

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. Stout and seconded by Mr. Chas to approve the Minutes for July 2, 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 approve the Bills Payable as presented and pay as funds become available. Motion Carried Unanimously.

Special Announcement

Mayor Branner reported a "phishing attempt was made on the email addresses of all Middletown area businesses. The email was allegedly from Public Works Director, Wayne Kersey. All of our businesses have been contacted using the "Code Red" system. If anyone received the email, please report it to Kristen Krenzer or Wayne Kersey.

6. Police Report: Captain William Texter

The MPD responded to 1,156 calls for service for the month of July.

- 7/16/18: N. Broad St. apartment – attempted burglary; 2 suspects arrested.
- 7/19/18: Patriot Drive – burglary – new construction site; on-going investigation.
- 7/21/18: E. Main St., Dry Clean Express – burglary; on-going investigation.
- 7/26/18: N. Broad St., Magic Wash Laundry – alarm activation; window smashed. John Stephenson was identified and arrested on 7/27.
- 7/26/18: N. Broad St., Middletown Liquors – John Stephenson identified as suspect.
- 7/1/18: Main St. & S. Cox: Shots fired; suspect arrested.
- 7/3/18: N. Broad St. – purse snatching; on-going investigation.
- 7/3/18: E. Main St. Valero – attempted robbery; on-going investigation.
- 7/26/18: E. Main St. Valero – robbery; John Stevenson identified and arrested. Mr. Stephenson was also linked to a burglary at Concord Pet last April and June.
- 7/27/18: Victim assaulted/robbery.
- The MPD issued 129 traffic tickets; 53 warnings; 54 criminal arrests; 306 incident reports; 39 field service reports.

Captain Texter reported the MPD has applied to the Edward Byrne Justice Assistance Grant Program for a grant in the amount of \$12,285 for the purchase of three Motorola Portable Radios. The current radios are approximately 11 years old.

Capt. Texter announced National Night Out will be held Tuesday, August 7th starting at 5 p.m. at Redding Middle School on New Street. The event is open to the public.

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

7. Middletown Main Street Update: Daneya Jacobs

Music on Main was held last Friday, which included the first annual car show – 33 cars were on display. Another car show will be planned in conjunction with National Parking Day on September 22nd.

The next Main Street fundraising event is scheduled August 29th, sponsored by the Metro Pub. A “Guest Bartending” event will be held from 6 p.m. until 7:30 p.m.

8. Public Hearings:

8-A. Public Assembly Request for Union Soccer Club to host a season-opening event at Silver Lake Park on Saturday, September 9, 2018.

Tabled per request.

8-B. Parcel 6, Middletown Market Place – Phase II – Preliminary Major Land Development Plan proposing an 11,200 square-foot general purpose retail building under the current C-3 zoning. Project comprises 3.0+/- acres, located along the northerly side of West Main Street and the westerly side of Peterson Road. Tax Parcel No. 23-005.00-296.

Rick Woodin with Woodin Associates presented the plan.

- The plan proposes to develop Lot 6 of the Middletown Market Place located along the northerly side of West Main Street and the westerly side of Peterson Road.
- Lot 6 is 3.0 acres.
- Access will be provided by the existing private access road off West Main Street.
- The building size was decreased to 10,500 square feet.
- Comments from the Town’s engineers will be addressed.
- Planning and Zoning recommended approval.

Council questioned the placement of sidewalks.

Mr. Woodin said he is working with Duffield Associates on the best placement of a sidewalk because of the roadside ditch on Peterson Road. The facility will have pedestrian access – sidewalk will be extended along Peterson Road and West Main Street; a sidewalk exists to the Food Lion; the back of the building will be paved. The sidewalk location will be shown on the Final Record Plan.

Moved by Mr. Stout and seconded by Mr. McGhee to approve Parcel 6, Middletown Market Place Phase II Preliminary Major Land Development Plan for a 10,500 square-foot retail facility. Motion Carried Unanimously.

