

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

Moved by Mr. Faulkner and seconded by Mr. McGhee to approve the minutes for March, 2007 as presented. Motion Carried Unanimously.

Moved by Mr. Reynolds and seconded by Mr. McGhee to approve the Treasurer's Report as presented. Motion Carried Unanimously.

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

Moved by Mr. Faulkner and seconded by Mr. Reynolds to grant approval of the Police Report as presented by Capt. Debra Rees. Motion Carried Unanimously.

#### **Carolann Wicks, P.E., Secretary of Transportation**

Secretary Wicks provided information on the Department of Transportation and discussed challenges facing their revenue needs to meet transportation issues in the State.

DelDOT offers a variety of services, such as planning and designing projects, working on construction, maintenance including clearing snow and mowing grass, signal maintenance, transit services and rail support in the northern part of the State as well as motor vehicle. Delaware's DOT is responsible for:

- almost 90% of the roadway system versus 20% for most other States, which includes over 12,000 lane miles
- over 1300 bridges
- providing transit service for DART as well as Paratransit service for the disabled and senior citizens
- over 900 traffic signals throughout the State
- part of the EZPass system
- stormwater design and management
- trash collection

DelDOT's sources of revenues have not kept up with the increased cost of doing business and the growth the state has experienced. Increased costs and demands are creating a funding shortfall and to help alleviate the shortfall, the following increases are proposed for items which have not been increased for several years:

- Increase Motor Fuel Tax 5 cents per gallon beginning September 2007.
- Increase DMV Documentation Fee 1.25 percent by September 2007, and again by a ½ percent in September 2008.
- Eliminate the commercial E-ZPass nighttime discount on I-95.
- Eliminate all Rt. 1 E-ZPass discounts beginning September 2007.
- Raise tolls by \$1 at Biddles and Dover toll plazas, 50 cents at Boyds Corner and Denneys Road exits, and 25 cents at Smyrna exit, beginning in September 2008.
- Increase vehicle registration 50 percent beginning September 2007.

The proposed increases will bring in almost \$1 billion in additional revenues over six years and allow them to continue with the projects and service needs as previously committed.

Public workshops will be held in April in each county to discuss the draft Capital Transportation Program to solicit more input.

Secretary Wicks stated that working with the community and developers has been a great success in being able to work together to figure out how the future growth needs can be determined as it relates to transportation. The Westown projects were about creating a master plan that will address the future land use and transportation needs to go with that and how to build out the master plan with the right resources to minimize the impact to the farm land and resources. DelDOT needs to be sure the transportation improvements are consistent with the master plan and to work on a timely implementation of the improvements. The benefit of the cooperative participation is to be able to look at traffic impacts based on a master plan approach and not on individual development. This results in less impact to natural resources and a preservation of natural areas; a more effective approach to completing design and construction of those improvements, and to partner with financial participation from developers on local roadways.

The U.S. 301 Project (Westown Transportation Plan) is slated for construction to begin in the summer of 2008; construction for a portion of Bunker Hill Road is scheduled for this summer; Levels Road will be under construction this spring; Spring 2009 – construction on St. Anne's Church Road and Wiggins Mill Road construction to begin in 2010.

A lot of time has been spent trying to come up with the best fit between the public's issues and the natural resource concerns and part of the next step is how to fund the project. The Governor is supportive of the project and has challenged DelDOT to provide a recommendation by the end of the year that will look at creatively using those tolls in order to be able to do toll revenue bonds to be able to borrow and be able to fund the project. It's a much needed project given all the issues on the existing roadway now. DelDOT

is recommending funding in the next year to keep design and advanced right of way going forward while working out the overall funding for the project.

The East Side Transportation Plan is another cooperative effort looking at intersection improvements, roadway connection and expanding capacity of 299. It also involves the need to look at other mode choices such as bicycle improvements, pedestrian and transit services and coordinating the funding effort as it was successful with Westtown developers. The Department will look at short term improvements from their operation side and the long term improvements will take more cooperation.

Additional improvements: Choptank Road construction will start this spring; some paving projects are planned in the area that will support the road construction in the area from Bohemia Mill Road, Armstrong Corner Road, and the signal will be installed at Industrial Blvd. and Rt. 299.

Note: Questions from the audience were not picked up on the recording. Partial comments follow.

