

Town of Milton  
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**Milton Town Council Meeting**  
**Monday, January 7, 2019 Meeting Minutes**  
**5:00 pm Executive Session; 6:30 pm Regular Meeting**

1. Call to Order
2. Roll Call
  - C. Fleetwood
  - E. West
  - T. Kanakos
  - R. Baty
  - S. Garde
  - K. Kelly
3. Additions or Corrections to the Agenda

Councilman Fleetwood Motion to approve agenda. Seconded by Councilman West. All in favor. Motion passed unanimously.
4. Agenda Approval

Councilman West Motion made to go into Executive Session. Seconded by Councilman Fleetwood. All in favor. Motion passed unanimously.
5. Executive Session:
  - a. 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
  - b. 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
  - c. Preliminary land acquisition

Councilman West Motion to enter regular session. Seconded by Councilman Garde. All in favor. Motion passed unanimously.
6. Discussion and possible vote on Executive Session items - none
7. Moment of Silence

8. Pledge of Allegiance to the Flag

9. **Public Hearing by Sussex County Community Development, regarding the Community Development Block Grant**

Brandy Nauman Housing Coordinator and Fair Housing Compliance Officer for Sussex County. Her office applies and administers the community development block grant (CDB) for Sussex County. They apply for funding on behalf of all the municipalities and rural communities. CDB grants come from Housing and Urban Development and is allocated to Sussex County through the DE State Housing Authority. This grant year there is approx. \$2M that will be awarded to Kent and Sussex Counties on a competitive basis. One of the requirements of the program is to hold a public hearing which allows explanation of the program and gives the opportunity for citizens to make comments. The Delaware State Housing governs the grant process and dictates the regulations of the program and what activities to make eligible for the funding. Currently, the funding is to be used for housing rehabilitation through water hook up, demolition and infrastructure projects. All projects applied for must benefit low- and moderate-income households at or below 80% of the area median income. For example, a family of four must make less than \$54,950 to qualify. If Milton decides to pursue an infrastructure project, work must begin several months before the grant is due in February because it involves a lot of engineering. It also requires a municipal match. For a \$200,000 project there must be 20% cash match or 25% in-kind match. Historically, most of the funding is used for unoccupied housing rehab and this is ideal because it helps to maintain the existing housing. Housing rehab includes roofing, doors, windows, electrical and plumbing upgrades, as well as energy upgrades. The home must be an owner-occupied primary residence, and be low or moderate income, insured and county taxes current and that does include sewer, water. For all rehab projects a lien is put on the house just to protect our funding.

For homeowners under the age of 62, it varies. It could be a 5-15-year lien depending how much they spend. But it is a forgivable lien. At the end of the term it just goes away. There is zero interest, no payment. For those over 62, it is up to a 10-year lien to protect the funding.

For demolitions a permanent lien is placed on the property. Since 2009 Milton has received \$134,000 CDB funding for housing, rehab and infrastructure. Over \$1m in funding was applied for the town, but the state only awarded \$134,000. Nine households were assisted with that funding and there are currently five households on the wait list. A copy of the wait list was given to Town Manager K. Rogers. If anyone from the Code Department or any of the council members know of anyone who needs assistance, please share the information with her. It looks better for the state when there are more individuals in need. Asked for any questions or comments. Mayor Kanakos thanked Ms. Nauman and her department for the help this year during a situation regarding an elderly resident.

Discussion: What happens if some of the eligibility requirements are not met.

B. Nauman: The Authority often encounters households that don't have current homeowner insurance and it is a Catch 22 situation because it is not insurable due to the work needing to be done to qualify. They often encounter individuals on a fixed income where taxes are not a priority. The county treasurer department has a payment plan process and tries to work with people. There are currently over 1,000 people waiting for the help. It is much better to be in municipality boundaries because funding is directed to that boundary and everyone outside must wait on a very long time.

Discussion: The application was for \$1M but \$200,000 granted. Why did that happen? Is that typical?

B. Nauman: Demonstrating a need in the town is what the state does when they do a review of the grant. An application is submitted for any town that asks. But the state must review and determine out of that \$2M who really demonstrates the most need. They don't really like to fund infrastructure as much because there is such a need for housing repair. The cap is at \$25,000 for home and the average is probably about \$15,000. It does depend on if the towns have older homes like Milton that may have lead paint where the expense is significant to clean up.

Discussion: Who should apply? Does the property owner have to be the applicant and not the town?

B. Nauman: The town does not handle the program in any capacity. We maintain the waiting list and pay the contractors and manage the projects and distribute funds.

Discussion: If it is an infrastructure project, would the town be the applicant?

B. Nauman: No. We would still apply on your behalf, but we would have a much more intensive application process. There is more funding involved. An infrastructure project would require a 25% match. With infrastructure, there is a plan on what would take place. We would work with you very closely to do that.

