

Milton Town Council Meeting February 24, 2016 Summary Minutes

Call to Order

The meeting was called to order in the Milton Public Library at approximately 6:30 PM on February 24, 2016 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, absent
Michael Cote, present
Kevin Kelly, present
Sam Garde, present
Marion Jones, present
Seth Thompson, the Town Solicitor was also present

These Summary Minutes:

These summary minutes cover only the high points of the meeting, and shall be final minutes when approved by the Mayor and Town Council. The discussions were recorded, and may be transcribed at a later date. The recording is available in Town Hall. Documents included in the Council Package are not included as attachments to these summary minutes.

Presentation from PKS & Company, PA. 2015 Financial Audit

Financial highlights of the Town's General Fund and the Utilities Fund were included in the Council packet.

Representatives from PKS & Co presented the findings from their audit of the Town's 2015 financial records. Their comments included:

- The audit opinion was that the documents fairly presented the financial condition of the Town from October 1, 2014 through September 30, 2015 in accordance with standard accounting practices.
- The audit is "unmodified", or in other words it's a "Clean" audit.
- The auditors did not find any material weaknesses in the accounting system.
- The auditors opined that "Milton is in good financial shape."

HEARING FOR PUBLIC COMMENT RELATING TO ORDINANCE 2015-011 TO DESIGNATE A NO PARKING AREA ALONG CHANDLER STREET

A recommendation from the Streets & Sidewalks Committee was included in the Council packet. It recommended that the no parking areas in the Town Code Chapter 209 be amended to include both sides of Chandler Street from the intersection of Union St east to the intersection of Behringer Ave with the exception of the already established parking areas.

Steve Crawford, 216 Ridge Road offered his opinion, which included:

- He is in support of the Ordinance.
- There is a public safety issue, especially during festivities in the Park, when cars have been parked on both sides, making it difficult if not impossible for emergency vehicles to enter the neighborhood.

Councilman Garde indicated that he had attended the Streets & Sidewalks Committee meeting, and that their intention was to modify the draft included in the Council packet to include more than 200 feet and to extend the no parking area from Union Street all the way to Behringer Avenue, except as noted above.

HEARING FOR PUBLIC COMMENT RELATING TO ORDINANCE 2015-019 REGARDING THE WROUGHT IRON TREE WELL FENCES CURRENTLY INSTALLED DOWNTOWN

A recommendation from the Streets & Sidewalks Committee (S&SC) was included in the Council packet. It recommended that all of the wrought iron tree well borders on Union St and Federal St be removed for safety reasons and be taken to the Town's Maintenance Yard until there is a plan to use them in another site in Town.

Jeff Dailey, 211 Grist Mill Drive made several comments and voiced several opinions, including:

- What is going to happen if the Mayor & Town Council accept the S&SC recommendation?
- Please provide the citizens with a "smorgasbord" of options on what to do about the tree well fences.
- What kind of research was done by the S&SC?
- Does the Town's insurance cover the potential costs associated with the possible law suit for personal injury that started the controversy?
- What about Municipal Tort Indemnity?
- Was any comparison made to other towns' use of similar fences?
- The timing of the recommendation is suspect, since the issue with the potential law suit is still uncertain.
- There are lots of damaged feelings over the way this issue has been handled.
- The tree well fences belong to the Town, not the Garden Club.

The Town Solicitor, Mr. Seth Thompson, responded to some of Mr. Dailey's questions, including:

- An ordinance might be required to implement the S&SC recommendation.
- Regarding timing: where public safety is concerned, timing should not be a consideration.

Mayor Jones commented that she agreed that the timing was horrific, but that public safety took precedence.

Councilman Kanakos commented that the trees are approximately 5 inches in diameter, and that the tree wells are approximately 9 feet 2 inches in length. He opined that the Town could consider reusing the fences, but in a much smaller length, thus gaining many square feet of sidewalk while still protecting the trees. He asked if the choice was to leave the fences as they are or take them all down.

Solicitor Thompson opined that the Mayor and Town Council had many options other than the two in Councilman Kanakos's question.

