

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 Erin Fitzgerald from Schmittinger & Rodriguez were also present.

Moved by Mr. Faulkner and seconded by Ms. Kelly to approve the Minutes of October 1, 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.

Police Report

Chief Tobin reported the Middletown Police Department started at 6 p.m. on October 31st and accompanied the NCC Police until midnight, at which time the Middletown Police took control of all policing services for the Town. Five officers are continuing training and should be on the street by November 14th.

A slide presentation showing various crimes committed and their locations within the past 10 months was presented. New Castle County Police had jurisdiction during this time.

Sexual Assaults: Arrests have been made on all but one incident.

Robberies: 14 – The majority were strong-arm and Pizza delivery incidents. A number of arrests have been made.

Burglaries: The majority were in new residential construction areas consisting of construction material and appliances. Most of the residential burglaries were in the downtown area.

Drug incidents: Primarily in the downtown area and Middletown Village.

All calls for service: Primarily in the downtown area and Middletown Village.

The Police Department will focus on where the majority of incidents are occurring but will also patrol all neighborhoods.

Moved by Ms. Kelly and seconded by Mr. McGhee to approve the Police Report as presented by Police Chief Hank Tobin. Motion Carried Unanimously.

5. Grant Requests:

Lou Vitola reported that no Validation Reports were received. Two Grant Requests were received.

a. Middletown Robotics Team - \$2,500: Mr. Vitola said the Committee recommends approval of this grant because it is a benefit to the community and the amount is reasonable. The Club generates more than \$25,000 each year through its own fundraising efforts.

Moved by Ms. Kelly and seconded by Mr. McGhee to approve the \$2,500 grant for the Middletown Robotics Team as recommended by the Grant Review Committee. Motion Carried Unanimously.

b. Christ's Servants Mission Institute - \$5,000: Mr. Vitola stated the organization is headquartered in Bear. Their initiative is very similar to service provided by the Neighborhood House, Rotary Club, etc. The Committee felt there is a strong degree of operational duplicity and recommended the grant request be denied.

Moved by Ms. Kelly and seconded by Mr. McGhee to deny the grant request from Christ's Servants Mission Institute. Motion Carried Unanimously.

6. PUBLIC HEARING – Record Minor Subdivision Plan (tax parcel 23-005.00-076) 29 West Lake Street

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

Take notice that a Public Hearing will be held on November 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 Record Minor Subdivision Plan for 29 West Lake Street (tax parcel 23-005.00-076).

Steve King and Shawn McCoy, owners of the property, stated they propose to construct a duplex on the lot consisting of 1,440 sq. ft. for each unit. The lot previously had a duplex that burned down.

Mayor Branner said Planning and Zoning recommended approval of the Record Minor Subdivision Plan. The units will be sold not rented. The Board of Adjustment gave approval for variances based on the approval of tonight's meeting.

Mr. Faulkner questioned the consideration of the duplex – a single family residence could be built on the lot without any variance approvals.

Moved by Ms. Kelly and seconded by Mr. Reynolds to grant approval of the Record Minor Subdivision Plan for 29 W. Lake Street. Motion Carried 3 to 1. Councilmen Reynolds, McGhee and Kelly voted in favor of the motion; Councilman Faulkner voted against the motion.

7. PUBLIC HEARING – Conditional Use Permit No. CU-09-07 to use the warehouse for an indoor showroom for internet car sales on Lot 17 at 121 Patriot Drive in the Middletown-Levels Business Park

Tabled until next month (owner did not attend the meeting).

8. PUBLIC HEARING – Adopt 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

Tabled per the request of the owner.

9. PUBLIC HEARING – Introduce Ordinances to amend the following Chapters and Sections of the Code of 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 November 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 Ordinances to amend the following Chapters and Sections of the Code of the Town of Middletown:

Mayor Branner said the following Ordinances have not been changed since the 1960's. The fines are being changed to reflect today's rates. The Ordinances will be acted on in December.

CHAPTER	SECTION	RELATING TO
34	34-1	Alcoholic Beverages, Possession by Minors
34	34-2	Alcoholic Beverages, Consumption by Minors
34	34-6	Open Containers
39	39-2	Dogs at Large
39	39-5	Noise by Dogs
39	39-21	Nuisances by Dogs
55	55-3	Curfew
65	56-5	Emergency Management
82	82-2	Public Gatherings
92	92-3	Night Prowling
92	92-4	Loitering
100	100-6	Noise
104	104-3	Sight Obstructions
104	104-7	Trees
108	108-4	Parking
109	109-19	Parks
112	112-2	Peddling and Soliciting
123	123-3	Railroads
140	140-2	Skates, Skating and Bicycling
163	163-11	Abandoned Vehicles
167	167-13	Traffic Signs and Signals
167	167-15	Illegally Parked Vehicles
167	167-21	Parking
167	167-24	One-Way Streets
172	172-7	Off-Highway Vehicles

10. Concept Plan – Kohl South

Richard Woodin stated that this property is part of the Westown Master Plan identified as an employment center which includes a combination of parks, schools, residential, retail and an employment center. Livable Delaware recommends employment opportunities in small towns.

