

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

**3. Minutes Approval:** Moved by Mr. Chas and seconded by Mr. Stout to approve the Minutes for May 7, 2018 as prepared. Motion Carried Unanimously.

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

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

**6. Police Report: Chief Michael Iglio**

The MPD responded to 903 calls for service for the month of May.

- 5/6/18: Living Well Pharmacy – burglary; warrant issued for suspect.
- 5/22/18: Hong Kong Chinese Restaurant and DiNapoli Pizza – burglary; arrest made.
- 5/22/18: 16 N. Broad St. – burglary; on-going investigation.
- Update: An arrest was made for the shooting in January on E. Lockwood Street.
- Memorial Day Weekend: 3 suspected heroin overdoses. Narcam successfully administered.
- Middletown Police Department and the Southern New Castle County Coalition will sponsor a Summer Youth Academy for boys and girls 14 to 16 years of age, to be held at Louis L. Redding Middle School. The free event focuses on healthy choices, self-esteem, life skills, etc. The boys' academy will be held July 9 to July 13 and the girls' academy July 30 to August 3, 2018. Contact Sgt. Scott Saunders at scott.saunders@cj.state.de.us or 302-376-9950 or for more information.
- The MPD issued 145 traffic tickets; 54 warnings; 56 arrests; 302 incident reports and 30 field service reports.

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

**7. Middletown Main Street Update: Daneya Jacobs**

- Ms. Jacobs reported the first Music on Main, held June 1<sup>st</sup>. She offered a thank you to Councilman Stout for coordinating the use of The Gibby in case of rain, and Keith Thompson, a performer at The Gibby. The next event will be held the first Friday in August.
- Ms. Jacobs asked if Council would be receptive to holding the Christmas Parade in the evening on December 1<sup>st</sup>, starting at dusk, followed by the tree lighting ceremony.

Council indicated it was a good idea and suggested a written request be sent to Mayor and Council outlining the proposed changes, for official approval.

## **8. Public Hearings**

### **8-A. Trish Booth – Request for approval of Town-wide yard sale**

Trish Booth, a resident and business owner in Town, requested permission to hold a town-wide yard sale and sidewalk sale, similar to that of Newark and Delaware City. Businesses would hold sidewalk sales in front of their locations.

It was suggested the request be presented in writing for official approval by Mayor and Council.

### **8-B. Trish Booth – Public Assembly request for events on Cochran Square July 13 and December 5.**

December 5<sup>th</sup>: Ms. Booth said the December 5<sup>th</sup> request ties in with Daneya Jacobs' request. Their thought was to have the theme of a home town Christmas with carolers, the shops would be open, etc.

Mr. Reynolds commented that it sounds like it should be a Main Street event.

After a short discussion, it was agreed that the December events should be combined and presented as a Main Street event.

July 13<sup>th</sup>: Ms. Booth said this event wouldn't be partnered with Middletown Main Street because an event is scheduled the first Friday of July. The shop owners would like to plan an event using the Square toward the end of July for a barbecue, with food trucks, vendors, music and perhaps line dancing available.

Mr. Reynolds indicated that this, also, is a Main Street event.

Ms. Booth said they were under the impression they could plan events that weren't the same as Middletown on Main.

After general discussion, it was pointed out that the Square is usually reserved for special events. Various parking lots are usually available for other events and activities. Mayor Branner commented that having food trucks and vendors on the square would be in conflict with businesses on Main Street. Food trucks require special permission, with the exception of the Peach Festival.

It was noted that proposals for special events should be submitted in writing to Mayor and Council explaining in detail, dates, hours, location, purpose, etc., for Council's consideration.

### **8-C. Public Assembly Request for Friends of David Carter for June 16 (rain date June 23).**

Dave Carter requested to use Cochran Square June 23<sup>rd</sup> rather than the 16<sup>th</sup>, from 11 a.m. until 12:15 p.m., to announce his candidacy for New Castle County Council District 6.

Mr. Reynolds said, as indicated earlier, the Square is used for special events and suggested another location be selected.

Mayor Branner recommended Mr. Carter use the courtyard outside the Council Chambers.

Mr. Carter agreed to the location and Mr. Stout amended the motion to include the location change.

