

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

Moved by Mr. Reynolds and seconded by Ms. Kelly to approve the Minutes for May 5, 2008 as presented. Motion Carried Unanimously.

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

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

4. POLICE REPORT for May, 2008 – Chief Henry Tobin and Pat Mullin

The MPD responded to 1,341 calls for service during the month of May.

- 241 calls were documented through criminal or accident report.
- 137 arrests
- 43 parking violations: 28/handicapped; 16/fire lane violations
- 59 incidents reported to the department
- 56 accidents: 37/property damage; 9 hit & run; 10 accidents with injuries
- A complaint form may be completed by residents experiencing traffic related incidents in their neighborhood; after investigation, a follow up report will be provided to the resident.
- 1 burglary at the AT&T phone center in Dove Run.
- Calls for service: 243/zone one (Middletown Village, Springmill area); 437/zone two (east of Broad St. and north of Main St.); 146/zone three (east of Broad St. and south of Main St.) and 252/zone four (east of 301 and west of Broad St.).
- Primary calls for service: requests for traffic enforcement; public relations type complaints; alarms.

Chief Tobin said the officers in yellow shirts on bikes are seasonal officers hired to assist the Department with nuisance type complaints.

Ms. Kelly reported that the first Public Safety meeting was held. Each Council member assigned someone to the committee to act as a liaison between their development and the police. Ms. Kelly suggested that anyone wanting to know their contact should call her at 378-7725.

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

Mr. Silverman requested the "Engine Exhaust Device" sign on Rt. 71 south be relocated – it's currently located south of the Middletown boundary and trucks are passed Springmill by the time they reach it. Chief Tobin said he will contact DelDOT about relocating the sign.

5. COMMISSION APPOINTMENT – Middletown Action Network

Mayor Branner read the following letter from Marvin Perkins:
May 8, 2008

"Dear Middletown Mayor and Council,

On behalf of the Middletown Action Network, I would like to recommend for your nomination two new members to our Commission.

Rebecca Reyes, of South Vernon Street and Kris Gaunt, of Franklin Drive, have both expressed interest to me in being part of the Middletown Action network and I believe their combined talents will be a tremendous asset to the group.

The two attended our meeting tonight and the three remaining commissioners feel comfortable with them and all agreed to the recommendations.

We hope you will accept our recommendations and will make the nominations at your Town Council meeting on June 2, 2008.

Very truly yours,

Marvin Perkins, Middletown Action Network Commission Chair

Mayor Branner recommended approval of Mr. Perkins' request.

Moved by Ms. Kelly and seconded by Mr. McGhee to accept Marvin Perkins' recommendation and appoint Rebecca Reyes and Kris Gaunt to the Middletown Action Network Commission. Motion Carried Unanimously.

6. Westown Route 301 Construction Update – Tabled

7. GRANT REQUESTS/VALIDATION REPORTS – Lou Vitola

a. **Validation Report:** MHS Robotics Club - \$2,500 – Mr. Vitola stated the money was applied towards a \$4,000 Philadelphia competition. Receipts and pictures were presented for validation. The committee recommended approval of the report.

b. **Grant Requests:**

1. Middletown Area Chamber of Commerce - \$2,000 for Scholarship Campaign: Mr. Vitola said the Chamber has identified 3 Middletown residents as recipients. The Committee recommended approval of the full grant; however, because Jeff Bruette contributed \$166 so the Committee would not go over the grant budget, approval of only \$1,834 is necessary.

2. Middletown High School After Prom Committee - \$500: Mr. Vitola said the request is to pay for police service on May 15th. The After Prom Committee provides a safe and alcohol/substance abuse place for the kids after the prom. The committee recommended approval of the grant.

Mr. Silverman voiced objection to the grant for the Chamber of Commerce Scholarship Campaign. He felt the businesses should contribute to the campaign. Mr. Vitola said the Chamber has raised about \$7,000 for the scholarships from the business community. Mayor Branner said the grant goes directly to the students – it's not a grant to be used by the Chamber.

