

July 21, 2014
Middletown, PA 17057

The July 21, 2014 Committee of the Whole meeting of the Middletown Borough Council was called to order at 7:00 p.m. by Council President Christopher R. McNamara.

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

Also present were Solicitor Adam Santucci, McNeese, Wallace and Nurick, Mayor James H. Curry III, Borough Manager Tim Konek, and Borough Secretary Amy Friday.

PUBLIC COMMENT

Diana McGlone, 805 Adelia Street

Ms. McGlone commented on a motion made at the July 1, 2013 Council meeting authorizing the Council President to execute an agreement to purchase the Klahr building property for \$12,000. She stated during her research of the tax records for the property, the property was sold to the Borough for \$42,393.

Ms. McGlone commented on the recent investigation by the District Attorney of Dauphin County into allegations of misappropriation of tax payer funds by Council President. She behooves council to reorganize and remove Chris McNamara as Council President.

Ms. McGlone commented on Ordinance 1303 for approving of option A of the water and sewer study, stating she is totally against this increase in the water and sewer and provided council with a cease and desist letter that was disseminated to Council on July 10th.

Ms. McGlone commented on the Ordinance authorizing the incurrence of non-electoral debt evidenced by a line of credit note, stating she does not believe this is warranted.

Attorney Santucci notified council that they helped staff respond to a similar inquiry regarding the Klahr building to the Press and Journal and he would be happy to share that explanation with all of you. He said you would not see it in the newspaper because it was not a story.

Greg Wilsbach, 719 Spruce Street

Mr. Wilsbach commented on how long the Borough is going to allow the Communications Director to continually be charged and investigated constantly by multiple people and citizens.

Mr. Wilsbach commented on the water and sewer exploration lease of the system that was recommended by the Borough Financial Advisor, stating he would like the Borough to reconsider this. He stated it was the same Borough Financial Advisor that recommended discontinuing shutoffs that cost the Borough \$300,000 plus.

Mr. Wilsbach commented on the financial contributions by the Borough Financial Advisor to various public officials, stating it is a conflict of interest that he as our Financial Advisor is recommending and looking into our water and sewer lease.

Vera Williams, 107 Ann Street

Ms. Williams commended the Borough Manager for assisting her with resolving an issue with her electric bill.

Ms. Williams commented on concerns with animals being struck on Catherine, Ann and Wood Streets and commended the electric department personnel for removing a dead animal. She asked if a watch for children or speed sign could be posted in these areas.

Ms. Williams commented on the Youth Ten Better summer program in the evenings from 6:00 – 9:00 p.m., stating donations of food items would be greatly appreciated.

Cortes Jackson, 202 South Lawrence Street

Mr. Jackson commented that Representative John Payne declared July 26, 2014 as Grace & Mercy Day. He stated the event is being held on the Church grounds from 8:00 a.m. – 4:00 p.m. and invited council to attend. Mr. Jackson stated the event was started as a community event and he hopes to build on each year.

Herman Still, 711 E. Main Street

Mr. Still commented on the service he received from the Borough for an electric problem, stating it was the best service he ever received with three trucks and five guys to change a fuse. He stated he would love to see the bill for that service and recommended council look into it.

Marlin Knull, 123 State Street

Mr. Knull commented on his concern with the intersection at Emaus and Wood Streets, stating there is not enough room if you have a trailer on your truck. He recommended no parking signs be placed in that area.

Steve Drabick, 333 Oak Hill Drive

Mr. Drabick asked the solicitor if the water and sewer bills are lien able items. Mr. Santucci responded yes. Mr. Drabick stated we should not be out of money if people up and move and those liens should be filed right away and he understands none have been filed. Mr. Santucci responded there is a procedure for filing liens.

Mr. Drabick stated you would not have a parking problem if you get the curbs painted. How do you expect Mayor Curry and the police department to enforce the law if this is not being taken care of, stated Mr. Drabick. Mr. Drabick also stated you had too much of a reduction in manpower and the result of that is the neglect of the area streets and parks.

