

**REGULAR MEETING MINUTES
OF THE MIDDLEBURG BOROUGH COUNCIL
Tuesday, July 8, 2014
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LOCATION OF MEETING: Middleburg Borough Building, 13 North Main Street, Middleburg PA

COUNCIL MEMBERS : Roger Snook-President, Donald Zechman Jr.-Vice President, Natalie Riley (Absent), Michael Kerstetter, Heidi Potter, William Hostler, James Shull

OFFICIALS PRESENT : Virginia "Ginny" A Zeiber-Administrator/Secretary/Zoning Officer, Mayor Ronald Renshaw, Tony Jordan-Police Chief

OTHERS PRESENT : Jeremiah Runkle-Solicitor, Judy Varner-Employee, Brian Lauver-Resident

Meeting Called to Order - The Middleburg Borough Council meeting was called to order by Roger Snook at 7:30 PM and began with the Pledge of Allegiance to the Flag of the United States of America.

Agenda - Roger Snook requested approval of the July 8, 2014 Agenda as presented. A motion was made by Donald Zechman Jr and seconded by William Hostler approving the Agenda as presented. MOTION UNANIMOUSLY CARRIED.

June 10, 2014 Meeting Minutes - Roger Snook asked for a motion to approve the June 10, 2014 Minutes as presented. A motion was made by William Hostler and seconded by James Shull approving the Minutes as presented. MOTION UNANIMOUSLY CARRIED.

Bills & Financial Statements through July 8, 2014 - Roger Snook asked if there were any questions on the financial statements or bills and if not requested a motion to approve them. A motion was made by Michael Kerstetter and seconded by Heidi Potter approving the financial statements and payment of the bills as presented. MOTION UNANIMOUSLY CARRIED.

Borough's Web Site - Brian Lauver asked if the Borough intended to add the Authority's minutes to the new web site. Ginny said she could do that.

REPORTS FROM OFFICERS AND OFFICIALS:

Natalie Riley's Resignation - Ginny read from a letter of resignation submitted by Natalie Riley stating her resignation was due to personal reasons and effective immediately. A motion was made by William Hostler and seconded by James Shull to accept Natalie's resignation as submitted. MOTION UNANIMOUSLY CARRIED.

Jeremiah explained that Council now has 30 days to appoint a qualified resident to fill the vacancy. If Council fails to fill the vacancy within 30 days, then the Vacancy Board has 15 additional days to fill it. The Vacancy Board consists of Council plus Vacancy Board Chairman Bernadette Schwalm. If the Vacancy Board then fails to fill the position, the Vacancy Board Chairperson is required to petition the court to fill the vacancy. Jeremiah noted whoever is appointed to serve will only do so until the next municipal election which is during 2015 so they will not serve the balance of Natalie's term. If they win the election, then they would complete Natalie's term.

It was decided to schedule a special meeting on Tuesday, July 29, 2014 at 6:00 PM with the intent of appointing someone to fill the vacancy. Ginny noted she recently found out members of the Authority Board can also serve on Council. They could then serve on both boards at the same time. Any Authority member who serves on Council would have to live within the Borough. She felt this would be a way to have the Authority Board and the Borough Council kind of merge and maybe be able to work together more effectively. Ginny said this was something she recently learned and just a suggestion that she wanted to make everyone aware of.

Roger proceeded to replace Natalie's positions on the committees on which she served. Ginny recommended he make the replacement on the personnel committee as soon as possible due to the police negotiations coming up. Roger asked for volunteers to serve on the personnel committee and ended up appointing William Hostler who agreed to the position. James Shull was appointed as the Chairman of this committee.

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Michael Kerstetter explained to Brian Lauver that Council appreciated his on going regular attendance at their meetings for approximately 6 months to 1 year now. He said he hoped Brian would consider the possibility of filling the vacancy on Council should he be asked to accept it. Michael noted that everyone should be given time and the opportunity to come up with any other residents who may be interested in this position. Council members would then nominate interested residents and then there would be a vote as to who would fill the vacancy.

150th Year Celebration for the Borough - Heidi Potter noted only a few people showed up for the last celebration meeting. A decision needs to be made about the T-shirt design. She asked for Council's opinion on which one they preferred while presenting numerous designs for consideration. She would like to have the T-Shirts ready in time for the Firemen's Carnival.

