

MIDDLETOWN TOWN COUNCIL
MEETING MINUTES
March 11, 2013

The Middletown Town Council Meeting was held in the Council Chamber, 7875 Church Street, Middletown, VA on Monday March 11, 2013 at 7:00 pm.

Town Council Present

Mayor Charles Harbaugh, IV
Councilor John Copeland
Councilor Trip Chewning
Councilor Donna Gray
Councilor Mary Shull
Councilor Tom Simon
Councilor Carole Snyder

Staff Present

Rebecca L. Layman, Municipal Clerk
Chief of Police Phil Breeden

Town Attorney

J. David Griffin

1. Call to Order

Mayor Harbaugh called the meeting to order at 7:00 p.m.

2. Moment of Silence

Mayor Harbaugh called for a moment of silence.

3. Pledge of Allegiance

Mayor Harbaugh led those present in the Pledge of Allegiance.

4. Roll Call

All Councilors were present.

5. Set Agenda.

Councilor Snyder made a motion to approve the agenda. Councilor Shull seconded the motion. All Councilors were in favor and the agenda was approved.

6. Citizen Comments.

Robbie Molden 230 Reliance Road would like to express how important it is for Middletown to pursue the Boundary Line Adjustment. He has sat through many of the Town meetings and has watched the Council go line by line on the budget and delete things. He feels that the Boundary Line Adjustment would bring future revenue to Middletown. Mr. Molden said the Boundary Line Adjustment is important to him, because he could then be citizen of Middletown and bring his funds into the Town. He feels Frederick County will develop this land one day and we will all be looking across I-81 wishing that revenue would be coming to Middletown.

Brent Barriteau 7957 Church Street shared his disappointments on how his yard was torn apart as a result of a new water meter being installed. He was never notified that a new water meter was going to be installed. He stated a 40ft trench was dug in his yard and then just left open. He contacted the maintenance department and was told the trench was left open, because a cap was needed for the water

meter. Two months later he comes home from work and the cap is now on the water meter. He stated to Donald on several occasions that the ground is really torn up and would like to know how the situation is going to be fixed. Donald told Mr. Barriteau that he was going to bring in topsoil and smooth everything out and plant grass and cover with straw. Mr. Barriteau stated that no topsoil was put down, no grading was done and to his knowledge no grass seed was put down only straw. Mr. Barriteau called Donald again, and Donald stated that grass seed was put down. Mr. Barriteau stated that to date the topsoil, grading, and seed has never been put down, and would like the Council to know he does not appreciate and is very disappointed on how the whole situation was handled. Councilor Simon stated that he would meet with Donald on this situation and come up with a solution.

Yancey Sine 2130 Mark Drive he would like to express his concern on the three that were appointed to the Steering Committee. He stated that they walked out once, and who is to say they will not walk out again. He also would like to express thanks to the Middletown Police Department and that they do a good job.

7. Approval of Previous Council Meeting Minutes

Councilor Chewing made a motion to approve the minutes from the February 11, 2013 Town Council meeting. Councilor Gray seconded the motion. All Councilors were in favor and the minutes were approved.

8. Report of the Facilities Committee

No Report.

9. Report of the Personnel and Finance Committee

Councilor Chewing made a motion to pay the bills for the month of February. Councilor Snyder seconded the motion. Mayor Harbaugh asked for a roll call vote.

Councilor Snyder – Yes	Councilor Gray – Yes
Councilor Chewing – Yes	Councilor Simon – Yes
Councilor Copeland – Yes	Councilor Shull – Yes

Motion carried 5-0

10. Report of the Public Works Committee

No Report

11. Report of Public Safety Committee

Report of the Police Department was given by Councilor Snyder with additions by Chief Breeden

12. Report of the Ordinance Committee

Councilor Gray stated that she has looked over the revisions of the Town Code Book and will be given to Councilor Simon and Councilor Shull for their review, and maybe have our Town Attorney review as well.

13. Report of the Planning and Zoning Committee

Councilor Copeland stated that the Comprehensive Plan which the Planning Commission has been working on may need one or two more meetings to finish tweaking and he feels the document should be ready to come before Council.

