

**Town of Milton**  
**Town Council Meeting Minutes**  
**December 5, 2005**

**7:00 – PUBLIC HEARING** in cooperation with Sussex County Council and the Delaware State Housing Authority to allow citizens an opportunity to participate in the development of an application to the State of Delaware Community Development Block Grant Program. The primary objective of the Community Development Program is to develop viable urban communities.

Bill LeCates, Director of Community Development and Housing for Sussex County talked about grants for low and moderate income families. He went over the criteria and reviewed the handouts. Mr. LeCates answered questions from council regarding the waiting list and grant guidelines.

Mayor Bushey closed the public hearing.

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

- A) Mary Hudson, of 406 Union Street, asked the Council questions regarding the North Milton Development. Mayor Bushey responded that North Milton will need to address the issues raised during the PLUS review. Council will have a public hearing before the land is annexed into town limits.
- B) Norman Lester, of 311 Union Street, felt large trucks should have been re-routed so they do not come through the town.
- C) Noble Prettyman, of 323 Mulberry Street, has concerns regarding the drinking water. The Lead and Copper readings were high on Mulberry Street and he feels the situation should be looked into.  
\*\* Amendment per January 3, 2006 Council Meeting. Councilman Prettyman had requested to have a lead and copper study done for the area between Willow Street to Broad Street and Mulberry Street to Union Street.
- D) Carol Bruce, of 203 Collins Street, spoke on behalf of Marie Mayor for the vacant council seat.
- E) P.D. Camenisch, of 302 Chestnut Street, spoke on behalf of himself for the council vacancy.
- F) John Collier, of 301 Coulter Street, spoke on behalf of P.D. Camenisch for the vacant council seat.

Mayor Bushey called the regular Council meeting to order at 7:30 p.m.

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

Mayor Bushey called roll.

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

Others Present: Hal Godwin, Town Manager  
Eric Evans, Code Enforcer  
Allen Atkins, Maintenance Supervisor  
William Phillips, Chief of Police  
Tim Willard, Town Attorney

Mayor Bushey informed those in attendance Friday, December 9<sup>th</sup> is John Milton Day honoring the town's namesake. The events of the weekend were read and attendance was encouraged. The events include the Holly Festival and Holly Day House Tour.

### **Presentation and Approval of Minutes**

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

Motion passed. "Aye"

### **Written Reports**

#### **Maintenance Report**

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

Motion passed. "Aye"

#### **Code Enforcer Report**

Councilman Prettyman made a **motion** to accept the report, seconded by Councilman Post.

Motion passed. "Aye"

#### **Police Department Report**

Councilman Prettyman made a **motion** to approve the October 21<sup>st</sup> through November 20<sup>th</sup> report and the November 1<sup>st</sup> through the November 30<sup>th</sup> report, seconded by Councilman Post.

Motion passed. "Aye"

### **Committee Reports**

**Sewer & Water** – Councilwoman Melson reported the committee met on November 21<sup>st</sup> and confirmed there are 23 EDU's available however these EDU's are allocated to the existing lots within the town. An explanation was given as to how the committee arrived at that number. The fact that the plant is already facing BOD level problems and could possibly be sited by DNREC, the committee does not see how they could allocate the remaining EDU's to the marina project.

Councilman Post asked for clarification regarding the EDUs for Irish Eyes and why they have not been purchased. He was surprised there were 21 EDUs put on hold for a

restaurant. Eric Evans stated there were two EDUs previously purchased and that already belong to that lot. Bob Kerr reminded Council, at the April 2005 meeting, “Mayor and Council said that Irish Eyes did not have to purchase additional EDUs. That, because it was an existing business, Council felt that no additional EDUs had to be purchased.” So Mr. Kerr does not believe there is any additional money coming from Irish Eyes to purchase EDUs. What the additional EDUs account for is a chart he prepared due to the impact the business would have on the treatment plant. Its two separate things, what they were charged for the EDUs and what their impact will be on the treatment plant based on the seating capacity and other things going on within the building.

Streets & Sidewalks – Councilwoman Betts stated the committee made a recommendation to review the petition signed by the residents on Spruce Street once the entrance to Preserve on the Broadkill is complete and a problem is noted. The committee would like the original recommendation regarding no parking on the West side of Chestnut Street to stand. The committee agreed to keep the 3-way stop sign on Chandler Street. Preserve on the Broadkill made a request for street signs and poles different from those in the rest of town. The committee recommended to approve the request with the condition if any parts of the sign or pole needed to be replaced, the town would use parts they already had in stock. The Association may replace the needed part with the original installed at their expense.

Personnel/Pension – Councilwoman Melson requested a brief executive session.

Parks & Recreation – Councilman Post stated the committee is working on a few changes in the design of the bicentennial park. The balance of the \$75,000.00 needed has been secured. Senator Adams is providing \$15,000.00.

