

Town of Milton
Streets & Sidewalk Committee Meeting Minutes
Milton Theatre, Milton, Delaware
November 14, 2007

Councilwoman Betts started the meeting at 6:00 PM

Present: George Dickerson
 Allen Atkins
 Emory West
 Leah Betts
 CC (Lendon Dennis)
 Paul Yannuci

C Betts: “Thank you all for coming tonight to listen to the presentation from our Town Manager, George Dickerson. He will explain to you the results of the letters that were sent out with regard to the streets and sidewalks. I assure you the Mayor and Council will not make this a bad experience for any of you. We want to help each one of you.”

George Dickerson: “Good Evening. Thank you for coming.” (Mr. Dickerson asked the audience who had received a copy of the letter. Some did not. He will investigate why.) As a result of that first meeting Allen Atkins, Superintendent of Public Works, went through and identified sidewalks that were in need of major and minor repairs. After that a flier/questionnaire was sent out asking for responses based on that. At the original first meeting, we asked you to look at as an economy of scale to try to find a contractor, perhaps the Town Engineer to correct the sidewalk issue. As many of you identified per the letters the Town does have an ordinance. We hoping we’d get enough people for economy of scale that the Town could be involved, but unfortunately the results were not favorable. A total of 98 letters were sent out. Of those 98 letters, 26 letters identified immediate repair. Major means they need to be replaced right now. There were 72 identified as minor. Minor means they may have a small crack and may be more economical to fix them now. It doesn’t mean if you had a minor that anything needs to be done. The total number responses received from the 98 were 46. In the major category we received 16 responses. Of the minors we got 30 responses. Of the 16 major responses we had 12 who were willing to participate with the Town. Of the 30 minor responses we only got 19 who were willing to participate. The total number not willing to partner with the Town were 15; 4 in the major category and 11 in the minor. What does that mean? Due to the lack of people not willing to partner with the Town there’s nothing else we can do. We were going to explore perhaps some funding that would be available. I’m going to tell you about some of those options tonight. One of things that came up with the funding was that if we go out and get funding, whatever we get in funding should be spread over the major and minors. Based on the outcome of the results from the survey there is no way that the Town can participate in this. It leaves the Town and Council in a tough spot. The ordinance says specifically. It is the duty of the owner of the property is responsible for the sidewalk as well as the curb. There was an amendment which was included in the documentation that was sent out. There was also an ordinance amendment that was made in September of 06 that cleared up an issue. There was always some discrepancy with the Town Attorney that said that the property owner was not responsible for the curbing also. There was some vague language in our ordinance which was cleared up in September 06 by the ordinance amendment. What the ordinance amendment says is this. An ordinance to amend the

code of the Town of Milton by clarifying the Town's responsibility in Chapter 16 Article 20c, whereas the Town has previously adopted a Streets and Sidewalks article pursuant to Chapter 16 there needs to be some clarity as to the responsibility of the Town with regard to curbs, gutters and sidewalks. The amended ordinance became law September 5, 2006 and now reads. Amend the Town of Milton Code Chapter 16, Section 16-21(c) by deleting the last sentence replacing thereto as follows: The Town of Milton shall have oversight responsibilities, but not financial responsibilities for all curbs and gutters wherever situated in the Town limits. Sidewalks were clearly explained. There was always a vague issue as to whether the curbing was the property owners' responsibility or not. That's what the ordinance says. There are a lot of monies that could be saved by partnering with the Town in doing this. Mr. Dickerson mentioned some comments from town residents that sidewalks repairs in the past had been paid for by the Town. What has been done in the past is not how we're going to do it in the future.

C Betts: The payment made for these repairs was done by accident. When new sewer lines put in on that street all the sidewalks were torn up. The State made the repairs not the Town. When they finished the project for the sewer line the State told the Town they had extra money. The asked all the residents on that street whether it was ok for them to repair the sidewalk. Naturally, they said it was ok.