Heidi asked if there would be a problem placing a banner advertising the celebration on the grassed area next to the bridge where the large Christmas tree is normally placed. Everyone agreed that would not be a problem.

The next meeting for this committee is being advertised in the Snyder County Times for Thursday, July 17th at 7:00 PM in the Council room.

Concerts at the Firemen's Field - Mayor Ronald Renshaw explained that the first concert went well and he guessed there were approximately 75 people in attendance. The next concert is scheduled for Monday, July 28th at 7:00 PM and will be the Sunbury City Band playing for one hour at the Firemen's Field.

PSAB Presentation - Roger introduced Jeffrey Heishman, Deputy Executive Director with the PA State Association of Boroughs (PSAB). Jeff explained that PSAB currently serves 957 Boroughs throughout the State of PA providing legislative support for their members. They have two full time staff members in their Harrisburg office every day and provide a number of On Line services and programs for member Boroughs.

Another thing PSAB does is present Boroughs with anniversary plaques. At this time Jeff presented a plaque to Mayor Ronald Renshaw and Council President Roger Snook that reads as follows:

*The Pennsylvania State Association of Boroughs
Certificate of Recognition
is presented to
Middleburg Borough
on the occasion of the 150th Anniversary as a Borough
in the County of Snyder, Commonwealth of PA
PSAB extends best wishes for continued success and a prosperous future.
July 2014*

The plaque is signed by PSAB President Edward Child and Executive Vice President Christopher Cap. Jeff stated he loves visiting their Boroughs and awarding these plaques.

Jeremiah Runkle - Solicitor.

Ordinance Regarding Minimum Fines - Jeremiah stated that this ordinance is now approximately 90% complete. It will be distributed in draft format prior to the next Council meeting via email. This will allow Council to review the ordinance for any proposed changes. If there aren't any changes, he will be looking for approval to advertise it. Once advertised, it would be ready for adoption at the September meeting. Jeremiah will not be attending that meeting as he will be on vacation, however, Council can still vote to approve it without him.

This ordinance will not address every single penalty section as there are two categories that need to be addressed separately. The first is Zoning. The reason Zoning is being skipped is because the signage revisions will be an amendment to that section and changes to Zoning require a different procedure. The other thing it will not address is the penalty section of the motor vehicle chapter. Changes to this chapter had been discussed regarding parking, plus he would like to review the vehicle section with the Police Department to get their input.

Jeremiah noted he would be out of the office for two weeks in September. One week is for a week long training on child abuse and the second week is for a vacation with his family.

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Real Estate Tax Collector Update - Ginny noted that for the first time in her 17 plus years employed with the Borough they have been receiving real estate tax money on a regular and timely basis from Cathy Caitlin, who is filling in for Fay Hood. Jeremiah asked if Ginny had heard anything from the School District or the County regarding if they had taken any action to approve the deputizing of those who Fay intended to have assisting her. Those individuals are Gary and Stacy Hood and Cathy Caitlin. Once these individuals have been approved, then either Fay or Gary Hood has to take those approvals to the Surety Company for their approval and coverage. Once that has been accomplished, all is legally done.

When Are Use Permits Required? - Ginny explained that recently she and Heidi Potter had a conversation regarding whether use permits would be required for tax exempt entities such as a Church that falls under the umbrella of the 501C3 status. Heidi stated the area of the Grace Covenant Community Church they use for large gatherings as well as for the kid's ministry will now also be used for fitness classes and exercise training, etc. Groups might come and do a spin class twice a week or someone might come and provide personal training with free weights and that type of thing. Ginny explained that normally any new use would require a permit showing that use was acceptable within that designated zoning district. The permits require an explanation of the type of business, the square footage the business planned to utilize, as well as required parking. Heidi's question had to do with separate uses occurring within the Church building as to when these uses would require a separate use permit.

Jeremiah stated as a base line it is not relevant whether or not it is a nonprofit entity. There are places in life that nonprofits are treated differently than for-profits, however this is not one of them. If the activity that is being conducted within the building fits the definition of a Church, then it is a Church and there is a Use Permit required for churches. If it is accessory to that principle use (accessory means customarily incidental) then it does not require a permit. If there is confusion over the definition of what is considered to be a church, then you would turn to a dictionary for the explanation.

