

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. Reynolds and seconded by Ms. Kelly to approve the Minutes of November 5, 2007 as presented. Motion Carried Unanimously.

Moved by Mr. Faulkner 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.

4. POLICE REPORT

Chief Tobin reported 1,010 calls for service were received. The calls were either dispatched complaints or self-initiated activities on the officer's part. Of 124 alarm complaints, 124 were false alarms.

- 368 complaints required a report
- 36 thefts in the downtown area were reported and 6 arrests were made.
- The Legends and Fairfield Commons had a number of incidents and it is believed that this was a County wide spree. A suspect was arrested north of the Canal. MPD is working with the County to see if there is a correlation between the incidents. The majority of the incidents occurred in unsecured vehicles.
- Of five burglaries, one arrest was made.
- Seven robberies occurred and 5 arrests were made.
- In one incident, an individual threw away 87 grams of cocaine and had about \$2,000 cash with him. The cash, drugs and his car were seized. The individual is currently in Gander Hill.
- An 18 year old created a bomb that exploded in a neighbor's yard.
- An arrest for a robbery at the Truck Plaza also cleared several cases for the State Police.
- Acts of vandalism are occurring at Silver Lake Park and the school. No one is permitted on the property after dusk. If anyone sees anyone in that area, please call the non-emergency number 573-2800.
- Some local businesses are experiencing some shoplifting. The Police will advise the business owners how they can help eliminate those incidents.

Moved by Ms. Kelly and seconded by Mr. Reynolds to accept the Police Report as presented by Chief Tobin. Motion Carried Unanimously.

5. Middletown Main Street Update – Lorraine Dion

Ms. Dion reported that the Main Street enhancement plan is on schedule – the old brick on the north side of W. Main has been removed and replaced. Work is progressing on the south side of W. Main -- bricks are being replaced this week from 16 W. Main to 100 W. Main St. After the work is completed the street furniture will be placed, lamp posts will be installed and the telephone poles will be removed. DelDOT will then repave the street. Ms. Dion and Ms. Krenzer have been available on Monday mornings from 7:30 to 8:30 a.m. at Sunrise Bagels with the construction schedule and to answer questions. They will continue to be there until completion of the project.

Ms. Dion stated that Middletown Main Street is a volunteer, non-profit organization and part of the National Trust for Historic Preservation.

- Since July, 2006 to present, \$46,000 has been raised in grants; \$26,000 in in-kind sponsored donations; \$53,000 in-kind hours donated by volunteers.
- Funds have come from the Delaware Division of The Arts; Atlantic Broadband has been the largest sponsorship for event programming; other sponsors include Middletown Chevrolet, PNC Bank, Wilmington Trust, Middletown Appliances and Artesian Water. Anderson Homes was the largest sponsor for in-kind donations. Volunteer hours total 2900 which is valued at \$53,000.
- Since July, 2006, seventeen special events have been planned and implemented in the downtown area to help businesses who choose to participate.
- Over 20 workshops have been offered to businesses and property owners at no charge.
- A national retail consultant offered free one-on-one consultation to businesses.
- An economic consultant is available to help fill vacancies and to try to create a niche district. He will also work with property owners on improving their building.
- A sign and awning matching grant and façade enhancement program grant were created.
- The Witherspoon building received \$3,000 in architectural grant assistance. So far, the lower level is completed to date.
- Future projects will include a residence make-over on W. Main Street.
- "Secret Shoppers" will scout other areas for possible new businesses downtown.
- Assistance will be provided to property owners for improving their buildings.

6. Grant Requests

Lou Vitola, Chairman of the Grant Committee, reported that five grant requests were reviewed:

a. East Coast Nitros (no amount specified): The committee recommends Council not approve the request because not all documentation was received according to the Grant Policy.

