

COUNCIL MINUTES

JULY 2, 2007

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 was also present. Town Solicitor Scott Chambers was absent; Erin Fitzgerald attended on his behalf.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to approve the Minutes for June 4, 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. McGhee to approve the Bills Payable 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 Capt. Debra Rees. Motion Carried Unanimously.

5. Grant Requests: None received

a. Validation Report – Lou Vitola, Finance Manager and Chairman of the Grant Committee: A validation report was received from the Middletown High Robotics Team. After reviewing the report Mr. Vitola is satisfied the grant was used as requested and recommended Mayor and Council approve the report.

Moved by Mr. Reynolds and seconded by Ms. Kelly to approve the validation report for the grant given to Middletown High Robotics Team as recommended by Lou Vitola, Chairman of the Grant Committee. Motion Carried Unanimously.

6. Abigail Harting – Civil War Re-Enactment Approval

Ms. Harting requested use of the Academy grounds and building to present a Civil War re-enactment, the use of a camp fire and discharge of fire arms in conjunction with the Peach Festival's activities and demonstrations throughout the day. The Historic Society approved the use of the building.

Moved by Mr. Faulkner and seconded by Mr. McGhee to grant approval of Abigail Harting's request for the Civil War re-enactment on August 18, 2007 in conjunction with the Peach Festival. Motion Carried Unanimously.

7. Middletown Action Network

Darren Blackston, Co-Chair of Middletown Action Network, stated that a number of citizens formed Middletown Action Network to develop a plan of action to assist the community in dealing with drug activities and other issues. They are requesting Mayor and Council consider the Middletown Action Network becoming a Commission under the Town of Middletown's government.

Mayor Branner said the request will be listed as an agenda item for August. Mr. Blackston said a full presentation will be made next month.

8. FY'08 Budget

Mayor Branner reported that the Town was under Budget for FY'07. Payroll and system maintenance expenses were lower than expected. Capital projects such as the Main Street Project and Levels Road did not start as early as expected. Overall spending was 2.7% less than budgeted.

The proposed Budget for FY'08 is \$33,754,227 which includes a \$27.5 million Operating Budget and a \$6.3 million Capital Budget. The Operating Budget increase is a direct result of higher utility costs due to increases in electric and water.

- Public Safety operations will double from \$857,000 to \$1,732,000 and health insurance rates increased by 24% for 2008.
- The Capital Budget increase over FY'07 is a result of projects slated and approved for 2007 that have shifted to 2008, i.e. the Streetscape, Levels Road Park and New Street project make up 50% of this year's budget.
- Public Safety is 11% and the drainage project on West Main Street is 9%.
- The remaining 21% of the Capital Budget is spread across such items as software, vehicle replacement, tool and equipment for all departments.
- An additional \$250,000 will be spent if the MOT Youth Football property is annexed.
- The Town's Water Dept. is expected to generate a small surplus at the end of 2007, but will generate a deficit of about \$46,000 as a result of increased operating costs. The Water Dept. will generate a small surplus in 2008 with a 5% rate increase -- from \$2.43 per 1,000 to \$2.55 per 1,000. Middletown's average water bill is about \$17.21 per month and the average of all local municipalities is about \$28.90.
- There are no plans to increase electric rates for 2008.
- The trash rates will increase .50 per resident per month which is part of the three year contract with Waste Management.

Police Services Comparison

Mayor Branner stated the contract with New Castle County Police expired in 2005. Funding issues in New Castle County have prohibited getting a new contract executed. The options explored were:

- Stay with New Castle County.
- Go with the Delaware State Police; however they could not provide the town with 24/7 police protection because of lack of manpower. They are willing to contract with the Town for special services.
- Form a joint MOT police force with Odessa and Townsend. After several discussions with Odessa and Townsend it was decided a joint police force was not a viable option.
- The other option is for the Town to create their own police force.

1. New Castle County's proposal is to provide 2 officers per shift at \$1.732 million for FY 2008 with an 8% annual increase. The County's contract will double over last year's. If they provide 3 officers per shift, the County's cost will increase to about \$2.4 million and they don't know if they can provide us with staff at this time.