Economic Development – Councilman Post informed there will be a meeting on December 6<sup>th</sup> to review the surveys. They have received 250 surveys back and encouraged everyone to return their survey.

Planning & Zoning – Nothing to report

Board of Adjustment – John Collier reported a meeting was not held in November. The next meeting would be December 13<sup>th</sup> at 7:00 p.m. at the fire hall.

Milton Development Corporation – Councilwoman Betts stated \$4,500.00 was raised from the *Fantastics*. The group is very grateful to the Town Council for allowing them to subdivide the Post property.

Finance/Risk Management – Councilman Dvornick stated the committee met on November 22<sup>nd</sup> and reviewed the first month’s actual vs. budget. All information has been provided to Mr. Sombar’s office and they have started working on the audit. There was a report on the software, Capital vs. Edmund’s. The transfer account was reviewed from 1999 to present and a surplus from last year of \$44,000.00 was placed into a money market account and marked as follows: \$15,000.00 for Chestnut Street sidewalks, \$10,000.00 for Parks and Recreation, \$5,000.00 for Downtown Beautification, \$10,000.00 for Trails to Trails, \$4,000.00 for the Milton Historical Society (this payment

will be for the next three years). Offers were reviewed for meeting space. The next meeting will be Thursday, January 19, 2006 at 5:30 p.m.  
The website will now have the monthly cash balance posted as well as a budget vs. actual expenditures to date and the variance.

200<sup>th</sup> Anniversary- Councilman Prettyman has resigned from the committee. Mayor Bushey will appoint a new committee chair at the January council meeting.

Police Building – Councilwoman Betts stated she is waiting for Eric to get back to her on a decision regarding one property.

Councilman Dvornick thanked everyone from Council, Board of Adjustment and Planning and Zoning that took the time to see Mr. McMahon's presentation on December 1<sup>st</sup>.

Town Manager report- Mr. Godwin informed the Council he had received four valid letters of interest from design/build teams. The letters of interest are from Aquatec Inc., George & Lynch Inc., Reid Engineering Co. Inc. and Whiting-Turner Contracting Company. George, Miles and Buhr have helped him design a matrix to which we can grade the bidders on their professional ability. Charlie O'Donnell asked Council to accept their recommendation and decide who the top three bidders will be. The George and Lynch proposal scored high compared to the other proposals. The other two firms recommended to bid on our sewer treatment project were Reid Engineering Co. Inc. and The Whiting-Turner Contracting Company.

Mr. Godwin recommended putting the bid package out to these top three companies and asked the Council for their endorsement to continue using George, Miles and Buhr as the engineering firm to build the design package and perhaps they could be our engineers to see the project through. Engineers were in attendance from George, Miles and Buhr LLC, Davis, Bowen & Friedel Inc., and Cabe Associates to answer the Council's questions. Mr. Godwin would like to go to referendum in April and award the contract in summer 2006.

Councilman Dvornick made a *motion* to hold a special Town Council meeting to vote on choosing wastewater treatment facility bidders and choosing an engineering firm to create design/build documents. Mr. Dvornick also asked Council to give all questions they may have to the Town Manager so the answers could be given at the special meeting. The motion was seconded by Councilwoman Betts.

Motion passed "Aye"

The special council meeting will be held Friday, December 16<sup>th</sup> at 7 p.m. at the fire hall.

Councilman Post asked if the engineers could give Council an idea of the cost to put this package together. Mr. Godwin answered it would be difficult to give a price for the project but he has seen a price range from \$80,000.00 to \$160,000.00.

Mr. Godwin stated the November 20<sup>th</sup> financial report has been provided to them and he would like the Council to vote it into the official record.

Mr. Godwin also announced that the 2006 Council meetings will be held at Mariner Middle School. There are two meeting dates scheduled per month.

The possible locations were:

The Milton Theater for a cost of \$150.00 per meeting plus a \$5,000.00 donation.  
Goshen Hall would cost \$1,800.00 per year for two meetings per month.  
Mariner Middle School would be less then \$50.00 per meeting.

Joan Martin Brown stated the donation to the Milton Theater was a separate business idea like how the Council has given money to others over the years. She feels information has gotten out of context somehow.

Councilman Dvornick read the minutes from the finance committee meeting as to how the committee arrived at those figures. The finance committee asked Mr. Godwin to investigate the possible use of one of the schools.

Councilman Dvornick made a ***motion*** to have the 2006 council meetings at the Milton Theatre, seconded by Councilwoman Melson.

Councilman Post would like to see if the Milton Theatre would revise the cost per meeting.

Motion passed “Aye”

Councilwoman Betts refrained from voting.

Councilman Dvornick made a ***motion*** to accept the financial report from November 20<sup>th</sup>, seconded by Councilman Prettyman.