The 102-acre property is located on the south side of 301 and the East side of old Levels Road; the Hedgelawn farm house is situated on the property. The old Levels Road is being converted to a multi-modal path for bikes and pedestrians that will eventually connect to the Westown community further to the south. Merrimac Avenue, one of the collector roads being constructed by the developers of Westown, is to the east of the property and almost completed from 301 to Bunker Hill Road. Merrimac will eventually extend to the Westown community further south. The developers and the State Highway Department combined will spend over \$40 million on road improvements. DelDOT is scheduled to award a contract late Spring to start creating a dual highway for 301. Construction for a new pole line is underway.

The project proposes approximately 180,000 s.f. for a medical/healthcare facility; 116,000 s.f. hotel/restaurant; 240,000 s.f. office building; 570,000 s.f. of flex warehouse space proposed on parcels D & E, and 160,000 s.f. of single story office condos is proposed for parcel F. The projected build-out is 10 to 15 years.

Tom Stanley asked what the plans are for the Kohl house. Rick Woodin said it's on a separate parcel not part of this plan; however, it will be used for office/commercial use.

Bill Sowers requested that consideration is given to lighting. Mr. Woodin said a lighting plan will be done – the Town requires high pressure sodium lights.

Mr. Faulkner suggested that the hotel and medical facility might be better suited in the C-3 section. Mr. Faulkner said he preferred keeping the MI zoning for employment.

11. Concept Plan – Kohl West

Richard Woodin stated this property is located across from the Kohl West property and the same Westown Master Plan for road infrastructure applies. The property is zoned C-3 and proposes 398,000 s.f. of mixed-use office and commercial.

The property borders Merrimac Avenue to the East; the Rutkoske property to the West and Spring Arbor to the North. A 75' open space strip will separate this property and Spring Arbor. A proposed connector road will run northwest off Merrimac Avenue to connect this property to the Rutkoske, Poole and Money properties. A movie theatre is proposed in the back of the property. Merrimac Avenue at 301 and the connector road intersection will be controlled by traffic lights.

David Ellis asked how the development will be phased and if the impact on local traffic has been considered. Mr. Woodin said the Kohl South property is a 10 to 15 year build out. Wal-Mart should break ground in the next 30 to 60 days. The Town Center to the right of Kohl's should start in 2008; the 4 mid-sized box stores on the property to the left of Kohl's are also scheduled to start in 2008; another anchor store on the corner of Bunker Hill Road should start about 2008. Development for Kohl West should start about 2009 with a 3 to 5 year finish date.

Mr. Woodin said the developers of Westown are contributing over \$20 million to road improvements and the State is contributing \$25 million for the traffic development plan to aid local traffic. A connector road with a traffic light was installed at the 301/Home Depot entrance to move traffic from 301 to Industrial Drive. The auto mall has another road that connects to Kohl South. Other improvements include being able to travel from Levels Business Park to Industrial Drive without using 301 and if you cross 301 you can go from the Rutkoske farm to Bunker Hill Road without using 301.

12. Concept Plan – Poole property

Rick Woodin stated this parcel is zoned C-3 and located on the other side of the Rutkoske farm, directly opposite the new Levels Road location. The property was originally over 400 acres. 300 acres were used for transfer of development rights and won't be developed; 113 acres were sold to the high school. The back half contains the proposed alignment for the limited access highway; the remaining +/- 70 acres is bounded by the existing 301, the Rutkoske farm, the Money farm and the future 301. Levels Road will extend through the property to connect to the new highway. A connector road to join the Money farm, Rutkoske farm, Kohl West, Wal-Mart and Kohl's Dept. store will be constructed to connect to Bunker Hill Road to help keep traffic off 301. A series of lots, A, B, C and D will be developed under a mixed-use component. Parcels A & D propose 90,000 sq. ft. of retail and office; parcel B proposes 240,000 sq. ft. for office and +/-90,000 sq. ft. mini-storage warehouse is proposed on lot C.

Lynne Celia asked if the pole line could be installed underground. Mr. Woodin said the new line on the north side is a Delmarva Power high voltage transmission main that cannot be installed underground. The existing poles will be eliminated after the new line is constructed. The aerial line behind Kohl's from Bunker Hill Road, crossing Merrimac to the Town's pumping station is temporary and will be underground.

