

**MILTON TOWN COUNCIL  
MONDAY, NOVEMBER 7, 2016, 6:30PM  
MILTON LIBRARY, 121 UNION STREET**

The meeting was recorded; the below minutes are a summary of the agenda items.

- 1. Call to order (6:30pm) by Mayor Kanakos**
  - 2. Moment of silence was observed (6:30pm)**
  - 3. Pledge of Allegiance to the Flag (6:30pm)**
  - 4. Roll Call – Mayor Jones: (6:31pm)**
- Ted Kanakos – Present  
Stell Parker-Selby – Present  
Michael Cote – Present  
James ‘Sam’ Garde – Present  
Charles Fleetwood – Absent  
Emory West – Present  
Kevin Kelly – Present
- 5. Public Hearing on a Proposed Amendment to Town Code Chapter 220 entitled “Zoning”, relating to signage – see Old Business item 13a – If you are not able to attend the public hearing, written comments will be accepted at Town Hall until 5pm on November 7 (6:31pm)**

*Seth Thompson* – Verified with Mrs. Rogers no written comments received at Town Hall. For the benefit of the public, Ordinance 2016-010 is a proposed amendment to the Zoning Code with regards to signage. It basically does a couple of things; the free-standing sign definition has a few added terms in that the sign cannot be supported by a tree or utility pole, currently it just indicates that it is not supported by a building. So that is really, just a clarification. In terms of the definition of political sign there is a change where the definition is removing the restriction that a political sign must be intended to advance a political statement, cause or candidate for office. So, the notion there is the Ordinance would amend the code to make it more content neutral in light of a US Supreme Court case from last year, in which zoning ordinances were not allowed to favor a particular type of sign based on their message. The proposal is that people are still allowed to have political signs and they can be up no sooner than ninety (90) days prior to any federal, state, county, school district or municipal contested election or referendum and they should down no later than fourteen (14) days after that election or referendum, but it would no longer be limited to just those political signs. You can use that one sign for your political cause, so people still have their right to express themselves and how they want people to vote. But it no longer technically should be about that election. So that is the balance in terms of trying to make the code content neutral but allowing people the ability to advertise for their political candidates of choice. So now is your time to come forward with any comments. I would just ask that you give your name and address for the record.

*Jeff Daily* (211 Gristmill Dr.) – I am thrilled to look at the prospect of putting up my sign, love it or leave it, in advance of elections. This is probably going to be a very very, short little public hearing, however, I am an advocate of not doing public hearings, as a rule, on the night of a Council Meeting. Often times, public hearings can be lengthy. Citizens are as much experts as our experts who might be presenting at those public hearings. I think that reflective time is always appreciated when looking at a public hearing issue. So, while this is an exception, I would urge Mayor and Council to consider very carefully putting public hearings on the night

of Town Council Meetings. I've said this many times before and I thank you for hearing me now.

**6. Delaware Bayshore By-way Program Presentation by Michael Hahn (6:35pm)**

*Michael Hahn/Chip Knievel (DelDot)* – Thanks for having us here again tonight, I recall the last time we were here we were in April. A lot of the same faces are here so we will kind of go through some of the same materials, we've abbreviated some stuff, but we just want to make sure to make it fair since this is a public process to give kind of an overview of Delaware By-ways and how it relates to the Bayshore By-way and our proposed extensions. We are going through some of the same materials of what we presented back in April, but hopefully some of it's abbreviated. I know there are a lot of agenda items on your Town Council for tonight. We wanted to be sure since we are early, that we are not going to drag things out. Your time is valuable and so is ours.

*Chip Knievel* – The things we are going to go over, again very quickly hopefully, going to talk about Delaware By-way program as a whole, we're going to describe the Bayshore By-way in its current form and what we are looking to make it and why we are here to talk to you guys about becoming a part of that Bayshore extension.

*Michael Hahn* – Question, I know that we asked it the last time we were here, does everyone here know what a By-way is, because we are going to go through some of the By-ways 101, I think we went through some of it and we can go through it fairly quick, if we get through the basics, but who doesn't know what a By-way or any idea based upon what we presented last time or folks that are newly here tonight.

Presentation and handouts on By-ways and TAP (Transportation Alternative Program) by both Michael Hahn and Chip Knievel. Participation in the By-ways makes you eligible for TAP funding. Billboard restrictions covered for new billboards on the By-way.

*Seth Thompson* – You had a procedural question. We always have the public hearings at the beginning and then we get to the discussion and possible vote on the agenda.

*Mayor Kanakos* – Yes, it's on tonight.

**7. Public Participation (6:58pm) -**

*Sam Garde (115 Sassafras Lane)*- I have come to speak as a citizen not as a member of the Town Council, although it was because I am a member of the Town Council that I was invited to both of our Elementary schools to witness the after-school programs that they both have, which are called 'Keep the lights on after school'. I just you to know my opinion of how excellent our teachers, our volunteers and our kids are. I was so impressed with the teachers and volunteers who are running these programs in our two elementary schools, that it prompted me to speak. They are really terrific and they are taking excellent care of our children.