George Dickerson: The petition that the Town has put in at this time is as follows. The Town will continue to look for grants. Grants are not like they were in the past. Money for grants coming out of Washington is slim. C Betts was lucky in getting the Town a \$50M grant for our past Sidewalks projects. The Town cannot take on the burden of solely making the repairs. Let's talk about the responsibility and liability issue associated with this issue. We are at a point now what do we do. If you are a property owner and you have a sidewalk that needs replacement and it's in serious condition in front of your house I see two things happening if someone walks down that street and falls. First the Town's liable because we haven't enforced our ordinance. You as a property owner probably will be named in a suit because of your negligence in not replacing it. The Town will certainly look for any monies we can find or any monies that would come in or tell you about it as a property owner where you could apply for it yourself. I don't see any other way for the Town to go except try to help with this because of the survey. There are some people who are already fixing their sidewalks. There also those who are going to do nothing until the Town enforce the ordinance. In the next fiscal budget we are looking at allocating some funds where property owners could apply for a loan from the Town to replace that sidewalk. To generate the revenue we would incorporate a surcharge on quarterly utility billings. A term would need to be set on the loan, probably not to exceed 3 yrs. There would also be a 2% per month handling fee to manage the loan. Bottom line if nothing is done; sometime in the future the Town has to enforce the ordinance. If we have to enforce the ordinance then the Town would come in make the replacement. But then how do we get our money back? First thing we do is to lien the property. Nobody here wants to lien your property. Is that what the ordinance allows us to do, absolutely? We have 26 worse case scenarios for the replacements. I'm sorry to be the bearer of bad news, but I don't know what else to say. I ask anyone that wants to come to podiums that have any comments that would help or assist us we're here to listen to you with other ideas.

Ruth Reynolds: I would like to know why the Town can park on the church sidewalks. I've seen, my husband has seen and I know a lot of other people have seen it.

George Dickerson: We're not here tonight to discuss that, but I've made it an objection to where it is and we'll see if we can answer that. I'll pass along to the Chief of Police for action.

Joe Lang, 303 Walnut: What have you done about talking to contractors? Have they given you any idea that they would be reasonable in working with us?

George Dickerson: The estimates that were given by Cabe Associates were based on estimates with contractors. They do RFQ's for sidewalks. Based on their best estimate as what those per foot linear costs would be.

Joe Lang: And what is that?

George Dickerson: A 4' sidewalk about \$7 a linear ft.; for a 6' sidewalk \$8 a linear ft.

Pam Bowns Siemens, 412 Chestnut Street: If you have minor repairs can we just have minor repairs done to it.

George Dickerson: What type of letter did you receive?

Pam Bowns Siemens: Minor repair.

George Dickerson: You don't have to do anything right now. Minor repairs were included. There was some cracking that was observed by Allan and his staff and our engineer when they went out. In the economy of scale for savings it would have been best if you chose to have that repaired we thought we would include those also because down the road it's going to deteriorate with freezing and thawing and that type of thing. In the future, you would have to make those repairs. If your minor turns into a major; then yes. We're not talking about citing right now we're just trying to get the sidewalk fixed. There is nothing from preventing you for fixing a minor if you want to do that now.

Robert Maxy, 319 Union Street: I appreciate your attention to this. I brought some photographs that I think are the problems with my property. In particular there's a utility pole and I think there are probably some need to contact the utility company because the pictures clearly show what's causing the problem with the sidewalk in front of my house. I'd be happy to provide these to you. It certainly will make things very clear.

George Dickerson: Has the utility pole been recently replaced? You think the replacement of this utility pole caused the cracking?

Robert Maxy: I'm absolutely certain of that. I've owned the house two years. The pole was there when I bought the house from Mr. Willey. The pole has been repaired poorly. These are photographs that show the seepage. I don't see any point in spending Town money, nor my own money to make the repairs.

George Dickerson: I gave the photos to Allan and he's going to take a look at it. The picture speaks for itself.

Jim Welu, 420 Chestnut Street: Did I hear you correctly that one of the contract prices that Cabe came up with was \$7 a linear ft or a square ft?

George Dickerson: Square ft. I stand corrected. \$45 a linear ft.

