

**MILTON TOWN COUNCIL MEETING
MILTON THEATRE, 110 UNION STREET
TUESDAY, SEPTEMBER 4, 2007
7:00 PM**

PUBLIC HEARING

Mayor Post called the meeting to order at 7:01PM on Tuesday, September 4, 2007.

Mayor Post called roll:

Present: C Brown
 C Duby
 C Hudson
 C Prettyman
 C Betts
 C Abraham
 Mayor Post

Bernard C & Doris O. White requesting the annexation of 136' x 41' parcel of land located at 110 Ellendale Road further identified by Sussex County Tax Map and Parcel #2-35-14.15-66.00. Applicants and representatives present.

Mayor Post: Any questions or comments from the audience or Council?

C Prettyman: I did speak to the neighbors and no one has any complaint about the annexation.

C Brown: I want to make sure the paperwork is correct and that this will be done commercial when it comes in, but that's not the request of the applicants, it's required because where it is.

John Brady: The current zoning in the County is not what our development plan has that area for. In order to keep in compliance with the comprehensive plan that's on file with the office of State Planning it has to be annexed in a certain designation. That designation where it's coming in tonight according to the paperwork from the Annexation Committee is to have it come in as commercial because that's what that area of the comprehensive plan has that area shaded. The existing residential use is what is being designated by the applicants. They want to maintain that use and as the paperwork indicates the main purpose is because the septic system there is failing and they wish to connect into the Town's services.

Mayor Post: Any other questions regarding this application?

The Public Hearing on this item was closed at 7:06 PM

The second public hearing was reopened at 7:06 PM on Tuesday, September 4, 2007

The applicant, Sue Raley, is requesting the annexation of 9.75 +/- acres of land located on Bay Avenue further identified by Sussex County Tax Map and Parcel #2-35-14.16-04.00. Applicant and representative present

Mayor Post: Any questions or comments?

Lynn Ekelund, 406 Union: Are the applicants going to tell us how they're going to be using this property?

John Hall, applicant representative: The plan at this property is to mirror Conwell's Development. Part of the property is already in the Town, we're asking for all 9.75 acres to be annexed. We're trying to provide affordable housing for people in Sussex County.

C Hudson: If it mirror's Conwell are you putting in single family homes?

John Hall: Yes, that is the intent. We started this process June 6, 2005. We are intending to ask for in the subdivision process a change in zoning, so we can provide the smaller lot size, just like Conwell. Obviously, we want to hook up to the Town's septic and water.

C Brown: Could you give us an idea as to the size and price of the houses?

John Hall: It would be impossible for me to tell you the cost of anything at this point until you tell me. The sizes of the lots are 60' x 100'. The sizes of the lots in Conwell are 50' x 100'.

C Brown: Will this be a Home Owners Association arrangement?

John Hall: Yes. We would like and are going retain architectural approval. In this subdivision we would like to keep the architecture Sussex County.

Mayor Post: So are you planning on blending that fairly well into Conwell Development?

John Hall: Yes, that is the intent.

Mayor Post: Are you thinking when designing the streets would there be connecting streets to existing streets:

John Hall: I have a conceptual plan here. The streets are such that we could extend it.

C Brown: I have another question. The way you have it designed, I don't see any walls or gates, it just flows are part of the town.

John Hall: The way Conwell's been there, it seems like a very content community. We didn't plan any walls or anything like that.

C Hudson: And there won't be any condos or townhouses?

John Hall: Not on this piece of property. Our intent is to do single family affordable lots.

Mayor Post: Any other questions?

The Public Hearing was closed at 7:13 PM

The Public participation was opened at 7:13 PM on Tuesday, September 4, 2007

Katharine Greig, 326 Union St representing the Milton Garden Club. The Summer plantings are holding their own. We will be replacing them with Fall plantings the first week in October. The big news tonight is during the Garden Tour a lady from the PA Horticultural Society came and visited and went on the tour and she was so impressed with the 20 gardens in a three block radius that she went back and recommended that we get a award. She found out that she couldn't give it to Union Street because they were private gardens. But she came back the following Saturday and we went around for 1-1/2 hours and she took pictures of the Town gardens that the Garden Club takes care of and all the planters and I get a letter today saying we had won 2007 Community Greening Award. We're very proud of that and will definitely be using in our advertising. There's a reception on Sunday, November 11, in Philadelphia and she's inviting anyone from the Garden Club, the Town Council, because certainly you have a part in this because you give us money for taking care of it. We will be getting our award at that time and if anybody in the community wants to go you are a part of it too. You come on tours, give

us your gardens to show, buy raffle tickets, etc. You need to let me know. I do have to reserve a certain number of spaces. As a reception, I'm sure there will be food.

Jim Welu, 30231 E. Mill Run, my understanding in the Town Budget that there is a number of allocations of funds to the community groups which are doing a lot of good stuff in the town, but it is my understanding that there were no funds for the Milton Historical Society. I think it's really important because of the nature of our community and all the things were said over the last couple of years that the historic significance of this Town is one of the many things that draw people, both to live here and to visits. A minimum amount of \$5,000 ought to be given to the Historical Society. I'd actually recommend \$10,000 because it is so important for this community. In addition to that, the historic district is here primarily to help preserve the buildings that we have in the historic district, they not be destroyed or significantly altered. We want to keep the bones of those structures safe and sound for the coming generations. I think equally important in this community is our residential neighborhoods. And that we keep our residential neighborhoods residential.

Getting on to the item of Dr. Howard's request conditional use of a residential property, I think that's equally significant in this community that we keep that residential, not commercial. I think, it's a more sacred thing around the US of keeping our residential communities, residential. I think as significant is keeping our historical districts historical. I request the Council, to those who voted two months ago, to reconsider their vote. I think area of Union St is getting very, very fragile. We lost the funeral home which was a residence, although I think it was zoned commercial, but it was still a residence and it's gone.

I think the major alterations that are planned for the Brittingham Howard residence, I think will have a very negative affect on that end of Union St. We really ought to think. It's not an historical property; in fact one of the people that commented at the meeting said it doesn't have great historic significance. No but it has residential significance. To keep it residential is very important.

Mary Hudson, Chairman of the Health and Environmental Committee & Town Council Member

I wanted to take this time to introduce members of our neighborhood watch now as a courtesy. Mike Mc Namara, Shipbuilders; Carey Davis, Union St; Tina Thoroughgood, Conwell St; Diane Jefferson, Chestnut St; Norma Kraus, Wagamon West Shores; Roger Thompson, Cannery Village. These people have come forward to be the leaders in our neighborhood watch.

Michael Mc Namara, 106 Sailor Lane – I think the Town needs to hire more police officers. With the upcoming projected growth I think it would be a prudent move. As liaison for the Milton neighborhood watch, we're up and running, we've ordered signs and will post around the town, and we need volunteers. We need people to come out and get involved. I think they'll find it very enjoyable.

Melinda Huff, Executive Director, Milton Historical Society – Thank you for the support given to us throughout the year. I want to announce a few things we have coming up and

hopefully you can join us. On September 15 we're having our auction and garden party which is a great time and good cause for Historical Society; it's our largest fundraiser of the year. It's crucial that we raise these funds in order to continue to operate. I also want to announce several free events that are coming up. On October 5 we have lecture, which is the kick off to our lecture series, with Dr. Cara Bloom, who is going to speak on the indigenous people of the Milton and Broadkill area. We have a walking tour coming up on October 6. The walking tours have been extremely successful and we've had a number of people from outside the area come to learn about our wonderful town. Finally, Governor's Day on October 13 which at that time we will dedicate another historical marker and we will also bury the time capsule for the 200th Anniversary.

The reason I'm here tonight, just briefly, is to address the Council and the follow up on a letter I sent asking for funding. As Mr. Welu suggested, we would very much appreciate \$5,000 to be included in the budget for the Milton Historical Society. We draw a number of visitors. In fact, since our reopening in April 2006 we've brought in 6000 visitors to the Town. We direct them to Town businesses, restaurants' and eateries. We're not only here for educating the public, but we also participate in the business of the Town. I also want to point out on Town wide festival days, including the Horseshoe Crab Festival, the Town yard sale, the 200th Anniversary. We are open free to the public, which cuts down on our income significantly. We feel that is a reason to be open so we can welcome people to our graciously. It does cut down on our income. As I mentioned, our walking tours have been very popular, but we also have a self-guided tour that will take you around the town. I hope that if you haven't picked up a copy that you will. It's a wonderful way to get to know the historic areas of our town. Finally, in the last year, we have welcomed over 100 Milton Elementary School children and we're piloting a project with Barbara Mc Donald, a teacher at HOB, entitled "Learning with Objects". This is something we want to continue doing to help to educate our youth. They have a Delaware History component, but not a local history component, so I think that's very important. Again, I would hope that you all would consider our request for funding, because of our importance to the Town and what we provide as an asset to the community.