*Jeff Daily* – Decided not to speak again, said he already said all he needed to say.

*Bob Howard (217 Chandler St)* – I am also the Chairman for Milton Economic Development Committee and a member of the Sustainability Sub-Committee. Here to call your attention to a program on recycling, that the Sustainability Sub-Committee and the library jointly are putting on here at the library, a week from tomorrow on November 15, 2016 at 5:30pm. Mr. Don Long from DNREC will be here to explain the DNREC recycling program, they are making some changes. He is going to answer questions and have a presentation Recycle Delaware and what can be done. Public is invited.

**8. Requests for Removal of Items from the Consent Agenda (7:02pm)** – Mayor Kanakos asked that the Administrative report and Financial reports be removed. They are not in the packet. Councilman Garde ask that the EDC Sustainability Sub-Committee report be removed

to further discuss. Councilman Garde also has some typographical correction for the May 2 minutes but not to remove it he will pass them on to Mrs. Rogers.

- 9. Approval of the Consent Agenda:** (7:04pm) Motion was made by Councilman Garde, to approve the consent agenda apart from the EDC Sustainability report, Administrative Report and the Financial Report.; second by Vice Mayor Parker-Selby. All in favor. None opposed.
- a. Written Committee Reports**
  - b. Written Department Reports: Administrative, Code Enforcement, Project Coordinator, Police and Public Works**
  - c. Finance Report and Statement of Revenues and Expenditures**
  - d. Minutes: ~~April 4~~ and May 2**
  - e. Resolution 2016-012 relating to Milton Police Department State Accreditation**

**10. Discussion and possible vote on items removed from the Consent Agenda** (7:04pm)

*Councilman Garde* – Question to Bob Howard, On page 2 of the report it says that the New Rural Community Development Initiative Grant has been received, but when I look through it, it says that we are eligible. So, I don't know if our request for the grant has been accepted or not. I am simply asking because you are here.

*Bob Howard* – The application for the grant was from DEDOE to Department of Agriculture. They included us in the grant so that money from that grant is available to be used to support Milton, but we haven't asked for anything specifically yet.

*Councilman Garde* – Do I read this to say that we might be able to obtain if we submit up to \$750.00 or is it going to go beyond that?

*Bob Howard* – My understanding is that the \$750.00 is reimbursement for someone to go to the May Street Conference. And that would be available from them if we apply. Also, I had a conversation with Ms. Laird about possibly getting support from them for the Economic Pan we be talking about.

*Councilman Garde* – I also note that Diane recommended a one year assessment review to develop a strategic plan for Downtown and that she offered access to a consultant. My only commit on that and in several other places, we have spent an enormous amount time, effort and investment of sweat equity in the development of the Town's Comprehensive Plan, and I would hope that this suggestion for a one year assessment to review and develop a strategic plan for Downtown as reported in this report would not be necessary cause it would be part of our Comprehensive Plan.

*Bob Howard* – I agree with that totally. The discussion we been having about an Economic Development Plan have always been it needs to be consistent with what's in the Comprehensive Plan and we need to see what that is before we can go very far.

*Councilman Garde* – Hopefully we will have your comments on the draft Comprehensive Plan to ensure that is taken care of.

Motion to accept the written committee report from the Economic Development Sustainability Sub-Committee with the comments as needed. Second by Councilman Kelly. All in favor. None opposed

**11. Additions or Corrections to the Agenda:** (7:09pm) No additions or Corrections

- 12. Agenda Approval:** Motion made by Vice Mayor Parker-Selby to approve the agenda; second by Councilman West. All in favor. None opposed

**13. Old Business – Discussion and possible vote on the following items: (7:09pm)**

**a. Ordinance 2016-010 to amend Town Code Chapter 220 entitled “Zoning”, relating to signage**

Seth Thompson – Hopefully Council got to see the advisory report from Planning and Zoning. Obviously, we had our Public Hearing on it here earlier. I am happy to answer any questions people might have. We are now in a position to pass the ordinance, if that’s what council wants to do.

*Mayor Kanakos* – Should we have some discussion or shall we make a motion then discuss it?

*Councilman Cote* – I guess make a motion and then discuss.

*Mayor Kanakos* – Do I hear a motion?

Motion by Councilman Cote to approve. Second by Councilman West.

*Mayor Kanakos* – Any discussion?

*Councilman Cote* – Quick question; in the change in the language where we add the ‘tree or utility pole’. My understanding was that political signs were not allowed on utility poles. Does our mentioning utility poles allow it or.....

*Seth Thompson* – No, this confirms that you are not allowed to attach a sign to a utility pole.

*Councilman Cote* – Ok

*Councilman Garde* – You are not allowed to attach a freestanding sign to a utility pole, but a political sign is currently defined as not necessarily freestanding it’s only temporary.

*Seth Thompson* – Correct

*Councilman Garde* – ok, I have a question

*Seth Thompson* – Sorry to interrupt. If you look at the section 2, it does say political signs must be freestanding, it’s that sub-section 3. So, in other words you can’t attach a political sign to a tree or telephone pole.