Chuck Dixon asked how much scholarship money is given by the Chamber. Bill O'Neal said about \$7,000 was raised by the Chamber (including the Town's grant). The funds will be divided between the three recipients. The students have to work for a business that is a member of the Chamber to be eligible for the scholarship.

Moved by Mr. McGhee and seconded by Mr. Pierce to grant approval of the validation report from the MHS Robotics Club, the grant to the Middletown Area Chamber of Commerce of \$1,834 for their Scholarship Campaign and the grant to the Middletown High School After Prom Committee for \$500. Motion Carried Unanimously.

8. PUBLIC HEARING – Record Re-Subdivision Plan for the Parkway at South Ridge and Westown Town Center

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

Take notice that a Public Hearing will be held on June 2, 2008 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 Re-Subdivision Plan for the Parkway at South Ridge and Westown Town Center located at the corner of Bunker Hill Road and U.S. Route 301.

Rick Woodin, developer of the project, stated the property sits between the Spring Arbor community and Kohl's Department Store. The first portion of the re-subdivision proposes a townhouse plan consisting of 22, 24 or 26 units per building instead of making each building a designated width. Some of the lot lines will be shifted; the number of units doesn't increase. The second portion changes the configuration of the commercial pad site located near Rt. 301. Planning and Zoning recommended approval.

Moved by Mr. Pierce and seconded by Ms. Kelly to approve the Record Re-Subdivision Plan for The Parkway at South Ridge and Westown Town Center. Motion Carried Unanimously.

9. PUBLIC HEARING – Preliminary Plan of the Right-of-Way Dedication for the Relocation of Levels Road and St. Anne's Church Road

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

Take notice that a Public Hearing will be held on June 2, 2008 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 Plan of the Right-of-Way Dedication for the Relocation of Levels Road and St. Anne's Church Road located along and through lands of Westown Ventures, LLC.

Rick Woodin stated the plan provides DelDOT right-of-way for portions of the relocated Levels Road and St. Anne's Church Road. The road construction is scheduled for 2009.

Moved by Mr. Faulkner and seconded by Mr. Pierce to approve the Preliminary Plan of the right-of-way dedication for the relocation of Levels Road and St. Anne's Church Road. Motion Carried Unanimously.

10. PUBLIC HEARING – Record Plan of the Right-of-Way Dedication for the Relocation of Levels Road and St. Anne's Church Road

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

Take notice that a Public Hearing will be held on June 2, 2008 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 Plan of the Right-of-Way Dedication for the Relocation of Levels Road and St. Anne's Church Road located along and through lands of Westown Ventures, LLC.

Moved by Mr. Faulkner and seconded by Mr. McGhee to approve the Record Plan of the right-of-way dedication for the Relocation of Levels Road and St. Anne's Church Road. Motion Carried Unanimously.

11. PUBLIC HEARING – Conditional Use Permit No. CU-03-08 to allow a sales office and service center for fire trucks in a Manufacturing-Industrial (MI) zoned district (tax parcel 23-041.00-018)

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

Take notice that a Public Hearing will be held on June 2, 2008 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-03-08 to allow a sales office and service center for fire trucks in a Manufacturing-Industrial (MI) zoned district located at 121 Patriot Drive in the Middletown Levels Business Park (tax parcel 23-041.00-018).

Jack Jennings requested approval to allow Singer Associates, a sales and service center at 121 Patriot Drive, Levels Business Park. Jerry Roy, Service Manager for Singer Associates said their business is a sales and service center for emergency equipment. They also perform tool mounting and inspection of new vehicles prior to being delivered to fire companies.

Planning and Zoning recommended their approval.

Mayor Branner said the fire company will save them a lot of time and effort to have their trucks serviced.

Moved by Ms. Kelly and seconded by Mr. McGhee to grant approval for Conditional Use Permit No. CU-03-08 to allow a sales office and service center for fire trucks and emergency equipment at 121 Patriot Drive, Middletown Levels Business Park. Motion Carried Unanimously.