***Moved by Mr. Stout and seconded by Mr. Faulkner to approve the Public Assembly Request for Friends of David Carter to be held on the courtyard outside the Council Chambers. Motion Carried Unanimously.***

**8-D. 5221 Summit Bridge Road – Conditional Use Permit request for live crab sales (Island Girl Crab Company) from a trailer in a C-3 zoned area (Diamond Town Tire Pros) on weekends from Memorial Day to Labor Day. CU-07-18. Tax Parcel No. 23-028.00-248.**

**TABLED**

**8-E. Middletown Crossing Parcel B-3 – Record Major Land Development Plan to replace previously-approved 129,240 square-feet of commercial development with a new retail-residential apartment complex proposing 225 units (144 garden apartments), and 20,791 square-feet of retail and associated amenities. Tax Parcel No. 23-020.00-191.**

Mark Dunkle presented the plan which included revisions/information based on comments from last month's meeting.

- The proposed berm will be 6½ feet high. The plantings will be between 6 to 8 feet tall for a total of approximately 14½ feet.
- Based on elevations, the berm and plantings will mostly shield the proposed garages.
- Flooding on the main boulevard should be eliminated by underground piping carrying the water to the existing stormwater pond.
- The question was asked last month if weekend traffic was considered in the traffic study presented, and at that time it wasn't. The weekend traffic was recently counted which showed there is more traffic on the weekend during the peak time, but the traffic during the peak will be half with this project versus the previously approved big box.
- The grass has been cut and it will continue to be cut.
- The plans will comply with comments from Duffield Engineers.
- 50% open space is proposed.
- The plan is a by-right use and follows the Comprehensive plan.

Thomas, Middletown Crossing Resident, asked if the improvements for Rt. 299 are going to start in the fall of 2019 and continue through 2021 as stated in the traffic analysis by Mr. Meitzler; when will the Lake Street extension begin; and when is this project expected to start.

Mayor Branner said he and the Town Manager met with DelDOT, and Rt. 299 is one of their top priorities. At this point, DelDOT hasn't decided whether to start at Brick Mill Road or Catherine Street first. Construction is scheduled to start when Rt. 301 is completed.

Morris Deputy commented that the project has federal funding but it won't start until the Rt. 301 project is finished, which is scheduled by the end of 2018.

Mayor Branner said the Dove Run to Lake Street extension will be coordinated with the Highlands, when construction begins for that project. Mr. Heisler indicated he hopes to start by the end of this year.

Andy Hobbs, owner of the Middletown Crossing Shopping Center, said they plan to start this project in about 18 months, about the same time the Rt. 299 improvements will start.

Thomas stated the traffic analysis only referred to 50% of the apartment traffic using Dickenson Boulevard and asked why it didn't include 50% of the traffic entering from Silver Lake Road.

Alex Meitzler, Traffic Engineer, said Dickenson Boulevard was the main traffic concern and a worse-case scenario was prepared showing all the traffic entering from Dickenson Boulevard.

Thomas asked if a stop sign could be placed at Frost Drive and if the right-in only from 299 by Starbucks will be changed.

Mayor Branner said installing a stop sign at Frost Drive falls under the Town's jurisdiction and shouldn't be a problem. The right-in turn is under review and included with the Rt. 299 upgrades.

- As part of the Rt. 299 upgrades, the Silver Lake Road intersection will be upgraded to a four-way intersection with turn lanes; extend through the Capano property (Pederson property) and connect to the intersection through the Highlands.
- Another concept discussed with DelDOT is to extend the service road behind the shopping center and Post Office, continue through the Promenade property to Green Street and through the Town's property on Haveg Road to tie into the west side of Town. The big issue is the at-grade crossing for the railroad.

Mayor Branner pointed out that Mark Dunkle and Andy Hobbs have been very open to suggestions, and working with Council and the residents to help get this project through the process.

Middletown Crossing resident Jay Myers asked why data results for traffic at Dickenson Boulevard and 299 weren't included in the study Mr. Meitzler prepared. He expressed concern that traffic studies still show failing grades at intersections.

Mr. Dunkle responded that 299 was designed for the big box volume of traffic so it is already over-designed for what this mixed-use project proposes.

