

March 2, 2015
Middletown, PA 17057

The March 2, 2015 meeting of the Middletown Borough Council was called to order at 7:00 p.m. by Council President Christopher McNamara.

Following the pledge of allegiance, the following Council members answered roll call: Mike Bowman, John Brubaker, Anne Marino Einhorn, Benjamin Kapenstein, Robert Louer, Victoria Malone, Christopher McNamara and Scott Sites. Councilor Sullivan was absent from the meeting.

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

Councilor President McNamara reminded everyone that the meeting this evening will be conducted in accordance with the public meeting conduct resolution this body adopted at last month's meeting.

Council President McNamara announced in no way are the guidelines in that resolution intended to stifle public debate and participation. He stressed the purpose is to make sure that all members of the public have the opportunity not just to be heard but also to hear what is happening and asked everyone afford whoever is speaking the same courtesy you would expect when you are speaking.

Council President McNamara reminded that any person making offensive, insulting, threatening, slanderous or obscene remarks or who becomes boisterous and makes threats against any person or public; while in the meeting area, will be removed from the room. He stated we must all do our part to make sure we all have that opportunity by maintaining decorum during this evenings meeting.

PUBLIC COMMENT – For items on the agenda

Diana McGlone, 805 Adelia Street

Ms. McGlone commented on agenda item two authorizing the Borough Manager to use Co-Stars for the purpose of removing trees. She provided Council with the business entity filing history for Co-Stars she found from her on-line search through the PA Department of State and stated Co-Stars is a fictitious name filed with the Department of State and the principal place of business is a Philadelphia address. She said she thinks Council will need to look at that.

Ms. McGlone commented on Mr. Shafaye,s public comment at the last meeting stating in the spirit of unity she would like to take Mr. Shafaye up on his offering last meeting and broker a meeting between both sides of the political spectrum. She stated she has previously asked Mr. McNamara both publically and privately to simply have a meeting to talk about any issues or political rhetoric pertaining to our community and to date there has been no response. Ms. McGlone asked for a response from Council President McNamara regarding her invitation to get together and talk.

Council President McNamara responded, thank you.

Ms. McGlone commented on the demolition that has started on the removal of the buildings at the corner of Emaus and Union Streets. She stated it is absurd for the majority of council to approve and agree to the spending of \$2.7 million dollars for two to three blocks of streetscape. Ms. McGlone commented on the design plans in the streetscape project for a gathering spot and stated this community has a gathering spot it is called Hoffer Park, which is in desperate need of some TLC. She stated it is concerning the funding for this overall project is backed by taxpayers.

Ms. McGlone commented on the downtown area and stated the downtown has a long nostalgia history for our Borough and does not believe the downtown area should be the focus of the true business development. She stated the downtown is a secondary section of town and the long term business focus and growth potential for our Borough needs to be on Main Street, as appropriately titled, it is the main thorough fair through the heart of our town. Ms. McGlone reported Main Street sees over 19,000 vehicles per day and is the prime location for entrepreneurial and private development investments, as it has visibility, excellent traffic flow, and a much sought after retail space and land needed to attract new businesses. She stated this will maximize overall revenue potential for our town and benefit the entire community.

Ms. McGlone stated downtown improvements are needed, but as a secondary business section of our Borough and the improvements can be done at a much lower cost alternative, while enhancing the esthetic value of the area. She would like to see council revisit the downtown

Design plan and seek out less costly options before this \$2.7 million dollar expenditure on downtown is made and a 30% improvement in the downtown area made by current property owners in pledging to improve the façade appearance of their own properties.

Ms. McGlone said considering the state of our Borough finances, the last thing we should be doing is wasting this amount of money on something that will provide so little benefit.

Council President McNamara reported Co-Stars is a state program listed within the procurement code and administered under the Pennsylvania Department of General Services. He stated there are state wide contracts that are already pre bid and fall beneath the parameters of the procurement code which enable those who participate in it and it is renamed Co-Stars.

Council President McNamara said Mr. Konek and Mr. Lanman found tree trimming contracts under Co-Stars and rather than spend money and staff's time on an RFP or contract, they are asking for permission to utilize the state wide contract that already exists for removing trees and tree trimming.

