

The regular meeting of Mayor and Council was held on the above date with Council members Reynolds, Faulkner, Kelly, 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 Ms. Kelly to approve the minutes for April 2, 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 Mr. McGhee 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 approve the Police Report as presented by Senior Sgt. Keith Sparks. Motion Carried Unanimously.

**5. GRANTS REQUESTS:**

a. 2007 Middletown High School After Prom Party - \$500: Lou Vitola, Chairman of the Grant Review Committee, reported that the Committee recommended approval of the \$500 grant because it serves the public by establishing an alcohol and substance free environment for prom attendees and seniors. The grant will be used to supply games at the party.

b. Middletown Area Chamber of Commerce Scholarship - \$1,000: Mr. Vitola reported that the Committee recommended approval of the grant contingent upon the Chamber's willingness and ability to extend the scholarship eligibility to all graduating seniors in the MOT area and not just those working for a business that is a member of the Chamber. The Chamber was willing to extend the eligibility but is unable to this year because of the May 14<sup>th</sup> deadline. Applications have been received and reviewed.

Mayor Branner suggested that the contingency for approval be considered next year, if Council agrees, rather than punishing those who have already applied for a scholarship this year.

*Moved by Mr. Faulkner and seconded by Ms. Kelly to grant approval for the 2007 Middletown High School After Prom Party for \$500 and the Chamber of Commerce grant for \$1,000 and the guidelines that the Chamber will consider for next year's scholarship. Faulkner, Reynolds and Kelly voted in favor of the motion; McGhee voted against the motion. Motion Carried three to one.*

**6. PUBLIC HEARING – Rt. 299, Willow Grove Mill – Record Major Land Development Plan for the proposed 276-unit Condominium Complex on an R-3 parcel**

Withdrawn by the Developer.

Mayor Branner stated that at a meeting with some of the residents at Willow Grove Mill, it was requested that the Town ask the developer to withdraw the condos and the developer agreed to do that. The next item on the agenda reflects the change from condos to townhouses.

**7. PUBLIC HEARING – Route 299 – Willow Grove Mill – Concept Plan for the Willow Grove Mill Townhouse Community on an R-3 parcel**

Tabled until June per a request from the developer.

**8. PUBLIC HEARING – Adopt an Ordinance to amend the Engine Exhaust Brake Ordinance**

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

Take notice that a Public Hearing will be held on May 7, 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 amend the Engine Exhaust Brake Ordinance.

Mayor Branner said this ordinance amends the "Jake Brake" ordinance. "Jake Brakes" is a registered name and cannot be used in the ordinance.

*Moved by Mr. Reynolds and seconded by Mr. McGhee to adopt an ordinance to amend the Engine Exhaust Brake Ordinance. Motion Carried Unanimously.*

**9. PUBLIC HEARING – Adopt an Ordinance to amend the Town of Middletown's Comprehensive Plan**

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

Take notice that a Public Hearing will be held on May 7, 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 amend the Town of Middletown's Comprehensive Plan.

Morris Deputy stated there were five amendments included in the Ordinance. PLUS approval has been received.

1. Amend Chapter 5 Transportation: to include the Westtown Circulation Concept Plan.
2. Amend Chapter 5 Transportation: to include the East Middletown Master Transportation Plan.
3. Amend Map 6 Future Land Use: to add tax parcel 14-011.00-003 as a potential annexation area for educational purposes property is located east of Green Giant Road; annexation is requested by the school district).
4. Amend Map 6 Future Land Use: to amend the future land use designation of tax parcel 23-005.00-130 from Industrial to Commercial (former Shone's property).
5. Amend Map 6 Future Land Use: to amend the future land use designation of tax parcel 13-027.00-011 from Residential to Commercial (Allen property located on Rt. 301).

*Moved by Ms. Kelly and seconded by Mr. McGhee to adopt an ordinance to amend the Town of Middletown's Comprehensive Plan to include the five (5) recommendations as read by Mr. Deputy. Motion Carried Unanimously.*

#### **10. PUBLIC HEARING – Adopt an Ordinance to enact a new policy for Freedom of Information Act Requests**

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

Take notice that a Public Hearing will be held on May 7, 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 enact a new policy for Freedom of Information Act Requests.