8-C. Summit Bridge Road/Summit Plaza Shopping Center – Preliminary Major Land Development Plan for the Reybold Self-Storage and Retail Center of Middletown, comprised

of two, two-story self-storage buildings (45,940 square-feet and 42,030 square-feet) and retail center in a C-3 zoned area. Tax Parcel Nos: 23-001.00-141 and 23-001.00-084.

Jerome Heisler, manager with the Reybold Group, presented the plan.

- The parcel is located on the south side of the diner in the Summit Plaza Shopping Center on Summit Bridge Road.
- The two self-storage buildings are split with a ramp between them to allow customers to drive up to the second floor units and load/unload instead of using the elevator.
- Two retail buildings, approximately 10,000 and 15,000 square-feet, will be located toward the front of the parcel.
- Planning and Zoning recommended approval.
- The entrance configuration will be designed based on DelDOT's comments and requirements.
- The parcel was originally designated as a flood plain and has been through the LOMAR review.
- Mr. Heisler said additional landscaping will be installed between the commercial and nearby residential property. He plans to meet with the residents to inform them of the development.

Mayor Branner pointed out that the previous owner, Howard Cohen, originally planned to extend the shopping center to the stormwater retention pond when the center was first built.

Moved by Mr. Reynolds and seconded by Mr. Chas to approve the Preliminary Major Land Development Plan for Summit Bridge Road/Summit Plaza Shopping Center for the Reybold Self-Storage and Retail Center in Middletown as described. Motion Carried 5 to 1. Jason Faulkner recused.

8-D. Lot 1A – Westown Business Park – Revised Preliminary Major Land Development Plan for a Harley-Davidson motorcycle sales and service center totaling 45,000 square-feet on 5.05+/- acres, and associated utilities and site improvements, in a C-3 zoned area. Tax Parcel No. 23-040.00-002.

Rick Woodin with Woodin Associates represented Rommel Harley-Davidson, LLC.

- The plan is being presented again because the size of the building has decreased approximately 10,000 square-feet.
- An additional landscape buffer has been added along Merrimac Avenue. The paved display plaza facing Middletown-Warwick Road and Merrimac Avenue, will be more aesthetically pleasing and provide better pedestrian access from the front of the building (the front faces Kohl Avenue).

Moved by Mr. Faulkner and seconded by Mr. Reynolds to approve the Revised Preliminary Major Land Development Plan for Harley-Davidson motorcycle sales and service for Lot 1A Westown Business Park. Motion Carried Unanimously.

8-E. Middletown Village – Record Major Subdivision and Land Development Plan for 27 single-family home lots and improvements on 22.94+/-acres, abutted by Choptank and Bunker Hill Roads, in an R-1A zoned area. Tax Parcel No. 23-024.00-172.

Scott Lobdell with VanCleaf Engineering represented Middletown Development.

- This parcel was originally set aside for DelDOT when the Rt. 301 bypass was being designed. DelDOT has since determined the right-of-way required for the by-pass and the parcel was turned back over to Mr. Ramunno.
- An access point has been provided to the adjoining property, should it ever be annexed.
- A design waiver is requested for the cul-de-sac dimensions to stay consistent with the existing cul-de-sacs in the development, which measure 76 feet in diameter; Middletown's code now calls for a 100-foot diameter with a 24-foot landscaped area in the middle.
- The drainage will be treated by an infiltration pond in the back.

Mayor Branner explained the cul-de-sac dimension was increased to accommodate the fire company's large ladder truck.

Mr. Lobdell said they have run several templates and all the trucks have made the turn.

Jason Faulkner said the cul-de-sacs were increased for safety reasons and the plan should adhere to the required dimensions. Mr. Faulkner pointed out that the street is only 26 feet wide, which doesn't provide a lot of maneuverability.

The motion was amended to keep the cul-de-sac design as required by the Ordinance and not allow the design waiver.

Moved by Mr. Stout and seconded by Mr. McGhee to approve the Middletown Village Record Major Subdivision and Land Development Plan for 27 single-family home lots abutting Choptank and Bunker Hill Roads. The cul-de-sac design shall comply with the Town's current code; the design waiver is not approved. Motion Carried Unanimously.