2. Based on statistics and police reports, Mayor and Council feel the need to go to 3 officers per shift. If the Town creates its own police force, it can have 17 officers which will include 3 per shift. There will be a Chief, Lieutenant, Detective, 2 Sergeants and 6 officers per platoon. Advantages include:

- More community policing
- Officers will be committed to the Town of Middletown community
- Operating cost advantage: \$1.6 million the first year at \$95,000 per officer
- State and Federal Grant money availability
- Year 2 will equal a \$1.5 million cost estimate reduction as a result of grants and elimination of contract costs.
- Greater control over police activity and hiring practices
- Greater flexibility with special operations
- No middle man
- No tax increase

Capital spending will require:

- \$200,281 - police vehicles with 5 leased vehicles.
- \$136,000 - officer equipment costs
- \$125,000 - communication and office equipment
- \$250,000 - public safety improvement

Based on today's values, the anticipated cost savings will be about \$9.3 million over the next ten years.

Mayor Branner said cost information was gathered from municipalities, New Castle County and the State. Meetings were held with consultants, New Castle County Police, Capt. Capriiglione and Chief McDerby – a lot of research and time led to this decision. The County Executive is aware of the pending recommendation.

Mayor Branner recommended Council adopt the proposed budget of \$33,754,227 for FY2008. The recommendation includes a Capital Budget of \$6,303,517 and the proposal to start the Middletown Police Department consisting of 17 officers with 3 per shift. No electric rate or tax increase is proposed.

Questions/Comments

Q: Will a new building be built? Mayor Branner said the needs are still being evaluated. Nothing has been done regarding building or capital expenditures – after it has passed we will start the process of transition. The County Executive totally supports the transition. The Town has been completely satisfied with New Castle County Police – any decision made tonight has nothing to do with any complaint or issue with the Southern Patrol Police force.

Q: When will it start? (A) Mayor Branner: A Police Chief will be hired first. Then, with his input, we will start hiring the police force.

Q: Is the number of officers to be hired sufficient per the population ratio? (A) Mayor Branner: The Town is going to 3 officers per shift versus 2 per shift with the County. If more officers are needed in the future they'll be hired. Jason Faulkner said the cost per our officer is less than with the County. If the County would have to provide more officers, they would charge the Town more. The crime in the area will determine the number of officers needed.

Q: Will police officers be required to live in Town? (A) Mayor Branner: It is not feasible because it would deter qualified applicants. We have minimum requirement recommendations from consultants. It will be the responsibility of the Chief with input from Council to set up the police force.

Q: Will the Town still have a Public Safety Department? (A) Mayor Branner: Yes, Ms. Kelly will still be in charge of Public Safety.

Q: Will the County have to let officers go? (A) Mayor Branner: No, we were told that the officers down here would be absorbed in New Castle County.

Q: Will there be a separate 911 number? (A) Mayor Branner: No, the Town will be part of the existing Recom.

Q: How will it affect the Town's insurance? (A) Mayor Branner: The rates are reasonable as long as the police are certified officers.

Moved by Ms. Kelly and seconded by Mr. Reynolds to adopt the proposed budget as recommended and presented by Mayor Branner. Motion Carried Unanimously.

9. PUBLIC HEARING – Motion to Amend the Town of Middletown’s Personnel Policy

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

Take notice that a Public Hearing will be held on July 2, 2007 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 amend the Town of Middletown’s Personnel Policy.

Lou Vitola, Finance Manager, stated that with the onset of establishing a police department, the Town has to adopt a Police Directives Manual. The draft policy we are using came from the town of New Castle. After a chief is hired, he will review it and make any necessary changes.

Moved by Mr. Faulkner and seconded by Ms. Kelly to amend the Town of Middletown’s Personnel Policy. Motion Carried Unanimously.

10. PUBLIC HEARING – Adopt a Resolution to amend the Rules and Regulations, including the Electric Tariff 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 July 2, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will adopt a resolution to amend the Rules and Regulations, including the Electric Tariff for the Town of Middletown.

Lou Vitola said there are two amendments to the proposed electric tariff:

- The first is to confirm the appointment of the Town Manager as Director of DEMEC and the Finance Manager as Alternate Director of DEMEC in accordance with Article 3 of DEMEC’s By-Laws.
- The second is an amendment to the PPAC calculation. The discounts have been inflated due to the structure of the formula, which is being corrected. The amendment will not result in increased PPAC charges and will not result in higher electric rates. Factor “B” is also being changed in the calculation to accurately reflect the cost of electric from DEMEC for the next twelve months.

DEMEC (Delaware Municipal Electric Corporation) is the group of municipalities in Delaware that buys electric together to make it cheaper. The PPAC is the Purchase Power Adjustment Cost. The Town has purchased electric for a year but the cost of electric can fluctuate based on market conditions; the PPAC is a mechanism to smooth out the rates to match the cost. Adjusting the PPAC will keep the bills more consistent.

