

Milton Town Council Meeting
Milton Theatre, 110 Union Street
Monday, December 1, 2008, 7:00 PM

1. **PUBLIC PARTICIPATION** portion was called to order by Mayor Post at 7:00 pm

Katherine Grieg, 326 Union Street: President of the Milton Garden Club. Gave Garden Club report. Council approved donations: "I certainly hope that in some way the Garden Club will be included because all of these planters out here will have to have new liners by the spring planting." Hollyfest Saturday the 13th at the Fire Hall from 9:00 am to 3:00 pm.: "our second largest fundraiser, next to the Garden Tour and I wanted to show this, because this is like our little signature wreath that we make and we will be selling those at Hollyfest, along with many, many other wreaths. We sell these for \$40. I have decided not to run for re-election and I just want to thank everybody for being supportive of the Garden Club and helping us. Thank you."

Virginia Weeks, 119 Clifton Street: Tax assessment: "I wanted to say that I strongly encourage that you go ahead with the tax assessment. The taxes on my house are just under \$800. There are people in this Town that own five and six properties; live in one and the others are income producing and the aggregate total of their taxes are not the same as mine. I don't expect my taxes to go down after the assessment; but I expect that other people should start paying their fair share and make the Town more able to budget easily for what they need. Thank you."

Tina Thurgood Cat Snippers. Council Approved Donations: "Unfortunately, at this point, because of the economy, we get more and more calls of people needing our help and we have no money to help them. I think we've had two individuals give us donations this year and that's it, two. We have basically one full-time person, Susan Shening, that's basically doing all the work of the Cat Snippers. There have been many people who have had colonies of cats that have passed away or gotten sick or have moved that we are having to feed, because the other choice is to let them starve. Susan is paying it out of her own pocket; she's feeding over 45 cats a day out of her own money. We're getting these calls and it's the challenge of us trying to figure out what to do and I don't know what the answer is. I don't want volunteers to be burdened, but if we could have a few people at least to help us fund raise, or help us with ideas, or help transport or every once in a while sometimes we have to foster kittens for a couple of weeks until we can find homes for them. Anybody that can help in any way, I have brochures up there with our phone number on it. Any donations would certainly be appreciated. There is going to be a vaccine clinic at the Fire Hall this Saturday from 10:00 am to 12:00 pm for dogs and cats for rabies; kennel cough; and other vaccines. You can get a microchip done. Anybody that needs information on that, they can call us at home. Thank you very much for giving me your time."

Mayor Post: We will now close the public participation portion of this meeting at 7:10 pm.

2. Call to Order called by Mayor Post at 7:10 pm.
3. A Moment of Silence was led by Mayor Post.
4. The Pledge of Allegiance to the Flag was said by all in attendance.

5. Roll Call was called by Mayor Post: C Martin-Brown, “Present”; C Duby, “Present”; C Hudson, “Present”; Mayor Post, “Present”; C Betts, Absent; C Prettyman, Absent – arrived later; C Abraham, Absent
6. Additions or Corrections to the Agenda
Mayor Post: We did have a couple of requests under New Business to move Item e front and forward. Another thing is the possibility of moving the introduction of Joan Deaver up and that could be introduced under Old Business or before the Town Manager’s report. C Martin-Brown: Mr. Mayor, I would like to amend the agenda to add the approval by the Town Council of two new members of the Economic Development Committee, Ms. Pat Sexton and Mr. Robert Howard, under New Business. Mary Schrider-Fox: I need to know if the addition of this particular item to the agenda is there a reason why it could not wait until the next regular meeting of the Town Council. C Martin-Brown: We can. Mary Schrider-Fox: Since there isn’t a sense of urgency, in that there is not a particular deadline that that committee has to meet between now and the January meeting; it would be preferable if we could simply just add it to the January meeting agenda or in the event there are going to be any special meetings between now and January, to include it on the agenda. Mayor Post: Are there any other changes to the agenda? Mary Schrider-Fox: What is on the table right now is that Item e, under 14 New Business, to consider that first under New Business and existing Item a to consider that even earlier and perhaps move it up and squeeze it in between 10 and 11 on the agenda, as it’s own separate item; which you certainly could do if you wanted to. C Duby: I move that we accept the agenda, as amended. C Hudson: Second Mayor Post: All in favor say “aye”. Opposed. Motion carried.
7. Presentation of Minutes for October 23, 2008 and November 3, 2008.
Mary Schrider-Fox: I have only one comment to make and that is that my name is spelled incorrectly in both, so in the future, whoever is doing our minutes, please make sure you have the proper spelling of all names. C Martin-Brown: Mr. Mayor, on the November 3, 2008 Minutes, Page 7, top paragraph, it quotes “C Martin-Brown is talking about the hard budget situation and staff.” That remark can not be attributed to me, because I didn’t make it. I think it was C Hudson. I make a motion that my name be stricken from that paragraph and replace it with C Hudson.
8. Approval of Minutes by Council
C Hudson: I make a motion that we approve the minutes of October 23, 2008 and November 3, 2008, as amended. C Duby: Second. Mayor Post: We have a motion and a second. All in favor say “aye”. Opposed. Motion carried.
9. Approval of Written Committee Reports
C Duby: I make a motion to accept and approve the committee reports that have been submitted to us, as written. C Martin-Brown: Second. Mayor Post: We have a motion and a second. Any discussion? I just want the Town Council to understand that any of us up here have a right to talk to a department head, preferably either going through the Town Manager or the Chief, as far as those point people to discuss Town issues; or also to get an explanation of how the grant money was spent. C Hudson: Mr. Mayor, in response to that,

