

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

1. Swearing-In of Town Council Members

Mayor Branner announced the official election results of March 7, 2016:

| <u>Candidate</u> | <u>No. of Votes</u> |
|-------------------------|----------------------------|
| Roxanne Ferguson | 566 |
| Alton Irvin | 263 |
| Robert McGhee | 638 |
| James Reynolds | 606 |
| Robert Stout | 725 |
| David Wisniewski | 350 |

Total number of voters: 1,149 (includes 15 absentee voters)

The Election Commission has certified the votes.

The official results declared incumbents **Robert McGhee, James Reynolds and Robert Stout** as winners of the 2016 election.

Mayor Branner conducted the swearing-in ceremony.

Rob Stout presented a Proclamation from Mayor and Council honoring Middletown High School wrestler Dante Immediato who won the State Championship title in his weight class. The Proclamation declared March 14, 2016 as Dante Immediato Day in the Town of Middletown. He had his 100th win and went on to win his third Blue Hen Championship title, and is the only wrestler in Middletown High School history and the 23rd in Delaware history to do so.

2. Minutes Approval: Moved by Mr. Faulkner and seconded by Mr. McGhee to approve the Minutes for February 1, 2016 as prepared. Motion Carried Unanimously.

3. Treasurer's Report: Moved by Mr. Chas and seconded by Mr. Faulkner to approve the Treasurer's Report as prepared. Motion Carried Unanimously.

4. Bills Payable: Moved by Mr. Reynolds and seconded by Mr. Faulkner to approve the Bills Payable as prepared and pay as funds become available. Motion Carried Unanimously.

5. Police Report: Chief Daniel Yeager

The MPD responded to 851 calls for service for the month of February.

- 2 significant drug arrests: Maple Avenue and Fields Terrace.
- 1 robbery - WSFS E. Main Street.
- 2 Burglaries: E. Lake Street and Hostetter Blvd.
- 1 Community alert: The Legends and Middletown Village vehicles were targeted. Chief Yeager reminded residents to lock their vehicles and remove all valuables.
- 129 arrests; 54 criminal arrests; 28 warnings; 330 reports; 22 field service reports and crime prevention checks.

Chief Yeager introduced three new officers: William Bell, Luciany Moise and Emanuel Velez.

Moved by Mr. Young and seconded by Mr. McGhee to accept the Police Report as presented by Chief Yeager. Motion Carried Unanimously.

6-A. Silver Lake Elementary School student presentation

Principal Cindy Clay, students Jayla Hopkins and Lily Price thanked Council and Town employees for their assistance at the school during the bomb threats.

6-B. Record Major Land Development Plan for a proposed 36,170 square-foot retail grocery store (Lidl) in the M.O.T. Park, 359 Auto Park Drive, Parcel G. The proposed building and parking facilities would be constructed within a 3.90 acre C-3 zoned area. Tax Parcel No. 23-022.00-184.

Dave Kuklish, Bohler Engineering, presented the Record Plan.

- Approval is requested for a 36,170 sq. ft. grocery store.
- Technical aspects are being worked on with KCI.

Moved by Mr. Chas and seconded by Mr. Reynolds to approve the Record Major Land Development Plan for Lidl in the MOT Park, 359 Auto Park Drive, Parcel G, as requested. Planning and Zoning recommended approval. Motion Carried Unanimously.

6-C. Westown Town Center, Phase 3, Parcel 4 – Stone’s Throw Church, Inc., requests review and recommendation of approval of the Record Re-Subdivision Plan, to reconfigure the proposed parking and building layout of the proposed church. No changes to any other parcels comprising Westown Town Center, Phase 3, are proposed by this plan. Tax Parcel No. 23-049.00-039.

Rick Woodin, Woodin and Associates, represented Stone’s Throw Church.

- The purpose of the plan is to reposition the building on the property.
- Utilities and drainage follow the same pattern as proposed on the Record Plan.
- No other engineering changes will take place.
- Planning and Zoning recommended approval.
- They met with the Spring Arbor developer to discuss creating a common berm that would result in a larger berm between the church and the development. Architectural elevations showing the back of the church were also provided. The church is about half the length of the theatre building.
- A 75’ wide open space will separate the church from the property owners. Utilities are in the open space, and 25 feet is set aside for a landscape berm.

