

Milton Town Council Meeting October 5, 2015 Preliminary / Summary Minutes

Swearing-In of Newly Appointed Town Council Member

The swearing-in ceremony was called to order at 6:30 PM. George Kevin Kelly, having won unanimous approval at the September 14, 2015 meeting of the Mayor & Town Council to fill the seat left vacant due to the resignation of Ed Kost, was sworn in. The Oath of Office was administered by the Town Solicitor, Mr. Seth Thompson. Mr. Kelly swore to support the Constitution of the United States of America, the laws of the State of Delaware, and the Charter of the town of Milton.

Call to Order

The meeting was called to order in the Milton Public Library at approximately 7:00 PM on October 5, 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, absent
Esthelda Parker-Selby, present
Michael Cote, present
Kevin Kelly, 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 at a later date. The transcription will serve as the final minutes of the meeting. Documents included in the Council Package are not included as attachments to these preliminary minutes.

Public Participation:

Jim Welu, 30263 East Mill Run made several comments, including:

- Was curious about the May deadline for Tidewater to meet the revised discharge criteria.
- Indicated that this week the sewage treatment plant processed approximately twice as much water as its average, due to extra storm water.
- Opined that extra processing would cost Tidewater more money, and that they would likely be looking for a rate hike.

Michela Coffaro, PSY.D., ACSW, 608 Union Street made several comments, including:

- Complemented the Town staff for obtaining a State matching grant for planning for sea-level rise.

- Project Coordinator Collier stated that the grant was for \$7,000 to be matched by the Town's expenditure of \$7,000. He stated further that the town is preparing a map to help identify the town's needs. The important point is that the grant is for planning only, and will not support any new infrastructure.
- Stated that a significant portion of our infrastructure is subject to inundation, and that sea level rise would only exacerbate this.

Leah Betts, 113 Magnolia St. made several comments, including:

- She thanked the Public Works Department (DPW) for their hard work during the recent storm.
- Stated that she saw members of the DPW "wading" through high levels of water along Magnolia St to close the street to traffic to prevent vehicle damage.

Steve Crawford, 216 Ridge Road made several comments, including:

- Indicated that Tome Jones, owner of Irish Eyes, had signed the revised licensing agreement prepared by the Town's Solicitor.
- As Project Manager (and not as a member of the Economic Development Committee), he had started work to seek financial support for the project.
- Opined that the Town should save the \$25,000 estimated for an outside consultant to conduct the hiring process for the new Town Manager, by allowing the Personnel Committee to undertake this process in sequence after the process for hiring the new Police Chief was concluded.

Lorraine Wasserman, 244 West Shore Drive made several comments, including:

- Congratulated Mayor, Council, and the DPW for their work, especially during the recent storm.
- Congratulated Kristy Rogers, and opined that she is doing an excellent job for the Town.

Additions or Corrections to the Agenda:

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

Agenda Approval:

A motion was made by Councilman Garde and seconded by Councilman Kanakos to approve the Agenda as presented. The motion was unanimously approved.

Presentation and Approval of Minutes: Preliminary Minutes dated August 25, 2015, and September 1, 2015.

Re: Preliminary Minutes dated August 25, 2015:

- No comments were made on the Preliminary Minutes dated 8/25. A motion was made and seconded to approve the Preliminary Minutes of August 25, 2015 as presented. The vote to approve was 4 to 0, with Councilman Cote not voting because he did not attend the meeting, and Councilman Kelly not voting because he was not a member of Council on the relevant date.

Re: Preliminary Minutes dated September 1, 2015:

- No comments were made on the Preliminary Minutes dated 9/1. A motion was made and seconded to approve the Preliminary Minutes of September 1, 2015 as presented. The vote to approve was 5 to 0, with Councilman Kelly not voting because he was not a member of Council on the relevant date.

Mayor's Report:

- The Mayor gave special thanks to the DPW and the Police Department for their hard work during the recent storm. Opined that they made the correct decision to close Magnolia Street and Union Street in the vicinity of the Library.
- Opined that the risk assessment of flooding in the downtown region needs to consider the watershed contribution from Wagamon's Pond.
- Had spoken to business owners in the downtown area about ways to mitigate against flooding conditions.
- Indicated that there is a possibility of obtaining a grant from the University of Delaware to study shoreline stabilization.
- Suggested that the issue of wrought iron grates and trees be taken up in the next meeting. Councilman Cote opined that Council decision is not required.
- Indicated that a Temporary Agency had been contacted about supplying a person familiar with Edmund's Accounting software to assist with accounting activities.