Another question would be are the events that are occurring within the Church customarily incidental to the principal use of a church. An example would be if you have a small day care for children of the people who attend the church, that would be something that most would agree is customarily incidental to the church, as many churches have them. If it is open to the public, it pushes the day care closer to being the principle use and then it would require a permit. Other things to consider would be is it operated by the Church or is it someone who leases space from the church. All things would need to be considered in order to determine whether or not a use permit was required. If it was a liquor store, no one could argue that it was not customarily part of a church. If it is accessory to the principle use, then it does not need a permit. If it is not customarily incidental to that use, then it requires a permit. That is the base line.

Jeremiah recommended people who start a new use come to the Borough and check the permitted use information in the Zoning Ordinance. If it is a permitted use, for \$40 simply get a permit and then it is covered. He noted this is a decision of the Zoning Officer and not the Solicitor or the Borough Council. If the requesting entity does not like the decision of the Zoning Officer, they can go to the Zoning Hearing Board for a determination.

Ordinance Amendment Regarding Photography Studios - Ginny reminded Council that months ago they passed a unanimous motion to amend the Permitted Commercial Use section of the Zoning Ordinance to allow photography studios within the R-4 District with square footage limitations. This motion was contingent on Beverly Loudy (the requester) agreeing to pay the costs to amend the ordinance. Ginny noted she had sent Beverly a letter back then requiring her signature and requesting \$500 down and then the agreement stated she would be responsible for any additional costs once the amendment was complete. Just this afternoon Beverly brought the letter back with a \$500 check and asked that the Borough proceed with this ordinance amendment. The ordinance was presented for approval to advertise. A motion was made by Heidi Potter and seconded by Michael Kerstetter approving the advertisement of the ordinance amending the R-4 District. MOTION UNANIMOUSLY CARRIED.

Middleburg Yarn Factory - Jeremiah explained that nothing had changed regarding the Yarn Factory situation. At this point the Borough has two choices. A demolition order can be issued and then when the Yarn Factory refuses to demo the building, the Borough would be required to take on that responsibility and expense. Following the demolition, a lien would be placed against the property. The only other option would be to proceed with fines being enforced against them. Another option would be that someone come up with a grant to demo the structure.

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Douglas App - Retirement - Ginny presented a letter sent to Douglas App following her assistance in completing the PMRS (PA Municipal Retirement System) paperwork for him to retire. Douglas has already submitted this application to PMRS requesting an early retirement effective July 25, 2014. Once PMRS approves his retirement, he can no longer be a full time employee of the Borough. Ginny has been working with Labor Attorney Adam Santucci in an effort make sure this situation happens correctly and legally. Adam recommended Council pass a motion approving Douglas's application for retirement as of the July 25th date. A motion was made by William Hostler and seconded Michael Kerstetter accepting Douglas App's retirement effective July 25, 2014. MOTION UNANIMOUSLY CARRIED.

Plaque for Douglas App - Donald Zechman Jr asked if the Borough planned on doing something for Douglas for all of his years of service to the Borough. A motion was made by Donald Zechman Jr and seconded by Michael Kerstetter to get a plaque for Douglas. MOTION UNANIMOUSLY CARRIED. Donald Zechman Jr will take care of getting the plaque.

Fire Company Report - Dwayne Hackenberg, Fire Chief circulated copies of his report for the month of June and had intended to stay to present the information. While waiting for the meeting to begin, he was called out to a fire.

Scaffolding on Sidewalks - Ginny explained this summer a painter placed scaffolding on the sidewalk in front of Subway and now the former Irvin Graybill property with the intent of painting both buildings and then taking it down and leaving. Since then the painters seem to have disappeared, leaving the project incomplete, while the scaffolding remains in place across the entire sidewalk making it impossible for anyone to use it. This means pedestrians have to walk out onto Rt 522 (West Market Street) in order to get past these properties. Ginny contacted the painter, Schlegel Painting, to discuss the situation and find out when they intended to come back to finish the job and remove the scaffolding. The painter became a bit defensive stating the Police told him he could put the scaffolding across the sidewalk and it would not be a problem. Tony Jordan stated when the painter originally informed the Borough and Tony about the scaffolding, he stated it would be the type of scaffolding that would allow pedestrians to walk underneath, and not force them out onto the State Highway, however, that did not happen. Michael Kerstetter commented this situation would also create a serious issue for anyone attempting to travel down the sidewalk who was handicapped or in a wheelchair.

