

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 Solicitor Scott Chambers were also present.

1. Call to Order**2. Pledge of Allegiance**

3. Minutes Approval: Moved by Mr. Reynolds and seconded by Mr. McGhee to approve the Minutes for July 3, 2017 as prepared. Motion Carried Unanimously.

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

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

6. Police Report: Chief Daniel Yeager

The MPD responded to 1,108 calls for service for the month of July.

- 4 Burglaries: Auto Park Drive; Goodrich Drive (2 - new construction); E. Cole Blvd.
- 2 Attempted Burglaries: Fairfield Court; N. Ramunno Drive
- 2 Robberies: Franklin Drive; Toftrees Drive
- 2 Drug arrests: Congressional Village Drive; Vintage Drive
- 184 traffic Arrests; 67 criminal arrests; 46 warnings; 371 reports; 55 field service reports and crime prevention checks.

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

Mayor Branner announced Chief Yeager is retiring August 11. A Proclamation honoring his achievements was presented on behalf of Mayor and Council; August 11, 2017 was proclaimed "Chief Daniel C. Yeager Day" in the Town of Middletown.

Chief Yeager became the first Captain with the Middletown Police Department August 9, 2007, and Chief of Police May 5, 2014.

Captain Michael Iglia will become the new Chief of Police.

7. Middletown Main Street update: None**8. Public Hearings:**

8-A. Westown Business Park – Concept Plan for three-story apartment buildings totaling 288+/- units; clubhouse, open space areas, associated utilities and site improvements, on a +/- 20-acre parcel, located between Merrimac Avenue and Hedgelawn Way; Kohl Avenue and Patriot Drive, in a C-3-zoned area. Tax Parcel Nos. 23-040.00-010 through 23-040.00-016.

Rick Woodin represented equitable owner, Lou Capano. The plan proposes 288 apartment units on approximately 20 acres comprised of Lots 6 through 12 in the Westown Business Park. The parcel is zoned C-3.

- Three-story buildings are proposed.
- The apartments will be located behind the Hedgelawn Plaza retail center and the Harley Davidson site.

- The main access is from Kohl Avenue.
- Comments from State Planning have not yet been received.
- A Land Development Plan will be presented at a later date.
- The building design will be similar to the Parkway at South Ridge development.

Councilman Faulkner remarked that the Westtown Business Park was envisioned as a business area and a place to create jobs -- not for apartments. He does not feel the location is right for this project.

Council members Reynolds and Stout agreed with Councilman Faulkner. In addition, they expressed further concerns with the density and the fact that only one entrance/exit is proposed for the development.

Mr. Woodin said the entrance is wide enough for two access/entrance lanes with a divided roadway.

Mr. Woodin commented that Capano is securing a market study for population projections, employment, etc., as related to the west side of town.

Mayor Branner stated the University of Delaware prepared a study also, and both reports will be reviewed.

A resident supported Council's comments and agreed it was not a good use for the space in light of already-approved development for the Westtown area.

8-B. Lot Q-2, Diamond State Boulevard and Tower Road – Record Major Land Development Plan for a 16,200+/- square-foot building to house a medical clinic and professional offices, in a C-3 zoned area. Tax Parcel No. 23-008.00-108.

Ed Ide with i3a Engineers represented MRMS, equitable owner of the parcel.

- The parcel is located at 601 Tower Lane, Lot Q-2.
- Stormwater Management: 82% impervious is proposed versus the previous design proposing 100% coverage.
- Utilities will be provided by the Town.
- Planning and Zoning recommended approval.
- Mayor and Council approved the Preliminary Plan.
- The plan addresses comments received from the Town's Engineers, Duffield Associates.
- The location of the entrance off Diamond State Boulevard is still under discussion with the engineers and Kevin Flynn, owner of Lot Q-1. The entrance shown off Diamond State Boulevard turns into a shared driveway between the two parcels. The engineers recommended the shared driveway be moved to straddle the property line.
- The cross-access agreement for Tower Lane is in place and not expected to change.

Mr. Faulkner asked how they plan to resolve the entrance situation on Diamond State Blvd.

Mr. Ide said the Town's consulting engineers said they are okay with the location of the entrance, provided a note is added to the plan stating no other entrance can be built on Diamond State Boulevard. The owner of Lot Q-2 would prefer the entrance to straddle the lot line; however, the owner of Lot Q-1 said he did not want any entrance off Diamond State Blvd. The plan was presented to Mr. Flynn a couple of weeks ago for his review and response.

Mr. Faulkner asked if Q-1's property touched Tower Lane. Mr. Ide said it did not; a cross-access easement agreement was established in 2007 on a previous record plan.

Mayor Branner said the requirement to add a note to the plan can be included in the motion.