Jim Welu: I didn't respond to the letter mainly because I procrastinated. I felt that the information we got was pretty general. As it was at the last meeting about what it would cost to have contractors come in and do the work. I don't know whether the prices we have are any more specific. I've asked Cabe when they were here the name of some contractors and didn't get supplied that night. I've contacted two contractors over the last year and none of them have responded. One thought I had is many municipalities do public work like this and do fund for benefit charge to the affected property owners. Which is a little like what you were talking about. When the county puts in a sewer line, they put it in. You got to pay for it. They send you a bill every quarter. Is that a possibility?

George Dickerson: With all due respect I think we investigated every possibility that we can. I think we've made the homeowners aware of those that are in need of major repair. There's some point where we can't help anymore. Were you a major or minor?

Jim Welu: Major

George Dickerson: At some point in time a person walks in front of your property and falls. I think the Town as well as you, we've let you know now that we have an ordinance are we going to come and issue a violation.

Jim Welu: They can walk on the best sidewalk in Town and fall and sue you.

George Dickerson: You're absolutely correct, but it makes more sense that the best condition the sidewalk is in the faster you wouldn't get a suit. Someone could fall down in this theater tonight.

Jim Welu: If I had responded to the letter that you sent I would have said yes if you can get this done at the lower of the two costs I'd go ahead and just have it done.

George Dickerson: We tried.

Jeff Siemens, 412 Chestnut Street: Just to pick up on the gentlemen's idea and maybe carry it one step further. The 26 major repairs how many linear ft might that represent?

George Dickerson: I have the figures but not with me tonight.

Jeff Siemens: Let just pick a number say 100 linear ft. That would e 2600 potential linear ft that is going to have to be replaced at some point in time probably sooner rather than later as far as the Towns concerned. If the Town could find a contractor that would set his price at the lowest most reasonable price. A contractor that the Town believes to be reputable that is responsible and with this fixed price given the fact that he could get as much as 2600 linear ft of either 4' wide or 6' wide sidewalk to replace perhaps if he's willing to lock into a price, I assume the \$7 or \$8 includes demolition of existing concrete walkway and pouring of new concrete. I'm assuming if you have a major repair you would obviously have to remove and then pour new concrete. So I'm assuming that includes demolition. So if you're able to get a contractor that the Town or maybe 2 or 3 that are able to lock into a price then people that have to do this now. If they're on the major list or if they even have a minor repair could at least call one or two of those contractors and know what they're paying, know it's going to be done to the Towns

specifications. They don't have to go shopping in Dagsboro or Selbyville and try and lure somebody up here to do this work. They could use the Town's buying power as a benefit then people who need this work would know who to come to probably cheaper than if they just called ABC contractor because this person has the potential of getting 2600 linear ft of work someday.

George Dickerson: The 26 that you mentioned the unfortunate thing to that is that only 12 or 46% of the people who responded to that are willing to even partner with the Town. That was the key in the letter. Right now the ordinance says it's the property owner's responsibility. The Town has no obligation to pay anything. We were only trying to help. If we had enough participation we could have done that. That's why we're here tonight.

Jim Welu: I look at it from a different standpoint. If I got a letter from the Town saying we contacted three contractors and they will do this work it'd be something to respond to. I could call up that contractor. If they said I will do this work over the next 12 months. Anybody that wants it done at this price/sq ft. then I think you'd get more than 12 responses.

George Dickerson: The way Town works though is with RFQ's through our engineers.

Jim Welu: This is not an RFQ of the Town. This is just getting the Town as a facilitator to say. You're not contracting with contractor. You're just getting the contractor to make a proposal, it is available to the citizens, and they can jump on the bandwagon if they want to.

George Dickerson: It's now the property owner's responsibility.

Jim Welu: You said the Town tried to do everything they could. This is one suggestion that the Town could do. You sent out a letter that was as vague as it could be about general costs.

George Dickerson: Vague to you. To others there was no vagueness at all.

Jim Welu: It was very vague. There was no contractor to call, nothing specific. This is kind of a range of what we've gotten.

