

Town of Milton
Special Town Council Workshop Meeting Minutes
Milton Library, 121 Union Street
March 28, 2007

The meeting was called to order at 6:08 P.M. by Mayor Don Post.

Present: Councilman Harris
Councilwoman Melson
Councilwoman Betts
Councilman Frey
Mayor Post

Also Present: George Dickerson
Stephanie Coulbourne
Deanna Duby

Meeting purpose is to discuss the Proposed Charter Revisions that have been presented by the Ad-Hoc Charter Review Committee. The following are the comments given by members present at the meeting.

Section 31B-2: George Dickerson: In keeping the verbiage consistent, I'll assume that the posted places as well as the newspaper postings are as we have talked about throughout so far? C. Frey: And as the elected member. Mayor Post: That's going to be important when you are going through the whole thing, making sure you change both of those items at every level.

Section 31B-6: C. Frey: Explain what that means. George: The process now for someone getting delinquent taxes or owed the Town something with regard to the property, like if a home is demoed at our expense, we would put a lien on the property for that amount. If and when it is sold, or at our action which we would start that through legal council, we could actually sell the property for non-payment of whatever is incurred on it and they would have to pay it. So actually you are setting a time limit here. The question that comes to mind is our ordinances are now paralleling our charter and it's clearly defined in Streets and Sidewalks that the owners would have to pay for that. It's clearly stated here that they would have to pay for it and we have another ordinance that talks about the determining factor, and we determine what that damage is and whether it's replaceable. But, once it starts, we can't stop the action. C. Frey: This doesn't mean that we're repairing or replacing curbing and sidewalks in the town, we are charging them for the paving of the road. Just sidewalks, that's why we stuck in curbing? Mayor Post: I think it's just a misspelling but for some reason paving, curbing, etc. Deanna: I think when we considered this committee, somebody checked with the town whether or not these street repairs were included and they said their policy is only sidewalks are included, which is why we took out all that stuff and said "sidewalks adjacent to private property should be constructed..." George: That certainly parallels our ordinance. C. Frey: That's why I said because the ordinance says we are responsible for the curbing. C. Betts: I thought we changed it. Mayor Post: We did. C. Frey: Property owners responsible for the curbing? C. Betts: Yes, curbing and sidewalk. Mayor Post: That was the resolution and we changed it. George: The resolution was to clearly identify that the property owner was responsible for the sidewalk. I do not remember the curbing. Mayor Post: Clarify it, it's in there. C.