Moved by Mr. Faulkner and seconded by Mr. Stout to approve the Record Re-Subdivision Plan to reconfigure the parking and building plan of the proposed church. Motion Carried Unanimously.

6-D. Westown Business Park, Lot 1 – Westown BP 60 Acres, LLC, requests review and recommendation of approval of the Record Re-Subdivision Plan to subdivide Lot 1 into two lots, Lot 1A and Lot 1B, containing 5.05 acres and 4.90 acres, respectively. Tax Parcel No. 23-040.00-002.

Rick Woodin, Woodin Associates, presented the plan.

- The purpose is to subdivide the 10-acre parcel into two parcels.
- The parcel is located on Rt. 301 across from Texas Road House.
- Harley Davidson will occupy the corner lot.
- Harley Davidson will come before Council with a Land Development Plan at a later date.
- The street system and utilities were designed to accommodate the development of this business park.

Moved by Mr. Faulkner and seconded by Mr. Chas to approval of the Record Re-Subdivision Plan to subdivide Lot 1 into two lots, Lot 1A and Lot 1B, in the Westown Business Park. Motion Carried Unanimously.

6-E. 504 S. Broad Street – Everett Meredith Middle School – Minor Land Development Plan to place four (4) temporary classroom trailers (3,360 square-feet) at the school. Tax Parcel No. 23-011.00-001.

Ted Williams with Landmark Engineering represented Appoquinimink School District.

- The plan proposes to place 4 temporary classrooms at Everett Meredith Middle School.
- The classrooms might be installed this year but most likely next year, depending on the needs of the district.
- Planning and Zoning recommended approval.
- DNREC is currently reviewing the stormwater management design.

Moved by Mr. Faulkner and seconded by Mr. Chas to grant approval for the Minor Land Development Plan for the Everett Meredith Middle School for the placement of 4 temporary classrooms at 504 S. Broad Street. Motion Carried Unanimously.

6-F. 201 New Street – Louis L. Redding Middle School – Minor Land Development Plan to place four (4) temporary classroom trailers (3,360 square-feet) at the school.

Ted Williams with Landmark Engineering represented Appoquinimink School District.

- The plan proposes to place 4 temporary classrooms at Louis L. Redding Middle School, to be built on the Lake Street side of the school.
- The facility will be constructed for the district to use this fall.
- A temporary fire access lane will be installed off Lake Street.
- DNREC is currently reviewing the sediment and erosion control plan.
- Planning and Zoning recommended approval.

Rob Stout asked how many students each unit will hold. Mr. Williams said about 25. These units are also being placed at Cedar Lane and Alfred G. Waters Schools because of the influx of students.

Moved by Mr. Stout and seconded by Mr. Chas to grant approval for the Minor Land Development Plan to place four (4) temporary classroom trailers at the Louis L. Redding School, 201 New Street. Motion Carried Unanimously.

6-G. Willow Grove Mill, Parcel B – Fusco Properties LP, requests review and recommendation of approval of the Record Re-Subdivision Plan, to subdivide the existing parcel along the already established two (2) lease line parcels, and to subdivide the remaining lot into three (3) additional lots. Tax Parcel No. 23-033.00-013.

Colm DeAscanis and Frank Vassallo presented the plan.

- Planning and Zoning recommended approval.
- The plan proposes the subdivision of Parcel B of the Willow Grove Mill Commercial Record Plan. Parcel B comprises about 21 acres and houses Healthsouth on the east end and Wawa next to Gloucester Boulevard.
- The plan will create separate parcels for Wawa and Healthsouth, and 3 separate lots on the remaining parcel.

Moved by Mr. Faulkner and seconded by Mr. Chas to grant approval of Fusco Properties request to review and approve the Record Re-Subdivision Plan, to subdivide the existing parcel along the already established two (2) lease line parcels and to subdivide the remaining lot into three (3) additional lots. Motion Carried Unanimously.

