

The regular meeting of Mayor and Council was held on the above date with Councilmen Jim Reynolds, Robert McGhee, Drew Chas, Rob Stout and Howard Young present with Mayor Kenneth Branner presiding. Town Manager Morris Deputy and Town Solicitor Scott Chambers were also present. Councilman Faulkner was absent.

1. Minutes Approval: Moved by Mr. Reynolds and seconded by Mr. McGhee to approve the Minutes of January 4, 2016 as prepared. Motion Carried Unanimously.

2. Treasurer's Reports: Moved by Mr. Chas and seconded by Mr. McGhee to approve the Treasurer's Report as presented in printed form. Motion Carried Unanimously.

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

4. Police Report: Chief Dan Yeager

The MPD responded to 936 calls for service for the month of January.

- 2 drug arrests: Dickenson Boulevard and Cleaver Farm Road
- 3 burglaries: Vincent Circle, New Street and 1 attempted burglary on Caribou Lane
- 243 traffic arrests; 105 criminal arrests; 55 warnings; 320 reports; 27 field service reports and crime prevention checks.

Moved by Mr. Young and seconded by Mr. Reynolds to accept the police report as presented by Chief Yeager. Motion Carried Unanimously.

General Election announcement by Mayor Branner:

- Election will be held on Monday, March 7, 2016.
- The filing deadline is 4:30 p.m., February 12, 2016.
- Election will be held from noon until 8:00 p.m. in the Council Chambers at Town Hall.
- Residents who will be out of town, sick or disabled, may vote until 4:30 on March 4th with an absentee ballot.
- Absentee ballots can be found on the Town's website under "Election Information" or they can be picked up at Town Hall between 8:00 a.m. and 4:30 p.m., Monday thru Friday.
- All residents over 18 years of age are eligible to vote and must show proof of residency.
- Inspectors:
 - Kristen Krenzer
 - Kelly Fletcher
- Judges:
 - Kate Keller
 - Kiley Edwards
 - Amy Murray
 - Theresa Berry
 - Amada DiGati
 - Katie Morris
 - Megan McGhee
 - Noel Stokes

5. Public Hearings:

5-A. Lot 5, Middletown Levels Business Park – Record Minor Land Development Plan for a proposed 24,892 square-foot, flex space building and associated improvements, in an M-I zoned area. Tax Parcel No. 23-041.00-005.

Roger Brickley represented Tom Wilcox, owner of the property.

- Mr. Wilcox has two buildings located on Lots 6 and 7 in levels Business Park.
- A 24,892 square-foot flex-space building is proposed with 8 units in the building.
- 100% access will be provided around the building. Parking will be provided on the side.
- The building will be sprinklered.
- The site is in a WRPA – per code, the entire roof runoff will be infiltrated in the rear of the site.
- Planning and Zoning recommended unanimous approval.
- A variance for the parking was received from the Board of Adjustment on January 25, 2016.

Moved by Mr. McGhee and seconded by Mr. Reynolds to approve the Record Minor Land Development Plan for Lot 5, Levels Business Park. Motion Carried Unanimously.

5-B. 200 Celebration Court – CU-01-16 – Conditional Use Permit request to allow Delicious Craving to operate a mobile food unit in a C-3 zoned area. Tax Parcel No. 23-065.00-001.

Chef Willie Enchill requested approval to allow a mobile food unit at 200 Celebration Court. His menu will feature Turkish and Greek selections. Planning and Zoning recommended approval. A letter from the property owner is on file.

Moved by Mr. McGhee and seconded by Mr. Chas to approve 200 Celebration Court Conditional Use No. CU-01-16 to allow Delicious Craving to operate a mobile food unit in a C-3 zoned area. Motion Carried Unanimously.

5-C. 104 S. Broad Street – Conditional Use Permit request to allow Warriors Helping Warriors of Delaware to operate a non-profit veteran assistance program and facility on the first floor, and allow residential living on the second floor, in an R-1A zoned area. Tax Parcel No. 23-009.00-001. CU-01-16.

Retired Colonel Bill Conley, father of retired Major Kevin Conley, commented that Kevin was injured in Afghanistan in 2010 and is 100% disabled. While going through the process for benefits, they became aware of the large number of young service members struggling through the VA system. They thought it would be beneficial to veterans if there was an organization available that would help them navigate through the system to get the benefits they are entitled to.