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Harris: Hypothetically, if you are building a new house in town, and you have to tear up the street to put the sewer lines in, wasn't that originally put it to cover that also? George: We would be responsible to the property owners' property line. C. Frey: Ordinance covers the streets. Mayor Post: They're not responsible for the street. They are tapping into an existing line that would already be there. They're responsible from the curb stop in. Stephanie: I'll give you an example, Frederick Street, where we had to put in new sewer and water lines, the town has responsibility. C. Harris: But, as a homeowner I damaged the street. Was this put in the Charter to cover us so we had some type of recourse to take against the homeowner if the homeowner damaged the street or the curb? And now you are just narrowing it to just the sidewalk? George: I don't believe the intent of this was for that purpose but I need to check to see if we have an ordinance that covers that. We do have notification having to make through ordinances of any construction person, and they are responsible to repair the street to its right position prior to the opening of the street. Deanna: The sidewalk has nothing to do with whether or not the homeowner had anything to do with damaging it. If you just happen to live on an old sidewalk and it's broken up, you still have to pay for it. The question I would have is if curbing is in there, what if I live on a block, as I do now, that doesn't have curbs and the town decides that their going to add them; do I have to pay for those? George: What I recall it is only sidewalks. C. Betts: We never had to pay for curbs prior to, but I'm under the impression it was changed when they changed the sidewalks to include curbing, but I don't think it should. C. Betts: So you're saying now if a sidewalk gets damaged by someone other than the property owner do we have to pay for it? George: We would have to determine the cause and then decide who is responsible. Mayor Post: Action can be taken against the person who did the damage if it can be proven. Otherwise the town would be responsible. Deanna: The way this reads now, none of that is in there. This says that if it's going to be repaired, the town just goes in and repairs them and sends bills to the property. George: The town of Lewes paid to have pavers put in on Second Street and sent bills out to the property owners with their share of the cost. This is mirroring that. What everyone needs to know, this is going to be a hot topic because of our sidewalks provisions as we know, and now once you kick this process in, and you change this part, you have to treat everyone alike. And once we've determined the number of feet in front of each residence, which we know, we can have it repaired and bill the property owner. C. Betts: Suppose 60 days isn't long enough. A lot of people may not be able to pay it within 60 days. Maybe they can pay once a month or something. Mayor Post: It's obvious they didn't follow the Charter before, because there was a revolving account when people had several years to pay it back, you could not expect senior citizens on a fixed income to pay a large bill within 60 days. C. Betts: Is that going to make a difference with the tax payers, are we a bank? C. Frey: Who's going to determine who can pay or can't. Mayor Post: Because you can establish fees like they do in other towns. With moving into this, we cannot think that it's not the fact we're a bank, that's not the issue, town's do that all over as long as it's paid back, but with revolving accounts, they do work. You have to set up a system whether it's a State of Delaware, you can go by poverty level; there's a whole formula that's already established. C. Frey: What happens if they don't pay? Mayor Post: Then you put a lien on their property. I think what we cannot forget is that there are people in this town that are not able to buy into expensive homes. They are on fixed incomes, they have been here their whole life and I don't quite understand it. They do it for other towns; they use tax monies also in the county to fix up peoples houses, so it is done. If people right in this town have taken advantage of that to have their homes repaired, using County dollars for a special fund that was established. You have to look at the big picture. C. Harris: Is that going to put a strain on the Towns finances? Are you going to limit a certain amount of it? Mayor Post: Once it starts, it won't, it's that initial account that's opened. We're not giving the money to anyone. It's paid back. C. Harris: Say you had an initial pool of \$100,000, and you used up that money over a 5 or 7 year period, that

money is gradually trickling in, isn't that going to limit the amount of properties you are going to be able to repair? Mayor Post: It's going to limit it, but it's better than what we have now, we are doing nothing. C. Harris: With the course of the 5-7 years with the odds being the way they are and considering some people won't be able to pay back that amount of money, that whole process of collection of fees, how will that be taken care of? Mayor Post: I know they do it in other towns and we need to see how they do it and see if we can implement it in Milton. C. Harris: The whole process of checking people's financial background, think about that, do we become a lending institutions loan officers who are going to be checking everyone? There's a lot involved with that, administratively as far as the town. Mayor Post: There's not a lot of thought because you set up a formula that is just like the state. There's a process. They either qualify or they don't. It's no different who you are giving money to. C. Harris: You're basically becoming a lending institution and there's a lot of... C. Betts: Is there going to be interest accumulated? Mayor Post: I don't understand why this has to be a real issue. C. Harris: We need to move forward, but we need to decide what we are going to put in the Charter to cover the Town, to make sure that whatever decision we make with the sidewalks, we're covered. C. Betts: We are not a bank, we shouldn't loan money, do you pay interest on the money? There's a lot to look into. We've got to check everything out. George: I'll come back to whatever you choose to do, but just to say this, this doesn't allow you to do what you just suggested. C. Harris: We need to figure the language that will cover whatever decisions we make in the future, if we want to keep the process going. So the way it stands now, they basically have 60 days to make the full payment. C. Melson: The criteria could be that they also go to a lending agency to see if they can without the town to obtain the money. And if they can't come back with the proof of denial, then we go from there. C. Betts: I thought we could use "may" instead of "shall". George: What you're struggling with is something in the past that's not been enforced, and all of a sudden when the enforcement comes, that will ensue because the life of enforcement is what this Council will be saddled with. I think one of the things we discussed at the workshop which the sidewalk issues was on, is perhaps a public hearing to make people aware of what the ordinance is, because your not just dealing with this, you also have an ordinance that speaks directly to it that they're responsible. C. Betts: Exactly, and we've got to make them educated enough to... Deanna: Unintelligible. George: Everything up until the 60 days, the Town Clerk "may" proceed. And then of those due, it comes into several categories, you have people that once they get the repairs and maintenance sent the bill they are going to pay it. You have those who will be delinquent and not pay it but have the means to pay but they just don't pay any of their bills on time. Then there's people who are absolutely not going to pay until you put them in some kind of a legal bind or circumstance where they have to. So if you put this out, then we could come up with those categories of the repayment that we wait 60 days, and then we make contact with those persons and let them know we are not trying to be a burden on them and ask how we can assist them. C. Betts: If you leave "shall", that means you have to do it. This gives you discretion on how to do it if you put "may". George: Good idea. Make a note, Stephanie, if we go that route, and that giving us the latitude on the Charter as it speaks now we don't have that latitude. If we change this in the Charter when it is approved, we have the latitude, if we start the sidewalk process and we send bills, we are saddled with this until the Charter is changed. However, if we know what the intent is here, we can structure to assist those people who need it and also respect those people that can't afford it. C. Betts: Will it be the same collection/penalty as with taxes? If not, we need to change "shall" to "may".