8-F. Microtel Hotel – Record Major Land Development and Subdivision Plan – Northside Shopping Center – located at the intersection of U.S. 301 and Doc Levinson Drive. A three-story, 12,388 square-foot Microtel Hotel is proposed. Tax Parcel No. 23-005.00-326.

Scott Lobdell with VanCleaf Engineering represented Ash Ramunno Associates.

- The Northside Shopping Center parcel was subdivided in 2008.
- This plan subdivides Lot 1 to create two lots (Lot 1 and Lot 1A). The hotel will be built on Lot 1.
- The hotel will have three stories for a total of 37,164 square-feet.
- 81 rooms are proposed.
- SWM was approved in 2008.
- An entrance is proposed off Doc Levinson Drive; an entrance exists off Rt. 301.
- A 100-foot buffer (landscaped berm) is proposed between the hotel site and the residential units.
- From comments received at the Preliminary Plan stage, the building was moved forward to allow the addition of a road in the back of the building for fire apparatus access.

Discussion on the berm. Mr. Lobdell said the plan is to install the entire berm with this project. The berm will be ten feet high with landscaping on top and around it to help shield the residents. A sidewalk is proposed from Doc Levinson Drive to the site.

Moved by Mr. Faulkner and seconded by Mr. Chas to approve the Record Major Land Development and Subdivision Plan for the Microtel Hotel at Northside Shopping Center as described. Motion Carried Unanimously.

8-G. 211 Middletown-Warwick Road –Conditional Use Permit request for live and steamed crab sales (Island Girl Crab Company) from a trailer in a C-3 zoned area (Village Wines & Spirits) on weekends from Memorial Day to Labor Day. CU-07-18. Tax Parcel No. 23-003.00-010.

Steve Ruppert requested approval to sell crabs on weekends at the Village Liquor store, just south of Burger King. Crabs will be cooked on-site for carry out only. Customers will enter from Ash Boulevard and park in the liquor store parking lot.

Jim Reynolds said there could be a problem with people parking on 301 to get crabs. Howard Young agreed that could present a safety issue.

Mr. Ruppert said they could install a directional sign but wouldn't have a way to prevent people from stopping on the road.

Mayor Branner pointed out that the Ordinance regarding food trucks was established to protect the businesses that own property and operate all year.

Moved by Mr. Faulkner and seconded by Mr. McGhee to grant approval for Conditional Use Permit CU-07-18 for Island Girl Crab Company to sell live and steamed crabs at 211 Middletown-Warwick Road. Motion Denied Unanimously.

8-H. 100 S. Broad Street – Conditional Use Permit request for Blue Hen Insurance, LLC, to work in an office space located in the R-1A zoned building. CU-08-18. Tax Parcel No. 23-009.00-026.

Tom Hernan, owner of Blue Hen Insurance, requested approval to operate an office in the ReMax First Choice facility at 100 S. Broad Street. No building change is required. Clients will use the ReMax parking lot.

Moved by Mr. Faulkner and seconded by Mr. Stout to approve Conditional Use Permit CU-08-18 request from Blue Hen Insurance at 100 S. Broad Street to work in office space located in the R-1A zoned building. Motion Carried Unanimously.

8-I. 116 Sleepy Hollow Drive – Conditional Use Permit request to allow Technical Media Solutions to utilize the building as a warehouse for storage of audio, video, lighting and scenery for corporate events, in an M-I zoned area. Technical Media will also construct various custom scenic elements inside the warehouse. CU-09-18. Tax Parcel No. 23-021.00-127.

Andrew Ward and Josh Garcia requested approval to use 116 Sleepy Hollow to expand their business and warehouse their equipment.

Howard Young asked if any flammable liquids would be stored in the building.

Mr. Ward said just spray paint that will be stored in a fire cabinet.

Mr. Stout asked what the scenery is used for. Mr. Ward said backdrops for business presentations.