Kristen Krenzer, Public Relations Officer, read the following from the policy:

##### Policy Statement

The purpose of the policy is to designate procedures relating to the inspection and duplication of public records held by the Town of Middletown pursuant to 29 Delaware Code, Chapter 100, the Freedom of Information Act for the State of Delaware.

It is the Town's goal to establish this policy to maximize the amount of information available to the public, to streamline procedures used to disseminate information and to establish a reasonable fee structure for providing public records.

##### Records Availability

- a. The Town will provide reasonable access and facilities for reviewing public records during regular business hours.
- b. The Town shall make all requested records available for review by the requestor unless such records or even portions of the records are determined to be exempt pursuant to 29 Delaware Code, section 10002(d).
- c. Prior to disclosure, records will be reviewed to insure records or portions of records deemed non-public are removed.
- d. Forms are available at Town Hall and on the website.
- e. The requestor should adequately describe the record(s) sought.

##### Response to Requests

- a. Requests will be responded to within ten business days or the Town will explain the delay and provide a date for completion of the request.

##### Fees for copying

- a. \$.25 per page
- b. Administrative fees will be charged at \$10 per hour for requests taking more than 15 minutes to complete. This would include older and/or archived documents.
- c. Payment is due at the time the documents are released to the requester.

Other than the Administrative fee change, no other changes were made to the policy.

Susan Love asked if there would be an exemption for non-profit organizations. Ms. Krenzer stated not at this time.

Mayor Branner suggested this policy be adopted and amended later to include the exemption for non-profit organizations.

*Moved by Ms. Kelly and seconded by Mr. Faulkner to adopt the Ordinance to enact a new policy for Freedom of Information Act Requests (FOIA). Motion Carried Unanimously.*

#### **11. PUBLIC HEARING – Adopt an Ordinance to establish a Riparian Buffer Area Conservation District in 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 May 7, 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 establish a Riparian Buffer Area (RBA) Conservation District in the Town of Middletown.

Morris Deputy stated that in accordance with the Comprehensive Plan, the Town is charged with updating some environmental policies. One is the Riparian Buffer Ordinance which the Appoquinimink River Association assisted the Town with getting a grant to prepare the policy. It creates a buffer around water bodies, streams and jurisdictional wetlands that helps the run-off going into them.

The buffer is 100' and 50' for wetlands. The Town has had discussions with some residents of Lakeside and they understand and are satisfied with the ordinance. Mr. Deputy said he recommended adoption of the ordinance.

*Moved by Ms. Kelly and seconded by Mr. McGhee to adopt an Ordinance to establish a Riparian Buffer Area Conservation District in the Town of Middletown. Motion Carried Unanimously.*

**12. PUBLIC HEARING – Adopt an Ordinance authorizing the execution of a Memorandum of Understanding between Frog Hollow, LLC; Signature Golf Management, LLC and the Town of Middletown**

Tabled until June per the Developer's request.

**13. PUBLIC HEARING – 10 West Green Street – Conditional Use Permit No. CU-02-07 to use the property for office space for the local newspaper in a single family residential (R-1A) 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 May 7, 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-02-07 to use the property located at 10 West Green Street as office space for the local newspaper in a single family residential (R-1A) zoned district (tax parcel 23-008.00-041).

Debbie Kalinowski from the Transcript requested approval to use the space to produce the newspaper as their location on West Main Street is being renovated. Everything is done by computer; there are no presses on the property.

*Moved by Mr. Faulkner and seconded by Mr. Reynolds to grant approval for the Conditional Use Permit No. CU-02-07 to use 10 W. Green Street for office space for the local newspaper in an R-1A zoned district. Motion Carried Unanimously.*

**14. PUBLIC HEARING – Industrial Drive – Revised Record Minor Land Development Plan for Lands of 447 Trust (tax parcel 23-012.00-014)**

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

Take notice that a Public Hearing will be held on May 7, 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 revised Record Minor Land Development Plan for Lands of 447 Trust (tax parcel no. 23-012.00-014) located on Industrial Drive.

