

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 and Town Solicitor Scott Chambers were also in attendance.

1. Minutes Approval: Moved by Mr. Pierce and seconded by Ms. Burgess to approve the Minutes of August 2, 2010. Motion Carried Unanimously.

2. Treasurer's Report: Moved by Mr. Pierce and seconded by Mr. McGhee to approve the Treasurer's Report as presented. Motion Carried Unanimously.

3. 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.

4. Police Report: Chief Hank Tobin and Pat Mullin

The MPD responded to 1,275 calls for service for the month of September.

- 297 calls required an incident or accident report.
- 71 incidents required arrest action.
- Calls for service: Zone 1 - 307; Zone 2 - 441; Zone 3 - 145; Zone 4 - 199.
- 37 Accidents: 29 property damage; 7 property damage/hit & run; 1 personal injury.
- Burglaries: 6 residential
- Call volume analysis: Busiest days were Mondays and Tuesdays and peak hours were between 1 p.m. and 3 p.m.
- Top calls for service: 334 traffic related enforcement incidents; 144 parking complaints; 73 public relations; 73 property checks and 68 alarms.
- Officers Matthew Schneider and Philip DelGotti started training in the academy.

Moved by Mr. Faulkner and seconded by Ms. Burgess to accept the Police Report as presented by Chief Tobin. Motion Carried Unanimously.

5. Public Hearings:

5-A. An Ordinance to rezone property located at 106 South Broad Street, from single-family residential (R-1A) to multi-family residential (R-3). Tax parcel 23-009.00-029.

David Knouse, prospective purchaser of 106 S. Broad Street, is requesting a zoning change from R-1A to R-3 to allow an apartment on each floor. Planning and Zoning voted against the rezoning. The property is used as a medical office on the first floor and an apartment on the second floor. Mr. Knouse said Wells Fargo Bank will not provide financing under the present zoning. Mr. Knouse said he did a walking tour of the area and there are several houses that have two or three electric meters, which he believes is indicative of rentals, and therefore rezoning 106 S. Broad Street would be appropriate. He said he didn't understand why Planning and Zoning turned it down. He also presented a few letters from business people endorsing the rezoning.

Mr. Reynolds asked why only businesses were contacted and not the residents who will be most affected by the rezoning. Mr. Knouse said he didn't contact the residents because he didn't anticipate a problem.

Mayor Branner said all of those properties with apartments were existing prior to the new zoning code. Any new requests must adhere to the new zoning code.

Mr. Faulkner said the number of meters doesn't mean anything – there could be a meter for a hot water heater, a pool, etc. His house has two meters and is a single family residence. He said Council has to look at the worst case scenario and that would be that an apartment building would be allowed in the middle of a single family residential area if that property was rezoned.

Mayor Branner said it would create spot zoning and go against the reason for the zoning code. The Town is not going to set up a zoning code that disallows something but have a conditional use that will allow it. It's also in the historic district. Planning and Zoning recommended Mayor and Council deny the rezoning with a vote four to zero with two abstentions. Debra Sutton abstained because she lives across the street and George Schreppler abstained because he is a realtor.

Tracy Skrobot, Program Manager for Middletown Main Street, said even though apartments are there, the Town is trying to get away from that. The Town has code enforcement problems with absentee landlords and parking problems with the units. We want to keep the integrity of the houses that have been here for over a hundred years.

S.R. Smith, 105 S. Broad Street, said parking is a huge problem in the area. Another problem is the clientele that rents the units. When the doctor was at 106, most of his clients were there during the day and not in the evening or weekends and didn't impact parking as much. He is against the rezoning.

Alan Rachko, 203 S. Broad Street, said he opposes any zoning change to 106 S. Broad Street. He said he sees what's happening at 102 S. Broad and doesn't want it to happen to any more houses in the area. He is against rezoning 106 S. Broad Street.

Dave McHenry, 202 S. Broad Street, said he has two electric meters and his house is a single family residence. He said it's been two months since the Planning and Zoning meeting and none of the residents in the area have been contacted. Using 102 S. Broad Street as an example of consistency with the neighborhood is not a good reference. That property has not been in character of the neighborhood for years.

Phil Twitchell, realtor representing the owner of 106 S. Broad, questioned the possibility of obtaining a variance for the property to allow two apartments. Mayor Branner said the Board of Adjustment hears variance requests and they very seldom grant a variance on a zoning change. He said anyone who disagrees with a decision by Council has the option to request a hearing before the Board of Adjustment.

Moved Mr. Faulkner and seconded by Mr. Pierce to approve the request to rezone 106 S. Broad Street from R-1A to R-3. MOTION CARRIED UNANIMOUSLY (6-0) TO DENY THE REZONING.

5-B. 9 Wood Street, Units D and C – Conditional Use Permit request for MOTS Towing Service Office and Auto Repair Service to be located in a C-2 zoning district. CU-06-10. Tax parcel 23-005.00-016.

Jay Walls, owner of Delaware Industries, requested Conditional Use to allow MOTS Towing to repair vehicles that are repossessed or towed to their location. They currently rent building C for their towing service. Mr. Walls said no car sales, body work, welding, parts sales, off-street traffic, service station or gas station will be allowed there.

Mayor Branner said Planning and Zoning recommended approval of the Conditional Use for units C & D. Mr. Reynolds asked how long the vehicles usually stay there. Ed Pretko, owner of MOTS Towing, said typically 15 to 20 days. It depends on the amount of damage. After repairs are made, the vehicles are usually taken to an auction.

Mayor Branner pointed out that the Planning and Zoning Minutes reference Units F & I but the units are actually C and D. (Note for clarification: The Conditional Use request before Planning and Zoning was for Units F & I. It was discovered that the location of Units F & I did not agree with the information on the Record Plan; therefore, the Conditional Use request before Mayor and Council was changed to coincide with the Record Plan layout and information.)

