

The regular meeting of Mayor and Council was held on the above date with Council members Reynolds, Faulkner, McGhee, Pierce, Burgess and Dixon present with Mayor Branner presiding. Town Manager Morris Deputy was also in attendance. Town Solicitor Scott Chambers was absent.

1. A swearing in ceremony was held for incumbent Council members Reynolds, McGhee and Burgess.
2. **Minutes Approval:** Moved by Mr. Reynolds and seconded by Ms. Burgess to approve the Minutes of February 1, 2010. Motion Carried Unanimously.
3. **Treasurer's Report:** Moved by Mr. Pierce and seconded by Mr. McGhee to approve the Treasurer's Report as presented. Motion Carried Unanimously.
4. **Bills Payable:** Moved by Mr. Reynolds and seconded by Ms. Burgess to approve the Bills Payable as presented and pay as funds become available. Motion Carried Unanimously.
5. **Police Report:** Chief Hank Tobin and Pat Mullin

The MPD responded to 799 calls for service for the month of February.

- 212 incidents were documented with an accident or criminal report.
- 55 incidents required arrest action totaling 137 arrests for the month.
- Calls for service by zone:
  - Zone 1: 199
  - Zone 2: 289
  - Zone 3: 127
  - Zone 4: 115
- 31 accidents: property damage – 18; hit and run – 4; personal injury – 6; non-reportable – 9.
- 3 burglaries – 2 cleared
- 5 shop lifting cases – all cleared through arrest.
- 3 thefts
- Assisted Cecil County Sheriff's Dept. reference a homicide investigation
- Top calls for service: 214 vehicle stops; 59 alarms (all false); 51 public relations and 41 property checks
- Det. Tom Finch has completed a 6 month Forensic Computer Examination Course. Det. Finch is one of the few Forensic Computer Examiners in the State at this time.
- Christine Brenner will hold a RAD Program on March 12, 2010. Call 376-9950 for details.

Ms. Burgess asked how many of the false alarm calls were from registered alarms. Chief Tobin said a lot of residents are registering their alarms but he did not know if any of the false alarm calls were from registered alarms.

***Moved by Mr. Dixon and seconded by Mr. McGhee to approve the Police Report as presented by Chief Tobin. Motion Carried Unanimously.***

## **6. Grant Requests**

A. Validation Reports: Lou Vitola said the Grant Committee reviewed one validation report and one grant request submitted by the Chamber of Commerce. The validation report was submitted for last year's \$2,500 grant for their 2009 scholarship fund. All proceeds were distributed to scholarship recipients. The Chamber is again requesting \$2,500 for the 2010 scholarship. The Grant Committee recommends Mayor and Council approve both the validation report and the grant request.

***Moved by Mr. Pierce and seconded by Mr. Reynolds to approve the validation report from the Middletown Chamber of Commerce and the grant request in the amount of \$2,500 for their 2010 Scholarship Fund. Motion Carried Unanimously. Ms. Burgess abstained from voting.***

## **7. PUBLIC HEARINGS**

**7-A. MERRIMAC COMMONS – Preliminary Major Land Development Plan for an age restricted community, comprised of 30 +/- acres, located off the westerly side of Merrimac Avenue and the northerly side of Commerce Drive**

Rick Woodin representing Poole Ventures and Bunker Hill Associates, LLC, presented the land development plan for Merrimac Commons.

- The parcel is located behind the Rutkoske property, joins Spring Arbor to the north and near the Rt. 301 northbound access on-ramp to the west.
- The property was originally identified as an age-restricted community. The plan was later brought back before Planning & Zoning and Council proposing to move the apartment project on other lands of Poole Ventures to this location. After considering comments received from Council and talking to DelDOT about their concerns, the original age-restricted plan is again being proposed.
- The primary entrance will come off Commerce Drive which connects to Merrimac Avenue at the Wal-Mart entrance.
- The plan proposes 78 single-family detached units.
- This project will interconnect with Spring Arbor at two designated locations shown on the plan.
- The property is in a groundwater recharge area; runoff will be collected into a common structure at the end of each alley way. Soil tests indicated that the ground could recharge the surface runoff.
- Planning and Zoning recommended approval.

