

**Milton Town Council Meeting**  
**Milton Theatre, 110 Union Street**  
**Thursday, May 15, 2008**  
**7:49 p.m.**

1. Call to Order – Mayor Don Post opened the Milton Town Council Meeting at 7:49 PM on May 15, 2008.
2. Moment of Silence – Councilwoman Betts. All rose for a moment of silence.
3. Pledge of Allegiance to the Flag was said by all in attendance.
4. Roll Call Vote:

C Martin-Brown	here
C Duby	here
C Hudson	here
C Prettyman	not present
C Abraham	not present
Vice Mayor Betts	here
Mayor Don Post	here
5. Additions or Corrections to the Agenda  
Are there any additions or corrections to the agenda? Vice Mayor Betts: I would like to add an addition, an emergency arose on Chandler Street by the park and I will be turning it over to our Town Manager, George Dickerson at the appropriate time. Mayor Post: We will put that under New Business, under d - Regarding the closing of Chandler Street. Can we have a Motion to accept the agenda, as amended? C Hudson: So moved. C Duby: Second. We have a motion and a second. All in favor. Motion carried.

1. Old Business

- a. Six Month Proposed Budget Review and possible vote to approve.

C Duby: made a motion to approve the six month budget as presented. C Hudson “For discussion I second it.”

Mayor Post: Any discussion? C Hudson: “I just have a couple of questions. Under interest income we were down over \$103,000 on page 2. Could you give me some explanation as to why? TM Dickerson: “CD interest rates went down.” C Hudson: “Okay so that was not anticipated that that was going to happen?” TM Dickerson: We went from receiving almost 5.95% with some of the older at 7%. When the CDs came up for renewal the best rate we could get was 4.5%. C Hudson: “We’re apparently using the entire surplus from the other departments to make up for that \$103,000 we lost in interest and the difference so I can understand doing that on the other hand in a nutshell we are balancing the overage of expenses of \$79,000

in Administrative by cutting \$83,500 from the town wide tax reassessment? TM Dickerson: “Yes, and the reason for that based on the presentation we will not have to pay for anything this fiscal year on the assessment.” C Hudson: “But that means we’re not rolling it over to next year so we have to come up with new money next year?” TM Dickerson: “When the new budget is prepared and the tax reassessment gets approval it will certainly be a budgeted item for next fiscal year 08-09.” C Hudson: “So what you are saying is next year we would have to have another discussion and another vote on whether or not we’re going to have the property assessment and then come up with the money all over again.” TM Dickerson: “Traditionally, in zero based government budget you do not have the privilege of carrying anything over to the following year.” C Duby: “My understanding is if we decide now before the end of this budget year to do the reassessment then when the budget is prepared the money for the reassessment will be put into the budget. We won’t have to have another discussion to do it.” Vice Mayor Betts: “When you revised the budget and each department was cut, did you talk to each department and explain to each department why you were cutting them? TM Dickerson: Departments were called in individually and then it was discussed where we were and where we needed to be, what cuts needed to be made, and they understood the cuts made.”

Roll call vote: C Martin-Brown approve; C Duby approve; C Hudson “No”  
Overspending in some areas and more cuts can be made; Vice Mayor Betts “Yes”; Mayor Don Post “Yes”. Motion carried.

## 7. New Business

- a. Town Manager Presentation – Analysis of building permit fees and transfer tax – George Dickerson: We have two developers that have asked for the Council to consider a review of building permit fees in the economic times that we are with the sale of homes. There is a building permit for them for the past three years, but Chestnut Properties, L.L.C., as well as Carey Communities, have asked for a review. I thought it would be in Council and the Public’s best interests to show this slide presentation so that it would give you an accurate picture of exactly a three-year window or look at what those fees look like; what we collect from them; and give you a better indication should you choose to move forward. The totals that are presented here with regard to building permits, and how they are established. We’ve done a comparison and our totals are based on a two-story, single family home. We figure that home will be 1,811 sq. ft. and this actually is one of the building permits, one of the averages that we actually pulled from records, this was the average construction cost reported from a developer with regard to what the cost to construct that home was. Town building permit costs: we put some towns on here so that you can see where we are with regard to what other towns cost. The figure in Camden for a building permit is \$4,265, that’s actually about 4% of the construction costs; Dewey Beach \$3,655, that’s actually 3% of the cost of construction; Fenwick Island was the same; Milton