Lynn Ekelund, 406 Union St – I have two questions relating to the 2008 budget. First, concerns account 5801 under Administrative Expenses, which is Town Hall Renovations, \$100,000. I know during the Workshop a question was asked "Why do we need to spend \$100,000 to renovate the Town Hall we purchased last year for \$750,000?" The answer to that question that I heard was that some citizen had made a complaint to the Fire Marshall and that \$100,000 was needed to bring the building into compliance. I'd just like to read an email dated today from Dale W. McGee, (Woody) Fire Marshall, to Councilwoman Mary Hudson.

"Mary this originally started as a complaint from an anonymous person. The original complaint was that the Town was conducting meetings on the second floor, causing overcrowding and egress existing was a concern. There was also an indication that plans had not been submitted to this office. I can say that the structure was an office on the first floor with apartments on the second prior to the Town taking over. When I checked the structure on January 12, 2007, I was told by Mr. Dickerson that it was being entirely as an office space and all three floors were being utilized. Mr. Dickerson told me that he

did not know that the Town had to submit plans to the State Fire Marshall. When the building plans are submitted the Office of State Fire Marshall, Technical Services, will answer any fire related issues pertaining to the building. They will determine if exit egress is proper for all floors. I cannot say why they are spending \$100,000 on renovations. As of the date of this email which was this morning. We have not received plan submittals from the Town of Milton.”

Again, I'd just like to know why we're spending \$100,000 to renovate that building.

My second questions concerns account number 5804 under Police Expenses, much on the same topic, Business Renovations, \$50,000. What are we spending the \$50,000 to renovate the police building, has this construction started, by what company and did we go out to bid?

Mayor Post: Yes, it did go out to bid. The Chief has been excellent with that. Everything he's being doing has been going out to bid. He has a terrific down there with the renovations. If you look at the roof it's almost barren. There approx 150 shingles that have blown off the roof. These are much needed repairs. Also, for the safety of the clerk that worked in there, it is now totally secure. You walk into an enclosed vestibule; you have to be buzzed to get in. And, yes he puts all his work out to bid. It was appropriated last year \$50,000 and the same way in this budget of \$50,000. I am going to address some of this with the Fire Marshall to an extent. It was private citizen who has filed numerous complaints between the Attorney General's office, FOIA request, etc. It almost can become a point of harassment. Today, Mr. McGee acted totally out of line, came into the Town Hall to arrest myself and the Town Manager. Believe me he's going to be in big trouble over this. He had no approval from the State Fire Marshall to take any action, like he did today. He's got a lot explaining to do. I understand that this gentleman is Mary Hudson's brother-in-law. I think that's very interesting as well. When we purchased that property, and I've been dealing with the State Fire Marshall, and now I think the Town Solicitor will start act a little more quickly regarding this issue, because about four months ago I wrote a strong letter to the State Fire Marshall, which was currently having problems of his own and had been removed from office, which I did not know, which is why he had not responded and it took several months, because he was dealing with some of his own major issues as State Fire Marshall. I also sent that letter to the Attorney General's office, Lt. Governor. We have still not got resolution on this issue. The property was not residential. It has never been residential. The fact is that I know it was a different situation because it was Tom Draper's son-in-law that had leased the entire building. The last time I know he did not take residency up on that property. He had numerous businesses there. One floor was subleased to a real estate office held by Pret Dyer who is a business associate, I believe, with Mr. Draper and some of the other developers. Also, there was Pret Dyers own office. Colby Cox took one or two offices for his business. He rented it to another gentleman who had a business. So the last time I recall there were four offices. As far as I'm concerned, we have reduced the threat of fire. According to them, there were two apartments where it went to one single building. It is no longer four offices with four individuals operating in different ways, all nights of the hours. Now it's strictly day office work. This is a serious issue. If we have to move forward, we estimate in the budget \$100,000, because we need to address this issue. I am planning to call the State Fire Marshall to task on this issue because I think it

has to do with certain people who have fire connections in Sussex County. Because it was the Fire Marshall who did state the name of who filed the complaint. In fact today he said it in front of all employees who filed the complaint. He said in front numerous employees he was there to arrest myself and the Town Manager. Not under the authority of the Fire Marshall office. So it must have been under his authority. We certainly will be addressing this. Mr. Brady will be diligently working on this issue now. I've been trying to have it addressed for 4-5 months, it's not been addressed, and I want it addressed.

Lynn Ekelund – They've been waiting since January for site plans and my question was how did we come up with the \$100,000 figure.

Mayor Post: It's an estimate which will have to be put out to bid. You always work from estimated.

C Hudson: Mr. Dickerson can you give us any indication? I believe this question was raised in our Workshop. I sort of got a non-answer to it. What are you going to do with the \$100,000? Are you going to submit plans to the Fire Marshall?

George Dickerson: We don't have all the facts yet. I'll try to explain when the budget section comes up.

C Hudson: By the way, the fact that Dale McGee is my ex brother-in-law, until recently I have had no communication with him since his divorce from my ex sister-in-law several years ago. I just want to put that into the record. It's a small County and a lot of people are related to a lot of people. This has nothing to do with my concern about the safety of our citizens and our staff in the Town Hall. Thank goodness we have not had an incident or accident or fire in the Town Hall.

Mayor Post: Mary, the old Town Hall which held meetings all the time didn't even have a light switch that worked. You had to turn it on at the circuit breaker.

C Hudson: As an elected Town Councilwoman, this is more of a concern now especially since I'll be voting on the budget that includes the \$100,000 for this renovation. My concern is the current Town Hall.

John Collier, 301 Coulter Street: I have concerns after reviewing the budget. My concerns only relate to certain lines and items. The basis for my concern is the increase over the previous year. Under the Administrative expense would be lines 5220, 5280, 5240, 5430 and 5470. Since Mr. Dickerson said he's going to do a presentation, I imagine, he will address those at that time. Who are you investing with because if you can get 97% in interest income I want to deal with them too.

Mayor Post: Do you understand that it's \$4,000,000 that's is being invested.

John Collier: That may very well be. I just saw 97% increase over the previous year and no basis for what generates that amount of money. Under the Police Budget there was one line item that was 100% greater than last year. That was line 5180. In revenues you

show a projected increase of 236% in fines. Through 8/31 only 20% of that amount had been collected in '07. So, I imagine the police are planning are getting pretty aggressive. Ok Code there were two areas where they were 100% or more increase in lines and that was 5110 and 5480. Under Parks, you show Capital Expenditure \$5,000 for the John Milton Statue. I thought that was a project of the Milton Community Founding? Should that not be considered a donation and not a capital expenditure? I can't imagine why we would want to own 10% of a \$50,000 statue.

Mayor Post: We own 100% of the \$50,000 statue.

John Collier: Well, once it's gifted yes you're correct.

Mayor Post: It's already being built on Town property, it's not being gifted.

John Collier: If I may continue with my three minutes? In Water you had increases of 100% in line 5440, 5470, 5480 and 5490. Revenues as a total we're down 20%. On what I call the wish list in the section that's Optional Expenses, I noticed that they're looking at purchasing 8 AR15 long guns. I can't imagine why this community needs 8 AR15 long guns. For those who don't realize what they are, it's a civilian version of an M16. I don't know why we need 8 assault rifles. The last time I looked it wasn't that much danger in this Town. On the Repair and Upgrade to the Park, I'm not sure how that's going to be expended but I would hope the Town would consider hiring a professional to design and phase-in the improvements so that we get a very good product for our money.

Mayor Post: The professional has already been hired and it will be put out to bid.

John Collier: Finally, under the assets, I did not see any materials as called for in the Charter, as part of the budget. It also appears there may be some assets missing. I might be mistaken, but the first one that jumped out at my attention was weapons under the Police Dept. I can only find 7 weapons on the asset list. One of which was purchased in 1958. I believe and I may be wrong, the Chief can correct me, the Town provides a weapon for every officer. Is that not correct chief? I'm sorry Mr. Dickerson would you speak up please.

Mr. Dickerson: You're wrong in your assumption, that's where you're wrong. I'll explain that in my budget section.

John Collier: That's very well. That's why I'm standing here asking the questions? Thank you very much.

