

MIDDLETOWN TOWN COUNCIL
MEETING MINUTES
OCTOBER 13, 2015

The Middletown Town Council Meeting was held in the Council Chamber, 7875 Church Street, Middletown, VA on Tuesday October 13, 2015 at 7:00 p.m.

Town Council Present

Mayor Charles Harbaugh, IV
Councilor Tom Simon
Councilor George Smith
Councilor Carole Snyder Jones
Councilor Jeff Pennington
Councilor Carolyn Aliff
Councilor Scott Fink

Staff Present

Clerk Christina Smith
Maintenance Superintendent Donald Welsh

1. Call to Order

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

2. Moment of Silence

Mayor Harbaugh asked 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

Mayor Harbaugh asked for a motion to set the agenda. Councilor Simon made a motion to set the agenda. Councilor Smith seconded the motion. All Councilors were in favor.

6. Citizen Comments

Marshall Brown 7994 Main Street Middletown. Please see next page for submitted comment.

Betty Ward 7841 Main Street Middletown states she is here regarding the property at 8019 Church Street. Ms. Ward states she went to Frederick County and met with the building inspector John Trenary regarding asbestos at the property. She states she knows for a fact there is asbestos at the property. After speaking with John Trenary he suggested I research Virginia Occupational regulations which I did. Unfortunately building inspectors have no authority over asbestos or other hazardous material except in a commercial facility. Council needs to take action favorably and make sure an incident like this does not happen again. The house was not properly demolished, boards over the windows that anyone can easily crawl through. Halloween season is coming up and a child could go in on a dare and be injured. Mr. Trenary said at the beginning when the permit was issued an inspection could have been made by the Town and then we would know what was in there. I am extremely concerned for the residents especially the elderly who could be in danger from not properly containing hazardous material like asbestos. As it now stands the contractor doing the demo has to sign a statement that there is nothing there. I feel the Town needs to know for certain if there was anything there and that proper procedures were followed.

Fred Wharton Zoning Administrator 2140 Sixth Street Middletown states he is here to talk about the permit issued to Mr. Mark Dick in August property address 7893 Church Street. Mr. Dick came to me before he applied for the permit requesting to build a garage and an apartment above it. I told him the garage he could do. He gave me enough information and a plot plan showing me everything so I would know where the setbacks would be. He even showed me how the building was going to be built and he assured me it would be compatible with the house that is already there. The house that is there has vinyl siding and he also is going to put the vinyl siding on the garage that is the same color. He has a right to build a garage but it is up to the Council whether he can have an apartment. I just wanted to say that Mr. Dick has done everything he is supposed to do and even gone above and beyond giving us information that is necessary.

I will talk about asbestos for one second regarding single family dwellings. The state law says that if you are a single family dwelling and not a commercial entity then you do not have to have a permit to take down a building and get an asbestos inspection. The Town only issued a zoning permit saying that it is permissible because we have nothing in the code saying it is not permissible. The building department makes the decision for a demolition permit. I hope you guys looked at the building to see the terrible shape it is in. It could not have been saved. Nobody wanted it. The building was valueless. The land was worth more than the building. I agree with historic buildings being saved. We need an historic ordinance so we can slow the process down.

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Members of Planning Commission were informed of a 5 October joint Public Hearing on 28 September. Neither Vice Chair Joan Roche nor Mark Davis were present when the announcement was made, and since the Commission has no secretary, no other notification was made. No efforts were made by Council to coordinate this meeting to insure Planning Commission members would even be available on that date. As it was, both I and Ms. Roche were out of town. But the more grievous error was the improper public notifications. By Virginia code, two written notices in a newspaper over a two week period is mandatory for a public hearing covering zoning issues. I don't recall seeing any and the only meeting currently listed on the Town Calendar webpage was a Council Work Session – although a home page crawl may have been there the day of the meeting. Prior to the meeting, no agendas were emailed or hand delivered to any Planning Commission member. Unless I'm mistaken, this means that no further action can be taken on this issue until a properly advertised public hearing is held.

The other issue I want to address is the misinformation being forwarded to this body about an incident that took place on 29 September. A meeting of the Ordinance Committee was held to discuss a change to the Middletown Planning Code concerning the Historic District. In an email, Chair Jeff Pennington stated that interested residents might have an opportunity to air their opinions, time allowing. That courtesy inadvertently made what was intended as a work session, an unadvertised public hearing in violation of Virginia code. I attended & prior to the start, attempted to explain the problem. Today, I learned that a false complaint had been filed against Phil Breeden who was also in attendance as a member of the Planning Commission. The complaint allegedly stated that he didn't fulfill his duties as Chief of Police in stopping me shouting and arguing. I urge Council to listen to the tape recorded record of that meeting as not only did I not raise my voice, but the primary person shouting and being rudely argumentative was Councilor Snyder.

Marshall J. Brown
Member, Planning Commission

7. Approval of Previous Council Meeting Minutes

Mayor Harbaugh asked for a motion to approve the September 14, 2015 minutes. Councilor Aliff made a motion to approve the minutes. Councilor Pennington seconded the motion. All Councilors were in favor and the Town Council minutes were approved.

8. Report of the Facilities Committee

Nothing to report

9. Report of the Personnel and Finance Committee

Councilor Snyder Jones made a motion to approve the Treasurer report. Councilor Aliff seconded the motion. Mayor Harbaugh asked for a roll call vote.

Councilor Aliff – Yes	Councilor Smith – Yes
Councilor Pennington – Yes	Councilor Snyder Jones – Yes
Councilor Simon – Yes	Councilor Fink – Yes

Motion carried 6-0

10. Report of the Public Works Committee

Nothing to report

11. Report of Public Safety Committee

Councilor Aliff stated nothing to report other than the handouts in the packet.

12. Report of the Ordinance Committee

Nothing to report

13. Report of the Planning and Zoning Committee

Councilor Fink made a motion to approve Special Use Permit for 7893 Church Street Middletown, VA. Councilor Snyder Jones seconded the motion. Mayor Harbaugh asked for a roll call vote.

Councilor Aliff – Yes	Councilor Smith – Yes
Councilor Pennington – Yes	Councilor Snyder Jones – Yes
Councilor Simon – Yes	Councilor Fink – Yes

Motion carried 6-0

Councilor Fink made a motion to amend the agenda to discuss a planning commission applicant. Councilor Simon seconded the motion. Mayor Harbaugh asked for a roll call vote.

Councilor Aliff – No	Councilor Smith – Yes
Councilor Pennington – Yes	Councilor Snyder Jones – No
Councilor Simon – Yes	Councilor Fink – No

Tied 3-3

Mayor Harbaugh – No citing this request was presented 5 minutes before the Town Council meeting and there needs to be further discussion at the upcoming Committee meeting.

Motion denied

14. Report of Special Committees

Battle of Church Street Saturday October 17, 2015 @ 10:00 a.m.

Luminaries on Main Street Saturday October 17, 2015 @ 6:45 p.m.

15. New or Unfinished Business

a. Set Committee Meeting date – October 20, 2015 @ 7:00 p.m.

b. Set Work Session Meeting date – November 2, 2015 @ 7:00 p.m.

16. Petitions and Communications

Nothing to report

17. Adjournment

Mayor Harbaugh adjourned the meeting at 7:13 p.m.

Christina Smith
Clerk

Charles H. Harbaugh, IV
Mayor