Rachelle Reid, 448 Grant Street

Ms. Reid commented on her asking council to consider terminating Mr. Courogen's position and after his behavior after the last Council meeting, she stated she would think that if you don't do it now, you never will. She stated if you don't, she would have to question why.

Jack Still, 37 W. Emaus Street

Mr. Still provided council with a two sided page of articles and commented on one side the article talks about the DCED grant closeouts, stating grants need to be closed out when a contract is finished, including an audit showing state money was used properly. He commented on the other article, on the reverse side, in the October 3, 2012 Middletown Shopper regarding the GMEDC's plans for a capital campaign to raise funds needed for the Elks Theatre to convert the historic theater to digital projection by the end of 2013. Mr. Still stated he does not think that was done and also the audit showing where the money was used has not been completed by the GMEDC.

Mr. Still provided council with additional handouts stating in one handout it highlights in 2002 there was a \$200,000 deficit and for several years following 2002, council approved and gave out raises and no one seemed to care about the deficit. He stated the following handouts included the definition of a structural deficit, information from then Borough Manager Jeff Stonehill stating he saved the Borough 12 mils in taxes and all he did was raise the electric rates. Mr. Still mentioned under this Council and the previous Council, the electric rate went from .19 cents to .07 ½ cents and when the AMP contract was up, a few people thought we should stay with AMP, but the five years we were with AMP we had sale back loses of over a million dollars and people didn't care about that.

Councilor Handley made a motion to amend the agenda by moving the executive session to after the action items. The motion was second by Councilor Sites and approved by a 6 – 2 vote with Councilors Brubaker and Louer dissenting. Councilor Einhorn was absent from voting.

Councilor Sites made a motion to approve the July 7, 2014 minutes. The motion was seconded by Councilor Handley and unanimously approved. Councilor Einhorn was absent from voting.

Mayor Curry asked for the total calls for the police department changed to .97 calls

Councilor Sites made a motion to approve the April 21, 2014 minutes. The motion was seconded by Councilor Louer and unanimously approved. Councilor Einhorn was absent from voting.

MAYOR'S REPORT

Mayor Curry gave a report on the total number of calls for the police department for June 2014. He stated there was a total of 725 calls, which breakdown to 24.17 calls per day and 1.01 calls per hour.

MANAGER'S REPORT

Mr. Konek reported on a meeting he had with SARA (Airport Authority) regarding the noise buyout program, stating they are finished implementing the buyouts and now have a collection of properties they are maintaining. He stated they approached the Borough with their thoughts on how those properties can be put back into use. Mr. Konek reported they put a proposal on the table regarding a sell back to the Borough and also talked about a planning project to look at the best use of those properties. He reported they offered to partner with us in obtaining a grant from the Tri County Planning Commission grant program for a planning project so that we could study recreational uses for those properties. Mr. Konek reported if we were to partner with them we would be looking at a \$6,000 - \$11,000 match. While we already have in the works a grant proposal for studying form based zoning through Tri County Planning Commission, he stated we need to prioritize those grants. Mr. Konek stated this is something we can consider going forward and might be valuable for delegation to one of the committees.

Mr. Konek reported on the status of the GMEDC audit stating we have received some paperwork from the GMEDC on the outstanding grant of \$105,000. He stated the grant has not yet been closed out and this GMEDC grant is holding up some of our other money through the DCED. Mr. Konek stated the Borough Auditors, Zelenkofske Axelrod, LLC, have noted there is still a lot of missing documentation in the documents that were provided and the audit is unable to be completed until that information is provided. He said the documents need to support where the money went and until this audit gets finalized the funds to the Borough is going to be held up.

Mr. Konek reported on the combined utility account shutoffs, stating this month there were a total of 58 utility account shutoffs completed and generated \$50,000 in revenues collected on those accounts. He reported the process is still going on and once we have completed the highest dollar amounts, we will start with the regular cycle shutoffs. Mr. Konek stated the customer will receive a blue bill with a due date, if the customer does not pay by the due date on that bill they will be issued a red notice with a due date, if the customer does not pay by the due date on that bill, the customer will be subject to shutoff the day after the due date on the red notice. He stated there will no longer be orange door hangers provided.

