

The regular meeting of Mayor and Council was held on the above date with Council members Reynolds, Faulkner, Kelly and McGhee present with Mayor Branner presiding. Town Manager Morris Deputy and Town Solicitor Scott Chambers were also present.

Moved by Mr. Reynolds and seconded by Mr. McGhee to approve the minutes of December 4, 2006 as presented. Motion Carried Unanimously.

Moved by Ms. Kelly and seconded by Mr. Faulkner to approve the Treasurer's Report as presented. Motion Carried Unanimously.

Moved by Mr. Reynolds and seconded by Ms. Kelly to approve the Bills Payable as presented and pay as funds become available. Motion Carried Unanimously.

Moved by Ms. Kelly and seconded by Mr. Faulkner to approve the Police Report as presented by Capt. Debra Rees. Motion Carried Unanimously.

**5. PUBLIC HEARING – Ordinance to adopt the East Middletown Master Transportation Plan**

Mayor Branner said the plan has been reviewed by Council and was made available to the public with comments considered until January 2, 2007.

Jeff Bruette asked if the plan is adopted and development proceeds will all the improvements proceed.

Mayor Branner said the long term upgrade will be the four-lane upgrade of 299 from Silver Lake Road. Improvements from Cleaver Farm Road in, which include signalization at the Post Office and improvements for two alternative routes paralleling 299 will be done before or in conjunction with development. The Highlands is a major part of the east-west corridor and that will be going on at the same time.

The plan can be changed based on development changes. Once adopted, estimates and engineering designs can be done so the developers and DelDOT will know what their share will be. If the developers want to move forward, there has to be a plan on how the upgrades will be done to 299 – it will be a continuing process. The last section will be the upgrade of 299 from Silver Lake Road out to Rt. 1.

Susan Love asked if any changes were made to the plan based on public comment. Mayor Branner said yes -- most of her comments had been addressed earlier. All comments were forwarded and the plan was upgraded based on comments.

Mayor Branner said if both plans are adopted tonight, they will be forwarded to State Planning and incorporated into the Comprehensive Plan.

*Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt the East Middletown Master Transportation Plan. Motion Carried Unanimously.*

**6. PUBLIC HEARING – Ordinance to adopt the Westown Master Transportation Plan**

Mayor Branner said the plan was previously adopted – this is a revision to reflect the \$36MM+/- upgrade in cost and made part of the Comp Plan. The recoupment agreement with the developers will be redone so they will know what their impact will be for the west side.

Jeff Bruette asked why the developers would agree to contribute more money when they have already agreed on an amount. Mayor Branner said that the original agreements stated that \$10MM or \$11MM was not a fixed cost, only an estimate. The developers knew the amount would be based on today's costs and agreed on that prior to redoing the Comp Plan. There was also a part of the agreement that said they had the option to not be a part of it if they chose – their development would not move forward until they are ready to pay.

Morris Deputy also stated that the group has agreed on the distribution of funds given the fact that commercial is handled a little differently than residential. Residential carried the burden because of its progress.

Mr. Silverman asked for a timetable for improvements to 301. Mayor Branner stated that the widening of 301 to just past the truck stop is part of Phase I and will happen as development progresses. Bunker Hill towards Levels Road is a major area in Phase I. Rt 301 improvements will start in 2008 and Bunker Hill and Levels Road in March 2007.

Chris Stefanadis asked for an update on the light at Industrial Drive. Mayor Branner said the commitment was made that if the Westown project did not have the money to install the light, the Town would do so and be reimbursed. Representative Bethany Hall-Long and Senator Vaughn have both contributed \$50,000 from their transportation budget. The Town will pay the additional money to get the signal installed. The Town is ready to go – the money and equipment are there. DelDOT and the railroad are in negotiations on the type of electronic equipment required to trigger the signalization at the light to stop traffic on 299 and make the gates work at the crossing. There seems to be a difference of opinion between the two agencies on what is required. We have presented a few possible scenarios and will know in a couple of weeks what will be feasible and then construction will start.

Mark Luszcz from DelDOT said he spoke with Transportation Secretary Carol Ann Wicks and they will start construction of the signal. It will stay on flash until the issues with the railroad are worked out, which could possibly take a year.

Mayor Branner said the thought is to get the light installed and when the agreement is finalized, we won't lose the time installing the light – it will immediately become operational. The plan is the light will flash yellow on 299 and stay red on Industrial Drive.

***Moved by Mr. McGhee and seconded by Mr. Faulkner to adopt the ordinance for the Westtown Master Transportation Plan. Motion Carried Unanimously.***

**7. Grant Requests:**

a. Middletown Historical Society – Peach Festival Transportation \$2,500: The Grant Committee did not recommend approval of the request for \$2,500 for transportation.

b. Middletown Historical Society – Olde-Tyme Peach Festival \$5,000: The Grant Committee recommended approval of the \$5,000 grant request and suggested transportation be included in that grant.