Moved by Mr. Reynolds and seconded by Mr. Faulkner to deny the grant request from East Coast Nitros. Motion Carried Unanimously.

b. Middletown Youth Center - \$4,766 – Tabled until January.

c. The Pro-Swing Sports Academy - \$5,000: Mr. Vitola said Pro-Swing Sports is a 501C3 group. The grant is to help launch a baseball, fitness and nutrition academy. They are a non-profit but will be supported by program fees and membership income. The grant was requested to subsidize program fees for lower income families. The committee recommended that Mayor and Council approve the request.

Mayor Branner said if the grant is passed, it will be given based on the approval of the Conditional Use Application to be heard later this evening.

Dave Rich asked if this is a new business and they don't have a track record, how do we know there is a need for subsidizing low income students. Mr. Vitola said he asked for a budget – there is \$6,000 to \$7,000 in capital and another \$40,000 in annually recurring expenses. The grant was originally for equipment to be used by all members. The Committee stipulated that the money is to be used for lower income people.

Mr. Swan said he wanted to bring in kids who could not afford baseball lessons or be a part of a traveling team. The children will also be mentored and required to maintain a C average to be in the program. Mrs. Swan will provide proper exercise and information on proper nutrition.

Moved by Mr. McGhee and seconded by Mr. Faulkner to approve the Pro-Swing Sports Academy grant in the amount of \$5,000. Motion Carried Unanimously.

d. Middletown High School Chorus Boosters - \$5,000: The request is for a western Caribbean cruise festival and competition. The event will cost between \$90,000 to \$100,000 to send 100 to 150 kids on the trip. The grant is intended to offset the transportation cost. The Committee recommends Mayor and Council approve \$3,000.

Moved by Mr. Reynolds and seconded by Ms. Kelly to approve a \$3,000 grant for the Middletown High School Chorus Boosters as recommended by the Grant Committee. Motion Carried Unanimously.

e. Middletown Historical Society - \$5,000 for 2008 Peach Festival: After reviewing a balance sheet and income statement, the Committee feels the Historical Society has become fairly self-sufficient and recommends Mayor and Council approve a \$2,500 grant.

Moved by Mr. Faulkner and seconded by Mr. McGhee to approve a grant in the amount of \$2,500 for the Middletown Historical Society for the Olde Tyme Peach Festival as recommended by the Grant Committee. Motion Carried Unanimously.

7. PUBLIC HEARING – Preliminary Site Plan for a new elementary school adjacent to the new Appoquinimink High School located on Bunker Hill Road

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

Take notice that a Public Hearing will be held on December 3, 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 Preliminary Site Plan for a new elementary school adjacent to the new Appoquinimink High School located on Bunker Hill Road.

Shane Minner from Landmark Engineering presented the plan for a 2-story, 85,000 sq. ft. elementary school adjacent to the new high school. A site plan and elevation plan were provided.

- The school plans to go to bid in March 2008, start construction in April and open in August 2009.
- They met with DNREC regarding stormwater management. They propose to infiltrate some of the run-off volume from the site.
- The main access will be from the high school entrance. The buses will loop around to the back and park.
- A one-way drop-off is proposed in front of the school.
- The parking lot will provide over-flow parking for the stadium.
- Loading will be in the back of the school.
- Dumpsters will be screened.
- KCI's comments will be addressed.
- The landscaped parking islands will be reduced from 17' to 12' per code.
- Additional handicapped parking spaces will be provided.

Mr. Reynolds said the Planning Commission questioned the perimeter access – the building should have paved access around the perimeter of the building. Mr. Minner said he would check with the Fire Marshal for their requirements. Mr. Reynolds said the Fire Marshal provides the minimum requirement – our local fire company requires access around the entire building.

Mr. Hershey asked if the entire loop was required to be paved. Frank Bailey, Fire Chief, said yes because of the close proximity to the high school.

Mayor Branner said Planning & Zoning recommended approval 6 to 1 (one abstention).

Mr. Faulkner asked what the Planning Commission's other comments were. Morris Deputy said they asked about the islands, screening of the trash cans and loading areas, and visibility from Spring Arbor. Landmark's comment was that the trash cans will be fenced to Town code. Because of the distance from the road and placement of the school it won't be very visible from Spring Arbor.