since last August the Neighborhood Watch members and I have been asking for information about the DEMA grant money. We would like some cooperation. Mayor Post: Okay, Chief, would you please make sure that she... C Hudson: We would like to know what town funds have been spent and have been reimbursed for DEMA. Chief Phillips: We have the chargers ordered and they will be in supposedly around December 19th. As far as training and stuff, we need to separate the two meetings; because the meeting you have there's so much going on in an hour that you can't get that done. C Hudson: We have separated the meetings. The Neighborhood Watch is no longer associated with Emergency Preparedness. I have a letter sent to you to personally invite you and the Mayor, on behalf of the members, to the next Neighborhood Watch meeting on January 20th and it is no longer in conjunction with Emergency Preparedness. Mayor Post: I have a little bit of a problem with that issue, when you say the Neighborhood Watch is on their own. The Neighborhood Watch cannot be on their own. Let me explain. I'm not going to jeopardize the Town with a volunteer organization when it comes under the full responsibility of the Police Department. C Hudson: We cooperate with the police. We are not run by the police. We are volunteers. Mayor Post: There will be an appointed committee on the Neighborhood Watch by the Mayor of this Town. C Hudson: I think if you would come to one of the meetings, you would find out what we do, because you have a totally wrong misconception. Mayor Post: If we want a healthy, successful Neighborhood Watch, you are to be run by the Police. That's how the work happens. It's the Police Department that has to do the policing. That's the legal responsibility of the Town of Milton. C Hudson: We're not policing. Mayor Post: I will be at the next meeting. I have been part of a Neighborhood Watch and the neighbors know the leads; they know phone numbers of who to contact; there's to be a notification chain. There are two separations here and the dynamics, if this is going to work, I'm telling you if you want it to work, it has to be under the Police Department. Mayor Post: All in favor of accepting the committee reports, as written, please say "aye". Opposed. Motion carried.

10. New Business

a. Introduction of Joan Deaver up to this point. She will be representing the Town; taking over the Council seat on the Sussex County Board. Joan Deaver: "Well, hello everyone. As of January 6th, I will be your Councilwoman and you certainly will have a Councilwoman for the next four years, following January 6th. I want you on my list if you're interested in finding out what's going on in your area. I care very much about the growth area outside of your Town and I want you to have a say in what happens there. It's very important."

b. Town Manager's Report

George Dickerson: Gave report regarding Complaint/Work Order reports; Holiday Decorations (snowflake lights, wreaths with new bows) "Allen, thank you very much."; Reminder Saturday, December 6, 2008, leaf pickup; Thank You card Vice-Mayor Betts; Year End Report comments due from Mayor, Council, and Chief Phillips by tomorrow; Reminder December 7, 2008, 3:30 pm in Mill Park dedication of the John Milton Statue; Rails to Trails.

c. Written Reports

Maintenance: C Duby: I make a motion we accept the written report, as submitted. C Hudson: Second Mayor Post: We have a motion and second, all in favor, opposed, motion carried. Also let it go on the record that C Prettyman just joined us at 7:44 pm.

Project Coordinator/Code Enforcer: C Duby: I make a motion to accept the Project Coordinator/Code Enforcer report as written. C. Hudson: Second Mayor Post: We have a motion and second, all in favor, opposed, motion carried.

Police Report: C Prettyman: I make a motion to accept the Police Report dated October 21 through November 20, 2008, as written. C. Hudson: Second. Mayor Post: We have a motion and second. Any discussion to this motion? All in favor, opposed, motion carried.

d. Town Wide Tax Reassessment – Discussion and Possible Vote, if required

Mary Schrider-Fox: I'll open the subject by identifying for you the sections of the Charter that are applicable (read applicable section of the Town Charter). C Prettyman: I would like to make a motion that we have the Town Manager to have a Tax Assessor come and do this reassessment. C Duby: Second. Mayor Post: We have a motion and a second. Is there any discussion to the motion? I agree with what you're saying; I'm just wondering if we should have options with the Assessors. We need to have it ready for the next meeting in January to vote on. George Dickerson: I have no problem in trying to seek others. If I come back with two, and to speed this along if I found the options that were available and presented those to Council members, even prior to the next meeting, and made a recommendation; would that be permissible with Council? Mary Schrider-Fox: The approval of the choice would have to be made at the next meeting; but I think what the Town Manager is suggesting, is that he can give you his research or information that he gathers as he's gathering it, so that everybody will have had some time to mull it over in their brains; but all of it will be formally presented on the next agenda so that it's posted and any information that anyone wants, they can get it and participate in the meeting, as necessary. Mayor Post: That's fine. I just think we need to be ready to vote next time on actually awarding who is going to be doing the assessment. Mayor Post: All in favor. Opposed. Motion carried.