Mayor Harbaugh stated that the he and the Council had questions for the Town Attorney J. David Griffin on the appointment of a Steering Committee for the Town of Middletown. Mayor Harbaugh asked Mr. Griffin who would typically appoint a Steering Committee, and Mr. Griffin responding that it depends on

the purpose of a Steering Committee if it is for something like a Boundary Adjustment normally before you get the Committee together the Council would reach out to the other governing body and usually pass a Resolution asking that both governing bodies appoint a Committee to do this. To do a Boundary Adjustment the simple way would be to have both localities work together and both have Committees that they have appointed that do the initial discussions back and forth. They report back on a regular basis to their Board of Supervisors and to their Town Council to get direction, because they cannot speak for the governing body they simply lay out the perimeters for that. Ultimately if that progresses the way it should they come back with recommendation to both governing bodies to say ok this is what we recommend, and this is what we think both the Board and the Town can agree on, if that is the case then you proceed with the Public Hearing process and get more input from people, but to do that the Town must invite the other local government to also have a Committee as well. Mr. Griffin stated that his recommendation to the Town is that before a Steering Committee is even appointed the first step would be to pass a Resolution from this Town inviting the Board of Supervisors to enter into a dialogue with the Town. Mr. Griffin stated that the Council would appoint this Committee with the oversight of the Mayor. Councilor Gray asked if the Council should be sitting down and talking about what the Town wants to negotiate with the County first before a Resolution is done. Mr. Griffin responded that the Resolution only invites a discussion, and what needs to be discussed is up to Town Council to decide. Then the Council lets the Steering Committee know what the Town is after. Councilor Simon asked if there were any restrictions to the appointments of the Steering Committee. Mr. Griffin responded yes that when you have more than two Council members on a Committee your essentially under the FOIA Act are going to be acting as a Council, so then its requires Becky the Clerk to go through an enormous amount of hoops, because she would have to give notice as if the whole Council was meeting even thou you're not, but when three or members of the Council of our size meet it is considered a meeting. Councilor Chewning stated that it seems as if we the Town have put a lot of carts before the horses, we have had a Steering Committee that was not dually appointed and they have already met with the county. Councilor Chewning questions has to do with the makeup of our Steering Committee in so far as the three that we have right now, and all three are actually members of the Planning Commission one being the Chairman, and Fred Wharton which is the Town's Zoning Administrator, and John Copeland who is the liaison from Council to Planning Commission who is also a voting member. If they the three of those together are acting in our Town Council behalf and negotiating for us. Are they considered to all three be members of the Planning Commission and therefore subject to FOIA or is one of them a Council member. Mr. Griffin stated that the liaison from Council is not technically a voting member of the Planning Commission; they are to provide guidance and direction and to be the link between the Planning Commission and the Council. Councilor Chewning asked if the Steering Committee is appointed with a definite purpose, and also a time frame. Mr. Griffin stated that a time frame is recommended, because you want a report back in a reasonable time, and have set perimeters of what you're appointing them for. Councilor Chewning stated that in the case of the Boundary Adjustment that their job would not be finished until either the Boundary Adjustment was accomplished or fall through and did not happen. Mr. Griffin stated that is correct, and he recommends that they report back to the Council on a regular basis, and the group in the beginning is given limited direction. Mr. Griffin stated that he would encourage the Town not to look backward unless you have done a lot of Boundary Adjustments and that is not the case with Middletown, he would like to see Middletown look forward to the future. Councilor Chewning said let's assume that the Town Steering Committee which meets with the Steering Committee for the County is composed of all the same class all Planning Commission members. Does that mean that FOIA regulations apply to the meetings of those two Steering Committees? Mr. Griffin stated that if both are approved by the Council and Board Supervisors they are considered ad hoc committees of each jurisdiction so the same FOIA requirements for a Committee meeting would apply. Councilor Chewning asked if they would have to give notice and be open so that the public could attend. Mr. Griffin stated that was correct unless they choose to go into a close session, but a close session has very limited purposes.

Mayor Harbaugh stated that the consensus of the Council would be to delay the voting on Steering Committee member. All Councilors agreed. Mayor Harbaugh stated that at the Committee meeting

Council needs to come up with a plan for what this Steering Committee is suppose to do, and give a time frame until the completion. Mayor Harbaugh stated at the next Council Meeting which will be April 8, 2013 the Resolution that Mr. Griffin has supplied needs to be read, and vote for the appointed members.

14. Report of Special Committees

Mayor Harbaugh announced a July 4th meeting on March 19, 2013 at 6:00 p.m.

15. New or Unfinished Business

Next Committee Meeting will be March 19, 2013 @ 7:00 p.m.

Next Work Session Meeting will be April 1, 2013 @ 7:00 p.m.

16. Petitions and Communication

17. Adjournment

Mayor Harbaugh adjourned the meeting at 7:28 p.m.

Charles H. Harbaugh IV, Mayor

Rebecca L. Layman
Town Clerk