James Crellin, 224 Sundance Lane: I'm here representing the residents of Cannery Village who are very interested in knowing when the Community building and pool will be completed. It is our understanding the settlement attorney made a minor mistake on the plot that was recorded after the settlement of the November 2004 purchase by Chestnut Properties from Tom Draper of Phases IIA, B, C; IIIA, B and IV. The error included two small parcels totaling $\frac{3}{4}$ of an acre adjacent to Phase IC retained by Draper. The two parcel which were to have been included in Phase IIC purchased by Chestnut Properties. A corrected plot was filed by the settlement attorney January 20, 2006.

Irrespective of which phase the parcels are located they are part of the Cannery Village LPD. The corrected plot was signed by the former Mayor, the former Town Manager and Mr. Draper. Further, it is our understanding that several Council members were not satisfied with the procedures by which the corrected plot was executed. Revised site plans were submitted for Phase IIB and C to the Town of Milton which included the additions of commercial parcels in Phase IIC. A Public Hearing was held by Town Council on December 4, 2006. At that time the Community building was to be included in Phase IIB. It was at that meeting that accusations of fraud were made and a recommendation made to defer the decision on the plan. Again, when will the plans for Phase IIB & IIC be heard by Council. The residents and voters of Cannery Village want the Community bldg and pool to be operating by June 2008.

Mayor Post: I'm not happy about how I've been instructed by the attorney to say that it's in litigation. I have offered to have a meeting with the residents of Cannery Village. I am going to talk in the Executive Session with our attorney because I do not agree with him. I have seen the letter that went out the residents of Cannery Village and this is a very in-depth issue, a very serious issue. It's been under strong investigation. I would say contact the Attorney General's office. It's public knowledge. It was in the Cape Gazette. All I can say as Mayor, I'm concerned about the safety of everyone in this Town. And I'm concerned about the safety of the people in Cannery Village as well. I would also advise you, it's on the DNREC website, review the DNREC report out there of the land that it's in question. Its public information, it's about 70 pages long. We're going to make sure that when we do this it is not going to be done that's detrimental to the future of anybody living in the Town or for the Town itself. It's public information. I'm not stating anything. I know he's going to yell at me in Executive Session. I say it as it is. I believe in being upfront with people. It is in litigation. We have our facts. We're prepared to go to court. We'll go from there. If he wants to say anything else he can say something else.

?????????? The Attorney Generals office was down here two month's ago. Have they not made a decision and contacted you guys.

Mayor Post: They have been in constant contact. I can sit up here saying I've never spoke to the Attorney General's office. They have never contacted me. It's through the Police Dept and the people that have been **talked** to. As far as I know it has been ongoing since. The most recent email was a week ago. So it is ongoing.

??????? I talked to the Attorney Generals office and they said there is no action.

Mayor Post: Well then you talked to the wrong person. Our clerk said today they even talked to the Town. Whoever you talked to is the incorrect individual up there.

John Brady: Investigator Clifton 577-8500.

Mayor Post: We have an email. I've had numerous people from Cannery Village talking to me and I do know that there was a meeting called at Cannery Village the other day. I do know that the developer was there. I feel it was very one-sided. Sadly enough the people at Cannery Village have only heard one side. With us it does tie our hands at

times. They've made it into a litigation issue which possibly because they want to tie our hands to a point. I understand it 100%. They have an approved Clubhouse 2004, the plan with approved. So if they want to build it from the site plan of 2004 they can until the other issues are resolved. They are some very serious issues that need to be resolved.

Wendy Huran, 304 Brickley, Cannery Village – The plan, I've tried to find this out. Was the building and design approved or just the plan to have a pool there? Can anybody tell me?

John Brady: There's been no specific building plan submitted per se for the design of a building.

Wendy Huran: That's what I wanted to know. So the plan hasn't been approved only the site? There will be a pool.

Mayor Post: The Clubhouse was in the 2004 site plan.

John Brady: They had it marked on the plan a location of a Clubhouse with a location of a pool.

Wendy Huran: But not the design of the building.

John Brady: Not the design.

Wendy Huran: That's what I wanted to know.

John Brady: I gave you the general office number at the Attorney General. Investigator Clifton's direct dial number is 577-8155. As the Mayor referenced this matter is currently in litigation. Our answer is due next Thursday. After that it will go in the normal course of scheduling. The judge assigned is Judge E. Scott Bradley in Superior Court in Sussex County. It will probably be set for a motion hearing sometime in October. When the answer is filed, that is a public document. The complaint is a public document also. I think many of you have seen a copy of the complaint by now. When my answer for the Town is filed in the Court it will become public and it will be on the Town website at that point. Until that is filed there is no further information I can share with except your request for Investigator Clifton's name and phone number. He is the person who has contacted me about 5 times in the last month.

Roger Thompson, 206 Grismill Dr., Cannery Village: Where can we get this land report from DNREC?

John Brady: The general DNREC website is at www.delaware.gov. Then on the left hand column on the state web page it has Agencies. Click on DNREC. They do have a searchable database for reports on the left hand side of front page of the DNREC website.

George Dickerson: Sir you'll be looking for the January 2006 report which is the final remedial action.

Mayor Post closed the public participation of the meeting at 7:50 PM.

Mayor Post opened the Town Council Meeting at 7:50 PM, Tuesday, September 4, 2007

Mayor Post called roll.

Councilwoman Brown
Councilwoman Duby
Councilwoman Hudson
Councilman Prettyman
Councilwoman Abraham
Councilwoman Betts
Mayor Post

A moment of silence was led by C Betts.

A Pledge of Allegiance was said by all

Additions or Corrections to the agenda:

Old Business – Item F

John Brady: After the public participation question made by Mr. Welu at the previous Council Meeting I researched and found that through inadvertence the Town mandated Charter Notice where the Charter states that the Agenda must be posted one week prior to the meeting and the location of the meeting and also in the official Town bulletin board was not done for the July meeting. After reviewing that and find that notice was not properly posted I notified the applicants that there would have to be a revote. I also notified the applicants that there were two new members of Council and that based on Delaware state law precedent that if those two new members of Council were to listen to the recordings of the Public Hearing from July 2 and review all the submitted material that they would be eligible to vote. I've had 4 phone call discussions with the attorney for the applicant. I had a phone call from him at 1:30 PM this afternoon. At about 4:30 I was hand-delivered the following letter and it was also faxed to my office:

Dear John:

This will confirm what I said during our telephone conversation. Initially, I have no choice but to accept this true. The ascertainment that the agenda the public meeting was not posted at the Town office as the Freedom of Information Act requires. However, I'm not completely convinced that given the other manners in which the agenda was published this technical posting violation is fatal. "Or that a single soul who wanted to attend did not due to the absence of this posting". But assuming that it is I respectfully disagree with the proposed manner of remedying the violation. Since the date of the original hearing on July 2 there are two new Council members who did not participate in that meeting. The appropriate remedy is you believe the violation is one that needs to be corrected is to have the same persons who constituted the Council at the time the original meeting reconsider the application. It is inappropriate for new Council members to attempt after the fact to read a transcript or listen to a tape and second guess decisions that the legislative body made before those persons who were ever part of that legislative

body. To the extent the Town intends to allow new members of the newly constituted Council to participate you have completely bastardized the process as a whole and effectively change the rules midstream. Again, we respectfully object to the two new Council members participating in the voting process for a meeting that occurred before those Council members were part of the Council. The appropriate remedy is to reconvene after public notice the same five members who originally heard the application to allow them to reconsider at a correctly noticed meeting. To the extent that the Town intends to allow the two members of the Council to vote it is only fair and appropriate that in lieu of that the process start over and we go back to P&Z and start the process over with a hearing before that body and then a subsequent review by the newly constituted Town Council. My clients had no part in the FOIA violation and are in fact the victims and fairness and fair play dictates that they should not be penalized by it more than they already have. We, therefore, request that the application be returned to P&Z Commission for a new hearing in front of the P&Z Commission.

Footnote:

This request is without prejudice or our position that the original Council vote was valid and the appropriate remedy is not to reconvene those five Council members who originally heard the application.

Very truly yours,

Wilson, Howard & Byers
Eric C. Howard

Mr. Mayor, in reviewing that, I respectfully disagree with Mr. Howard. I respectfully disagree with his analysis saying that I bastardized the process. That's his words, not mine. However, to the extent that procedural due process would be if it is going back it you cannot deny a dually constituted Council member the opportunity to vote on an issue that comes up during their term. And what was the request was here by the attorney was to say that it's nice that we have two new Council members, but we're not going to let you participate. My review of Delaware Law and Federal Law is that it's completely wrong. There are many times that Council members and Legislative members change and you go with whose ever there sitting at the time the revote comes in. If they had read the record and been brought up to speed, then that's the process that could have been followed. They have requested to go back to P&Z and to go through the process anew to represent so they can have their full record brought up to the Town Council on a vote for conditional use. In reviewing procedural due process I found that that could be permitted under our code and our ordinances. That why, after I got this letter, it would be my recommendation to Council that the matter be returned to P&Z at the next meeting it can be scheduled for and they make the presentation for the conditional use application there. Then after the P&Z meeting it comes back. Because the concern there was not proper notice, that is a requirement under our Town Charter, and we're trying to follow the Charter and do everything as somebody else has said transparently.

