

Milton Town Council Meeting May 6, 2015 Preliminary Minutes

Call to Order

The meeting was called to order in the Milton Public Library at 6:30 PM on May 6, 2015 by Mayor Jones. A moment of silence was then observed, followed by the pledge of allegiance to the flag.

Roll Call:

Theodore Kanakos, present
Emory West, present
Esthelda Parker-Selby, present
Edward Kost, present
Michael Cote, present
Sam Garde, present
Marion Jones, present
Seth Thompson, the Town Solicitor was also present

These Preliminary Minutes:

These preliminary minutes cover only the high points of the meeting. The discussions were recorded, and will be transcribed. The transcription will serve as the final minutes of the meeting.

Public Hearing: Amendments of the Charter of the Town of Milton relating to its Enumerated Powers, Section 29

Rich Miller, Grist Mill Dr.: What's the difference between having the set-back from waterways in the Charter vs having it in the Code?

The Town Solicitor responded:

- The 50 foot requirement currently in the Charter is more a buffer than a set-back.
- If in the Code, anyone seeking to construct or develop near any lake, pond or river is more likely to see it where they normally look for such information, e.g., in the Zoning Ordinance.
- The Town has more control if it is in the Code; i.e., it does not require the State Legislature to approve a change if the Town wants to expand or contract the buffer in the Code.

Louise Fry: Why can't it be in both?

The Town Solicitor responded:

- It can be in both, but that is not very efficient. If the Town wanted to change the buffer, it would still require the State Legislature to approve such a change because it is in the Charter.

Primo Toccafondi, 103 Isle Lane:

- Strongly recommended not changing the Title of Section 18 of the Town Charter from "Town Manager".

- Recommended Section 18 include minimal qualifications for the position of Town Manager.
- Recommended moving forward with hiring a Town Manager.
- Indicated that the two State Legislators have stated in public meetings that they will not take the proposed changes to the Delaware Legislature until there is no controversy regarding these changes.
- Left a written copy of his prepared remarks, which is included as Attachment 1 to these Preliminary Minutes.

Joannie Martin-Brown, Federal Street:

- Had the honor & privilege of working on the Committee that recommended the most recent changes to the Charter.
- That Committee agreed to put the 50 foot buffer in the Charter to preserve the pristine nature of Milton's lakes, ponds and rivers. In the Charter, it would be much more difficult to violate than if only in the Code.
- That Committee adopted the language by consensus for Town Manager to facilitate at the Town level interfacing with and having current knowledge of Federal, State & County requirements for municipalities, and to promote networking with other town's management teams.

Cliff Newlands, Oysterman Dr.:

- Agreed with using a percentage of the the total assessed value as a cap on real estate tax revenue.
- Recommended 1/2% as opposed to 1% since 1/2% would result in an increase to approximately \$2 million. The draft suggested 1% would result in a cap of approximately \$4 million, and that jump just seemed too high.
- Reminded that one of the reasons for going for a full reassessment in 2009 was to undo some of the inequity involved in the County Assessments, and that returning to the County Assessment, although it might save some money, would result in undoing the work to correct deficiencies in the County Assessment.

Public Participation

There were no citizens signing up for the public participation portion of the meeting.

Additions or Corrections to the Agenda

There were no additions or corrections to the Agenda brought forward.

Agenda Approval

A motion was made, seconded and unanimously approved to approve the Agenda as presented.

Old Business: Discussion and Possible Vote on the Following:

- Resolution 2015-010 - To request an amendment of the the Charter of the Town Milton relating to its enumerated powers**
 - Councilman Kanakos: When a developer appears to present his plans, doesn't he/she normally hire an attorney to go through all of the relevant documents, i.e., Charter & Code?

