

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. Faulkner to approve the minutes of January 8, 2007. 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 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. Reynolds to accept the Police Report as presented by Sgt. Kathy Rydell.

5. Grant Requests: None Received.

6. PUBLIC HEARING – Adopt an ordinance to establish a Riparian Buffer Area Conservation District in the Town of Middletown

Morris Deputy requested Council table the ordinance for a month because of some outstanding issues.

Moved by Mr. Reynolds and seconded by Ms. Kelly to table the Riparian Buffer Ordinance until next month. Motion Carried Unanimously.

7. PUBLIC HEARING – Adopt an Ordinance to prohibit the use of engine compression brakes, “Jake Brakes”, within the Town limits 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 February 5, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will adopt an ordinance to prohibit the use of engine compression brakes, “Jake Brakes”, within the Town limits of Middletown.

Mayor Branner said the ordinance is a result of concerns expressed by residents from Cricklewood, Springmill, Middletown Village, and South Broad Street about the excessive over-use and noise from the brakes. The ordinance is patterned after other municipalities. The police will enforce the ordinance once signs are posted.

Moved by Ms. Kelly and seconded by Mr. McGhee to adopt an ordinance to prohibit the use of engine compression brakes within the Town limits of Middletown. Motion Carried Unanimously.

8. PUBLIC HEARING – 5485 Peterson Road – Review the Conceptual Plan for a two-story, 35,000 square foot building (Tax Parcel No. 23-005.00-130)

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

Take notice that a Public Hearing will be held on February 5, 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 Conceptual Plan for a two-story 35,000 square foot building on the property known as 5485 Peterson Road (Tax Parcel No. 23-005.00-130).

Mayor Branner suggested both plans (Items #8 and #9) be presented at the same time.

9. PUBLIC HEARING – 17 Wood Street – Review the Conceptual Plan for a three-story medical office building on the property currently used by Shone's retail operation (Tax Parcel Nos. 23-005.00-017 and 23-005.00-038)

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

Take notice that a Public Hearing will be held on February 5, 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 Conceptual Plan for a three-story medical office building on the property currently used by Shone's retail operation at 17 Wood Street (Tax Parcel Nos. 23-005.00-117 and 23-005.00-038).

Jeff Lang from Lang Development Group, Joe Charma from Landmark Engineers, Dan Hoffman from DCI Architects, John Shone and Chris Locke represented the property.

Mr. Lang said the Peterson Road property (item #8) is approximately 1.6 acres. The proposed building is 17,000 sq. ft. and is similar to “Pomeroy Station”, a project in Newark. Retail is proposed on the first floor with office space on the second floor. The building is designed to front on Peterson Road and is patterned after a railroad building.

The following is proposed:

- Parking is proposed on both sides of the building on Peterson Road.
- An easement is provided for the extension of Lake Street if the extension is approved.

- The existing site is mostly paved; the new plan provides more green space and trees.
- The building will be full masonry brick with accents on the corners and windows.
- The Wood Street building has similar materials.
- The Wood Street Medical Building will sit on Shone's Lumber current retail location.
- A 3-story medical/office building is proposed on the 1.8 acre Wood St. site.
- The Peterson Road building will be built first.
- Planning & Zoning's concern for the Wood/Lake Street site was the access located close to the corner of Wood and Lake. That access has been redesigned.
- The access is now toward the southern side of Wood St. and in the middle of Lake St. for access to the parking lot.
- All four sides of the building will be masonry.

Mr. Reynolds said a 5' sidewalk is proposed – most of the sidewalks in Town are 6'. Mr. Lang said it could be 6'.

Mr. Lang said there was discussion about on-street parking and loading/unloading at the Planning and Zoning meeting. The building in Newark is loaded off the parking area. The spaces could be eliminated in the front of the building and used as a limited loading area. The parking calculations assumed the on-street parking would be counted towards the overall parking requirements – 89 are required and 96 spaces are proposed. The thought was that improvements to the street and installing islands and landscaping would increase additional pedestrian traffic versus a sidewalk that no one will use.

Mayor Branner said when the Main Street improvement project is finished there should be more use of the sidewalk.

Mr. Reynolds said the entrance to the first parking lot from Main Street is very close to the intersection. Mr. Lang said that was a concern at Planning & Zoning also and they moved the entrance in about 28 feet.