*Councilman Garde* – My only question is, how did we select ninety (90) days and do we really want political signs out for that long?

*Seth Thompson* – The ninety (90) days is actually in your code currently, so I didn’t think it was my place to change that time period, really what I was trying to do was fix the constitutional issue. In effect, everything else is staying the same, this is an opportunity for Council to do something different if ninety (90) days is too long. And really it ends up being one-hundred and four (104) days in terms of how long the signs are out, because they can be out for fourteen (14) days after the election.

*Mayor Kanakos* – Do we actually need fourteen (14) days after the election?

*Seth Thompson* - I think that notion is to give people the opportunity to take them down if they are away, I guess.

*Mayor Kanakos* – Two (2) weeks is an awful lot.

*Councilman Garde* – Since we are in discussion, I don’t have any strong objection to ninety (90) and fourteen (14) especially since it is what we currently have, but I would have no objection if it said sixty (60) and seven (7) either. Which would give us a shorter period of time to have these signs up and still plenty of time for free speech, if it’s not regulated and if it is up to Mayor and Town Council for the Milton political signage, if there is no controlling State, County or US Government on this, I don’t feel strongly about it but I wouldn’t object to sixty (60) and seven (7).

*Seth Thompson* – And that is within Council’s legislative discretion.

*Mayor Kanakos* – I have one (1) question, at the end of the seven (7) or fourteen (14) days does the town have the authority to remove these signs?

*Seth Thompson* – That is in a different section of the code but I believe, I am looking at Mr. Collier, is that how we handle it and then they get notification that the Town has the sign.

*Mr. Collier* – That is correct, sir.

*Mayor Kanakos* – Is there a penalty involved in this? Do they have to buy them back?

*Mr. Collier* – There is no codified penalty at this time. We just notify them that their signs are in our possession and they may come get them.

*Seth Thompson* – So the way your code is set up is if there is an unspecified violation, it falls under the general penalty but it sounds like the town just has them come pick up the sign as opposed to citing them.

*Mayor Kanakos* – And if they don't come pick up them we just dispose of them.

*Councilman Kelly* – I would disagree with Councilman Garde on the ninety (90) day, fourteen (14) day change to sixty (60) and seven (7), not because there is anything magic about ninety (90) and fourteen (14) or not magic about sixty (60) and seven (7), it's just that to bring it up tonight, make an arbitrary decision, no particular reason for doing that and especially since the issue addressed is political speech, which I would be hesitant to restrict. I think political speech is important and especially when we are taking a look at that issue. I am not opposed to a conversation in the future about this but I think there needs to be some thought given to it, some comparisons with other towns and other communities on how they do it. So, I would not be in favor of changing at this time.

*Councilman Garde* – A compelling argument and I will agree. As I said I don't feel strongly about this.

*Seth Thompson* – One other thought that I had, I am not sure if the ninety (90) days was designed to accommodate between, I am trying to think of the exact day we have our primary elections, in other words it might to avoid a scenario where you put your sign out for the primary and then you should take it down and then you put it back up for the general. Maybe there was some thinking, speculation.

*Councilman Kelly* – That's my point about not having looked at it and what the consequences would be.

*Mayor Kanakos* – Are there any County or State laws dictating how the signs can be in Milton, in other words if I am running for a county seat and we change it to sixty (60) days do they actually have ninety (90), are there County laws regarding these. Is everything town oriented, we make the rules within the town.

*Seth Thompson* – Right, this is within your zoning, so you dictate. Now, I think, DelDot does have control over the signs in the DelDot Right of Ways, I believe.

*Mayor Kanakos* – I know I was in Lewes when they had their signs up and DelDot put signs out, 'Keep it back so many feet', as you go in. I haven't seen it here. Well folks we are at the ninety (90) and fourteen (14), any other discussion?

All in favor. None opposed.

**b. Delaware Bayshore By-way Program (7:16pm)**

Motion by Councilman West to get on board with the Delaware Bayshore By-way Program.

*Seth Thompson* – Councilman do you want to use their suggested language which is to "Support and assist DelDot in planning efforts with the mutual goal of developing a By-

way route through Milton to become part of the State design Delaware Bayshore By-way”?

*Councilman West* - Yes

Second by Councilman Kelly.

*Mayor Kanakos* – Discussion folks. Any comments? Critical, positive, anything else?

*Councilman Cote* – I just have a question for the two gentlemen who did the presentation. Anything in the program that will require, that there could be requirements from the program, from DelDot, from anybody else in the State, to require Milton to spend money on anything related that Milton doesn't initiate the spending.

*Michael Hahn* – Let me try to rephrase your question as best as possible because I don't think we mentioned it. Being part of the Bayshore Program will cost you nothing.