Moved by Ms. Kelly and seconded by Mr. Faulkner to adopt a resolution to amend the Rules and Regulations, including the Electric Tariff for the Town of Middletown per the recommendations as outlined by Lou Vitola. Motion Carried Unanimously.

11. PUBLIC HEARING – Adopt a Resolution to Ratify a Flexible Benefit Plan under Section 125 of the Internal Revenue Code

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

Take notice that a Public Hearing will be held on July 2, 2007 at 7:30 p.m. at Town Hall, 19 West Green Street, Middletown, DE at which time the Mayor and Council will adopt a resolution to ratify a Flexible Benefit Plan under Section 125 of the Internal Revenue Code.

Lou Vitola reported the Town of Middletown is expanding its employee benefits by adopting a Flexible Benefits Plan under Section 125 of the IRS. It will allow employees to defer gross wages into a spending account on a pre-tax basis for certain eligible out-of-pocket medical and dependent care expenses.

Moved by Mr. McGhee and seconded by Mr. Faulkner to adopt the resolution to ratify a Flexible Benefit Plan under Section 125 of the Internal Revenue Code as recommended by Lou Vitola. Motion Carried Unanimously.

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

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

Take notice that a Public Hearing will be held on July 2, 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 Concept Plan for the Willow Grove Mill Townhouse Community to be located off Route 299 on an R-3 parcel (adjacent to the existing Willow Grove Mill Section II residential subdivision).

Colm DeAscanis stated the original plan proposed 276 condo units. After much discussion with Mayor and Council and the public a new layout is being presented for 192 townhouse units. The retention pond in the front is designed to work with a bio-filtration swale down stream. It won’t be a wet pond all the time.

Mayor Branner said that once the units are built the Town will meet with the residents of Willow Grove Mill and decide where to put tot lots, etc. It's not a requirement for the developer.

13. PUBLIC HEARING – Northerly side of U.S. Route 301 between the Kohl's Department Store and Wal-Mart sites – Concept Plan for 10.81 acres of Lands of Westown Town Center, LLC (tax parcel 23-022.00-002)

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

Take notice that a Public Hearing will be held on July 2, 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 Concept Plan for 100,000 square feet of retail space and required parking on 10.81 acres of Lands of Westown Town Center, LLC (Tax parcel 23-022.00-002) to be located on the northerly side of U.S. Route 301 between the Kohl's Department Store and Wal-Mart sites.

Richard Forsten represented Westown Town Center. The concept plan is for the area between the Kohl's store and the Wal-Mart site. The plan proposes approximately 95,000 sq. ft. of space. A restaurant pad site is proposed near 301. The space is expected to be occupied by large retailers using 25,000 to 35,000 sq. ft. Access to the site will come from Kohl's property to the right and from Wal-Mart to the left. A right-in/right-out is approved as part of the Wal-Mart plan in the front. The stormwater management pond serves this property and the Westown Town Center; part of the property will also drain to a regional stormwater management pond behind Wal-Mart.

14. PUBLIC HEARING – 401 Classic Drive, Westown Business Park & Employment Center – Concept Plan for 48+/- acres of Lands of Mautom, LLC (tax parcel 23-043.00-003)

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

Take notice that a Public Hearing will be held on July 2, 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 Concept Plan for 48+/- acres of lands of Mautom, LLC (tax parcel 23-042.00-003) to be located at 401 Classic Drive in the Westown Business Park and Employment Center.

Rick Woodin presented the concept plan showing the boundaries of the property. Merrimac Avenue is currently under construction, which will connect Bunker Hill Road with Rt. 301; Merrimac Avenue will be extended south to connect to Industrial Drive. Industrial Drive will be extended to connect to Classic Drive (in the Auto Mall). As part of the Westown Master Plan, a future road will extend out to Levels Road. Levels Road is currently under construction to bring it to a ninety degree "T" intersection with 301 and there are plans to eventually signalize it. Interconnections to the site will go east/west and north/south. There is a large grid of network transportation already planned as part of the \$36,000,000 DeIDOT/Developer project that the Town of Middletown is administering. The developers are responsible for constructing Merrimac Avenue, South Merrimac Avenue and Classic Drive East and West.

The 48 acre parcel is zoned industrial with individual lots ranging from two to four acres. Offices are proposed to front on Merrimac which will connect to the future residential area proposed for Westown. A stormwater management facility exists. The individual lot owners will make individual presentations for their specific uses. A Preliminary Plan will be presented with more information and details.

15. PUBLIC HEARING – Adopt an Ordinance to rezone 5485 Peterson Road from Manufacturing Industrial (MI) to Downtown Commercial (C-2)

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

Take notice that a Public Hearing will be held on July 2, 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 rezone 5485 Peterson Road from Manufacturing Industrial (MI) to Downtown Commercial (C-2).