e. Discussion on Rails to Trails Project

Mayor Post: This came forward by a letter and receipt from C Hudson as far as a request on moving forward with Rails and Trails so we don't lose funds from the State. Our Town Manager has put together an entire packet of the Rails to Trails Project. Since he discussed this two months ago, we've unearthed many issues. I'm an advocate for Rails to Trails. One thing, is in the grant preparation for the original Rails to Trails, it has been placed on the people of Cannery Village to maintain it to the trestle track and I think it's kind of a little bit unclear if it's their responsibility to maintain it from the trestle track over to Wagamon's West Shores. I don't think either one of those developments would want to assume the responsibility of maintenance of those areas. But that's how the grant was written. As it has progressed along, what we have found out is that the first section of land, which we thought the abandonment, had already happened; the abandonment had sat on the Governor's desk and has not been

processed; now this is being allocated to a law firm out of Washington, DC. George Dickerson: The Attorney General's office, in their civil section, did not have an attorney qualified. Mayor Post: So the first problem is that there is no abandonment of the first section of Rails to Trails. We're already working on the second phase; all the way over to Wagamon's for abandonment; but it hasn't even happened on the first one yet, we just found out. Second of all, the first phase was to have a report from an environmental service on any possibility of contamination and we did get the Ten Bears Report, which is in your packet, and the land is contaminated. The bad part is there was nothing placed in the grant for removing contaminated soil. Therefore, we're right now in the middle of what do we do next. I know the Town Manager is having a meeting regarding this; but at the same time, I would like to send this whole report over to our Health and Environment Committee for review and recommendations back from that Committee on how to move forward. It's well detailed and there are three contaminants there. I had an epidemiologist review it and there's one that is the worst of the three. Obviously, they are cancer causing agents. The one good thing is that it's not severely contaminated. We're going to have to find out what it would cost. Right now, the Town does not have money to do this. We're researching because \$60,000 was supposedly received in 2004 from Rep. Carey, but we cannot find any processing of that \$60,000. They're looking into it and I have to give Stephanie Coulbourne a lot of credit; she's worked hard on this project; she's worked to move it forward until she went out on maternity leave. We do have some blocks right now and I think it would be good for this Committee to review and present back to Council, some of their thoughts regarding this issue. C Hudson: As Chairman of the Health and Environment Committee, I have just a few brief comments to make. I've heard that some of the contaminants would be, for example, weed killer that was sprayed along the side of the road; oil on the rails; creosote on the wooden ties; and the recommended remediation for this is to cap it and the information that I passed out to the Council indicated that this would have been done with Rails to Trails all over the State. There are things that I'm sure the Town Manager will help us with. He has been working on this diligently and I appreciate everything he's done; and, we will certainly invite the Town Manager to our next Health and Environment Committee meeting, because my recommendation would be to proceed with this the same way other towns in the State of Delaware have proceeded and they've had the same problems and the same contaminants and they moved along with it. I would like to see, and I hope it's in writing somewhere, where it says that a specific development is responsible for it, as opposed to the Town being responsible for it. I'm sure that the Town Manager will point out to me exactly where that is in here. Mayor Post: The Town would not be responsible because we don't own the land. It's the State of Delaware who owns the land; so they are ultimately responsible; but they can choose not to do the remedial part of it which will end it right there. We need to address the original proposal because I don't think either of those two developments homeowner's associations wants to take the responsibility up on the maintenance; especially the end that gets the trestle track. As you will see on Page 3 of the report, it says talking about this problem here: the current property owner of this condition, which would be the State of Delaware, so that the impacted materials can be properly handled, addressed prior to the Town of Milton's acquisition of the site. The key here is that we don't want to acquire something that's contaminated. The State is