New Business

Mayor Post: Add new request from Charlie Fleetwood for the proceeds of the profits of the 200th Anniversary on building a new gazebo. \$35,000 is available to go to the gazebo; \$10,000 is new and \$25,000 is remaining for the Town allocation.

Old Business – Item G

John Brady: As ordinance for Town meets and bounds change. The Town meets and bounds change is contained in the Charter section II. That would have to be done in a Charter change. That cannot just be done by an ordinance.

New Business – Item A

Mayor Post: A request from Phoebe Saggs to remove this item from the agenda.

John Brady recommended restating the agenda as follows:

Amend old business by deleting B, by deleting G. Amend new business by deleting A and amend F of old business by changing where it says reconsideration due to improper notice to say reconsideration in returning to P&Z. Add under new business item D the monies to allocate for the park. C Prettyman motioned using John Brady's recommendation, Second by C Betts. All in favor, motion carried.

Approval of the Agenda as Corrected:

C Brown motioned the approval, C Duby second, all in favor, motion carried.

Approval of the Minutes:

March 15, 2007 – April 4, 2007 – May 7, 2007 C Prettyman need correction from Ed Post to Don Post on all front pages C Prettyman motioned to accept these as written with the corrections for March 15, April 4 & May 7 of 2007, C Betts Second, all in favor, motion carried.

May 17, 2007 – June 4, 2007 – June 7, 2007

May 17 corrections Page 5, Line 12, speaker should be C Prettyman

June 7 corrections front page should say Ms. Stephanie Coulbourne

Page 6, Line 19, it should be Ms Parker not Ms Coulbourne

Line 22 should be Parker not Coulbourne

Page 7, Line 8 should be Parker not Coulbourne

Page 31, Line 16 Mr. Jim Welu, not Miller

Page 36, Line 5 Welu, not Miller

Line 8 Welu, not Miller

Line 16 Welu not Miller

Line 19 Welu not Miller

Page 39, Line 3, 5, 10, 18, 23 Welu not Miller

Page 4, Line 2 Welu not Miller

C Prettyman motioned May 17 minutes be corrected from Mayor Post to C Prettyman, second by C Abraham, all in favor, motion carried.

June 12, 2007 – July 2, 2007 – July 30, 2007

July 2 correction, page 10, line 5, should be Pat Millman, not Pat Melvin

C Prettyman with the correction for July 2, June 12 & July 30 I make a motion that we accept, C Hudson second, all in favor, motion carried.

Committee Reports:

Planning & Zoning: C Prettyman motion to accept as written, C Betts second, all in favor, motion carried.

Emergency Preparedness:

C Hudson we met on Aug 21, 2007 6:00 PM in the Library, 25 members present. Michael McNamara, City Liaison to Police Dept, reported on positive public response to the neighborhood watch table set up in the park on Saturday at the 200th Anniversary and his participation at Ocean View's August 7 neighborhood watch meeting. Ocean View's neighborhood watch has been in existence for four years and is a good resource for us to use. Neighborhood watch team members are: Mike McNamara, Shipbuilders; Cary Davis, Union St; Tina Thoroughgood, Conwell St; Diane Jefferson, Chestnut St; Norma Kraus, Wagamon's West Shores; and Roger Thompson for Cannery Village. Neighborhood watch orientation handouts were given out and discussed. CERT (Community Emergency Response Team) training is scheduled for Friday Sept 28 5-9, and Sat Sept 29 8-4, Milton Elementary School. Delaware Emergency Management Agency our neighborhood watch co-sponsor will be training up to 30 of Milton's citizens in case of an emergency or natural disaster. Training includes CPR, first aid, disaster preparedness, fire safety, light rescue and team organization. 24 people have signed up for training so far. Thanks to Chief Phillips & Corp Rockwell Milton's neighborhood watch has secured a \$9,400 grant from DEMA to fund the start-up. Monies will be used to purchase signs, flashlights, hats, vests & radios. Next meeting will be Sept 18 at 6PM Milton Library.

Milton Development:

C Betts Jamie Brown One Act Play Death Comes Twice swept all four categories of the awards and will be submitted as the Milton Theatre Companies official entry in the Delaware Theatre's Association One Act Competition in March 2008 to be held this year at the Milton Theatre. This Saturday, Sept 8, first in what we hope will be a regular program series called "Not Yet Famous". The performers are Josh and Jen 7:30 PM. Tickets are \$5 at the door. The next production of Dracula is in rehearsal. Tickets are being sold for the performance on Oct 12, 13, 14, 19, 20, 21, 26, 27 & 28. Anyone can call 684-3400 for ticket reservations. The Milton Theatre is tentatively scheduled to be venue for the Red Carpet Show and first ever screenings of the Honor Film Devotion, written by best seller Harold Novelis Eric, Inc. first weekend in November. The times will be announced later.

Streets & Sidewalks:

C Betts we had a meeting on Aug 23 with some of residents present in connection with the sidewalks being replace. We asked residents to sign up with the Town to get a better price when we get it all done at once. We will be having another meeting in the future. All the minutes are being finalize and will be put in the Council boxes in the near future.

200th Anniversary Committee

C Betts The town gave the committee a party. It was well received and everyone had a good time. I would like to thank the Town Manager, staff, maintenance dept and police

dept for all their hard work in connection with the celebration. They spent a lot of time before and during the celebration.

Town Manager Report

George Dickerson – Stephanie will be handing out the results of the Town Charter Workshop in a finalized version. There are three red line issues. Those issues are items at the Workshop which the members of Council decided to come to a Town Council meeting for a vote on those issues. You have that for review. The Charter changes need to be up at Leg Hall in January. The second thing being handed out is the complaint report. These are complaints that come to Town Hall. This is based on a new process implemented February. Last month I passed out a resolution to comply with the Delaware Source Water Bill an ordinance for water resource protection area and Environmental Protection Regulations. This is something that Allen Atkins had presented to me and you had that for review. I need for you to review and get back to me on your comments and concerns. This is to protect ground water recharge areas in that we should be a part of this program, it's recommended by DNREC and it's just a good program. Most municipalities and cities have complied. I think we need to participate. Perhaps it can come up again in October for a vote so we can move forward with these. C Brown Is the text that we received boiler plate that other municipalities are using or is this something that's been worked on with the staff of the Town of Milton.

George Dickerson: Actually Mr. Atkins, Vice President of that organization, brought this up to me, I agree with it and I'm for it. It is boiler plate for what we're using.

General Code: Stephanie, Julie and I had a meet regarding General Code. General Code Publishers have received all our ordinances and they are putting together and organizing the manuscript which we will hope have within the next six months so we can review this and have all our ordinances codified so we can have them in a booklet. There will be several meetings with all departments that will take place to make sure all our ordinances meeting them. In about 14 months we'll have a living document that will be replacing all those codes and ordinances to keep us current.

Inclind is a company with our website provider. Stephanie and Julie met with them to go the prototype for our new Town website. We have had a lot of complaints and problems with the current website. They are planning a presentation at the October Town Council.

Rails to Trails Project All necessary planned documents have been received and approved from DNREC and DELDOT. The project has been advertised for bids. Michael Lane, Engineer Becker Morgan Group, will be handling the bid process and the oversight of the construction phases. A preconstruction meeting was held today Sept 4 at the site. Bid opening is scheduled for Sept 27 1PM at Town Hall. Jeff Nescoda, DELDOT Engineer, has confirmed the obligations of the Federal funds for the project and approved the bid advertising and the closing bid. Stephanie there were 11 construction companies that showed up at the preconstruction meeting.

114, 116 Union St

From Robin Davis As of today I've contacted Mike Midda, Mid-Atlantic Dismantlement Corporation, on Friday, Aug 31 requesting an update on the progress of the demolition at

114, 116 Union St. On Aug 16, 2007 Compliance and Environmental performed an asbestos survey on the buildings at the location. On Aug 23, 2007 HEATHER Compliance Environmentalists verbally confirmed that the floor had tiles that tested positive for asbestos. Matt contacted Colin Gomes at DNREC an Air Quality Management to discuss the proper procedure for removing the asbestos. Bids have been sent out to qualified abatement contractors and Matt expects them to be returned by the end of the week. Once a bid has been approved the required 10-day notification to start letter will be sent to DNREC. The condemnation letter from the Town of Milton must be sent with the notification letter. I faxed a copy of our letter which was the condemnation letter to Matt on Aug 31. Matt expects the demolition to start mid-September. Most of the demolition will have to be done by hand because the asbestos tiles cannot be mixed with the construction debris. Robin is on top of it.