Section 32C: Mayor Post: Will you check with C and make sure it matches up with our resolution that we just did? So the town is responsible for the curb? We need to know so that we can notify residence

and give them the correct information, such as the property owner on Chestnut Street. We just have to make sure he is notified properly of what is his responsibility and our responsibility.

Section 33A: Stephanie: Do you need to leave in electric and gas bills? Mayor Post: I think that's it because some towns sell their own electric. It wouldn't hurt to leave it in there. Deanna: That was our thought because when we looked at this because we knew people didn't pay those to the town and obviously they probably had, but we thought that the fact it said "due the town" clarified in that way if there ever came a time in the future we wouldn't have to change it.

Section 34A-5: Approximately 15 minutes of discussion as to how many votes a person can cast as to whether they are a citizen, property owner or corporation. George: Here is what I think, "At the said Special Referendum, every citizen in the Town of Milton, including those who have placed their property in an Irrevocable Trust, shall have one vote. Further, every partnership, corporation owning property, within the corporate limits of the Town of Milton shall also have one vote. However, only one vote per person or corporation will be allowed". Will that work? C. Harris: Yes and No. A corporation does not specifically name an individual, so you could have a business with 5 officers listed in their articles of corporation, so you could send in anyone, but if, according to what George just said, then the property owner could go into vote and, if that property owner also has a corporation, has the right to vote. Deanna: So, theoretically he could go in and vote as a citizen as Ed Harris, then he could go back in as a representative of the corporation and vote. C. Harris: Correct. C. Betts: That's the way it sounds. George: I bet he could back and vote again. C. Harris: Yeah, which is not unfair. Mayor Post: It is unfair. Why can't it read "At the Special Referendum, every property owner in the Town of Milton or those who have their property in Revocable Trust, partnership, corporation owning property within the corporate shall have one vote". That means it's an "and/or", you are either voting as a citizen or corporate owner. I vote for just putting citizen back and taking everything else out and that resolves it. C. Frey: Can't do that. Then you are cutting out the people who own property that don't live in Milton. I think they should have a vote in those referendums. C. Betts: I do too. Deanna: And the other thing is, once you start talking about people owning the property getting a vote for every property they own, what about the big corporation that owns 5 pieces of property, do they come in a vote 5 times? No. They shouldn't be allowed. Mayor Post: Send that over to John and tell them the key is to write it where they would only have one vote whether they are a person or corporation. Deanna: And those citizens get to vote. C. Betts: Why couldn't you just take out "in addition" and put "those who have placed their property in Revocable Trust, every partnership or corporation owning property within the corporation limit shall have one vote". C. Frey: Let John Brady do it.

