

Town of Milton
Town Council Meeting Minutes
February 6, 2006

Milton Town Council Meeting was held in the Milton Theatre, 110 Union Street.

OPEN FLOOR (7:15 p.m.):

- A) Kathy Greig, 326 Union Street, member of the Milton Garden Club.
Ms. Greig stated that the money spent on flowers, dirt, etc. came to about \$6,000. This was a profitable year because of the Garden Tour and Holly Fest. The 2006 Garden Tour is scheduled for Saturday, June 3, 2006. The Community Planting Day is scheduled for Saturday, May 20, 2006. She announced on February 20, 2006 the Roadhouse Steak will donate 10% of their proceeds to the Garden Club. The Garden Club will also be selling \$5.00 raffle tickets for 10 hours of clean up – drawing to be April 6, 2006.
- B) Nancy Davis, 115 Mermaid Lane, Shipbuilders Village, stated that the first three mediums have lights; the last two mediums do not have any lights and asked Council to ask the developer to install lights. Ms. Davis also asked if Town Council would consider a different meeting place for town meeting. People with respiratory problems have trouble attending the meetings held in the Milton Theatre.
- C) Janet Turner, 606 Union Street wanted to know what type of emergency plan the town has; are we prepared for a catastrophe; what is the line of communication; what do people need to do to prepare. Mayor Bushey explained that the town's water system can operate on a backup generator. There is an emergency plan in place through the County and all the counties in Delaware have a joint communication system. He offered to give Ms. Turner a contact name for further information.
- D) Bob Blayney, Chandler Street read a letter he sent to the Mayor and Town Council regarding the clear cutting of the trees in Phase II in the Preserve on the Broadkill. Mr. Blayney requested that "Town Council direct the Planning & Zoning Commission, upon review of major subdivision approval, to require preservation of specimen and mature trees".
- E) Anne Yarbrough, 204 Federal Street, Director of the Milton Historic Society, thanked the Council on their continued support on the ongoing work of the Historic Society. The museum is scheduled to open on April 23, 2006. Friday, February 10 the society will be showing "Whispers of Angels" which is a documentary on the underground railroad. The historic society has received a grant to restore the stain glass windows.
- F) Mary Hudson, 406 Union Street would like to see Town Charter and Ordinance changes, specifically a Charter change for a special tax district. This will help the burden for paying for new development on the developers. Bridgeville has adopted this Charter change. Bridgeville has one of the best sewer ordinances in the State. Georgetown's Planning & Zoning received an

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award for their Planning & Zoning Ordinances which are available on the internet and are user friendly. Ms. Hudson asked that Town Council follow in Bridgeville and Georgetown's foot steps regarding their ordinances and charter changes. She also asked that Town Council consider proceeding with deep well injection. Mayor Bushey explained that Town Council discussed this issue and did not want to initiate on deep well injection expenses, but will look into what Millsboro is doing.

- G) Lynn Eke Lund, 406 Union Street asked questions regarding the North Milton Annexation. The minutes of August 2005 reflects that Town Council referred the application to Planning & Zoning. The Charter states there is a 90 day time limit from the time the Town Council has referred to Planning & Zoning until they shall issue a report recommending or not recommending annexation. The time limit has passed, what is happening with the annexation?

Tim Willard, Attorney, stated that the applicant is aware of the 90 day limit. Neither the Planning & Zoning Committee nor the applicant have raised as an issue the time limit and have waived the time limit. He has just received the draft annexation plan and has not received the master plan. The Town Charter is silent on this issue and should be addressed. The Planning & Zoning Committee has this issue on their next agenda.

Ms. Eke Lund asked if the town is going to indefinitely extend the time Planning & Zoning has to make a recommendation to Town Council. She also asked if any consideration is being given, since it seems that more and more steps are being added to the process, regarding only 4 members of Planning & Zoning that can look at the application information. Has consideration been given regarding allowing the 3 newer members who were appointed only 1 month after this occurred to review the application information?

Mr. Willard explained that if the applicant refiles the entire Planning & Zoning Committee could consider the entire application.

Mayor Bushey explained that more steps are required for the annexation process than when the update was put into the Charter. He wanted to make sure as the Town Council reviews the process, they have all the answers.