Mark Russo from Woodin & Associates presented the plan for 447 Trust. The site is zoned M-I and located on Industrial Drive. The Record Minor Land Development Plan was approved last year. The purpose of this plan is to revise the building size and location on Lot 2 to provide additional parking and to move the buildings to the rear of the property. The lot is for a site contractor and he wanted to move the building to the rear to allow for better maneuverability of the equipment. The combined gross floor area of the buildings is 15,360 sq. ft. and 19 parking spaces are proposed. No additional impervious area is proposed.

*Moved by Mr. Faulkner and seconded by Mr. Reynolds to grant approval of the Revised Record Minor Land Development Plan for Lands of 447 Trust located on Industrial Drive. Motion Carried Unanimously.*

**15. PUBLIC HEARING – Lot 2, 102 Sandhill Drive, Bunker Hill Center I – Record 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 May 7, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will review the Record Major Land Development Plan for Lot 2 at 102 Sandhill Drive in Bunker Hill Centre I (tax parcel 23-005.00-302).

Clif Bakhsh from Clifton L. Bakhsh Engineers presented the plan proposing a Day Care Center. Planning and Zoning recommended approval. KCI's comments have been addressed. The Fire Marshal's letter should be received tomorrow, according to their office.

Susan Love stated that at a previous meeting it was agreed that the area between this property and Middletown Village would be landscaped. Mr. Bakhsh said there is a separate landscape plan that shows the landscaping. It has been taken care of. Mr. Deputy said the original Bunker Hill plan shows what is required to be planted.

*Moved by Mr. Reynolds and seconded by Ms. Kelly to approve the Record Major Land Development Plan for Lot 2 at 102 Sandhill Drive, Bunker Hill Centre I to allow a Day Care Center. Approval is granted with the condition the letter of approval is received from the Fire Marshal's office. Motion Carried Unanimously.*

**16. PUBLIC HEARING – Introduce an Ordinance to annex the property owned by Mr. and Mrs. Howard B. Carter, III (tax parcel 13-017.00-081) located at 5156 Summit Bridge 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 May 7, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will introduce an ordinance to annex the property owned by Mr. and Mrs. Howard Carter, III (tax parcel 13-017.00-081) located at 5156 Summit Bridge Road into the Town of Middletown.

Mayor Branner introduced the ordinance to annex the property owned by Mr. and Mrs. Howard B. Carter located at 5156 Summit Bridge Road. It will be voted on at the July Council Meeting.

**17. PUBLIC HEARING – Introduce an Ordinance to annex the 301 Travel Plaza property (tax parcel 13-026.00-026) located at 921 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 May 7, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will introduce an ordinance to annex the 301 Travel Plaza (tax parcel 13-026.00-026) located at 921 Middletown-Warwick Road into the Town of Middletown.

Mayor Branner introduced the ordinance to annex the 301 Travel Plaza property located at 921 Middletown-Warwick Road. It will be voted on at the July Council Meeting.

**18. PUBLIC HEARING – Introduce an Ordinance to annex the property owned by Rutkoske Bros., Inc. (tax parcel 13-026.00-030) located at 819 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 May 7, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will introduce an ordinance to annex the property owned by Rutkoske Bros., Inc. (tax parcel 13-026.00-030) located at 819 Middletown-Warwick Road into the Town of Middletown.

Mayor Branner introduced the ordinance to annex the property owned by Rutkoske Bros., Inc. It will be voted on at the July Council Meeting.

**19. PUBLIC HEARING – Introduce an Ordinance to annex the property owned by Bunker Hill Associates, LLC (tax parcel 13-021.00-029) located along 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 May 7, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will introduce an ordinance to annex the property owned by Bunker Hill Associates, LLC (tax parcel 13-021.00-029) located along Middletown-Warwick Road into the Town of Middletown.

Mayor Branner introduced the ordinance to annex the property owned by Bunker Hill Associates, LLC located on the Middletown-Warwick Road. It will be voted on at the July Council Meeting.