Mr. Minner said they would incorporate all of the comments.

Moved by Ms. Kelly and seconded by Mr. Reynolds to grant approval of the Preliminary Site Plan for a new elementary school adjacent to the Appoquinimink High School located on Bunker Hill Road. Motion Carried Unanimously.

8. PUBLIC HEARING – Preliminary Major Land Development Plan for the proposed Town Police facility

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

Take notice that a Public Hearing will be held on December 3, 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 Preliminary Major Land Development Plan for the proposed Town Police facility to be located on a proposed 4 + acre C-2 parcel located in Willow Grove Mill.

Colm DeAscanis presented the Record Major Land Development Plan for the 10,000+/- sq. ft. Police facility.

- The facility will sit on parcel C which will be subdivided into two parcels. The Town will receive 5-1/2 acres. The concept plan for Willow Grove Mill was presented in 1994 and reapproved in 2005. The property owner (Fusco Properties) provided approximately 5-acres to be used for Town facilities at that time.
- The main corridor, Gloucester Blvd., which is part of the Willow Grove Mill subdivision is partly constructed.
- Access to the facility will be from Hampden Road; they are working with DelDOT for a police access only off Gloucester Blvd. to provide more flexibility and convenience to access Rt. 299.
- The police parking will be separated from public parking.
- The building is laid out to accommodate future expansion.
- A sally port is provided in the rear of the building.
- A drain is provided to wash out the cars.
- A regional stormwater management plan was prepared for the entire development. A bio-filtration swale was designed as part of the Willow Grove Mill II plan. A regional stormwater retention basin was designed to hold the water and slowly release it into the swale.
- If feasible, a filter strip and possible bio-retention area will be constructed on the site also – it's not required. If stormwater can be handled and costs kept down, it will be implemented. It will be shown on the design-build specs.
- The entrance will face Hampden Road.
- To comply with Homeland Security, the finished floor elevation will be raised.
- The elevation will be balanced to comply with ADA requirements.
- Landscape berms will be installed along the perimeter.
- As part of the Wawa construction, Gloucester Blvd. will be constructed and the infrastructure installed. The utilities will be stubbed to the Town property.

Jeff Bruette asked (1) when did Council decide to construct a new building; (2) what is the need for the additional 4,000 sq. ft. (the county building was 6,000+ sq. ft. this building is 10,000 sq. ft.); (3) why is the station on the east side of Town when most incidents, as reported last month, happened downtown or on the west side of Town, and (4) how much money is budgeted for the building.

(1) Lou Vitola said money was in the budget to create building space in the basement; it currently is not enough space.

(2) Mayor Branner said the 6,000+ sq. ft. building was not going to be enough space and would cost \$1.8 million. It didn't house the number of officers we have; no administrative staff, etc. If the cost was right it would have been acceptable short term. There were discussions three years ago with the County to expand that building. Renovations would have been necessary to meet Homeland Security requirements. Chief Tobin said that building was designed to be a satellite station versus a full functional Police Station. It doesn't have evidence processing capabilities, evidence storage, and no additional office space for a traffic or detective unit.

(3) Mayor Branner said the location of the building doesn't have anything to do with the deployment of officers.

(4) When final costs are received it will be determined how it will be purchased.

Bob Gouge asked how road construction for access to the property would be handled. Mayor Branner said Gloucester and Trupenny are the interior roads being concentrated on now and will be constructed by the developer. DelDOT and the developers for Eastown have been meeting and a design consultant will be selected shortly for the Rt. 299 corridor (from Rt. 1 to Catherine St.). The signal at Wawa will be coordinated with DelDOT and in place when Wawa opens. Mr. DeAscanis said Gloucester will be built by Fusco Properties.

Mayor Branner commented that Frank Vassallo and every one from Fusco Properties has been extremely helpful and accommodating through the entire process.

Bids will be received in January and construction will begin as soon as possible.

Moved by Mr. Faulkner and seconded by Ms. Kelly to grant approval for the Preliminary Major Land Development Plan for the Town Police facility. Motion Carried Unanimously.

