

MAYOR AND COUNCIL OF MIDDLETOWN

Special Meeting Minutes

Monday, October 15, 2012; 6 p.m.

Town Hall Council Chambers

19 W. Green St., Middletown

1. Discussion of proposed Ordinance 12-10-01, relating to mobile food vendors (trailers, trucks, and other transient or temporary vehicles) in the Town of Middletown.

Mayor Branner opened the floor for comments at 6 p.m.

Councilman Chuck Dixon said he was the one initially asked to bring this item to Council for review and wanted to let everyone know where he was on this.

“There was a meeting last January after we approved a mobile vendor, and someone had indicated that they were upset that we did that. We didn’t have anything in the ordinance prohibiting it, so there was no reason to allow it to happen. So they presented this, something that would give us some guidelines.

I want to point out that this is not prohibiting any mobile food trucks from being able to operate in the Town of Middletown. It’s merely more putting a process into what they have to follow if they want to operate a food truck in the Town of Middletown. Things such as making sure that they comply with all the state regulations concerning health and safety.

And this, in my opinion, this is a way that ... one of the biggest things I hear from residents, is their biggest concern here in Middletown, is traffic, and this is just a way that we can, by having an ordinance like this ... this ordinance will allow us from having an overpopulation of food trucks that it could create a traffic issue more than what we have now.

As long as people comply with everything, they would just come before Mayor and Council and ask for a conditional use permit, and we would vote on its merits. But it’s not saying ... just because we have an establishment of a certain type in town, it’s not going to prohibit a mobile vendor of the same type of food from coming into town.”

Before opening the comments to those waiting to speak, Mayor Branner said, “We have given a permit to Mr. Clint Johnson to operate his mobile vending truck, and whether this ordinance passes or fails will have no relevancy at all about that {permit.} He would be grandfathered in, as a result of us already issuing that. We’re not going to yank any permit he has as a result of this new ordinance.”

Clint Johnson:

I would like to thank everybody for the forum to speak. He apologized for any hard feelings that may have come about with the newspaper article describing a “turf war” between the two barbecue facilities in Town. He said he has always felt at home in Middletown since he started cooking here. Felt he has had a humble start here and due to success here, felt he had the strength to open store in Smyrna. Said

the governor has met with him to discuss small business success. "It's very easy down here," he said, "I'd always like to have a home here in Middletown."

Barbara Keesey of Millbranch:

Question: Is there a boundary where these food vendors will be able to operate in Middletown?

Mayor Branner:

It has to be on private property with the permission of the property owner. It can't be in the public right-of-way, can't be where parking has been approved for commercial or industrial parking. That's why it's a conditional use. They will come before us, show us where it's going to go, and then we'll grant approval based on all the conditions that they meet. Each conditional use is granted on its own merit. We review each one, whether it be for a food vendor, or any other conditional use within the Town."

Barbara Keesey:

Is there anything in the ordinance about the maximum, how many can operate at one time?

Mayor Branner:

There's no given number, five or 10 or 30, but if we ever get to the point where we think there are too many, we can deny them.

Mike Silvaggio:

Thank you to Council for plugging into something important like this. Free enterprise, it may start very early, may start with a shoeshine box or it may start with a paper route. If there ever was a time to air on the side of giving people every opportunity, in the economic times we are in right now would be the time to do it. I'm glad I'm not in your shoes of taking "case-by-case." Invite competition, that's how you keep prices down.

Mayor Branner:

"I want to add that this {ordinance} changes nothing around the approval process from before. This just gives clarity on the process and goes to Planning and Zoning, which is another avenue to be able to go before the public."

Bob Hess:

I have been a resident of Middletown for seven years. As I watch the efforts of Main Street Middletown, there have been significant challenges and whatever it takes to maintain that business. The big picture I have is where do we go after this? I have a vision of a MAC Tools truck in the parking lot in the church parking lot across the street from the hardware store. Is this where we are going? Are we going to be back here in six months to do this again regarding some other industry other than a food vendor?

Mayor Branner:

Well, it can't go in that parking lot, because it's a public parking lot. You can rest easy on that.

Keith Young, Young's Barbecue:

I feel I have to come up and say something because a lot of this is directly about me or about us. I was here in January and I made a speech so you know where I stand and I wanted to say with the good

attendance we have tonight and with this special meeting shows you do care and there is a need here. It does address that something does need to be done. I do think I agree with the ordinance but I would think that there should be boundaries or zones. We're going to be right back in the same situation if a property owner can give permission to somebody, what's to stop the open fields to be filled with vendors. This is about the protection and integrity of small businesses.

Chris Gormley, owner of Dogtown:

Will this be just for food vendors or all vendors? Will they be able to sell jewelry in front of the jewelry store? Will I be able to go down the street and sell bootleg jerseys in front of some other store?

Mayor Branner:

No, it's not just food. It reads, "Whereas the sale of goods and foods from trucks, trailers..." So, no, it's not just food, and every single one will have to come before us to get the conditional use.

Gormley:

Is there a timeline on the approval? We have to get inspected every year, will they have to come before Council and get approved every year for their conditional use?

Mayor Branner:

You would get a conditional use and the conditional use stays with you as long as you are doing that conditional use. It is given for the use, not the person. As long as it's continuous and doesn't break. For example, if you start a hotdog {vending} and you only do hotdog ... but then you start selling sweatshirts, it {conditional use} goes away.

Gormley:

How do we make sure they get all the licenses/approvals they need?

Mayor Branner:

They will have to show us that they have all of those things. It will be part of the approval process.

Gormley:

Is there any way to think about putting protection on the businesses we have here in Town. Meaning, take my business for example, I'm in a building with several other businesses. What if one of those other businesses gives someone permission to sell hotdogs right out in front of my place? Is there any protection, like distance, or give a business right to speak on my behalf?

Mayor Branner:

In the case you mention, it wouldn't be allowed on the sidewalk in front of Dogtown, because that's public right-of-way ... but they would still have the right to apply for a conditional use. Everyone has the right to apply. But Mayor and Council have the right to approve or deny based on what's best for the Town of Middletown.

Glenn James:

Resident for 13 years. Has two mobile food units and works in three or four different states. Process is different in all of the areas. "We put a lot into being a mobile food vendor, to do everything they ask us to do. I just wanted to say what you are doing is just what they're doing everywhere else, the process is the same."

Ben Dollard:

Food vendor on Main Street in Newark. "Most of us food vendors have quality product, better than some restaurants actually. People will travel far and wide to go to a food vendor they like if they like the food."

Chuck Dixon:

I want to say, in the ordinance as it's written now, I would propose we strike the last sentence in the introductory paragraph about taxes. I don't think it's relevant. In Section 1, mentions specifically food vendors during festivals and exempting ice cream trucks. I would also like to add something about food delivery trucks like Schwan's.

Mayor Branner:

I think those type of delivery trucks would fall into the same line as other delivery trucks such as UPS and the like.

Mayor Branner:

In closing, we have the comments from tonight and comments from everyone we have received. We will introduce this ordinance again on Nov. 5, then most likely vote on it at its regularly-scheduled meeting on Dec. 3, or another future date. Thank you all for coming and for your comments.