#### Transit Issues

- DelDOT hopes to expand the bus service.
- Improvements to the northeast corridor will provide for more use of the SEPTA trains for points north.
- Working on making new developments more transit friendly with sidewalks and areas for buses to pull over

#### Rt. 299

- Intersections need to be spaced to provide a good flow of traffic; a traffic light at every intersection is not always the answer. Intersections need turn lanes and need to be designed properly and safely. DelDOT's goal is to design the corridor in conjunction with the Town and Developers to do the best job possible.
- A question was raised about the concept for a parallel route to 299. Mayor Branner responded that DelDOT is evaluating the concept of coming off Rt. 1, bearing right at the bend (parallel 299), pass by the elementary school through the Town's property and connect to Brick Mill Road to alleviate some of the Rt. 1 traffic dumping onto Rt. 299 (concept only).
- School kids crossing 299 to the high school: Mayor Branner said the school district has implemented a plan for students to park at the youth football field. It's the school district's responsibility, not DelDOT's.
- Mayor Branner said there is an East Town plan that shows all the improvements and can be reviewed at Town Hall. The Town met with DelDOT today and finalized Westown; a meeting is scheduled for the East side plan. About a month from now a meeting will be advertised to review the concept plan.
- Mayor Branner said the Town is requesting to reduce the speed on 299 from New Street to Rt. 1. DelDOT is in agreement and will start conducting traffic counts.

#### **6. Grant Requests**

a. Southern New Castle County Rotary Club - \$2,500 for Mid-State Arts Festival: Lou Vitola, Chairman of the Grant Review Committee, reported the Committee recommended approval for the grant because it benefits the community and is a fund raiser for the club.

b. Appoquinimink School District - \$1,000 for Education Fair: Mr. Vitola reported the committee recommended approval for the grant because it benefits the community. The money will be used to support promotional materials for the event.

Mr. Vitola stated both organizations are tax exempt and meet the criteria of the Grant Review Policy.

*Moved by Mr. Reynolds and seconded by Mr. McGhee to approve the requests for grants from the Southern New Castle County Rotary Club for \$2,500 for the Mid-State Arts Festival and for the Appoquinimink School District for \$1,000 to be used for the Education Fair. Motion Carried Unanimously.*

#### **7. 12 W. Main Street – Witherspoon Building Rehabilitation Project (Tax Parcel No. 23-009.00-001)**

Per the following notice a Public Hearing was held on the above date:

Take notice that a Public Hearing will be held on April 2, 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 Witherspoon Building Rehabilitation Project located at 12 West Main Street (Tax Parcel No. 23-009.00-001).

Ron DuBree, owner of the property, requested approval for the renovations to the façade of the building.

Mayor Branner stated Planning and Zoning recommended approval of the plan. The rehabilitation is planned in conjunction with the improvements at the square.

*Moved by Mr. Faulkner and seconded by Mr. Reynolds to grant approval for the Witherspoon building rehabilitation project at 12 W. Main Street. Motion Carried Unanimously.*

#### **8. Parcel A-2, 938 Middletown-Warwick Road – Middletown-Levels Business Park – Record Minor Land Development Plan (Tax Parcel 23-041.00-028)**

Per the following notice a Public Hearing was held on the above date:

Take notice that a Public Hearing will be held on April 2, 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 Bob Wagner's Flooring America located on Parcel A-2, 938 Middletown-Warwick Road in the Middletown-Levels Business Park (Tax Parcel No. 23-041.00-028).

Mark Russo from Woodin & Associates presented the request to allow for a future Phase 2 expansion which includes a 3600 sq. ft., second story area and 17 additional parking spaces. The total gross sq. footage for the building will be 31,200. The stormwater management infiltration basin was originally designed with the intention that the client would expand the property. It was designed to hold an additional 20+ parking spaces; the expansion only requires an additional 17. Crosswalks were added per the Town engineer's comments. An island was added at the end of the parking bay per Morris Deputy's request.

*Moved by Mr. Faulkner and seconded by Mr. McGhee to grant approval for Parcel A-2, 938 Middletown-Warwick Road, Middletown-Levels Business Park, Record Minor Land Development Plan for Bob Wagner's Flooring America. Motion Carried Unanimously.*

**9. PUBLIC HEARING – Route 299, Willow Grove Mill – Record Major Land Development Plan for the proposed 276-unit Apartment/Condominium Complex Development on an R-3 parcel**

Per the following notice a Public Hearing was held on the above date:

Take notice that a Public Hearing will be held on April 2, 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 Major Land Development Plan for the proposed 276-unit Condominium complex Development on an R-3 parcel (adjacent to the existing Willow Grove Mill Section II residential subdivision).