9. PUBLIC HEARING – Lot Q, Middletown Auto Park – Preliminary Major Land Development Plan

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

Take notice that a Public Hearing will be held on December 3, 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 Preliminary Major Land Development Plan for the subdivision of the parcel, development of a two-story 19,200 sq. ft. office building and a 10,000 sq. ft. day care facility located on Lot Q in the Middletown Auto Park (tax parcel 23-008.00-108).

Roger Brickley from Bakhsh Engineering said a Conditional Use Application was approved to allow a day care in the Manufacturing-Industrial zoning district. Variance approvals were received for landscape buffer variances and to create the subdivision of the parcel. Planning and Zoning approved the plan.

The plan proposes shared aisleways, parking, stormwater management, the pump station and one access of the minor road. Both buildings will be sprinklered. The office building has 100% accessibility and the day care will have 75% accessibility. KCI's comments will be addressed.

Mr. Reynolds said he didn't think this was a good location for a day care facility.

Moved by Mr. McGhee and seconded by Mr. Faulkner to approve the Preliminary Major Land Development Plan for Lot Q, Middletown Auto Park for a day care facility. Motion Carried 3 to 2. Mr. Faulkner and Mr. McGhee voted in favor of the motion; Mr. Reynolds and Ms. Kelly voted against the motion. Mayor Branner voted in favor of the motion, breaking the tie vote.

10. 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

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

Take notice that a Public Hearing will be held on December 3, 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-09-07 to use the warehouse located on Lot 17 at 121 Patriot Drive in the Middletown-Levels Business Park for an indoor showroom for internet car sales in a Manufacturing Industrial (MI) zoned district.

Calvin Mackie, General Manager for Partner Auto Sales, requested approval to use the warehouse as an indoor showroom for an internet car sales facility. The facility will house 50 or 60 cars. All sales are through the internet. The cars are viewed and purchased on-line and shipped out.

Mr. Reynolds asked if any vehicles would be housed outdoors. Mr. Mackie said no – and no vehicles will be worked on there. It's all retail sales for higher end vehicles.

Bob Gouge questioned the number of conditional use applications presented. He said the Comp Plan states the zoning for the Town and continuing to allow conditional uses says the Comp Plan isn't relevant when someone wants a different use.

Mayor Branner said the Comp Plan states what the zoning is. The Zoning Code specifies what is allowed and certain things are not allowed – everything else is conditional use. If a conditional use is granted and the business eventually leaves, anyone using that location again has to have conditional use approval.

Mr. Faulkner said there are only a few businesses that are approved uses in the MI zoning district. The Zoning Code was changed and set up intentionally so that each use has to be heard. The change came as a result many years ago when something wanted to go in the industrial area that residents didn't want.

Moved by Mr. Faulkner and seconded by Mr. McGhee to grant approval for Conditional Use Permit No. CU-09-07, for an indoor showroom for internet car sales on Lot 17 at 121 Patriot Drive, Middletown-Levels Business Park. Motion Carried Unanimously.

11. PUBLIC HEARING – 128 Patriot Drive, Units 6 & 7, Middletown-Levels Business Park – Conditional Use Permit No. CU-10-07 for a baseball and fitness training facility 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 December 3, 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-10-07 to use the warehouse space located at 128 Patriot Drive, Units 6 & 7 as a baseball and fitness training facility in a Manufacturing Industrial (MI) zoned district.

Pedro Swan said he intends to use the 4,000 sq. ft. warehouse for an indoor baseball academy. 200 sq. ft. will be used for office space; 1,000 sq. ft. will be use for training, and programs will also be offered for women (yoga and exercise). Eventually training for football and basketball athletes will be available. Mr. Swan has 17 years experience with professional baseball and Dwayne Henry, a Town

resident who will be part of the training staff has 20 years of professional baseball experience. Mrs. Swan has her master's degree in food, nutrition and exercise.

Mayor Branner said that if this is approved, the grant requested earlier will be approved.