There is not an initiation fee or anything like that. The Bayshore Byway extensions are part of DelDot's program along with the Bayshore Community Leaders, where that funding to do the addendums are within DelDot's budget, if not we will make accommodations for that so that we are not putting the burden on the Towns, to say “Oh you want to be part of the Bayshore By-way, well it might cost you \$5,000.00 to do the amendment”, that is not our intent at all.

*Mayor Kanakos* – There's no matching grants that would come along?

*Michael Hahn* – There could be matching grants that do different projects but it doesn't cost anything to get into the Bayshore By-way Program.

*Mayor Kanakos* – But there might be a cost to us in the future?

*Michael Hahn* – No there should not be, let me finish. So, we would look for a community leader or leaders to be part of the Bayshore By-way, we will call it management team per say, so it's time and it's some effort and obviously it's the small towns too trying to promote the Delaware Bayshore By-ways. You can make whatever of it that you want. It depends upon your level of effort towards it. Now, as By-way Coordinator I am going to try and push you to do some of these things but I can't make you or obligate you to do it. Nor am I going to ask you to spend money to do it unless you want to do it yourselves, or we look towards sponsorships or legislative funding to do certain programs, such as signage or anything like that. You work with Chip or myself in terms of the TAP program for projects. So, kind of like a buy in but those are capital improvement projects. So, it's not costing you a fee, it's your time and effort of what you want to put in to it. Did that hopefully address most of your question if not everything.

*Councilman Cote* – Let me repeat the short answer of what I heard. If the town does not start a project, you will not start one that will cost us money.

*Michael Hahn* – That is correct.

*Councilman Cote* – If the town starts the project we are aware that it could cost, could be some matching grants and could be some funding.

*Michael Hahn* – There's opportunities, yes.

*Councilman Cote* – But you will not start a project.

*Michael Hahn* - And then force you all to help pay for it, that is correct. That is not the idea.

*Councilman Cote* – That's what I wanted to know.

*Mayor Kanakos* – Any more discussion? We have a motion and a second.

All in favor. None opposed.

#### **14. New Business – Discussion and possible vote on the following items: (7:20pm)**

**a. Request from Fernmoor Homes relating to bond reduction of Phase 3D in Heritage Creek**

Ben Gordy (Ocean Atlantic Management) – Also have David Steele with Fernmoor Homes. Here to request a reduction to the Phase 3D bond, currently it's in its original amount of \$338,182.84. We have completed the sewer, water, storm drain, curbing and base paving. Remaining work is top coat of paving, concrete sidewalk and driveway aprons, streetlights and landscaping. So, the total cost, including the twenty-five (25) percent contingency of the remaining improvements is \$76,490.12. Previously working with the Town of Milton, we agreed that the kind of maximum bond reduction should be seventy (70) percent, the remaining work total would be a seventy-seven (77) percent reduction so we are going to follow that request the seventy (70) percent reduction to \$101,454.88. We submitted preliminary as-builts of the water, sewer, storm drains and the roads and then prior to dedication we will submit the final as-builts with all the surveyor's information and all that.

*Seth Thompson* – Just from the legal department, I am really pleased that we have kind of a framework to work within dealing with these issues, that makes me relatively happy.

*Mayor Kanakos* – Do we have any comments from our engineer?

*Carlton Savage (Pennoni & Associates)* – Completely agree with Fernmoor and Ben, we reviewed everything, they submitted their preliminary as-builts, we have a couple comments on those but they are aware they have to address them before the final release. We did send a letter out on November 1, detailing all of that, which you probably have a copy of. So, everything is in order and my recommendation is in the letter to go ahead and reduce down to the thirty (30) percent if that is your wish.

*Mayor Kanakos* – Ok. Council have anything or shall we make a motion

Motion by Councilman West to grant Fernmoor homes request to reduce bond from \$338,182.84 to \$101,454.88.

Second by Councilman Garde. All in favor. None opposed.

**b. Request from Chestnut Properties relating to dedication of Cannery Village. (7:25pm)**

Travis with Urban Dirt, Joe Reed with Chestnut Properties – I believe last time we were here we had two (2) items that were remaining on the punch list, those two (2) items were the sanitary manhole across from the clubhouse and the additional work we did on installing a catch basin and some storm drain pipe on Fulton Drive. Those two (2) items have been addressed and are 100% complete. I am going to give these photos to you Carlton, showing that everything has been done.

*Mayor Kanakos* – Carlton, do you have any comments?

*Carlton Savage (Pennoni & Associates)* – Again Travis, everything they were asked to, the two (2) items, are complete. I rode through before the meeting tonight. The base paving went down today, maybe?

*Travis* – Correct, the actual catch basin and piping was done a week ago and then I waited a week for traffic to drive on it. Then I excavated everything out today and did the hot mix patching today.

*Carlton Savage* – Just to elaborate, in a previous meeting we discussed that we had to come up with a solution. The solution we came up with, there was a catch basin sort of off in to the grass, instead of trying to rework that entire intersection, there was enough

cover and fall to get the pipe a new catch basin in a low spot, much simpler fix. Travis, it looked great today when I was out there, little dark since we have daylight savings. It did look good in the dark, it was nice and smooth. Haven't seen it work yet but it appears to be complete.