12. PUBLIC HEARING – Conditional Use Permit No. CU-04-08 to allow an auto repair facility in a Manufacturing-Industrial (MI) zoned district (tax parcel 23-008.00-008)

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

Take notice that a Public Hearing will be held on June 2, 2008 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-04-08 to allow an auto repair facility in a Manufacturing-Industrial zoned district located at 308 W. Main Street (tax parcel 23-008.00-008).

Kevin Wilson, representing Scotty Muffler, requested approval to allow an automotive repair facility at 308 W. Main Street. Work to be performed includes exhaust, mufflers, emission work, brakes, etc. The property is located behind the Valero station.

Mayor Branner said Planning and Zoning recommended approval. Questions concerning parking were raised. Mr. Wilson said most of the cars are dropped off in the morning and picked up in the evening. About 20 parking spaces are available.

Moved by Mr. Faulkner and seconded by Mr. Pierce to grant approval for Conditional Use No. CU-04-08 to allow an auto repair facility in a Manufacturing-Industrial zoned district. Motion Carried Unanimously.

13. PUBLIC HEARING – Conditional Use Permit No. CU-05-08 to allow a retail running apparel and shoe store in a Single Family Residential (R-1A) zoned district (tax parcel 23-006.00-298)

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

Take notice that a Public Hearing will be held on June 2, 2008 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-05-08 to allow a running apparel and shoe store in a Single Family Residential (R-1A) zoned district located at 100 E. Main Street.

Tim Conley stated the property was previously a carpet store. He requested Conditional Use to allow a running apparel and shoe store at the location. Minor changes will be made on the interior; the exterior of the building will not be changed.

Mayor Branner said based on Planning and Zoning's comments additional parking will be obtained by tearing down the old garage to provide off-street parking. Mr. Conley said curb cuts are already there.

Mr. Reynolds asked if the garage would definitely be torn down and suggested that condition be included in the motion.

Moved by Mr. Pierce and seconded by Ms. Burgess to grant approval for Conditional Use Permit No. CU-05-08 to allow a retail running apparel and shoe store in a single family residential (R-1A) zoned district (tax parcel 23-006.00-298), with the condition the old garage will be torn down to provide off-street parking. Motion Carried Unanimously.

14. PUBLIC HEARING – Record Major Land Development Plan for The Shops at Middletown (tax parcel 23-007.00-321)

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

Take notice that a Public Hearing will be held on June 2, 2008 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 Shops at Middletown located on Route 299 (tax parcel 23-007.00-321).

John Garcia, Karins & Assoc., stated the property is the old Pederson farm. The plan proposes mixed commercial/retail, restaurant use and office space in the back. The property will connect to the Highlands and Dove Run. Improvements will be made to the intersection at Rt. 299 and the Residential Treatment Center. The project will participate in the Rt. 299 Eastown road improvements.

Proposed businesses are: restaurants, bank, pharmacy, a large box retail store (not over 50,000 sq. ft.) and office/medical space is proposed in the back.

Mr. Reynolds asked what the time frame is – the barn was set on fire and the house needs to be removed as soon as possible.

Mr. Garcia said the demolition permit has been taken out to demolish the house and remove the rest of the barn.

Mayor Branner said this property is part of the Eastown Master Plan. The extension from Dove Run will go through this property and tie in to the Highlands and exit to Cleaver Farm Road as an interconnection to Lake Street.

Moved by Mr. Pierce and seconded by Mr. McGhee to approve the Record Major Land Development Plan for The Shops at Middletown. Motion Carried Unanimously.

15. PUBLIC HEARING – Preliminary Major Land Development Plan for the MOT Charter School (tax parcel 23-045.00-002)

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

Take notice that a Public Hearing will be held on June 2, 2008 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 that proposes a 19,409 sq. ft. addition to the school for four (4) additional classrooms and a gymnasium for the MOT Charter School located at 1156 Levels Road (tax parcel 23-045.00-002).

Roger Brickley stated the addition is for four classrooms and a gymnasium. Parking will increase from 113 to 192. The building will be sprinklered. The existing stormwater management basin on site will handle the stormwater management. Most of the parking will be relocated to the front of the building. KCI's comments have not yet been received but they will be addressed.