Section 34A-6: Deanna: Do you want to have people (unintelligible)? C. Harris: I was going to ask about that and I also wanted to ask, do these 3 people who are being appointed have to be residents or citizens of the town or can they be anybody? George: Stephanie, Julie and I went up to meet with Frank Kellar at the Chairman of the Election Board for the State of Delaware. We brought back a whole brochure with regard to the new law which will be going into effect on 1 July that municipalities have to adhere to. Deanna: For referendums as well as elections? C. Betts: Yes. George: I don't think it's for referendums, just for municipal elections. With regard with dates and times, we have to back our system up, because the number of days that they are requiring in the new law, I will ask tonight that you allow Stephanie, Julie and I to sit down with this document and build in the timetable that is required by the law and just include that in here and we'll explain it as we go through it. Now there are some things that were also brought up in regard to that, which is about felons, felonies, and all kinds of things that's included in here. Mayor Post: Do you want to put all that they've given you and put that into so that it

will be compatible to what the Charter is. George: Our Charter can have some areas that such as regard to a felony, a felon cannot vote. There are 5 categories in the State of Delaware and you have served a probationary period, and you have been adjudicated and paid your debt to society, under Federal law you must let them vote. However, our Charter can be more restrictive. You can choose not to let felons have the right to vote in a local election by Charter you can incorporate it into the Charter and say that and not allow them to vote. It's not for child molesting, homicide or some heinous rape/crime. How do you do that? The election commission is also to (unintelligible) which I did not know, if you have a person who is in question, whether or not they are a felon, you can submit the name and they will report back whether or not they are a felon. The other thing is, this will not allow you to serve as a council person if you've ever been convicted of a felon. Any elected official. Stephanie: So from now on when they file their application to be a candidate, we'll have background checks done. Mayor Post: We'll need to incorporate that into this charter that it will be extended to existing Council and Mayor to have background checks. C. Harris: Back to Board of elections, if that's true, and the people that are working the elections have access, what is stopping them from doing checks on anyone that comes in? Who will be overseeing them? Is there some type of confidentiality? George: There will be an inspector at the election that day. There is some type of form where a person is swearing under oath and affirmation witnessing that they are not a felon and would be allowed to vote. Should they vote and determined after that since they were challenged, the inspector allowed them to vote, they would be challenged that they had perjured themselves with regard to the document that goes to the State Board. Stephanie: But it gets brought up that day to the inspector, Neva being the inspector, and I say I think "they" committed a crime and she shouldn't vote and I take that to Neva, Neva has the right and authority that day to say yes or no to whether "they" vote. C. Betts: How does she know that? George: Frank Kellar says that you have to take people at face value until you determine that they are. C. Betts: What if she says I'm a felon and I'm not and I don't get to vote? What happens then? Stephanie: There is an appeal process that is outlined. C. Harris: That also means that we need to take seriously when you do your appointment: Mayor Post: I'm sure they are going to do that in their training. There'll be a whole new training for people working poles anyways. George: There is training that will part of this process. C. Frey: If our judge doesn't like someone in town, all they have to do is say something. Mayor Post: There will be a procedure that will be defined and the volunteers will be taking an oath just like any other official.

Section 36: You just need to think that there is a lot to be done in the Town Hall. Is it our responsibility to take them down to the Library every time you change an ordinance or resolution? It's going to be on the website. C. Harris: Realistically, how often do you change it? And we can't rely on everyone having access to the website. Mayor Post: They can go to the Library and get it online. Deanna: There has to be at least one place they can get it. Mayor Post: They can get it any time at the Town Hall. Anybody can come in and get a copy of any ordinance that they want. Deanna: Our thinking of adding the library was because it is open at times the Office isn't. George: The modifications of our ordinances with general code publishers had been approved. It had never been done, or worked with. Within the next 2 years, we will have all our ordinances through that process and a manuscript. We could probably do it sooner than that, but I need a meeting that I talked to Stephanie and Julie about, with regard to getting in here. What that does is you can have all of our ordinances, if any of you are familiar with the codification process, allows you to go to the index and do a search on a particular word and it will give you every ordinance that pertains to that. And then, when there are updates, there's a loose leaf binder as well as a DVD that accompanies that, and will be on our website

so you can do it. That is a future goal. Stephanie: They also update everything automatically for us. **Mayor Post**: That was approved when Tim Willard was here. Just leave the library in there.