Documents will be presented at the next Council meeting in February 2019.

**10. Public Hearing relating to Ordinance 2018-006, to amend Chapter 220 of the Town Code entitled "Zoning", regarding temporary structures**

Solicitor: This is the Public hearing based on this ordinance affecting zoning specifically as it refers to temporary structures. The Council referred the matter to P&Z Commission who submitted an advisory report. At Council's request, the definition of "temporary structures" was added and is slightly different from when it was first proposed. In terms of other changes, they asked for a dimension drawing and a change from 72 hours to three working days in terms of the length of the permit. Temporary structures were categorized as follows: a construction project, an event, and a private or social event like graduations, weddings. The construction example is probably the easiest as it would pertain to a Pod for tools and materials. There should be regulation in the terms of time limits and have a sense of an end time.

Discussion: Is there a limit on the number of these temporary structures? Construction limited to one of each of the following: dumpster, storage unit for the property owners non-commercial use, and the porta-john. Because the temporary structures for social events is not as easily definable, discretion given to the town manager on what type of structures to approve.

Discussion: Section C3 – limits to 12 months. There are several types of new construction such as commercial construction that could go on for more than 12 months. What happens in that case to the dumpster that would be needed? Section C4 – why involve the county and why is someone required get both town and county permits?

Solicitor: It is like what the town does with HOA approval. Milton does not control whether Sussex County issues a county permit but can condition Town permit based on their getting the other items, which forces the property owner or contractor to make sure have all their ducks in a row.

Discussion: There are certain county permits that are required for new construction. But this whole ordinance is aimed toward temporary structures and don't believe there are any county requirements on temporary structures. Maybe the ordinance should state that all permits be obtained from responsible government entities.

Solicitor: Suggested it state applicable permits issued by town and Sussex County as appropriate? The reasoning is before putting pods, dumpsters, etc., the homeowner should have all their other things lined up. So that 6-month clock is not extended because they forgot to get the required county permit.

Question for Mr. Collier: Are most of the projects in Milton, like additions to house or porch, required to obtain a county permit?

Mr. Collier: That is correct. The county wants information for assessment and county tax purposes. In some instances, Milton issues a permit before county issues one. Permits are bright pink stickers and it says they must go to the County. Someone from the County comes in once a month and picks up a copy.

Discussion: It was suggested that the language be changed in Section B: insert the word "Shall" between and "be". Because the "shall" is intended to be from 6 lines earlier. It just makes it clearer if you read through it. Town Solicitor agreed.

Solicitor: Asked what is the Town's process on building permits that expire after 12 months?

Mr. Collier: They can request an extension for another year

Discussion: Instead of making this a timeline, make it concurrent with the building permit. In other words, the approval shall automatically terminate at the earlier of 6 months. But it states 6 months or when the construction demolition is complete and in the next sentence goes out to extension of the building permit.

Solicitor: Discussion on completion and when Certificate of Occupancy is issued.

Question: Section D6 discussion of porta-potties, required to apply 2 weeks ahead in the park.

Solicitor: When using the park, the town dictates how long because it is on town property.

Historical society must apply 2 weeks ahead of time. This is covered under the application for whatever function. Three working days for social gathering or private social event.

K. Rogers: There is an application for a gathering or a parade. Will amend that form to now include the language proposed under this ordinance.

Discussion: How would this work for Trucking Tuesdays which is a repetitive event? Can they apply once 14 days in advance and get it for all x number of events?

Town Manager: That is how it worked in the past. They applied with one application for all their event dates.

Solicitor: Explained that a public event almost always involves a larger scale vs. private social gathering in someone's back yard.

Mary Knight, Broadkill Rd. Question: PODs were mentioned but what about U-Haul containers. She had large U-Haul containers when she moved to Milton and had them for more than one day. Is there a difference between moving and construction?

Solicitor: Moving would fall into the first category as opposed to social gathering.

When you read the current definition for the purpose of this session, temporary for use for construction or a short-term event is in progress and not to be retained as part of the permanent improvement.

Solicitor: Expressly include relocation. This would dictate what temporary structures there are. If it falls outside the definition, it really shouldn't be there.

Discussion: Section C2 – does that provide the necessary authority to determine that it is a relocation and allow the town manager to make the determination? Maybe modify and limit size, location and timing?

Solicitor: Time expires when the need expires. If a construction project is completed by a fast contractor and it was done in a month, at that point, the temporary structures should be out of there and shouldn't wait for 6 months. That is why "the shorter of" is in the wording. Suggested adding relocation into the premises. It would work if added under Section A. Use the same terminology as in Section C. More than one temporary structure at the location would be at the discretion of the town manager and code enforcement. Section B1 does limit to one at each time.

It was suggested to include the moving concept into Section C2 and the town manager can have the authority to say how many PODs is satisfactory per application.