Moved by Mr. Stout and seconded by Mr. Reynolds to grant approval for Conditional Use Permit CU-09-18 for 116 Sleepy Hollow Drive as requested. Motion Carried Unanimously.

8-J. 128 Patriot Drive, Unit 2 – Conditional Use Permit request to allow an auto and truck accessory business in an M-I zoned area. The project proposes a fit-out of the existing 2,400 square-foot area, with the installation of a truck bed spray booth and several divider walls. CU-10-18. Tax Parcel No. 23-041.00-015.

David Shepherd, owner of the Greenhill Carwash, requested Conditional Use approval to allow window tinting and paint protection films as an ancillary business to the carwash operation. Because the process requires a clean, dust-free area and usually a couple of days to dry, the carwash facility on United Drive is not suitable and does not have the space required.

Moved by Mr. Reynolds and seconded by Mr. Faulkner to approve Conditional Use CU-10-18 at 128 Patriot Drive, Unit 2 as requested. Motion Carried Unanimously.

8-K. 819 Middletown-Warwick Road, Building E-2 – Conditional Use Permit request for Stumpy’s Hatchet House, an indoor hatchet-throwing venue that will serve beer, wine and pre-packaged snacks, in a C-3 zoned area. Hatchet throwing is a new trend in group recreation that allows people to throw hatchets at wood targets. CU-11-18. Tax Parcel No. 23-041.00-004.

Milton Delgado and Hector Correa requested approval to allow an indoor recreation activity in an M-I zoned district. He pointed out that the owners are all local residents and are interested in bringing new forms of recreation to the area. Hatchet throwing is a new trend throughout the United States. He further explained:

- An axing coach takes the participants to their pit and goes through a safety training session before they start throwing axes. The coach stays with them while they are throwing the axes.
- The age limit is 21 for employees and participants.
- They plan to hire about 20 people.
- The proposed location is 819 Middletown-Warwick Road, Building E-2, a 7,000 square-foot space (Rutkoske’s parcel/Ruan Trucking).
- Planning and Zoning recommended approval 7 to 1; the dissenting member wanted to see a parking plan. Cliff Bakhsh’s office has since prepared a plan showing approximately 30 parking spaces available.
- A slide show was presented showing the proposed interior.
- Opening is planned for November.

Mayor Branner asked what separates the axe throwing areas.

Mr. Delgado said the cages are surrounded, both sides and top, by a heavy gauge wire; similar to a batting cage.

A resident asked what measures are in place if someone gets hurt.

Mr. Delgado responded there have not been any accidents in the history of the franchise, and no claims been placed against the company. He said if something should happen, they will call 911. The company has been in business about three years.

It was pointed out that accidents can happen anywhere and cannot be a condition of approval.

A resident asked if alcohol was allowed in the throwing cage. Hector Correa said customers are only allowed two drinks per hour; drinks are not permitted in the throwing cage. This is not a bar; spirits will not be served; only beer and wine.

Mayor Branner mentioned the approval will be based on two drinks per hour.

Moved by Jason Faulkner and seconded by Mr. Stout to approve the Conditional Use request for CU-11-18 for Stumpy's Hatchet House at 819 Middletown-Warwick Road. Motion Carried Unanimously.

8-L. 112 Patriot Drive, Suite C – Conditional Use Permit request for Camp Hatchet-Project Escape, an indoor hatchet-throwing and escape room venue that will have a food service counter, in an M-I zoned area. The indoor amusement use will feature 10 axe-throwing lanes and five adventure (escape) rooms. CU-12-18. Tax Parcel No. 23-041.00-007.

Dennis Shay commented that their group is from the entertainment industry involved with sports figures and Disney personnel.