Discussions amongst council and Borough management took place on the amount of loss the Borough incurred over the years and with the current "heavy hitters" for not issuing the utility shutoffs and what we are not going to be able to recover. Also was discussed was the continuation of shutoffs throughout the winter and Mr. Konek stated we will until Council provides a different course of action.

SECRETARY'S REPORT

Ms. Friday reported Friday, July 18, 2014 was the deadline to apply for the part-time police officer position and a total of twenty-two applications have been received. She has provided the Public Safety Committee and Mayor Curry with copies of all the applications.

COMMITTEE REPORTS**COMMUNITY DEVELOPMENT**

Councilor Sites reported due to no items needing to be discussed, there was no meeting held last month. He also reported the cancellation of the July 23, 2014 meeting.

ADMINISTRATION/PERSONNEL

Councilor Sullivan reported having an administration and personnel committee meeting on June 24, 2014 and no action was taken.

LABOR RELATIONS

Councilor Brubaker reported on a meeting held today at 10:30 a.m. with the teamsters and no agreement has been reached.

PUBLIC WORKS/UTILITIES

Councilor Louer reported the public works committee asked Mr. Klinepeter to give a report on the contamination at the old highway shed and he would like to see what the level of contamination remains there since we have not had a report.

Councilor Louer reported instructing Mr. Lester Lanman, Assistant Superintendent of Public Works, to get the poles in place using IB Abel.

Councilor Louer reported they would like to have the Borough Manager get on with the hiring of the new electric foreman at \$50,000 per year plus benefits.

Councilor Louer reported they are still awaiting the bids to remove the trees on Wilson Street.

Councilor Louer reported on the estimate to remove and install carpet and new sub floor at the Borough office lobby is approximately \$5,000.

Councilor Louer reported talking with Councilor Kapenstein regarding outsourcing the electric billing.

Councilor Louer reported the estimate to repair Kids Kastle is in the six figures and Mr. Lanman is already working on the smaller/minor repairs.

Councilor Louer reported they are still looking for the shutoff valve on Main Street covered over my asphalt.

Councilor Louer reported they will not be sending the electric employees to Watsontown since they will not be receiving lineman training.

Councilor Brubaker commented on a list of items to be done to winterize the pool, since summer is winding down and the pool will be closed, stating the list should be given to the Borough Manager and then given to our Public Works people. Councilor Kapenstein commented this was discussed at the Rec Board meeting and will be taken care of.

PUBLIC SAFETY

Councilor Sites reported on the conclusion of the three interviews for the Chief of Police position, stating it went very well and we need to get together as a committee to discuss how to proceed.

Councilor Sites asked about the stage of progression for the stops signs that were requested by Council at Spring and High Streets. Borough Manager Tim Konek stated we need to draft the ordinance on that. Councilor Sites stated this should be in place prior to the arrival of the Penn States students for Fall semester.

Councilor Sites reported they discussed no left turns at the intersection of Main and Spring Streets as well as a complete traffic study of Main Street to determine any future needs we may need. Mayor Curry stated he has the same concern with the left turn at the intersection of Main and Spruce Streets.

Discussions were held amongst council regarding the Chief of Police hire and the remaining process and time frame. Councilor Sites recommended the Borough Secretary supply council with all three final candidates' application materials. Councilor Handley stated this is a very important decision and if the decision takes a little longer than it takes a little longer. Mr. Santucci provided council an overview of the Chief of Police selection/hiring process.

Councilor Sites made a motion to direct the Mayor to have the Police conduct a traffic study on Main Street throughout the entire Borough, with regards to installation of stop signs and various no turn sign installations as well as speed reduction. The motion was seconded by Councilor Louer and unanimously approved. Councilor Einhorn was absent from voting.

FINANCE

Councilor Kapenstein reported the Finance Committee primarily discussed at their last meeting the ordinance authorizing the incurrence of non-electoral debt evidenced by a line of credit note and will reserve his comments until the vote.