Jason Faulkner asked what kind of amenities would be provided. Mr. Woodin said they would ask Spring Arbor if they wanted to share their common facility; if they did, they would make a capital contribution to Spring Arbor. There is space available to construct their own facility. The formula used to determine the size of a clubhouse is 1 to 1-1/2 square feet per the number of units in a community. The more people who contributing toward the maintenance of a common facility, the lower the maintenance fees.

Debra Thomas from Spring Arbor asked how the decision for sharing the amenities will be decided. Mr. Woodin said that would be based on the developer's agreement with the homeowners. Mayor Branner said the civic association will be made aware of what's going to happen there.

Sonya Comstock, Springmill resident, asked how many units are proposed. Mr. Woodin said 78 detached units.

Debra Thomas asked if the homes will be built on slabs. Mr. Woodin said that will be the builder's decision.

***Moved by Mr. Pierce and seconded by Ms. Burgess to approve the Preliminary Major Land Development Plan for Merrimac Commons. Motion Carried Unanimously.***

**7-B. Westown Master Planned Residential Community Phase I – Preliminary Major Land Development Plan on 130 +/- acres located along the easterly side of Levels Road and northerly side of St. Anne's Church Road**

Rick Woodin, representing Westown Ventures LLC, presented the plan for Phase I Westown, the residential component of the Westown Master Plan.

- The roadwork on Levels and St. Anne's Church Roads and the railroad bridge is nearing completion.
- This portion of the Westown residential fronts on the new Levels Road.
- Two round-about traffic circles (already constructed) are the primary entrances to Phase I.
- A sanitary sewer pump station has been constructed.
- The stormwater management pond has been constructed.
- A neo-traditional community similar to Parkside is proposed.
- Approximately 476 units are proposed: 121 standard single family; 120 alley-loaded single family; 137 townhomes and 108 multi-family. Several lots were removed to allow for an additional pocket park per Morris Deputy's and Planning & Zoning's request.
- Houses will front on the internal road that parallels Levels Road (located behind the pond).
- Larger lots are proposed for future sections.
- The community will eventually tie in to Merrimac Avenue extended from 301 south.

- 120 units for Transfer of Development Rights (TDR's) were acquired from the Clay farm; 113 were obtained from the property donated to the school. This plan will not use any TDR's.
- A parcel will be set aside for a sub-station site and noted on the Record Plan.

Jason Faulkner said he thought the community would contain a broader mix than what's shown on the plan. Mr. Woodin said they wanted to get the diverse architecture across the road frontage; the plan shows a mix of town homes, village homes, singles, village homes, etc. The multi family is in one section. Phases 2 and 3 will also be mixed.

Mr. Faulkner asked if the TDR's will be used in Phases 2 and 3 to create a denser development. Mr. Woodin said 233 TDR's have been acquired – the market will dictate how much density can be put on the site. The overall density will probably be around 3.5 units per acre for the whole community – not the 4 to 4.5 originally projected.

Rosie Nichols asked how many total units will be built at Westown. Mr. Woodin said the property is about 500 acres; between 1700 and 1800 units will be built.

***Moved by Mr. Dixon and seconded by Mr. Pierce to approve the Preliminary Major Land Development Plan for Westown Master Planned Residential Community Phase I. Motion Carried Unanimously.***

**7-C. 500A South Broad Street Conditional Use Permit Application CU-02-10 – to permit a day care in R-2 zoning (Broadmeadow building close to Broad Street)**

Denise Minyard, Pastor of Spiritual Awakening Ministries at 500A South Broad St. requested to use the building as a day care facility.

- A maximum number of 25 children is proposed.
- State law requires 700 sq. ft. indoors and will allow the use of Silver Lake Park (Town Code requires 100 sq. ft. of outside play space per child, on site).
- Planning and Zoning questioned the availability of outside play area per Town Code.
- The plan shows 834 sq. ft. of play area outside – no more than 6 children will be outside at one time.
- Planning and Zoning questioned the fencing. A 6' vinyl stockade fence is proposed.