2008 FY Budget Power point Presentation

George Dickerson: I'm now going to address some of the concerns of public.

Question on COLA: Is the 3% projection based for this year? COLA is a cost of living adjustment for the dollars started in a fiscal year. They are not the same dollars as in the projected budget.

Question on Overtime: Why is the overtime greater than last year's budget? Our auditor, Tom Sombar, suggested we remove an abundance of comp time from the books. The new process will be to pay the comp time in a 28 day cycle. If the department head cannot give an employee off in the 28 days, we will pay the overtime so the comp days do not build up on the books.

Question on Soc Sec Tax: In the first draft Soc Sec and Medicare were combined, now they are separate and corrections have been made to the spreadsheet to reflect those changes.

Question on why the large increase in revenue: We had \$2.5MM from waste water impact fees. When Tidewater took over we took the \$2.5MM and invested that in CD's at a rate of 5.25%.

Question on transfer tax: We looked back at 2005/2206 and issued 212 bldg permits, for 2006/2007 we've issued 198 and those totals are only through August. We also looked at the real estate transfer tax. The actual money collected in 2005 was \$250, 2006 \$1.25MM and 2007 to date \$495,000. Based on the same building permits and increase in growth this is what we estimate the projected building permits to be.

Question on police revenue? Are we going to become a speed trap? Some of the violations and fines implemented by the Code Enforcement Officer will be going through the Police Department budget.

Question on why no donation for fire company? In revised budget money has been allotted.

Question on where money coming from for street revenue? C Betts was able to get a grant from Senator Thurman Adams in the amount of \$50,000.

Question on Municipal Street Aide: The state gives us a portion of money for every street that we have. Those streets have to be dedicated. For example, the streets in Cannery Village as well as Wagamon's West Shore do not count because they haven't been dedicated to the Town as of yet. Current street revenue is \$61M and we pay approx \$57M for the electric bill. It's almost a wash.

Question on Town Hall Renovations: This is a direct result of a complaint to the Fire Marshall. In fact today we were served a second notice and the Mayor and myself were to be arrested. Stephanie Coulbourne and Julie Powers were in my office when I talked to the Fire Marshall today and he clearly named the person who filed the complaint. He's done that on two occasions; once with Stephanie, then today with the three of us in my office. At the workshop I named that person. I stand by that and that's the person who filed the complaint.

C Hudson Since you continue to mention somebody who filed the complaint. As part of the neighborhood watch our motto is "Be alert, be aware". If there is a serious violation with our Town Hall I think you should have made it aware to the Fire Marshall and not relied on one of our citizens. First of all I'd like to thank someone who had the courage to step forward. Secondly, this is a very serious violation. It says it has to be remedied within 15 days.

Mayor Post The violations will supersede what was existing in the old Town Hall. You can question what is or not in violation. The one thing about the law is that it can be bent according to the one who wants to interpret it and the one who wants to enforce it. They have had some issues and a pattern in the last 1 ½ yrs. The sad situation is that it's been at the expense of the taxpayers of Milton, DE. I don't think there is one Council member or myself as Mayor who would want to put any employee in jeopardy. I will stand behind the Town Hall, the handicap accessibility, including during the day of election when handicapped people accompanied the polls that day. As the Attorney General's office stated last week, people can sue you for wearing a red hat on Thursday. That's the world we've come into. So people who have their political connections of the way they want to make a violation, or whether they want to try and pursue something at the expense of their own personal agenda of other issues in the town. I think it's a sad day for the taxpayers of the Town to have to pay costly ongoing, I think it's pathetic. It has become in this Town pathetic at the way this has been handled. There is certainly a way to handle things.

C Hudson: With regard to the plans that were to be issued 8 months ago? Do you have any plans to submit the plans?

George Dickerson: I'll refer that question to the Town Attorney

Mayor Post: The Town Solicitor will be handling that in the future. We will be having a workshop, which the public is welcome to attend. Obviously, we had to get the money into the budget first, to proceed because we can't put it back in later. I'm still questioning the whole issue. I would like to have the State Fire Marshall down at the Town Hall to do a walk through of the building. The Lt Governor said he ranked it as the best Town Hall he's seen in the State of Delaware. Many towns have spent \$3-4MM on their Town Hall. Even if we add another \$100M we'll be well under \$1MM and still have a Town Hall to be proud of.

C Hudson That's very good, I appreciate that.

C Brown I would request that those of us on the Council be given information that we need to see that this public meeting for the Town citizens be held as quickly as possible so that they can find out what the issues are and everybody and stop using this as a weapon against each other and I don't mean just the people up here, I mean the public as well. If you have a concern bring it to the Council, bring it to Town Manager instead of trying to embarrass your political opponents. I would ask that we deal with it in a straightforward way.

Amy Brown, Shipbuilders Village It boils down to accountability. We as citizens of this Town would definitely be accountable for, we'd be fined over, we'd be tracked down, sent little nasty-grams about. Why has this turned into such a big deal?

Mayor Post I agree. I have asked the Town Solicitor to address these issues so we can move forward.

Amy Brown Thank you to our Police Dept. They're doing a wonderful job. There have been drastic increases in arrests for juvenile crime. I work with juveniles every day. I'm a juvenile probation office and I think it needs to be addressed.

Budget Highlights

George Dickerson:

- There is no increase in general property tax.
- The budget is balanced.
- Allows for the purchase of capital expenditures without incurring debt
- Provides 24 hour police protection
- Provides for continued street repaving to include new water taps
- Provides for major upgrades to Milton Memorial Park, to include new playground equipment, new benches, new barbeque grills, new trash cans and a new gazebo
- Maintains administrative public service and police staffing at adequate levels
- Provides for enforcement of building code regulations, maintains active and informative website
- Purchase police and code enforcement vehicles as needed
- Renovations of Town Hall Fire Marshall complaint
- Provides for Town wide property tax reassessment, last 1994
- Provides for donation to:
 - Cat Snippers, Milton Development Corp., Milton Fire Dept,
 - John Milton Statue, Garden Club and the continued
 - Renovation of the Police Dept.
- Holiday decorations
- Intoxilizer 5000 – machine to be used for DUI enforcement
- Fully equipped police vehicle
- Four new computers for the Police Dept
- Eight 8 AR15 long guns
- Color copier for Police Dept
- Flat file for Code Enforcement, used to store large plans
- Drafting table, needed to spread out plans
- New truck for Code Enforcement
- RV watering vehicle to water plants by maint vs Gardening Club
- Chain saw for Maintenance Dept
- Tree saw for Maintenance Dept
- Radio read meters for measuring water

Administrative Expenses:

Regular Salaries: Total for Admin

3% COLA: Cost of living adjustment on current salaries

Accounting Fees: Tom Sombar to do accounting and yearend audits

Legal Fees: \$80,000, we had \$50,000 in the first draft, but at
The workshop council said to increase by \$30M to
Cover costs of new suits
C Duby we need to be cognizant of this tax burden on
Citizens.
C Prettyman, last year it was \$30M.
C Hudson it says for last year it was \$45M.
George: We ended up spending more because of
Increased litigation
C Betts We also have litigation outstanding at Shipbuilders
And that's probably why it went up higher
Engg Fees: Cabe URS and French & Ryan, Architects for
Fire and ADA compatible for Town Hall

Tax Assessment: Mr. Riley, every time a new house is built he
Does an assessment. That is a separate and
Distinct figure, has nothing to do with reassessment

Contributions: Miscellaneous small contributions, college student, etc.

Insurance: All vehicle insurance as well as Council liability,

Heating Fuel: C Hudson Admin has \$500 and Police \$2500, I can hardly think
You could heat Town Hall for 1 year. Virginia our building has
A heat pump, therefore, we don't use as much gas. Their building
Is oil.

Mileage Expense: Employee uses personal vehicle for business expense

Payroll Process: Cost of outside processing

Transfer Tax: Charges from Citizens bank on real estate transfer fees for
processing that from the Recorder of Deeds office

Capital Expenditures: Town Hall Renovation \$100M
Down Beautification \$7500
Holiday Decorations \$10M

Administrative Revenue:

Lutheran Towers: Agreement in the past where they do not pay a property tax,
It was decided that the Town would accept \$2500.

