

September 21, 2015
Middletown, PA 17057

The September 21, 2015 meeting of the Middletown Borough Council was called to order at 7:00 p.m. by Boy Scout Alexander Hatt of Troop 97.

Following the pledge of allegiance, the following Council members answered roll call: Mike Bowman, John Brubaker, Benjamin Kapenstein, Robert Louer, Christopher McNamara and Sue Sullivan. Councilors Einhorn, Malone and Sites were absent from the meeting.

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

Public Comment

Debbie Fuller, 327 S. Catherine Street

Ms. Fuller commented on the tree in front of her house that needs to be taken down. She reported that on September 3, 2015 she had to have an emergency electrical repair completed at her house due to this tree and wires that pulled the weather cap off of her outside service unit. Ms. Fuller said the electric repair consisted of the wires needing to be stretched further across the road to make the repair. She reported the total cost of the electric repair bill is \$2,175 and that it has been six months since she has heard from anyone regarding the tree, for the exception of Mr. Sites and she would not have this repair bill if the tree would have been taken down six months ago.

Greg Wilsbach, 719 Spruce Street

Mr. Wilsbach commented on Resolution 628 authorizing the Borough to enter into a master lease with the URI Group for relocation and consolidation of the Mill and Spruce Street substations to the Woodland Hills site and upgrading electric meters to a smart meter system. He reported the Borough does already have a smart meter system in place and it is a couple upgrades to your program to utilize those meters to where they are to be utilized. Mr. Wilsbach also reported that the two projects (Spruce and Mill Street substations) the Borough is trying to enter into with a developer is to satisfy the developers need of not being able to get funding for the project and the Borough should not be funding a project like that off that backs of our tax payers. He said the cost to upgrade those substations is way over estimated and the cost to upgrade the Spruce Street substation should be \$1.2M - \$1.5M. Mr. Wilsbach stated that Mill Street is a brand new substation that can be moved very cheaply one block out of the flood plain. He also commented it makes him wonder where all the money is going.

Kay Wealand, 131 Keystone Avenue

Ms. Wealand asked the current council members to table all major funding issues; that will cost the Borough tax payers, until the new council starts January 1, 2016 and have them look into these issues.

Melody Wilson, Secretary of the Kiwanis Club of Middletown, 335 Overlook Road

Ms. Wilson provided some primary information on the changes made to the 2015 Kiwanis Halloween parade. She reported registration forms will be able to be signed on-line this year, they have signed on with one exclusive vendor and they will have five to six carts and food vending permits will only be issued to nonprofits within the Borough of Middletown at no charge.

Ms. Wilson reported the Kiwanis Club of Middletown will be celebrating its 80th anniversary in March 2016 and will also be celebrating the 60th anniversary of the key club they sponsor at the High School.

Acting Council President Alex Hatt gave best wishes to the Kiwanis and Key Clubs of Middletown.

James Nardo, Borough Real Estate Developer/Owner

Mr. Nardo commented on the developer's relocation of the substation and development at Woodland Hills. He asked why you are digging yourselves into another hole. Mr. Nardo stated that he has been in the development business for forty years and he has never once asked any municipality or government agency to finance his development. He said let the developers develop that property and asked what it has to do with the substation.

Council President McNamara reported the tract of land happens to be owned by someone other than the Borough and part of what you are going to hear tonight is how this will be structured.

Mr. Nardo stated all his projects stand on their own and he applauded the current council for what they have accomplished the last three to four years, but let's not start digging another hole. He said let them develop the property and put their money into it, just like I do.

Judith Vastine, 20 Woodland Avenue

Ms. Vastine commented on what she read about the Borough lending money to the developer for the substation so that they could lease it back to the Borough. She said this did not compute or make sense to her that we would give somebody money up front and pay them again every month. Ms. Vastine is not in favor of the development at Woodland Hills, since it will ruin her standard of living and way of life there and she hopes the developers use some good sense when they develop at Woodland Hills.