Moved by Ms. Kelly and seconded by Mr. Reynolds to grant approval for Conditional Use Permit No. CU-10-07 for a baseball and fitness training facility in a Manufacturing Industrial (MI) zoned district. Motion Carried Unanimously.

12. PUBLIC HEARING – Adopt an Ordinance to annex 54.7+/- acres of the property owned by Mr. 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 December 3, 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 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.

Roger Brickley from Bakhsh Associates stated the plan proposes the annexation of a portion of the 288 acre farm owned by Richard Money. The plan shows the proposed right of way for the future 301. The 54 acres to be annexed is located south of the proposed right of way for the Rt. 301 limited access highway. Planning and Zoning recommended approval; no public comments were received and the State agencies approved the plan. The zoning requested is C-3. The property is shown as future annexation area in the Comp Plan.

Morris Deputy read the Proposed Findings of Fact:

Following are the proposed findings of fact concerning the annexation of approximately 54.7+/- acres of the lands of Richard P. Money, tax parcel 13-026.00-015:

I. The proposed annexation is consistent with the requirements of 22 Del. C 101 which governs annexation by a city or town.

1. The proposed annexation is consistent with the Town of Middletown's certified Comprehensive Plan.
2. The parcel is contiguous with existing municipal boundaries.
3. The Town of Middletown has received approval of the Plan of Service submission from the Office of State Planning.
4. An ordinance has been drafted and introduced that will rezone the parcel to a zoning classification of C-3 which is consistent with the Town of Middletown's Certified Comprehensive Plan.
5. The proposed annexation complies with the provisions of 29 Del C. 92 in that the Town has prepared an advertisement to appear in the Transcript notifying residents of a public comment period in excess of 30 days before the formal annexation hearing. No comments were received.

II. The proposed annexation is in compliance with the memorandum of understanding on file with the Office of State Planning.

III. The Town of Middletown is capable of providing the necessary utilities and services to the proposed annexation including water, sewer, electric service and police.

IV. The Town of Middletown will address future traffic concerns by requiring the owner/developer to enter into a re-couplement agreement consistent with the Westtown Master Circulation Plan.

Mayor Branner said the letter was received from Herb Inden, State Planning Office, saying it is part of our Comprehensive Plan and they accept the Plan of Services for the annexation.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to 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. The property is to be zoned C-3. Motion Carried Unanimously.

Robert McGhee: I vote Yes, based on the proposed findings of fact and it's consistent with the Comprehensive Plan.

Jim Reynolds: I vote Yes because it's consistent with the Comprehensive Plan and because of the findings of fact.

Catherine Kelly: I vote Yes because of the finding of facts, the letter from Herb Inden and because it is consistent with the Comprehensive Plan.

Jason Faulkner: I vote Yes because it is consistent with the proposed findings of fact.

13. PUBLIC HEARING – Adopt an Ordinance 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 December 3, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will adopt Ordinances to amend the following Chapters and Selections of the Code of the Town of Middletown:

Mayor Branner said the following Ordinances must be voted on individually. The Ordinances reflect a change to the fine structure to be consistent with the State. The fines have not been adjusted since the 1960's.

Moved by Mr. Faulkner and seconded by Ms. Kelly to adopt the Ordinance to amend Chapter 34, Section 34-1, Alcoholic Beverages, Possession by Minors, by deleting the phrase "not less than \$25 nor more than \$100, and for each subsequent like offense and shall be fined not less than \$50 nor more than \$200" in its entirety and inserting in lieu thereof the phrase "not less than \$50 nor more than \$100, and for each subsequent like offense shall be fined not less than \$75 nor more than \$200". Motion Carried Unanimously.