not too happy over this because they've already said you should have put in for remedial. We didn't write the grant. It probably wasn't thought of at the time, so where do we go from here. The Town of Milton will not be able to cough up \$50,000 or \$75,000, whatever it would be. We don't even know at this point. The Town Manager will be looking at that. The report indicates that the three areas are highlighted on Table 1 of the contaminants. Of the three, one is at a much larger level than the other two. Right now, it's not our problem. It is our problem to a point, but it's not our problem until we get clear, uncontaminated land for Rails to Trails. C Hudson: Would the State of Delaware give it to the Town of Milton? Mayor Post: If we accepted it. We have not accepted it yet. C Hudson: So how does that come out to the individual developers? Mayor Post: Because the grant was written that the developments will assume maintenance for the project. I don't think that's fair for a couple of developers; then it is something that comes under recreation; but I'm just saying we need a clear understanding, as we look at all details and make sure that doesn't come back to bite us later either; because of false pretense with the grant. C Hudson: Mr. Mayor, maybe this is an opportunity for the Committee process to add to its task some sort of a proposal that would involve DNREC and DOT and Delaware Emergency Management because it's toxic; where it was proposed that perhaps these three state level agencies be helpful in making available remedial funds and that the remediation be executed at the State level; and certified by the State. Mayor Post: That would be very good, and you're on that Committee. We're not recommending that you write up the proposal. C Martin-Brown: If the Council engages just briefly in this vision, then the Chair of the Committee has a sense that the Mayor and the Council would welcome that kind of innovation. I would like that for the record, so that the Chair is empowered, if she so chooses, to propose that that kind of approach be taken and that the Council is privy to that impulse. Mayor Post: Okay. C Martin-Brown: I think, Madame Chair, we should table it as unfinished business for your Committee.

New Business

- a. Review and Possible Vote on Modification to an Approved Conditional Use 309 Union Street, further identified by Sussex County Tax Map Parcel 2-35-14.19-168.00.

Joanne Mattioni: Bark Avenue at 309 Union Street. In the two years that we have been in business, I believe we have been nothing but a positive influence on the Town. I would also ask for a speedy approval because we have been suffering this year with our retail side. There are two things that I would like to address that we would like to have changed with regard to the conditions that were put on while we were at the Planning and Zoning Meeting. Number One: dealing with DeIDOT. I spoke to Mr. Norwood; sent him the plan for our parcel; and he actually did come down and look at our property. His decision, according to DeIDOT's regulations, was that no business would be able to utilize the existing driveway. He realized that there is no way that we can widen the driveway and his suggestion was that the Town lift the condition that we provide off street parking because there is approved street parking right across the street, plus there is a parking lot not too far from us. He also pointed out to me that almost all the businesses in Town do not provide off street parking and that this should not be a problem; and that it is totally within the power of the Town and the Town Council to grant our approval without the off street parking. We're asking that that

requirement be lifted because according to DelDOT, we would not even be able to continue the business at our boutique; because he said that can not support any kind of business. We did get the approval from the Fire Marshall. The second condition that I hope will be lifted is the restriction on our business hours. During the summer when it is busy, there are occasions where it may be beneficial to us to be open in the grooming salon for a few hours on Sunday, because in the boutique when it is busy and we do have people in town, we do open the retail side on Sunday, because we do get people that are walking by. Also, there are instances where people that work would have to drop their dogs off earlier or pick them up after six. I actually called and spoke to somebody at Soil Conservation and Stormwater Program and her name was Jessica Watson and she's the program manager. She told me that as long as we weren't paving the parking area that we did not have to apply to them for any kind of restrictions. I would ask that we be approved with those conditions modified. C Duby: I have a question, Joanne. Are dog groomers required to be licensed by the State? Do you have to deal with any safety or health regulations? Joanne Mattioni: No, they are not required to be licensed by the State, but we do have a groomer, who is licensed. She went to the Wizard of Paws Grooming School and did get her grooming certificate, so she is licensed. C Duby: So you don't have to meet any health and safety requirements in terms of the equipment you use or anything? Joanne Mattioni: No. When we ordered, we ordered top of the line equipment. That's why it's costing us so much. Mayor Post: You were talking about the hours of operation, the conditional use part of it, and that is something that is associated with a conditional use. Joanne Mattioni: For the most part, our hours are going to be 9:00 am to 6:00 pm. Mayor Post: Okay, but let's throw it out there and say what are the hours that you need to have it listed on a conditional use to make it serviceable to what you're doing with your customers. Joanne Mattioni: That's the point. I don't think we should be restricted. When we got our original conditional use for the store, there were no restrictions imposed on us as to our hours of operation and there have been no problems. Most of the time we are open from 10:00 am to 6:00 pm. During the winter when it's not that busy, we may open from 12:00 pm to 6:00 pm. During the summer, when there are tourists in town and people that are visiting for the weekend, we find that we will open on Sundays, because we will get business. Right now, we're closed on Sunday and Monday; but I think like the other merchants in town, I think we should be free to set our own hours. We're not going to cause a problem. We're not going to be opened until midnight; but there are instances where someone may have to drop off a dog at 8:00 am or 8:30 am; because that's the only time they can and we don't want to be accused of violating the condition that was put on us for our hours to accommodate a customer. Mayor Post: The only thing to keep in mind, is don't compare your business to other businesses, because that's where the difference comes in is under the conditional use application. Say your hours are from 6:00 am to 10:00 pm; but the bottom line is that there will be an hourly time that is associated to that conditional use. Then it gives you that option of operating within any of those hours. Joanne Mattioni: That's what I'm asking. Mayor Post: Anybody that works cannot do it by 9:00 am. Joanne Mattioni: That would not work, because they have to be at work by then, so there are times when someone may have to drop their dog off earlier or they are held up at work and can't get there by 6:00 pm. We don't want to have to be penalized if our hours are not strictly within that timeframe that's set