- The company builds escape rooms throughout the United States.
- Camp Hatchet is based on an 80's theme with a camp-type environment. They focus on various parties, team building events, etc.
- Ten axe-throwing lanes will be available.
- Age requirement to throw the axe is 12.
- Age requirement to use the escape rooms is 8.
- Five theme-based escape rooms such as a pirate's room, magician's room, etc. will be available.
- The escape room themes will be changed-out periodically.
- Escape rooms are live action, puzzle solving adventures to "escape" from the room; some puzzles are physical, involve electronics, etc. Their particular escape rooms are a two-room experience.

Discussion on the plan showing a bar/food service counter. They explained it is a juice bar – no alcohol will be served. The plan has not been finalized; it might be removed.

Moved by Mr. Faulkner and seconded by Mr. Stout to approve Conditional Use Permit CU-12-18 at 112 Patriot Drive for Camp Hatchet-Project Escape as presented. Motion Carried Unanimously.

8-M. 108 Patriot Drive – Conditional Use Permit request for Game Central Station, an indoor gaming center that will offer console video gaming as well as table top gaming for private birthday parties and team-building events. CU-13-18. Tax Parcel No. 23-041.00-005.

Jeff Kach owner of the business presented the following:

- The business is a game by-the-hour space as well as hosting private birthday parties, etc.
- Team-building events are offered.
- Food and beverages will be available.
- Tables will be available for board games such as Pokémon, Magic, etc.
- Gaming tournaments will be held.

- A pre-release event for new card sets will be held at midnight, usually every quarter.
- Two employees will work during the week; possibly 5 or 6 on weekends and busier times.
- Hours: Monday through Thursday 10 a.m. to 10 p.m.; Friday and Saturday 10 a.m. until midnight; Sunday 2 p.m. until 9 p.m.
- Planning and Zoning recommended approval.
- Proposed opening is October.

Moved by Mr. Stout and seconded by Mr. Young to grant approval for Conditional Use Permit CU-13-18 at 108 Patriot Drive for Game Central Station as presented. Motion Carried Unanimously.

8-N. 705 Industrial Drive – Conditional Use Permit request for Athens Paper to lease the existing M-I zoned building for the storage and shipment of its paper products. CU-14-18. Tax Parcel 23-010.00-041.

Adam Cofield, representing 701 Industrial Partners presented the following:

- The property is the former MacDermid site.
- The site was purchased a few months ago with the intent to lease warehouse and office space.
- Zoned M-I, the parcel consists of approximately 11 acres with 90,000 square-feet of warehouse and office space.
- Athens Paper has outgrown their current space on Sleepy Hollow Drive. They will be leasing approximately 24,000 square-feet.

Moved by Mr. Faulkner and seconded by Mr. Reynolds to approve 705 Industrial Drive, Conditional Use Permit for Athens Paper to lease space in the existing M-I zoned building. CU-14-18. Motion Carried Unanimously.

8-O. 120 W. Main Street – Conditional Use Permit request for Volunteer Brewing Company to host a food truck (mobile food unit) during each of the events on the C-2 zoned property during Volunteer Brewing Company’s open hours. CU-15-18. Tax Parcel No. 23-008.00-016.

Kevin Schatz, owner of 120 W. Main Street, said Volunteer Brewing is celebrating their first anniversary this month; they opened during last year’s Peach Festival.

- The brewery is in a converted two-car garage.
- They participate with and support The Everett, Relay for Life, Warriors Helping Warriors, Neighborhood House, etc.
- Beer is brewed on a barrel and a-half system, which is about 60 gallons.
- Open days are usually one day a week, either Thursday, Friday, Saturday or Sunday and Main Street Events.
- The request is to allow a food truck on the property when they are open. It will help keep people downtown longer which will also benefit the local merchants.

Jim Reynolds asked if the truck would be parked on his property. He said people parking in the alley creates an issue. The fire company has also expressed concern with customers parking in their lot.

Mr. Schatz said the truck will not park in the alley. A large food truck was there during the Main Street event and he had permission to use a portion of his neighbor’s property. He said they have

discussed ways to keep people from parking in the alley and encourage their customers to park in the public parking lots.

Mayor Branner said the Ordinance requires the food truck to be on your property – it's not supposed to be on your neighbor's property. Parking in the alley is not permitted.

