

Town of Milton
Town Council Meeting Minutes
May 2, 2005

7:15 – 7:30 p.m. OPEN FLOOR:

David Burns, 541 S. Spinnaker Lane, addressed the Council regarding the flooding at Shipbuilders Village. He has made several phone calls and no one wants to take responsibility.

Mayor Bushey informed Mr. Burns that the Town did send a letter to Shipbuilders Village giving a time frame to have the problem solved. The Town has issued a stop on all certificates of occupancy until the issue is resolved but per our solicitor, we can not issue a stop work order.

John Meade, 539 S. Spinnaker Lane, stated he has lived here since June 2004 and has made several calls as well regarding the flooding in Shipbuilders Village. He stated they are still building within the development and would like an answer as to who is responsible. He provided pictures to the Mayor and Council of his landscaping being washed away and would like to know who will pay for the damages.

Mayor Bushey will have the Town Manager follow up on the letter sent to Shipbuilders Village. A copy of the letter will be available for any resident who wishes to have a copy.

Deborah Spellman, who owns investment property within Shipbuilders Village, provided pictures from the January 14, 2005 flooding. She has purchased flood insurance due to the issue. Ms. Spellman has done research at the County offices regarding the development and she has found six violations the project had to follow. Ms. Spellman spoke to Jessica from Soil Conservation on May 2nd.

She pleaded with the Council to get the issues resolved and issue a stop work order. Councilman Dvornick stated Soil Conservation is required to do inspections on the project and asked the Town Manager to get inspection sheets from Soil Conservation to see the violations and what date they had to have the problems resolved.

Kathryn Greig, President of the Milton Garden Club, reminded those in attendance that Saturday, May 14th would be the Community Planting and Clean up Day. Planters will need to be bolted down, she has spoken to Robin Davis and he has been very helpful. The group will be set up in the Magnolia Street parking lot for those who can come out and help. Starting time is 9:00 a.m. please bring shovels, wheelbarrows, work gloves etc.

Mayor John F. Bushey called the regular meeting to order at 7:30 p.m. at the Fire Hall on Front Street.

Councilwoman Betts offered a moment of silence.

Mayor Bushey called the roll.

PRESENT: Mayor John Bushey
Councilwoman Leah Betts
Councilman Jerry Hudson
Councilman Gene Dvornick
Councilman Don Post
Councilman Noble Prettyman

Those Absent: Councilwoman Ronda Melson

Others Present: Hal Godwin, Town Manager
Eric Evans, Code Enforcer
Stephanie Coulbourne
Allen Atkins, Sewer Dept. Supervisor
Bob Kerr, Engineer

Presentation and Approval of Minutes

Councilman Prettyman made a **motion** to approve the April 4, 2005 Council minutes as written, seconded by Councilman Dvornick. All those in favor.

Motion Carried "AYE"

Committee Reports

Sewer & Water –Councilman Hudson reported that the committee has discussed two annexation requests. The annexation request for 202 Milton-Ellendale Highway has a hardship; the septic system on the property is failing. According to our Code Enforcement Officer, Eric Evans, it is highly unlikely that DNREC will issue a permit for a new septic system since there is access to a public sewer system across the street. The Water & Sewer committee is recommending that Council approve the annexation for the single house.

Wagamon's West Shore pump station is not working yet but it should be by May 4th per Bob Kerr.

The next Water and Sewer Committee meeting is currently scheduled for May 17, 2005, however there are no agenda items as of yet. If anyone has an issue for the committee, they will need to notify Town Hall by Monday, May 9, 2005 or there will not be a meeting.

Streets & Sidewalks – Councilwoman Betts reported the committee met on April 11th and the request to make Coulter Street a one way street has been dropped. The recommendation was to drop the speed limit to 15 mph and post signs at both ends of the street. Also to place a convex mirror on the utility pole after permission is received from Conectiv. It was also requested to have the Town speak to the developers and ask them to widen the entrance to the development using the Town's 20 foot right of way. Abandonment of alleys was also discussed, the committee needs a direction as to whether they should abandon the alleyways or have them cleaned up. The fire department has requested to have Water Street abandoned as well. The committee

asked the fire department to place the request in writing. The Town Manager and Councilwoman Betts reviewed the sidewalks within the town and would like to know how the Council would like to address the issue. Does Council want letters sent to property owners to repair the damaged areas or should we apply for grant funding. Concern was shown to reduce the speed to 15 mph around the Preserve on the Broadkill construction area and a stop sign at the end of Behringer Avenue. Councilwoman Betts asked that these issues be put on the agenda for the special Town Council meeting. The Town will be receiving \$25,000.00 from Senator Thurman Adams for Frederick Street paving and sidewalks.

Ordinance – There is one ordinance revision to be addressed under old business.