George Dickerson: The Town does not endorse contractors. What we could do is look in the phone book under contractors for concrete work and go down the list and call them and ask them. Other than those that have a business license to do business in town and knowing that we had no complaint would be one way to do that. I'm not sure that's the fair way to look at concrete contractors who may be able to do this work.

Jim Welu: I just think that if the Town really wanted to facilitate this you'd maybe have some contractors here tonight saying hey we'll do this work.

George Dickerson: When there is less than 50% of the persons affected on major respond obviously the Town cannot be a part of trying to find a contractor and trying to do that and facilitate that for that. The Town doesn't even need to take these steps now to do this they can enforce the ordinance. That's not what we're trying to do.

Jim Welu: I don't even know why we come to these meetings then if the Town isn't going to give us something substantial to work with.

George Dickerson: We're not going to pay to repair your sidewalks. That's bottom line.

Jim Welu: I didn't say anything about repairing my sidewalks. I said give me a contractor with a fair price that says he'll work in Milton and that he'll do hopefully 26 properties, but if he gets 10.

George Dickerson: I'll leave that to the committee to decide. I think what you have to realize here that if the Town sent out 100 letters for example and we got the response that we did the contractor's based his price probably on getting at least the majority of those people. Now if only 40% of that 100% say they're going to do their sidewalks they the contractors probably going to rethink his price again because he was basing it on that 100 originally. So someplace down the line the folks that have a major problem are going to have to commit to it. There's no point in contacting the contractor if you're not going to commit to that job being done. And then it's going to fall back, which it does fall back on you, as the homeowner. The Town was just trying to push things along and try to get a cheap price for everyone. If nobody wants to do that you're on your own then you're going to get stuck with the consequences of maybe paying \$2 or \$3 more a linear ft. The homeowner is going to have to step up to the plate and say yeah I need my sidewalk fixed. If everybody gets together and if this guy agrees that the majority of people are going to do this then he'll stick with his price. If not he's going have the right to raise his price. It's not going to get any better with the way things are going now with energy prices going up. People are getting squeezed now. The longer you wait the worst it's going to be. That \$7 or \$8 per linear ft isn't going to hold out forever.

Ruth Reynolds: Years ago I went downtown to Mayor Bushey and I asked Dennis if they could come and fix our sidewalk and I would pay them so much a week cause at the time I was working and you know what I got, we have no place to put the _____. So now we're paying for it. We never even did that sidewalk, tore it up. The State did. And the Town police did but pulling at the cars over on our street.

Mr. Dickerson: Madam you're talking about something that happened in the past. You've got people that are in place now that are trying to be proactive. Talking about the past isn't going to fix the future.

George Short, 416 Federal Street It sounds like what we need to do is have a separate committee of the citizens that want to get together and do this. If we could get a list of everybody that wants to participate in it now and then find our own contractors come back to you all later to make sure that its done right then that's going to alleviate all these problems.

George Dickerson: I would welcome a citizens group to do that. I would designate myself or Allan to be at those meetings if we would be so invited to help out anyway we could.

George Short: We're going to need a list. I don't know how everyone else feels about this but we're certainly at this point not getting anywhere where we are tonight. For the people who have major repairs, that's the only avenue I can see to get this resolved. If I do it myself, that's going to cost a lot of money. If we could get 10 people involved maybe we could get a reduced rate.

C Betts: The Town will help. We've sent out the letters trying to get people to respond. We've done everything that we know to do unless we do something like that.

George Short: We have to have wider sidewalks because we have a business. We need as much width as we can get but when I read the letter it says I have to replace if it's a major repair and I'm supposed to do it within 30 days. And then it says because I'm wider than what it should be I have to come back to the Town Council to get approval to put in what I already have. Which seems ridiculous to me?

George Dickerson: I agree that I do not think perhaps that is fair. I think if the citizens group was formed as you spoke about or a delegate from the committee come to the Town if we could help. Perhaps there are other people in like circumstance that would need some changes. We do want it to be uniform but in your case I can understand why you would need a wider sidewalk.

George Short: That's been there since 1950. We don't want to change it now. How does everybody else feel? Do they think we should do this as citizens and get a committee together?