6-H. 124 W. Main Street – Preliminary Major Land Development Plan – Eric Brobst requests review and recommendation of approval of a 10,320 square-foot, three-story retail/office building. The plan would require demolition of the current onsite structure. Tax Parcel No. 23-008.00-015.

Jim Curran with Karins Associates presented the plan proposing to demolish the existing building and replacing it with a three-story, 10,320 square-foot structure.

- The property is located on the corner of W. Main Street and South Scott Street.
- Retail is proposed on the first floor; office space is proposed on the second and third floors.
- The property is located in the downtown C-2 district.
- The plan seeks approval of a parking plan showing 327 public and private parking spaces located behind the lot.
- Two handicap spaces are proposed on-site.

A discussion on the parking plan resulted with the following comments from Council:

- An unreasonable parking waiver is requested.
- Private parking areas owned by others cannot be used as part of the parking plan.
- It's counter-productive to support the effort on Main Street and the fire company's expansion by allowing the existing public parking for the proposed plan.
- Parking is a huge issue on Main Street.
- The size of the structure is three times larger than the existing structure.
- A 5' sidewalk is proposed – the code requires 6 feet.

Mr. Curran said the code allows 4 stories; the plan presented is 3 stories.

Moved by Mr. Young and second by Mr. Stout to grant approval for the Preliminary Major Land Development Plan as requested for a 10,320 square-foot, three-story retail/office building with demolition of the current onsite structure. Rob Stout: Voted against the plan – more parking is needed.

Robert McGhee: Voted against the plan – only 2 parking spaces are provided for a three-story building.

Jim Reynolds: Voted no because of inadequate parking.

Jason Faulkner: Voted no because of inadequate parking.

Drew Chas: Voted no because of parking issues.

Howard Young: Voted no because of parking issues on Main Street.

The Preliminary Major Land Development Plan for 124 West Main Street was denied 6 – 0. Motion Carried Unanimously.

6-I. 275 E. Main Street – Preliminary Major Land Development Plan – Spicer-Mullikin requests review and recommendation of approval of a 6,887 square-foot funeral home and crematory. Tax Parcel 23-006.00-628.

Ed Ide with i3a Engineering represented Matthew Smith, owner of the parcel.

- The parcel is 1.79 acres, zoned C-2 and falls under the Professional Services designation.
- The plan meets the lot area regulations.
- Required parking is 23 spaces; 72 are provided including 4 handicap spaces.
- Stormwater assessment study has been completed.
- Auxiliary lane computations have been presented to DelDOT; comments have not yet been received.
- A rendering of the building was presented.
- The proposed building is a single-story; chapel area will face Rt. 299; the crematory will be attached to the rear of the building, located about 125 feet from the school property line.
- Stucco is proposed on the exterior with stone or brick wainscoting.

Jason Faulkner questioned the number of parking spaces required for the Professional Services designation versus the Public Assembly designation.

Mr. Ide said it was determined the funeral home fit the professional services category. Seventy-two parking spaces will be adequate under the Public Assembly requirement – approximately 90 seats are in the chapel area.

Morris Deputy said 1 parking space is required for every 4 seats.

Mr. Faulkner commented that a sidewalk is required for New Street – it's not shown on the plan.

Discussion on the crematory: It will be attached to the rear of the building and have a full prep room. It will look like a garage with a brick chimney. A very small amount of smoke will be seen from the chimney.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to grant approval for the Preliminary Major Land Development Plan for Spicer-Mullikin, a 6,887 square-foot funeral home and crematory. Motion Carried Unanimously.

6-J. Westown Town Center, Phase 3, Parcel 5 – Concept Plan for a proposed 8,000 square-foot retail/restaurant building on the existing property containing the Westown Movie Theatre. Tax Parcel No. 23-022.00-002.

Rick Woodin of Woodin and Associates represented Helmick LLC, owners of the movie theatre property.

- The plan proposes an 8,000 square-foot retail/restaurant building located at the southeast corner of Commerce Drive and Merrimac Avenue. Parking was originally proposed in the area but was never constructed.
- The movie theatre plan had approximately 250 extra parking spaces per the parking code.
- Impervious coverage will not be increased; the existing stormwater management system will accommodate the proposed use.
- The site will use the existing access locations.
- An additional entrance location will be provided on Commerce Drive when it's extended.