Dawn Knull, 123 State Street

Ms. Knull commented on the tree removal for the Borough that is being looked into and asked about the list of trees being removed.

Council President McNamara said staff is currently developing a list, which when complete a mechanism will be put into place, if Council chooses to move forward with it.

Ms. Knull commented there are many things that are discussed and acted on at the meetings that never get addressed such as board vacancies, sewer inspections, woody waste fees, no parking signs for trucks and a request for conference calls at meetings.

Council President McNamara commented on the woody waste fees and stated we are waiting for the Finance Committee to come out with those fees.

Councilor Kapenstein stated he left this with Mr. Mark Morgan and he has no idea that he has never heard back from him.

David Hawkins, 448 Swar Avenue

Mr. Hawkins commented on the existing Borough website stating it has not been updated and should be for better communication to promote the Borough and alert its residents. He would encourage the individual who is responsible for updating the existing website to please do so.

Kay Wealand, 131 Keystone Avenue

Ms. Wealand commented on the website stating she is also upset the website has not been updated.

Ms. Wealand commented on the PennDot contract for snow removal and asked for its status. She asked who is responsible to make sure motions such as this one are carried through.

Ms. Wealand commented on the Mill Street substation motion made at the last Council meeting regarding its relocation. She stated there was not sufficient time given for Councilors to review the proposal before voting.

Council President McNamara stated the developer's agreement discussed during the motion was not a proposal. He said the Borough Engineer's preliminary design was what was voted on and Councilor Brubaker made the motion.

Councilor Brubaker commented he made the motion and we are only exploring the design at this time.

Tony Canon, 336 Wilson Street

Mr. Cannon commented on issues he has encountered at the Library and with his electric meter. He stated he feels disrespected and would like for someone to take care of having his electric meter checked.

Russell Bechtel, 363 Aspen Street

Mr. Bechtel commented on some things that did not fall through the cracks and got addressed. He commented on the sewer line repairs stating he believes those repairs will save the Borough money in the next hundred years. Mr. Bechtel commented that he does not think the water and sewer lease was enough to fully fund the pensions. He stated he is planning to file a right to know for more information on the water and sewer lease.

AB Shafaye, 101 W. Main Street

Mr. Shafaye commented on his invitation stated at the last council meeting to organize a meet and greet event hosted at his residence or another location stating he would still like to organize this event and if anyone is interested in helping to organize or get together to discuss things as a community they should email him at abshafaye@comcast.net. He said he hears more of how to tear down the community than how to put it together and the meet and greet is a great way to accomplish looking at things from a more positive way than a negative way.

At this time, Councilor Bowman stated and asked it be entered into the record that he was never an employee or code enforcement officer for the Borough, as was stated in the last month's meeting minutes.

Councilor Bowman made a motion to approve the minutes. The motion was seconded by Councilor Malone and approved by a unanimous 8 – 0 vote. Councilor Sullivan was absent from vote.

Councilor Louer made a motion to adopt Ordinance 1312, an ordinance of the Borough of Middletown amending the Code of Ordinances by repealing and abolishing the Shade Tree Commission of the Borough of Middletown. The motion was seconded by Councilor Bowman and approved by a 5 – 3 vote with Councilors Einhorn, Sites and Kapenstein dissenting. Councilor Sullivan was absent from vote.

Councilor Brubaker made a motion to authorize the Borough Manager to use Co-Stars for the purpose of removing trees.

Council President McNamara stated between Code Enforcement and the Borough Manager, they will make a determination. He said this is not just for the removal of trees but the bulk is for trimming that needs to be done to fall into compliance with the code and utility right of way.

The Borough Code Enforcement Officer, Mr. Jeff Miller, stated Public Works is also involved in which trees are going to be removed and trimmed, especially those in the electrical right of way.

The motion was seconded by Councilor Sites and approved by a unanimous 8 – 0 vote. Councilor Sullivan was absent from vote.

Councilor Brubaker made a motion to authorize and adopt the revised disabled parking space policy, pending solicitor approval.

Council President McNamara stated this is something that has been discussed over the past six to eight months and has finally gone through the Public Safety Committee. He noted Mr. Jeff Miller's proposed revisions on the disabled parking space policy which was emailed to all of Council.

Councilor Kapenstein asked if this will be the final vote for the policy.