Ginny decided after this conversation to research whether or not there was any law regarding scaffolding. She was directed in different areas and ended up with OSHA regulations, however, their regs only discuss the safety of the scaffolding itself. It appears that municipalities need to create their own ordinances regulating the scaffolding being placed over sidewalks. She found wording on the Internet from another municipality that might inspire Council to create such an ordinance. She asked that Council consider this type of language to be created as an ordinance for future scaffolding situations, or any other entities that may obstruct the sidewalks.

Police Report - Tony Jordan, Police Chief read from his monthly report which had already been circulated to all Council members and the Mayor.

Executive Session - Council went into an executive session to discuss personnel issues at 8:30 PM. The session ended at 8:58 PM. No action was taken as a result of this session.

Signage Amendments - Jeremiah noted that the committee has completed the amendments to this section of the Zoning Ordinance. It is now up to him to create a final document for approval from the marked up document created by the committee. He hopes to have a draft document ready for review at next month's meeting.

Street Paving - Dustin Zechman and Michael Kerstetter met with Brian Haight with PENNDOT to go over the streets recommended for repair. A copy of the estimates prepared by Brian have been circulated to each Council person. Greg Kuhns and his wife expressed their dissatisfaction with the idea of a tar and chip resurfacing on West Raleigh Avenue as it will directly affect their property. The Kuhns told Dustin they planned to attend tonight's meeting to discuss their concerns but if they didn't make it, Bonnie intended to circulate a petition signed by the neighborhood residents. They do not have an objection to regular paving, but they would rather just see potholes filled rather than the tar and chip procedure. They are concerned that the concrete driveway they just installed will be covered in tar and their kids will be pulling it into their vehicles, etc. Greg wanted to know who was going to clean up his driveway when the tar is spread all over it.

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Michael Kerstetter said he understands there is a real concern for the tar and chip application and the amount of people who like it anywhere it is placed is minimal. However, as a way of preserving roads in the most economical way for the Borough, he feels that is the way to go. This will allow the Borough, with the money available to be spent for street upgrades, to get more streets repaired. Brian Haight (PENNDOT) estimated the tar and chip procedure would most likely extend the life of the roadway by 5 to 10 years. Michael noted, depending on how the bids actually come in, if they are close to the estimates all of the chosen priority road repairs could be met. If the bids come in high, then some of the streets may need to be cut from the project.

Following additional discussion, a motion was made by Heidi Potter and seconded by William Hostler to proceed with bidding on the street upgrades as shown on the estimates. MOTION UNANIMOUSLY CARRIED.

East Oak Avenue - Roger Snook asked Dustin if he had heard anything from Franklin Township regarding a time frame in which they might be grading East Oak Avenue. Dustin said they told him the next time they are grading in this area they will grade the problem area of East Oak Avenue.

New Berlin Highway Bridge Replacement - Tony Jordan asked if anyone knew what was happening with PENNDOT's proposed New Berlin Highway bridge replacement project. He would like to know because of the upcoming parade. It was thought PENNDOT had originally scheduled this project to be completed prior to the start of school in the fall to avoid problems with the detour and bussing complications. No one had heard anything about why this project has not started.

Charles Park Upgrades - Dustin said the maintenance crew just set two benches and a picnic table today and they intend to pour concrete on Thursday with the hope that the kids will stay off of it! They are still waiting for Playground Pros to come and do the layout and schedule an inspection. The only thing remaining after that is to construct the detention pond. Mid-State Paving and Excavating is supposed to layout the pond but things keep coming up for them and they reschedule. Ginny suggested Dustin contact another excavator in an effort to get the pond done in a timely manner. Dustin felt there was plenty of time and will stay with Mid-State.

