

The regular meeting of Mayor and Council was held on the above date with Councilmen Jim Reynolds, Jason Faulkner, 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.

1. Minutes Approval: Moved by Mr. Faulkner and seconded by Mr. Chas to approve the Minutes for March 14, 2016 as prepared. Motion Carried Unanimously.

2. Treasurer's Report: Moved by Mr. Chas and seconded by Mr. McGhee to approve the Treasurer's Report as prepared. 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 Yeager

The MPD responded to 933 calls for service for the month of March.

- 6 drug arrests: Wawa, E. Cole Blvd., E. Main Street, North Broad Street (2), Middletown-Odessa Road
- 3 burglary investigations
- 197 traffic arrests; 83 criminal arrests; 29 warnings; 329 reports; 31 field service reports and crime prevention checks.

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

5. Public Hearings:

5-A. 115 East Lockwood Street – Record Minor Subdivision Plan proposing one additional building lot on the property. Tax Parcel No. 23-006.00-25.

Roger Brickley from Clifton L. Bakhsh Associates represented Josh Foraker, owner of the property.

- The property is zoned R-2.
- The plan proposes to create an additional building lot behind the existing dwelling at 115 Lockwood Street.
- The back lot will measure approximately 12,000 square feet; the front lot about 10,000 square feet. The minimum lot size in that zoning district is 5,000 square feet.
- A separate 20' "panhandle" driveway will be created to access the proposed dwelling. All utilities will be located in this area.
- The Board of Adjustment granted a variance on March 23rd for the 50' required lot width.
- Planning and Zoning recommended approval on March 17th.

Mr. Faulkner said he doesn't think it's a good plan to build a house with a 20-foot frontage to be accessed by a driveway around an existing house.

Mr. Reynolds commented it would be setting a precedence for other large lots in Town.

Moved by Mr. Stout and seconded by Mr. McGhee to approve the Record Minor Subdivision Plan proposed for one additional building lot on the property at 115 E. Lockwood Street.

Mr. Stout: Aye

Mr. McGhee: Aye

Mr. Reynolds: Nay

Mr. Faulkner: Nay

Mr. Chas: Nay

Mr. Young: Nay

Motion Denied 4 to 2.

5-B. Westown Town Center – Phase 3, Parcel 5 – Preliminary Major Land Development Plan to construct an 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 from Woodin and Associates represented Helmick Westown LLC.

- The plan proposes to construct an 8,000 square-foot retail/restaurant building on the movie theatre property.
- A concept plan was presented March 14th; Planning and Zoning recommended approval on March 17, 2016.
- The building will be located near the intersection of Merrimac Avenue and Commerce Drive.
- The area is currently approved for a parking lot. The potential drainage will basically remain unchanged.
- The facility will be served by Town water and sewer.

Moved by Mr. Faulkner and seconded by Mr. Chas to approve the Preliminary Major Land Development Plan to construct an 8,000 square-foot retail/restaurant building on the existing property of the Westown Movie Theatre. Motion Carried Unanimously.

5-C. Westown Town Center – Phase 3, Parcel 5 – Record Minor Land Development Plan to add a miniature golf course outdoor recreational facility to the existing property containing the Westown Movie Theatre. Tax Parcel No. 23-022.00-002.

Rick Woodin from Woodin and Associates represented Helmick Westown LLC.

- The plan proposes a miniature golf course outdoor facility with a 900 square-foot building on the movie theatre property.
- The facility is proposed in an area previously approved for a parking area that was not constructed. The impervious coverage will be reduced and create less drainage.
- Approximately 250 parking spaces were designed for the site.
- A permit for the use of a temporary holding tank has been submitted to DNREC. The temporary tank will be used until the facility can be connected to the sanitary sewer. They would like to be open for the coming season; however, the sewer will not be extended until the retail/restaurant site is constructed.
- The developer (McKee Builders) and theatre owners have agreed to increase the berm height on the property line between Spring Arbor and the theatre; it will also be landscaped.
- Fees for playing will be collected until 10 p.m.; the facility will close after players finish.
- The golf course will be low profile and well landscaped with rock and water features.
- The theatre owners will be responsible for the infrastructure and golf course maintenance.

Resident: Will the berm be high enough to block the lights from shining over to Spring Arbor?

Mr. Woodin: The light poles for the golf course will be 20 feet high, angled and directed to the golf course area. The berm will be extended along the Spring Arbor property line; it will be about 6 feet high and 30 feet wide; pine trees (more mature trees) will be planted on both sides of the berm.

Resident: Why wasn't the homeowners association consulted instead of McKee?

Mayor Branner: McKee is the developer and is paying for the berm.

Gene Kirckner: Will the retail/restaurant be open year round and used by the golf course players? Is the movie theatre involved with the ownership?

Mr. Woodin: The restaurant will be open year round and open to the general public. The golf course will be owned by Helmick LLC.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to approve the Westown Town Center Phase 3, Parcel 5 – Record Minor Land Development Plan to add a miniature golf course outdoor recreational facility to the existing property containing the Westown Movie Theatre. Motion Carried Unanimously.

5-D. Shops of Middletown – Intersection of Del. 299, Silver Lake Road and Rutkoske Drive – Preliminary Major Subdivision and Land Development Plan for the subdivision of three lots and the construction of 347 apartment units and 91,000 square-feet of retail space in a C-3 zoned area. The plan will also dedicate right-of-way for the extension of Silver lake Road; dedicate right-of-way for the extension of Rutkoske Drive, and dedicate right-of-way to Del. 299.