6-K. Westown Town Center, Phase 3, Parcel 5 – Concept Plan for a proposed outdoor miniature golf course to the existing property containing the Westown Movie Theatre. Tax Parcel No. 23-022.00-002.

Rick Woodin of Woodin Associates represented Helmick LLC, owners of the property.

- The proposed miniature golf course will be located along side Merrimac Avenue, in the area of the movie theatre.
- Proposed opening is late spring, early summer 2016.
- A 900 square-foot clubhouse is proposed.

- Parking was originally proposed for the golf course location but never constructed; some additional parking will be constructed. The overall impervious area will be reduced by about 20,000 square-feet with the construction of the golf course.
- The owner will apply for a DNREC permit to allow a temporary holding tank until the sewer can be extended. The sewer line will be extended when the restaurant/retail is constructed.

Mr. Reynolds how far is the golf course from Merrimac?

Mr. Woodin said about 40 feet from the inside of the curb line of the road.

6-L. Motion to enter into a Contract with Health Insurance Broker.

Morris Deputy: After review of proposals from 6 agencies, the committee recommends Council approve a contract with IFS Benefits as the Town's health insurance broker.

Moved by Mr. Stout and seconded by Mr. Faulkner to accept the recommendation of the Town Manager to enter into a contract with IFS Benefits as the Town's health insurance broker. Motion Carried Unanimously.

6-M. Motion to enter into a Contract with a Payroll Consultant.

Morris Deputy: Qualifications were received from Paychex and ADP to serve as both payroll consultants and potentially serve HR functions as the town goes through some restructuring. We recommend Council approve a contract with Paychex to provide both payroll and HR functions.

Moved by Mr. Chas and seconded by Mr. Reynolds to accept the recommendation of the Town Manager to enter into a contract with Paychex. Motion Carried Unanimously.

6-N. Motion to approve a Vehicle Lease Agreement with PNC Bank.

Morris Deputy: The FY'16 Budget approved the purchase of two MPD Tahoe's and a dump truck. PNC requires this agreement in order to allow these vehicles to be added to the lease line.

Moved by Mr. McGhee and seconded by Mr. Chas to approve the Vehicle Lease Agreement with PNC Bank per the Town Manager's recommendation for two police Tahoe's and a Dump Truck. Motion Carried Unanimously.

6-O. Motion to Ratify an Electric Service Agreement with Johnson Controls.

Tabled.

6-P. Motion to Ratify an Agreement for the construction of infrastructure necessary to provide spray irrigation to the property located at 205 Grears Corner Road, Townsend, Delaware. Tax Parcel No. 14-011.00-004.

Morris Deputy: The owner of the property at 205 Grears Corner Road (Loockerman property) asked to have his farm added to the Town's spray permit. This agreement requires the owner to reimburse the Town, within 30 days, for the cost of constructing the infrastructure from the Town's forcemain to his property, for an amount not to exceed \$30,000.

Jason Faulkner commented that bids would have to come in under \$30,000 and asked what happens if the cost is more than \$30,000.

Morris Deputy responded that a new agreement would have to come back for Council's approval; the town will still be reimbursed for the construction cost.

Patty McQuen questioned the location of the property and that the Town will pay for the construction and be reimbursed by Larry Jester.

Mayor Branner said it's the Loockerman property located behind the existing spray field. The Town owns the force main and will be responsible to certify the work and inspections. This parcel will be included with the application to DNREC for the spray irrigation permit.

Moved by Mr. Stout and seconded by Mr. Reynolds to enter into an agreement for the construction of infrastructure necessary to provide spray irrigation to 205 Grears Corner Road. The owner is required to reimburse the town within 30 days, and pay for all improvements not to exceed \$30,000. Motion Carried Unanimously.

6-Q. Motion to Ratify a Resolution Adopting the New Castle County Multi-Jurisdictional All Hazard Mitigation Plan.

Morris Deputy: The Town is part of the 2010 New Castle County Hazard Mitigation Program that allows the Town to use their resources in an emergency and share in any funding from DEMA. This Resolution allows the Town to continue to partner with New Castle County and adopt the 2015 update of the plan.