Ms. Eke Lund stated that it does not say in the Charter that all Planning & Zoning Members have to be citizens of Milton. Mayor Bushey stated that was correct.

Councilman Post wanted to know how we can make the 3 new Planning & Zoning Committee members more active participants in the process.

Mr. Willard explained that if the application was withdrawn and re-filed all Planning & Zoning members could participate.

Stephanie Coulbourne explained that the confusion was that there were 5 members at the time. One of the members who did hear the application resigned. That is why the Mayor appointed a new member plus 2 new members to bring the number of members allowed as to the Charter.

Councilman Post asked what constitutes a quorum.

Mr. Willard explained that a quorum would be the majority of votes.

Councilman Frey asked Tim Willard if it is true that some towns have their new Committee members listen to the tapes of the meeting

Mr. Willard stated yes to help them come up to speed.

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- H) Nancy Broadhurst, 326 Behringer Avenue referenced an incident that occurred back in August involving the Police Chief. Ms. Broadhurst was not satisfied that the matter was handled administratively. Tim Willard, Town Attorney, stated that this matter was referred to the Attorney General's office. The Attorney General's office said it should be handled administratively.

Mayor Bushey called the regular Council meeting to order at 7:55 p.m.

Councilwoman Betts offered a moment of silence. The Pledge of Allegiance followed.

Mayor Bushey called roll.

PRESENT: Mayor John Bushey
Councilwoman Leah Betts
Councilman Gene Dvornick
Councilwoman Ronda Melson
Councilman Don Post
Councilman Noble Prettyman
Councilman John Frey

Others Present: Hal Godwin, Town Manager
Stephanie Coulbourne, Building Assistant
Allen Atkins, Maintenance Supervisor
William Phillips, Chief of Police
Tim Willard, Town Attorney

Presentation and Approval of Minutes – January 3, 2006

Councilman Dvornick made a *motion* to approve the minutes as written, seconded by Councilman Prettyman.

Motion passed. "Aye"

Presentation and Approval of Minutes – January 18, 2006 Prioritization Workshop

Councilman Dvornick made a *motion* to approve the minutes as written, seconded by Councilwoman Melson.

Motion passed. "Aye"

Presentation and Approval of Minutes – January 19, 2006

Councilman Prettyman made a *motion* to approve the minutes as written, seconded by Councilman Dvornick.

Motion passed. "Aye"

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Committee Reports

Sewer & Water – Councilwoman Melson reported that there would be a presentation at their next meeting regarding radio read water meters.

Streets & Sidewalks

Mulberry Street Project: Councilwoman Betts stated that the Mulberry Street Project is underway.

The Streets & Sidewalk Committee will meet in two weeks.

Personnel/Pension – Councilwoman Melson presented a certificate for employee of the quarter July to September 2005 to Ptlm. Stephen Boone. The certificate was accepted by Police Chief Phillips.

Personnel Ordinance: Councilwoman Melson explained that the Personnel Committee has not met recently to review the draft ordinance and asked if Town Council would like to postpone possible approval in order for the Personnel Committee to review the draft ordinance. Two draft ordinances, a short and long version, were received from Tim Willard, Town Attorney, in January.

Parks & Recreation – Councilman Post stated he had received a cost proposal from the Garden Club and requested that this matter be reviewed under New Business and put it to vote that \$4,000 be allocated to the Garden Club.

Planning & Zoning – Nothing to report.

Milton Development Corporation – Nothing to report

Board of Adjustment – Joan Martin-Brown explained that they had one review regarding the Historic Ordinance matter.

Finance/Risk Management – Councilman Dvornick reported that the Finance Committee met on January 19, 2006 and reviewed the first quarter of the new budget year. For the first quarter revenues were exceeding the planned budget by 39% and the expenses were 20%. The Committee had an update on the 2005 audit. The committee is in the process of converting over Cap Soft to Edmunds. The transfer tax collected for the New Year was \$240,605.38. The process for budget preparation for the 2007 budget will begin on May 22, 2006. The next Finance Committee meeting is scheduled for February 23, 2006, 10:00 am at Town Hall.