Mayor Branner commented that the proposed Rt. 299 design included all the parcels at build-out (the Highlands, Capano's property, Dove Run shopping Center, Fusco's property by Wawa, etc. ), which the developers will be paying for. The Town and DelDOT have had on-going traffic implementation meetings regarding development on Rt. 299, based on 2019 construction.

Mr. Myers asked Council to consider the density of this project.

Mayor Branner pointed out that this plan has already been included in the Comp Plan and by-right, cannot be changed at this point.

Mr. Myers asked what landscaping is proposed throughout the project.

Mayor Branner said the landscaping plan will be reviewed by the engineering consultants and the Town Manager for code compliance before final approval. Anyone interested in viewing it should contact the Town.

Mr. Reynolds asked for confirmation that the trees to be planted on the berm will be 6 to 8 feet at time of planting.

Mr. Dunkle agreed the trees would be 6 to 8 feet from base to top when planted.

Mr. Lippincott stated the pot holes on Frost Drive and flooding on Dickenson have not been addressed. He asked where the berm will be placed.

Andy Hobbs said the areas to be repaired in the shopping center have been marked and the job has been bid out; however, the weather has hampered the project. The area around the flooding is

being re-contoured to help the water flow toward the stormwater drain. Eventually, a new road will be constructed and the area will drain better.

Mayor Branner said the berm and trees will be constructed between the proposed garages and the walking path. The existing path will stay between the residents and the berm.

The plans for Rt. 299 are at Town Hall if anyone wants to review them.

***Moved by Mr. Chas and seconded by Mr. Stout to approve Middletown Crossing Parcel B-3 Record Major Land Development Plan to replace the previously-approved plan for 129,240 square-feet of commercial development with a new retail-residential apartment complex proposing 225 units (144 garden apartments), and 20,791 square-feet of retail, with the condition the Town Manager signs off that the open space requirement is met per Town code. Tax Parcel No. 23-020.00-191. Motion Carried Unanimously.***

**8-F. Westtown Business Park – Lots 6-12 – Record Major Land Development Plan for three-story apartment buildings totaling 264+/- units, clubhouse, open space area, associated utilities and site improvements, on a 20+/- acre parcel, located between Merrimac Avenue and Hedgelawn Way and 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, Woodin and Associates, represented Westtown BP 60 Acres, LLC and the proposed developer, Louis Capano.

- A revised Preliminary Plan was presented in March and received unanimous approval.
- Final Record Plan approval is being requested for the project consisting 264 apartments on 20+/- acres.

Mayor Branner mentioned that adjustments were made to the plan based on comments at Preliminary Plan stage.

***Moved by Mr. Stout and seconded by Mr. McGhee to approve the Westtown Business Park, Lots 6 through 12, Record Major Land Development Plan for three-story apartment buildings totaling 264+/- units, clubhouse, open space area, associated utilities and site improvements, on a 20+/- acre parcel, located between Merrimac Avenue, 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. Motion Carried Unanimously.***

**8-G. 870 Middletown-Warwick Road – Record Major Subdivision and Land Development Plan to subdivide 1.5 acres from Parcel C-2, creating Parcel C-2A, in order to construct a 6,500 square-foot restaurant with on-site parking. Tax Parcel No. 23-065.00-003.**

Julian Pellegrini with the Pelsa Company represented Pusan Investment, LLC.

- A Perkins Restaurant is proposed for the site.
- The restaurant will be located off Rt. 301, bound by the Greenhill Carwash and Royal Farms.
- Perkins will be located next to Royal Farms on the 1.5 acres subdivided from Parcel C-2.
- The following changes were made to the plan after the last meeting:
  - (1) The building size has been decreased to 5,179 square feet (office space was eliminated).
  - (2) To address the dumpster issue, the enclosure walls will be built up equal to or greater than the height of the dumpster to prevent the wind from blowing the lid open.

(3) The new address assigned is 860 Middletown-Warwick Road.

***Moved by Mr. Faulkner and seconded by Mr. Reynolds to approve 860 Middletown-Warwick Road Record Major Subdivision and Land Development Plan to subdivide 1.5 acres from Parcel C-2, creating Parcel C-2A for a 5,179 square-foot Perkins Restaurant. Motion Carried Unanimously.***

**8-H. Motion to ratify a construction agreement for the Main Street and Broad Street Crosswalks Restoration.**

**TABLED.** Morris Deputy reported six people attended the mandatory meeting and only one bid was submitted. The bid submitted was more than twice the estimated amount. It was recommended to table the award to allow for an evaluation of the project.