Mr. Silverman asked if transportation would still be provided. Helen Alford said transportation will be provided; they will just have to be more economical with their funds.

***Moved by Mr. Faulkner and seconded by Ms. Kelly to accept the recommendation of the Grant Committee and approve the request from the Middletown Historical Society for the \$5,000 grant and deny the request for the \$2,500 grant. Motion Carried Unanimously.***

**8. PUBLIC HEARING – 528 West Main Street – Record Minor Land Development Plans for Wawa, Inc.**

Per the following notice a public hearing was held on the above date:

Take notice that a Public Hearing will be held on January 8, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will review the Record Minor Land Development Plan for Wawa, Inc. located at 528 West Main Street (Tax Parcel No. 23-008.00-001).

Greg Harvey, Project Engineer for Wawa, Shane Minner from Landmark Engineering and Ivan Jackson, Regional Real Estate Manager presented Wawa's proposed Record Minor Land Development Plan.

Mr. Harvey said Preliminary Plan approval was received for the 1,300 sq. ft. addition proposed to the rear of the existing building. A trash compound with a trash compactor will also be added at the back of the store. All comments from KCI and the Town Engineer will be addressed.

Mr. Harvey outlined changes proposed to the site plan and operational controls to be implemented as a result of questions raised at last month's meeting regarding truck parking at the facility:

1. They propose to paint all curbs yellow (from 301 to the Wawa parcel – a portion is not on Wawa's property but the owner has agreed to allow them to stripe and sign the parcel) to meet fire code as well as post "No Parking" signs every 75 to 100 feet to eliminate parking on any access aisles out to 301 and through the common area at the 299 access, including behind the store. (Area shown on plan presented.)
2. Additional signage outlining minimum parking requirements as far as maximum times that people will be allowed to be on the facility and "No Truck Idling" signs will be installed at the rear of the store. Their goal is to prevent any long term parking.
3. Two security cameras will be installed at the rear of the store to provide visibility at all times.
4. A local semi-truck tow company has been contracted to enforce any vehicles that are parked longer than the allotted time.

Mr. Harvey said he wanted to present the agreement with these controls as part of the application for approval of the plan.

Ms. Kelly said that she and Mr. Deputy met with Wawa's representatives and they have addressed everything that was complained about at the previous meeting. They have gone above and beyond what was expected.

Mr. Faulkner said they have done what was asked of them and have presented a good plan.

Mayor Branner said they did what they were asked to do – they needed to get approval before they could implement signage, painting, etc. Mayor Branner thanked them for their efforts.

***Moved by Ms. Kelly and seconded by Mr. McGhee to grant approval for the Record Minor Land Development Plan for Wawa, Inc. Motion Carried Unanimously.***

**9. PUBLIC HEARING – Adopt an Ordinance to amend No Parking Restrictions in Residential Zoning Districts**

Mayor Branner stated the ordinance is a result of an e-mail received from David Winston in Greenlawn about not getting his mail delivered because of people parking in front of his mailbox. After researching laws, there is no law about parking in front of a mailbox; however, the Post Office has a regulation that if access to the mailbox cannot be gained, the mail can be delivered later. No calls or complaints came from the Post Office.

There was never any intention of painting 10' at every mailbox. The only area that was going to be painted is where there are "bank or cluster mailboxes" in developments. Parking is already limited and painting 10' at every mailbox would only create more of a parking problem.

Mayor Branner suggested discussing the situation tonight and then meeting with the residents on Redden and Marldale to brainstorm around what could be done. There is space in Greenlawn where cluster boxes could be installed and individual mailboxes eliminated.

Post Master Bob Essick stated that when Greenlawn was presented, the Post Office wanted to install cluster boxes but the developer ruled against it. The Post Office cannot make that change now on its own – the request has to come from the Town and residents.

Several residents commented that there weren't any problems or when there were, the neighbors worked it out.

Jason Faulkner suggested changing the ordinance to read that you can't park in front of the clusters. The rest can be worked out with the residents.

Mayor Branner suggested Council vote this ordinance down; contact the residents on Redden and Marldale for an informal meeting to discuss a solution and then meet with the Post Office. He will introduce a new ordinance to restrict parking in front of cluster boxes.

*Moved by Mr. Reynolds and seconded by Ms. Kelly to adopt the ordinance to amend No Parking Restrictions in residential zoning districts. Motion Carried Unanimously to deny the ordinance.*

**10. PUBLIC HEARING – Lot 15 at 128 Patriot Drive, Suite 2, Middletown-Levels Business Park – Conditional Use Permit No. CU-15-06 to open a sales and installation business of spray-on-bed liners and truck accessories in a Manufacturing Industrial (MI) zoned district**

Per the following notice a public hearing was held on the above date:

Take notice that a Public Hearing will be held on January 8, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will review Conditional Use Permit No. CU-15-06 to use the property located on Lot 15 at 128 Patriot Drive, Suite 2 in the Middletown-Levels Business Park (Tax Parcel No. 23-041.00-015) for a sales and installation business of spray-on bed liners and truck accessories in a Manufacturing Industrial (MI) zoned district.