Moved by Mr. Faulkner and seconded by Mr. Dixon to grant Conditional Use approval to 9 Wood Street, Units D and C for MOTS Towing Service Office and Auto Repair Service. Motion Carried Unanimously. Mr. Reynolds recused himself because his son rents a unit.

5-C. Ratify design contract with KCI Technologies for improvements to the Lakeside Drive Well House (Well #6)

Morris Deputy said grant money was received from the Office of Drinking Water to make improvements to Well House #6 and this is the design contract with KCI for those improvements. Council's approval is required because the contract is over \$50,000.

Moved by Mr. Faulkner and seconded by Ms. Burgess to ratify a design contract with KCI Technologies for improvements to the Lakeside Drive Well House #6. Motion Carried Unanimously.

5-D. Resolution to adopt the New Castle County Multi-Jurisdictional All-Hazard Mitigation Plan

Morris Deputy said this Resolution will allow the Town to adopt New Castle County's Hazard Mitigation Plan without having to prepare its own. This is an update to the 2005 plan. It also allows the Town to receive grants and federal assistance for disasters.

Moved by Mr. Dixon and seconded by Mr. McGhee to adopt the New Castle County Multi-Jurisdictional All-Hazard Mitigation Plan. Motion Carried Unanimously.

5-E. Adopt a Supplemental Resolution to the July 12, 2010 bond issuance resolution to authorize a portion of the bond issue as taxable direct pay Build America Bonds

Lou Vitola stated that at the July meeting Mayor and Council authorized the Bond Sale Agreement. In order for the Town to offer Build America Bonds, Council has to specifically authorize this supplement to the Resolution authorizing the Town to do so. The market has become an attractive alternate to tax exempt bonds. The Town won't be closing on any bonds until late October and if the market is still strong for Build America Bonds, we can choose what's best for the Town at that time. Based on today's numbers, it would save about \$200,000 a year on bonding. Mr. Faulkner said the total amount of bonds to be sold will not increase.

Moved by Ms. Burgess and seconded by Mr. Reynolds to adopt a Supplemental Resolution to the July 12, 2010 bond issuance resolution to authorize a portion of the bond issue as taxable direct pay Build America Bonds. Motion Carried Unanimously.

5-F. Request for an LED sign at Hardee's Restaurant (Red Burrito), 340 Dove Run Centre Blvd.

Fred Mattes, Director, Physical Facilities for Hardee's, said they are requesting permission for the LED sign to promote their new Mexican line "Red Burrito" and to hopefully help increase their business; business has dropped about 20%. The sign will be similar in size as Applebee's. The message will be on the east and west faces of the board. In 2008 Hardee's received approval for a monument prime sign but it was not built because the area they wanted it in was over buried electric cable and would have required re-engineering of the foundation of the sign. The monument sign will have the Hardee's logo and the Red Burrito; the reader boards will be placed underneath the logo. The sign will be 10' tall and the message board area will be about 4' by 8'.

Morris Deputy mentioned that DelDOT is considering a right-in/right-out on 299.

Mayor Branner commented that if it's a monument sign and not a pylon sign, they have to be sure it does not impede the stormwater management drainage on 299. DelDOT is contemplating a right-in/right-out between Hardee's and the bank. It's in the design stages and public hearings will probably be held in the next couple of months. The placement of the sign will be impacted by the location of the entrance. Mayor Branner suggested Mr. Mattes contact DelDOT to be included with the conversations for the placement of the entrance.

Jim Young, Cricklewood resident, suggested Council be mindful of the number of LED signs in the area. (It was noted that there is only one other LED sign on 299.)

Moved by Mr. McGhee and seconded by Mr. Pierce to approve the request for an LED sign at Hardee's Restaurant at 340 Dove Run Centre. Motion Carried Unanimously.

5-G. Middletown Main Street request for Victorian Stroll and Christmas Parade

Tracy Skrobot requested permission to hold the Annual Christmas Parade and Victorian Stroll on Saturday, November 20th from 10 a.m. until 1 p.m. The parade route will be South Broad to West Main and left on South Scott and disperse. The street will be closed only during the parade.

Moved by Mr. Pierce and seconded by Ms. Burgess to approve Middletown Main Street's request for the Victorian Stroll and Christmas Parade to be held on November 20, 2010 from 10 a.m. until 1 p.m. Motion Carried Unanimously.

6. Unfinished Business

Mr. Reynolds reported that he met with Bob Hershey from the Appoquinimink School District to check the decibel reading from the speakers at the Appoquinimink High School, per complaints received from Spring Arbor last month. These readings were compared to the medium level in a vehicle and were not out of range. The school district has installed a device to prevent the sound from being turned up to the maximum volume.

7. New Business

- Mr. Reynolds reported the Street Department, per a request from Mr. Dixon, installed three- and four-way traffic signs on Dove Run Blvd.
- Ms. Burgess announced the Crab Feast Fundraiser for Middletown Main Street is Saturday, September 18th.
- Mr. Dixon thanked the Street Department for installing the signs on Dove Run Blvd. so quickly.
- Rita Lawrence from Greenlawn Apartments expressed her concern regarding the amount of drug activity in the townhouse and apartment area. She said there is constant drug activity both day and night. Mayor Branner said staff officers from the Police Department are in the audience and will follow up with her on the situation.
- A Middletown Village resident asked if any discussion was going to be held regarding the Medical Center. Mayor Branner said announcements for the hospital will be forthcoming.

Moved by Mr. Reynolds and seconded by Mr. Dixon to go into Executive Session to discuss legal and personnel matters. Motion Carried Unanimously.