Colm DeAscanis from CDA Engineers on behalf of Willow Grove Ventures LLC, owner/developer for the project presented the plan. Concerns raised at last month's meeting were the type of structure to be built, Rt. 299 issues, open space and amenities. The property is in Odessa's fire protection territory.

Mr. DeAscanis presented the following responses to last month's concerns:

- An architectural rendering of the buildings and clubhouse was presented.
- The developer and DelDOT are meeting to discuss how they will partner to fund the improvements.
- The developer has designed road safety improvements in anticipation of the improvements.
- The development is consistent with the R-3 zoning; more open space is proposed than required and a playground and clubhouse are proposed which will be constructed at the onset of development. The swing set area has a 2 to 5 year old and 5 to 10 year old section. The play area will have a perimeter walk and benches.
- A submission has been made to Odessa and the Fire Marshal.
- Mr. DeAscanis said the starting price would be around \$199,999.

There was general discussion on the following items:

The price of the units; amount of active recreation area for young teenagers; increasing the facilities and use of the park area; clubhouse/pool use availability to other residents; number of units for investors; renting vs. buying; number of parking spaces for units and guests; a gated community; ADA accessibility; deed restrictions; subsidized housing; condo association and fees.

Mayor Branner pointed out that about 7 years ago the developer/owner of the parcel requested a large portion of the R-3 be rezoned to C-2 which would extend the commercial back to the residential area. The residents at Longmeadow and Willow Grove Mill requested it remain R-3 and not be rezoned to commercial.

Mr. Faulkner said the developer has presented a plan that meets the zoning code – he does not have to exceed it. The Town cannot say he has to build townhouses instead of condos.

Mayor Branner said the Town has worked with the developer to have upscale condos for sale rather than rental apartments.

Richard Forsten stated condo fees are usually around \$250 +/- a month when a complex has a pool and clubhouse. Purchasers will know that fee before they buy because mortgage companies need that info.

Mayor Branner suggested that because of the questions raised about the clubhouse activities, increasing the pool size and configuration, amenities for older children such as basketball court, parking expansion, deed restrictions, etc. that if the developer will agree, Council will postpone the vote until more clarification is provided. He suggested residents submit ideas for the clubhouse use.

Mayor Branner asked the Councilmen to rescind the previous motion and make a new motion to continue the hearing.

Mr. DeAscanis reiterated that active recreation for older children; basketball/tennis court; condo fees and deed restrictions; uses for the clubhouse; pool geometry and parking would be discussed next month.

*Mr. Faulkner rescinded his motion and Mr. Reynolds rescinded his second to approve the Record Major Land Development Plan for Willow Grove Mill.*

*Moved by Mr. Faulkner and seconded by Mr. Reynolds to grant approval for the Record Major Land Development Plan for the proposed 276-unit condominium complex on the R-3 parcel at Willow Grove Mill. (Motion not voted on.)*

***Moved by Mr. Faulkner and seconded by Mr. Reynolds to table the Public Hearing as an agenda item until next month. The issues to be considered are parking, basketball court/tennis, condo fees, clubhouse amenities and deed restrictions. Motion Carried Unanimously.***

**10. PUBLIC HEARING – Introduce an ordinance to amend the Engine Exhaust Brake Ordinance**

Per the following notice a Public Hearing was held on the above date:

Take notice that a Public Hearing will be held on April 2, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will introduce an Ordinance to amend the Engine Exhaust Brake Ordinance.

Mayor Branner said the ordinance needed to be re-introduced because the words “Jake Brakes” is copyrighted and cannot be used in the ordinance. Nothing changes in the ordinance except the name. The ordinance will be voted on next month.

**11. PUBLIC HEARING – Introduce an ordinance to amend the Town of Middletown’s Comprehensive Plan**

Per the following notice a Public Hearing was held on the above date:

Take notice that a Public Hearing will be held on April 2, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will introduce an Ordinance to amend the Town of Middletown’s Comprehensive Plan.

Mayor Branner introduced an ordinance to amend the Town of Middletown’s Comprehensive Plan.

The ordinance will amend the following:

1. The transportation section to include the Westtown and East Middletown Transportation Plans
2. Map 6, “Future Land Use” to:
  - a. include a potential school site for annexation
  - b. amend the future land use designation for the old Shone property from Industrial to Commercial
  - c. amend the Allen property from Residential to Commercial

Mayor Branner said comments from PLUS have been received.