for us. Mayor Post: That's what I was saying that you should have the hours from 6:00 am to 6:00 pm, if you were going to associate a time for a conditional use. Joanne Mattioni: King's across the street is open until 10:00 pm and they do a very good business. There have been times when the weather has been really nice and maybe on a Friday or a Saturday night where we've kept the store open until 7:00 pm. People have walked in. They've gone to King's; they've bought ice cream; we've made a few sales; and it helps. Mayor Post: Would it be unreasonable to put a conditional use on the business of 6:00 am to whatever; or whatever King's has; if that's what you want to do. Joanne Mattioni: We would never be open that late. The most we would be open would be to about 7:00 pm and that would only be in the boutique; not in the grooming. Mayor Post: I can understand the time limit. I can understand where they are going with the conditional use, as far as a time of hours of operation, because you do have to have conditions. Joanne Mattioni: All right. Can we set it maybe from 8:00 am to 8:00 pm? Mayor Post: If you're asking to do away with it or is there possibly a compromise and I just think 8:00 am to 8:00 pm – you might even want to go earlier. C Duby: And what if we worded it and instead of saying your hours will be XXX, what if we worded it to say "the business will not be open any more than 8:00 am to 8:00 pm, or whatever, and no more than XXX number of hours on Sunday? Joanne Mattioni: That's fine. C Duby: We found a way to word it that gave you the framework that you needed, but we didn't prescribe the hours. Joanne Mattioni: It is our understanding that this condition is applying to the grooming salon, since we already had the conditional use for the boutique. C Martin-Brown: Yes, that would be my interpretation, Mr. Mayor. Mayor Post: That's fine. I'm just saying again, I wouldn't even restrict it to 8:00 am; I would say 7:00 am. If people are going to have to be at work, they can not drop their dog for grooming off by 8:00 am. I'm just saying to protect yourselves, so you don't get upset over the conditional use as long as we can't make you totally free, but it has got to be reasonable. I think something like 7:00 am to 8:00 pm is not unreasonable. Joanne Mattioni: That would be fine. C Duby: Is it true that this applies only to the grooming? Not to the boutique. Joanne Mattioni: Yes. Mayor Post: When you make the motion you're going to make it just for the grooming only. C Duby: What's the maximum number of hours you would want to be open on Sunday? Joanne Mattioni: The maximum would be about 6 hours. It would not be late; like 10:00 am to 5:00 pm; 11:00 am to 5:00 pm; the grooming would not be open that late. C Prettyman: I would just like to get this motion for your hours, just to have a comfort cushion there would be from 8:00 am to 6:00 pm. Joanne Mattioni: No, 7:00 am to 8:00 pm. It's going to be less than that, we just don't want to be in violation. C Prettyman: I would like to make a motion. C Duby: Can I interrupt you, C Prettyman, just because I think it would be better to do one big motion for them and we haven't addressed their request for parking waiver. Mayor Post: For the record, because I discussed it with our attorney prior, it was not requiring a motion and a second, prior to having a discussion with you in front of us; I decided to let it go where we would question you freely among Council with questions; then it would go to motion. I do think we need to discuss the issue of parking. C Martin-Brown: I would like to suspend the parking requirement. I think it is a frivolous imposition on the economic vitality of this town. Mayor Post: I think the issue here is that we have an understanding with the State and it is a requirement, I guess to meet with them, if you are having off-street parking. What is interesting is

