

MIDDLEBURG BOROUGH COUNCIL

MEETING MINUTES

Tuesday, December 11, 2018 @ 7:30 PM

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Meeting Location: Middleburg Borough Building, 13 N. Main Street, Middleburg, PA
Council Members: Heidi Potter/President, Michael Kerstetter/Vice President, Judy Lynn, George Price, Brian Swartz, Brian Lauver and Mayor/Sue Kinney.
Others Present: Beau Hoffman/Solicitor, Dave Walters/Engineer, Dustin Zechman/Borough Foreman, Police Chief/Tony Jordan, Fire Chief/Dwayne Hackenberg and Elizabeth Paige/Secretary/Administrator
Public Present: Virginia Zeiber and Judy Varner

Meeting Call to Order – The Middleburg Borough Council meeting was called to order by Council President, Heidi Potter at 7:30 PM. The meeting began with the Pledge of Allegiance to the Flag of the United States of America.

Motion made by Brian Lauver and seconded by Brian Swartz to approve tonight’s meeting agenda. Motion carried unanimously.

Motion made by Judy Lynn and seconded by Brian Swartz to approve the November 13, 2018 meeting minutes. Motion carried unanimously.

Motion made by Brian Lauver and seconded by Heidi Potter to approve the bills paid in November 2018 as presented. Motion carried unanimously.

Motion made by Brian Swartz and seconded by George Price to approve the financial statements as of 11/30/2018 as presented. Motion carried unanimously.

Public Comments:

Virginia Zeiber – Former Employee Access of Borough Email Accounts

- Virginia Zeiber introduced herself as the former Borough Administrator of 21 years to those present who may not know her. Virginia Zeiber stated it was brought to her attention by a reliable source that Police Chief Tony Jordan accused her of hacking into the borough’s computer system. Virginia Zeiber informed Council she has no understanding of how to hack into a computer system and she was very bothered by the comments she received. Virginia Zeiber stated she had read the 10/09/2018 minutes on the borough’s website and had brought a copy with her this evening. Virginia Zeiber stated she had recommended to her source to have the Borough IT person contacted in regards to investigating the accusation of her hacking the borough’s computer system. Virginia Zeiber stated she contacted Elizabeth Paige in order to be placed on tonight’s meeting agenda so she could address the comments she received from her source. Per her conversation with Elizabeth Paige, she discovered the Borough IT person, Dan Rankel was contacted in regards to a computer printing problem. Elizabeth Paige stated during the service call for the computer printing problem, Dan Rankel needed to contact the borough’s internet provider, PenTeleData (PTD) to reset the password in the copier/printer in order for the office staff to access the scan/print function from the email. At this time, Dan Rankel was informed the “Administrative Access” to the borough’s email accounts was assigned to the following: Virginia Zeiber, Borough