Solicitor: Modify and limit the number, size, and location of temporary structure. Remove in Section C1 one of each temporary structure and just leave as temporary structure.

Motion made by Councilman Garde to close the Public Hearing relating to Ordinance 2018-06 to amend Chapter 220 of the Town Code regarding temporary structures. Seconded by Councilman West. All in favor and motion passed unanimously.

## 11. Public Participation

Chief Longo: Publicly recognized 10-yr old resident, Ryan Kindl, who donated part of his chore funds to Milton Police Department K-9 unit and the fire department. After visiting the Police department, he told his mother he wanted to use his funds to help. Chief Longo and the PD appreciated his generosity. Applause for Ryan.

Susan Fewell: Concerned about her block on Mulberry St. which is the first block after the lake going towards Route 16. Heard that condos will be built in place of three houses. Feels that she

lives the abandoned block of the center of the town. There are houses that have been empty for 25 years. One home was renovated and is a historical home. Mr. Sposato owns the home next to her which houses temporary migrant workers every summer for 5-6 months. Many of those houses are run down. Her concern is that they do not have people in them and they are getting worse. One of the nicest streets in the town is Lake Drive whose backyards are touching some of the backyards of the homes she mentioned.

Discussion about the how the Casa property became a historic home even though not in the historic district. Casa sued to remove the house across the street because they wanted to make a driveway and the Historical Society said it must stay as a historic home. Casa does not own the house any more.

Solicitor: The designation of a historic structure went with that house. Just by selling a house does not mean you are out from under that obligation.

Mr. Collier: The tan house on that side of the street is within the historic district. Those boundaries chosen back in 1982 and the project was started by citizens to create a historic district. There was a lot of places that were left out and the town has looked at expanding the district.

S. Fewell asked that if she decided to classify her home as historic, then there would be two homes on her side of the street. Would that be enough to say you can't build condos next to historic houses?

J. Collier: Your property would not be consistent with the national registry and you would just be standing out there on an island on your own.

S. Fewell: Her house is 100 years or more and will stay as it looks now. She also thinks it is better for the town to do something about those houses that have been empty for 25 years.

J. Collier: Two properties follow town code. They are boarded up as they should be. No formal request or site plans have been submitted for those properties. It would be subject to public hearings.

Solicitor: If an individual home is to be built on an existing lot, they must obtain a building permit. If a multi-family home is proposed, then they must go through the site plan process. Everyone within 200 feet will be notified of public hearing in writing.

12. Requests for Removal of Items from the Consent Agenda – Councilman Garde requested 13f be removed for discussion
13. Approval of the Consent Agenda on the following items:
  - a. Written Committee Reports
  - b. Written Department Reports: Administrative, Code Enforcement, Police, Project Coordinator, and Public Works (November and December)
  - c. Finance Report, and Statement of Revenues and Expenditures
  - d. Minutes: December 3, 2018
  - e. Executive Session Minutes: December 3, 2018
  - f. Request from Abbott's Mill Nature Center for a waiver of Town Code § 183-47 to allow for the utilization of a food truck during a fundraiser at the Milton Theater on Thursday January 24, 2019

Motion to approve the consent agenda, but there was a question on F. There was a previous discussion on this and the concern of people walking down the sidewalk. Section F was removed from the agenda. Motion made by Councilman West to approve consent agenda with removal of F. Seconded by Councilman Garde. All in favor. Motion passed unanimously.

14. Discussion and possible vote on items removed from the Consent Agenda

Section F – Comments on the need to inform the public of the request. The only reason it was removed is for the Town to be more transparent. A motion was made to approve the request by Councilman Garde. Seconded by Councilman West. All in favor. Motion passed unanimously. The food truck is from Po'Boys and has a license. There have not been any issues with the public.

Mary Knight stated that on the same evening the Historical Society will have their first lecture at the museum. She requested extra police at that intersection on the corner. The lot is presently under water and she is making an executive decision not to allow any parking in that lot.

15. Old Business – Discussion and possible vote on the following item:

- a. Ordinance 2018-006 to amend Chapter 220 of the Town Code entitled “Zoning”, regarding temporary structures

Reviewed the draft. Made revisions.

Councilman Fleetwood Made a motion to approve based on amendments discussed and approved by council. Seconded by Councilman West.

Recap: Section A – adding in “or relocation” after construction. “Shall” in Section B, 7 lines down. Section C adding “or relocation”. Section C1 removing “one each of” so it will now read “temporary structures are limited to the following” and Section C2 adding in numbers. Modify and limit the number, size and location. In Section C3 changing “exceed 12 months” to “exceed the duration of the town building permit”. In Section C4 “all required zoning certificates” and adding “applicable building permits”.

Roll call vote. All in favor. Motion passed unanimously.