**8-I. Motion to ratify a lease agreement with Delaware Technical and Community College.**

Morris Deputy: Delaware Technical and Community College proposes to lease the 50' x 150' addition on the back of the Town's Armory for 20 years, with 5-year renewal increments. DelTech will pay the utilities, construction and insurance.

Mayor Branner explained DelTech will be use the space to offer a two-year degree in a Certified Diesel Mechanics Program.

***Moved by Mr. Reynolds and seconded by Mr. Faulkner to ratify a lease agreement with Delaware Technical and Community College. Motion Carried Unanimously.***

**8-J. Introduce an Ordinance for Illicit Discharge Detection and Elimination.**

Mayor Branner introduced an Ordinance for Illicit Discharge Detection and Elimination. The Ordinance will be voted on at a later date.

**8-K. Adopt a Resolution in support of HB 395 allowing municipalities in the State the option to impose and collect a Lodging Tax.**

**TABLED**

**8-L. Motion to Ratify an Electric Service Agreement with Johnson Controls.**

Morris Deputy: Johnson Controls requested a one-year service agreement for their utility rate. DEMEC secured a rate for all necessary electricity required by Johnson Controls and the request is to approve an "all-in" billing rate for \$0.75082 per kWh.

***Moved by Mr. Faulkner and seconded by Mr. McGhee to ratify an Electric Service Agreement as negotiated with Johnson Controls. Motion Carried Unanimously.***

**9. Unfinished Business:**

- Mr. Reynolds announced a free shredding event will be held in the Town Hall parking lot on Saturday, June 9<sup>th</sup>, rain or shine. The limit is two boxes or bags per person.

- A resident asked if Panera Bread was coming to Middletown. Mayor Branner responded his understanding is they prefer a stand-alone building. Developers on the west side of town have had on-going discussions with them, but nothing has been decided at this time.
- Gene Kirchner, St. Anne's Estates, asked what's being constructed for the RIBs system in the area behind his house. Mayor Branner explained a line is being constructed from the wastewater treatment plant to deliver treated wastewater into the new RIBs (to be constructed soon), to accommodate the 500,000 gallons/day, as backup in case the farmers decide they don't want to take spray any more. It's a guarantee to DNREC that the Town will have an area to take it.
- A resident asked if there were any changes for the Fourth of July celebration. Mayor Branner said everything is the same as in the past.
- A resident asked if any parcels were available at the MOT Auto Park. Mayor Branner said the zoning map shows what's available. The Crooked Hammock and a hotel have approval to build, and discussions have taken place with a commercial/industrial group.

**10. New Business:**

- Mr. Reynolds announced the Fourth of July Fireworks will be held at Silver Lake Park on Wednesday, July 4th; rain date July 5<sup>th</sup>. Non-profit vendors wanting to sell food or fund-raising merchandise may contact Rae Yingling for a permit.
- A resident asked what can be done about the abandoned property on St. Anne's Church Road that has many broken windows, high grass, etc. Mayor Branner said the property is not in Town limits; any concerns should be directed to New Castle County or the owner of the property, Senator Harris McDowell.

***Moved by Mr. Reynolds and seconded by Mr. Faulkner to go into Executive Session to discuss personnel matters in which names, competency and ability of individual employees are discussed. Motion Carried Unanimously.***

**11. Executive Session:**

***Moved by Mr. McGhee and seconded by Mr. Reynolds to return to the regular session in the Council Chambers. Motion Carried Unanimously.***

**A. Discuss personnel matters in which the names, competency and ability of individual employees are discussed, pursuant to 29 Del. Code §10004(b)(9).**

***Moved by Mr. Stout and seconded by Mr. Chas to approve the promotions and salary adjustments discussed for the FY'19 Budget. Motion Carried Unanimously.***

**B. Hearing for preliminary discussion on site acquisition, or sales or lease of real property, pursuant to 29 Del Code §10004(b)(2).**

No vote was taken on this item.

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

The meeting adjourned at 10:40 p.m.