Moved by Mr. Reynolds and seconded by Ms. Kelly to adopt the Ordinance to amend Chapter 34, Section 34-2 Alcoholic Beverages, Consumption Prohibited by Minors, by deleting the phrase "not less than \$25 nor more than \$100, and for each subsequent like offense shall be fined not less than \$50 nor more than \$200" in its entirety, and inserting in lieu thereof the phrase "not less than \$50 nor more than \$100, and for each subsequent like offense shall be fined not less than \$75 nor more than \$200." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt an Ordinance to amend Chapter 39, Section 39-2 Dogs at Large, by deleting the phrase "shall be fined not less than \$10 and costs for the first offense, not more than \$25 and costs for the second offense and not more than \$50 and costs for each offense thereafter" in its entirety and inserting in lieu thereof the phrase "shall be fined not less than \$25 and costs for the first offense, not more than \$100 and costs for the second offense and not more than \$150 and costs for each offense thereafter." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt an Ordinance to amend Chapter 34, Section 34-6, Open Containers, by deleting the phrase "Any individual found guilty of violating the provisions of this Article shall be fined not more than \$25" in its entirety and inserting in lieu thereof the phrase "Any individual found guilty of violating the provisions of this Article shall be fined not more than \$100." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Ms. Kelly to adopt an ordinance to amend Chapter 39, Section 39-5, Noise by Dogs, by deleting the phrase "shall be fined not less than \$10 and costs for the first offense, not more than \$25 and costs for the second offense and not more than \$50 and costs for each offense thereafter" in its entirety and inserting in lieu thereof the phrase "shall be fined not less than \$25 and costs for the first offense, not more than \$100 and costs for the second offense and not more than \$125 and costs for each offense thereafter." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Ms. Kelly to adopt an Ordinance to amend Chapter 39, Section 39-21, Nuisances by Dogs, by deleting the phrase "shall be fined not less than \$25" in its entirety and inserting in lieu thereof the phrase "shall be fined not less than \$50." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt an Ordinance to amend Chapter 55, Section 55-3, Relating to Curfew, by deleting the phrases "Any minor convicted of violating the provisions of this chapter shall be fined not more than \$25," and "Any parent, guardian or other adult having the care and custody of a minor convicted of violating the provisions of this chapter shall be fined not more than \$25," in their entireties and inserting in lieu thereof the phrases "Any minor convicted of violating the provisions of this chapter shall be fined not more than \$75," and "Any parent, Guardian or other adult having the care and custody of a minor convicted of violating the provisions of this chapter shall be fined not more than \$75." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt an Ordinance to amend Chapter 65, Section 65-5, Emergency Management, by deleting the phrase "upon conviction, be fined \$25," in its entirety and inserting in lieu thereof the phrases "upon conviction, be fined \$75." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Ms. Kelly to adopt an Ordinance to amend Chapter 82, Section 82-2, Public Gatherings, by deleting the phrase "shall be fined \$25," in its entirety and inserting in lieu thereof the phrase "shall be fined \$50." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Ms. Kelly to adopt an Ordinance to amend Chapter 92, Section 92-3, Night Prowling, by deleting the phrase "Violation of this Article shall be considered a misdemeanor and shall be punishable by a fine of \$25," in its entirety and inserting in lieu thereof the phrase "Violation of this Article shall be considered a misdemeanor and shall be punishable by a fine of \$75." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt an Ordinance to amend Chapter 92, Section 92-4, Loitering, by deleting the phrase "shall be liable to a fine of \$25," in its entirety and inserting in lieu thereof the phrase "shall be liable to a fine of \$75." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt an Ordinance to amend Chapter 100, Section 100-6, Noise, by deleting the phrase "shall be punishable by a fine of \$25 per day per offense," in its entirety and inserting in lieu thereof the phrase "shall be punishable by a fine of \$75 per day per offense." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Mr. Kelly to adopt an Ordinance to amend Chapter 104, Section 104-3, Sight Obstructions, by deleting the phrase "said landowner shall be fined \$25 for each day said violation continues," in its entirety and inserting in lieu thereof the phrase "said landowner shall be fined \$75 for each day said violation continues." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Ms. Kelly to adopt an Ordinance to amend Chapter 104, Section 104-7, Trees, by deleting the phrase "fine of \$25 per offense, each day being a separate offense," in its entirety and inserting in lieu thereof the phrase "fine of \$75 per offense, each day being a separate offense." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Ms. Kelly to adopt an Ordinance to amend Chapter 108, Section 108-4, Parking, by deleting the phrase "shall be fined not less than \$25 and not more than \$100 for the first offense; and not less than \$50 and not more than \$200 for each subsequent offense," in its entirety and inserting in lieu thereof the phrase "shall be fined not less than \$50 and not more than \$125 for the first offense; and not less than \$75 and not more than \$225 for each subsequent offense." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Ms. Kelly to adopt an Ordinance to amend Chapter 109, Section 109-10, Parks, by deleting the phrase "shall be subject to a fine of \$25," in its entirety and inserting in lieu thereof the phrase "shall be subject to a fine of \$75." Motion Carried 3 to 1. Mr. Reynolds voted against the motion.