Steve Crawford, Ridge Road read a letter into the record recommending that the Town assume ownership of the tree well fences and accepting the resulting responsibilities. This would allow the Town to demolish the fences. A copy of the letter is included as Attachment 1.

HEARING FOR PUBLIC COMMENT RELATING TO RESOLUTION 2016-002 REGARDING OPPOSITION TO SEISMIC TESTING AND DRILLING OFF THE ATLANTIC COAST

A copy of the draft resolution was included in the Council packet.

Maurice McGrath, West Shore Drive made several comments, including:

- He is happy to see that the Mayor & Town Council are considering this Resolution.
- He is against seismic testing in the Atlantic.

Matt Heim, Outreach and Communications Coordinator Assateague Coastal Trust, made several comments, including:

- There is a bill on the floor of the Delaware State Senate against allowing seismic testing.
- Many coastal communities including Rehoboth Beach and Bethany Beach have already gone on record as opposed to seismic testing.
- Milton would be the first inland community to go on record as opposed.
- The Federal Government has already approved opening a large area off the East Coast for seismic testing.
- Companies are currently applying for the leases to conduct seismic testing.
- The Bureau of Ocean Environmental Management (BOEM) will issue 4 permits after evaluating all the bids for seismic testing.

Councilman Garde opined that we should be lobbying against issuing permits since the Government has already approved the concept of seismic testing.

Solicitor Thompson and Mr. Heim agreed that the language in the draft Resolution was still appropriate, and did not need to be updated to reflect the Federal Government's approval.

Joanne Cabry from Rehoboth Beach had an article published in the Delaware News Journal, authored by Rachel Pacella that included statements from David Small, Secretary of the Delaware Department of Natural Resources and Environmental Control. In it, Secretary Small expressed concern over potential threats to marine life and the potential impact to Delaware's coastal economy as a result of seismic testing. A copy of the Article is included as Attachment 2.

Public Participation:

None (other than the participation in the discussions above.)

Requests for Removal of Items from the Consent Agenda

None.

Approval of the Consent Agenda

Councilman Cote made a motion to approve the Consent Agenda as submitted. Councilman West seconded, and the motion was unanimously approved.

Additions or Corrections to the Agenda

None.

Agenda Approval

A motion was made by Councilman West to approve the Agenda as submitted. Councilman Cote seconded, and the motion was unanimously approved.

Discussion and Possible Vote on Items removed from the Consent Agenda

None.

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

a. William B. Askew is requesting approval of a minor subdivision for the property known as 403 Pine Street also known as lots 5, 20, 21 and 22 of Section C, Conwell's Addition; and further identified by Sussex County Tax Map and Parcel #2-35-14, 16-07.00

A note from the Project Coordinator regarding this item was included in the Council packet. The highlights of the note included:

- The Planning & Zoning Commission considered comments from the Town's Engineer and unanimously recommended approval of the of the request with conditions as specified in the Commissions written recommendation, also included in the Council packet.

Councilman Garde made a motion to approve the minor subdivision with conditions as specified in Planning & Zoning Commission's recommendation. Councilman West seconded. A roll call vote was taken with the following results:

Theodore Kanakos: Yes
Emory West: Yes
Michael Cote: Yes
Kevin Kelly: Yes
Sam Garde: Yes
Marion Jones: Yes

The motion was unanimously approved.

b. Ordinance 2015-011 to Designate a No Parking Area along Chandler Street

After the public hearing results outlined above, Councilman West made a motion to approve the Ordinance as modified as follows: Change the language in the Resolution starting from "(16)" to read "(16) Both sides of Chandler Street from the corner of Union Street intersection east to the intersection of Behringer Avenue, except for already established and marked parking spaces." Councilman Garde seconded. A roll call vote was taken with the following results:

Theodore Kanakos: Yes
Emory West: Yes
Michael Cote: Yes
Kevin Kelly: Yes
Sam Garde: Yes
Marion Jones: Yes

The motion was unanimously approved.