Personnel/Pension – Nothing to report.

Parks & Recreation – Councilman Post reported that a Walkable Community Workshop was held recently and he would like to hold another workshop within the next several months so that the Town Manager, elected officials and Town staff could attend. During the last Park and Recreation meeting it was agreed to design a layout of the park area for future memorial donations. The committee would like to capitalize ways to promote the walkable community and Governor’s Walk area. They discussed ways to enhancing the parking area at the marina and using the area near the pump station.

Economic Development – Councilman Post reported that the committee will take a Town Center focus. They would like to utilize a professional planner to plan the Town Center. At some point they would like to hire a professional facilitator to bring together the Town, developers and investors.

Planning & Zoning – Nothing to report.

Milton Development Corporation – Councilwoman Betts reported that the group made funds on the *Lend me a Tenor* performance. Children’s shows will be provided during the Horseshoe Crab Festival. Movies and other entertainment will be held during the summer months.

Board of Adjustment – John Collier would like to thank the Mayor for the recent appointments made to the committee. The gentlemen appointed have been very helpful.

Finance/Risk Management – Councilman Dvornick reported the committee recommends accepting the proposal from Ed Donahue regarding the rate study for utilities. The 2005 capital expenditure requests has been reviewed along with a request to reimburse funds which was given to the Town Manager to follow up with the Town Solicitor. Councilman Dvornick and Gina Jennings have discussed several old Town accounts that need to be dissolved. There has been no activity on these accounts for several years.

200th Anniversary – Councilman Prettyman reported the committee has made a request to Senator Biden and Senator Carper asking to have the Marine and Air Force bands

come to our celebration on August 3-5, 2007. Councilman Prettyman has contacted area churches to help contribute to the event. He also asked anyone that may have some history or old pictures to share would be greatly appreciated. The next meeting will be May 24th at 7pm at the Milton Library.

Police Building – Councilwoman Betts reported that she has received paperwork to apply for grant funding to help with the new building. The Town Manager has filled out the application and it will be submitted by May 15th.

Land Acquisition- Councilman Dvornick reported the committee met on April 18th and as a result of that meeting, an executive session will be needed. Councilman Dvornick would like to invite the Town Manager to the executive session.

Written Reports

Maintenance Report- Councilman Hudson made a **motion** to accept the report seconded by Councilman Dvornick.

Councilman Hudson asked about the two blockages reported at the Milton Landing pump stations. Allen responded that there was debris in the cutter that caused the blockage.

Motion carried – “Aye”

Code Enforcer Report- Councilman Dvornick made a **motion** to accept the report, seconded by Councilman Prettyman. All those in Favor.

Motion carried – “Aye”

Police Department Report- Councilman Prettyman made a **motion** to accept the report, seconded by Councilman Post. All those in favor.

Motion carried – “Aye”

Town Manager’s Report- Councilman Hudson made a **motion** to accept the report, seconded by Councilman Prettyman. All those in favor.

Motion carried – “Aye”

Correspondence

Mayor Bushey thanked the resident that wrote an anonymous letter to the Council. A copy of the letter has been distributed to all Council members. The letter will not be read into record since it was not signed.

Councilman Hudson read letters from:

- 1) Preserve on the Broadkill LLC asking the Town to assume the charges for the street lights in Phase I, Preserve on the Broadkill.
- 2) USDA Rural Development offering assistance for the proposed wastewater system.

- 3) Public Notice informing residents that they may dispute the assessed value of their 2006 property tax by completing an application by May 16th. 5:00 pm
- 4) SCAT President, Sam Cooper to Governor Minner regarding annexations into municipalities.
- 5) To Charlie Fleetwood, from Senator Thurman Adams, stating the Senator is in agreement with Mr. Fleetwood regarding the mandatory recycling issue.
- 6) Joy Lester, 311 Union Street, requesting that the letter from Mr. Patsy Cicala Jr. be read into the minutes in its entirety.
- 7) Patsy Cicala Jr., 118 Broad Street, concerning the Town committees, and development within the Town.

Old Business

Milton Catsnippers- Donna Gordon gave the Council an update on the program's success. A total of 74 cats have been fixed and the group is looking for homes for 12 kittens. There are only funds to fix 3 more cats. They currently have 5 volunteers and are organizing a fundraiser for October 10th at the Roadhouse Steak Joint. They have applied for a grant with Petsmart which will not be for more than \$750.00. Mrs. Gordon asked the Council to help with funding so that they may continue to control the cat population. Councilman Hudson asked how to link your Food Lion card to the program. Mrs. Gordon asked anyone having difficulty linking their card to email her at Donna@miltoncatsnippers.com. Donations of old towels would be appreciated. Councilwoman Betts made a motion to take \$500.00 from the Tourism and Payroll accounts and donate them to the Catsnippers Program, seconded by Councilman Post. Councilman Dvornick stated the motion needed to be made under New Business.