**12. PUBLIC HEARING – A Motion to ratify a Signal Agreement with DelDOT and the Town of Middletown**

Per the following notice a Public Hearing was held on the above date:

Take notice that a Public Hearing will be held on April 2, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will ratify a Signal Agreement with DelDOT and the Town of Middletown.

Morris Deputy said this is the Traffic Signal Agreement with DelDOT outlining the maintenance and operation responsibilities the State will have for the light to be installed at Industrial Drive and Rt. 299, given the fact that the Town obtained the easements. The light is currently under construction and should be operational on flash in a couple of weeks.

***Moved by Mr. Reynolds and seconded by Mr. McGhee to ratify the signal agreement with DelDOT and the Town of Middletown. Motion Carried Unanimously.***

**13. PUBLIC HEARING – Adopt an Ordinance to enact a new policy for Freedom in Information Act Requests**

This item is continued until next month.

**14. PUBLIC HEARING – Introduce an Ordinance authorizing the execution of a Memorandum of Understanding between Frog Hollow, LLC; Signature Golf Management, LLC, and the Town of Middletown**

Per the following notice a Public Hearing was held on the above date:

Take notice that a Public Hearing will be held on April 2, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will introduce an Ordinance authorizing the execution of a Memorandum of Understanding between Frog Hollow, LLC; Signature Golf Management, LLC, and the Town of Middletown.

Mayor Branner said this represents the sale of the Golf Club from Frog Hollow to Signature Golf and because Middletown uses it as their wastewater facility the Town has to be a part of the Memorandum of Understanding.

**15. PUBLIC HEARING – A motion to ratify A Tree Planting and Care Grant Contract between the Town of Middletown and the State of Delaware, Department of Agriculture Forest Service**

Per the following notice a Public Hearing was held on the above date:

Take notice that a Public Hearing will be held on April 2, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will ratify a Tree Planting and Care Grant Contract between the Town of Middletown and the State of Delaware, Department of Agriculture Forest Service.

Morris Deputy said the Town received, thru Susan Love of Middletown Village, an agreement that is required to execute a grant received for \$3,000 to plant trees in the Middletown Village area. The agreement outlines that the Town is collecting the money and the responsibilities to manage the money in cooperation with Susan Love and residents at Middletown Village.

*Moved by Mr. Faulkner and seconded by Mr. Reynolds to ratify the agreement between the Town of Middletown and the State of Delaware, Department of Agriculture Forest Service. Motion Carried Unanimously.*

#### **UNFINISHED BUSINESS**

- A resident asked if the Town has notified DeIDOT concerning some of the local traffic issues some residents have raised. Morris Deputy said the Town notified DeIDOT. They do traffic counts and studies. It takes time for them to go through their process. They are aware of that in addition to the speed limit reductions and other issues for Cricklewood such as turn lanes. They have a number of issues in Town that they are working on.
- A resident expressed concern about people not cleaning up after their dogs. He was instructed to call Bill Carson of the Inspection Dept. to register the complaint.
- A resident from Lakeside stated on 12/12/06 there was a fire and fatality on Lakeside Drive and the house is still boarded up and becoming an eyesore. He asked if the Town would take care of the grass cutting. Mayor Branner said the inspection department has been in contact with the developer and the Fire Marshal. The developer assured them that they would take care of it – they're waiting for the Fire Marshal to clear the investigation so they can board it up or tear it down.
- Bethany Hall-Long reported that a new entrance sign has been ordered for Lakeside and will be delivered shortly.

#### **NEW BUSINESS**

- Mayor Branner announced that the Chancellor ruled in the Town's favor and Wal-Mart can start building. The ruling can still be appealed but Wal-Mart is submitting plans to move forward.
- Mr. Reynolds announced that the Town is resuming their schedule for picking up yard waste and sweeping. The schedule is the same as last year. To check your schedule you may call 378-2211 – ask for Paul Benoit.
- Mr. Reynolds stated that the Town has budgeted two basketball courts to be installed at Millbranch this year – probably spring.
- A resident reported that trucks exit Lowe's on 299 and make a left to 301. Mr. Deputy said that is how it is currently designed. Once the light at Home Depot is fully functional, it should alleviate the problem of trucks exiting at Lowe's and turning left.
- Susan Love requested the street sweeper come to Middletown Village to sweep up the dirt and debris she and a neighbor swept from a parking area.

Moved by Mr. Reynolds and seconded by Mr. Faulkner to adjourn. Motion Carried Unanimously.