*Mayor Kanakos* – Now I will ask our Town Attorney, what's the next step, do we have to check on deeds and various other things.

*Seth Thompson* – They just need to provide the releases from their contractors and subs, saying they have been paid. I ordered the title search, so that should come back any day. There needs to be a deed of dedication drafted for the streets. And the only other item, I think, is the easement that we need around the gazebo. I am fine with drafting that, although normally the engineering drawings come from you guys, but those are the only items we have left to check off.

*Mayor Kanakos* – So this is the beginning of the request, we have some follow up to do, maybe by the next meeting we can have this.

*Carlton Savage* – I think very early on there was discussion of an easement, we were going to handle it at the time of dedication.

*Seth Thompson* – Right.

*Carlton Savage* – How we handle the dedication is interesting, how do we want to do that? With some sort of written deed, is that your thought?

*Seth Thompson* – That's always been my preference because you guys have relied in the past on having your minutes reflect what's been dedicated. That really belongs in the land records, in my mind. Drafting a deed of dedication normally doesn't have to be too complicated, frankly it's often just a reference to the exhibit showing which streets are being dedicated and obviously the request is for all of them. I take it that everything is in order at this point.

*Carlton Savage* – Correct, everything is done at this point. Only thing I don't know is if there is one (1) record plan that would show all the streets as they currently sit.

*Seth Thompson* – That we could use as the exhibit to the deed of dedication.

*Carlton Savage* – Correct, you will want to put some sort of exhibit in the file.

*Councilman Garde* – My comment is 'all the streets' is fairly vague to me. And as I understand it the town is not required to accept dedication of the alleys and lanes and did not intend to accept dedication of the lanes and if there is anything we call alleys. I would strongly prefer to have a touring showing what streets are being accepted, we looked at that at the last meeting. The concept of all, this memo says 'all the streets within Cannery Village currently owned by Chestnut Properties'. At least from my recollection of what we talked about in the past was on the accepted master plan is that the Town would accept dedication of these streets called street or boulevard and not the streets called alleys or lanes and to my way of thinking this requires a little more detail than simply a request to accept all the streets in Cannery Village. I drove through and they all seem to be paved. Carlton, do you mind please just reviewing the fix for the crosswalk between where we had the manhole in the middle of the crosswalk. I sure you guys did a great job.

*Councilman Kelly* – It wasn't in the middle of the crosswalk.

*Councilman Garde* – I stand corrected.

*Carlton Savage* – The location as in front of the clubhouse. The fix for that manhole was they removed, pulled the manhole up, cut a square, pulled the manhole up, used concrete to form that area so that it could be precise.



*Councilman Garde* – So that’s what you we talk about, I was a little confused by whether we were talking about the other area where there was an issue.

*Travis* – Yes, there’s two issues, so one was the clubhouse, where we had a manhole that fell into the crosswalk itself. At the September meeting we discussed how we were going to fix that because it didn’t quite meet the slope requirements for handicap accessibility. So, we repaired that by doing a concrete patch essentially. So that was the one issue. The second issue, Fulton Drive, the previous contractor had installed the curb and everything and it was about six (6) inches too low. The fix for that was to install another catch basin in that low spot and then run pipe from that catch basin to an existing catch basin in the common area. So that was the other issue that we did.

*Councilman Garde* – Thanks you very much Travis

*Councilman Kelly* – Seems to me that Council is once again asking for yet another alteration in the presentation that was made. No concern was raised prior to the task that was assigned by Council in that last go around here. That we would need specific language, that we would need some clearer statement as to whether or not alleys were included, streets included, the question I have to ask is when will Council decide that enough has been done and these streets can be taken in dedication. It has been too long and too many delays and too many opportunities at each stage to have these statements, to have these issues worked out to have all of the things assigned to the companies that are doing this work. There is no expectation, least there is no expectation that I have, that even if they do the things that are now being requested that there will not be yet another set of items that somebody can imagine that then need to be done. Enough time has been spent. The tasks were assigned, the tasks were completed. This council tasked the correction to be made and they were made. That was a very long meeting and a long discussion and now there are other considerations that now need to be considered.

*Mayor Kanakos* – I think that one of the reasons we are coming up some more additional items is because this is the first formal request by Chestnut Properties as of this evening. We want to be very clear as Mr. Thompson has said that we identify the street not just in the minutes but in a deed form.

*Seth Thompson* – I wouldn’t view that as a new requirement, but as the document that is necessary to finalize and formalize what we discussed. Councilman Garde referenced the lanes not being dedicated, that is accurate, that is on the note and the approved subdivision plat. I would reference that in the deed saying and making it clear that it’s the streets not the lanes. I would reference the note in the subdivision plat.

*Mayor Kanakos* – All the construction has been done, all the corrections have been made and now it’s a matter of crossing the T’s and dotting the I’s and making sure. Do you think by our next council meeting we could have a motion to accept this? Is this a timeframe, 30 days?