you can see we are right there. These totals, the \$3,655 are 3% totals. You can see South Bethany is almost at 3%, it's just a minute figure to get to the 3%. Millville, that's their costs; Rehoboth, Lewes, Frankford and Laurel. We pulled from the fiscal year, that's actually October through September 2005-2006 and 2006-2007 and 2007-2008 (our current year). Where you see the blanks filled in here, the totals have not been plugged in for May. May is not out yet and you will see the total number from 2005-2006 of the building permits that were pulled were 210, at this point. As of today it was 101. You have springtime and summer coming, and that's when your construction months usually occur and that's where those are. The actual figure budgeted compared to what the overage is, overage indicates that we collected more than we budgeted, which is a good thing. Here is the amount budgeted and actually collected and there was an overage there. We are on track. Here's my opinion, you're not going to see this total, and you're not going to see a 200 unit figure based on the way building permits look when developments are coming in to pull them. Obviously it is a struggling economy, so the purpose of this presentation is to say within those months right there, I am optimistic that may reach 175. We are going to see some diminishing there and obviously for us to maintain real estate transfer tax, which is going to be the next slide that I show you, it's important for developments and for any Town to keep those developers building homes, because its good for the taxpayers, its good for the economy and it certainly helps offset and subsidize, as you just heard. You heard that property taxes that we collect against our \$3 million budget, is only \$656,000 in property taxes. We have to be creative in other fees. These are some of the other fees, as well as transfer tax. The General Assembly is talking about the transfer tax, which is 3% of the sales price. The Towns and Counties receive 1.5% of that total and those are significant numbers. The 2005-2006 bank records and statements of all accounts have been ordered because we can not find the old ones. Here's the budgeted amount yearly and you can see the yearly total of what was collected each year and you can see the overage that was collected. The first column is amount budgeted and it is \$500,000. If you look at 2006-2007 (the first thing I did and this was the first one I prepared), I wanted to get away from the need of the Town to depend on a tax that may go away. I didn't want to depend on that. I felt that was a bad idea, so we reduced that. The overage was over \$500,000, which seemed to make sense. For the current year, 2007-2008, you can see that we budgeted \$400,000 and we tried to pick an accurate figure and we're only \$70,000 from reaching that goal. During this process, we discovered that at Heritage Creek there was a recorder of deeds office and there was a miscue with regard to monies being appropriated there and they went to the County. We've got about \$95,000 coming from them that was due to the Town of Milton. Thanks to Mr. Brady he will take care of that for us. So that's going to be wiped out, not counting these months that are still in cue, with what is in the mill. What you will see, and these figures look healthy, you will see these numbers decline; you're going to see transfer tax go down because the number of homes that were in the mill to get us to these figures

will constantly climb. What is in the mill is what is producing these amounts for you and revenue that's coming in and you will see these numbers decline. We will not be nearly this healthy next year. How can we keep that transfer tax coming in? You must keep homes being built and sold. If you have any questions for me about those totals that I put there, this is a way of giving Council a good indication of what the market is doing right now, with the projection. All we have to do is go to the gas pump and we can all experience prices going up everywhere. For us to be healthy, for the Town to keep growing, we need to keep the developers building on those sub-divisions that have been approved.