Chris Locke from Lang Development presented the plan requesting rezoning of the parcel from Manufacturing-Industrial to Downtown Commercial to allow retail/office at the site.

Morris Deputy requested the Proposed Findings of Fact be included in the motion.

Moved by Ms. Kelly and seconded by Mr. McGhee to adopt the Ordinance to rezone 5485 Peterson Road from Manufacturing-Industrial to Downtown Commercial (C-2) in accordance with the Proposed Findings of Fact. Motion Carried Unanimously.

16. PUBLIC HEARING – 5485 Peterson Road – Record 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 July 2, 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 Land Development Plan for Main Street Station, a two-story 35,000 square foot building on the property known as 5485 Peterson Road (tax parcel 23-005.00-130).

Chris Locke presented the plan proposing a two-story building with approximately 15,000 sq. ft. of retail on the first floor and 15,000 sq. ft. of office space on the second floor.

An easement is provided to allow for a connection from Lake Street to Peterson Road.

A question was raised about the building being placed closer to Main Street. Mayor Branner stated DeIDOT recommended the plan be approved as shown – with the building set away from Rt. 299 so it does not impair the site of traffic from Peterson Road.

Jason Faulkner said there was discussion about putting a center island down Peterson Road and asked if Lang was agreeing to bear the expense for that. The problem with rights-in/rights-out is that people still turn left in and left out – with an island in the middle of Peterson Road they won't be able to. Joe Charma said they are agreeable to restricting rights-in/rights-out with an island if DeIDOT and the Town deem so. The final construction plans will show the island. Mr. Faulkner said Peterson Road is the Town's – not DeIDOT's.

Moved by Mr. McGhee and seconded by Mr. Reynolds to approve the Record Land Development Plan for 5485 Peterson Road with a concrete island in the middle of Peterson Road. Motion Carried Unanimously.

17. PUBLIC HEARING – 17 Wood Street – Record 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 July 2, 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 Land Development Plan for Wood Street Medical, a three-story medical/commercial office building on the property currently used by Shone's retail operation at 17 Wood Street (tax parcels 23-005.00-017 and 23-005.00-038).

Chris Locke said the proposed building is a three-story building with approximately 38,000 sq. ft. for medical/general office space. Most of the issues brought up by Council and the Planning Commission have been addressed.

Mayor Branner said they have made all the changes requested by Council – the single entrance, the turning radius adjusted on Wood and Lake, single parking across the street adjacent to the entrance to the parcel and no entrances off the back.

Moved by Mr. McGhee and seconded by Ms. Kelly to approve the Record Land Development Plan for 17 Wood Street. Motion Carried Unanimously.

18. 5156 Summit Bridge Road – Adopt an Ordinance to annex property owned by Mr. and Mrs. Howard B. Carter, III (tax parcel 13-017.00-081) 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 July 2, 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 the property owned by Mr. and Mrs. Howard B. Carter, II (tax parcel 13-017.00-081) located at 5156 Summit Bridge Road into the Town of Middletown.

Roger Brickley, representing the Carter family, presented the annexation request. The parcel is 5.6 acres, located on Windmill Lane and Summit Bridge Road. The New Castle County zoning is "S" and the zoning requested is R-1B, which is 12,500 sq. ft. lots. The parcel is mapped in the Comprehensive Plan as proposed residential. No adverse letters or comments were received during the comment period. Upon annexation, the owner will request Town water and sewer.

Mayor Branner said the property is surrounded by the residential subdivision of Springmill. The annexation will eliminate an enclave in the Town's boundary. It was originally part of the farm that Springmill was built on.

Morris Deputy requested the Proposed Findings of Fact presented to Planning and Zoning be made part of the record and stated that the Town did receive approval from State Planning for the Plan of Services. They concur that we are in compliance with the requirements of Title 22, Section 101 of the Delaware Code. Approval has been received that Artesian can service the site. No adverse comments have been received regarding the annexation.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt the ordinance to annex the property owned by Mr. and Mrs. Howard B. Carter, tax parcel 13-017.00-081, 5.6 acres to be zoned R-1B located at 5156 Summit Bridge Road, into the Town of Middletown. The Proposed Findings of Fact and Morris Deputy's comments are included in the motion. Motion Carried Unanimously.