Moved by Mr. Stout and seconded by Mr. Faulkner to approve Lot Q-2 Diamond State Boulevard and Tower Road – Record Major Land Development Plan for a 16,200 +/- square-foot building to house a medical clinic and professional offices, in a C-3 zoned area. A note will be added to the Record Plan

stating “No other entrances will be allowed off Diamond State Boulevard”. Tax Parcel No. 23-008.00-108. Motion Carried Unanimously.

8-C. 26. W. Lake Street – Record Minor Land Development Plan for the addition of two apartment units at the Family Help, Inc. site. Tax Parcel No. 23-005.00-091.

Roger Brickley represented Family Help, Inc.

- The parcel was rezoned in May.
- Planning and Zoning recommended approval on June 15, 2017.
- The Board of Adjustment granted variances on May 31 and July 19. Various non-conforming regulations were in place when the property was rezoned. The variances “cleaned-up” the plan.
- The site will increase by 1,030 square-feet with the addition of the two apartments.

Moved by Mr. Faulkner and seconded by Mr. McGhee to approve 26 W. Lake Street – Record Minor Land Development Plan for the addition of two apartment units at the Family Help, Inc. site. Tax Parcel No. 23-005.00-091. Motion Carried Unanimously.

8-D. Northside Shopping Center, Parcel C – Minor Land Development Plan (amendment to Record Plan) to increase the building size from 10,000 to 15,000 square-feet and add 17 parking spaces, located at the intersection of U.S. 301 and Doc Levinson Drive. Tax Parcel No. 23-005.00-329.

Scott Lobdell and Lou Ramunno presented the plan.

- The parcel is located on the corner of Peterson Road and Rt. 301.
- A 10,000 +/- square-foot commercial building was approved in 2012.
- Harbor Freight Tool Company has expressed interest in occupying the site and requires a larger building.
- Per code requirement, seventeen parking spaces were added.
- Stormwater management is not affected by the increased square-footage of the building.

Mr. Faulkner questioned the number of parking spaces proposed and why the 1,400 square feet for storage was not included in that calculation.

Scott Lobdell said code allows for a certain amount of storage space when calculating parking.

Mr. Faulkner asked Fire Chief Bailey if he approved of the removal of the drive lane in the back of the building. Chief Bailey he was okay with the plan.

A resident asked what kind of business was the Harbor Freight Company. Council responded that it was a tool-type retail business – not a transportation company.

A resident asked if an entrance is proposed from Rt. 301. It was noted that the entrance from Rt. 301 is a right-in only -- there are no exits onto Rt. 301.

Moved by Mr. Stout and seconded by Mr. Chas to grant approval for the Minor Land Development Plan for the Northside Shopping Center, Parcel C, amendment to the original Record Plan to increase the building size from 10,000 to 15,000 square-feet and add 17 parking spaces. Mayor Branner asked Council to state their vote:

Councilman Stout: Yea.

Councilman McGhee: Yea.

Councilman Reynolds: Yea.

Councilman Faulkner: Nay.

Councilman Chas: Yea.

Councilman Young: Yea.

Motion approved 5 to 1.

8-E. Conditional Use Permit Request for a Microtel Hotel in a C-3 zoned area. Northside Shopping Center, intersection of U.S. 301 and Doc Levinson Drive. CU-03-17. Tax Parcel No. 23-005.00-326.

Scott Lobdell, VanCleaf Engineering, stated the plan was originally recorded in 2012 as an all commercial property and subdivided into three parcels, with two parcels fronting on Rt. 301 and one large retail parcel in the back. The plan now proposes to subdivide the lot and build a Microtel Hotel.

- A 92-room, 12,000+/- square-foot, four-story hotel is proposed.
- 94 parking spaces are required; 98 are provided.
- The hotel should generate less traffic.

Mr. Reynolds asked if a buffer will be constructed between the hotel and Middletown Village.

Mr. Lobdell said the building is set back 100' from the property line. A large landscape buffer will be constructed with trees and plantings to shield the townhouses; the sidewalk will be in front of the berm.

Fire Chief Frank Bailey asked if access is shown around the building as discussed at the Planning and Zoning meeting.

Mr. Lobdell said it's hard to see on the plan, but the building was reconfigured to provide an access road in the back.

Moved by Mr. Faulkner and seconded by Mr. Chas to approve the Conditional Use Permit Request for a Microtel Hotel in a C-3 zoned area. Northside Shopping Center, intersection of U.S. 301 and Doc Levinson Drive. CU-03-17. Tax Parcel No. 23-005.00-326. Motion Carried Unanimously.

8-F. Microtel Hotel – Preliminary Minor Re-Subdivision Plan/Preliminary Major Land Development Plan – Northside Shopping Center – Parcel A, located at the intersection of U.S. 301 and Doc Levinson Drive. The purpose of the plan is to subdivide Tax Parcel No. 23-005.00-326 into two lots. A three-story, 12,388 square-foot Microtel Hotel is proposed for Lot 1.