Moved by Mr. Chas and seconded by Mr. Faulkner to approve CU-15-18, 120 W. Main Street for Volunteer Brewing Company to host a food truck during each of the events on the C-2 zoned property during Volunteer Brewing Company's open hours. Motion carried 5 to 1; Mr. Stout Abstained.

8-P. Motion to Approve Ordinance 18-07-01 to institute a Lodging Tax for the Town of Middletown.

Morris Deputy: The Ordinance was introduced last month to allow the Town to institute a 3% lodging tax on hotel rentals. The lodging tax was passed by the State and allows the individual municipalities to set their own rates.

Moved by Mr. Faulkner and seconded by Mr. Chas to approve Ordinance 18-07-01 to institute a 3% hotel tax. Motion Carried Unanimously.

8-Q. Motion to Adopt a Resolution to set the water customer charge rate for all water customer accounts, pursuant to the FY'19 Budget.

Morris Deputy: The FY'19 Budget included a water customer charge to all water customers to cover the cost for meter replacement. This Resolution will formally set those rates.

This is not a water rate increase; it is a separate charge to help offset the cost of replacing the water meters. The charge is \$1.61 for residential customers.

Moved by Mr. Reynolds and seconded by Mr. Stout to adopt the Resolution to set the water customer charge rate for all water customer accounts, pursuant to the FY'19 Budget. Motion Carried Unanimously.

9. Unfinished Business:

- Mr. Reynolds said the Fourth of July fireworks was well attended. He thanked Stones Throw Church for providing music.

10. New Business:

- Mr. Young, on behalf of the Austin Waters' family, thanked Mayor and Council for the floral arrangement sent to the funeral service. Mr. Waters served as a Councilman and a Board of Adjustment Commissioner.
- Drew McCaully, requested permission to allow Eagle Scout Joe McConnelly to create a community park in South Ridge for an Eagle Scout project. Benches will be available and plantings will be installed in the stormwater swale for water quality. The final plan will be presented to Council.
Mayor Branner said the Town welcomes and encourages such projects.
- Mayor Branner mentioned the next meeting for Mayor and Council will be held on September 10th because of the Labor Day Holiday September 3rd.

- A resident from Middletown Village reported a grass and weed code violation at 114 Liborio Drive. Mayor Branner said code enforcement will inspect the property.
- Ray Lynch, 301 E. Lake Street, expressed concern about his neighbor's weeds, and sidewalks that have not been installed along his street. Mayor Branner said that the Habitat project included the Town installing the sidewalk from Habitat's project to Lake Street – the Town will put it on the schedule.
- Mr. Lynch reported his neighbor has a fence with weeds and trees growing through it; the fence is about a foot off his property line, which creates a problem maintaining that one foot area. When he purchased the property, he was told the fence was his. Morris Deputy pointed out that, per our code enforcement personnel, when the neighbor tried to maintain the fence line, Mr. Lynch told the workers to get off his property. Solicitor Scott Chambers commented that the Town can address the Ordinance violation. He told Mr. Lynch the fence issue is a civil dispute that the Town could not settle; the property owners should to seek legal advice to resolve the problem.
- Resident from Ashland Street reported the swale behind his house is overgrown and filled in with debris.

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

11. Executive Session:

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

B. Preliminary discussion on site acquisitions for any publicly funded capital improvements, or sales or leases of real property, pursuant to 29 Del. Code §10004(b)(2).

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

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

Moved by Mr. Stout and seconded by Mr. Chas to approve the recommendations for promotion and demotion from the Police Department. Motion Carried Unanimously.

B. Preliminary discussion on site acquisitions for any publicly funded capital improvements, or sales or leases of real property, pursuant to 29 Del. Code §10004(b)(2).

Moved by Mr. Stout and seconded by Mr. Chas to authorize the Mayor to move forward with negotiations with the Appoquinimink School District and YMCA. Motion Carried Unanimously.

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

The meeting adjourned at 10:05 p.m.