Section 37C: Stephanie: “due the Town of Milton shall be due the Town of Milton? Can we strike the first “due the Town of Milton”?” George: Should be paid to. Deanna: It must have been in the old one and we never changed it. There must have been a drop-out. C. Harris: Why don’t you just get rid of “shall be due the Town of Milton and”?” C. Melson: It should be “paid” and all debts from the town should be unimpaired by the town... **Mayor Post**: What is due is due to the town and the debts shall remain unimpaired until paid by the town. C. Harris: It is correct. Don’t change it. C. Betts: Where is C, if D is replacing C? Where is the old C. **Mayor Post**: The old C is taken out and D is moved to C. C. Betts: Well, where did it go? Deanna: We took it out. The reason we took it out is it said “an official that did anything unlawful before this charter was passed is off the hook”. We took it out because we thought it was not right for anybody who had done something unlawful to be taken off the hook by a revision of the Charter. **Mayor Post**: Is that legal to do that? Deanna: That is why we took it off. **Mayor Post**: Clarify this with John and find out what it says and what he wants to do with it.

Section 37D: Deanna: It hasn’t changed except it moved to D from E. C. Melson: Does the town enter civil suits as in JP civil suits for monies owed? George: We can. C. Melson: I know it doesn’t reference that, but I’m just thinking we put a lien on a property but it doesn’t get you the money. You just sit there. George: If the taxes are due, then you can sell the property to get the money that you need. You can force a sale. Deanna: The rest are all exactly the same. They are in red because they were re-lettered. The annexation rules you just changed in this? George: Yes. C. Melson: What is F? Is it similar to the one we wanted to ask Mr. Brady about “all acts or parts of acts inconsistent or in conflict? What do they mean by acts? Acts of a person? George: I think it means privileges. **Mayor Post**: John is going to review the whole thing so... Deanna: And we gave him list specific of questions about things we had questions about. George: The green-lined edition that all of you should have a copy of. Julie had gone through and listened, and you have the minutes of the workshops. I talked to Debbie, about the annexation and jurisdictional, Sections 2 & 3, and that was wrong. She was thinking it was this Friday so I don’t have that. It will be forthcoming. All of the other changes that are in here, which are all the red lined, most of that is annexation until you get to Section 4. What I had her do is review the minutes and then do a green-lined version as to what was discussed at that workshop. At that workshop, everyone was kind of in agreement that it should go to 3 years. Now what I would like you to allow me to do, if you review this document and you disagree with anything in the green section, please let us know. And then, we already have set up for next Tuesday, we’ll go through this document and create a fresh draft of all the things we’ve discussed here and have 1 through 27 complete. If in fact at the time of that review, when that is done, we’ll come back and I can present it to you or I can just get you the draft and send it over to John to get him started on that. **Mayor Post**: Are you taking what we talked about? George: The green is what we discussed and what the changes should be. There are still some provisions that are hanging out there, along with what was discussed and any suggestions and they are the ones in green. **Mayor Post**: I don’t want to have to go through this again. I was hoping that it would be pooled and changed according to what was discussed. George: When the changes are made, do you just like a draft document and not have a meeting, and just review it and give any comments, then get it to Brady at the same time for his review and final blessing. We have the minutes to refer to so we will be using those also. **Mayor Post**: When do you plan on having this done? We are voting on this the first meeting in May. George: I will have the full draft document completed by May. **Mayor Post**: That’s fine. We have other meetings schedule every Wednesday in the month of April. So

therefore, can we just review the documents before the meeting and then if there are any questions or changes, we can at that point. C. Melson: What if I wanted to, like under Section 23, change or ask for a change with the one-mile limitation for the police department. I wasn't here. Do you want me to send that. George: Send me what your request is and I will... C. Harris: Sorry it can't change. C. Melson: Ok.

Adjournment: 7:50 p.m.

Respectfully Submitted,

Julie Powers
Executive Secretary