what he's told you is that the Town should waive so you would not be required to have off-street parking; to just use on-street parking. Joanne Mattioni: We can't have the off-street parking with our driveway. That's impossible. He told us there's no way we can do that. That means we would lose our business. Mayor Post: I could tell this was an issue when we had the meeting with DelDOT. It was a problem for anybody that was going to open a business that had a driveway. You're great if you don't have a driveway; not required. Any property that doesn't have a curb cut, doesn't have to go in front of DelDOT, so I think the issue here is we can waive. Joanne Mattioni: That's what Mr. Norwood said. C Prettyman: I would like to know if you have anything in writing from DelDOT on that parking issue. Joanne Mattioni: Mr. Norwood is sending a letter to the Town and he's copying us in and he told me today that he was sending it out stating just that; that he recommended that we be permitted to have on-street parking or municipal parking. Mayor Post: Did he tell you that you could not be approved? Joanne Mattioni: He said that we could not use that driveway for off-street parking for a business. That's definitely what he said. So that means any business. If we do not get the waiver for us to use on-street parking, then we can't even have our business there. George Dickerson: The section number is 7.2.5 Off-Street Parking Waiver. The question that I have for our attorney is that starts out in the first part of that section and it says "Off-street parking requirements may be waived in whole or in part upon finding by the Planning & Zoning Commission. Then it gives three items there in which they can do it. My question is, does that have to go back to Planning & Zoning for their approval. My opinion is that what the code says and it says Planning & Zoning must do it; it doesn't say Town Council. Please may I finish? Number 1 is that the requirements are adequate public off-street parking facilities are available within 400 ft. That may be satisfied as one of the requirements with regard to this conditional use or any comments. Also, evidence of satisfactory off-street parking arrangements has been documented. So we have to identify where those areas are for off-street parking for the business; is what it says. Secondly, it says the area in question is located within the Town Center. Obviously, that applies in this case. The second part of that, to our attorney, is this. The ordinances in themselves with Planning & Zoning require and have this language; the language says in Section 6.1 "Receive all applicable outside agency approvals prior to the issuing of a business license." That section requires, in my interpretation, the way it is written, if I'm wrong, then sobeit; but it certainly says that a business license can't be issued until we have outside agency approval; so those letters are going to have to be there. The unfortunate circumstance that is in here, that I hear the Applicant speaking to now, is that she can't get that from DelDOT. Joanne Mattioni: No, I can get that from DelDOT, as long as there is a waiver for off-street parking. He said that DelDOT will give a letter of no objection; and he is sending a letter stating that. That as long as Town Council waives the off-street parking and permits the on-street parking that is there, both on the street and in the lot, that they will send a letter of no objection. George Dickerson: Then I suggest that the motion carry the weight that until that letter arrives, and if the verbiage is contained in the letter as the Applicant has stated, then it would be approved that way. If the letter is something other than what comes in, the application would be denied. C Prettyman: Mr. Dickerson, that is just what I had asked for before; if we had a letter and Mrs. Mattioni stated that it was on its way; that letter would govern us in our decision on

that. Mayor Post: So your stating that as long as the parking is waived, he told you that he would give a letter of no objection. Joanne Mattioni: That's right. Mayor Post: That's very easy as another conditional use upon us making a motion, is that upon receipt of the letter from DelDOT with no objection; then we can go forward with our motion. C Duby: The issue of whether it comes to us or Planning & Zoning is still unclear. Mary Schrider-Fox: I would just like to point out that actually there are two parking issues, as I see it. There's an existing conditional use in place that is the two parking spot requirement; that's already in place. And tonight we are talking about a modification to that existing conditional use that required two additional parking spaces. I guess my question is is Mr. Norwood requiring that the Town waive all off-street parking or just not accept this recommended condition as proposed by Planning & Zoning? Joanne Mattioni: No, he said that we can not use that driveway for any off-street parking. C Duby: So it has to be all. Mayor Post: Then he will give you a "Letter of No Objection". Joanne Mattioni: Yes. Mary Schrider-Fox: My only concern at this point is that this is the first time that any part of this request has been to waive the existing two-spot parking. Because of course you did not know what Mr. Norwood was going to say before. Joanne Mattioni: Two years ago I don't think anybody really knew what the requirements of DelDOT were. Mayor Post: It seems to me that you're okay with all of the conditions placed, except the hours, which we have addressed; and second is the off-street parking which is again fine, as long as we put into the motion that we waive the parking, as long as you have a "Letter of No Objection" from DelDOT. C Duby: You've got a chicken and an egg, there. She's saying that DelDOT will give the Letter of No Objection if we waive it. Joanne Mattioni: No, he is sending a letter saying that as long as the parking is waived, DelDOT has no objection. So he is sending a letter saying they have no objection, with that condition. Mayor Post: He's already putting his condition on there. Joanne Mattioni: Yes. C Duby: But, as Mr. Dickerson has read that ordinance and I would like to ask Counsel to clarify, it sounds to me like we do not, under the ordinance, have the authority to grant the waiver of the off-street parking. Joanne Mattioni: Yes, you do. C Duby: It said it has to be done by the Planning & Zoning Commission. Joanne Mattioni: No, Town Council has the power to grant it. C Duby: Can we ask our attorney? Joanne Mattioni: I'm looking at 11.1.2. Mary Schrider-Fox: In this particular instance, the Town Council has a little bit more flexibility then you would otherwise, because this is a conditional use. We are talking about conditions that have been placed on the use by the Town Council. That's the whole purpose/idea behind the conditional use is that you allow a use that wouldn't otherwise be permitted in the area that it's being conducted; but for public health, safety, etc. reasons you place these additional conditions on here. In the event you were to disregard the proposed condition with respect to parking, made by Planning & Zoning, you could do that. It's not a per se waiver of a parking requirement, like in other instances. C Duby: So we have the authority at this point to waive all four parking space requirements. Mary Schrider-Fox: My concern with waiving all four parking space requirements is that the elimination of the existing two parking spaces has not been a part of this application, up until this point. That was not addressed at the Planning & Zoning level and it wasn't part of any public notice; so that's my concern about the existing two. Mayor Post: Because we're only handling this conditional use on the amendment part of it, we're only dealing with the amended conditional use; so