2005 BUDGET AUDIT PRESENTATION – Mr. Tom Sombar

Mr. Sombar reported that there was an increase in liabilities, assets and net assets. Although there was a decrease in revenues from 2004 to 2005, 2005 was still a healthy year. The reason for the decrease in revenues was the decrease in impact fees for 2005. There was an increase in expenses and a decrease in revenues. General Fund - increase in transfer tax revenue and an increase in building permit fees. Total Expenses – General Fund – expenses are increasing. This was a strong financial year for the town, good

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increase in assets and a good increase in reserves. Mr. Sombar thanked the staff for a great job in organizing and gathering the information needed for the audit.

Mayor Bushey thanked Mr. Sombar for his presentation.

The Audited Financial Statements and Supplemental Information for the Fiscal Year Ended September 30, 2005 is attached and made part of the minutes.

WRITTEN REPORTS

Maintenance Report

Councilman Dvornick made a ***motion*** to accept the report, seconded by Councilwoman Betts.

Councilwoman Melson asked what the problem is regarding missing trashcans. Is it vandalism? Allen Atkins, Public Works Director, explained that sometimes the trash men will put the emptied trashcan at the wrong residence or a neighbor will grab the wrong can.

Motion passed. "Aye"

Code Enforcer Report

Councilman Prettyman made a ***motion*** to accept the report, seconded by Councilman Dvornick. Councilman Frey requested that the zoning violations be reported on the report.

Motion passed. "Aye"

Police Department Report

Councilman Prettyman made a ***motion*** to approve the report as presented, seconded by Councilwoman Betts.

Motion passed. "Aye"

Town Manager Report-

Councilman Dvornick made a ***motion*** to accept the Town Manager's Report, seconded by Councilman Prettyman.

House Bill 210 and 214: Councilman Post wanted clarification on the letter sent opposing House Bill 210 which puts the hands of annexation into the people's hands through referendum. The opposition was not put to vote. He requested that this item be put under New Business so Council could formally vote on whether or not to support or oppose H.B. 210.

Mr. Godwin stated that House Bill 214 referred to annexation through referendum. House Bill 210 requires that a town must have a certified comprehensive plan in order to annex a property. H.B. 210 infringes on the town's rights to annex at the town's pleasure regardless of the State's requirements. This is the reason why other towns have come together to oppose H.B. 210. No other action was taken on H.B. 214.

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Eric Evans Goodbye Party: Councilman Post wanted to know where the approval came from for the party that was thrown for Eric Evans. Mr. Godwin stated that he called all Council members, including Councilman Post. Councilman Post stated that he did not approve of this process. Money was used from tax payers' dollars. Mayor Bushey stated that he would pay for the expenses of the party. Councilman Frey stated that he did not get a call.

February 16, 2006 Town Council Meeting / Workshop: Councilman Frey asked that the slash be taken out so that the public does not think business cannot be conducted or votes taken. Mr. Godwin stated that he had not gotten direction as to the agenda items for that meeting and was not sure if was to be a regular meeting or workshop. What was discussed with Council last month was that the 3rd Thursday evening would be reserved for a Council Meeting which would be either a regular business meeting or workshop depending on whatever needs arose at that time. Councilman Post stated it was his understanding that at the last meeting it was approved that Council would have one workshop and one council meeting a month and in the future Council may have to hold two council meetings a month.

Mayor Bushey felt that Council should not hold any workshops.

Councilman Dvornick made a **motion** to hold two (2) Town Council Meetings each month. The motion was seconded by Councilman Prettyman.

Roll Call Vote

Councilman Prettyman	Yes
Councilwoman Betts	No
Councilwoman Melson	No
Councilman Frey	Yes
Councilman Post	No
Councilman Dvornick	Yes
Mayor Bushey	Yes

Councilwoman Betts stated that she did not mind having two meetings a month but did not want to hold a second meeting just to have a meeting, and pay for Council Members attendance if there are no agenda items.

Councilman Post stated Council and the public should have input within a workshop regarding the North Milton annexation agreement.

Motion passed. "Aye"

Correspondence

Enforcement Clauses to Historic Preservation Ordinance: Councilwoman Melson read a letter sent to the Mayor and Council from John R. Collier, Chairman of the Milton Board of Adjustment, regarding the amendments to the Historic Preservation Ordinance. The Board of Adjustment feels that there is still work to be done on the amendments and

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recommended that the Mayor establish an Ad Hoc Committee, appointing Stephanie Parker to Chair the committee and appointing at least 2 members of the Board of Adjustment, a representative from the Milton Historical Society, one or more Council members, two members of the original Historic Preservation Ordinance Committee, and several interested citizens of Milton.