19. 921 Middletown-Warwick Road - Adopt an Ordinance to annex the 301 Travel Plaza property (tax parcel 13-026.00-026) into the Town of Middletown

Roger Brickley represented Paul Levine, owner of the Travel Plaza. The site is ten acres located on Rt. 301. C-3 zoning is requested. The Comprehensive Plan shows the parcel as future annexation with commercial zoning. The entrance aligns with the United Drive entrance to Levels Business Park. The client will participate in the recoupment agreement for the 301 improvements. The dedicated right of way will be shown on the boundary plan. There has also been discussion with DeIDOT about a possible future light at the intersection; at this time DeIDOT's position is that a light is not warranted. The owner of the property has plans to expand the truck stop to accommodate more trucks.

Mayor Branner said the Town realizes that is a hazardous intersection. It would be the Town's position to move forward on the installation of a light at that intersection as soon as possible.

A citizen asked how the owner/Town benefits from the annexation. Mayor Branner said it will provide a parking area for the trucks that now are parking at Lowe's, Wawa, etc. A bigger benefit is that it will provide right of way for the installation of a traffic signal. Mr. Faulkner said it also gives the Town control if there are issues at the truck stop.

Morris Deputy requested to amend the motion to include the Proposed Findings of Fact as approved by Planning and Zoning. Approval for the Plan of Services has been received from State Planning. We are compliant with the Delaware Code, we have received approval from Artesian to serve the site and we have received no written comments during the 30-day period.

Moved by Mr. Faulkner and seconded by Ms. Kelly to adopt the Ordinance to annex and rezone C-3 the 301 Travel Plaza property (tax parcel 13-026.00-026), 10 acres located at 921 Middletown-Warwick Road. The Proposed Findings of Fact and Morris Deputy's comments are included in the motion. Motion Carried Unanimously.

20. PUBLIC HEARING – Adopt an Ordinance to annex property owned by Rutkoske Bros., Inc. (tax parcel 13-026.00-030) located at 819 Middletown-Warwick Road into the Town of Middletown

Roger Brickley represented Felix and Mark Rutkoske, owners of the property. The property consists of 22.65 acres and contains several out buildings. The proposed zoning is C-3. The property is listed in the Comprehensive Plan as possible future annexation with commercial use. The site has septic and well and will seek Town utilities upon annexation. Planning and Zoning recommended approval. No comments were received during the 30-day comment period. The owners will participate in the recoupment agreement; dedicated right of way will be shown on the boundary plan.

Morris Deputy requested to amend the motion to include the Proposed Findings of Fact from Planning and Zoning and that State Planning approved the Plan of Services; we are in compliance with Delaware Code 22, Section 101; Artesian has provided written confirmation to serve the site and no comments were received during the 30-day period.

Moved by Ms. Kelly and seconded by Mr. Faulkner to adopt an Ordinance to annex 22.65 acres and zone C-3 the property owned by Rutkoske Bros., Inc. located at 819 Middletown-Warwick Road. The Proposed Findings of Fact and Morris Deputy's comments are included in the motion. Jason Faulkner and Robert McGhee voted in favor of the motion; Jim Reynolds and Catherine Kelly voted against the motion. Mayor Branner cast a vote in favor of the motion, breaking the tie vote. Motion Carried 3 to 2.

21. PUBLIC HEARING – Adopt an Ordinance to annex property owned by Bunker Hill Associates, LLC (tax parcel 13-021.00-029) located along Middletown-Warwick Road into the Town of Middletown

Richard Forsten, representing Bunker Hill Associates, requested annexation of the property located behind the Rutkoske Bros. property. The property is 19.02 acres and currently land-locked. The intent is to tie in to the Spring Arbor subdivision. The Comprehensive Plan shows the property in the future growth area with proposed commercial zoning which will allow a variety of residential uses.

Morris Deputy requested the Proposed Findings of Fact presented at the Planning and Zoning meeting be included in the motion. Approval has been received from State Planning for the Plan of Service; it complies with Delaware Code 22 Section 101 and written approval has been received from Artesian to serve the site. No written comments were received from the public within the 30-day period.

Moved by Ms. Kelly and seconded by Mr. McGhee to adopt the Ordinance to annex and zone C-3, 19.02 acres owned by Bunker Hill Associates located along Middletown-Warwick Road. The Proposed Findings of Fact and Morris Deputy's comments are included in the motion. Motion Carried Unanimously.

22. PUBLIC HEARING – Adopt an Ordinance to annex property owned by Middletown Greenways, LLC (tax parcel 14-011.00-003) located along Green Giant Road into the Town of Middletown

Richard Forsten, on behalf of Middletown Greenways, stated the property is located on Green Giant Road and borders the St. Anne's community. The property is approximately 30 acres and R-1B zoning is requested. The property will be given to the Town to give to the school district for a new school site.