Moved by Mr. Reynolds and seconded by Ms. Burgess to approve the Preliminary Major Land Development Plan for the MOT Charter School. Motion Carried Unanimously.

16. PUBLIC HEARING – A Resolution to approve the issuance of up to \$3,500,000.00 for a General Obligation Bond of the Town of Middletown, Delaware

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

Take notice that a Public Hearing will be held on June 2, 2008 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 adopt a Resolution to approve the issuance of up to \$3,500,000.00 for a General Obligation Bond of the Town of Middletown, Delaware.

The Charter change was signed by the Governor on May 25th. Mayor Branner requested Council make a motion to adopt a Resolution to approve the issuance of up to \$3,500,000 for the construction of the police station.

Bob Gouge questioned the use of the funds for the police station because the original estimate was around \$2 million dollars. Lou Vitola said the majority of it is for the site work and construction of the 10,000 sq. ft. police headquarters. The balance is for retrofitting the inside with necessary police equipment and some additional fiscal '09 capital. Mayor Branner said the bids were for the site work and construction of the building. The additional money is for the improvements within the facility.

Mr. Gouge asked if it has been decided that PNC Bank will do the financing or will it be bid. Mayor Branner said nothing could be decided until the motion passed tonight – it is not required to be bid although proposals from other banks have been received.

Mr. Gouge asked how the bond will impact the '09 capital budget and what the term is. Mayor Branner said the '09 budget is being reviewed now – it will be incorporated as part of the capital improvements. Mr. Vitola said 5, 10, 15 and 20 year terms have been requested.

Moved by Mr. Faulkner and seconded by Mr. Pierce to adopt a Resolution to approve the issuance of up to \$3,500,000 for a General Obligation Bond for the Town of Middletown. Motion Carried Unanimously.

17. PUBLIC HEARING – A motion to ratify a contract for trash services for 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 June 2, 2008 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 a contract for trash services for the Town of Middletown.

Morris Deputy reported that after review of the bids by Lou Vitola and himself, they recommend the contract be awarded to Waste Management for the next three years.

Mayor Branner read the recommendation:

“The Municipal Solid Waste Bids were publicly opened at Town Hall on April 24, 2008. The results and analysis are summarized in the attached documents.

Morris and I recommend Mayor Branner to enter into a contract agreement with Waste Management to service Middletown residents for solid waste collection service for the fiscal periods ended through June 30, 2009 through June 30, 2011.

While Suburban Waste submitted the lowest bid for “as is/no container service”, Waste Management’s overall bid package will result in more options and greater flexibility for the Town and its residents over the next three years.

Specifically, Waste Management submitted the low bid for container service which may be implemented at the Town’s discretion any time during fiscal year 2009, 2010 or 2011. It may be cost prohibitive to undertake a container service for 2009. Additionally, Waste Management’s size, history, built-in knowledge of Town operations and high customer service ratings translate into value that is only partially offset by a low bid offer by Suburban Waste.

In other words, in our opinion, Council would be putting too much risk with not enough savings in return by accepting Suburban Waste’s bid.

Thank you for your consideration.

Lou Vitola and Morris Deputy”

Moved by Ms. Kelly and seconded by Mr. Reynolds to ratify a contract with Waste Management for trash services for the Town of Middletown for three years 2009, 2010 and 2011. Motion Carried Unanimously.

18. PUBLIC HEARING – A motion to approve the execution of Deed/Declaration for Tax Parcel 23-025.00-085

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

Take notice that a Public Hearing will be held on June 2, 2008 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 approve the execution of Deed/Declaration for tax parcel 23-025.00-085.

Morris Deputy said this is the deed for the police station that was dedicated to the Town by Fusco Properties and the cross-access agreement off Hampden Road.

Moved by Mr. Reynolds and seconded by Mr. McGhee to approve the execution of Deed/Declaration for the police station (tax parcel 23-025.00-085). Motion Carried Unanimously.