- b. Request for reduction in building permit fees from Chestnut Properties, L.L.C. and Carey Communities, Inc. – George Dickerson: With that, we have a representative from Chestnut Properties, Blake Thompson and they are the developers of Cannery Village. Blake Thompson: I'm here on behalf of my two partners, Pret Dyer and Joe Reed, who were unable to attend this meeting. Basically, you have a copy of our letter. We thank Mr. Dickerson for making this study of the other municipalities and certainly the revenue that is generated from building permits and also from transfer taxes and we concur with him on the fact that we must keep building if you are going to collect transfer taxes. Right now, the market is very soft, it is price driven, we're not selling the number of homes that we had projected, nor are we selling them at the prices we had hoped for. We actually had two requests in our letter: the first was for you to make this study and to consider maybe adjusting your building permit fee schedule from 3% to possibly down to 1.5%, which is more in line with the average of most of the municipalities in our region. Ultimately, the home buyer pays the permit fee, so any savings that is generated is savings to the home buyer, which is another enticement for them to buy a home in Milton vs. one of the other municipalities. Our second request, which was not mentioned, but we also wanted you to review, concerns your standards for road construction. We believe that the standards that you ask developers to build your roads, are probably over specified and we would like you to perhaps consider moving more in line with what DelDot accepts as a standard which would also help with savings in the road construction costs. While we haven't finished the roads in our present phase of Cannery Village, and obviously if you were to make a change, we would not change what we are already doing. Possibly, in future phases or other developments we would do anything we can for cost savings that we could pass on to the home buyer. If you have any questions of me, I will try to answer them. Mayor Post: I want to say about the road issue that we need our Engineer here regarding that. I know it's a difference between the road lasting 30-years vs. 20-years. We would need our Engineer to comment on that. That would be a different story, on a difference night. Thank you. C Hudson: In talking about the transfer taxes as a cost to the consumer, it is my understanding that when the transfer tax is paid by the consumer, that is tax deductible in their personal computations. Blake Thompson: When they sell

their home, not until they sell their home. It goes into their tax basis. C Hudson: Right. Blake Thompson: As does the building permit. Mayor Post: This isn't about anything reducing transfer taxes. This is strictly the issue of building permits. C Hudson: Okay. Mayor Post: The philosophy is that we do know the situation of the building market currently. I think if this was two years ago, for me I wouldn't entertain an issue like this. With the market going like it has, and it's only going to get worse, I don't think it will get better for a few years, so we're talking about if properties don't sell, we don't have transfer tax. If we don't have transfer tax, we've lost one of our biggest revenues that come in, besides real estate taxes. The future would be even worse if you ended up with the developments, such as any of these that are currently going on in town, going bankrupt. Blake Thompson: Like the ones on Route 88. Mayor Post: It's happened already. You see the one on Route 88, Vincent Overlook, has been in bankruptcy and has been foreclosed, so you have those things that are happening now. That's reality now and that's what we are talking about tonight. It has nothing to do with the transfer tax. We do not want builders to cut corners to save money. We have to survive. We're a business as well. There's a time when you have to work together to try to make things work in the bad times. Right now we're in the bad times. C Hudson: I would like to address this question to Mr. John Brady. Mr. Brady this says it is a request for reduction in building permit fees from Chestnut Properties. What happens if you grant this to one developer and not to others? John Brady, Town Solicitor: That would violate due process. It would have to be across the board and would have to be given to everybody. Mr. Mayor, Mr. Dickerson indicated there was an issue at the Recorder of Deeds. Since I'm also the Recorder of Deeds, let me explain what happened. A real estate attorney files the affidavits when a house is sold and an attorney filed one and indicated that the property conveyed was outside the town limits of Milton. That was a mistake; it was in the town limits of Milton. When it was researched, we found it so that paperwork was returned to the attorney to have it resubmitted so the deed could be properly marked. In February of 2007 I noticed that we were doing that about six times a month, because there were issues. People just could not find Bridgeville and kept saying it was in Milford. I knew there was a difference. I put a policy in effect last May, which was May 2007, that they had to get a printout from the tax map and the ID# to make sure that it matched the town they said, or the county. We haven't had that problem since May of 2007. The settlement in question was in October of 2006. I expect you'll have about a \$90,000 check from the County in the next two weeks. Mayor Post: And back to your question C Hudson, I do also want to say that this letter was the one that was in writing, but the request also came from Preston Schell, who is now the developer of Heritage Creek, which used to be David Carey's project, but verbally he had contacted the Town as well with his concerns. They have started to build out there now that the property has changed hands. C Hudson: I'm not trying to beat a dead horse, I'm really not. At one time I asked you about the \$8,000 per acre annexation fee and the \$8,000 per acre sewer fees and you charged