- Reply: Normally, it is the Design Professional preparing the plans who researches the requirements, and they normally rely on the setbacks indicated in the Zoning Ordinance.
- Mayor Jones commented that the citizens were concerned for loss of protection of our valuable lakes, ponds and rivers.
 - The Town Solicitor responded:
 - If a Developer wants a Variance from a Code requirement, he/she must go to the Board of Adjustment (BofA).
 - If the BofA denies the request, the Developer has to go to Superior Court to appeal such a decision.
- Solicitor Thompson read from the Town Code when a Variance can be granted by the BofA, and stated that the BofA must take into consideration the benefit to the applicant, as weighed against the detriment to the health, safety and welfare of the neighborhood or community. He also opined that the Town could restrict Variances in buffer of lakes, ponds and rivers in the Code.
- Project Coordinator Collier commented that:
 - the exceptions mentioned in the draft bill, i.e., jetties, bulkheads, embankments, flood gates, piers, or fills, are generally considered “subaqueous”.
 - The property adjacent to the theatre could not be developed within 50 feet of the Broadkill River under the current Charter.
 - Another property, formerly known as the “Doc White” property, but recently sold, extends to the Broadkill River.
 - DNREC has domain over land between the low & high water marks, despite the fact the property owner can own down to the low water mark.
 - The County Regulations require a 25 ft set-back from waterways. (This minute is correct, but the statement has been updated to indicate that the County requires a 50 ft. buffer.)
- Mayor Jones asked if any Council members thought we could reasonably be in a position to ask our Legislators to introduce a complete revision to the Charter during the current legislative session. The consensus, without a vote, was that it could not be done, since there were still many open items to be resolved, and process steps to be accomplished, such as reaching agreement among the Council members, presenting the “agreed” draft to the public, and revising that draft to account for public input.
- Councilman Kanakos indicated that he had received a lot of calls about the increase to 1% of assessed value and was afraid that it could/might be used as an incentive to actually raise taxes.
- Councilman Cote replied that the detailed requirements of the budget process made that extremely unlikely.
- Councilman Kanakos recommended extending the cap to either \$2 million, or 1/2%
- Mark Quigley was permitted to speak. He indicated that he had had recent serious health issues, and therefore had missed most of the recent discussions on the proposed changes to the Charter. (He added that he was on the mend and able to participate at this time.)
 - He recommended against going forward with the change removing the \$1 million cap until such time as the need for an increase in revenue had been better defined.

- He recommended that taxes could be cut if no need for additional revenue had been identified.
- He recommended that a pro-forma be developed forecasting the revenue needs over the next 5 to 10 years.
 - Councilman Cote replied that the budget process forecasts the revenue needs based on input from the Town's department heads, and staff members; and that the total process involved many steps, including public hearings, that it was extremely unlikely that taxes would ever be raised without a demonstrated need.
- Councilman Garde made a motion to change Section 2 of the draft House/Senate bill to read in part "...equal to one half of one percent (1/2%) of the assessed value of all such taxable real property and improvements thereon situated within the corporate limits of the Town of Milton; and provided further that there shall be no limitation upon the amount which may be raised fro the taxation of real estate for the payment of interest on and principal of any bonded indebtedness whether herein before of hereafter incurred". Councilwoman Parker-Selby seconded, and the motion was unanimously approved.
- Councilman West commented that the Mayor & Council needed to listen to the citizens, and not send forth a request to change the Charter until there was reasonable agreement among the citizens on the content of the changes.
- Councilman Garde made a motion that the effective date for Section1 of the draft bill be established as September 15, 2015, and the effective date for the remaining provisions be upon enactment. The motion was seconded and unanimously approved.

New Businss: Discussion and possible vote of Amendments to the Town Charter

- Councilman Garde noted that the approved agenda allowed written comments to be accepted at Town Hall prior to 5:00 PM on May 11, 2015, and therefore made a motion to table voting on the Resolution until that deadline passed. The motion was seconded and unanimously approved.

Adjournment

A motion was made, seconded and unanimously approved to adjourn.

Approval

These minutes were approved at the Town Council meeting held on June 1, 2015.

Very Respectfully submitted,
 James C. ("Sam") Garde,
 Secretary of the Town Council