

April 20, 2015  
Middletown, PA 17057

The April 20, 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.

Council President McNamara reported Councilor Sullivan is absent due to medical issues.

Councilor Bowman reported Councilor Sullivan is home and doing fine, however she is not up to visitors, and welcomes a telephone call.

At 7:03 p.m., Council President McNamara recessed the council committee of the whole meeting for the purposes of holding a zoning amendment hearing to hear and entertain public comments regarding Ordinance 1314 amending the regulation of temporary storage of materials and adding regulations for out of service storage tanks.

At 7:13 p.m., Council President McNamara reconvened the council committee of the whole meeting.

On behalf of the Borough Council and residents of Middletown, Council President McNamara presented Mr. Jonathan Hicks with a plaque, certificate and pen/pencil set in recognition of being selected to receive the Irving and Mildred Hand State, Urban and Regional Affairs Award presented by the School of Public Affairs, Penn State Harrisburg. He thanked Jonathan for his efforts to continue the partnership between Middletown and Penn State Harrisburg.

Council President McNamara called upon Mr. Doug Gellatly, Mr. David Johns and Zac Gates to come forward. He reported Messrs. Gellatly and Johns sit on the board of directors for the YMCA and promote the Youth Government Program. Council President McNamara reported Zac is a resident of Middletown and is involved in the Youth Government Program. He reported receiving a phone call late Friday asking if there was anything we could do to recognize Zac's commitment in the program and help him in his endeavors.

On behalf of the Borough Council, Council President McNamara presented Zac with a plaque and certificate in recognition that he has distinguished himself through exceptional service and accomplishment in the YMCA and Youth Government Program.

Mr. Gellatly reported the Youth Government Program is a great state-wide program where they take individuals like Zac and expose them to other kids around the state. He reported finishing up this past weekend at the State Capitol where 500 kids attended and Zac was selected as one of the top twenty-five students in the program state-wide who will be traveling to the Conference on National Affairs in North Carolina.

Mr. Johns reported that it will be Zac's fourth trip to North Carolina and he has been recognized as a national leader and appreciates all of the efforts he has given. He stated Zac has been a mentor to other students and an example of what servant leadership is all about.

Council President McNamara acknowledged two other participants in the Youth Government Program, Z. Ibrahim and Jordan Smith. Zac reported this is Z's first year in the program and he will be joining Zac in North Carolina and this will be Jordan's second year.

Council President McNamara invited Zac to run the meeting and Jordan and Z to team up with a council member and/or Mayor Curry for the remainder of the meeting.

## **STAFF REPORTS**

### **Mayor's Report**

Mayor Curry reported on a request from the Chief of Police regarding road closures for National Night Out on August 4, 2015. He stated he approves the street closures as requested in the Chief's April 7, 2015 correspondence.

A copy of the correspondence was given to the Borough Secretary for the record.

**Manager's Report**

Mr. Konek reported on a request from Spring Street Property, LP for a reduction in their improvement guarantee. He reported the Borough Engineer has investigated the request and recommend the current improvement guarantee be reduced. Mr. Konek asked council to take action to allow that reduction on the improvement guarantee.

Mr. Konek reported Council has been briefed by the Solicitor regarding a settlement agreement for a grievance filed by Mr. Reager and the specific terms can't be discussed publicly. He seeks approval to settle the grievance up to the stated amount.

Mr. Konek reported the Borough has recently issued a new MS4 permit that regulates municipal small storm sewer discharge, essentially for storm water. He stated with that new permit were increased and enhanced guidelines for protection of the Susquehanna River basin and the other aspect of the new permit is PA DEP's enhanced regulation of street sweepings. Mr. Konek mentioned the material that is pulled up from the street sweepings has to be disposed of properly and the DEP has not provided the Borough with specific directions of what we can or should do with it. He advised that anything we do is going to cost more money than it has in the past and failure to abide by what the DEP requires of us will subject us to potential environmental fines. Mr. Konek stated we are still waiting on some directions and HRG has helped us with our MS4 permit and have assisted our neighbors with this process as well. Going forward, he would like the Council's blessing to engage HRG specifically with the MS4 permit administration over the next five years which is the length of the MS4 permit and we could get some benefits by working together with our neighbors in terms of the street sweeping disposal issue as well as some other ideas.