Motion passed “Aye”

There was discussion about the rate study and the times set up for residents to see how their water/sewer/trash bills could be affected.

Councilman Post asked to have the presentation done on a Saturday so more residents had a chance to attend. Councilman Dvornick will set up a time in January. There will be a notice in the January utility bill of the new dates and times.

## **Correspondence**

Councilwoman Melson read the following:

- A Medicare Town Meeting will be held at Mariner Middle School Cafeteria, December 15<sup>th</sup> from 4:00 p.m. to 6:00 p.m. The meeting will be hosted by Representative George Carey. Please bring your insurance card and prescriptions and they will find the best plan to fit your needs and answer any questions.

## **Old Business**

### Mulberry Street Project- Joe Cantalupo (Del Dot)

The Mulberry Street Project has been awarded to Daisy Construction. The construction will start after the first of the year and could last eleven months. The timing of

construction depends on the contractor and the weather. Del Dot would like to have a ground breaking ceremony.

Mr. Cantalupo thanked Bob Kerr from Cabe Associates for helping with the water line placement and Mr. Prettyman for helping to secure all the easement signatures.

Councilman Prettyman asked for written reports on the project. If construction is to start at the first of the year, the school will need to work on getting their buses around the construction.

Mary Hudson asked if the repaving of Union Street, Federal Street and Mulberry Street will be affected by the new waste water treatment plant. Would there be a pumping station downtown to pump to the new treatment plant location?

Mayor Bushey said he believed the lines could be bored underground so the surface is not affected.

#### 15 Minute Parking Signs

Councilwoman Betts stated there are two fifteen minute parking spots in front of the liquor store and Town Hall. It was noted there are several businesses in the immediate area that would need more then 15 minutes to complete a business transaction. The Streets and Sidewalks Committee recommends having only one fifteen minute parking spot.

Councilman Dvornick made a **motion** to accept the recommendation of the committee, seconded by Councilwoman Melson.

Motion passed. "Aye"

#### Preserve on the Broadkill Street Sign Request

Councilwoman Betts stated the Streets and Sidewalks Committee recommended granting the Association's request. The poles and signs have to comply with regulations and the approval comes with the following condition: If any part of the sign or pole needs to be replaced once the streets are dedicated to the town, they will be replaced with the same parts that are used in the remainder of town or the Association may replace the part with what was originally installed at their expense.

Councilman Dvornick made a **motion** to accept the recommendation , seconded by Councilman Post.

Motion passed. "Aye"

#### Chestnut Street Parking

Councilwoman Betts informed Council the Streets and Sidewalks Committee recommended keeping the original motion to have no parking on the West side of Chestnut Street. Councilman Dvornick made a **motion** to accept the recommendation of the committee, seconded by Councilwoman Betts.

#### Chandler Street 3-way stop

Councilwoman Betts informed Council the recommendation from the Streets and Sidewalks Committee is to keep the 3-way stop sign on Chandler Street.

Councilman Dvornick made a **motion** to accept the Committee's recommendation, seconded by Councilwoman Melson.

Motion passed "Aye"

Mayor Bushey stated the information requested at the November Council meeting from the Ludwick Stuchlik property has not been provided at this time.

Mayor Bushey stated the request from Shipbuilders LLC has been withdrawn at this time.

EDU Request from Eagle Eye Development

Mayor Bushey stated the recommendation of the Sewer and Water Committee was not to reserve the EDU's to Eagle Eye. Ms. Virginia Zrake Esq., attorney for Eagle Eye Development, addressed Council and noted this project is something the Town has stated they want however they will not let the developer pre-purchase the EDU's. Ms. Zrake stated there was never a motion made to include a deadline to developers and she questioned the correct number of remaining EDU's. She requested Eagle Eye be allowed to pre-purchase 23 EDU's to begin their project. Councilwoman Melson stated the committee felt due to the plant reaching capacity and the current BOD issue which leaves a question as to whether 23 is the correct number of EDUs available; they recommend not issuing the final 23 EDUs to Eagle Eye.

Councilman Dvornick asked "why is Council's inaction an excuse not to grant something our town needs". He says it has taken 26 months to study the need of a new plant.

Mayor Bushey stated Council recognized the need for a new plant and established that the Town wanted to stay on their own and 8 months ago Council gave the Town Manager authorization to move ahead with design/build.

Ms. Zrake requested "an explanation other than concern as to what is presently happening as to why this developer is being treated any different than any other developer".

Mayor Bushey stated he thinks Council was loud and clear as to where they stood on the wastewater facility, that they did not have the capacity.

Mayor Bushey asked to go into Executive Session with Mr. Willard. Motion was made and seconded to go into Executive Session.

Motion passed. "Aye"

Council came out of Executive Session.