Scott Lobdell said the hotel just received Conditional Use approval. This plan also requests subdivision approval to divide the large parcel into two lots; plans for Lot 1A will be presented at a future date.

Moved by Mr. Stout and seconded by Mr. McGhee to grant approval for the Preliminary Minor Re-Subdivision Plan/Preliminary Major Land Development Plan, Northside Shopping Center Parcel A. Motion Carried Unanimously.

8-G. Motion to adopt Ordinance 17-07-01 to amend Chapter 100, Section 100-2, of the Code of the Town of Middletown, relating to construction noise.

Morris Deputy: The amendment allows standard hours of construction activity to be from Monday through Saturday from 7:00 a.m. to 9:00 p.m., and Sundays and holidays 10 a.m. to 9 p.m. Any special requests to deviate from the standard operating hours will come before Council for approval.

Debra Sutton asked if there are time regulations for cutting grass.

Council responded that those regulations are covered under the Noise Ordinance.

Resident from Tartan Court expressed concern with the construction noise and vibration from the equipment at the new medical center on Cleaver Farm Road. She also commented that the weeds/grass were high and needed attention.

Moved by Mr. Faulkner and seconded by Mr. Young to adopt Ordinance 17-07-01 to amend Chapter 100, Section 100-2, of the Code of the Town of Middletown, relating to Construction Noise, per the Town Manager's recommendation. Motion Carried Unanimously.

8-H. Introduce Ordinance 17-08-01 to amend Chapter 176, Article I, of the Code of the Town of Middletown, to provide for the administration of a bulk water rate.

Mayor Branner introduced the Ordinance to be acted on at September's meeting.

8-I. Ratify a Resolution to authorize the application for a potential wastewater planning matching grant through the Delaware Department of Natural Resources and Environmental Control (DNREC).

Morris Deputy: This year's budget included a study of the sewer plant's capacity. This is a planning grant available through DNREC, that will help off-set the cost of the analysis. The matching grants are available up to \$100,000; the Town will be responsible for up to \$50,000, depending on the amount awarded.

Moved by Mr. Faulkner and seconded by Mr. Chas to approve the Resolution to authorize the application for a potential wastewater planning matching grant through DNREC. Motion Carried Unanimously.

9. Unfinished Business

- Councilman Reynolds requested residents who still have a Waste Management yard waste container to call Public Works at 378-2711 and the Town will pick it up.
- Resident from Tartan Court reported that several residents cut their grass and put it in the street, where it eventually ends up in the storm drain.
- Resident from Spring Arbor asked if townhouses are being built at South Ridge, from Spring Arbor Drive, along Merrimac Avenue.
Mayor Branner said Ryan Homes is building townhouses; a clubhouse and pool, located closer to Kohl's, is also proposed for those residents. The apartments will have a separate pool and clubhouse.
- Resident expressed concern about the condition of the connector road between Cleaver Farm Road and Millbranch and the maintenance of the island on Cleaver Farm Road.
Mayor Branner explained that the developer paid for and installed the road as a convenience for the residents. It's roughly maintained and will be removed when the property is developed.

10. New Business

- Sonya Comstock, Springmill, commented that their community is pleased with the new trash company.
- Ms. Comstock asked if a pickle ball court could be installed at Levels Park.
Mayor Branner said Levels Park was built as a passive park, but will consider something at Silver Lake Park, if Springmill residents provide information and specs for a court.
- Resident expressed thanks for saving the trees and bushes, and taking care of the drainage at Silver Lake Park.
- Resident expressed concern about the amount of traffic that backs up at the intersection of Cedar Lane Road and N. Broad St.
Mayor Branner said that intersection is too close to the Frog Town Crossing intersection for DelDOT to signalize; however, they are looking at ways to help alleviate some of the problem.
- Kim Simmons reported that Shallcross Place floods and gets worse every year. There are only two residents on the street now; three houses are empty.
Mayor Branner pointed out that Habitat requested the Town allow them to build the houses on smaller lots so there would be room for the street and driveways. The agreement was that Shallcross Place would not be a Town street and would be maintained by the residents who live there. The Town has had discussions with Senator Hanson, who is trying to get some funding for improvements.
- Resident from Tartan Court asked how to form a Home Owner's Association.
Mayor Branner explained that the residents in the community form HOA's. The Town does not enforce HOA's.

Moved by Mr. Reynolds and seconded by Mr. Faulkner to go into Executive Session pursuant to 29 Del. Code §10004(b)(8) and (9). Motion Carried Unanimously.

11. Executive Session

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

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

Moved by Mr. Stout and seconded by Mr. Chas to approve the disciplinary recommendation made by Chief Yeager. Motion Carried Unanimously.

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

No vote was taken.

Motion by Mr. Reynolds and seconded by Mr. Chas to adjourn. Motion Carried Unanimously.

The meeting adjourned at 9:28 p.m.