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Administrator/former employee; Dixie Kramer, Police Department Secretary/former employee and Dan Rankel, Borough IT Person. Dan Rankel was able to assist in updating the people who were assigned "Administrative Access" to the borough's email accounts provided by PTD and assist in changing the email passwords in order to correct the printing problem. Virginia Zeiber informed Council after retiring she was accessing her own personal email account with PTD and wondered if she still had access to the borough's email, which she discovered the password she had still allowed her access. Virginia Zeiber thanked Council for allowing her to present her concerns and stated she is no longer upset regarding the comments she received. President, Heidi Potter stated at no time during the October 9, 2018 meeting or included in the meeting minutes was the term "hacking" used and no name was mentioned. Virginia Zeiber commented her source presented the term "hacking" plus informed her about her name and private email address being discussed during a conversation after the meeting. Mayor Sue Kinney informed Virginia Zeiber the email access by a former employee was brought to the attention of Chief Jordan and herself just prior to the start of the October 9th meeting as there was concern in regards to the "Administrative Access" to the borough's email accounts. Sue Kinney stated she questioned why the 10/9/18 meeting discussion was reported to Virginia Zeiber as there was no mention of any details in regards to the email access or a name of any former employee mentioned. Chief Jordan made the request to address Virginia Zeiber's comments regarding the information she received from her reliable source. Chief Jordan expressed what was revealed in the October 9th meeting minutes was not an accusation but was speculation regarding the access to the borough's email accounts plus no former employee name or identity was mentioned. Chief Jordan stated there is a difference between speculation, which is based on anyone for any reason at any time and accusation, which is putting a name out there with identity. Chief Jordan stated he did not have a conversation after the meeting with anyone but during the meeting he did ask Council member, Brian Swartz based on his computer knowledge and experience whether the borough's PTD email accounts could have possibly been accessed by a former employee. As the meeting minutes reflect, a recommendation was made to have the Borough Administrator contact PTD to find out if an access log file of the borough's email accounts was available. Chief Jordan stated Elizabeth Paige did contact PTD for the access log information and the information she received from PTD was shared with the Council via an email. Chief Jordan informed Council he is very concerned information from meetings is being carried out into the public. President Heidi Potter made mention on an unrelated issue about information being taken from a Council meeting executive session out into the public and is also very concerned about who is sharing this information. Virginia Zeiber stated executive session information was always being leaked out into the public when she was the Borough Administrator. Heidi Potter stated as President, she is not okay with information leaking and has had to address it happening. Heidi Potter questioned if Virginia Zeiber was willing to share the name of her information source. Virginia Zeiber stated she would need to speak with her source before revealing a name. Vice President, Michael Kerstetter stated he is one of the sources supplying information to Virginia Zeiber. Virginia Zeiber stated Michael Kerstetter is her only source of information. Michael Kerstetter stated he first thought the former employee being referred to during the October 9th meeting was Doug App, who was probably not very computer knowledgeable. Michael Kerstetter stated he later received information, which pointed towards Virginia Zeiber being the accused

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former employee. Heidi Potter inquired from whom Michael Kerstetter received information, which pointed towards Virginia Zeiber. Michael Kerstetter stated he could not remember who supplied the information. Chief Jordan stated therefore the comments by Michael Kerstetter informing Virginia Zeiber about his accusation of her hacking into the borough's computer system and her personal email account being mentioned were lies. Michael Kerstetter agreed to the foregoing statement by the Police Chief. With no further comments or questions, Heidi Potter thanked Virginia Zeiber for attending tonight's meeting.

Reports from Fire Company, Engineer, Police Chief, Borough Foreman & Solicitor:

- Fire Chief, Dwayne Hackenberg reviewed the Reliance Hose Co. #1 year to date reports. Dwayne Hackenberg reported Wednesday, December 12th @ 6:30 is Santa Treat night at the fire company. The 2019 fire company event cards are being printed and will be available by the next meeting.
- Engineer, Dave Walters reported the Storm Sewer Project contractor has completed all work except final paving and yard restoration work. For the areas that did not receive final paving, the contractor installed base course to match existing paving. In spring 2019, the contractor will return and mill these areas and apply the wearing course. The milling work will be done at no cost to the Borough. A review of the project budget indicates there will be approximately \$90,000 - \$110,000 remaining funds available for additional storm sewer work and a change order will need to be prepared to extend the date of substantial completion. PennVest was contacted about incorporating additional work, which must be within the original scope of work submitted. Dave Walters stated East Market Street was included in the original scope of work and he will review the additional work with the Borough Foreman. Mid-State Paving, LLC submitted Payment Request #6 in the amount of \$190,344.90 for approval. Motion made by Brian Swartz and seconded by George Price to approve Payment Request #6 in the amount of \$190,344.90. Motion carried unanimously. Dave Walters presented Change Order #2, which extends the date of substantial completion 161 days to May 31, 2019 and final completion 131 days to May 31, 2019. Motion made by Judy Lynn and seconded by Brian Lauver to approve Change Order #2 as presented. Motion carried unanimously.
- Engineer, Dave Walters reviewed the Stumps Run Feasibility Study compiled by Larson Design Group engineer, Chris Sheaffer. The report identified three options for the improvements to Stumps Run. Each option included replacing the Cemetery Road Bridge with a box culvert and improvements to Stumps Run channel from the bridge downstream to East Market Street. After a discussion of possible project funding, property owners' responsibilities and the possibility of including the replacement of East Market Street Bridge, Borough Council unanimously agreed to have Larson Design Group include the replacement of East Market Street Bridge in the feasibility study project scope of work. When seeking project funding, if it is necessary, the East Market Street Bridge could be removed from the scope, if funding is not available to do entire proposed project.