19. PUBLIC HEARING – A motion to ratify a contract with the pool management company for 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 June 2, 2008 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will make motion to ratify a contract with the pool management company for the Town of Middletown.

Morris Deputy said USA Pools was the low bidder for pool management this year and recommended Mayor and Council approve the contract.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to ratify a contract with USA Pools for pool management this year. Motion Carried Unanimously.

20. PUBLIC HEARING – Motion to ratify an agreement with the East Route 299 Traffic Study Consultant

Morris Deputy said the Transportation Infrastructure Development Agreement and the overall Agreement between DelDOT, the Town and McCormick Taylor is an agreement to follow their guidelines. It allows the Town to accept the developer’s money to pay the contractors and execute the contracts in DelDOT’s format. Mayor Branner said McCormick Taylor was the engineer selected by the Town, Developers and DelDOT to do the design work.

Moved by Mr. Reynolds and seconded by Mr. McGhee to enter into an agreement with the Eastown Traffic Study Consultant, Developers and the Department of Transportation. Motion Carried Unanimously.

UNFINISHED BUSINESS

Earle Silverman asked if Council has addressed any of the areas of concern identified on page two in the Strategic Management Review prepared by the Institute of Public Administration. Mayor Branner said that most of the items had been initiated prior to receiving the written report because of ongoing phone conversations with the IPA.

NEW BUSINESS

- Elements Restaurant & Piano Bar – Request to install an LED sign at 423 North Broad Street

Pat Rosenberger presented the request to replace the existing sign with an LED sign. The restaurant is in the rear of the building and the sign would help increase visibility and will also be used for public announcements such as the Peach Festival, etc. The sign will not have any flashing or bright blinking lights; it's not animated. It also has a built-in reduced visibility at night mechanism. The sign is 13'6" high and about 91" wide – the LED portion is smaller.

Mayor Branner said a fundraiser was held for the Everett Theatre a few weeks ago at which the restaurant was one of the caterers – most of the people there did not know where the Elements Restaurant was located.

Ms. Kelly said she disapproved the use of LED signs.

Moved by Mr. Reynolds and seconded by Mr. Reynolds to approve the request from Elements Restaurant to replace the existing sign with an LED sign at 423 North Broad Street. Motion Carried 5 to 1. Ms. Kelly voted against the motion.

- Joe Hortiz, from ACT (the non-profit agency responsible for the Everett Theatre, Gibby Center and the Annex) said the cost to get the theatre opened is estimated around \$400,000 to \$500,000. About 53% of the cost to repair the damage will be covered by insurance. The balcony ceiling has to be removed and a lot of clean up has to be done that will not be covered by insurance. Mr. Hortiz requested Council consider them for any available funds. The plan is to get the theatre opened and continue with fundraisers to restore it the way it was in the 20's.

Mayor Branner said the budget is being reviewed to see what funds might be available.

- Mr. Reynolds announced that Relay for Life is this weekend (6/6 and 6/7) at Silver Lake Park from 6 p.m. Friday night until 1:00 p.m. on Saturday.
- Mr. Reynolds announced the Fourth of July Fireworks will be held on the Fourth of July (rain date July 5th). The park will open at 6 p.m.; fireworks will start at dark. Any non-profit organization that would like to be a vendor should complete the application at Town Hall.
- Bill O'Neal, Chamber of Commerce, announced that a Middletown Night will be held at the Blue Rocks on June 12th. Tickets are available at the Chamber office.
- Mr. Greene, 210 N. Cass Street, expressed his disappointment about the apartment house on N. Cass Street – it has 4 units and each unit has 2 cars. His concern is that single family homes converted into rental units will negatively impact the other homes in the area. It makes residential houses commercial ventures. He requested Mayor and Council prevent any more distinctive historic homes from becoming investment properties. Mayor Branner said that property was approved many years ago, long before the existing Council. Properties proposing to convert from a single family to multi-family now have to receive conditional use approval from Planning and Zoning and Mayor and Council.

Moved by Mr. Reynolds and seconded by Ms. Burgess to go into Executive Session to discuss legal and personnel matters. Motion Carried Unanimously.