PLANNING

Councilor Handley stated there is nothing to report at this time.

WATER/SEWER EXPLORATION LEASE OF SYSTEM

Councilor Kapenstein stated there is nothing to report at this time.

Councilor Kapenstein made a motion to adopt Ordinance 1303 of 2014 - Option A amending chapters 226 and 256 of the code of ordinances of the Borough of Middletown (The "Borough") 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 asked how far behind with the deficit will we be if we raise the rates. Council President McNamara stated those revenue projects, with the transfer from the general fund, will be off by approximately nine months.

Mr. Mark Morgan stated the rate study option A was predicated on the rates being implemented July 1, 2014 and we are not as far behind as you may assume. He reported that was to get sufficient revenue from that option so the engineers could sign the certification for the trustees and bonds. Mr. Morgan stated it all depends on the time line here for it to get implemented and the accounting system is ready to go.

Discussions were also held amongst Council and Mr. Morgan regarding the maximum for rate increase through the PUC.

Councilor Kapenstein clarified the motion on the table is for option A that has the customer charge plus the volumetric charge for every 100 gallons.

The motion was seconded by Councilor Sites and approved by a 7 – 1 vote with Councilor Handley dissenting. Councilor Einhorn was absent from voting.

Councilor Malone made a motion to authorize the Ordinance of the incurrence of non-electoral debt evidenced by a line of credit note, as amended to include the condition that any expenditure of the line of credit be approved by Borough Council.

Councilor Handley commented the Borough is going to be on the hook for \$3M dollars and there is no assurance these state RACP grants are going to go through based on what was presented earlier regarding the Borough grants being flagged and recommends holding off until we know these grants will be approved and the audit is completed. He stated he is not opposed to this, but if there is an issue with the grants he recommends waiting.

Council President McNamara commented on the FEMA grant portion of the ordinance stating there is \$3.2M as a result of the 2011 flooding and the previous council took action and transferred \$2M so that the people could get on with their lives. He stated that money goes back to the general fund and the \$1.2M was for projects that we submitted and paid for and are in the process of beginning to come back and those are what are called public assistance projects from the federal government. Council President McNamara stated the line of credit is a security if the funds don't come in.

Mr. Mark Morgan stated the \$2M will come back to the general fund.

Mr. Santucci stated the Borough will have to signoff on the ICDA's draw down of any of the monies from the line of credit.

Councilor Kapenstein would like to make sure that there is a precaution/condition in place so that we get to see that this money is going to come in and approve it.

Mr. Mike Jarman, Attorney with McNees, Wallace and Nurick provide an overview of the next steps so that Council is aware of what is to come with this ordinance.

Councilors Handley and Kapenstein asked for a copy of the HRG status list so that they can get a list of accounting for each of the properties.

The motion was seconded by Councilor Louer and approved by a 5 – 2 vote with Councilors Sites and Brubaker dissenting and Councilor Handley abstaining. Councilor Einhorn was absent from voting.

At 8:26 p.m. Council recessed for an executive session to discuss matters related to litigation, personnel and labor.

Council reconvened at 9:41 p.m., with Borough Solicitor Adam Santucci announcing Council President McNamara had to depart and there was an executive session to discuss items relating to personnel, labor relations and potential litigation and no action was taken. He stated Council Vice President Louer has assumed the chair.

Councilor Handley made a motion to authorize Mr. Klinepeter to sign a second amendment to the fixed price contract with MEA Consultants. The motion was seconded by Councilor Sullivan and approved by a 6 – 0 vote. Councilors Einhorn, Sites and McNamara were absent from voting.

Councilor Handley briefly explained the MEA Consultants are doing a cleanup at the old highway shed as far as the contamination/remediation and they have asked for an amended to the contract.

Councilor Handley made a motion to adjourn. It was seconded by Councilor Malone and approved by unanimous consent. At 9:43 p.m., the meeting was adjourned.

Amy J. Friday
Borough Secretary