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- Borough Administrator, Elizabeth Paige reported Senator Gordner's representative, Phil Dunn contacted the borough office to request a date in January 2019 for Senator Gordner to visit the Borough in order to review the Storm Sewer Project and the proposed Stumps Run Project. After a review of January dates, the Borough Administrator was directed to reply back with the date of January 8, 2019 at 10 a.m. for the visit of Senator Gordner.
- Police Chief, Tony Jordan reviewed the monthly police reports distributed.
- Police Chief, Tony Jordan reported he was contacted by Mid-West School District Superintendent, Rick Musselman in October about the possibility of the police department providing police service to the school district campuses. Chief Jordan informed Mr. Musselman he would need to discuss the matter with the Borough Council before any proposal for services could be considered. Before discussion with Borough Council was possible, Mid-West School Board took action at their semi-monthly meeting (per an article in The Daily Item) to approve budgeting funds for contracting with the Middleburg Borough Police Department for an interim period of time, which would allow the school district to get their own safety department up and running. Chief Jordan reported currently the police department does provide weekly services via the "Safe Schools" program and also during their annual emergency planning. Discussion was held about the amount of police department hours required, the proposed cost per hour to be charged, coverage to all the school district campuses as only one school campus is located within the Borough, any conflict with current contracted police department services being offered and the liability to provide these proposed police services. Solicitor, Beau Hoffman stated the liability to provide police services is the Borough's as the services being provided would be defined in a contract between the two entities. Motion made by Judy Lynn and seconded by George Price to approve to have Chief Jordan contact the Mid-West School District Superintendent about obtaining a proposed contract for police services from the Middleburg Police Department for review.
- Police Chief, Tony Jordan addressed last month's meeting question from Council Vice President, Michael Kerstetter about the half hour charges on the contracted police services reports. Chief Jordan stated these charges started in 1992 when the contracted municipalities requested more visibility of the police and none of the municipalities have ever questioned the half hour charges appearing on their monthly invoice. Chief Jordan supplied an example of how visibility works with the contracted services being provided. Council President, Heidi Potter questioned if the contracted service time being charged starts when the police officer leaves the Borough. Chief Jordan answered yes; the time charged is from jurisdiction to jurisdiction.
- Borough Foreman, Dustin Zechman reported he had some issues in regards to the recent "Log Cabin Christmas" event. Council President, Heidi Potter requested the Borough Foreman to contact either Judy Lynn or herself about the "Log Cabin Christmas" event issues, which then could be reported to the Middleburg Revitalization Committee.

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- Borough Foreman, Dustin Zechman reported briefly on the water line problem, which the public works employees were called out to investigate earlier this evening.
- Solicitor, Beau Hoffman informed Council due to the recent State Audit of the Borough's pension plans, resolutions were completed per the verbal observation of the audit results. Beau Hoffman presented Resolution 2018-08, which allows for the ratification of Borough Council prior decisions to waive all requirements for the Borough police officers to contribute five (5%) percent of their annual income for the 2014, 2015, 2016, 2017 and 2018 calendar year to the Police Pension Plan. Motion made by Heidi Potter and seconded by Brian Swartz to adopt Resolution 2018-08 as presented. Motion carried unanimously. Beau Hoffman presented Resolution 2018-09, which waives all requirements for the Borough police officers to contribute five (5%) percent of their annual income for the 2019 calendar year to the Police Pension Plan. Motion made by George Price and seconded by Judy Lynn to adopt Resolution 2018-09 as presented. Motion carried unanimously.

Reports from the Mayor:

- Mayor Sue Kinney reported she has been reviewing the monthly police logs and addresses any issues with Police Chief Tony Jordan.
- Mayor Sue Kinney reported she has been monitoring the overtime of the police department. Also, Sue Kinney supplied the total comp time hours per officer as of the end of November. Vice President, Michael Kerstetter inquired if the comp hours were calculated as straight time or time and a half.
- Mayor Sue Kinney left the meeting at 9:32 p.m.