Morris Deputy requested that the Findings of Fact presented at the Planning and Zoning meeting be included as part of the record. State Planning approved the Plan of Services, we are compliant with Delaware Code 22 Section 101, and Artesian has given written confirmation that they can serve the site. No written comments were received from the public during the 30-day comment period.

Moved by Mr. Faulkner and seconded by Ms. Kelly to adopt the Ordinance to annex tax parcel 14-011.00-003 located along Green Giant Road. The property will be given to the Appoquinimink School District for a new school. The Proposed Findings of Fact and Morris Deputy's comments are included in the motion. Motion Carried Unanimously.

23. PUBLIC HEARING – Adopt an Ordinance to annex property owned by Hedgelawn LLC (tax parcel 13-027.00-011) located on Middletown-Warwick Road into the Town of Middletown

Richard Forsten stated the request is to annex the 5 acre (+/-) parcel with a C-3 zoning. The house will be preserved but will be converted to an adaptive reuse to justify the preservation of the house. The property is part of the Westtown Master Plan study and part of the Middletown regional sewer planning for the west side of Town.

Mr. Kohl suggested that if the outbuildings are going to be removed that they be given to the Agriculture Museum or some other organization for preservation.

Morris Deputy requested that the Findings of Fact presented at the Planning and Zoning meeting be included as part of the record. State Planning approved the Plan of Services, we are compliant with Delaware Code 22 Section 101 and Artesian has given written confirmation that they can serve the site. No written comments were received from the public during the 30-day comment period.

Moved by Mr. Reynolds and seconded by Ms. Kelly to adopt the Ordinance to annex Hedgelawn, tax parcel 13-027.00-011, 5.12 acres to be zoned C-3 located on Middletown-Warwick Road. The Proposed Findings of Fact and Morris Deputy's comments are included in the motion. Motion Carried Unanimously.

24. PUBLIC HEARING – Adopt an Ordinance to annex property of Gateway Properties, LLC, the legal or equitable owner of the following tax parcel nos. 13-023.00-009, 13-023.00-010, 13-023.00-011, 13-023.00-112, 13-023.00-013, 13-023.00-114, 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

Rick Woodin stated the properties are located at the northwest corner of the intersection of Rt. 299 and Rt. 1 and total approximately 108 acres. Proposed zoning is C-3. The Comprehensive Plan shows the property as regional/commercial which permits commercial as well as residential. If the properties are annexed, they would become part of an agreement to dedicate right of way and make public improvements to the road as a master plan approach. The property will also provide right of way to allow for a signalized intersection at Willow Grove Mill.

Morris Deputy requested the Proposed Findings of Fact presented at the Planning and Zoning meeting be included as part of the record. State Planning approved the Plan of Services, we are compliant with Delaware Code 22 Section 101 and Artesian has given written confirmation that they can serve the site. No written comments were received from the public during the 30-day comment period.

Moved by Ms. Kelly and seconded by Mr. Reynolds to adopt an Ordinance to annex the property of Gateway Properties, LLC which include tax parcels 13-023.00-009, 13-023.00-010, 13-023.00-011, 13-023.00-112, 13-023.00-013, 13-023.00-114, 13-023.00-078, 13-023.00-079, 13-023.00-082 and 13-023.00-131 located along Rt. 299 to be zoned C-3. The Proposed Findings of Fact and Morris Deputy's comments are included in the motion. Motion Carried Unanimously.

25. PUBLIC HEARING – Adopt an Ordinance to annex property owned by Poole Ventures, LLC (tax parcel 13-021.00-013) located along Middletown-Warwick Road into the Town of Middletown

Rick Woodin stated the property is owned by Poole Ventures and consists of approximately 300 acres to be zoned C-3. It has road frontage on Rt. 301 and is adjacent to the Rutkoske property which requested annexation earlier. A corridor approximately 400' wide is reserved for the construction of the proposed limited access highway with an on/off ramp. The property is shown in the Comprehensive Plan as a growth area for mixed use. About 150 to 200 acres are set aside for preservation, agricultural or educational use. The property will become part of the transportation recoupment agreement for all the improvements to the west side of Town.

Mayor Branner said this parcel is part of the transfer of development rights agreement the Town had with the State when Westown was first proposed. Mr. Woodin, the Dept. of Agriculture and the Town entered into that agreement working with the school district. The Town has had discussions with two colleges interested in the area but nothing can be done until the property is annexed. Mr. Faulkner said it's also part of the greenbelt that the Town has been trying to establish as the boundary of the Town on the west side.