Discussion of Written Committee Reports:

The only written committee report included in the Council package was from the Economic Development Committee. No significant comments were made.

Department Reports: Administrative, Code Enforcement, Project Coordinator, Police, and Public Works:

The reports were reviewed by Mayor & Council; comments included:

- Re: Admin Report: Council suggested having the Town Staff contact experts to provide advice re pruning the trees in the downtown area, since they are again beginning to obscure business owners' signage.
- Project Coordinator report: Councilman Kanakos asked if any complaints had been received from renters since the issuance of the new regulations. Project Coordinator Collier responded that no complaints had been received as of the date of the meeting.

Finance Report and Revenue/Expenditure Report:

An unaudited Treasury August Monthly Report was included in the Council Package, prepared by the Town Staff, and attested to by the Treasurer of the Town Council, Mr. Michael Cote. There were a few questions asked and clarifications sought by various Council members; all of which were resolved satisfactorily during the discussions.

Comments included:

- The amount shown in Transfer tax Savings Account, \$805,506, already had \$450,000 encumbered, \$225,000 each for FY 2015 & FY 2016.
- The amount shown as a \$5,912 excess in Historic Preservation Grants (line item 01-03-650-4510) was already committed.

Old Business - Discussion and Possible Vote on the Following Items:

a. Physical Fitness Equipment Usage Policy (Police Department)

Revised drafts of a Police Department Policy and a Release & Indemnity Agreement were included in the Council package. A lengthy discussion ensued among the Mayor, Council, Solicitor and Police Captain. Highlights included:

- There was a question as to whether our employees are covered by Worker's Compensation. The response was: since we pay for Worker's Comp, we have de facto "opted in".
- Looking over case law, Counselor Thompson opined that an employee need not be on duty for Worker's Comp to apply.
- Counselor Thompson opined that if the Industrial Accident Board said that Worker's Comp did not apply, that the Release would apply and should limit the Town's liability in the event of an accident.
- Counselor Thompson opined that if the Industrial Accident Board said that Worker's Comp did apply, that the Release would not apply and Worker's Comp should cover the Town's liability in the event of an accident.
- Counselor Thompson stated that Worker's Comp is the exclusive remedy for employees in cases where it is applicable.
- Mayor Jones stated that she is against the Town taking the risk for any Worker's Comp claim.
- Counselor Thompson opined that there is no difference in the way Worker's Comp applies to industrial accidents between Police Dep't employees and other Town employees.
- Captain Cornwell stated that the equipment was obtained under a grant to help Police men & women have the opportunity to maintain fitness.
- Captain Cornwell stated that there is nothing punitive in having a wellness & fitness program, but there are punishments for not passing the physical fitness test.
- Captain Cornwell opined that the benefits of having a fitness & wellness program is significant.
- Councilman Garde made a motion to table this item for redrafting to include deleting retired employees and Town employees other than Police, deleting reference to free weights, and conforming other aspects to the revised conditions. Councilman Kanakos seconded. A roll-call vote was taken with the following results:
 - Councilman Kanakos: Yes
 - Vice mayor Parker-Selby: Yes
 - Councilman Cote: Yes
 - Councilman Kelly: Yes
 - Councilman Garde: Yes
 - Mayor Jones: Yes
 - The motion was unanimously approved.

b. Cannery Village (CV) punch list, development standards, and subdivision and site plan approvals:

There was (1) a copy of a redrafted Memorandum of Understanding (MOU), (2) a copy of a draft Proposed Agreement re Cannery Village Streets prepared by Chestnut

Properties that included a copy of the CV punch list dated 11/14/14, and (3) a copy of an e-mail string re CV streets, all included in the Council package. There was a discussion of this item that included the following:

- Agreement to include the concept of a Supplemental Punch List in the MOU.
- Agreement to include in the MOU the concept of having Chestnut Properties reimburse the Town for the costs of any Town staff and engineering costs associated with making the Supplemental Punch List as well marking Punch List items.
- Agreement to delete reference to Dogfish in the MOU, since they are not party to the MOU.
- Councilman Garde made a motion to allow the Town Solicitor to redraft the MOU to address all of the agreements discussed and present such redraft to Chestnut Properties. Vice Mayor Parker-Selby seconded. The motion was approved 4 to 0, with Councilmen Cote & Kelly recusing since they are residents of Cannery Village.

c. Tasks assigned by Council Resolution 2015-015 relating to the Chief of Police Hiring Process - Deliverables: job description, advertisement, and application:

This item was tabled since the Personnel Committee had not met since the last Town Council meeting to finalize these items.