Mr. Faulkner asked for the dimension of the aisle in the front parking lot. Mr. Charma said it's 24'. Mr. Faulkner said the code requires a certain number of off-street parking spaces – it appears the on-street parking spaces are included in the off-street requirement. The off-street requirement for the first floor is based on the sales area and the second floor is based on gross area. The parking calculations aren't based on code requirement.

Mr. Lang said they are working with Norfolk-Southern to acquire an additional ½ acre to use as parking also which would eliminate the on-street requirement.

Mr. Faulkner said if the Lake Street extension is going to be considered, it should be incorporated in the plan. The easement is there but parking is shown on it. Mayor Branner said the crossing would require an overpass – that's not in the scope of DelDOT's plans.

Susan Love suggested Mayor and Council be flexible with the on-street parking – it's appropriate for downtown business – it also helps provide more green space, less impervious surface, etc. She also suggested Council consider a special zoning overlay district for the downtown/historic district area.

Stormwater will be handled with an underground system or an infiltration system if the soils are suitable. Mayor Branner said catch basins are being installed on the other side of the tracts that will help alleviate the problem at Main and Wood.

Mr. Reynolds said for safety reasons he would prefer to see the entrance off N. Scott Street instead of Wood Street. Mr. Lang said Planning & Zoning didn't want an entrance off N. Scott Street because the street is narrow.

Mayor Branner suggested looking at the possibility of the entrance on Wood Street and reducing the curve to about 60 degrees. Visibility around the curve is limited because of the existing buildings.

Mr. Reynolds asked if all the storage buildings belong to that site. Mr. Lang said the showroom is the beginning of the site and the storage buildings wrap the entire site. The new building is proposed where the parking area is in the middle of the site.

Chris Stefanadis said this was the first time he heard there would be an overpass and asked where the space would come from for an overpass. Mayor Branner said it would come from the parking lot at the railroad tracks to the Peterson Road property. It was always mentioned as an overpass in discussions for the East Town/West Town road improvements. It's been stated there could not be two at-grade crossings close together.

Mr. Faulkner said the entrance at the end of Lake Street would be unsafe. Mayor Branner asked if two entrances were necessary. Mr. Lang said two entrances were originally shown because a drop-off area was proposed.

Mr. Faulkner said he also agreed with Mr. Reynolds about having an entrance off N. Scott Street – there are no residences on Scott St.

Mr. Lang said the entrance could be centrally located (on Wood St.) and lined up with the entrance to the parking lot across the street. He said they will consider the suggested entrances and present another plan.

Tim DeSchepper recommended the dumpster be relocated. Mr. Lang said the dumpster could be relocated and a sidewalk connection installed.

Mayor Branner said this is a Conceptual Plan – dumpsters, etc. will be addressed at later submissions.

Chris Stefanadis asked if a light would be installed at Wood St. because it's difficult to make a left turn from Wood Street. Mayor Branner said no light will be installed. When Main Street is finished parking will be restricted near the intersection. Mr. Faulkner said a bump-out is proposed that will eliminate three or four parking spaces and allow for better visibility.

10. PUBLIC HEARING – Introduce an Ordinance to amend the lot coverage requirements in residential zoning districts in the Town of Middletown's Zoning Code

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

Take notice that a Public Hearing will be held on February 5, 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 lot coverage requirements in residential zoning districts in the Town of Middletown's Zoning Code.

Morris Deputy stated the amendment to the Zoning Code is to allow for flexibility of the percentage of lot coverage for Traditional Neighborhood Developments in residential zoning districts. Stormwater percentages still have to be maintained according to code.

The Ordinance will be acted on at the March meeting.

11. PUBLIC HEARING – Introduce an Ordinance to restrict the parking in the vicinity of mailbox clusters of ten (10) or more

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

Take notice that a Public Hearing will be held on February 5, 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 restrict the parking in the vicinity of mailbox clusters of ten (10) or more.

Mayor Branner stated the Town met with the Post Master and discussed the options for parking restrictions for mailboxes in residential areas. Per the Post Master, if it's already existing, it would require a unanimous agreement from everybody in the affected area to change the delivery system, in this case along Marldale and Redden Lane in Millbranch. The Town then met with the residents on those streets and as a result of that meeting, the residents requested that no changes be made – they felt they could straighten out the situation themselves. Mr. Winston, who sent the original e-mail said the complaint got blown out of proportion.