Morris Deputy requested the Proposed Findings of Fact presented at the Planning and Zoning meeting be included in the motion. State Planning approved the Plan of Services, we are compliant with Delaware Code 22 Section 101 and Artesian has given written confirmation that they can serve the site. No written comments were received from the public during the 30-day comment period.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt an Ordinance to annex the property owned by Poole Ventures, LLC, tax parcel 13.021.00-013 located along Middletown-Warwick Road, 300 +/- acres zoned C-3 with 200 +/- acres set aside for educational, agricultural or preservation as part of the TDR agreement with Woodin Associates and the State of Delaware. The Proposed Findings of Fact and Morris Deputy's comments are included in the motion. Motion Carried Unanimously.

26. PUBLIC HEARING – Adopt an Ordinance to annex tax parcels 13-022.00-031 and 13-027.00-015 into the Town of Middletown

Mayor Ken Branner requested approval for annexation of the property located on Silver Lake Road consisting of 46 acres to be zoned as R-1A. A property located on Cedar Lane/Marl Pit Road was traded with New Castle County for these two parcels and the property has been deeded to the Town. The parcel fronting on Silver Lake Road will be used for MOT Youth Football. An out-building for equipment and lighting for at least one field will be installed. The back parcel is targeted for the Boys and Girls Club. Their Capital Campaign will start once annexation is approved. Construction should commence within 18 months. The only entrance to the Boys and Girls Club will be from Silver Lake Road to a road paralleling the site. The existing trail from Silver Lake Park will be extended and a trail will be constructed down the side of the property where the stormwater management area is located. The existing buffer will remain. A sidewalk will be installed on Silver Lake Road. Land Development plans will be presented before Planning and Zoning and Mayor and Council for approval before construction begins. Permanent lighting will eventually be installed. A sidewalk will be extended to St. Anne's School.

Mr. Faulkner said a new storage building and concession stand will be built and the existing sheds will be removed.

The property will be turned over to the Boys and Girls Club and MOT Youth Football by a lease agreement. It will be their's to maintain with the exception of the open areas which the Town will be responsible for.

Elijah Richardson said the Boys and Girls Club would be approximately 30,000 sq. ft. with a gym, tennis courts, soccer, an indoor pool, etc.

Morris Deputy requested the Proposed Findings of Fact presented at the Planning and Zoning meeting be included in the motion. State Planning approved the Plan of Services, we are compliant with Delaware Code 22 Section 101 and Artesian has given written confirmation that they can serve the site. No written comments were received from the public during the 30-day comment period.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to adopt the Ordinance to annex tax parcels 13-022.00-031 and 13-027.00-015. The Proposed Findings of Fact and Morris Deputy's comments are included in the motion. Motion Carried Unanimously.

27. PUBLIC HEARING – Adopt an Ordinance to annex property owned by the Appoquinimink School District (tax parcel 13-021.00-089) located along Bunker Hill Road into the Town of Middletown

Bob Hershey, Facilities Supervisor for the Appoquinimink School District, commented that the parcel on Green Giant Road proposed for annexation will be the fourth piece of property conveyed to the school district by the Town of Middletown for the construction of schools. The school district and the taxpayers have both benefited by the funds saved. He commended Mayor and Council for their foresight on the annexations.

Mr. Hershey stated the annexation request is for approximately 100 acres – it joins the existing new high school site on Bunker Hill Road. It also has a transfer of development rights which prohibits any type of construction except for athletic fields. The proposal is to build a synthetic field.

Morris Deputy requested the Proposed Findings of Fact presented at the Planning and Zoning meeting be included in the motion. State Planning approved the Plan of Services, we are compliant with Delaware Code 22 Section 101 and Artesian has given written confirmation that they can serve the site. No written comments were received from the public during the 30-day comment period.

Moved by Mr. McGhee and seconded by Mr. Reynolds to adopt the Ordinance to annex the property owned by the Appoquinimink School District located along Bunker Hill Road; 100 acres to be zoned R-1B. The Proposed Findings of Fact and Morris Deputy's comments are included in the motion. Motion Carried Unanimously.

28. PUBLIC HEARING – Pad Site #320, Dove Run Centre – Record Minor Land Development Plan for Hardee's Restaurant

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

Take notice that a Public Hearing will be held on July 2, 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 Land Development Plan for Hardee's Restaurant to be located on pad site #320 in the Dove Run Centre.