therefore, anything you place on it is in regards to the amended conditional use which is just the grooming part. C Duby: So if we waive those two, then they're still stuck with the requirement of the other two and so they still can't open their business. Mayor Post: We're waiving all. C Duby: You just said that you can't waive all of them because they haven't asked us to waive all of them until right now. Joanne Mattioni: We're only dealing with the grooming. Joanne Mattioni: Even if we have those two spaces, if they are never used, it's moot. C Duby: No it's not moot. Joanne Mattioni: If we're not having anybody come in our driveway...C Duby: I understand that, Joanne, but I'm talking totally technically legally, I don't care if you have them or not; but, legally, when you opened your retail business, you were required to have two off-street parking spaces. And that requirement is still in effect. Joanne Mattioni: At that time, Planning & Zoning did not know what the requirements of DelDOT. C Duby: I understand that and that's irrelevant to what I'm saying. What I'm saying is you came out of that process, opening a retail business that had a requirement for two off-street parking spaces. Now you have come to us to amend, open up a new business in connection with the old one, and you have a condition put on you that requires you to have two more parking spaces. You've come to us and said this is what we want; we want this, its two more parking spaces and we're asking you to waive those two parking spaces. What our attorney is saying is, even if we waived them tonight, which we are all willing to do based on the discussion, you still have that standing requirement for the other two and DelDOT has already said to you as long as you have that requirement, you can't open a business here. Joanne Mattioni: What they said is it can't be used. They didn't say as soon as we have the requirement. They said that the Town Council can waive the requirement. There were two mistakes made. One when Planning & Zoning put that condition on us, not knowing what DelDOT restrictions were. Two, when Town Council waived the condition that we get approval from DelDOT, not knowing that they couldn't do that. I don't feel that we should be penalized for two mistakes. We went through the process. C Duby: I'm not trying to penalize you. All I'm saying is we're trying to clean it up and do the right thing. We have to do the right thing or somebody can sue us. We want to try to figure out how to do it. We're not trying to stop you from doing this. We're trying to do this the right way so we can't get sued for what we've allowed you to do. C Prettyman: The two parking spaces are moot; because they're not here about the two parking spaces. That is a moot situation. They are asking for the off-street parking and the letter coming from Mr. Norwood is going to govern that, so we don't even have to discuss that. What we're here for is this conditional use and the two things that Mrs. Mattioni has asked for and I think we're jumping all over the place and we need to concentrate on what the conditional uses are. Mayor Post: Here's what I'm going to recommend. I know people don't like process; they don't like being told that they have to follow the ordinance, or anything. Tonight we are only talking about the two parking spaces. What I'm asking for you to do at the next Town Council meeting, that you please come forward and request a waiver for the other two spaces. That's what I would like to see done. It cleans it up for us. We did make a mistake, because we did give you the approval waiving something that we didn't have the authority to do that we found out later. This way it cleans it up for us. Joanne Mattioni: Okay. Mayor Post: The Town Solicitor just wrote this out for clarification. "To approve the conditional use with hours of operation from 7:00 am to

8:00 pm daily, including Sundays, with all other conditions recommended by Planning & Zoning accepted, except the requirement of two additional parking spaces, provided a "Letter of No Objection" is received from DelDOT." Are you happy with that? Joanne Mattioni: Very happy. C Prettyman: I would move to make the motion, so read by the Mayor. C Duby: Second. Mayor Post: Any discussion to the motion? All those in favor, say "aye". Opposed. Motion carried.

b. Council Approved Donations – Discussion and Possible Vote on the Allocation of the Remaining \$4,500 placed in the FY 2008-2009 Budget

C Duby: Mr. Mayor, this is the item that I would like to have tabled. When we discussed this during the budget process, we talked about how many worthy organizations there are and that we needed to develop some criteria by which we give awards of funding to non-profit organizations in Town. To my knowledge, that has not been done, even in draft form. C Prettyman: I agree with C Duby on that and also, I'd like to interject that because it is set aside, it's not a guarantee that this money is going to go to the various organizations; because we are going through a very rough time economically in the community and with other expenses, that we had not planned on, due to this recession; I think we need to be tightening our belts a little tighter and looking at what we give out; being very careful doing that. C Hudson: Mr. Mayor, at the last Council meeting, we voted to waive \$1,500 in fees to the theater and I didn't hear anybody say that we were going through hard times. This town has according to this, \$4,500 and as C Duby said non-profits should submit letters. When you make a waiver for one and you basically give a donation, then these other non-profits should get similar donations for them as well. I would like to see the Cat Snipper's get \$1,000; I would like to see the Historical Society get \$1,000; I would like to see the Milton Garden Club get \$1,000. C Prettyman: That is different than giving; I am in agreement that we should table this until we can look at what is being given to us and see what we have. I think this is something that needs to be tabled and we can discuss it again, but this is not the time. C Duby: I want to make clear that I am suggesting only that it be tabled for one month so that we can look at these. I would vote in favor of donations to all of the organizations you mentioned, for your information. I don't think it's fair for us to do it tonight, without having criteria set or having given all the organizations in Town a chance to submit information to us if they are interested in receiving donations. I move that we table this until the January meeting so that we have time to be fair about this in the way we allocate things and that we have time to do some preparation. C Prettyman: I second that motion. Mayor Post: Is there any discussion to this motion? Unknown Council Person: I will discuss this for a moment. We have a second. I understand some of the things that C Hudson's saying and I agree with her on it. If you are waiving fees, that contributes towards a donation. We've waived fees for the library, we've waived fees for the theater, and I'm not quite sure what other organizations we've waived fees for. I would like to see tonight at least \$1,500 to go to the Garden Club. And if you don't want to do it tonight; you better think it through; because the Garden Club has been requesting now for three or four months. How do you think that all of the holiday decorations have gotten there; the bows, all the plants that they do; changing it four times a year; and it's all done by the Garden Club. It's the issue about what financially reduces the cost and the debt of the town. That absolutely