*Seth Thompson* – In realty you could seemingly do it tonight. Just with the conditions that the Deed of Dedication’s drafted, the easement’s drafted and they provide their releases from their contractors.

*Councilman Kelly* – So moved

*Kristy Rogers* – Mayor and Council if I may, and if I am speaking wrong, Mr. Thompson or Mr. Reed, Travis. These items were outlined in the Memorandum of Understanding, Council voted upon last year. I don’t think there are any new items, but rather clarifying, we have received your dedication request, this paperwork indicates your remaining items. So, I just want to clarify the Memorandum of Understanding from Council last year.

*Mayor Kanakos* – So we can take a vote this evening pending the three items you mentioned.

*Seth Thompson* – Correct, those conditions. The one other item from my end, Council asked me to look and see if the old subdivision ordinance required as-builts. I looked today and it did not. The contractors indicated today they would be willing to provide journals.

*Mr. Reed* – I am willing to give everything I have.

*Mayor Kanakos* – I think you said you had books and books and books.

*Mr. Reed* – I have quite a bit of stuff. I also thought that maybe what would be more ideal would be to give you a USB port with everything I have far as photo logs, scopes of work and everything like that.

*Mayor Kanakos* – We can archive that.

*Mr. Reed* – And that would be something you guys could keep for record.

*Seth Thompson* – It's helpful because then we can check off having received the releases from the various contractors. We are not looking to spring any new requirements, this isn't quite a ribbon cutting but it's kind of getting to that phase.

*Mayor Kanakos* – I want to be sure we can plow their streets and do the right thing. I understand Mr. Kelly's frustration and all those who live in that development.

*Councilman Kelly* – All those who live in Milton. This could happen in any neighborhood and it could happen any time.

*Mayor Kanakos* – On Broad St.?

*Councilman Kelly* – On any conceivable situation.

*Mayor Kanakos* - We will go forward on this Mr. Kelly, for sure.

*Jeff Daily* – (211 Gristmill Dr.) – I am a resident of Cannery Village. The Council is in my opinion being remiss in not coming to a full understanding as to what are lanes and what are streets in Cannery Village. There are house numbers that are attached to those lanes. Those lanes in my opinion and the opinion of many residents are streets. Those houses do not face any kind asphalt, they face pocket parks, landscaped areas. Which means the only safety vehicles approach to those homes is from the back. Before we have any kind of ribbon cutting ceremony and before there's a deed, this Mayor and this Council has got to figure out what in fact they are adopting and dedicating. And you haven't done this and it's nothing to do with these gentlemen here to my understanding. But it's the future of this town and this particular neighborhood. I don't know if this would hold up street dedication but I think it would.

*Seth Thompson* – Mr. Daily, it's really only going to be what is on the approved subdivision plat, that's what defines.....

*Jeff Daily* – I don't think the Commonwealth of Delaware, if we are a commonwealth, that's Virginia, I don't they ever dealt with this. I don't think there exist anywhere in the confines of our State or perhaps on the planet. It's a beautiful neighborhood, but there are challenges that need to be addressed by this Mayor and this Council for the future.

*Mayor Kanakos* – Are you asking that somewhere in the future these alleys and lanes with house numbers on them be dedicated as well? Right now that's off the table.

*Jeff Daily* – Don't be upset with me, I am just raising this to protect you all and all you are responsible for. That's all I am going to say and thank you so much.

*Michael Cote* – (304 Gristmill Drive) – I think the approved plans are very specific about what the streets are and what the lanes are. I think most of us are aware that the approved plans call for the lanes not to be dedicated to the town. Eventually the lanes

will be turned over to the HOA by the developer. At that point, I am also a member of the HOA, I believe the HOA and residents will then petition the town for the acceptance of the lanes as well. There are a number of reasons that the petition should be made, including the addresses that Mr. Daily mentioned, but it's a separate issue and I think the streets dedication is what we are talking about tonight and lanes, I believe the HOA will be addressed in a request to the town at some future date. It's coming after Chestnut Properties gives the lanes to the HOA.

*Mr. Reed* – If I could just add, we also addressed that in the Memorandum of Understanding, kind of agreed, over a year ago, that we were just going to dedicating just the roads, had the punch list of four hundred (400) and some items, took care of it. The Memorandum of Understanding said those are done dedicate the street, did not contemplate dedication of the alleys in the Memorandum of Understanding.

*Seth Thompson* – That is correct. Of Course that's not for time and all eternity, if the HOA does take over the roads they standing at that point to petition the to change the subdivision plat. I think we kinds of wanted to put that issue to bed so we could focus on why we are here tonight.

*Mayor Kanakos* – It's a separate issue. Do I hear a motion that we accept the streets with the conditions.

*Seth Thompson* – We receive all the releases from the contractors and subcontractors, there be a Deed of Dedication prepared and recorded and an Easement prepared and recorded.

*Mayor Kanakos* – Someone make that motion.

*Councilman Garde* – So moved

Second by Councilman West.

Councilman Cote and Councilman Kelly recuse themselves. All remaining in favor. None opposed.