**Councilor Bowman made a motion to reduce the credit for the Lift Development project on Spring Street student housing properties.** The motion was seconded by Councilor Louer and approved by a unanimous 8 – 0 vote.

**Councilor Brubaker made a motion to authorize the Borough Manager to execute the settlement agreement offer as noted in previous email correspondence from the Borough Solicitor.**

Councilor Kapenstein commented he understood this was going to be discussed in an executive session, according to the email from the Solicitor. He stated this is a little too early to be voting on this since he has more questions that he can't talk about in public and would like more time.

Mayor Curry stated it would be prudent to discuss the details privately.

Councilor Sites commented agreeing with Councilor Kapenstein's comments and concerns. He stated this matter should be discussed in an executive session prior to vote.

Councilors Malone and Einhorn also agree with Councilors Kapenstein and Sites' comments and concerns.

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

Mayor Curry stated he voted no because he believes this is an employment issue that should be discussed privately.

**Councilor Bowman made a motion to enter into an MS4 agreement with HRG.**

Councilor Kapenstein commented on the 5 year term of the agreement and asked what exactly are we entering into.

Mr. Konek responded the length of the permit lasts 5 years and we are engaging HRG to be our administrator for that program and they will monitor what we do and how we do it. He stated they will collect all the data that is required to be recorded back to the DPA and DEP and other tests that are associated with it. Mr. Konek reported we can get out of it at any time.

Council President McNamara asked is it a requirement of the DEP.

Mr. Konek responded yes the permit requires us to report on and follow a plan.

Councilor Sites asked about the time frame.

Mr. Konek responded we have to start taking actions and collecting data as soon as possible. Mr. Konek confirmed the only fees will be engineering fees and the estimate is \$31,000 for the first year for the course of the year and the four years after that will be \$20,000.

Councilor Einhorn asked who administered the permits in the past.

Mr. Konek responded this was administered in the past by the Borough engineer and that was Ed Kazlauskas.

Mayor Curry asked when residents can expect for the streets to be cleaned if we proceed with the plan.

Mr. Konek responded the street sweeping as he mentioned earlier is a result of the DEP giving us vague instructions that they want us to dispose of the street sweepings but have not given us specific regulations upon which to follow.

Councilor Kapenstein inquired on the next steps with DEP.

Mr. Konek responded if we get HRG engaged they will be able to do that for us.

The motion was seconded by Councilor Malone and approved by a unanimous 8 – 0 vote.

#### **Secretary's Report**

Ms. Friday reported attending the ground breaking ceremony for the new student enrichment center at Penn State Harrisburg on behalf of the Borough. She mentioned the center will be seventy thousand square foot center housing new and existing student services such as student lounges, food service with seating areas, convenience store, theatre/lecture hall and a spiritual center. Ms. Friday reported the Chancellor hopes for completion of the center next year this time and there will be an unveiling ceremony.

#### **Director of Communication's Report**

Mr. Courogen provided an overview of the new Borough website redesign. He reported there were a couple things that they were looking to do with the redesign. The first and most important was to make the site easy to navigate around to find information.

Mr. Courogen showed the links associated with departments and how to locate important information, telephone numbers, forms, applications, etc. He mentioned we now have the ability on the eCode site to post public documents and as all the minutes from 2014 and 2015 that have been approved are posted on this site, along with other important public documents.

In addition to all the contact information listed for council, Mr. Courogen reported adding pages of voting records so the public can see how council voted on a particular item.

Under agencies, Mr. Courogen reported we have a splash page for the ICDA, but he understands the ICDA is in the process of building their own site.

In addition to some of the information listed on the EMA site, Mr. Foreman provided Mr. Courogen with some tips for winter storms and flooding to be added.

Mr. Courogen mentioned working with Jenny Miller of the Historical Restoration Commission for their page and providing a link to the Historical Society since they work hand in hand.

Mr. Courogen reported on the forms and fees found on the Codes page of the website. He stated we are looking to make the forms a fillable pdf so that you can type in the information and he plans to create a forms library on the website.

Mr. Courogen reported we are on the verge of it launching the website, but there are one or two sections that need to be converted over manually due to a minor glitch. He stated the website should go live on the Borough's site some time tomorrow morning.