Mr. Miller commented on one minor change that he is proposing to the Ordinance distributed to everyone is to delete the last paragraph on the last page. He said the current policy does not address requests for general use disabled parking space requests and the new draft policy implements the same requirements and protocols for both specific person and general use applications.

Council President McNamara asked if we are bound to utilize our staff to do the installation. Mr. Miller responded the policy does not go into that detail, but a potential issue if we do not use our staff would be figuring out the fee for installing the space and also take into account the removal.

The motion was seconded by Councilor Louer and failed by a 5 – 4 vote with Councilors Bowman, Malone, Brubaker and Louer voting in favor and Councilors Sites, Kapenstein, Einhorn and Council President McNamara voting against and Mayor Curry casting the deciding no vote. Councilor Sullivan was absent from vote.

Councilor Bowman made a motion to authorize the lease of the police department vehicles.

Council President McNamara reported the leasing of the two vehicles, a Chevrolet Tahoe and Caprice, will be accomplished with available funds from the police sinking fund with no cost to the tax payers or impact to the 2015 budget.

The motion was seconded by Councilor Louer and approved by a unanimous 8 – 0 vote. Councilor Sullivan was absent from vote.

Councilor Malone made a motion to authorize the Borough Staff to start the Zoning Ordinance amendment process.

Council President McNamara reported that Zoning Officer, Mr. Jeff Miller, has identified some language in the code where he is not able to enforce certain things in regards to storage tanks that were brought up by the planning committee at their last meeting. He said all you are authorizing is for staff to start preparing for a public hearing and advertisement of the language change. Council President McNamara stated there is a 30 – 45 day time period.

The motion was seconded by Councilor Bowman and approved by a unanimous 8 – 0 vote. Councilor Sullivan was absent from vote.

Councilor Brubaker made a motion to authorize the advertisement of Ordinance 1313 amending Chapter 210 of the Borough Code.

Council President McNamara stated this code deals with property maintenance and procedures related to the disposition of vehicles determined to be nuisance vehicles. He also stated there is a typo on the agenda, the Chapter should be 210.

Mr. Miller stated what we presently have section on the Borough Code of nuisance vehicles which states you can have in a residential zone district no more than one nuisance vehicle. He stated currently in the Borough he has four locations where we have wrecked vehicles parked and have not been moved and are not under repair. In addition, Mr. Miller stated the current ordinance has no restrictions on nuisance vehicles in any other zoning district.

Mr. Miller also discussed the waiting period for the Borough contractor to remediate any nuisance and property owner notifications. Under the current ordinance, he stated we must give a property owner twenty days' notice for tall weeds and grass. Mr. Miller said this ordinance revision changes for tall weeds, grass and garbage only providing for ten days' notice to the property owner before our contractor can come in remediate it and the property owner will be billed for the contractor charges.

Councilor Malone asked what will be done with the nuisance vehicles. At the moment, Mr. Miller stated we are allowed to tow them. He said we are currently working with our solicitor in regards to getting a protocol together that is legally enforceable to properly dispose of the vehicles.

The motion was seconded by Councilor Bowman and approved by a unanimous 8 – 0 vote. Councilor Sullivan was absent from vote.

Councilor Malone made a motion to authorize the proposal from N.J. Hess Associates to develop and design a Human Resource system as recommended in Phase Three of the Early Intervention Plan.

Councilor Bowman asked how this is being paid for through the State.

Council President McNamara responded this will be a 90/10 share and the cost to the Borough should be approximately \$3,000. Councilor Kapenstein confirmed it should be around \$3,000 and it is a good deal.

Council President McNamara stated it will entail Phase Three of the Early Intervention Program.

Councilor Einhorn reported the areas being covered will be job descriptions, job responsibilities and personnel practices and policies. She stated N.J. Hess Associates seems to know how to address our needs and we feel comfortable with everything we have read.

Councilor Kapenstein commented on the time line. Council President McNamara stated once the project amount is exhausted, Ms. Hess will be finished.

Council President McNamara said once the motion is approved Ms. Hess' start date will be determined by the Administration and Personnel Committee along with the Borough Manager.

Borough Manager, Mr. Tim Konek, reported on a recent meeting with Ms. Hess where discussions took place on suggestions and recommendations on how to streamline our business processes and help us do things better.