Moved by Mr. Faulkner and seconded by Ms. Kelly to adopt an Ordinance to amend Chapter 112, Section 112-2, Peddling and Soliciting, by deleting the phrase "punishable by a fine of \$25," in its entirety and inserting in lieu thereof the phrase "punishable by a fine of \$50." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt an Ordinance to amend Chapter 123, Section 123-3, Railroads, by deleting the phrase "punishable by a fine of \$25," in its entirety and inserting in lieu thereof the phrase "punishable by a fine of \$50." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt an Ordinance to amend Chapter 140, Section 140-2, Skates, Skating and Bicycling, by deleting the phrase "punishable by a fine of \$25," in its entirety and inserting in lieu thereof the phrase "punishable by a fine of \$50." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt an Ordinance to amend Chapter 163, Section 163-11, Abandoned Vehicles, by deleting the phrase "shall be fined not less than \$25 for each day the vehicle is not removed after due notice is given," in its entirety and inserting in lieu thereof the phrase "shall be fined not less than \$50 for each day the vehicle is not removed after due notice is given." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt an Ordinance to amend Chapter 167, Section 167-13, Traffic Signs and Signals, by deleting the phrase "shall be fined not less than \$10 nor more than \$25," in its entirety and inserting in lieu thereof the phrase "shall be fined not less than \$25 nor more than \$75." Motion Carried Unanimously.

Moved by Mr. Reynolds and seconded by Mr. Faulkner to adopt an Ordinance to amend Chapter 167, Section 167-15, Towing of Illegally Parked Vehicles, by deleting the phrase "shall be fined not less than \$10 or more than \$25," in its entirety and inserting in lieu thereof the phrase "shall be fined not less than \$25 nor more than \$75." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt an Ordinance to amend Chapter 167, Section 167-21, Parking, by deleting the phrase "shall be fined not less than \$3 nor more than \$10. Any person, firm, association or corporation who tenders payment of said parking ticket within 24 hours of receipt thereof shall be permitted to pay the minimum fine of \$3," in its entirety and inserting in lieu thereof the phrase "shall be fined not less than \$25 nor more than \$50. Any person firm, association or corporation who tenders payment of said parking ticket within 24 hours of receipt thereof shall be permitted to pay the minimum fine of \$25." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt an Ordinance to amend Chapter 167, Section 167-24, One-Way Streets, by deleting the phrase "shall pay a fine of not less than \$25," in its entirety and inserting in lieu thereof the phrase "shall pay a fine of not less than \$50." Motion Carried Unanimously.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt an Ordinance to amend Chapter 172, Section 172-7, Off-Highway Vehicles, by deleting the phrase "shall be fined not more than \$25 for each violation," in its entirety and inserting in lieu thereof the phrase "shall be fined not more than \$50 for each violation." Motion Carried Unanimously.

14. PUBLIC HEARING – Introduce an Ordinance to adopt a Grease Trap Policy for the Town of Middletown

The purpose of the ordinance is to protect the Town's wastewater facilities. The Ordinance will be acted on a later date.

15. PUBLIC HEARING – Motion to ratify the by-laws for the Middletown Action Network

This item is tabled until the January meeting.