**20. PUBLIC HEARING – Introduce an Ordinance to annex the property owned by Middletown Greenways, LLC (tax parcel 14-011.00-003) located along Green Giant 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 May 7, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will introduce an ordinance to annex the property owned by Middletown Greenways, LLC (tax parcel 14-011.00-003) located along Green Giant Road into the Town of Middletown.

Mayor Branner introduced the ordinance to annex the property owned by Middletown Greenways, LLC. This property will be earmarked for a future school site. It will be voted on at the July Council Meeting.

**21. PUBLIC HEARING – Introduce an Ordinance to annex the property owned by Hedgelawn, LLC (tax parcel 13-027.00-011) located on 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 May 7, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will introduce an ordinance to annex tax parcel 13-027.00-011 located on Middletown-Warwick Road into the Town of Middletown.

Mayor Branner introduced the ordinance to annex the property owned by Hedgelawn, LLC located on Middletown-Warwick Road (Allen property). It will be voted on at the July Council Meeting.

**22. PUBLIC HEARING – Introduce an Ordinance to annex the property of Gateway Properties, LLC, the legal or equitable owner of tax parcels 13-023.00-009, 13-023.00-010, 13-023.00-011, 13-023.00-012, 13-023.00-013, 13-023.00-014, 13-023.00-078, 13-023.00-079, 13-023.00-082 and 13-023.00-131 located along Rt. 299 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 May 7, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will introduce an ordinance to annex the property of Gateway Properties, LLC, the legal or equitable owner of the following tax parcels: 13-023.00-009, 13-023.00-010, 13-023.00-011, 13-023.00-012, 13-023.00-013, 13-023.00-014, 13-023.00-078, 13-023.00-079, 13-023.00-082 and 13-023.00-131 located along Rt. 299 into the Town of Middletown.

Mayor Branner introduced the ordinance to annex the property owned by Gateway Properties, LLC. These properties extend from Rt. 1 to Brick Mill Road. It will be voted on at the July Council Meeting.

**23. PUBLIC HEARING – Introduce an Ordinance to annex the property owned by Poole Ventures, LLC (tax parcel 13-021.00-013) located along 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 May 7, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will introduce an ordinance to annex the property owned by Poole Ventures, LLC (tax parcel 13-021.00-013) located along Middletown-Warwick Road into the Town of Middletown.

Mayor Branner introduced the ordinance to annex the property owned by Poole Ventures, LLC located on Middletown-Warwick Road. It will be voted on at the July Council Meeting.

**24. PUBLIC HEARING – Introduce an Ordinance to annex tax parcels 13-022.00-031 and 13-027.00-015 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 May 7, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will introduce an ordinance to annex tax parcels 13-022.00-031 and 13-027.00-015 located along Silver Lake Road into the Town of Middletown.

Mayor Branner introduced the ordinance to annex property owned by the Town of Middletown, located on Silver Lake Road. The Youth Football field is one parcel and the second parcel is where Boys and Girls Club will be built. It will be voted on at the July Council Meeting.

**25. PUBLIC HEARING – Introduce an Ordinance to annex the property owned by the Appoquinimink School District (tax parcel 13-021.00-089) located along Bunker Hill 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 May 7, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will introduce an ordinance to annex the property owned by the Appoquinimink School District (tax parcel 13-021.00-089) located along Bunker Hill Road into the Town of Middletown.

Mayor Branner introduced the ordinance to annex property owned by the Appoquinimink School District, located along Bunker Hill Road (behind the new high school) for athletic fields. It will be voted on at the July Council Meeting.

**UNFINISHED BUSINESS**

None

**NEW BUSINESS**

- Morris Deputy reported that the bids were opened for the renewal of the Paving and Services Contract. Bids were submitted from James Julian, Guardian and Austin & Bednash. After analysis, Austin & Bednash is the low bidder. Mr. Deputy requested permission to proceed with the preparation of the contract, bonding, etc., for inclusion on next month's agenda.

Mayor Branner stated the Public Hearing for the Bid Opening was Friday, May 4th. He, Mr. Reynolds, Mr. Deputy and the contracting firms were present.

Moved by Mr. Reynolds and seconded by Ms. Kelly to adjourn. Motion Carried Unanimously.