Bob Rosenberger presented the plan proposing a 3,500 sq. ft. Hardee's Restaurant to be located between Friendly's Restaurant and Mercantile Bank. The Town engineer's comments have been addressed. The drive-thru parallels Rt. 299 and exits to the service road in Dove Run. Landscaping will be enhanced. Planning & Zoning requested that the side facing Rt. 299 incorporate an awning over the windows to give the appearance as the face of the building. The windows including the drive-thru will receive a canopy. The windows over the dining area have a canopy plus a goose-neck lamp to down light the area. The building is stone from the ground up to about 3' and the rest of the area is stucco. A monument sign will be placed on 299 similar to the bank sign. Construction should begin at the end of summer.

Ms. Kelly asked if the "star" is part of the building. Mr. Rosenberger said that is Hardee's logo – one is placed on each side of the building.

Mayor Branner said Planning and Zoning recommended approval be granted with the addition of an awning over the drive-thru window which faces Rt. 299.

Moved by Mr. Faulkner and seconded by Ms. Kelly to approve the Record Minor Land Development Plan for Hardee's Restaurant at pad site #320, Dove Run Center with the condition awnings are placed over the windows. Robert McGhee – yea; Jim Reynolds – yea; Jason Faulkner – yea; Catherine Kelly – nay. Motion carried 3 to 1.

29. PUBLIC HEARING – 118-120 Sleepy Hollow Drive, Suite 3, Bunker Hill Centre II – Conditional Use Permit No. CU-04-07

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

Take notice that a Public Hearing will be held on July 2, 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-04-07 to use the warehouse space located at 118-120 Sleepy Hollow Drive, Suite 3, Bunker Hill Centre II as a teen fitness studio in a Manufacturing Industrial (MI) zoned district.

Ray Zwyczewicz, owner of the proposed facility, requested conditional use approval to allow a teen fitness center in a manufacturing-industrial zone; 3,400 sq. ft. will be used; Planning and Zoning recommended approval. 22 parking spaces are provided.

A question regarding parking arose. Mayor Branner said parking was discussed at Planning & Zoning. 22 spaces are provided. Mr. Zwyczewicz said there will be three employees and a shuttle will drop off most of the kids. The business hours are 3 p.m. to 7 p.m.; primarily after school and evenings. The area is not a large enough for children to spend more than a couple of hours there. Planning and Zoning didn't think parking would be an issue. Mr. Zwyczewicz said he and the owner's representative of the building talked with the other tenants in the building and they agreed there would not be a conflict given that their current uses are primarily prior to 3:00 p.m.

Moved by Ms. Kelly and seconded by Mr. Faulkner to grant approval for Conditional Use Permit No. CU-04-07, 118-120 Sleepy Hollow Drive, Suite 3, Bunker Hill Centre II to allow a teen fitness studio in a Manufacturing-Industrial zone. Motion Carried Unanimously.

Unfinished Business

- Mayor Branner reported that letters were received from DeIDOT in response to the Town's request to reduce the speed limits on Rt. 301 and Rt. 71:

Rt. 301 from Armstrong's Corner to the Maryland line: DeIDOT recommended the speed limit be reduced from 50 to 45 from Springmill Drive to Rt. 299 (35 m.p.h. was requested). The speed limit will remain the same from that point south but they will re-evaluate it as construction progresses south from Bunker Hill Road.

Rt. 71 from Noxontown Road to the Lakeside entrance: DeIDOT recommended the speed limit remain the same and re-evaluate it at a later date when the Cricklewood Shopping Center opens.

- Industrial Drive Light
Morris Deputy reported that DeIDOT is working with the Woodward's (W. Main St.) to obtain an agreement with them to install a pole on their property for an overhead sign to warn people of the train.

New Business

- Jim Reynolds reminded everyone the fireworks will be held on the Fourth of July.
- Athletic equipment is available at the park for anyone who wants to use it – just sign it out and return it when finished with it.
- Mayor Branner said we anticipate the police force to be in effect within 60 to 90 days if qualified officers apply for the jobs.
- The Crown Victoria is the recommendation for police cars; the SUV of choice is the Tahoe (both marked and unmarked). The Impalas do not have enough trunk space for necessary gear.
- Timeline for Police force:
 - Hire the Police Chief.
 - Set up minimum requirements based on the Chief's and the State Police Chief's Association's input.
 - The Chief and Mayor and Council will hire a Lieutenant.
 - The Chief and Lt. will be responsible for hiring the remainder of the police force.
 - Advertising for police officers should start in three or four weeks.
- Approximately 800 acres were annexed this evening; 400 acres are for parkland and educational purposes.
- Bids for the Streetscape will be opened on Friday at 4:00 p.m. – the Streetscape should be completed within three or four months; it will not be ready for the Peach Festival. The Peach Festival will still be held on Main Street.

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