16. PUBLIC HEARING – Motion to ratify Employment Contracts

Mayor Branner stated the purpose is to provide an employment contract for the four staff officers, which include the Chief, Lieutenant, and two Staff Sergeants for a period of 5 years.

Moved by Mr. Faulkner and seconded by Ms. Kelly to approve and ratify the employment contracts for the Police Chief, Lieutenant and two Staff Sergeants for a period of 5 years. Motion Carried Unanimously.

17. PUBLIC HEARING – Adopt a Resolution to amend the Rules and Regulations, including the Electric Tariff for the Town of Middletown

Mayor Branner said that for the Town to be a partner in the Green Energy Grant Program, the State mandates that a resolution be adopted to amend the Town's Rules and Regulations to be consistent with the Green Energy Program.

Lou Vitola said there was a change in the Delaware law to take .000178 per kilowatt hour to be placed into a Green Energy fund to be used for grants for green projects. In connection with that the Town was required to adopt a net metering policing. The Town had a policy but the new law states certain provisions such as who pays for the meter, what kind of meter, how long credits last, etc. The plan was adopted last year – this primarily just changes the language to match the State's.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt the Resolution to amend the Rules and Regulations, including the Electric Tariff for the Town of Middletown. Motion Carried Unanimously.

18. PUBLIC HEARING – Adopt a Resolution to accept the by laws of the Delaware League Founders Insurance Trust

Tabled until January 2008.

19. Concept Plan for 30+/- acres of Lands of Poole Ventures, LLC and Bunker Hill Associates, LLC (tax parcels 13-021.00-029 and 13-021.00-013)

Rick Woodin of Woodin & Associates said the properties were annexed with a zoning designation of C-3.

- This property is 30+/- acres.
- Mr. Woodin said that a healthcare facility was proposed at a presentation for the Westtown Business Park located on the south side of 301. Mr. Faulkner recommended that the proposed healthcare facility be proposed on a property already zoned C-3. Based on that suggestion, this plan incorporates an assisted living and an independent living facility along with senior apartments and a series of twin cottages.
- The gross acreage is over 40 acres.
- The Rt. 301 limited access highway will cut through the northwest corner.
- A new street will parallel 301 off Merrimac Avenue and the Wal-Mart intersection to connect to the development.
- Eventually an interconnection will tie in to the Rutkoske Farm and back out to 301, providing a connection from Merrimac to 301.
- The number of condo units proposed is: 90 twin units; 100 assisted living units; 100 independent living units; 4 buildings with 32 units of senior apartments.

Mayor Branner asked why it wasn't connected to Spring Arbor. Mr. Woodin said two stubs are provided but the question is whether the two communities should be connected. Developments such as this usually like to have their own security. Council said they prefer the communities be connected. The concept of the Comp Plan is to have interconnections to keep vehicles off 301.

UNFINISHED BUSINESS

None

NEW BUSINESS

- Mr. Reynolds reported that the brick structure in front of the Council Chambers is a display structure for the bell from the Old Academy. Kristen Krenzer said it is being restored and should be back in a few weeks.
- Mr. Reynolds congratulated the Middletown Cavaliers for their Division 1 State Championship. A parade honoring the team will be held on Wednesday at 3:45.
- Abigail Harting requested permission to hold an encampment at the Old Academy building on N. Broad Street in conjunction with Middletown Main Street's Artful Afternoon on Saturday, December 8th from 1 p.m. to 4 p.m. There will also be a wreath making workshop and games from the 1860's. The Chamber and Historic Society have approved the request.

Moved by Ms. Kelly and seconded by Mr. Reynolds to grant permission to Abigail Harting to use the grounds at the Old Academy building for a Civil War Encampment. Motion Carried Unanimously.

- Jeff Brulette stated the Auto Park installed a large, double sided, full color LED sign that is in violation of the sign code. When Citgo installed their sign they were given restrictions for no animation, etc. He discussed the matter with Bill Carson but didn't get a satisfactory response. Mayor Branner said Mr. Carson, who reviews the sign permits, said his research indicated it is not animated and is in compliance with our code.

Mayor Branner said the concerns will be passed on.

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