a larger attendance than in the past two years and the Historical Society is well on their way to reestablishing something that becomes a staple of the community.

Manager's Report

Mr. Konek reported on the income survey currently being performed by the Borough's Grant Coordinator, Jonathan Hicks, in support of the Borough's application for a CDBG grant for relocating the substation. He stressed it is very important that everyone understands the importance of this project and encouraged everyone's cooperation.

Mr. Konek reported on the Zoning Hearing Board variance meeting scheduled for Tuesday, June 16, 2015. He stated there is an application by the owners of Westport for a variance, which was brought to the attention of the planning committee and wanted to put it out to the Council if they are interested in taking a position in the proceedings. Mr. Konek said they are seeking a variance for a zero foot setback along the West side of the property and he provided council with a breakdown of the owners of Westport's plan.

Councilor Louer reported on the Planning Committee's recommendation to grant them the variance.

Councilor Bowman made a motion for a recommendation of the Council to approve the plan changes for the zero foot setback.

Discussions amongst the Council, Mayor, Borough Manager and Zoning Officer took place regarding the setback.

The Zoning Officer, Jeffrey Miller, added the plan is currently in a conceptual phase as to where Ann Street is going to be routed. He stated PENNDOT has not provided the Borough with a plan of where the extended Emaus Street will be rerouted.

The motion was seconded by Councilor Louer and failed by a 4-3 vote with Councilors Bowman, Louer and McNamara voting in favor.

Secretary's Report

Ms. Friday had nothing to report.

Director of Communication's Report

Mr. Courogen provided an update on the Borough website traffic stats for the month of May 2015. He reported 17,099 page views, 9, 216 unique visits, 7,562 first time visits and 1,654 returning visits.

Mr. Courogen mentioned this is the last year for the Borough to complete the Consumer Confidence Report (CCR) for water quality. He stated United Water will be responsible in the future to complete these reports. Mr. Courogen explained the distribution of the CCR report and complimented Mr. Chris Burkholder for discovering a way for us to save considerably on the distribution of the report to the residents.

Mr. Courogen reported on a lengthy and complex right to know request he recently received from a New York Times reporter regarding records related to the water-sewer lease. He stated Council, Authority and some Borough Staff members will receive a copy of the request in the next couple days once he is able to file his initial response. Mr. Courogen reported the request involves emails pertaining to the handling of the lease deal including emails sent to or received from McNees, Wallace and Nurick.

Mr. Courogen asked for Council's authorization for the contingency to retain an independent Council should he need legal advice in handling the request, since there would be a perception of a conflict of interest for our solicitor to advise given their role in the lease deal and direct involvement in many of the records being requested. He stated he does not know for certain if he will need to consult an attorney until he is in receipt of all the records requested and begins reviewing those records. Mr. Courogen, due to the time constraints of the Right-to-Know law, is asking for the authorization now and should it be determined there is such a need, waiting until the July 6, 2015 council meeting could make it impossible to meet the deadline set by the law.

Mr. Courogen recommends retaining the services of Audrey Buglione to advise with the request at a rate of \$175 per hour, not to exceed \$5,000. He reported Ms. Buglione spent more than five years as an appeals officer in the State Office of Open Records.

Mayor Curry stated if you are suggesting her due to the conflict of interest note she has worked for McNees, Wallace and Nurick. Mr. Courogen reported discussing this with her and in their conversation she mentioned she worked for McNees, Wallace & Nurick six years ago before she worked at the State Office of Open Records and was not involved in any of these matters; therefore it would not be a conflict.

Councilor Kapenstein made a motion to grant Chris Courogen the authorization should it be needed to hire Attorney Audrey Buglione at the rate specified of \$175 per hour with a cap at \$5,000. The motion was seconded by Councilor Sites and approved by unanimous 7-0 vote.

COMMITTEE REPORTS

Administration and Personnel

Councilor Einhorn reported the last meeting was canceled due to the severe thunderstorm.

Community Development

Councilor Einhorn reported they did not have a formal community development committee meeting, but she had met with a community member who is interested in drawing up plans to decorate the town for Halloween.

Finance

Councilor Kapenstein reported the committee met and scheduled a police pension board meeting for October 6, 2015 from 12:00 – 2:00 p.m. He mentioned Mark Morgan presented them with the non-uniform pension calculations stating they were slightly over funded as well as the police pension calculations, as a result of the lease and good returns. Councilor Kapenstein stated this reduces what we will have to pay each year because we were under funded.

Councilor Kapenstein stated a mid-year review with Mark Morgan will be conducted at next month's Finance Committee meeting on July 14, 2015 and final numbers should be received.

Councilor Kapenstein made a motion to advise our Finance team to use an assumed rate of return for Pension Accounting of 7% instead of the 7.5% that is currently in place.