Greg Wilsbach, 719 Spruce Street

Mr. Wilsbach commented on the relocation of the substation stating by putting the substation at Woodland Hills, they are taking away the reliability on what this Borough currently has right now with their electric.

Councilor Bowman made a motion to approve the August 3, 2015 and August 17, 2015 council meeting minutes.

Referencing paragraph two on page two of the August 17, 2015 meeting minutes, Mayor Curry stated that he knows he asked numerous questions of the URI Group and they are not listed here so if we have a recording of that meeting, he requests that his questions be added.

Without the motion being amended to honor Mayor Curry's request, the motion was seconded by Councilor Sullivan and approved by a unanimous 6 – 0 vote.

Councilor Brubaker made a motion to approve Resolution 628, pending Solicitor review:

**RESOLUTION 628
Of the Council of the Borough of Middletown
Dauphin County, Pennsylvania**

Adopted: September 21, 2015

A RESOLUTION OF THE COUNCIL OF THE BOROUGH OF MIDDLETOWN, DAUPHIN COUNTY, PENNSYLVANIA, AUTHORIZING AND DIRECTING THE BOROUGH TO ENTER INTO A MASTER LEASE WITH URIGROUP, INC. AND/OR ITS ASSIGNEE FOR THE RELOCATION AND CONSOLIDATION OF THE MILL STREET SUBSTATION AND SPRUCE STREET SUBSTATION TO THE WOODLAND HILLS SITE AND UPGRADING THE ELECTRIC METERS TO A SMART METER SYSTEM.

Councilor Kapenstein asked if the Borough Solicitor has reviewed this master lease. He said he spoke with the solicitor today and he does not think that the solicitor saw this version of the master lease and is not comfortable with the legality of it right now.

Councilor Kapenstein stated it is a bit too early to do this right now and that there is more work that has to be done. He said he still has questions and there is more due diligence needed to be done and we are jumping the gun voting on it tonight.

Council President McNamara stated that is the action that we are taking this evening.

Mayor Curry stated that he echoes the thoughts of Councilor Kapenstein. He reported speaking with the solicitor today as well and he reported the solicitor has not reviewed the more recent proposed deal terms and the ones that he did see he said he would definitely not approve. Mayor Curry reported the solicitor has concerns on the legality of the deal and any motion made tonight should be subject to his review and approval.

Mayor Curry stated that he also echoes the thoughts of Mr. Nardo. He said one of the questions he brought up at the August 17, 2015 developer presentation was why is the substation needed to develop the property. Mayor Curry stated he still does not fully understand or agree with it. He said there have been enough concerns by residents that we have not done enough due diligence in terms of researching other options to make an informed decision.

Mayor Curry stated he understands there is a possibility of some grant money to pay for this. He said at this time he strongly opposes this motion as it stands because it is not subject to solicitor Review and he does not know what option of the URI proposal Council is voting on and it is too early in the process to move forward.

Councilor Brubaker stated that he has heard the developers proposal/comments made at a public works committee meeting, however; he said he was not aware that the solicitor did not review it.

At this time, Councilor Brubaker stated that he would like to amend the motion to state pending solicitor review.

Mayor Curry asked what option of the lease council is voting on and how are we financing it. He said there are two options and we should know which option is being voted on.

Council President McNamara said that Mr. Stubbs is in the audience to provide the option information.

Mayor Curry stated that he does not want to hear from Mr. Stubbs because he is the one that wants the deal done. He said he wants to know which option the council is voting on.

Mr. David Stubbs of the URI Group reported this is for a municipal lease that they will finance and develop the substation and then turn the keys over to the Borough. He stated this is option two of the municipal lease.

The motion was seconded by Councilor Louer and approved by a 5 – 1 vote with Councilor Kapenstein dissenting.

Council President McNamara apologized to the Acting Council President, Alex Hatt for the lively discussion regarding the last motion.