c. Wrought Iron Tree-Well Borders, including Resolution 2015-019 to Request a Recommendation from the Streets and Sidewalk Committee Relating to the Wrought Iron Tree-Well Borders, currently installed downtown

Councilman West made a motion to accept the recommendation of the Streets & Sidewalks Committee to remove the wrought iron tree well fences as a matter of public safety. Councilman Cote seconded for discussion. Highlights of the discussions included:

- Councilman Garde opined that the Garden Club and the Town should sit down and talk about the issues. He acknowledged that attorneys for both sides had cautioned their respective clients not to speak of the fences. Therefore, he suggested that the attorneys be invited to the conversation to ensure that nothing prejudicial to either's case occurs.
- Town Solicitor Thompson opined that ownership is not dispositive in the potential personal injury suit.
- Town Solicitor Thompson opined that the Town is in a position to regulate the tree well fences, especially if public safety is involved.
- Town Solicitor Thompson opined that Municipal Tort Immunity would apply regardless of any delay in including the Town in any potential personal injury law suit.
- Jeff Dailey suggested taking a survey of the Town to determine the citizens' position on the issue.
- Steve Crawford opined that if it is considered a safety issue by the Mayor & Town Council, they have no alternative other than to remove the fences.
- Jeff Dailey opined that the motion is a "misinformed motion."
- After the discussions, Councilman West withdrew his motion, and made a new motion to refer the issue back to the Streets and Sidewalks Committee for more detailed analysis and to consider other aspects, such as the uneven ground in the tree wells with the fences removed as a possible tripping hazard. Councilman Kanakos seconded. A roll call vote was taken with the following results:

Theodore Kanakos: Yes

Emory West: Yes

Michael Cote: Yes

Kevin Kelly: Yes

Sam Garde: Yes

Marion Jones: Yes

The motion was unanimously approved.

d. Resolution 2015-024 Relating to Town Council's Support of Tidewater Environmental Services, Inc's Application to the Delaware Water Pollution Control and Drinking Water State Revolving Fund

An e-mail from the attorney for TESI responding to most of the Town's earlier comments on the TESI draft application was included in the Council packet.

Discussion included:

- The copy of the application in the possession of the Town is still incorrect in many aspects.

- The Mayor & Town Council should not express support until the application is corrected and clarified.

A motion was made by Councilman West to table the Resolution until such time as the application is corrected and clarified. Councilman Garde seconded. The motion was unanimously approved.

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

a. Resolutions 2016-002 relating opposition of seismic testing and drilling off the Atlantic Coast

A motion was made by Councilman Kelly to approve the Resolution as drafted. Councilman Garde seconded. The motion was unanimously approved.

b. Budget revision and approval for additional funds to purchase 2 backflow preventers as a method to limit flooding downtown

A note from the Town Clerk providing a quotation for two backflow preventers was included in the Council packet.

Discussion included:

- The request was for a budget adjustment of \$10,368.00.
- The request was made based on a suggestion by the Public Works Department to initiate some action to limit downtown flooding.
- The installation will be made by Public Works Dep't personnel.

A motion was made Councilman Garde to approve additional funds in the amount of \$10,368.00 to initiate the procurement procedure for 2 backflow preventers. Councilman West seconded. The motion was approved by a vote of 5 to 1, with Councilman Kanakos voting against the motion.

c. Recent public safety events of Cannery Village

Councilman Cote gave a brief introduction to the propane leakage situation in Cannery Village, including:

- A pipe break caused a leak of propane into the soil in an area of Grist Mill Drive.
- The leak was the most likely cause of an explosion in the sump pump area of one resident's house.
- DNREC is in charge of the cleanup.
- The supplier (Poore's) is working to determine the cause of the break in the line.
- Provisions have been installed to collect and remove propane remaining in the soil as a result of the pipe failure.

No action or votes were needed on the part of the Mayor and Town Council.

Executive Session

- A motion was made and seconded to go into Executive Session. The motion was unanimously approved.
- 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. No actions were required in the Regular Session as a result of the Executive Session.

Adjournment

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

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