

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 was also present. Town Solicitor Scott Chambers was absent; Erin Fitzgerald attended on his behalf.

Mayor Branner announced that the procedure for anyone wishing to ask a question or make a statement at the meeting will now be required to state their name and use the microphone at the podium. This will ensure recordation of statements.

Moved by Ms. Kelly and seconded by Mr. Reynolds to approve the Minutes of August 6, 2007 as presented. Motion Carried Unanimously.

Moved by Mr. McGhee and seconded by Mr. Reynolds 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 accept the Police Report as presented by Lt. Merrill. Motion Carried Unanimously.

Chief Tobin reported that of approximately 100 applications received for the officer's positions, 20 applicants are now in the process of background investigations, physical and psychological testing, etc. Training will begin once that process is completed. A grant in the amount of \$6,000 was received from the State Law Enforcement Assistance Fund to purchase 6 tazers. The Chesapeake Foundation also provided funding for bullet-proof vests for all officers.

Bob Gouge suggested future police reports include what's happening statistically in the area. Mayor Branner said Chief Tobin is in the process of preparing those types of reports.

Mayor Branner said the Town met with the County Executive regarding taking over the Southern Patrol Building; however, they didn't have any figures on the building. Jeff Bullock called today and said the buildings had been appraised at \$1.8 million. A 6,340 sq. ft. building can be built for less than that. Unless the County comes back with better figures, the Town will consider building a new Middletown Police Building.

On a temporary measure the downstairs at Town Hall is in the process of being fitted out to house the staff officers and patrolmen.

5. Grant Requests:

a. Validation Reports – Lou Vitola stated the committee met on Friday, August 31st to review a Validation Report and grant request.

The Validation Report was from the Silver Lake PTA. The description of expenses submitted indicated the grant was used in the manner outlined in their request. The Committee recommends approval of the Validation Report.

b. Middletown-Odessa Rotary - \$2,500: The Rotary requested \$2,500 for the Annual Rotary Auction scheduled for October 3, 2007. The Committee recommends approval of the grant request because it provides a clear benefit to the community. All proceeds will be directed to 23 different and diverse community groups in the MOT area.

Moved by Mr. McGhee and seconded by Mr. Reynolds to approve the grant request from the Middletown-Odessa Rotary in the amount of \$2,500 as recommended by the Grant Committee. Motion Carried Unanimously.

6. PUBLIC HEARING – Introduce an Ordinance to appoint a Middletown Action Network Commission

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

Take notice that a Public Hearing will be held on September 10, 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 appoint a Middletown Action Network Commission.

Mayor Branner introduced the Ordinance; it will be acted upon at the October 1, 2007 Council meeting.

7. PUBLIC HEARING – Adopt a Resolution to ratify an Assignment Agreement with DEMEC, Inc.

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

Take notice that a Public Hearing will be held on September 10, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will adopt a Resolution to ratify an Assignment Agreement with DEMEC, Inc.

Morris Deputy stated that PJM, the company that operates the electric and we pay our electric bills to, requires that we have a Letter of Credit with them for about \$10 million. DEMEC paid that thru Bank of America which cost DEMEC members about \$35,000 a year. This agreement will enable DEMEC to deal directly with PJM and save that cost.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt a Resolution to ratify an Assignment Agreement with DEMEC, Inc. Motion Carried Unanimously.

8. PUBLIC HEARING – Adopt a Resolution to enter into the State of Delaware County and Municipal Police and Firefighter Pension Plan pursuant to Delaware Code Title 11, Chapter 88, SS 8805

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

Take notice that a Public Hearing will be held on September 10, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will adopt a Resolution to enter into the State of Delaware County and Municipal Police and Firefighter Pension Plan pursuant to Delaware Code Title 11, Chapter 88, SS 8805.

Lou Vitola stated that this Resolution will allow the Middletown Police Department to join the State of Delaware County and Municipal Police and Firefighter Pension Plan. This will eliminate the burden of meeting expensive pension requirements later on.

Moved by Mr. Faulkner and seconded by Mr. McGhee to adopt a Resolution to enter into the State of Delaware County and Municipal Police and Firefighter Pension Plan pursuant to Delaware Code Title 11, Chapter 88, SS 8805. Motion Carried Unanimously.

9. PUBLIC HEARING – Motion to ratify an Agreement with Union Lodge #5 A.F. & A.M.

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

Take notice that a Public Hearing will be held on September 10, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will make a motion to ratify an Agreement with Union Lodge #5 A.F. & A.M.