The drop-off location and play space was discussed. Jim Reynolds and Mayor Branner suggested the proposed fencing be extended toward Park Place and instead of constructing the proposed walkway in the back of the building, include that area as play space – the back door will then open to the play ground. The island/turn around area (closest to the end of the building) will become the drop-off area.

Planning and Zoning's recommendation was tied 3 to 3. Mr. Reynolds questioned if the plan should be presented to Planning and Zoning again. Mr. Faulkner suggested granting conditional approval based on the new drop-off location and the expanded play area.

Mayor Branner requested a motion to include the drop-off area being designated where the island is and the play area extending toward Park Place and behind the building where the plan shows the 5' walkway. Mr. Reynolds stated no parking is allowed on Park Place.

The new plan showing the conditions will be reviewed and signed off by the Town Manager.

***Moved by Mr. Faulkner and seconded by Mr. McGhee to grant approval for Conditional Use Permit No. CU-02-10 to permit a day care center at 500A S. Broad Street with the conditions the plan designates the drop of area will be located at the island as indicated and the play space currently shown on the plan will be extended toward Park Place and behind the building where a 5' walkway is proposed. Motion Carried Unanimously.***

**7-D. Introduce an Ordinance to Amend "Map 6. Future Land Use" in the Town of Middletown's Comprehensive Plan**

Mayor Branner said this Ordinance provides for the inclusion of the two DelDOT yards in the Future Land Use Map. The properties are located on S. Broad Street across from Cricklewood and on Rt. 299 before the North Rt. 1 interchange. The plan has been presented before State Planning and PLUS. The Ordinance will be voted on after PLUS comments have been received.

**7-E. Adopt a Resolution to Amend the Rules and Regulations, including the Electric Tariff for the Town of Middletown, regarding Chapter 18, Curtailment Service Providers**

Lou Vitola stated that this resolution establishes ground rules so the Town can participate in the program sponsored by PJM, the regional electricity grid operator. The program offers cash payments to large electricity users in exchange for scheduled shut-downs during peak energy consumption periods. This initiative is expected to conserve energy, increase reliability and reduce peak electric rates.

*Moved by Mr. Faulkner and seconded by Mr. Dixon to adopt a Resolution to Amend the Rules and Regulations, including the Electric Tariff. Motion Carried Unanimously.*

**7-F. Ratify Design Contracts with KCI Technologies for capital improvements**

Tabled

**8. UNFINISHED BUSINESS: None**

**9. NEW BUSINESS**

- Jim Reynolds read an email from someone complaining about the snow plowing in Middletown; however, it was from Middletown, *Ohio*.
- Mr. Reynolds explained that the reverse 911 call that residents received reminding them to shovel their sidewalks was strictly a courtesy call – nobody was fined. After 48 hours if sidewalks aren't cleared, the home owner is liable if someone falls and sustains an injury. He also reminded everyone that school children use the sidewalks to get to school and the Town did receive a call from the school district saying the sidewalks were not being cleared. Regarding street plowing, Mr. Reynolds said the priority for plowing streets is to open them so emergency vehicles have access first.

Mr. Reynolds thanked Dr. Camp for his assistance, Tony Immediato and Sun Rise Bagels for providing bagels and sandwiches for the employees who worked snow detail. Mr. Reynolds thanked all the Town workers for doing a fine job removing the snow.

- Jason Faulkner announced that power will be off from midnight Tuesday night until 4:00 a.m. Wednesday morning. DP&L will be shutting down the main feed for testing. DP&L gave the Town notice in December that this testing had to be done before the middle of March. Employees will be working and extra police will be on patrol. DelDOT will provide generators for the traffic signals.
- Resident Robert Cooper requested a monthly report from the Fire Company be presented to the public along with the Police Report. Mayor Branner said the Fire Chief or President attends every meeting but they are not obligated to give a report. They are not part of the municipal government of the Town; they are a State Fire Company.
- A resident asked if the power outage would affect the pumping stations. Mayor Branner said all the pumping stations have backup generators.

*Moved by Mr. Reynolds and seconded by Ms. Burgess to enter into Executive Session to discuss personnel and legal issues. Motion Carried Unanimously.*