Councilor Kapenstein provided an explanation of his motion, stating it is a more conservative approach and was recommended by Mark Morgan at their Finance Committee meeting.

The motion was seconded by Councilor Bowman and approved by a unanimous 7-0 vote.

Council President McNamara recommends Councilor Kapenstein get with Sam Lynch and Linda Houser of the Finance Department regarding this and also advised the Borough Manager to reach out to the Finance Department personnel so that when the correspondence is received from Standard on what they are going to do with the plan for next year that they cease and desist as a result of the motion.

Councilor Kapenstein made a motion to advise the Borough's Pension Attorney, Randy Rhoades, to begin drafting the necessary plan amendments to incorporate a defined contribution plan into the Borough's defined benefit plan to be used if and when a new applicable non-uniform contract is signed.

Councilor Kapenstein provided an explanation of his motion, stating Mark Morgan advised to take these necessary precautions for the Borough to start getting this ready for when the tentative non-uniform contract is signed.

The motion was seconded by Councilor Bowman and approved by a unanimous 7-0 vote.

Discussion amongst the Council and Zoning Officer pertaining to Zoning Hearing fees was held.

Council President McNamara directed the Borough Manager to contact Marita Kelly at the DCED for the statewide zoning fees and provide council with a report at the July meeting.

Councilor Kapenstein made a motion to authorize the Borough Solicitor to draft a resolution to increase the Zoning Hearing Board fees. The motion was seconded by Councilor Sites and approved by a unanimous 7-0 vote.

Labor Relations

Councilor Brubaker reported there is no meeting scheduled for the teamsters or police.

Planning

Councilor Louer reported on the plans for the new Auto Zone at the Giant parking lot stating it will be a great asset to the town as far as traffic is concerned. He also reported on a conversation he had with the owners of Grove motors and how this will affect them.

Mr. Miller reported the Planning Committee will meet this Wednesday night and go through the process of comment resolution, a confirmation that everything on the plan meets the committee's requirements.

Public Safety

Per a conversation with State Representative John Payne, Council Brubaker reported the Bridge on Union Street 441 across from the turnpike will be taken down and redone in the year 2020.

Public Works

Councilor Bowman made a motion to direct the Solicitor to draft an RFP for the sale or lease of the Borough's electric distribution system to be presented at the July 6, 2015 council meeting to authorize it for advertisement and also that a committee be appointed to be able to RFP consisting of the members of Public Works committee, Borough Manager, Superintendent of Public Works and the Borough's Electric Engineer.

Councilor Bowman provided an explanation of the preceding motion.

Councilor Kapenstein commented that he thinks this is premature and could possibly be something to discuss in the future. He said since the laws are not in effect yet for electric and he doesn't see what it will hurt for us to wait and see if the law would ever go into effect. Councilor Kapenstein stated you should have a specific reason to either lease or sell an asset.

A discussion amongst Council and the Mayor took place in regards to the RFP and the cost associated with drafting it.

The motion was seconded by Councilor Louer and failed by a 4-3 vote with Councilors Bowman, Louer and McNamara voting in favor.

A discussion amongst Council took place in regards to formulating a committee to explore the RFP for the sale or lease of the Borough's electric distribution system.

Council President McNamara stated a motion is not needed to form a committee to explore the possible RFP for the sale or lease of the Borough's electric system distribution and that he appoints Councilors Brubaker, Louer, Bowman and Kapenstein along with Mr. Mark Morgan and a legal representative from McNees, Wallace & Nurick.

Councilor Louer reported the sign at Hoffer Park is completed and ready to be picked up by the Borough and installed.

Councilor Louer reported the Borough Authority held a meeting and they took action to transfer all their assets to the ICDA.

Councilor Louer made a motion to ratify the Borough Authority's actions.

Council President McNamara reported at the Borough Authority meeting they transferred all the assets as a result of the water/wastewater lease that United did not want to the ICDA and includes all the projects.

Councilor Kapenstein asked if another Authority can legally transfer assets to another Authority without going through the Borough.

Council President McNamara stated the solicitor advised us that we have to ratify this and the concession agreement called for the Authority to go away and has not happened and they can't get the permits in United's name. He stated somebody has to be responsible for those projects.

Councilor Kapenstein stated he would like to see a breakdown of assets left with the Authority before we transfer anything.

The motion was seconded by Councilor Bowman and failed by a 4-3 vote with Councilors Louer, Bowman and McNamara voting in favor.

Olmsted Recreation Board

Council Louer reported there was no meeting. He reported that the pool has been doing great and if they continue to operate this way the Recreation Board will make money.

Councilor Brubaker made a motion to adjourn. The motion was seconded by Councilor Kapenstein and approved by unanimous consent. At 8:57 p.m., the meeting was adjourned.

Amy J. Friday
Borough Secretary

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