16. New Business – Discussion and possible vote on the following items:

- a. Ordinance 2018-010 to amend Chapter 220 of the Town Code entitled “Zoning”, regarding activities prohibited in all districts; Resolution 2018-015 to schedule a public hearing on Ordinance 2018-010

A motion was made by Councilman West to proceed with Resolution to establish a public hearing to be held at the March 4, 2019 Council meeting for the purpose of Ordinance 2018-010 to amend Chapter 220 of the Town Code entitled “Zoning” regarding activities prohibited in all districts. Seconded by ViceMayor Kelly.

Roll call vote. All in favor. Motion passed unanimously.

- b. Contract award for the Wagamon’s water main extension project – not at this time.
- c. Magnolia Drainage and Parking

Mr. Wingo. Referred to drawing presented at the meeting. Discussed the plan to eliminate the flooding in the parking lot and regrade. Pointed to the top left corner triangle which is the rain garden that is lowest part of the area. The plan removes about 20 parking spots. Will eliminate all the flooding except any flooding that that comes over the bulkhead. Will never be able to do anything about that flooding unless build a wall around the whole creek. A pump has been added in the rain garden. The entrance and exit have been moved to the center of the lot. Lot would be pull in and pull out. There is extra room on each end to be able to turn around if needed.

Three new discharge pipes added. One that goes from the ditch area all the way to the creek, one at the rain garden and one that is going from Union St. through the parking lot out to the creek. This will also take care of the little bit that bubbles up in front of the library. Every pipe that dead ends at the creek will have a valve and only be one way. The water will not be able to go back up in to the pipe coming into the parking lot. Suggested extra parking spots located around town were presented to Mayor and Council. One of the biggest concerns was the limited parking.

In addition to the parking lot, there are also failures to the bulkhead on the riverside. Estimates to do the parking lot project are around \$165,000 excluding the bulkhead. To do the bulkhead, three failures, removal and construction on the wooden decks, brick sidewalks would be \$188,000. Speaking with state representatives for possible funding and hoping to schedule the final meeting with them to present this plan and cost estimates.

Mayor asked if this project will eliminate nuisance flooding and not storm flooding.

Mr. Wingo: It will eliminate the flooding due to the little stream coming in from adjacent three bodies of water. The only time you will see any flooding will be when it comes up over the banks. With the pumps and discharge pipes the parking lot can be used almost every day of the year.

Steve Crawford: Explain what the rain garden does and why necessary?

Mr. Wingo: Rain garden is little pond that takes away the flooding in that area. Changed the size on the pond three times. Did not think a small one would capture the flooding. Reviewed last 5-6 years documentation on the flooding in town. Had to be 100% sure that it would take of the issue we are having now and in the future.

Public Comments: Some of the parking lots are privately owned by businesses. Would the town pursue an agreement with those private parking areas so people can use their lots when spots not available. Some businesses are not open on Sundays.

Mayor does not believe that businesses would like parking in the lots if not using establishments.

d. Sussex County Code as related to tidal wetlands

Removing wetlands from acreage is a great idea. A motion made by Councilman Fleetwood for Planning & Zoning to come up with recommendations and possibly new ordinance adjustment to conform to Sussex County Council zoning requirements and see if feasible for Milton. Seconded by Councilman West.

Discussion: Solicitor clarified that the motion is intended to amend the zoning code and present a resolution that formally refers to P&Z and establishes public hearing. Motion intended to start that process.



Reason would be that Town of Milton would revise their code to conform to the revised county code regarding annexation areas or growth areas to exclude tidal wetlands from calculations for the number of units in any plot. A resolution will be drafted to send to P&Z at the February 2019 with a public hearing at April 2019 meeting. All in favor. Motion passed unanimously.

e. Seismic testing

Resolution already passed in 2016. Background discussed. The citizens in Southern DE, with the support of the Governor, took seismic testing and off shore drilling off the table. Governor has expressed his discontent with the administration's removal of the prohibition on this and need more research by the Sustainability Committee to make a recommendation to Mayor and Council about what Milton may want to do with respect to the changes that have happened.

Much discussion on the motion by Councilman Fleetwood. About 3 years ago, a copy sent to congressional rep and bureau of ocean management. All in favor of sending another letter to appropriate people. It is not a new resolution. Mayor would like to see it go to Sustainability Committee. Roll call vote: 3 to 3. Motion Failed.

Different motion made by Councilman Garde to send to Sustainability Committee to analyze and make a recommendation to Mayor and Council based on today's situation whether they recommend the town take a position with respect to seismic testing and off shore drilling. Seconded by Councilman Baty. Result of roll call vote: 4-2 to send to Sustainability Committee. Motion carried.

f. Final land acquisition

No discussion.

17. Adjournment Motion to adjourn by Councilman West; seconded by Councilman Garde: 8:07 PM