Hours of Construction- Mayor Bushey stated the change of hours was before Council for their input. Councilman Hudson asked for a contingency to be added for emergency issues. Mayor Bushey asked Council to consider possible wording for changes to the ordinance. The item would be placed on the June agenda.

Annexation Impact Fee Agreement- Councilman Post stated he is concerned about the way the Town is growing. The Park is in need of repair, Governor's Walk is in need of maintenance and a police station is needed. Future employment is heavily needed. He thinks the developers need to pay a fee to improve the Town. He would like the Council not to consider anymore annexations until a fee is established. Councilman Dvornick stated there was a great deal of study done for the impact an annexation would have on the police department and town employees. The study will show what it actually costs per Town employee related to one household so an agreement can be set on a good set of numbers every year. Councilman Post thinks contracts and agreements are very weak and would like a rate chart established and followed. He would like the Mayor to appoint a task force to bring back a recommendation to the Town on how to proceed with impact fees. Councilman Hudson stated the sewer and water committee along with the Town engineer and attorney, looked very heavily into the impact fees and felt there should not be a set amount. Instead the Town could sit down with each developer and see what they could bring to the Town. The impact fees were raised \$500.00 in last year's budget.

Shipbuilders Village issuance of certificates of occupancies- Hal Godwin reported that he had spoken to the Town's attorney and Mr. Willard stated the Town should not hold up certificates of occupancy due to property boundary issues. The Town does have the authority to hold the certificate of occupancies if the storm management plan is not working properly.

Councilman Post made a **motion** to withhold certificates of occupancy to Shipbuilders Village until the drainage is dealt with, seconded by Councilwoman Betts. All those in favor.

Motion carried – “Aye”

Municipal & Financial Services Group Proposal- Councilman Dvornick reported that Council has a proposal from the Financial Advisor to look into all the costs of the Town and provides information to the underwriters. The Finance Committee has reviewed the proposal and recommends approval to Council. Councilman Post thought the Town Charter stated the proposal should be put out to bid. Councilman Dvornick stated the Fees would be recouped as part of the bond referendum. Councilman Post reported he would like the wording under Project Work Plan Task 1, to read “all town officials” not “key town officials”.

Councilman Hudson made a **motion** to accept the proposal pending the attorneys' review of the charter and if the project needs to be bid out, seconded by Councilman Prettyman. All those in favor.

Motion carried – “Aye”

Councilman Post was opposed to the acceptance of the proposal.

Mr. Godwin, Town Manager reported the Charter read as follows: Section 14 sub paragraph 1 reads competitive bidding shall not be required in any of the following circumstances, item 2 states “if the purchase or contract is for professional services”. Therefore, the charter does not require bidding on professional services.

Empowerment of Constable- Councilwoman Betts wanted to know if Eric Evans would be sent to classes to know what he can and can't do. Chief Phillips did not know of any class he could attend. Councilman Post wanted to know why we are addressing this issue since Mr. Evans never reports warnings in his monthly reports. Mr. Godwin stated the only purpose was to write fines up to \$100.00 for building code and set back code violation as well as hours of operation. The only enforcement he has at this time is to file charges in J. P. Court for a violation of a Town ordinance. Councilman Post is OK with a building inspector being a Constable but is concerned about a code enforcer being a constable. Councilman Dvornick stated if a company does not have a business license and Eric asks them to come to Town Hall to comply, and the company never shows up, Eric does not have the authority to enforce the violation. Councilman Post thinks Eric needs to be savvy of the enforcement laws.

Councilman Hudson made a **motion** to table the issue until the June Council meeting when Mr. Evans can attend, seconded by Councilwoman Betts. All those in favor.

Motion carried – “Aye”

Wet Well Specifications-Wagamon’s West Shore- Mr. Kerr from Cabe Associates, stated when the wet well was set, it was set too high. The volume has decreased and because of that something will need to be done in the future when additional properties are added to the system. The pump cycle times are OK and they recommend that variable frequency drives be installed, that will allow the pumps to run at different speeds that keeps the cycle useable in a proper manner.

Councilman Hudson stated the cost for the two variable frequency drives is \$6,000.00. Councilman Hudson **motioned** to go with the Water and Sewer Committee recommendation that Wagamon’s West Shore be assessed a penalty in the amount of \$6,000.00 for their failure to install the wet wells at the proper elevation and that money should be reserved to upgrade the station as described by the Town engineer, seconded by Councilman Prettyman. All those in favor.

Motion carried – “Aye”

Committees- Mayor Bushey announced changes to the committee members as follows: Councilman Prettyman will now be the Town’s Assistant Treasurer and Councilman Hudson will now be the Town’s Assistant Secretary. Alisha Broughton will be added to the Parks and Recreation Committee and the Economic Development Committee.