Will Buckworth, owner of the business, requested the conditional use to allow the business of spray-on bed liners and sell truck accessories. A booth will be constructed inside the building to contain the over-spray.

Mayor Branner said Planning & Zoning recommended approval.

Mr. Reynolds asked what type of fumes the exhaust fan would carry. Mr. Buckworth stated there are no fumes associated with the process. This is a 2-part, 100% solid installation; when it mixes, it's 100% solid. There are no CFC's, no VFC's, and no harm to the environment. The exhaust fan is to just clear the area – warehouse dust.

Mr. Silverman asked if the spray is volatile. Mr. Buckworth said it was not.

The business expects to open in February.

*Moved by Mr. Faulkner and seconded by Ms. Kelly to grant approval for Conditional Use Permit No. CU-15-06 to use the property located at Lot 15, 128 Patriot Drive, Suite 2 in the Middletown-Levels Business Park for a sales and installation business of spray-on bed liners and truck accessories. Motion Carried Unanimously.*

**11. PUBLIC HEARING – Lot 15, 105 Sleepy Hollow Drive, Bunker Hill Centre II – Conditional Use Permit No. CU-16-06 to use the property as a senior care center in a Manufacturing Industrial (MI) zoned district**

Tabled at owner's request.

**12. PUBLIC HEARING – 106 East Lockwood Street – Conditional Use Permit No. CU-17-06 to use the property as a day care in a Multi-Family Residential (R-3) zoned district**

Withdrawn

**13. PUBLIC HEARING – Introduce an Ordinance to establish a Riparian Buffer Area Conservation District**

Mayor Branner introduced an Ordinance to Establish a Riparian Buffer Area Conservation District.

Morris Deputy stated that as part of the latest Comprehensive Plan, this is the first of several environmental ordinances that they recommended we add to our Subdivision and Zoning Ordinances. It basically creates a buffer next to any waterway to help with any runoff into the waterway. There will be a public hearing with the Appoquinimink Water Association on Thursday, January 11, 2007, 6:00 p.m. It only affects property by a wetland area or waterway.

**14. PUBLIC HEARING – Introduce an Ordinance to prohibit the use of engine compression brakes, “Jake Brakes”, within the Town limits of Middletown**

Mayor Branner introduced an Ordinance to prohibit the use of engine compression brakes within the Town limits of Middletown to help eliminate some of the noise from trucks that use jake brakes.

**UNFINISHED BUSINESS**

None

**NEW BUSINESS**

- Mr. Silverman said he read that there will be a vote on the March ballot whether or not to increase Council by 2 seats. He thought there should be a debate or discussion of benefits or drawbacks of an increase. Mayor Branner said the Charter states that if a petition signed by 20% of the people who voted in the last election is presented and the petitioners are certified to be Middletown residents, the question to increase Council from 4 to 6 seats will be placed on the ballot. Mr. Stefanadis presented the petition and the petitioners were verified; therefore the question will be on the ballot.

Mr. Silverman asked how Council felt about that. Mayor Branner said it is not appropriate for Council to express their opinion in a Council setting. Council members can be asked that question on an individual basis.

Chris Stefanadis stated his motivation for increasing Council is because the Town is growing. It takes almost two years to get the change in place. The question to increase the Council is on the ballot one year but it does not increase until the next year if it passes.

- Mr. Silverman asked if alternative methods for electricity have been considered. Mayor Branner said the Delaware League of Local Government, of which the Town is a member, is looking into alternative means now – that’s part of what the green energy program is – it’s a starting point.
- A resident expressed concern about the disconnect information he received. Mayor Branner explained that the Town is extending the reconnection time until 8:00 p.m. on the last Wednesday of the month – employees will be here until 8:00 that night for reconnects and there won’t be a penalty. Under the old policy there was an extra penalty for reconnection after hours.
- Mayor Branner stated that all new residents will receive the same packet of information that was delivered to existing residents.
- The Town is now accepting debit card payments.
- Jeff Bruette asked if the election time will be changed. Mayor Branner said election time is 2 p.m. until 8 p.m. as set by the Charter.
- Debra Sutton asked for the Town’s web address. [www.middletownde.org](http://www.middletownde.org)
- All Town employees can be reached by e-mail – first initial/last name @middletownde.org.
- Mayor Branner introduced Tim DeSchrepper, the Town’s new Engineer/Planner. Mr. DeSchrepper spent the last five years with RK&K Engineers in Dover and recently worked on the 301 route study.

Moved by Mr. Reynolds and seconded by Ms. Kelly to enter into Executive Session. Motion Carried Unanimously.