**c. Je T'aime Restorations, LLC, owner of Merriweather subdivision, request for waiver under Town Code Chapter 188-23, Street Construction and maintenance (7:43pm)**

Bill Shaub – Here with LeeAnn Wilkerson. This subdivision, as you all know is very unique, it was approved by the Town Council in 2003. An eight (8) lot subdivision, approved in 2003 went through different owners. One of the owners went through and did the roadwork, preliminary roadwork. Other owners did other work. Bank got the property back with deed in lieu of foreclosure from one of the developer. At that time the bank then sold one of the lots to a property owner. That was done and its sort of unusual. It's an eight (8) division subdivision but one of the lots could be accessed from the public road, didn't need the infrastructure from the subdivision to be a usable residential lot. So, the bank sold that lot, that lot in fact was built upon and the lot owner did need the corporation of Ms. Wilkerson to hook up to some existing pipes. So, at this point we have one (1) home in the subdivision but it doesn't use subdivision road or facilities. Ms. Wilkerson bought the property in 2013 and had a few meetings with the Town, because she was concerned about this very issue we are addressing here tonight. And that was, was anyone going to say you have to go in and spend the money to put this lots in a certain order. She was assured that was not the cause, so she went forward with the purchase. Mr. Thompson and I have had numerous correspondence and conversations about the status of this subdivision. I understand the administrative need to have a record straight as to what a developer plans to do with a subdivision. I

think this is a lot different than one that is built upon were individuals are banking on a developer doing some, certain work so streets can be used. Instead we have several lots that taxes are being paid but not being used and can't be used until the final infrastructure is done, but to spend the money to do the infrastructure, could not recoup that money in selling those lots. To walk in and do the work needed would be a money losing proposition right from the beginning. Ms. Wilkerson is asking that the Town waive the requirement that any further work be done, basically until the economy improves. So, she doesn't lose money doing it.

*Councilman Garde* – If I read document correctly, you are seeking a waiver from one section of the Town Code, specifically section 188-23 which requires final paving within five (5) years. I want to say that I at least appreciate you coming forward asking for a waiver rather than of ignoring the law. As I understand it, there is no other waiver being requested with respect to water infrastructure, sewer, infrastructure or electrical infrastructure, if reading the request correctly. Only asking for a waiver of the five (5) year requirement with respect to paving and that five (5) year has passed.

*Seth Thompson* – I will chime in from the code standpoint, Section 188-23a specifically lays out the possibility of a waiver. The standard is for good cause shown, I recognize that is a fairly amorphous item, but the code contemplates there may be a valid reason for somebody not to finish the streets and sidewalks within five (5) years or 80% of the lots being transferred.

Discussion between Ms. Wilkerson and Mayor Kanakos in regards to buying and selling the lot. Ms. Wilkerson did not intend to build on these lots for a long time. Was not aware had to pave or build on the lots. Was planning to wait until real estate market was good. Ms. Wilkerson was unaware until letter received that she had to pave. Mayor Kanakos explained that real estate in town has exploded. Mayor not keen about the waiver. Ms. Wilkerson was not planning to sell the lots wants to build on the lots. If built houses could not get Certificate of Occupancy until infrastructure completed and paving.

*Mr. Collier* – Indicated that there is an issue with storm water management system that has to be corrected until fixed. No building permits to be issued until corrected.

*Ms. Wilkerson* – Not intending to build anytime soon but wants to build not sell the lots.

*Mayor Kanakos* – So if another waiver granted and it expired you would ask again for a waiver.

*Councilman Garde* – As I understand you are only asking for pavement waiver. I want to offer a reasonable reason that if you pave and then build you would ruin the top coat. In my view, there is a reasonable reason and there is a reasonable request.

*John Collier* – One correction, the one house that is built does use the subdivision road for entrance. Was able to get CO because put in their own sidewalk.

*Seth Thompson* – Councilman Garde is correct in stating the only issue in front of is the waiver for paving within the five (5) years.

Motion by Councilman Garde to grant waiver for three (3) years in respect of Town Code 188-23, specifically in respect of the five (5) year requirement to pave the roads in the Windemere Development.

*Mayor Kanakos* – Before there is a second, I would think three (3) years is a bit long, they already had three (3) years.

*Councilman Garde* – I revise that to two

Second by Vice Mayor Parker-Selby.

*Vice Mayor Parker-Selby* – In reading the letter I am concerned, since I have been on the council, there have been people that have come before us with just verbal types things. You give nothing in writing, so she has had to deal with this nothing documented. I am all for allowing the waiver because you don't have things documented and these things happened more than one (1) time according to your letter.

*Mayor Kanakos* – It was her responsibility to do her due diligence when she bought the land. Because she didn't do it does not excuse her.

*Vice Mayor Parker-Selby* – I understand that, I also feel for her on the other side because I know things have happened in the past we different groups and organizations where word of mouth has happened, none of us was here then, and then people have come before us seeking a resolution to things that were never accomplished before. And I don't think it's fair to punish people or sit up here and say okay.