Councilman Dvornick made a **motion** to approve the changes, seconded by Councilman Prettyman. All those in favor.

Motion carried – “Aye”

Gemcraft Homes Request for certificate of occupancy- This item was already addressed earlier in the meeting under Old Business.

New Business

Well Approval-Pintail Management- John Hopkins addressed the Council and asked for a private well to maintain the storm water pond water level and fountain at the Professional Park. Councilman Post inquired why they could not be on the Town’s system. Mr. Hopkins stated they may wish to stock the pond in the future and the fish will not be able to live in the water with the chemicals the Town puts into the system. There will be 12 new businesses in the professional park that will be on the Town’s system. Councilman Dvornick stated there is one single family home with a private well and a residence on Coulter Street with a Geothermal well. Councilman Hudson asked what Pintail Management will do if the request is not approved. Mr. Hopkins stated they will have to meter the water to maintain the water level and will not be able to stock the pond. Councilwoman Betts asked if the water would be used to maintain plantings. Mr. Hopkins stated it would be strictly used to maintain water level. Councilman Prettyman made a **motion** to grant the well, seconded by Councilman Hudson. All those in favor.

Motion carried – “Aye”

Councilman Post opposed the well approval. Councilman Dvornick and Councilwoman Betts abstained. Mayor voted to approve. Vote passed 3-1.

Report from Tom Sombar/Sombar and Associates- Mr. Tom Sombar did not attend the meeting, no report was available.

Irish Eyes EDU Qualification Discussion- Mr. Ellis, the attorney for Irish Eye's addressed the Council and informed them that the Rehoboth location has two EDU's and the Lewes location has four EDU's. The Lewes restaurant is double the size of the Milton location.

Councilman Post made a **motion** to accept the two EDUs that is compatible to the Rehoboth location, seconded by Councilwoman Betts. Mayor Bushey asked if the Council would like to monitor the usage for one year then go back and see if more EDUs are necessary. The Mayor thinks the Council should protect the Town a little bit and have a recourse. Councilman Post is concerned why Rehoboth can operate on two EDUs and Milton would need more EDUs. Councilman Post wants to go by the book until Council changes the book. Mr. Godwin reported per Mr. Kerr, 240 gallons equals one EDU.

Councilman Dvornick wanted to clarify that the impact fee was based on two EDUs and then Irish Eyes will have a quarterly billing along with everyone else in town.

Councilman Post **amended** his **motion** to reflect impact fees only, seconded by Councilwoman Betts. All those in favor.

Motion carried – “Aye”

Partition of 2-35-20.11-52.01 Pintail Management- Mr. John Hopkins addressed the Council asking to redraw the property lines. Councilman Post asked if the change would just be cutting the building in half so the line would go through the building. Mr. Hopkins stated that was correct.

Councilman Hudson made a **motion** to approve the partition, seconded by Councilwoman Betts. All those in favor.

Motion carried – “Aye”

Councilman Dvornick abstained from voting.

Geodetic Vertical Marker/DelDot Request- Mr. Godwin reported that Del Dot would like to install a vertical marker to give them a base to measure elevations for all future construction and help particularly with flood plain issues. The marker will be installed at no cost to the Town.

Councilman Dvornick made a **motion** to approve the placement of the marker, seconded by Councilman Hudson. All those in favor.

Motion carried – “Aye”

Councilwoman Betts made a **motion** to contribute \$500.00 to the Catsnippers program, seconded by Councilman Post. Councilman Hudson asked the Finance committee to look into areas to increase the donation. Councilwoman Betts agreed but would like the \$500.00 to be made now. All those in favor.

Motion carried – “Aye”

Councilman Dvornick reported that the Finance Committee recommended that the Town Manager be authorized a spending limit of \$1500.00 for emergency purchases provided that it was noted in his weekly report to Council.

There was discussion that the issue could not be voted on since the item was not on the agenda. Councilman Hudson asked to have the issue added to the Special Meeting agenda. Councilman Dvornick asked to also add the reimbursement for travel and disposition of old accounts to the special meeting agenda.

Councilman Prettyman stated there was no monthly report from Del Dot. He did not see a report this month on the Mulberry Street project and would like the Town Manager to follow up with Del Dot as to why the report was not provided.

The special Council meeting was set for May 19, 2005 at 6:30 p.m. at the Milton Fire Hall.

Executive Session

Councilman Prettyman made a **motion** to go into Executive Session, seconded by Councilwoman Betts. All those in favor.

Motion carried – “Aye”

Council went into Executive Session at 9:14 p.m.

Respectfully submitted,

Stephanie Coulbourne

slc:5/12/05