Mayor Bushey turned the floor over to Mr. Willard; who reiterated the events prior to the current council meeting. There is pending now a Freedom of Information Act (FOIA) request from the applicant for all minutes and anything relating to the previous EDU situation. Mr. Willard is in the process of answering that request.

Mr. Willard "did not agree with Mr. Zrake's representation that the developer is being treated unfairly. The request is asking for special treatment which does not mean Council could not give it to them." He explained how the letters to developers were drafted and the deadline given. As to the number of EDUs available; Mr. Willard could not comment on the issue.

Councilman Post and Councilman Dvornick asked questions regarding the project. Mr. Paul Law stated the developer is 22 to 24 months away from the first phase being connected to the wastewater facility.

Councilman Post made a ***motion*** to grant the 23 EDUs for Phase 1 of the Eagle Eye Development, seconded by Councilman Dvornick. Mayor Bushey took a roll call vote.

Roll Call votes to grant the 23 EDUs to Eagle Eye Development:

Councilman Dvornick	Yes
Councilwoman Melson	No
Councilwoman Betts	Yes

Councilman Post	Yes
Councilman Prettyman	No
Mayor Bushey	No

The vote resulted in a tie 3-3. Motion Failed.

**New Business**

Council Vacancy Appointment

Mayor Bushey stated four letters of interest were received. Those interested are Ed Harris, P.D. Camenisch, Marie Mayor and Alisha Broughton. Councilman Post asked to take the votes by ballot. Mr. Willard stated there were no provisions in the Charter to vote that way. Mr. Willard read the Charter section concerning the vote to fill a vacancy on Council. He stated his “interpretations of the Charter is that the Mayor votes as part of Council.” Councilman Post stated he did not read the Charter that way, when the Charter says *Council* he does not read that to say *Mayor and Council*. Mr. Willard said after doing some research on the issue before the meeting and reading Chapter 15 of the Charter, which he read aloud, he believes the Mayor should vote on the issue because he is a member of the Town Council.

Councilman Dvornick made a **motion** P.D. Camenisch be assigned to fill out the term vacated by Mr. Hudson. The reason for the motion was due to the fact of the large amount of building going on south of the Broadkill River and he feels it would be a good time to have additional representation on that side of town. The motion was seconded by Councilman Prettyman. Mayor Bushey took a roll call vote.

Rolls call votes to have P.D. Camenisch fill the term vacated by Mr. Hudson:

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

The vote resulted in a tie 3-3. Motion Failed.

Councilman Post made a **motion** for Ed Harris to fill the council vacancy, his reasons were because “Mr. Harris has attended meetings for eleven years, is a business owner in the town and is past president of the Chamber of Commerce and would like to see the town move forward.” Councilwoman Betts second the motion. Mayor Bushey took a roll call vote.

Roll call votes to have Ed Harris fill the term vacated by Mr. Hudson.

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

The vote resulted in a tie 3-3. Motion failed.

Councilman Prettyman stated he was very impressed with Ms. Mayor's resume and thanked her for being interested in the position. He would like to see her a little more involved with the town and hopes she becomes a part of some of the committees in town.

Councilman Prettyman stated the final candidate, Alisha Broughton seemed to be interested but he has not seen her at meetings and he has not seen her take an interest in his community. He has read some notes she has written and she does not seem to be up to date on issues. He does not see her as a person he could recommend.

Mayor Bushey stated the seat will remain empty until Council decides they want to fill the vacancy. Mr. Willard stated that was correct, the seat may remain empty until the majority of council agrees on a candidate.

Councilwoman Betts thought that is why the Mayor did not vote because it was an even number with his vote. Councilman Post said Council may need to get the Attorney General's opinion on the issue.

#### Employee Dress Code Policy

Councilman Dvornick made a **motion** to accept the Employee Dress Code as presented, seconded by Councilwoman Melson.

Motion passed. "Aye"

Councilman Dvornick made a **motion** to authorize the Mayor to sign the paperwork for the Community Development Block Grant (CDBG), seconded by Councilman Prettyman.

Mayor Bushey stated all members of Council received a letter from Stephanie Parker in regards to putting a penalty clause in the Historical Ordinance. Mayor Bushey wanted to let Mrs. Parker know he has forwarded her letter to Hal Godwin so he can make a presentation to Council in reference to adding the penalty.

Per Mrs. Parker's request, Councilwoman Melson read the letter into the minutes.

There was concern from a resident regarding the council seat vacancy and how the issue would be handled.

The resolution for the Community Block Grant was read into the minutes.

Councilman Dvornick made a **motion** to go into Executive Session for a personnel issue, seconded by Councilman Prettyman.

Motion passes. "Aye"

Council returned by Executive Session.

Councilman Dvornick made a **motion** to adjourn the meeting, seconded by Mayor Bushey. Meeting adjourned 10:08 p.m.

Respectfully submitted,

Stephanie Coulbourne

Slc: 12/15/05