Mayor Branner stated the Town installed the drainage ditch from the railroad tracks to behind Sharondale and in the process took part of the Lodge's parking lot. The Lodge is asking the Town to blacktop the rest of the lot and they will reimburse the Town.

Moved by Mr. Faulkner and seconded by Ms. Kelly to enter into an agreement with Union Lodge #5 A.F. & A.M. Motion Carried Unanimously.

10. PUBLIC HEARING – Motion to ratify Employment Contracts

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

Take notice that a Public Hearing will be held on September 10, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will make a motion to ratify Employment Contracts.

Tabled until October 1, 2007.

11. PUBLIC HEARING – Introduce an Ordinance to appoint Public Safety Committee Members

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

Take notice that a Public Hearing will be held on September 10, 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 appoint Public Safety Committee Members.

Mayor Branner introduced an Ordinance to appoint the Public Safety Committee Members. Members will be appointed by Mayor and Council; the Ordinance will be acted on at the October 1, 2007 meeting.

12. PUBLIC HEARING – Motion to ratify Traffic Signal Agreement with DelDOT for Merrimac Avenue

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

Take notice that a Public Hearing will be held on September 10, 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 ratify a Traffic Signal Agreement with DelDOT for Merrimac Avenue.

Mayor Branner said this agreement is for the installation of the light on Merrimac Avenue at the entrance to Wal-Mart.

Moved by Mr. Reynolds and seconded by Mr. Faulkner to ratify the Traffic Signal Agreement with DelDOT for Merrimac Avenue. Motion Carried Unanimously.

13. PUBLIC HEARING – Introduce an Ordinance to establish an Election Committee

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

Take notice that a Public Hearing will be held on September 10, 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 establish an Election Committee.

Mayor Branner introduced an Ordinance to establish an Election Committee as required by State law. Mayor and Council will appoint an election committee comprised of residents of the Town of Middletown. The Ordinance will be acted on at the October 1, 2007 meeting and will be in effect for the March 2008 election.

14. PUBLIC HEARING – Route 299, Willow Grove Mill – Record Major Land Development Plan for the Willow Grove Mill Townhouse Community 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 September 10, 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 Willow Grove Mill Townhouse Community to be located off Route 299 on an R-3 parcel (adjacent to the existing Willow Grove Mill Section II residential subdivision).

Colm DeAscanis presented the townhouse community plan featuring 192 units. This is the final phase of the residential development for Willow Grove Mill. Planning and Zoning previously approved the plan. Construction Plans have been presented and final approval is sought.

Moved by Mr. Faulkner and seconded by Ms. Kelly to grant approval for the Record Major Land Development Plan for the Willow Grove Mill Townhouse Community on the R-3 parcel. Motion Carried Unanimously.

15. PUBLIC HEARING – Northerly side of U.S. Route 301 between the Kohl's Department Store and Wal-Mart sites – Record Major Land Development Plan for 10.81 acres of Lands of Westown Town Center, LLC (tax parcel 23-022.00-002)

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

Take notice that a Public Hearing will be held on September 10, 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 100,000 sq. ft. of retail space and required parking on 10.81 acres of Lands of Westown Town Center, LLC (tax parcel 23-022.00-002) to be located on the northerly side of U.S. Route 301 between the Kohl's Department Store and Wal-Mart site.

Mark Russo from Woodin & Associates requested approval of the plan. The location of the plan is along Rt. 301, between the Kohl's store and the future Wal-Mart location to the west. This phase will contain approximately 3 to 4 mid-size box retail stores totaling approximately 95,000 sq. ft., and a 9,000 sq. ft. restaurant located in the front of the property on 301. Comments from KCI and the Town will be addressed prior to recordation.

Moved by Mr. McGhee and seconded by Ms. Kelly to grant approval for the Record Major Land Development Plan for 10.81 acres of Lands of Westown Town Center, LLC (tax parcel 23-022.00-002). Motion Carried Unanimously.

16. PUBLIC HEARING – Lot 19, Middletown-Levels Business Park – Record Major Land Development Plan (tax parcel 23-041.00-020)

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

Take notice that a Public Hearing will be held on September 10, 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 an 11,500 sq. ft. flex warehouse building in a Manufacturing-Industrial (MI) zoning district (tax parcel 23-041.00-020) to be located on Lot 19 in the Middletown-Levels Business Park.

Tabled until October 1, 2007.