Kevin Conley stated the facility will be used to help rehabilitate veterans and provide short-term housing. Offices, as well as a multi-use space that will be used by various instructors, will occupy the first floor. An apartment will be located on the second floor for use by a veteran and his/her family.

Tina Conley discussed the extreme amount of red-tape involved to get services from the VA.

Mayor Branner said the building permit will be issued once the utilities and taxes have been satisfied. The penalties will be waived.

Mr. Reynolds asked how long the family would stay in the apartment.

Kevin Conley stated the purpose of the program is not to provide treatment or housing. They want to provide temporary housing until the family can afford accommodations elsewhere. They will be working with a local realtor to help find permanent housing.

Mayor Branner responded to a resident's comment that the apartment will not be available to the general public as a rental unit. The unit will be inspected each time the tenant changes, per the Town's rental requirements.

Moved by Mr. Stout and seconded by Mr. Young to approve Conditional Use No. CU-01-16 based on the presentation with the condition that before a building permit can be issued that the past due taxes and utilities are paid. The penalties will be forgiven. Motion Carried Unanimously.

5-D. 19 S. Broad Street – LED sign request for Liquor Warehouse

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5-E. Motion to Ratify an Amended Agreement with First State Inspection Agency, Inc.

Morris Deputy: This amendment will remove the plan review portion from the current agreement. The amended agreement will provide inspection services for commercial, apartments and industrial construction and extend the agreement until June 30, 2017.

Moved by Mr. McGhee and seconded by Mr. Chas to ratify an amended agreement with First State Inspection Agency, Inc. and extend the Agreement until June 30, 2017, as recommended by the Town Manager. Motion Carried Unanimously.

5-F. Motion to Ratify a Lease Agreement for the property located at 479 Haveg Road, Middletown, DE 19709. Tax Parcel No. 23-008.00-097.

Morris Deputy: One of the contractors awarded a contract to construct a section of the new Rt. 301 project would like to rent the property for three years pursuant to his DelDOT contract. The property will be leased for \$1,000 per month, plus utilities and permits.

Mayor Branner commented that all contractors hired to work on the bypass are required to locate their office trailers within one-and-a-half miles of the route.

Moved by Mr. Stout and seconded by Mr. Young to lease the property at 479 Haveg Road to a contractor for \$1,000 per month for three years. Motion Carried Unanimously 5 - 0. Mr. Reynolds recused himself from voting.

5-G. Motion to Ratify an Agricultural Spray Agreement for the Jester Farm Fields and the Clay Farm.

Morris Deputy: The Town currently has an agreement through the DNREC permit to spray on the farms. That disposal does not count toward the permit. We are amending the contract to allow

50% of the historic flow to count toward our disposal capacity. The term will be extended to 99 years to be more amenable to DNREC. The cancellation notice will also be extended.

Patty McQuen requested a copy of the agreement.

Moved by Mr. Chas and seconded by Mr. Reynolds to accept the recommendation by the Town Manager to Ratify an Agricultural Spray Agreement for the Jester Farm fields and the Clay Farm. Motion Carried Unanimously.

H. Adopt a Resolution approving on-site generation for the Middletown Technology Center, as required by Chapter 17, "Rules and Regulations, Including the Electric Tariff" for the Town of Middletown, Delaware.

Richard Forsten, on behalf of Cirrus Delaware LLC, stated the resolution is the next step in the process for Cirrus Delaware and the Town to negotiate a contract for the inter-connection of the back-up generation into the Town's electric system. If a contract is negotiated, Cirrus will have to come back for final approval of the contract. The air permit still has to be obtained from DNREC, which will also be a public process. The plan is to apply for a minor permit. This center will use power from the Town except when the demand on the Town's system is high; at that time, the center will use the natural gas system. Tonight's hearing is for approval to start negotiations for the contract for the inter-connection.

Pete Sullivan, Estates at St. Anne's: Questioned the necessity of a backup generator for the Tech Center; said the 138 kV line and another one proposed should provide more than enough capacity for the center since the Town's peak power is 35 MW; he doesn't feel enough information has been provided on the generator and the generator will be a major polluter.