Interest Income: Governor Walks Project – need to report because it was a grant
Can be used as general funds monies, was previously in sewer
Impact fees.
In the future there is an additional \$1.5MM for the sale of
18 acres to Tidewater

Transfer Collection

Taxes: This the real estate transfer fees estimated at \$400M, best
Predictor of futures vs. past re building permits

Franchise Fees: From Comcast Cable because they use our right of ways

Total Revenues

Reserves: Used to offset this is total \$141,000, bringing it to \$1.429

C Hudson where do the reserve revenues come from
Virginia we had stated that the items you picked off the wish
List to add to the budget would include a line item to show the
Revenue used for those.

General Expenses:

Cat Snippers: \$2,000
Milton Dev Corp \$5,000
Fire Dept \$5,000
Town wide property
Tax Reassessment: \$83,350

Takes 1 yr to do. If this started today it would be a year before this process is done.
Every property in the Town is reassessed. If you look at the Charter revisions being
made and it goes to the General Assembly and is approved. One of the request to them in
changing our Charter is we must have a property reassessment of the complete Town
down every 10 years rather than it going back to 1994 and never knowing when you're
going to do it. The Charter actually mandates every 10 years you do a re assessment.
C Hudson If the County is going to be do it can't we take off and use the money
elsewhere. Mayor Post we can discuss this when we get to voting on the budget. This is
just the presentation.

Trash Disposal Svc: \$175,000 I think that may come a little higher, we're just going
To have to wait and see

SRF Loan: This one of the loans. One was for water and one for sewer on a
Town wide referendum where 21-22 people voted.

Trash Collection: It's money in money out. We do not make money on this. We try
Not to loose money. We're working on new bids at this time.
C Brown I understand this includes recycling?
George Dickerson There's a choice. I had it done 1, 3 & 5 year
To include recycling and to not include it and that will be coming
To Council for a decision.

Police Department Expenses:

One thing to remember with the Police Dept. is a share of their pension costs come from
the State. ¼ of 1% of all insurance premiums actually go into a fund. They're divided
into the number of sworn officers in the State and that is divided equally into those
numbers. Any listed bonafide Police Dept.

Fuel Oil: Cost to run their building
Website Expense: Expensed across all departments
Capital Expenditures: Police cars 4, there's one year of the lease remaining,
Car 2 there's two years of the least remaining,
Building renovations \$50M to continue the renovations
Already started

Computers & 8 AR15 long guns

C Prettyman I would like to see a line put there so we put so much Money now to build us a state-of-the-art Police Dept.

George Dickerson We'll make note of that C Prettyman. Perhaps At the conclusion of this that would be a motion that would be made

Chief Phillips: With regard to the long rifles, if we were ever to be Involved with at shooting at a school it would be our responsibility with the new training that we're getting to go in and take action. Just like they had a VA Tech, it took them 45 minutes to get the State Police there and 32 people were killed and numerous others injured. Every other dept is training for this also, that's why we need these weapons and the training to operate them if anything were to happen.

Police Revenue:

Grants Homeland Sec: Until you get them you don't know what they're going to Be, they are limited with then can be gotten for, they are Very specific. Last year the County did fund \$25M in this Category. I'm not sure what's in their funding. Can you Comment on that Chief?

Chief Phillips In the State I believe there is a possibility of \$25M.

Pension:

There's where the pension comes back in. A portion of what paid out actually comes back. Until an officer has been through a 2 yr. cycle you do not receive anything for His pension.

Police Reports:

Cost for duplicate copies, especially Insurance Co

Police Grant Expenses

Highway Safety Salaries

That's a grant. We break these out so they can be tracked separately as our Auditor, Tom Sombar, wants us to do

Code Enforcement Department

Overtime: When Robin has to go to P&Z, Historic Preservation, Board of Adjustment, plus other meetings that he has to attend

Mileage: Sometimes Robin has to use his own vehicle

Capital Expenditures: Flat File \$2200

Drafting Table
New Truck

Code Enforcement Revenue:

This is one of the real money makers for us. Between code violations, business license fees, building permits and signage, zoning variance, professional fees that are collected, you can set that of the revenue reserves the wash there is very good. I'll have Virginia comment on this because we have some questions on this. We're showing \$462,500. Why do we need to put in revenue reserves at \$12,150? Virginia: We had done that because I had informed Council at the Budget Workshop so they could distinguish what cash we were using out of the investments. So they could distinguish what that amount was we separated that line item.

Park Expense:

Allen's people are allocated based on the % of time they work in the Park area across all line items.

Garden Club: \$5,000

Milton Memorial Park: \$5,000

Don't get these two confused and I'll ask Virginia to address these.

Virginia the \$5,000 for the Garden Club is specifically for use by The Garden Club to do the plantings through town etc. The Milton Memorial and Mill Park each will get \$2500 to keep with the maintenance in the parks

George The maintenance in the park is done by Allen's people. The Garden Club cannot take on any more.

Concert in the Park: Charlie Fleetwood's project

Capital Expenditures: Upgrades in the park repair \$110M
Shed, expensed across Parks & Water

Parks Revenue:

Boat Dock Rentals: \$3600

Street Expense:

Capital Expenditures: Allen has provide a list of streets that need repair to George. We need an additional \$45M to complete
There is a second year lease of a truck, chain saw,
Tree saw, shed.

Street Revenues:

Grant Receipts: \$50,000 This is the grant C Betts was responsible for getting

Water Expense:

Chlorine Supplies: To treat the water
Propane: Used at some of the pump stations

Req Maint Water Tower: Yearly preventive maintenance agreement

Repairs of Maint Equip: Large increase due to an electrical panel that needs to be Replaced plus other upgrades.

Capital Expenditures: Truck, second yr of lease, water taps in streets, tools, pipe Tracer, Shed, new computer & office equip, phase two or the radio read meters at \$75M.

Water Revenue:

Interest Income: Water rents, tapping fees, sale of meters, water impact fees, Disconnect fees, inspection fees. The reserve revenues to make up that total is an added \$122,014.

Municipal Street Aids:

Money in money out

SWAT

Has nothing to do with the Police Dept. This an after school program. It's funded by the State. The funds must run through a municipality. These school programs are administered by school teachers and it's only money in money in money out. C Prettyman SWAT stands for Student Working toward Achievement Together.

Summary:

The total revenue reserve is the total that at the workshop that you had chosen to fund these projects that I mentioned in my presentation.

Total Expenses: Total for FY 07/08 is \$3,342, 729.

Revenue Totals: Normal budget revenues \$2,724,619

Cash Reserve Revenues: \$718,110

The revenue reserves are used to purchase department requests approved by Council and any increases approved by Council such as: This line item includes all items needed for a new officer, such as salary, health insurance, uniforms, etc. for a 6-month period, flat file

that we added in there coming to that grand total of \$718,110.

GASBY 34

The last time a GASBY 234 was done FY 06. Tom Sombar creates this document for us. Virginia Tom Sombar creates the asset list based off of the assets that the Town owns. They are depreciated over a certain amount of years depending on what it is. He does during audit because that is generally when you do the asset list. There was a comment about the asset list not including police guns. It only includes 7 taser guns. The taser Guns are a lot more expensive than the police officers guns. Sombar had recommended that we not depreciate anything under \$500. That is even a little low, but it is a Council decision for that to be increased. The handguns that chief purchases are around \$400.

The asset list is for the current budget year that we're in. For depreciation purposes the Asset list and is required by our Charter. The

The Building renovations (cut a door in the back) is for the Town Hall.

George Dickerson: Mr. Mayor my staff and I would be willing to entertain any questions or changes. Mr. Brady I believe we are in good shape that the Council could vote on this tonight is that correct? John Brady: If the Council on the final draft after they've made the discussions at the appropriate time.

Written Reports

Maintenance: C Prettyman motion we accept the maintenance report as written, C Hudson second, all in favor, motion carried

Code Enforcer: C Prettyman motion we accept the Code Enforcer report as written, C Hudson second, all in favor, motion carried

Police: JohnBrady: Chief do you request that you amend your written report by an oral presentation. Chief Phillips That is correct. I'd like to introduce Mr. Legates from DEMA. I'm a state climatologist, and I work with the state climate office at the University of Delaware. We be being working with DNREC, DELDOT and the Delaware Geological Survey to keep track of environmental conditions across the state. In particular, DELDOT has asked us to instrument every one of their 12 maintenance districts for the purpose of being able to keep weather observations, but also in particular for measuring snow depth observations. In the Gravel Hill area we do not have any instrumentation whatsoever so we have proposed to the Chief to put one in at Milton. It will be 14' high and requires cement base about 2' x 2' and there will be an arm sticking off to measure snow depth over an asphalt patch about 3' x 3' and there will be a rail gauge that sticks off about 10'. The instrumentation will measure air temperature, wind speed, wind direction, relative humidity, precipitation and a number of other environmental. It records every 5 minutes in real time. The data will be available to State agencies but also to the City of Milton and the State of Delaware. It will be available on the website as well. It will not cost anything. DELDOT is responsible for paying the initial costs of installation. We will do the installation and maintenance and they are responsible for the upkeep of the station. All we are really requesting is a

location to place it. We have not signed contracts with other cities as long as they agree. And if you want it removed anytime in the future, let us know and we get out there any remove it in reasonable time.