Mr. Ethan Fellheimer, managing director of Red Rocks Group, a real estate partner of the URI Group asked if the representative of the Dauphin County Planning Commission present tonight can explain the necessity of time of the grant application program and how it might help the council in better understanding.

Council President McNamara stated what the County will tell you is that they have nothing to do with the financing option that the Borough has chosen, but will speak to the project.

Mr. George Connor, deputy director of the Dauphin County Economic Development department, explained the National Disaster Resiliency Grant program. He reported it is a federal grant from HUD and the Rockefeller Foundation and the county was one of sixty-seven grantees that were eligible to apply for the fund and it is for resiliency type projects.

Mr. Connor stated we are here because of the innovated concept of the URI Group's project that will help their point system with the application that is due on October 27, 2015 and will be beneficial to the county. He stated that it is a competitive process across the United States and right now Dauphin County is one of forty left.

Ms. Leah Eppinger of the Dauphin County Economic Development department explained how the grant works. She said this grant works a little bit differently than some of their normal HUD allocations. Ms. Eppinger said this is a competitive grant so they are guaranteed nothing at this point and have been working with communities all over Dauphin County to develop projects that are both innovative from a resilient prospective but also address some of the unmet need issues in the county after Tropical Storm Lee. She said the reason they are involved in the project is because of those president declared disasters.

Ms. Eppinger reported to make our projects sustainable and positive in the eyes of HUD is to show that these projects go beyond the flooding issue so that they can sustain communities in any type of disaster but also any day of the week. She said the URI Group project is one of twelve projects happening county wide and HUD will be able to pick and choose out of our projects submitted.

As Mr. Connor stated, Ms. Eppinger said the vote is up to you, but this is certainly an opportunity the County has to bring some money to the Borough of Middletown. She stated this is not the only project in the Borough and there is potential for more money to come to the Borough for some recreational projects.

Mr. Connor stated that they did hold a public outreach meeting on August 26th here in the Borough building so all the residents were more than welcome to come out and share their thoughts on the NDRC program that the county is applying. He stressed to the council, mayor and community that they are here to help and make our county more resilient from the flooding.

Councilor Bowman made a motion to assign all future concession payments from the water-sewer lease to a dedicated fund to be used solely for paying down the debt service from the project to relocate the electric substation out of the floodplain and that we assign the substation project to the Middletown Borough Authority for administration of this project.

Councilor Kapenstein asked why you would do that.

Councilor Louer said it would guarantee authority against an electric rate increase.

Councilor Kapenstein stated it will not guarantee against a tax increase when other things that the money was intended for. He stated at least over \$500,000 of the annual concession payment is earmarked for the general fund for expenses that came back to the water/sewer fund, per Mark Morgan. Councilor Kapenstein asked if you are going to use all that money to pay for this lease arrangement where is the other \$500,000 coming from.

Councilor Louer responded he has not had that conversation with Mark Morgan.

Mayor Curry asked isn't this also the situation of a slippery slope of who has control of all of those funds.

Councilor Kapenstein stated there is not going to be a Borough Authority in a couple months.

Councilor Brubaker said he can't understand that we can take all those funds and put it in one place. He didn't think it was earmarked for that and he is not sure if he is in favor of taking all of this money putting it in one spot.

Councilor Kapenstein said you could put a portion there, but you might want to check with Mark Morgan.

Mayor Curry asked about the attorney.

Council President McNamara said he has three options to present to you all on October 5th in an executive session.

Mayor Curry stated we should hear what that Attorney says before we decide what to do.

Council President McNamara said that it has been expressed to us in the form of a memo by our current solicitor and done on Councilor Kapenstein's behalf, since he had objections and wasn't comfortable with Attorney Horstmann's memo. He said that it is quite clear that as long as that money is spent within the Municipal Authority's Act, which this would fit as a project, then he does not have a problem with it and on October 5th you will get three options and the council will decide how they want to move forward.