Councilor Einhorn stated she has worked with municipal governments in the past and has that experience.

The motion was seconded by Councilor Kapenstein and approved by a unanimous 8 – 0 vote. Councilor Sullivan was absent from vote.

Councilor Bowman made a motion to authorize the distribution of the Community Development Block Grant Income Survey to the entire Borough of Middletown for the purpose of securing grant funding to paint or replace curbs throughout the Borough.

Council President McNamara reported the income survey would determine eligibility when you make application for the Community Development Block Grants. He said it is a block of money sent from the Federal Government Housing and Urban Development and administered by the County. Council President McNamara stated once the income survey returns then it will come back for the body to put forth a grant application.

The motion was seconded by Councilor Louer and approved by a unanimous 8 – 0 vote. Councilor Sullivan was absent from vote.

NEW BUSINESS

Councilor Brubaker requested to discuss the parking problem on Brown Street. He said he would like Council to give their opinion on the Brown Street parking and he also has some reservations about some other areas in town where there are signs up and are probably nonexistent and how some signs were removed and put elsewhere and not passed by this body.

Council President McNamara stated what we have learned in the past six months, the parking regulations are a decision of this body and suggests we open up the entire chapter section 252-2 and review the whole thing.

Councilor Kapenstein asked who the proper person is to review chapter section 252-2.

Council President McNamara responded our solicitor would be responsible to review, but there would be enforcement associated with it and then the police would need to be involved.

Councilor Kapenstein made a motion to allow the Borough Solicitor review Section 252 of the Borough Code as it pertains to parking regulations, with return remarks by the April 20, 2015 Committee meeting.

Council President McNamara stated this will be put towards the Public Safety Committee as far as the committees go.

The motion was seconded by Councilor Brubaker and approved by a unanimous 8 – 0 vote. Councilor Sullivan was absent from vote.

Mayor Curry requested that his phone number and accurate email addresses for Council members be updated on the Borough website, until the new website has transitioned.

Mayor Curry reported on two residents who have requested information from the Borough and are awaiting a return phone call. He said the two residents are Tony Canon and Jennifer McClure. Mayor Curry stated Jennifer McClure submitted a handicapped parking application and has not heard back.

Council President McNamara stated she will need to be notified that the disabled parking space policy was voted down this evening.

Mayor Curry stated she left a message with someone at the Borough and asked who ever that was to please return her call.

Councilor Sites asked are we going to revert back to what we have now in place for the disabled parking space policy or are we suspending things until we come to a policy.

Council President McNamara stated what was presented to you tonight was to institute a policy and you have none now since it was voted down this evening. He said if someone wants to take another stab at a policy that everyone can agree on.

Councilor Sites stated we should make the public aware we have suspended the disabled parking space policy.

Mayor Curry reported on the statistics from the Police Department for the month of February 2015. He said there were 524 calls which average to .78 calls per hour.

Mayor Curry asked about the large rectangular cutout in front of the three shops that are being torn down on Union Street, stop signs on High and Spring Streets and also asked for a motion to advertise for the Human Relations Commission.

Councilor Einhorn made a motion to advertise for positions to serve on the Human Relations Commission and to submit letters of interest within thirty days to the attention of Mayor James H. Curry III. The motion was seconded by Councilor Kapenstein and approved by a unanimous 8 – 0 vote. Councilor Sullivan was absent from vote.

Mayor Curry stated for the record that he disagrees with the removal of the three businesses downtown. He feels it is an elimination of taxes and utilities. Mayor Curry stated when you are trying to attract new businesses downtown the worst thing you can do is to tear down three spots for three new businesses.

Mayor Curry reported on a response he received from the varsity players at the high school and they accepted his challenge for the basketball game on March 27, 2015. He stated we are moving forward with the event and donations.

Councilor Kapenstein made a motion to advertise an amendment to section 252-15 of the Borough Code of Ordinances.

Councilor Kapenstein reported this is for stop signs to be placed at Spring and High Streets as was discussed previously. He stated there was a traffic study completed and it was determined the signs were not necessary, but a lot of people think it is necessary, including Councilor Kapenstein. Councilor Kapenstein stated this is the first step to accomplish it and we have to advertise an amendment then vote on it next time just like any other ordinance or amendment.