John Brady: You can't vote on the location tonight. You have to give notice on the location. You can put this on an upcoming agenda. You can take the information that was given tonight.

Chief Phillips so I need to identify locations and bring it to the Town Council.

John Brady that's correct.

C Prettyman I amend my motion to include the oral and written police report. C Hudson second, all in favor, motion carried

Old Business:

Proposed Zoning Ordinance Change Separation of Historic District Commission from the Board of Adjustment – Third and Final Reading

John Brady: This is the ordinance that was introduced in April splitting the Historic Preservation Board from the Board of Adjustment. At the August meeting it was referred back to the Board of Adjustment for their comments. The Board of Adjustment did not have a quorum at the August meeting. However, a letter has been received which you should all have from the Chairperson of the Board, Brenda Burns. There have been letters from other member of the board that submitted letters prior to the meeting tonight. The ordinance says amend section 4.9.6 of the Zoning Ordinance Town of Milton by striking existing subsection 1 and replacing thereto as follows:

The Historic Preservation Commission defined under section 4.9.53 of the Zoning Ordinance Town of Milton shall be authorized to conduct meetings and hearings and issue rulings as necessary under this article. Meetings shall be scheduled and opened to the public. Notification of meetings under this article shall be published in a local newspaper general circulation and publicly posted at Milton Town Hall. Section further amends section 4.9.6 of the Zoning Ordinance by striking the existing subsection 3. Amend section 4.9 of the Zoning Ordinance by deleting the phrase Board of Adjustment wherever it occurs and replacing thereto with Historic Preservation Commission. Amend section 4.95 subsection 3 of the Zoning Ordinance of the Town of Milton by deleting the existing definition of Board of Adjustment and replace as follows:

Historic Preservation Commission should mean a board consisting of 5 members recommended by the Mayor and confirmed by the Town Council to serve a term of three years each. Further provided, when the initial members are appointed one member shall a one year term, two members shall serve a two year term and two members shall serve a three year term. At least three members of the Commission shall reside within the Historic Preservation overlay district of the Town of Milton.

Synopsis: This Ordinance establishes a separate Historic Preservation Commission separate from the Board of Adjustment.

Mr. Mayor this is the third and final reading of the Ordinance.

Mayor Post This is now open for discussion.

C Hudson What body would an applicant address and appeal of the proposed Historic Preservation Board decisions? Currently, I believe you appeal to the Superior Court.

John Brady That would stay the same.

C Prettyman What is the real reason why they wanted to separate, most of the time it has to go back to the Board of Adjust for it to be sent to Council?

Mayor Post This comes through the recommendation of the National Trust for Historic Preservation. If you look under the policy and procedures for establishing a town to address preservation at the proper legislation, this is what they require for an alternate. This is a government body that focuses on that one specific issue. The recommend for a Committee that Oversees the Historic District, then they recommend an Architectural Review Board, and the third one is to have a Historic Preservation Commission. To properly function and address preservation in a community this is how it should be structured.

C Brown Is the procedure tonight to just hear the reading and then to vote on it at a future meeting or is to take a vote tonight?

Mayor Post To take the vote tonight. This is the third reading.

C BrownI've had the privilege of serving on the Board of Adjustment. When I was there the BOA and the Historic Preservation linkage was primarily viewed as reactive. In other words, when somebody comes before the BOA they are asking for variance or a clearance on a design or height restriction, etc. I think with the celebration of the bicentennial we're just beginning to realize when the Town Manager lists all these assets we have a huge asset in terms of historic buildings in the town. I would like to see this new entity be created so that it could be proactive and work with different organizations in town as well as work with planners and developers and of other types of people and be up front proactive and creative in a partnership dynamic rather than an adversarial dynamic and that's why I would support this initiative.

Mayor Post do we have a motion

C Brown I motion to create the entity as read by the Solicitor as described.

C Duby Second

Mayor Post roll call

C Brown	Yes, because I think we need a proactive mechanism
C Duby	Yes
C Hudson	Yes, because the appeal is to the Superior Court
C Prettyman	Yes
C Abraham	Yes
C Betts	Yes
Mayor Post	Yes

Motion carried

Applicants, Bernard C & Doris O. White are requesting the annexation of a 136' x 41' parcel of land located at 110 Ellendale Road further identified by Sussex County Tax Map and Parcel # 2-35-14.15-66.00 Annexation Agreement provided by John Brady

Mayor Post Do we have a motion?

C Prettyman made the motion to accept the annexation agreement, C Betts, second

Mayor Post: We have a motion and second to the acceptance of the annexation agreement. Any discussion?

C Prettyman I amend the motion subject to a finalized annexation agreement. C Betts, second

Mayor Post We have a motion and second. Any discussion on the amended motion?

Roll call

C Brown	Yes
C Duby	Yes
C Hudson	Yes
C Prettyman	Yes
C Abraham	Yes
C Betts	Yes
Mayor Post	Yes

Motion carried.

Applicant Sue Raley, is requesting the annexation of 9.75 +/- acres of land located on Bay Avnue further identified by Sussex County Tax Map and Parcel # 2-35-14.16-04.00
Annexation Agreement Provided by John Brady

C Abraham: I'd like to make a motion to accept annexation of Sussex County Tax Map and Parcel 2-35-14.16-0400 to include final Annexation Agreement.

C Prettyman: I second

Mayor Post: We have a motion and second, any discussion to the motion.

C Hudson: Are we actually voting to annex this in tonight? We're not sending to P&Z?

Mayor Post: It's already been, it started back to 2005.

C Hudson: It went as R3 and there was no formal report from P&Z in my packet. There was a formal report for the White's where everyone signed it, but there was not report from P&Z for this annexation.

John Brady: This was done before the consultant was hired from URS to be filled. Debbie was told when she was hired that anything that had already gone to P&Z and was waiting annexation agreement she was not to put in the new style of annexation application. There are still two others like this sitting in the pipeline. This is one of the ones that took a little more time.

C Hudson: How about the plus review?

John Brady: The plus review was done and approved in 2005.

C Hudson: Before they came in in 2005 they were asking for R3 so now they're asking for R1? Is that it?

John Brady: The change is because when it was reviewed under the comprehensive plan that area was designated as R1 and would have to come in as annexation under R1 otherwise we'd violate our comprehensive plan. That wasn't picked up when they first did that series of reports. We sat down and discussed it and if they wanted to make any changes they'd have to go back to Board of Adjustment or P&Z.

Mayor Post: So the applicant has the understanding that's coming under R1. There is an 8,000 per acre impact fee which I think is being addressed in the annexation agreement.

Town Engineer: As part of the motion shouldn't it specifically say what the zoning is going to be so there isn't a question in the future.

C Abraham: I'd like to amend my motion to annex in Sussex County Tax Map and Parcel 2-35-14.16-04.00 as R1. This is also pending finalized annexation agreement.

C Brown: Second

Mayor Post: We have a motion and second. Roll Call

C Brown Yes
C Duby Yes
C Hudson Yes
C Prettyman Yes
C Abraham Yes
C Betts Yes
Mayor Post Yes

Motion carried

Re-consideration of minor lot line adjustments Cannery Village Phase 2B – street name change

Mayor Post: Is anyone here representing Cannery Village?

Bob Kerr: Not representing Cannery Village, but the one who discovered the problem after you voted last time. Some place along the way Cannery Village changed some of the street names. The drawings that came before you last time still have the old name with Draper Blvd where the name should have been changed to Summer Walk. It's only as street name changed. It wasn't reflected in the drawing that you voted on last time. We just wanted to get that little type cleared up.

G Dickerson: This has nothing to do with the other pending issue.

C Betts: I make a motion to make a street name change from Draper Blvd to Summer Walk in Cannery Village Phase 2B.

C Prettyman: I second

Mayor Post: We have a motion and second, any discussion. Roll call:

C Brown Yes
C Duby Yes
C Hudson Yes
C Prettyman Yes
C Abraham Yes
C Betts Yes
Mayor Post Yes

Motion carried.

Re-consideration to P&Z Lesa and Paul Howard requesting a conditional use for a Physicians office at 506 Union Street. The property is zoned R1 (Residential) and is further identified by Sussex County Tax Map and Parcel # 2-35-14.15-16.00

C Prettyman: I make a motion to the above request to P&Z for reconsideration.