Moved by Mr. Reynolds and seconded by Mr. Young to ratify a Resolution adopting the New Castle County Multi-Jurisdictional All Hazard Mitigation Plan as recommended by the Town Manager. Motion Carried Unanimously.

6-R. 9 South Broad Street – LED sign request for J&K Liquor Warehouse.

Dave Mosley with East Coast Signs presented the sign request. The plan proposes to remove the existing fence in front of the building, install the 10-foot pylon sign and install landscaping as shown on the plan. The owners have agreed to place their advertising on the LED digital sign and eliminate the neon signs and all the advertising typically placed in the windows of liquor stores.

Rob Stout expressed concern that LED and light box signs are not compatible on Main Street and the historic district. Carved signs or front-lit signs are a better fit and protect the integrity of the historic district.

Discussion followed regarding LED signs being placed in a small areas versus multiple signs displayed with no discretion, and the pylon sign blocking the view of other businesses on N. Broad. Council agreed the new sign proposed was a nice design; however, it's not in a good location and does not fit the historic district.

Resident Jim Young his opinion that the sign was inappropriate for the historic district and not necessary.

It was suggested a carved or front-lit sign would be more acceptable.

Moved by Mr. Faulkner and seconded by Mr. Chas to grant approval for the LED sign request for J&K Liquor Warehouse at 9 south Broad Street. MOTION DENIED 5 – 0; Rob Stout recused himself from voting.

6-S. 735 Middletown-Warwick Road – LED sign request for Wendy's fast-food restaurant.

Robert Beaver representing Wendy's requested approval for a monument sign with a digital board reader. The sign measures 10'6" x 6'3".

Moved by Mr. Faulkner and seconded by Mr. McGhee to approve the LED sign request for Wendy's at 735 Middletown-Warwick Road. Motion Carried 5 – 0; Rob Stout recused himself from voting.

6-T. Introduce an Ordinance to Amend Chapter 108, "Parking," in the Town of Middletown Code of Ordinances.

Mayor Branner: The amendment will give seasonal officers the ability to write tickets for violations in the fire zone and handicap parking designations.

6-U. Introduce an Ordinance to Amend Chapter 93, "Alarms," in the Town of Middletown Code of Ordinances.

Mayor Branner: The amendment will allow residents to have two false alarms before a fine is issued.

7. Unfinished Business:

- Justin Faulkner from Tom Foolery's thanked Mayor and Council for allowing their "Attack Addition" fundraiser to be posted on the Town's website. Almost \$4,000 was raised in two days.

8. New Business:

- Patricia McQuen stated she has not received a response to a FOIA request. Mayor Branner suggested she meet with Ms. Krenzer after the meeting.
- Angelo Diego read a statement addressing an article that appeared in the Middletown Transcript.
- Roxanne Ferguson, MOT Chamber of Commerce, announced the following events:
 - Lucky Pub Shuffle March 19th to benefit the Chamber Education Foundation, MOT Senior Center and to purchase a vest for the MPD's newest K-9 member "Ranger".

- MOT night at the Delaware '87ers on March 29th.
- Nick Manerchia, Middletown Main Street, announced the following events:
 - April 1st and 2nd a Grease sing-along fundraiser at the Everett
 - April 2nd at 2 p.m. Fashion on Main at the Everett
- Rob Stout commented that anyone who hasn't seen a movie at the Everett should do so – it's a great venue.
- Mayor Branner reported that Delmarva Power inadvertently sent utility bills to residents on New Street; the bills were supposed to go to S. New Street in South Saint Georges.

Moved by Mr. Reynolds and seconded by Mr. Stout to go into Executive Session to discuss competency and ability of various employees, pursuant to 29 Del Code. Motion Carried Unanimously.

9. Executive Session:

A. Discuss competency and ability of various employees, pursuant to 29 Del. Code §10004(b)(9).

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

No vote was required to be taken.

Moved by Mr. Faulkner and seconded by Mr. Chas to adjourn. Motion Carried Unanimously.

The meeting adjourned at 10:30 p.m.