Councilor Kapenstein inquired if we could list audits on the website on the financial page.

Mr. Courogen stated that is a great suggestion and we can do that.

#### **COMMITTEE REPORTS**

##### **Administration and Personnel**

Councilor Einhorn reported Councilor Bowman is serving on the committee in Councilor Sullivan's absence.

**Community Development**

Councilor Kapenstein reported the committee has not met and plans to meet next month.

**Finance**

Councilor Kapenstein reported the committee has not met and plans to meet next month at our regularly scheduled time.

Council President McNamara recommended Councilor Kapenstein contact Mr. Morgan to schedule and prepare a mid-year review meeting.

**Labor Relations**

Councilor Brubaker reported on waiting to hear from the police department regarding their next negotiation session.

Councilor Brubaker reported the teamsters have received their last contract proposal and we are waiting on their comments.

Councilor Brubaker reported Chief Bey's six month probation period has expired.

**Councilor Brubaker made a motion to take Chief of Police Bey off of probation and make him a permanent employee.**

Councilor Brubaker commented the Chief has been out and about talking with the general public and he has done a fine job.

Councilor Bowman commented he has spoken to several residents and they are pleased with our new police chief. He stated he is professional and has done a good job.

Mayor Curry commented the chief of police has been a pleasure to work with and thanks him for his time.

The motion was seconded by Councilor Bowman and approved by an 8 – 0 vote.

For the record, Council President McNamara directed Mayor Curry to inform the chief of police he is now a permanent employee.

**Councilor Brubaker made a motion to hold an executive session after public comment for the purpose of discussion on the settlement agreement.** The motion was seconded by Councilor Bowman and approved by a unanimous 8 – 0 vote.

**Planning**

Councilor Louer reported the committee has not met this month and plan to meet next month.

**Public Safety**

Council President McNamara reported there will be a committee meeting as per the schedule.

Councilor Kapenstein inquired on the grant that was listed on the last meeting agenda for the Kids Kastle in Hoffer Park. Council President McNamara stated Jonathan is working on it.

**Public Works**

Councilor Brubaker reported that he would like to have added to the May 4, 2015 council meeting agenda the quotes that Mr. Lanman received for new mowers. He stated he will have copies made of the quotes and see that council receives them.

Councilor Bowman reported in celebration of Earth Day on Wednesday, April 22<sup>nd</sup>, we will be having a work party in Hoffer Park. He stated Federal Express will be sending approximately ten volunteers to help with the efforts as well as our partners at United Water have also committed to provide manpower, equipment and a monetary donation. Also, Harrisburg Area Community College Youth Build program will be providing approximately twenty people, Gingrich Memorials will be providing their services to power wash and clean the Hoffer Memorial and Street Store Hardware will replace the main entrance park sign, reported Councilor Bowman. He stated the Borough Manager and Superintendent of Public Works will be coordinating the public works crew to provide support services. Councilor Bowman reported the Borough offices will be closed on Wednesday so that our office administrative staff can help out. Lastly, he reported the work to be performed includes, cleaning, painting, mulch and other fix up work that is needed and we will be starting at 7:30 a.m. and working until sundown.

**Olmsted Recreation Board**

Council President McNamara reported the board met at Lower Swatara Township last month and several items were discussed. He reported one item in particular that was discussed was the rental fees for the various facilities. Council President McNamara stated this item was punted to the solicitor to tie in with the bylaw and articles of incorporation review. He reported the board has not made a decision on the fees.

Council President McNamara reported the playground routine is underway, similar as in the past, and the summer program will be at Reid Elementary.

Council President McNamara reported the pool is ready and they signed an agreement with the pool manufacturer for the maintenance and upkeep of the swimming pool. There will be no Borough dollars; it will all come off of operations collected fees through the Rec Board.

Councilor Bowman asked if we could get the school district to setup a locking system for the MCSO door. He notices all winter the door has been propped open with a brick while being used. Council President McNamara reported that is currently being worked on.

Mayor Curry commented, so the fees have not been decided for the Main Street gym. Council President McNamara responded there has been discussion on raising the fees and there is interest amongst the board to raise the fees and no action has been taken.

Mayor Curry asked who will be running the summer program. Council President McNamara responded he believes it will be Kim and Erich Schlicher.