UNFINISHED BUSINESS:

Energy Testing of the Borough Building - Ginny noted she had spoken with SEDA COG who told her everything they needed in order to proceed with this test. Prior to this, a cost was never discussed or approved by the Council. SEDA COG has now indicated the cost would be around \$350 to do the energy test. A motion was made by Michael Kerstetter and seconded by Heidi Potter to proceed with the test at this projected cost. MOTION UNANIMOUSLY CARRIED.

Bonding of Employees and Council Members - Ginny explained that according to Mifflinburg Borough, PENNDOT requires \$100,000 bonding for Liquid Fuels purposes. This is the amount she is currently bonded for and there is an additional blanket amount under Edmiston's Insurance. Mifflinburg's treasurer is also bonded for \$100,000 with additional blanket coverage under their insurance policy. Their office staff is larger and bonding is broken out differently. Following a long discussion it was decided to contact Josh Edmiston and ask for costs to increase the bonding amounts. Jeremiah suggested using amounts such as \$250,000, \$500,000 and \$1,000,000. Once Council knows the cost to increase the bonding, it will be easier to make a decision.

Reinspection of Cemetery Road Bridge - Larson Design Group submitted a cost to reinspect the Cemetery Road Bridge following the most recent high water event. The cost is \$1,700 which will include a written report on the current condition and safety of the bridge. A motion was made by Michael Kerstetter and seconded by Heidi Potter to accept Larson's proposal for \$1,700 as submitted. MOTION UNANIMOUSLY CARRIED.

Traffic Study - Larson Design Group submitted a proposal at a total cost of \$5,000 to perform a traffic study of the signal light intersection primarily to fix the timing issue when PBS employees leave work. Roger noted if Council decides to move forward with this study, they want to be sure it is not performed when flows are at their lowest. It should be done during the highest traffic flows. Ginny explained that any new timing changes would need to be physically implemented by TRA Electric so that would be an unknown additional charge. Dustin stated that TRA indicated there is nothing much that can be done with the current traffic light operating equipment as it is so outdated and sits out in the weather all of the time. They recommended waiting until it was upgraded to make any changes to the timing. Dustin said that one time while PENNDOT was here in the past discussing the possibility of a traffic study, they mentioned the buildings being too close to the roadway in the area of the square. PENNDOT reps stated that once a study was complete and on paper, they could review it and decide all or some of those buildings needed to be removed and mandate their removal.

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A discussion was held on whether or not it would be more beneficial to upgrade the operating equipment first and also if there may be a grant available to pay for it. A traffic study could potentially be done after the new equipment was installed.

Roger noted he has seen the frustration level of the drivers who are stuck in the lines of backed up traffic waiting for the lines to dissipate so they can get moving in whatever direction they are going.

No action was taken on this issue at this time.

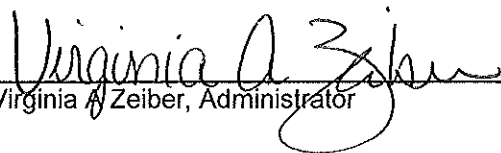
NEW BUSINESS:

Rescheduling November's Council Meeting - Ginny noted that the regular Council meeting scheduled in November is on Tuesday, the 11th which is Veteran's Day and a Holiday for the Borough employees as well as the County employees. She wondered if Council would be interested in changing this meeting to either Monday the 10th or Wednesday the 12th so people who are off all day on the 11th don't have to come to a meeting that night.

Jeremiah noted he was not sure if he would be available for any of the November meetings as he had already scheduled some time off during that month. He also stated that if a new meeting date was scheduled AFTER the already scheduled meeting, it would not need to be advertised. The Borough would need to post the new meeting date on the door only. If the new meeting date is changed to a date earlier than the already scheduled meeting, then it would need to be advertised. The theory is that anyone who shows up to the Tuesday meeting would see the notice that it has been rescheduled for Wednesday night.

A motion was made by Michael Kerstetter and seconded by William Hostler to change the already scheduled meeting from November 11th to Wednesday, November 12th at 7:00 PM. MOTION UNANIMOUSLY CARRIED.

Adjournment - A motion was made by Heidi Potter and seconded by James Shull to adjourn. The meeting adjourned at 9:57 PM. MOTION UNANIMOUSLY CARRIED.


Virginia A. Zeiber, Administrator