them when you still had the intent of running our own sewer plant. What happens if we give them a reduction on the building permit fees and then they should come back on us and ask for a reduction in or a refund on their sewer impact fees and annexation fees, because we sold our sewer plant? John Brady: The way I interpreted it is, the contract with Tidewater for the sewer plant set out the fees in it that would be collected and we assigned those fees and transferred those collected fees to Tidewater as I understand it last July, either late June or early July. There would not be a claim against the town for the sewer fees. The annexation fee is wholly an issue for the Council. If the Council were to change the annexation fee that would have to be done with proper notice and the notice on tonight's agenda would be deemed insufficient to vote on that issue tonight, but with proper notice that would be something that could be discussed and Council could take it up. But the issue tonight was on the building fees and that's the only issue that, technically, could be discussed tonight by Council, because that's the only issue for which notice was given. That's not deemed an emergency which could have been amended at the time of the meeting tonight nor posted six hours in advance, based on a most recent opinion of the Attorney General's office. Say, for example, that we had storm damage from Monday, then we could have posted something if we had to deal with that issue for this meeting, Thursday, but the annexation fees are something that would have to be posted with at least seven days notice for an upcoming hearing. Vice Mayor Betts: That is not an issue now. John Brady: It's not in front of Council now. I was just answering the question. C Hudson: Suppose we grant them the reduction in building permit fees, is there a possibility that they could still perhaps file a lawsuit or request a refund on the annexation fee and then they would end up getting a reduction in both? John Brady: The answer is yes, they could file a lawsuit, because anybody can file a lawsuit. Would they be successful on the merits of the lawsuit, would be a different story. If, as the Town had a proper basis for the adoption of the annexation fee, and has followed a consistency, it would probably be unlikely that they would get that relief. They would be told by the Court that is not an area which we normally go in, unless it was deemed to be arbitrary or capricious, and that issue has come up before in talking about how you got to the point of raising the annexation fee. They could write a letter next week and say would you consider reducing the annexation fee? And, Council could discuss that upon proper notice. C Hudson: Thank you. Mayor Post: The only thing in front of us is the issue of reducing building permit fees from 3% to the request of 1.5%. Vice Mayor Betts: I would like to make a motion to reduce the building fees from 3% to 1.5%. C DUBY: Let me just explain why I'm not seconding it. I would like for us to have a little more time to look at this. I would like to have some discussion or some more information about the impact of this reduction. I absolutely understand and agree with the proposition that if they aren't selling houses we will have a reduction in revenue. This is also a reduction in revenue. At the same time, according to Mr. Dickerson's figures and his own estimate, which I think is probably accurate, that we're going to have fewer building permits and I guess