Mayor Branner: The Tech Center requires 5-nine's for reliability – their computers must run 24/7. The Town doesn't control which transmission line the power comes from and could it break down from Conowingo or Townsend, and the Town's substation could go down. The co-generator's maximum running time is estimated at 50%, and more realistically, only 25% of the time. The required reliability comes from the co-generation facility. The Town is following the process by code and law. The generator information is part of the DNREC permit process.

Mark Degliobezzi, Sharondale: Asked Council to answer in one sentence how the "power plant" (co-generation facility) will benefit the town.

Rob Stout: 70 high paying jobs; creates less pollution than coal, natural gas will be efficient.

Robert McGhee: Jobs

Jim Reynolds: this has been addressed before; beneficial to the town; employment; clean industry.

Mayor Branner: A benefit to the Town.

Drew Chas: Agrees with comments previously stated.

Howard Young: Same reasons as stated; the Town needs jobs.

Angelo Gallego, Spring Arbor: Talked about different types of generators; said the 125 jobs is only anticipated and 25 will be filled by non-residents; does not think jobs for "engineers and skilled labor" will materialize; based on his experience, once cloud services are in place, they will be monitored remotely; the jobs are highly specialized requiring bachelors and master's degrees and probably not filled by Middletown residents; the facility is being built too close to the residential area.

Mayor Branner: The key to a Tech Center and getting those businesses is that the electric to the center will not be lost. The co-generation facility is ready to kick on when the electric fails. As part of the tariff agreement, the center will buy their predominant amount of electric from the Town. The only time they will not buy it is during peak demand. Public hearings will be held for the DNREC permits.

Tom Sullivan, St. Anne's: Most of the cancer rates are attributed to chemical refineries, coal burning plants and nuclear power plants. Natural gas is 50% less carbon than coal; we should all be at the state capital asking for more clean energy, more natural gas and more things that will protect the environment.

Richard Forsten: The grid is uses about 35%-40% coal to generate electric; Delaware's air quality is affected by neighboring states.

- DNREC has said that using a cleaner technology should improve Delaware's air quality, when compared to the average generating source.
- This project is not being done to sell power back to the grid – that was another project with a different economic model.
- The permit will not allow power to be generated all the time – only during peak hours of demand.

Resident from Wilmington: Questioned the redundancy and running time for the co-generation facility; commented that natural gas is a fossil fuel and it's not much cleaner than coal; polluting industries usually bring more polluting industries.

Mayor Branner: The two 138kV lines and the co-generation facility will provide the redundancy. The engines spin at a low rate until they are ready to kick in.

Moved by Mr. Reynolds and seconded by Mr. McGhee to adopt a Resolution approving on-site generation for the Middletown Technology Center, as required by Chapter 17, "Rules and Regulations, Including the Electric Tariff" for the Town of Middletown. Motion Carried Unanimously.

6. Unfinished Business: None

7. New Business:

- Bob Gouge expressed concern that the tolls for the proposed bypass route (\$4 for cars and \$11 for trucks) will have a negative impact on businesses and deliveries, as well as local residents.
- Justin Faulkner, Manager from Tom Foolery's, announced they will be hosting a 5K fundraiser for Attack Addiction, Tuesday, February 23rd. The 5K will be run March 5th.
- Mayor Branner announced that Councilman Faulkner is absent this evening because he had surgery.

Moved by Mr. Reynolds and seconded by Mr. Chas to adjourn to Executive Session to discuss the competency and ability of an individual employee, pursuant to 29 Del. Code §10004(b)(9). Motion Carried Unanimously.

8. EXECUTIVE SESSION:

- a. Discuss competency and ability of an individual employee, pursuant to 29 Del. Code §10004 (b)(9).

Moved by Mr. Reynolds and seconded by Mr. Chas to exit the Executive Session and return to public session in the Council Chambers. Motion Carried Unanimously.

Moved by Mr. Chas and seconded by Mr. Reynolds to accept the recommendation for the promotion and removal of driving restrictions from an employee in the Maintenance Department. Motion Carried Unanimously.

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

Meeting adjourned at 9:45 p.m.