Mayor Bushey stated this recommendation would be brought back at the next Council meeting.

OLD BUSINESS

Franchise Agreement – Chesapeake Utilities Corporation

Mr. Schneider, Chesapeake Utilities, addressed the Council. At the last Town Council Meeting council received the 1st draft revision to the agreement. Chesapeake would like to make one change in the agreement, page 7, paragraph 8 - franchise fee to be changed from .018 to .02. Mr. Schneider explained that a CCF = 100 cubic feet of gas. The typical customer uses 740 CCFs a year which equals \$14.80 a year franchise fee.

Councilman Dvornick made a **motion** to authorize the Mayor and Secretary to sign the franchise agreement. Mayor Bushey asked if there was a second to the motion. No second to the motion. Mayor Bushey thanked Mr. Schneider.

NEW BUSINESS

Wagaman’s West Shore Development – Installation of Street Lights

Mayor Bushey explained that at the last meeting concerned citizens made a request regarding the installation of street lights. The Town Manager sent a letter to Michael Simeone regarding this matter. The street lights should be installed within 60 days or less.

Councilman Prettyman asked if the town will pay for the electricity of newly installed lights. Mayor Bushey explained that the town will be responsible for the bill until the funds are included in the Municipal Street Aid and the town will be reimbursed.

Councilman Post made a **motion** that the developer installs 43 lights in the Wagaman’s West Shore Development, seconded by Councilwoman Betts. Councilman Frey – abstained.

Motion passed “Aye”

Impact Fees – Water

Councilman Post brought this matter before the Council. He felt that with the town growth and the burden that has been placed on the current infrastructure the water impact fee should be raised. A cost service study has been done.

Councilman Post made a **motion** that the water impact fee be raised from the current fee of \$550 to \$1,450, seconded by Councilwoman Melson.

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Councilman Dvornick asked what Councilman Post's reason for the increase is. Councilman Post explained the increase in the fee is because of the impact that construction is making on the current system. Councilman Dvornick stated that the interest rate that was used in the rate study was 4% and felt the fee would be set to low. Councilman Post stated that the fees could be increased.

Motion passed "Aye"

Impact Fees – Sewer

Councilman Post felt that the EDU rate has been very low, we are trying to move forward with the new sewer plant and there are issues with the current sewer plant.

Councilman Post made a **motion** that the impact fee for sewer be raised from \$2,500 to \$8,000, seconded by Councilwoman Betts.

Tim Willard, Town Attorney, requested that each Council member state the reason why they are or are not voting for the increase.

Roll Call Vote

Councilman Frey -	Yes	Felt the town is way behind
Councilman Post -	Yes	Felt it was time to bring the impact fees to reality to offset the growth and future costs of this town.
Councilman Dvornick	No	Not convinced that Council has the full financial picture of what the impact fee should be.
Councilman Prettyman	Yes	Growth is coming in
Councilwoman Betts	Yes	Fees will help offset expenses
Councilwoman Melson	Yes	Fees will help offset expenses
Mayor Bushey	Yes	Had concerns that Council may not have all the figures it should have. He felt that the fees do need to be increased and that this impact fee should be used exclusively for sewer

Motion passed - Majority Vote

Annexation Impact Fees

Councilman Post explained that this is in regard to the acreage annexation fee which was recommended in 2004 by the County Engineer and the Town Attorney to add \$8,000. We are building a new sewer plant, the water impact fee has to be exclusively for water and the sewer impact fee has to be exclusively for sewer. This is a new twist because we are adding other infrastructure costs that face this town. If the percentage rate has to be restructured so be it to bring it in to where it will impact the town. Mr. Willard proposed: 65% for sewer, 10% for water, 5% for police, 5% for parks, 10% for sidewalks and streets, and 5% to town hall. This is an \$8,000 per acre annexation fee that would be split within those areas.