C Betts: I second

Mayor Post: Motion and second, any discussion. Roll call

Bob Kerr: So there isn't a question when we get to P&Z, is this reconsideration or a new application to be considered?

John Brady: It has to have a new public hearing and it's reconsideration with a new public hearing.

Mayor Post: Roll call

C Brown Yes
C Duby Recusing myself from all votes because I'm a current patient of Dr. Howard

C Hudson Yes, I vote yes to return it to P&Z for reconsideration
C Prettyman Yes
C Abraham Yes
C Betts Yes
Mayor Post Yes

Motion carried

New Business

Proposed change to Town Code – Chapter 5, Section 5-26 – First Reading

John Brady: Ordinance 2007 - _____ An ordinance to amend Chapter 5, Section 5.26 the Town of Milton Code

1. Amend Chapter 5, Section 5.26 Building housing existing building and unsafe building and abatement codes by deleting the current wording in the section and replacing thereto as follows: The Town of Milton hereby adopts by references the Town of Milton codes the 2006 edition of the International Residential Code; the 2006 edition of the International Property Maintenance Code; 2006 edition of the International Building Code; 2006 edition of the International Existing Building Code as issued by the International Code Counsel and all future amendments, changes and modifications of said codes. These codes will remain in effect until the Town of Milton adopts new codes. Synopsis: The intent of this ordinance change is to insure the Town of Milton is using the most updated building codes, adds new codes for building issues that were not enforceable using the current building codes and removes the Sussex County Counsel from this section of the Chapter.

That's a first reading of the ordinance.

Approval of the Proposed FY 2007/2008 Budget

Mayor Post: Thank you all for all your hard work in putting this together.

John Brady: Resolution; be it resolved by the Town of Milton Council that the physical year 2007/2008 budget as indicated by the document budget FY 2007/2008 final draft is hereby adopted by the Town Council as their Town budget pursuant to section 29A of the Town Charter and Section 29B of the Town Charter of the Town of Milton. Now you can proceed with discussion.

Mayor Post: Now we can open up for discussion. C. Hudson sent a letter with two concerns. One was the request for a full time police officer. In the workshop, based on the Chief's recommendation of how long it would take to find and train a full time officer, we allocated 6 months of expenses. The other was to reconsider giving \$5,000 to the Historical Society again this year. The Historical Society had received funding for the past two years. Someone did mention that commitment was supposed to be for 3 years.

Another comment was about the Town statue. The statue is Town property.

Next issue was regarding the Milton Dev Corp receiving \$5,000.

Another was the \$5,000 to the Garden club.

We need to do a better job of allocating funds specifically to a project.

C Betts: With regard to the Milton Dev Corp. Every Wed night if it's raining he Milton Dev Corp provides a place for park entertainment. It is very costly to run the ac and electric. That is the purpose of donating the \$5,000.

C Hudson: I'm not entirely sure the Milton Historical Society received any money. I believe Melinda Huff told me that they were supposed to get \$4,000 and did not get anything this year. I believe that if we could spread the wealth around a little bit that the Historical Society could get \$4,000. I really think that giving the money to all the other organizations, who are doing a tremendous job, and to give nothing to the Historical Society is an oversight. We definitely should give them a donation.

C Betts: The past two years they did give \$5,000 each where as the Theatre did not get anything

C Brown: This discussion is sad. They are the infrastructure of the civic society. What this budget process is doing is pitting one virtue against another. Funding these organizations has taken on a high school click club, who's in and who's out, any given year. We should not pit these organizations against the other. Their collective whole makes this Town thrive. If these organizations knew each year they would be getting the same amount it would help them with matching grant applications. But this vying money based on clicks in the Town has to come to an end. Maybe this year we can't get there.

C Hudson: All I'm asking is that they share equally.

Mayor Post: For clarity, where do we start and where do we end. If we want the taxpayer to fund these non-profits every year we should ask for a specific application. If it's going for a specific cause that it should benefit the most people. What about those non-profits not currently receiving funds, i.e. VFW, Lions Club. I think there needs to be a process.

C DUBY: I'm not sure how we want to deal with this year's budget. I support what C Brown has suggested. I think it needs an additional piece and that is setting up some criteria. I would suggest that we develop some system for coming up with this process and the criteria so this the last year that we have this kind of debate. Like, what services are these organizations providing that otherwise the Town would have to foot the bill for and what kinds of groups.

C Prettyman: Over the years we've always had our various groups to write letters requesting funding. We then would look to see where our money is and we would delegate it that way. I don't know if this is the type of procedure you'd like to continue. It's not like we picked this one over that one.

C Prettyman: I make a motion we remove 2007/2008 the Town-wide property tax assessment from the budget.

C Hudson: I second

Mayor Post: We have a motion and a second. Now we can open it up for discussion.

C Hudson: C Prettyman you were saying the County is going to do an assessment?

C Prettyman: They were talking about it. I think our money could be better utilized

C DUBY: My recollection from the discussion at the workshop is that the Council needs to look at the issue of whether we want to do this year or not. So we needed to put in the budget. If we decide not to do we would have an \$83,000 surplus which is not a bad thing. I would be in favor or leaving it in with a discussion.

Mayor Post: I think it's a good decision.

C Prettyman: I can live with that.

Mayor Post: I certainly understand the reasoning about the reassessment, but I think we have a lot of homework to do. As long as we have something in place to help people who cannot afford more taxes, I can see us moving forward.

C Prettyman: I rescind my motion.

C Abraham: I second

C Hudson: Since we had a discussion about the Milton Historical Society before we had a motion I'd like to make a motion that we donate \$5,000 to the Milton Historical Society.

C Prettyman: I second that motion

Mayor Post: We have a motion and second, any discussion.

C Hudson: I amend my motion to make a donation of \$5,000 to the Milton Historical Society. This \$5,000 will come out of cash reserves.

C Duby: I second

Mayor Post: We have a motion and second, any discussion. Roll call

C Brown Yes

C Duby Yes

C Hudson Yes

C Prettyman Yes

C Abraham Yes

C Betts Yes

Mayor Post Yes

C Hudson: The second thing you mentioned my letter, the current budget allows \$28,000 or 6 months worth. What we discussed in the budget was that a full time officer would be \$63,000. It doesn't make sense to me to have 6 months worth. I would like to see the entire amount budgeted so we can have a one-person if possible.

Mayor Post: We discussed this at length at the workshop. Originally he was requesting two. He told us he would not be able to hire an officer until 6 months in. We discussed we would hire one officer. The \$63,000 is the full cost for one officer for 6 months.

Mayor Post: Please confirm that the 6 months cost is for one full office as previously discussed? Then you will have a full time office every year after that.

Chief Phillips: It will take 6 months to locate an officer. My plan was to hire two summer officers with one of them going to the academy.

C Duby: I like to make a motion we consider the budget to be adopted as modified.

John Brady: I read the resolution that would adopt the budget. Each of these additional motions that you have passed serve as a condition to the budget ordinance. So condition #1 has been; appropriating \$5,000 from the reserves as a donation to the Milton Historical Society. If you change any lines in the budget it will be as submitted with the following amendments. You've approved one amendment so far.

C Duby: May a member of the Council proceed to pass a motion with that modification that one addendum we may proceed to vote on approving the budget.

John Brady: Yes

C Duby: I'd like to make a motion that we approve the budget as amended with the \$5,000 to the Milton Historical Society

C Abraham: I Second

Mayor Post: We have a motion and a second, any discussion. Roll call

C Brown Yes

C Duby Yes

C Hudson Yes

C Prettyman Yes
C Abraham Yes
C Betts Yes
Mayor Post Yes

Mayor Post: The last thing on the agenda was the addition of Charlie Fleetwood's request for the old funds in the reserve of the \$25,000 in the Town Budget plus what is left over from the account which is estimated to be \$10,000 +/- . Those funds will be used for the park, preferably for a new gazebo, with a plaque recognizing it from the 200th anniversary committee.

C Hudson: So moved

C Betts: I also think it should come from the Town Council

C Betts: Second

Mayor Post: We have a motion and a second, any discussion. Roll call

C Brown Yes
C Duby Yes
C Hudson Yes
C Prettyman Yes
C Abraham Yes
C Betts Yes
Mayor Post Yes

C Betts made a motion to go into Executive Session.

C Abraham: Second

Mayor Post: We have a motion and second, all in favor say aye, motion carried

The Executive Meeting started at 10:40:06 PM

C Betts: made a motion to come out of Executive Session

C Duby: Second

Mayor Post: We have a motion and a second, all in favor say aye, motion carried

Mayor Post adjourned the meeting at 11:12 PM