This Ordinance introduction will impact all proposed and existing clusters of 10 or more. The Post Master is in agreement with the Ordinance. The Ordinance will read "parking within ten feet (10') on either side of the cluster of mailboxes will be restricted".

The Ordinance will be acted on at the regularly scheduled meeting in March.

12. UNFINISHED BUSINESS

Mayor Branner said a request was received from the Peach Festival Chairman to hold the Peach Festival on Main Street this year – move it from W. Green back to Main St.

Helen Alford stated the Historic Society requested the Peach Festival location be moved back to Main Street. They would like a portion of E. Main Street closed from Broad to S. Scott St. and N. Cass to Pennington St. for artisans to set up. Returning the Festival to Main Street will showcase the completion of the first section of the Main Street redevelopment project and place the Festival in the center of the historic district that gives the community much of its special identity.

Mayor Branner said he contacted all but one business owner on E. Main Street and they all requested the Peach Festival be relocated to Main Street. The original concept of the Peach Festival was to let people know what was downtown.

Moved by Mr. Kelly and seconded by Mr. Reynolds to grant permission to the historic society to relocate the Peach Festival to Main Street. Motion Carried Unanimously.

Mayor Branner suggested the Historic Society forward a letter to the Town requesting to close Main Street for the Peach Festival and submit a Parade Permit indicating the parade route. The Town will then contact DelDOT for approval of the road closure.

The Peach Festival will be held on the third Saturday in August, August 18th.

NEW BUSINESS

- Mr. Silverman: (1) proposed the election date be changed to coincide with national elections; (2) proposed the Town provide absentee ballots and (3) asked the Town to provide sample ballots earlier.

Mayor Branner responded that the Delaware League of Local Governments worked with the State Legislature and came up with a Municipal Election Law that will be effective in 2008. Absentee ballots are part of that and will be provided earlier. Election dates are mandated by individual Municipal Charter. The municipal law also addresses registration – details are still being worked out.

- Dave Rich queried that the increase in Council seats is not a Charter change but the election date is?

Mayor Branner said part of the Charter allows the Town to increase Council seats with 2/3 vote at the municipal election. A Charter change would require Council to approve the change for the election date, then submit the request to Legislative Hall for passage by both the House of Representatives and the State Senate. The Governor then signs the change. It could be done by a vote to incorporate the question on a ballot as a non-binding referendum – that could be an option for 2008. Mr. Reynolds said the problem with holding it the same time as a general election is because Town Hall is a polling place. Residents from outside the Town come here to vote in the national election – logistically it would be a nightmare.

- Chris Stefanadis raised a question about the safety of the kids crossing 299 to go to the high school.

Mr. Reynolds said the Town met with the school district to discuss the situation. It was agreed that the kids will be able to use the youth football facility on Silver Lake Road as satellite parking and the kids will be shuttled to school. The State will post “No Stopping, Standing or Parking” signs on 299. Rep. Bethany Hall-Long said the kids are supposed to cross at one location. Additional crossing guards can’t be used because of the staggered classes. Using Silver Lake Road as satellite parking appears to be the best solution at this time. Mayor Branner said the kids were parking at the shopping center and the business owners started having the cars towed. Crossing at Dove Run is not a designated crossing area. The school district thinks the satellite parking will alleviate most of the problem.

Dave Rich suggested lowering the speed limit and installing flashing lights. Mayor Branner said the Town would initiate discussions with DelDOT to reduce the speed limit on 301 at Springmill, Rt. 71 near Cricklewood and 299 and get appropriate signs posted.

- The filing deadline for the election is February 19th. A list of candidates will be posted.
- Sonja Comstock asked if any grant money was available to assist the boy training for the 2008 Olympics. Mayor Branner said no grants from the Town are available to individuals. Mr. Faulkner suggested organizing fund raisers.
- Mayor Branner introduced Bill Powers, the new County Council representative. Mr. Powers was instrumental in the land swap for the Silver Lake Road and Marl Pit Road property. The County will vote in March and the property will be transferred – the Boys and Girls Club will then start their fund drive.

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