The motion was seconded by Councilor Sites and approved by a unanimous 8 – 0 vote. Councilor Sullivan was absent from vote.

Borough Secretary Amy Friday reported reaching out to Mr. Tim Clouser and Mr. Tom Mehaffie regarding appointments to the Middletown ICDA. She stated both Mr. Clouser and Mr. Mehaffie are willing to serve on the Middletown Industrial and Commercial Development Authority.

Councilor Louer made a motion to nominate Mr. Tom Mehaffie to the Middletown Industrial and Commercial Development Authority.

Councilor Einhorn thought we were going to advertise for the two vacant positions to allow people to submit letters of interest.

Councilor McNamara said the discussion at the last council meeting ended with direction given to the Borough Secretary to reach out to Mr. Clouser and Mr. Mehaffie to see if they wanted to serve and if they did not we were going to advertise.

Councilor Kapenstein stated he echoes Councilor Einhorn's comments/concerns and he has nothing against Mr. Mehaffie but he would like to see this position advertised as is always done.

The motion was seconded by Councilor Bowman and approved by a 6 – 2 vote, with Councilors Kapenstein and Einhorn dissenting. Councilor Sullivan was absent from vote.

Councilor Bowman made a motion to extend Mr. Tim Clouser's term on the Middletown Industrial and Commercial Development Authority. The motion was seconded by Councilor Malone and approved by a 7 – 1 vote, with Councilor Sites dissenting. Councilor Sullivan was absent from vote.

Borough Manager Tim Konek mentioned as everyone is aware the Borough is undertaking about \$9M worth of infrastructure projects in the next year. He provided Council with a breakdown of all the projects and stated there is a lot of projects being done and a lot of money being spent.

Mr. Konek stated a few council meetings ago Councilor Kapenstein mentioned a concern in reviewing the underground work on S. Union Street and the need to make sure we keep an eye on these things and that we have direct contact with the contractors and engineers to make sure we come in under budget and on time.

Mr. Konek reported the Borough has arranged with Mr. Mike Kistler of Lobar Construction, who is very familiar with the town, to act as a construction manager to interface with the contractors and engineers and act as an owner's agent for those activities. He reported checking with Mr. Morgan on the funds to support this position and the funds are available. Mr. Konek stated the cost is relatively inexpensive estimated at \$300 per week and his services will also entail attending meetings and reporting on those meetings back to the Borough.

Councilor Bowman made a motion for the Borough to hire Mr. Mike Kistler to serve as the Borough's Construction Manager/Agent for purpose of the infrastructure projects.

Councilor Einhorn asked how long Mr. Kistler will be serving in this position.

Mr. Konek stated due to the work for the construction projects, he will be engaged all of the summer and into the fall and his schedule will be determined by the pace of the work being done on these projects.

Councilor Kapenstein stated he does not like having to hire another consultant to oversee consultants, however; seeing what happened last time with the error it cannot happen again. He said his only concern is that if Mr. Kistler is the only consultant so that we are not paying two consultants. Councilor Kapenstein would also like to have the reports made to council.

Concerned with the pay per week being an estimate of \$300, Mayor Curry recommends Council put a cap on the pay per week, since Council is the one who is hiring him.

The motion was seconded by Councilor Kapenstein and approved by a unanimous 8 – 0 vote. Councilor Sullivan was absent from vote.

Council President McNamara stated the Borough Secretary has forward a copy of Mr. Bowman's resignation letter from the Zoning Hearing Board and ask for a motion from the floor to accept his resignation by the letter dated January 25, 2015.

Councilor Kapenstein made a motion to accept Mr. Mike Bowman's resignation from the Middletown Zoning Hearing Board. The motion was seconded by Councilor Sites and approved by a unanimous 8 – 0 vote. Councilor Sullivan was absent from vote.

Councilor Einhorn thanked the Press and Journal and all who attended last week's function. She said it was very representative of what we would like to accomplish in the community and she is looking forward to the next one.

Councilor Sites made a motion to adjourn. The motion was seconded by Councilor Malone and at 8:45 p.m. the meeting was adjourned.

Amy J. Friday
Borough Secretary