17. PUBLIC HEARING – 128 Patriot Drive, Unit 3, Middletown-Levels Business Park – Conditional Use Permit #CU-05-07 to use the warehouse space for a motorcycle parts and installation shop 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 September 10, 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 #CU-05-07 to use the warehouse space located at 128 Patriot Drive, Unit 3 as a motorcycle parts and installation shop in a Manufacturing-Industrial (M-I) zoned district.

Billy Keen, owner/operator of the business, stated that plans have been submitted to the Town; Planning and Zoning recommended approval.

Moved by Mr. Faulkner and seconded by Ms. Kelly to grant approval of Conditional Use Permit No. CU-05-07 to use the warehouse space for a motorcycle parts and installation shop in a Manufacturing-Industrial (MI) zoned district. Motion Carried Unanimously.

18. PUBLIC HEARING – Lot O at 601 Tower Lane, Middletown Auto Park – Conditional Use Permit No. CU-06-07 to use the property for a day care facility in an Employment/ Regional Retail (C-3) 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 September 10, 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 #CU-06-07 to use the property located on Lot Q at 601 Tower Lane in the Middletown Auto Mall (tax parcel 23-008.00-108) for a day care facility in an Employment/Retail (C-3) zoned district.

Dominic Balascio stated the applicant is proposing a +/- 10,000 sq. ft. day care on Lot Q at the Auto Mall. The day care will house approximately 125 children with 12 to 16 employees. The property will be subdivided at a later date. Planning and Zoning recommended approval.

Mayor Branner asked the purpose of the subdivision. Mr. Balascio said the property will be subdivided to allow for an office building on a separate lot for insurance purposes.

Mr. Reynolds said he agreed with some of the members of Planning and Zoning and questioned why that location was chosen – there will probably be heavy traffic because of the proximity to Lowe's, Home Depot, the Auto Mall, etc.

Ms. Kelly said she didn't like the location either.

Mr. Balascio said the day cares seek those locations to serve as a local drop-off for employees of those businesses.

Moved by Mr. Faulkner and seconded by Mr. McGhee to grant approval for Conditional Use Permit CU-06-07 for Lot Q, 601 Tower Lane, Middletown Auto Park to use the property for a day care facility in an Employment/Regional Retail (C-3) zoned district. Jason Faulkner and Robert McGhee voted for the motion; Jim Reynolds and Catherine Kelly voted against the motion. Mayor Branner cast a vote in favor of the motion. Motion Carried 3 to 2.

19. PUBLIC HEARING – Introduce an Ordinance to annex 54.7+/- acres of the property owned by Richard P. Money (tax parcel 13-026.00-015) located at 929 Middletown-Warwick Road into 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 September 10, 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 annex 54.7+/- acres of the property owned by Richard P. Money (tax parcel 13-026.00-015) located at 929 Middletown-Warwick Road into the Town of Middletown.

Mayor Branner introduced an Ordinance to annex 54.7+/- acres owned by Richard P. Money, 921 Middletown-Warwick Road. The request will be forwarded to the Office of State Planning to be processed. Upon receipt of their response it will be placed on the agenda, possibly for November's meeting.

20. Unfinished Business

Morris Deputy reported that construction on the Streetscape will begin September 17th. The estimated completion time is 4 months. Ms. Krenzer will notify the businesses to let them know that she and Lorraine Dion will be meeting informally at some local businesses during construction to answer their questions and to relay concerns.

21. New Business

- Mayor Branner commented that the Town is proceeding with installing the curb and sidewalk on West Green Street across from Town Hall. Once that is completed, the street will be paved.
- Mayor Branner thanked Kristen Krenzer for her efforts to provide a picnic for the seniors.

a. George Eberhard – 101 Park Place

Mr. Eberhard attended the meeting to discuss getting the asphalt removed that was installed on the back of his property several years ago. He requested that it be removed and the property returned to its original condition and also requested to be paid \$300 per month for the time the Senior Center has used the property as their parking lot.

Mayor Branner said the street foreman at that time inadvertently installed the asphalt on his property as part of the parking lot for the Senior Center.

Ceil Rozmulski, Director of the Sr. Center, said the Town was doing them a favor when the mistake occurred. She requested Mr. Eberhard's or his son's assistance to come to a resolution of the issue instead of removing the spaces.

After a lengthy discussion it was agreed that Ceil Rozmulski would coordinate a meeting with Gary Eberhard, Jr. to resolve the situation. Mr. Eberhard said everything was to be in writing and he is to receive a copy.

Moved by Mr. Reynolds and seconded by Mr. Faulkner to go into Executive Session to discuss legal and personnel issues. Motion Carried Unanimously.