13. Concept Plan – Gateway Property

Rick Woodin stated the property is zoned C-3 and a mixed-use is proposed. The property is bounded on the north by Drawyer's Creek; on the east by the Rt. 1 off ramp; by the south by Rt. 299; to the west by a portion of the Dove Run Center and to the northwest by Town of Middletown property. A 500 unit multi-family complex is proposed for the residential section. Commercial is proposed along Rt. 299 and the Brick Mill intersection. The Town, Department of Transportation and about 5 developers are working on a master traffic study similar to what was done for Westown.

Chris Stefanadis asked if development and growth was mandated by the State or through the Comprehensive Plan and criticized Planning and Zoning for approving the plan. Mr. Woodin said the Town cooperates with the State's recommendations and DelDOT has to make a commitment to make improvements. The EPA recommends dense development. Mayor Branner stated the Comp Plan is presented at public meetings for input from residents, Planning & Zoning and Council. The Comp Plan is then submitted to the State for the PLUS process where state agencies make comments and recommendations. Changes are made and it's presented again. The State has the final say and the Governor signs off on the plan.

Tom Stanley asked if the retail in the front is small box commercial. Mayor Branner said the five pad sites in the front will be stand-alone businesses such as restaurants. Mr. Woodin said the section along Brick Mill is a typical shopping center. The apartments will be placed in the back of the property. Mr. Stanley asked if the road will connect from Brick Mill School to Lake Street. Mayor Branner said the road will go through the Town's property located before the school – conceptually it could come out to the Dove Run intersection. Mr. Stanley expressed concern for the safety of the school children.

UNFINISHED BUSINESS

Chris Stefanadis asked when a policy defining the Middletown Action Network Commission would be available. Mayor Branner said the Ordinance gave the Town the authority to establish the Middletown Action Network Commission. The policy will be developed and presented before Council for approval.

NEW BUSINESS

- Mr. Reynolds announced that as a result of requests from residents at The Legends, a stop sign will be installed at the intersection of Cedar Lane Road and Betsy Rawls Drive on November 6, 2007. Enforcement will go in to effect 30 days after installation.
- Mr. Reynolds reported that because of the number of incidents at the skateboard area at Silver Lake Park the Town is considering dismantling the skateboard section. Groups are gathering after dark when the park is closed setting bonfires and causing other problems.

Jay Heath suggested installing cameras and lights in the area as a security measure.

Mr. Reynolds said lights would only encourage people to gather there. Mayor Branner said the congregation issue is what needs to be addressed – the area is closed and should not be lit.

- Chris Stefanadis complained about traffic congestion and again criticized Planning and Zoning's approval of the Comp Plan and Public Service Grants and donations.

Mayor Branner explained that grant money is budgeted. A budget is adopted with an allocation for Public Service donations. The residents benefit from donations to the fire company, Senior Center and American Cancer Society.

- Chris Stefanadis questioned a \$25,000 grant to the high school. Mayor Branner said the request was for \$25,000; only \$2,500 was given.
- Jason Faulkner asked Mr. Stefanadis why he moved here. Mr. Faulkner said part of the grants given by the Town is to preserve quality of life. Supplying money to the Gibby Center, fire company, Senior Center and Peach Festival are community building efforts; supplying money to Relay for Life is not only about the American Cancer Society but also a community building effort preserving our small town atmosphere. If no money is given for anything and we live the way you want to live – it's going to be an awful place to live in 5 years.
- Robin Burgess requested Mr. Woodin consider building an assisted living community on the Kohl South property instead of a nursing home facility.
- Dave Rich, a coach for the Boys and Girls Club, asked if any indoor facilities for youth are planned. Mayor Branner said the Boys and Girls Club has acreage at the youth football field on Silver Lake Road. The athletic fields will be started prior to the buildings being completed. There will be indoor space when it's built-out in 3 to 5 years.
- Dave Rich said he is on the committees of some of the organizations that benefit from the grants and he is disappointed that Mr. Stefanadis doesn't understand the time the volunteers give to organizations and how that time and money is given back to the citizens of the town. The program needs to be supported not criticized.
- Kim Lovett asked Mr. Stefanadis why he criticized the grants. She said her family received assistance from the fire company when they needed it, her son was a member of the Boys and Girls Club, played sports and graduated from Middletown High. He is now attending the U of D and will return and give back to the Town because this is his home.
- Mr. Reynolds asked Mr. Stefanadis why he didn't question Department of Transportation Secretary Carol Ann Wicks about traffic when she attended the Council meeting.
- Mayor Branner said he would stay after the meeting to further explain to Mr. Stefanadis what's happening on 299; the meetings with DelDOT and developers; public meetings to review road plans, etc.

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