I would just like a little bit more information about this impact on our overall revenue with the 1.5% reduction before I'm prepared to vote on this. That's why I'm not seconding it. Mayor Post: If we talk about why we're not seconding it then we will be discussing something that has not been seconded. Do you want to amend your motion to table this until the next meeting in June? Vice Mayor Betts: I will withdraw my motion to table it until the next meeting. Mayor Post: Can we have a second on tabling it until June so we can discuss the tabling of this motion? C Duby: Second. Mayor Post: We have a motion and a second. Whichever Council people want to contact Mr. Dickerson for specific information, all I'm going to say is we have a long haul in front of us in these next several years. If department heads are complaining now, this will get worse when other cuts, they have not seen, will bring more complaints. There will be lean times ahead, everywhere; Milton, DE is no different. The State has to cut \$300,000,000+, so look at the bright side. Transfer tax based on full value of losing that which is 1.5% vs. 1.5% of \$125,000 is a lot less. I think it is a little premature to start seeing a drop off in transfer taxes, but we certainly should take a look at certain developments where there is very little building. I think Wagamon's building has been very slow in the one portion of the site. Cannery is still selling. I think its still moving out there, but it has slowed down as well. If someone wants a closer look at the last two months, I'm sure Mr. Dickerson or somebody that he can assign that project to, would be happy to answer your questions. C Hudson: Just a couple of questions. If we've tabled it, is it possible, Mr. Brady, to ask a couple of questions or does that have to shutdown? Mayor Post: We're discussing the tabling. C Martin-Brown: To go to C Duby's remarks, I think it would be helpful if we saw two scenarios. What would we have to cut from the Town administrative cost, in staff, if we froze it at its current level over the next two years, if we cut it to 2% and if we held constant, the town budget and staff for the next two years and cut it 1.5%? The reason I'm asking that is many of us at the Federal level have had to give scenarios at to what services we would lose, or the country would lose, if the income was reduced by X or Y, so we had a couple of benchmarks. I would like to see some of the indications if we drop this rate to 2%, as opposed to 1.5%. That's why I'm glad it's being tabled, because I think there needs to be some filling in of the information gaps. Thank you, Mr. Mayor. Mayor Post: So, we have a motion and a second for tabling.

Roll Call Vote:	C Martin-Brown	table
	C Duby	table
	C Hudson	table
	Vice Mayor Betts	table
	Mayor Don Post	table

Motion carried.

c. Discussion and possible vote to change Business License fees. Mayor Post: I think it's not as much to change, as it is to clarify this issue. I'm going to turn this over to Vice Mayor Betts. Vice Mayor Betts: I do not think this is a change. I think there was a mistake made and it was voted on and then the license went out with something else included. I think it was only a mistake and I think it should be corrected. It says, large merchant retailer, over 1,000 sq. ft. \$150 for up to 3,000 sq. ft., plus \$50 per additional 1,000 sq. ft. In the minutes, John Brady stated, "...the issue, however, all the business licenses expired December, 2007. Do we have many merchants that are between 1,000 and 2,000 sq. ft.? Let me try and be practical. I'm guessing that we have no more than 10 large merchants in the town, so I think the compromise is out there. If you do a flat fee for retailers, it's just a two-tier approach of how you step the retailers. Do you want to do it 1,000 sq. ft. or less, as one price and over 1,000 sq. ft. the second price? That is easier to justify than having a line at 2,999 sq. ft., because the lumberyard may take all their inventory out on January 1<sup>st</sup> and you make sure the retail area is under the 2,999 sq. ft. and then they're above the rest. But if you go at \$100 per 1,000 sq. ft. and if it's greater than 1,000 sq. ft., it's \$150. Then, I think, you've done what you wanted. C Duby: So that's \$100 for less than 1,000 and \$150 for greater than 1,000 and I move to adopt the fee schedule as amended. C Martin-Brown: Second. Mayor Post: We have a motion and second to accept the fee schedule. Everyone voted yes." So, I think we have to change it back to what we voted on. That has to be done. Mayor Post: You're exactly right. I think there was just some confusion because we went back and forth on this one specific issue and somehow it never got changed. I thought we were just merging it to be general service merchant retailer. Now we still have small merchant retailer and large merchant retailer, but I thought we were keeping in under general service merchant retailer, one up to 1,000 sq. ft. up to \$100 and the other \$150 above 1,000 sq. ft. I think we needed to bring it to the attention for clarification. C Duby: It needs to have action if it's on this list incorrectly. Vice Mayor Betts: It has to be corrected. Mayor Post: It needs action within, but we don't need to make a motion, because we've already voted. Mayor Post: This was just for clarification, because there has been a little bit of confusion on this issue and we wanted to clear this issue up. Just so everyone is on the same page. C Duby: The word "large" is going to come off. Mayor Post: Yes, well really you could just merge the two. C Duby: There is no "small" anymore. Mayor Post: Yeah, it is. It's up there under general service small merchant retailer. Just merge it all under merchant retailer. Vice Mayor Betts: Some have paid this and it has to be refunded. Mayor Post: Yes. C Martin-Brown: So the antique **law?????** would be \$150, because it's over 1,000 sq. ft. We're making a clerical error correction. Vice Mayor Betts: Then everyone will know it was just a mistake. Mayor Post: There was so much discussion on this subject, it just got cloudy. Vice Mayor Betts: I would like everyone to know that we're sorry for the confusion. It happened and we hope it will not happen again. It will be taken care of within the office.