*Mayor Kanakos* – If we give the waiver for two (2) years, would you then pave at the end of the two (2) years or ask for another waiver?

*Ms. Wilkerson* – I don't know what I will do at the end of the two years. Like I said if the roads have to be paved before the houses are built, that's what going to make everybody happy here, I don't understand that. I don't understand why the road needs to be paved when nobody is living there.

*Mayor Kanakos* – Nobody is living there because you don't want to build anything there.

*Ms. Wilkerson* – Is there a requirement in Milton that you have to build on a lot that you own?

*Mayor Kanakos* – No there is not. But you are not building these seven (7) lots out for yourself, you are a developer.

Ordinance for the time requirement did not go into effect until April 2013, owners prior were not under the same requirements.

*Councilman West* – Can we make her provide a performance bond.

*Seth Thompson* – No, the subdivision was approved under the old subdivision ordinance.

All in favor. None opposed.

**d. Sidewalk waiver request from Edward S. Caldwell and James Welu for the properties located at 406 and 408 Hazzard Street, further identified as Map and Parcels 14.19-20 and 14.19-120.10**

Motion by Councilman West to grant waiver since there are no other sidewalks on that street.

Second by Vice Mayor Parker-Selby

*Seth Thompson* – Just for purposes of identifying, it's not some permanent waiver, in the sense if there are sidewalks that are built on that street, the councils going to be in a position to notify you and say you are going to need to install the sidewalks.

*James Welu* – In my request I said I would not object.

All in favor. None opposed

**e. Resolution 2016-010 to authorize the DNREC Drinking Water planning grant application**

Kristy Rogers – Project worked on together with Mr. Wingo and Mr. Savage. Wagamons West Shore is feed solely by an eight (8) inch water main along Lavinia Street. Discussion points have been it’s important for the water system to be looped in, from Federal Street to the backside of Wagamons. A grant was released from DNREC on October 13 and after discussion we agreed it was prudent to go ahead and apply for at least the planning and design of the Wagamons West loop. So before you is a completed application and a resolution to support such application. It’s important to note that the grant is a 50/50 match.

Councilman West made a motion to adopt resolution 2016-010 to apply to the Delaware Water Infrastructure Advisory Council of the State of Delaware for a drinking water matching planning grant and to approve the task order associated with the Wagamons West Shore water loop.

Second by Councilman Garde.

No other discussion. All in favor. None opposed.

**f. Resolution 2016-013 Amendment to the Fee Schedule**

Motion by Councilman Garde to approve Resolution 2016-013 to clarify an item on the FY17 Fee Schedule. Second by Councilman West. All in favor. None opposed

**g. Parking along Magnolia Street**

*Councilman West* said issue brought up to Streets and Sidewalks committee. When there are events and people parked on Magnolia Street emergency vehicles cannot get through. Would like no parking on both sides of Magnolia Street.

Motion by Councilman Garde to accept recommendation of the Streets and Sidewalks Committee and the Milton Fire Department and immediately prohibit parking on both sides of Magnolia Street between Mulberry and Union and task the Town Solicitor to draft an ordinance affecting that so it can be voted on in a future meeting.

Second by Councilman Kelly. All in favor. None opposed.

**h. Appointment to Economic Development Committee**

Town resident Jose Quionez would like to sit on the committee.

Motion by Councilman Garde to appoint Jose Quionez to the Economic Development Committee pending completion of the Code of Ethics form. Second by Councilman West. All in favor. None oppose.

**i. Appointment to Planning and Zoning Commission**

Chairman of Planning and Zoning resigned. Mayor Kanakos propose appointing Richard Baty and Larry Lieberman.

Motion by Councilman Garde to approve Richard Baty and Larry Lieberman to the Planning and Zoning Committee pending completion of the Code of Ethics form.

Corrected that Larry Lieberman finish out Barry Goodsons term and Richard Baty to the new seat of three (3) years. Second by Councilman Kelly.

Vice Mayor Parker-Selby suggest look at maybe putting some females to some of these committees.

All in favor. None opposed.

*Councilman Cote* – Can we add when the seats expire.

*Seth Thompson* – Agree, one would finish out Chair term and other to normal term.

~~j. Appointment of members to the Emergency Preparedness Committee~~

**15. Executive Session: (8:53pm)** Motion made by Councilman West to enter executive session, second by Councilman Garde.

- a. Strategy sessions, involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation, when an open meeting would have an adverse effect on the bargaining or litigation position of the public body
- b. Personnel matters in which the names and abilities of an individual employees are discussed
- c. Discussion of the content of documents, excluded from the definition of "public record" in § 10002 of this title where such discussion would disclose the contents of such documents

**16. Discussion and possible vote on Executive Session items – (9:57pm)** Motion to enter regular session by Councilman Garde. Second by Councilman Kelly. All in favor. None opposed.

**17. Adjournment: (9:57pm)** Motion to adjourn by Councilman Garde. Second by Councilman Kelly. All in favor. None opposed