is a cost-savings for the taxpayers of Milton. C Duby: Did we not allocate in the budget, Mr. Dickerson. I thought we had money for the Fire Department and money for the Garden Club and then the \$4,500 beyond that for other organizations. So the Garden Club money has to come from the \$4,500? Mayor Post: I thought we did, but we didn't. C Hudson: Then I would like to make a motion that we give \$1,000 to the Garden Club, \$1,000 to the Historical Society and \$1,000 to the Cat Snipper's; they need the money; they need it now; that's part of our image to take care of these animals so they are not sick and diseased all over the town; our museum is out there and you talk about image and the visitor's coming and then the Garden Club. C Martin-Brown: I simply wanted to comment that I came before the Council and asked for earmarks for the five organizations when we were going through the budget process; and, not only did I not get a second for the proposal; but my colleagues on the Council were very clear that we shouldn't give a shilling to anybody, until we had developed criteria that helped us judge and weigh these things in some orderly process and that if we went and spent all the money, I put on the table a request for \$20,000 and if we went ahead and arbitrarily dished this money out without any overview of how it was going to be dispersed and the criteria; and I then withdrew my motion, since there wasn't a second anyway, and that was where it sat. If we don't want a framework, that's fine. But that was the logic behind my not being responded to. Thank you, Mr. Mayor, I feel much better. Mayor Post: We have an issue on the floor on whether we are going to table this motion until January, or not. C Martin-Brown, "Yes to table"; C Duby, "Yes to table"; C Hudson, "No, don't table. Give them the money."; C Prettyman, "Yes to table"; Mayor Post, "No". This motion is tabled until the January meeting.

c. Presentation and Possible Vote on Proclamation P-08-001 – Greening of Milton

C Prettyman: The reason I brought this forward is because Greening is something that we need to do. I thought it would be a good time at the end of the year to bring forth this Proclamation of Greening. Mayor Post: Read The Town of Milton Proclamation: Greening of Milton into record. C Martin-Brown: I would be pleased to recommend that the Mayor and Council adopt this Proclamation with a slight amendment that my title be added, after my name on the last page, Sir. Mary Schrider-Fox: She's referring to the Draft of the Proclamation. C Martin-Brown: I have made the motion, Sir, that we adopt this. C Duby: Second. Mayor Post: We have a motion and a second, any discussion to the motion? All in favor say "aye". Opposed. Motion carried. C Prettyman: Mr. Mayor, some time in the near future, I would like to see if we can have a conference, on a weekend, where we can bring people in on the Greening and the Lighting. Mayor Post: Sounds good.

d. Discussion and possible Vote on Ordinance

Mayor Post: This is the proposed Ordinance (read Ordinance 2008-0006 into record). C Prettyman: I would like to make a motion to accept this Ordinance 2008-0006, an Ordinance to amend Section 18-35 of Chapter 18 – Vehicles and Traffic, Article VI, Parking of the Town of Milton, Delaware, as read. C Duby: Second. C Duby: Can we change the time? Mayor Post: We can amend the time. This needs to be done and this issue will be resolved. C Martin-Brown: So you want to change it to 2 hours? Or 1 hour? After the words "purposes", could it be amended to say "with the engine off".

Mayor Post: That is fine with me. C Prettyman: I withdraw my motion. I would like to make a motion to accept this Ordinance 2008-0006, an Ordinance to amend Section 18-35 of Chapter 18 – Vehicles and Traffic, Article VI, Parking of the Town of Milton, Delaware, as read; but we are going to amend and take out the fifteen (15) minutes and add one (1) hour for unloading/loading purposes with the engine not running. C Duby: Second. Mayor Post: We have a motion and a second; any discussion to the motion? All in favor say “aye”. Opposed. Motion carried.

11. Adjournment

C Duby: I make a motion we adjourn. C Prettyman: Second. Mayor Post: All in favor say “aye”. Opposed. Motion carried. Adjourning at 9:12 pm. Everybody have a great holiday.