**PUBLIC COMMENT****Dawn Knull, 123 State Street**

Ms. Knull commented on the Woody Waste facility fees. She reported on an incident with a contractor who is a resident and tried to take his property waste (grass clippings and items from around his home) and was told by a Borough employee that he could take his trailer full of stuff back out unless he had the \$275 to pay for the fee. Council President McNamara stated, as it stands right now, for contractors and non-residents there is a fee schedule in place. He stated residents can still go into the Borough office to obtain a card.

Ms. Knull commented on the telephone number for the Middletown Pool. She stated when you call the phone rings and rings and no one or answering machine picks up and she recommends that Sue Layton take a look at that.

**Jack Still, 37 W. Emaus Street**

Mr. Still commented on the Grant for Hoffer Park, stating he was going to inquire on the same as Councilor Kapenstein.

Mr. Still commented on listing audits on the Borough website, stating when you do things like that can you clarify what an audit is.

Mr. Still commented on eCode and asked does this get scanned by google. Council President McNamara responded it would depend of what that search engine produces. Borough Manager Tim Konek responded he does not know the answer to that question. Mr. Still stated if they are not being scanned it is a bad place for it.

**Lori Shafaye, 101 W. Main Street**

Ms. Shafaye commented on the work and improvements at the Oak Hills ballpark. She stated Brendan McGlone has done a great job with the Middletown Area Baseball Association. Ms. Shafaye stated the dugouts really looked nice and are better than the former enclosed dugouts that were replaced. She said the new dugouts resemble the dugouts at a ball field in Hershey she attended a few years back. Ms. Shafaye mentioned she is not sure who is responsible for all of this, but as a resident she wanted to say thank you to whomever is behind all of this.

**Damon Suglia, 815 Deatrich Avenue**

Mr. Suglia commented on the website that was presented tonight, stating it looks great. He asked about the administrative fees associated with it for the year. He asked would the website replace Middletown Matters and if so it would save a lot of money and it should be something to think about.

Councilor Sites recommended exploring an option to opt out of receiving the Newsletter Middletown Matters on the website as a way to save money.

Councilor Malone commented we have a lot of elderly that do not use the internet and want to continue to receive the Middletown Matters publication.

**Diana McGlone, 805 Adelia Street**

Ms. McGlone reminded Council of the May 3, 2015 second annual community fundraiser to benefit the Pennsylvania Wounded Warriors. She stated perhaps Council would like to support the fundraising event with a donation or by participating with putting a team together. Ms. McGlone stated teams can register by filling out a registration form from the Middletown PA.net website.

**Rachelle Reid, 448 Grant Street**

Ms. Reid stated that she asked at the last Public Safety Committee meeting the committee consider revisiting the handicapped parking in the Borough. She mentioned there have been several issues and a possibility of more.

Ms. Reid commented on incident her friend noticed while visiting with her parents on Mill Street at the Inter-faith building. She mentioned an older woman was almost hit by a vehicle crossing the street and recommended Council look into reconfiguring the crosswalk in that location. Ms. Reid asked if the police could stop by the area to evaluate and investigate.

Ms. Reid apologized for her behavior at the last council meeting.

**Councilor Einhorn made a motion to revisit the handicapped parking policy.** The motion failed due to no second.

At 8:21p.m., council adjourned into executive session to discuss matters relating to personnel and potential litigation.

At 8:59 p.m., council reconvened from executive session.

**Councilor Brubaker made a motion to authorize the Borough Manager to execute the settlement agreement as amended in previous email correspondence from the Borough Solicitor.** The motion was seconded by Councilor Bowman and approved by a 6 – 2 vote with Councilors Malone and Sites dissenting.

**Councilor Bowman made a motion to approve Ordinance 1314 amending Chapter 260 of the Borough code dealing with zoning.**

Borough Manager Tim Konek reported we have complied with all of the requirements of the municipalities planning code for advertisement, public hearing and now it is up to Borough Council to approve as a new ordinance.

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

**Councilor Louer made a motion to adjourn.** The motion was seconded by Councilor Bowman and approved by a 5 – 3 aye vote, at 9:02 p.m. the meeting was adjourned.

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Amy J. Friday  
Borough Secretary