The motion was seconded by Councilor Louer and failed by a 4 – 2 votes with Councilors Louer and Bowman voting in favor.

Councilor Bowman made a motion to approve the Vine Street/Woodland Avenue intersection land modifications required for the Woodland Hills project.

Councilor Brubaker asked if this agreement has already been taken care of between the Benko and Kiles. Council President McNamara responded yes.

The motion was seconded by Councilor Louer and approved by a 5 – 1 vote with Councilor Kapenstein dissenting.

Councilor Louer made a motion to authorize the Solicitor to draft an Ordinance to update the zoning ordinance and implement the revitalization zoning overlay.

Councilor Kapenstein asked for an update.

Council President McNamara said this is the KSK consulting group that we received the grant for and the planning committee is asking the solicitor to draft the ordinance.

The motion was seconded by Councilor Brubaker and approved by a 5 – 1 vote with Councilor Bowman dissenting.

Councilor Brubaker made a motion to authorize the Solicitor to draft and advertise a "Request for Proposals" for pension plan administration.

Councilor Kapenstein said this is for the police and non-uniform and both the solicitor and Mark Morgan have been working on it.

The motion was seconded by Councilor Kapenstein and approved unanimously by a 6 – 0 vote.

Councilor Kapenstein made a motion to authorize advertisement of the “Request for Qualifications” for the Streetlight LED Upgrade project.

Councilor Kapenstein stated this is an energy savings project.

Councilor Sullivan stated some of the roads in the Oak Hills area of town are extremely dark at night. She said we need more lighting there and could we open this up to adding lighting to certain sections of town.

Council President McNamara stated those responding to the RFQ as part of the process will analyze the Borough and make recommendations.

The motion was seconded by Councilor Louer and approved unanimously by a 6 – 0 vote.

Councilor Kapenstein made a motion to adopt Resolution 629:

**RESOLUTION NO. 629
FOR THE YEAR 2015**

A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF MIDDLETOWN, DAUPHIN COUNTY, PENNSYLVANIA, IN SUPPORT OF THE 62nd KIWANIS HALLOWEEN PARADE IN THE BOROUGH ON OCTOBER 19, 2015.

The motion was seconded by Councilor Bowman and approved unanimously by a 6 – 0 vote.

Councilor Kapenstein made a motion to adopt Resolution 630:

**RESOLUTION NO. 630
FOR THE YEAR 2015**

A RESOLUTION OF THE BOROUGH COUNCIL OF THE BOROUGH OF MIDDLETOWN, DAUPHIN COUNTY, PENNSYLVANIA, RECOGNIZING OCTOBER 29, 2015 AS TRICK OR TREAT NIGHT IN THE BOROUGH BETWEEN THE HOURS OF 6:30 AND 8:30 p.m. ON THAT DATE.

The motion was seconded by Councilor Bowman and approved unanimously by a 6 – 0 vote.

At this time, Council President McNamara introduced Boy Scout Alexander Hatt of Troop 97.

Alex is a resident of Middletown and he announced that he is in Troop 97 of Londonderry Township. He stated that he was here this evening so that he could fulfill his scout requirement to receive the Community Merit Badge and was recently selected for student council.

On behalf of the Middletown Police department, Mayor Curry, Borough Council and the citizens of Middletown, Police Chief John Bey presented Alex with a Middletown police department badge and ball cap, in recognition of the great effort in conducting the first part of tonight’s council meeting. Chief Bey also invited Alex to come visit the station for a tour.

At 7:55 p.m., Council President McNamara called for a brief recess in the meeting

The meeting reconvened at 8:15 p.m. without a quorum of council present and therefore the remainder of the council meeting could not be held.

Councilor Brubaker made a motion to adjourn. The motion was seconded by Councilor Kapenstein and at 8:17 p.m. the meeting was adjourned.