New Business - Discussion and Possible Vote on the Following Items:

a. Appointment to Planning & Zoning Commission

Mayor Jones nominated Richard Trask to fill an empty position on the Planning & Zoning Commissioner. Councilman Cote made a motion to approve appointment of Richard Trask to the Planning & Zoning Commission. Councilman Kelly seconded. The motion was unanimously approved.

b. Appointment to Historic Preservation Commission

Mayor Jones nominated David Dutton to fill an empty position on the Historic Preservation Commissioner. Councilman Garde made a motion to approve appointment of David Dutton to the Historic Preservation Commission. Councilman Kanakos seconded. The motion was unanimously approved.

c. Consent Agenda

A memo from Town Clerk Kristy Rogers outlining the concept of a Consent Agenda was included in the Council package. It basically included comments on:

- What is a Consent Agenda and how will it lessen the length of meetings?
 - Items that are routine at each meeting.
 - Items don't require any discussion at meeting, because any questions can be asked of department supervisors prior to a Council meeting.
- What belongs on the Consent Agenda?
 - Routine , procedural items such as approval of minutes & reports, appointment to Committees, and correspondence requiring no action.
- How are consent agenda items handled?
 - Any items are removed from the Consent Agenda that any Council member requests to be removed for discussion at its regular place on the agenda.

- When there are no more items to be removed, the Mayor will state “If there are no objections, the items remaining on the consent agenda will be approved and adopted.”
- Councilman Garde made a motion to adopt use of a Consent Agenda for the next two meetings until Mayor & Council see how it works. No formal Resolution is to be adopted until after the trial period. Vice Mayor Parker-Selby seconded. The motion was unanimously approved.

d. Ordinance 2015-011 to designate a no parking area along Chandler Street.

A draft Ordinance was included in the Council package. Discussions included:

- Under Section 1, change the word “their” to “its”.
- Under Section 1, stating the Section (16) to be used as the replacement sentence, change the word “to” to “towards”.
- A motion was made and seconded to approve Ordinance 2015-011, as amended. The motion was unanimously approved.

e. Resolution 2015-018 to refer Ordinance 2015-011 to the Streets and Sidewalks Committee.

A draft Resolution was included in the Council package. Discussions included:

- Change Paragraph number 2 to read “The Streets and Sidewalks Committee shall recommend any revisions to draft ordinance 2015-011 it considers necessary to provide for safe traffic flow and personal safety, especially during nearby events.”
- Councilman Garde made a motion to approve Resolution 2015-018, as amended. Councilman Kelly seconded. The motion was unanimously approved.

f. Resolution 2015-0199 to ratify the 2016 Fee Schedule.

A draft Resolution, including the Fee Schedule as an attachment, was included in the Council package. Discussions included:

- In the penultimate line of the NOW, THEREFORE, BE IT RESOLVED paragraph, add the words “the Fee Schedule” between “Town Council and” and “is hereby”.
- Councilman Cote made a motion to approve Resolution 2015-019, as amended. Councilman Garde seconded. The motion was unanimously approved.

Executive Session

- A motion was made, seconded and unanimously approved to go into Executive Session.
- At the end of the Executive Session, a motion was made, seconded and unanimously approved to come out of Executive Session.

Discussion and Possible Vote on Executive Session Items:

A motion was made, seconded and unanimously approved to go into Regular Session.

A motion was made Councilman Garde and seconded by Councilman Cote to contract with the entity discussed in Executive Session for the deal discussed in the first item of the session.

A motion was made by Councilman Garde and seconded by Councilman Kanakos to approve amendments to the draft Agreement discussed in Executive session. The motion was unanimously approved.

Adjournment

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

Approval

These minutes were approved at the Town Council meeting held on November 16, 2015.

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

A motion was made by Councilman Gade and seconded by Councilman Peterson to approve and refer to the Staff Agreement Negotiating Unit in its own session. The motion was unanimously approved.

Adjournment
A motion was made to adjourn and unanimously approved by Councilman Vally. Resolutions passed.

Adjourned
This motion was approved at the Town Council meeting held on November 15, 2012.

Approved by the Council
Mayor of the Town of Gade