There were no objections just some discussion about the specifications

George Dickerson: The Town has specifications which are in written form as to what our requirements. Where you have a driveway it has to be a little thicker and those types of things. We have those specifications in writing that any contractor could come to the Town and get those. We would take care of the inspections without passing any costs on. We're just trying to get it done. If we didn't have these meetings or we didn't send the letters the uproar in this theater would be full at this time. If went out and send a notice that you a certain period of time in which to do this or we're going to replace it for you and lien your property. There would be an uprising. We're trying to do the right thing. But you can't expect the Town to expend money with engineering which we would have to get along with Allan to do that when the ordinance is very clear and has been on the books for a considerable time before this administration ever took place. There was just never anything done about it. No one ever took the initiative to get people together in this type of forum. You why, because it's not a popular thing to do.

Marshall Reynolds, 215 Lenny St: I would like to apologize to you for not knowing what's going on. If the Town enforced the sidewalk law it would have to put in sidewalks at everybody's house all over town. At this point there are not sidewalks at every place in town. Therefore, if you enforce on people who have to replace their sidewalks I'm sure the Town would see many lawsuits. I don't want to see it come to that. It's an avenue we don't want to engage in. The law states according to you that we have to maintain the sidewalk in front of our house and replace it; even though it doesn't belong to us. If it's on state maintained property _____ right of way we have maintain a sidewalk because the Town says so. Is that correct?

George Dickerson: Yes

Marshall Reynolds: Ok. Now if this sidewalk is damaged by the State and Town equipment by pushing snow and age and time will get to it. I'm one that has a sidewalk that looks very, very bad and is dangerous. I've wanted to replace it for years. I've replaced some of it and I asked delegates from the Town, we've had Leah Betts there, she knows what I'm talking about. In other words, my property ends here, State property ends here. Why should I put \$8,000 on State property which I will get no benefit from except to shovel snow of it that they push on there?

George Dickerson: Sir the ordinance as it was written and the Town Council, which was not this Town Council at the time, decided that that would be the law of the Town of Milton and so that's

the answer. They made it a law and it is enforced. Could you challenge the law, perhaps? Could the law be repealed, perhaps? Can it be amended, yes? Those things happened all the time. But as it stands today, in conferring with our Town Solicitor, this is an enforceable ordinance. That's what the Town is saddled with unfortunately.

Marshall Reynolds: I understand that, however, I want to check out and state the availability of funds because they come by, they're the ones who tore it up. Perhaps they may be helping to replace it. I don't think I'm going to get any help there either. If I had known this years ago, I could have kept on replacing a piece at a time and it would have been done. We have to get a contractor that's qualified by the Town in order to do that.

George Dickerson: No the contractor doesn't have to be qualified by the Town they have to be licensed and I would check out the contractor who will be doing the work. We don't do that for you. First they must provide to the Town Liability Insurance that protects you as a taxpayer and a property owner and then there are specifications on certain things that are done.

Marshall Reynolds: Do we need a State or Town permit?

George Dickerson: You need a Town permit. You need a building permit to do this work.

Marshall Reynolds: What if I do the work myself?

George Dickerson: As long as it's to specifications. And you have that ability.

Marshall Reynolds: Is there a law against putting the 4" on top of what I have now?

George Dickerson: I would have to defer to Allan. It's a very lengthy list of the specifications. We can get those to you so you can see exactly what they are. Would you like to have a list of specifications for sidewalk work?

Marshall Reynolds: Yes. I only know what I read in this letter that you sent me. I've seen areas in this Town that have no sidewalks and yet it's landscaped? I could do the same thing, perhaps. Also, we have a question about the Odd Fellows Cemetery. I think you will find that the damage out there is State or Town oriented where they push snow across the sidewalk. Whose responsibility will this be?

George Dickerson: I'm not aware of the history that you've spoken of. I'm not sure.

Marshall Reynolds: We got a letter from the Milton Cemetery saying replace sidewalk there. We know not what condition it's in or anything.

George Dickerson: Ok. We'll check into it.