Tabled per Developer's request.

5-E. 275 E. Main Street – Record Major Land Development Plan – Spicer-Mullikin requests review and recommendation of approval of a 6,887 square-foot funeral home and crematory. Tax Parcel No. 23-006.00-628.

Ed Ide with i3a represented Spicer Mullikin.

- The project is located at 275 E. Main Street; zoned C-2.

- The plan complies with all minimum requirements.
- 23 parking spaces are required; 72 parking spaces are provided.
- Planning and Zoning recommended approval; Mayor and Council approved the Preliminary Plan on March 14th.
- KCI's comments will be addressed.
- Sidewalk on New Street has been added to the plan.
- SAS report has been submitted.
- Waiting for approvals from the Fire Marshal's Office and DelDOT.

Question from the audience: Where is the overflow parking? 72 spaces doesn't seem like enough. Mr. Ide responded that 72 parking spaces are provided and should be sufficient according to the parking rationale. The sanctuary will have 156 seats which would require only 36 parking spaces. Twice the number of spaces are provided based on code requirement.

Moved by Mr. Faulkner and seconded by Mr. Young to approve the Record Major Land Development Plan for Spicer-Mullikin Funeral Home and Crematory, 6,887 square-feet, at 275 E. Main Street. Motion Carried Unanimously.

5-F. Motion to Approve Middletown Historical Society's request for Peach Festival street closings.

David Matsen, Acting President of the Historical Society, requested the following street closures for the 23rd Annual Peach Festival: West Main Street from North Scott and Broad Street; North Cass Street from West Main Street to Pennington Street, and the first block of Pennington from North Cass Street. The event will be cleared by 5 p.m. Permits have been sent to DelDOT for the street closure and parade.

Mr. Reynolds commented that last year the residents on the corner of Cass Street were asked to remove their cars, but the vendors parked there. Mr. Matsen said he would remind the vendors not to park in that location.

Moved by Mr. Stout and seconded by Mr. McGhee to approve the request from the Middletown Historical Society to close the streets as requested for the Peach Festival. Motion Carried Unanimously.

5-G. Motion to Ratify an extension to the current agreement with Waste Management.

Tabled per request by Waste Management.

5-H. Motion to Ratify an Agreement with NAVEX Global for an employee hotline.

Morris Deputy: Last year, at the request of the latest audit, the Town approved a contract with a company called "The Network" to initiate an employee hotline. That company was bought out by NAVEX Global. Approval to award the contract to the new company is requested.

Moved by Mr. Faulkner and seconded by Mr. Chas to accept the recommendation from the Town Manager to ratify an agreement with NAVEX Global for an employee hotline. Motion Carried Unanimously.

5-I. Motion to Ratify an Electric Service Agreement with Johnson Controls for FY17.

Morris Deputy: Johnson Controls' current agreement expires this June and they've asked for a one-year extension of their Electric Service Agreement, at the current rate of \$0.07200 per kWh.

Moved by Mr. McGhee and seconded by Mr. Chas to accept the recommendation of the Town Manager to ratify an Electric Service Agreement with Johnson Controls for FY17. Motion Carried Unanimously.

5-J. Motion to ratify an Agreement for mowing services.

Morris Deputy: Bids were received from Bailey's, Moon Landscaping and Ruppert Landscape for mowing 6 open space areas in Town. The recommendation is to award the bid to Bailey's for the low bid of \$1,713.80 per cut. Thirteen cuts are anticipated for a total contract of \$22,279.40.

Moved by Mr. Reynolds and seconded by Mr. Stout to enter into an agreement with Bailey's Lawn and Landscape Service for cutting 6 open space areas 13 times for a total of \$22,279.40. Motion Carried Unanimously.

6. Unfinished Business: None

7. New Business:

- Patricia McCune raised questions regarding the dedication of right-of-way for the extension of Silver Lake Road at the Shops of Middletown. She said there are several issues with the original documents dating back to when the property was annexed in 2002 and later sold, including the spelling of her father's name on the deeds, etc. Mayor Branner suggested she talk with Richard Forsten who was the legal counsel at that time.
- Justin Faulkner announced Tom Foolery's is hosting a Relay for Life fundraising event featuring Barrel House Blues Band, on May 1st. Five bands will be playing from 1 to 8 p.m. Any donations for raffles will be welcome.
- Roxane Ferguson, on behalf of the Chamber's Lucky Pub Shuffle event, presented \$500 to the MPD for a life vest for Ranger.
- Roxane Ferguson announced an "Old House Party and Community Picnic" at the proposed Royal Farms site (the old Filasky farm) on the corner of Levels Road and Rt. 301, on April 30th from 11 a.m. to 3 p.m. Refreshments and food will be provided. Rain date is Sunday, May 1st. The event is free to the public.
- May 7th, Delaware Wild Lands Open House Celebration/Ribbon Cutting.
- Nick Manerchia, Middletown Main Street, announced the Second Annual Grapes and Grains Beer and Wine Festival on May 14th, from 12 – 5 p.m. at Peach Tree Station.

Moved by Mr. Reynolds and seconded by Mr. Faulkner to go into Executive Session to discuss an employee disciplinary or dismissal case. Motion Carried Unanimously.

8. Executive Session

A. Hearing on employee disciplinary or dismissal case, pursuant to 29 Del. Code §10004(b)(8).

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 action was made on disciplinary hearing. The hearing was rescheduled.

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

The meeting adjourned at 9:36 p.m.