Old Business:

- Borough Administrator, Elizabeth Paige briefly reviewed the State Auditor's exit conference memorandums on the pension plans.
- Borough Administrator, Elizabeth Paige briefly reviewed the email sent out to the Council members and Mayor regarding the email access discussed earlier tonight. A brief discussion was held regarding what email information may have been accessed by this former employee. Elizabeth Paige informed Council a recommendation from the Borough's auditors was to have an administrative job manual completed, which would describe how to perform the various job duties of the Administrator and any access password(s) required to perform specific duties. Elizabeth Paige stated she has started the process of developing a job manual for the position of Administrator/Zoning Officer.

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New Business:

- Council President, Heidi Potter stated the 2019 Borough General Fund Budget was properly advertised for public comments and adoption. No public comments were received in regards to the proposed 2019 Borough General Fund Budget. Motion made by Brian Swartz and seconded by Judy Lynn to adopt the 2019 Borough General Fund Budget. Motion carried with a vote of 5 yes and 1 no.

Executive Session:

- Borough Council entered into an executive session for legal/personnel matters at 9:41 p.m. Council President, Heidi Potter called the meeting back to order at 11:10 p.m.

New Business Continued:

- Council President, Heidi Potter stated the 2019 Employee Wages were discussed in the executive session with the following proposed 2019 Employee Wages for non-contracted employees being presented for approval: Borough Administrator Salary - \$46,350.00, Municipal Authority Secretary per hourly rate - \$14.62, Borough Foreman Salary - \$53,055.00 plus \$1,000 per water/sewer license, Police Chief Salary - \$64,600.05 and Police Secretary per hourly rate - \$11.60. Motion by Judy Lynn and seconded by George Price to approve the 2019 Employee Wages for non-contracted employees as presented. Motion carried unanimously.
- Council President, Heidi Potter presented the 2019 Tax Rate Ordinance (Ordinance No. 2019-337) for approval to advertise for comments and public hearing at the January 8, 2019 meeting. Motion by Brian Swartz and seconded by Heidi Potter to advertise the 2019 Tax Rate Ordinance for comments and public hearing at the January 8, 2019 meeting. Motion carried unanimously.
- Council President, Heidi Potter reviewed the 2019 Meeting Schedule, which changes the meeting start time to 7:00 p.m. Council Vice President, Michael Kerstetter commented several years ago the Municipal Authority was requested to move their meeting start time to 6:30 p.m. as occasionally their meeting time would overlap the Borough Council meeting start time. Heidi Potter responded if the Municipal Authority meeting does not conclude before 7:00 p.m. then the Borough Council meeting will be held upstairs in the community room. Motion made by Michael Kerstetter and seconded by Brian Swartz to approve the 2019 Meeting schedule for advertising as presented.

Committee Reports:

- Personnel Committee: Council President, Heidi Potter reported the personnel committee is still working through the non-uniformed employee contract.

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Administrator/Secretary/Zoning Officer Report:

- Borough Administrator, Elizabeth Paige presented Resolution 2018-10, which approves the disposal of the listing of records entitled “Middleburg Borough Disposal of Records for 2018” as presented. Motion made by Heidi Potter and seconded by Brian Swartz to approve Resolution 2018-10 as presented. Motion carried unanimously.
- Borough Administrator, Elizabeth Paige supplied a brief update on the Municipal Authority Sewer Backup insurance claim involving the Wesley Knapp property located on Center Street. Elizabeth Paige reported Mr. Knapp has called the office several times and delivered a personal statement regarding the sewer backup insurance claim. Solicitor, Beau Hoffman advised if Mr. Knapp calls the office again, he should be told to contact the Solicitor regarding the sewer backup insurance claim.
- Borough Administrator, Elizabeth Paige reported the Municipal Authority board members made recommendation to Borough Council to reappoint Dwayne Hackenberg for another four (4) year term beginning January 2019. Motion by Brian Lauver and seconded by Heidi Potter to reappoint Dwayne Hackenberg to the Municipal Authority for another five (5) year term beginning January 2019. Motion carried unanimously.

Motion by Brian Lauver and seconded by Judy Lynn to adjourn the meeting at 11:21 p.m.

Respectfully Submitted,

Elizabeth Paige
Borough Administrator/Secretary