Rich Miller, 212 Grismill Drive: My comments are not about the present discussion, they're more about the future. With the last 3 years I had to make arrangements for the sale of my mother's home. She lives in a borough outside of Philadelphia. The borough has an ordinance that before any property can transfer there's a list of conditions, ordinance and code procedures that must be satisfied before that property can transfer. So over time this borough knows that

every property at least once in a given state of repair when the transfer made. That's not going to help the discussion tonight, but if this process is initiated sidewalks won't be an issue anymore.

George Dickerson: That's an excellent idea.

Rich Miller: I'd be more than happy to give you a copy of their ordinance just as a guideline from Yaden, PA. Their code enforcement has several individuals who upon leaning of a future sale have to sign off on this checklist. It includes plumbing, electrical, roofing, and conditions of the sidewalks. Is there an opportunity for public comment that's not on the agenda?

George Dickerson: Our Legal Counsel tells us when we post an agenda we have to stick to that. However, I would be more than happy to stay after the meeting for further discussion.

Rich Miller: That would be great. Thank you.

Richard Scott, Board Directors of the Cemetery: These codes you're talking about. Are they Town codes for this sidewalk or State codes?

George Dickerson: They are Town codes

Richard Scott: They're superseded by State codes. On all the State properties you have to go by the State.

George Dickerson: The right of way that you're speaking of is Town right of way not State right of way.

Richard Scott: Which road are you talking about?

George Dickerson: Union Street. Anything where the telephone poles are; on the inside of those is Town right of way up to the point of the pole.

Richard Scott: That's not part of Route 5.

George Dickerson: The road is Route 5

Bob Miller, 108 Atlantic: I have talked for years about sidewalks along Chestnut Street. Now that we have a brand new school out there and there's a lot of traffic on Chestnut Street from buses and from children walking the sidewalks are non-existent out there. So how in the world are you going to enforce it if they don't already have a sidewalk? Yet we need one to put curbs in and gutters were the water can run because now people's lots go right down to the edge of the road, they damn the water so the water will not run off the roadway and in a bad rain you're riding through puddles. When it snows the snow plow can't plow it away.

George Dickerson: As you go out Chestnut Street one of the things that some people are not aware of are some of those houses along there are out of town limits. That does create a problem for us in that we have no control or no enforcement over some of those houses or the street. So I can understand you issue. Is it the draining issue when there's snow there that it doesn't drain properly?

Bob Miller: It doesn't run off because the lawn is higher than the roadway.

George Dickerson: It is a drainage issue that you're speaking of?

Bob Miller: Yes. Try it sometimes when it's pouring rain and look at the water that lies on Chestnut Street all the way out to the end. I put in a new sidewalk many years ago, but our neighbors haven't. So here I have a nice sidewalk that the snow plows put several dents in because they're not aware of it when they come up Walnut Street. But my next door neighbor has no sidewalk at all and he's getting no heat at all from this issue.

George Dickerson: I hear you.

Dick Greig, 326 Union St: I want to let the Committee know that my wife and I both support any kind of effort the Town can make to improve the sidewalks and the streets. We have some disaster areas. Chestnut Street is definitely one of those and all of us know that. Throughout the Town some people don't have sidewalks that should have them some would like to have them. It's a long term problem but we do support the Town in this and anything we can do to help we'll do it.

George Dickerson: Any other questions. I will be here when C Betts adjourns the meeting. I'll have Allan stay. Thank you all for coming. It's not an easy issue.

C Betts: I had a call from Mr. Paul on Chestnut Street today and he also, if we decided anything, would like to have the wiring done for new street lights on Chestnut Street. Also, he'd like to have tree wells around the sidewalk. He would like to be the first to pay for the new street lights. That's another issue. I would like to close the meeting and let everyone know that you're welcome to come to the Town with any questions or problems. I thank George also and appreciate it very much. When we opened we did not have a passing of the reading of the minutes we went right into this so that anyone that wanted to get home could get home. I would like a motion to have the minutes read. C Prettyman: I'll second C Betts: Motion carried

Motion to adjourn

All in Favor

Motion carried

The meeting was adjourned at 7:10:48 pm