Tim Willard, Town Attorney explained that he was requested to draft an impact fee ordinance and after much discussion Council settled on flexibility versus fixed impact

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fees. The Town Charter was amended to allow the town to impose impact fees. The annexation agreement was a means to impose those impact fees.

Councilman Post made a **motion** to impose an annexation impact fee of \$8,000 per acre, seconded by Councilwoman Betts.

Motion passed “Aye”

Personnel Policy

Councilman Dvornick made a **motion** to defer to the Personnel Committee for review, seconded by Councilman Prettyman.

Motion passed “Aye”

Stephanie Parker – Amendment to the section of the Zoning Ordinance regarding the Historic District – penalties for non-compliance

Ms. Parker had previously corresponded with Council and requested that this issue be looked at. Since that time she and Ms. Yarbrough composed the proposed amendments listed in her letter to the Town Manager dated January 23, 2006.

Mayor Bushey noted that the Board of Adjustment has previously discussed the same issues. He had spoken with John Collier, Chairman of the Board of Adjustment and the Board of Adjustment would like to work together with Ms. Parker and Ms. Yarbrough on this issue.

Ms. Parker stated that they address demolition and have taken this a step further to address non-compliance with Board of Adjustment rulings as well as failure to obtain building permits. We need a strong deterrent so that property owners, individuals do what they are suppose to do in order to preserve the history of the town.

Joan Martin-Brown, member of the Board of Adjustment, felt that the more input and information received the better the Board of Adjustment can integrate additional information into the proposed amendments.

Councilwoman Betts felt that it is important what Ms. Parker is doing but felt it was also important that anyone who has input submit their ideas or recommendations to the Board of Adjustment in writing.

Heritage Creek Property Line Adjustment

Mr. Jeff Clark, Land Tech Land Planning, representing the Heritage Creek Community and Mr. Carey, property owner were present. Mr. Clark explained that the master plan was approved by town council a year ago. They combined efforts with the Cape Henlopen School District and created a plan to try to achieve a land use combination with the town to make it look like the community and the school was planned together. In order to accomplish this they had to swap small parcels of land. Mr. Clark stated that the deeds are prepared, and all approvals received. Legislature has approved the transfer of property between Cape Henlopen School and Mr. Carey, Mr. Carey and Cape Henlopen School, and Cape Henlopen School and the Town of Milton.

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Councilman Frey made a ***motion*** to approve and the Mayor and Secretary to sign the Heritage Creek Property Line Adjustment plan, seconded by Councilman Post. Councilman Pretty abstained.

Motion passed “Aye”

National League of Cities – Membership

Councilman Dvornick made a motion that the Town Manager join the National League of Cities, seconded by Councilman Post.

Motion passed “Aye”

Appointment to Board of Election

Mayor Bushey stated that Nancy Davis has agreed to fill in on this year’s election. In previous years a member of the town staff sat with the Board of Election on Election Day. This year the preference is to have a group of people who are not employed by the town work the election day. The Board of Election’s current members are Neva Baker, James Jefferson and Hose Quinones.

Councilman Frey asked if Stephanie Coulbourne would be taken off. Mayor Bushey said yes, no town staff would be present. The citizen group would be working the polls.

Councilman Frey believed that the Charter states that there will be three (3) members on the Election Board, an inspector and 2 judges. Tim Willard, Town Attorney, read the section of Charter that explains the appointment of the Election Board.

Mayor Bushey thanked Ms. Davis for volunteering her services but according to the Charter she will not be needed to help on Election Day.

Police Vehicles

Chief Phillips explained that presently the police department has a 1994 and 1996 car. He asked permission from the Council to replace those vehicles. \$16,500 is budgeted this year and he would like to lease two (2) new vehicles for the next three years.

Councilwoman Betts made a motion to approve the leasing of two vehicles for the police department, seconded by Councilman Prettyman.

Motion passed “Aye”

Appropriation of \$4,000 in Budget for the Garden Club

Councilman Post made a motion to appropriate \$4,000 out of Parks & Recreation for the Garden Club, seconded by Councilman Prettyman.

Motion passed “Aye”

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Councilman Dvornick made a *motion* to adjourn the meeting, seconded by Councilman Prettyman. Meeting adjourned at 9:02 PM.

Respectfully submitted.

Pat Feeney

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