- d. Closing of Chandler Street for Horseshoe Crab Festival May 24<sup>th</sup> and 25<sup>th</sup>.  
George Dickerson: Since the recent nor'easter storm that came in, obviously anyone that had been by the parks noted that it was totally flooded. We had the new sidewalk, Governor's Walk, that had been put in there with the bricks. Ellen Passman called me today and we have debated several scenarios, if you will, as to how to best handle this because we can't have people driving over the new bricks that have been laid, as well as the saturation level that the park has right now. We're supposed to get another 1" of rain tomorrow and into the first part of next week, rain also, and even the long range forecast for the following weekend is also calling for rain. So Ellen and I talked about that as to how to best do that. The proposal that Ellen and I discussed was coming off Chandler Street and going behind the Library and in that circle, is that she was concerned with the food vendors. She would like to line the food vendors around the outside. We have to keep that open because the State has a boat launch there and if some fisherman decides that he wants to fish during the event, and launch a boat down there, we have to keep access open. We're going to block off the front and it is going to be controlled by our maintenance department, letting people in and out. The four spaces that are behind the Library we will attempt to leave them open, so that Library staff can get in there, should they choose to. I discussed this with Ellen and we came to a compromise that that was the best way to do this so that we didn't have vehicles going over the new Governor's Walk. In fact, even the unloading of vendors that are going to be setting up in the park out on the grounds themselves, will have to pull into the boat ramp launch area and they will have to hoof it over to wherever they are going and set up their equipment. This is just an unusual occurrence. Who knew there was going to be a flood? Alan and his crew, at the request of the Garden Club, have just dug out there and had to find a place to put a new water line out near the Lion's Club hose bib so that the flowers could be watered at their request and we had to find a former employee that worked here years ago to try to find the line. Anyone that pulls in there right now, first of all is going to damage the bricks going across the new Governor's Walk that's been laid there. There are ramps that go across there, but any of the trailers, with any weight at all, we're afraid they will become stuck and it will create more of a mess than it is worth. She agreed with that and the request is for permission to close Chandler Street where it enters into the boat ramp for the Horseshoe Crab event. C Martin-Brown: Mr. Town Manager there needs to be an arrangement that also accommodates that dynamic on Thursday. Vice Mayor Betts: I move that we close Chandler Street per Mr. Dickerson's presentation. C Martin-Brown: Second. Mayor Post: We have a motion and a second. Any discussion. C Martin-Brown: I would like to amend the motion to note that Ms. Passman's tents' are being delivered on Thursday morning or afternoon and there will be some big trucks that have to get in by the boat ramp to avoid driving on any of the park because of the squishiness of it, to put up the tents for the Horseshoe Crab Festival. Mayor Post: We don't need to add that to the motion, that's

just a logistics issue. We're not closing the street on Thursday too. Someone will have to go down there to make sure that's not an issue. We have a motion and a second. All in favor. Motion carried.

8. Adjournment: C Martin-Brown: Mr. Mayor, I move we adjourn. C Duby: Second. All in favor. Motion carried. Meeting adjourned at 8:41 p.m.