

Town of Milton

115 Federal Street
Milton, DE 19968



www.milton.delaware.gov

Phone: 302-684-4110

Fax: 302-684-8999

Milton Town Council Meeting
Monday, December 3, 2018

1. Call to Order
2. Roll Call
 - C. Fleetwood
 - E. West
 - R. Baty
 - K. Kelly
 - M. Cote
 - T. Kanakos
 - S. Garde joined during Executive Session
3. Additions or Corrections to the Agenda - none
4. Agenda Approval

Motion made by Councilman West to approve the agenda and seconded by ViceMayor Kelly. All in favor. Motion passed unanimously.
5. Executive Session:

Motion made by Councilman West to enter into Executive Session and seconded by Councilman Cote. All in favor. Motion passed unanimously.

 - 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
6. Discussion and possible vote on Executive Session items:

Motion made by Councilman Garde to approve the item as discussed in Executive Session regarding bargaining position. Seconded by Councilman West. All in favor. Motion passed unanimously.

Motion made by Councilman Garde regarding preliminary land acquisition that the Town Manager and Solicitor be authorized to submit the offer as discussed. Seconded by Councilman West. All in favor. Motion passed unanimously.
7. Moment of Silence

Remembered President George HW Bush during the Moment of Silence.

APPROVED

8. Pledge of Allegiance to the Flag

9. Public Participation

S. Crawford: Parking on Chandler St. as discussed in conversations with Councilman West and J. Collier. Starting to build the house there. Currently, no parking on one side of the road where there is the sidewalk. Construction people parking on the blind curve side. My request is to consider doing something about the parking and have the contractors put some safety cones out there on the curve.

G. Wingo: Briefly discussed with the Town Manager and planning to address all the street issues including this matter at the next Council meeting in January 2019.

Councilman Fleetwood expressed satisfaction with the park decorations. There are 47,000 lights. Thanked the Public Works Department. Councilman Garde stated the same thing and congratulated the Public Works. The park looked spectacular at the tree lighting.

Requests for Removal of Items from the Consent Agenda – Councilman Garde requested to remove the Public Works report; received this evening. Not enough time review it and a request was made that December's report be added to next January's agenda.

10. 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
- c. Finance Report, and Statement of Revenues and Expenditures
- d. Minutes: August 6 (revised), August 20 (revised), September 10 (revised), November 5, 2018
- e. Executive Session Minutes: November 5, 2018

Motion made by Councilman Garde to accept the committee reports and approve the balance with the exception of the Public Works report. Seconded by Councilman Fleetwood. All in favor. Motion passed unanimously.

Mayor commented on November Police Report. Reported that violent crimes, such as assault, burglary and domestic incidents are all zero. Quite a statement for our town. Fraud, criminal mischief, etc., can be found in any town, but the major crimes indicate how well the police department is working. Thanked Chief Longo.

12. Discussion and possible vote on items removed from the Consent Agenda - none

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

- a. Conditional Use application from Patsy Cicala, relating to 704 Chestnut Street, further identified as tax/map and parcel #235-20.11-12.01

Council reviewed the page of conditions that was missing from the packet. Mr. Cicala is aware of the conditions.

APPROVED

Discussion: Parking plan was submitted to P&Z. They reviewed it and deemed to be satisfactory; it was not included in the packet. Eight (8) parking spaces were indicated on the plan. Shed needs to be relocated. Parking for the employees and for tenants in the house. Two employees are the tenants. How is that specified? Two parking in the driveway. WBOC offered the use of their parking lot, but, per the Solicitor, you cannot have parking agreements between commercial entities. District is zoned residential. Net effect is that the parking spaces become the limiting factor for how many employees that business can have.

Documents call for conditional use of a landscaping and nursery business. Owners state they are not in the nursery business. There are plants that are stored there that will be used in their landscaping business. They are only in the landscaping and hardscaping business. Any reference to the word “nursery” should be deleted. At the time of the initial application, the business was maintaining plants for their customers. During the process, the decision was made to do away with the nursery because it was taking up too much space.

Solicitor: Council can add additional conditions if feel it is appropriate. You can add the clarification of landscaping and hardscaping.

Motion made by Councilman West to approve conditional use application to delete the word “nursery”. Change to landscape/hardscape with these nine recommendations that have been listed in the advisory report. Not intended to exclude the temporary storage of plant material. Seconded by Councilman Fleetwood. All in favor. Motion passed unanimously.

b. Pipe Occupancy Permit within State of Delaware Railroad Right Of Way Agreement
(related to the Wagamons Water Main Extension project)

K. Rogers: This document is the final phase to then go out to bid. This is the pipe and occupancy permit within the RR right of way. Mr. Wingo and Mr. Thompson have both reviewed.

Motion made by Councilman Fleetwood to accept. Seconded by Councilman West.

Discussion: Insurance is in agreement and already prepared. All the other requirements have been fulfilled. K. Rogers will review to make sure. One of the requirements is to remove what is put in there if ever abandoned. Question: Could some sort of metal identifier be placed with the PVC pipe? Is there a process for removal of pipe underground? G. Wingo does not think there is a process to remove under a creek. Has seen pipe in open areas get removed without digging it up. Will ask that question. There is a metal trace wire in the specifications.

Vote on the Motion previously made before discussion: All in favor. Motion passed unanimously.

c. Request from Fernmoor Homes relating to dedication of Heritage Creek Phase 2B

Motion made by Councilman West to accept the street dedication of Heritage Creek Phase 2B. Seconded by Councilman Garde for discussion.

Clarify what roads. Falcon Lane, Heritage Blvd., Tillers Lane and Arch St. between Governor's Blvd., and Garden St.?

Fenmoor Homes Rep: The alleys, Falcon and Tillers are not included.

APPROVED

Solicitor: There was an issue in Cannery that the alleys were too small so that when the plat was approved there was a specific note that those alleys would not be dedicated. This is not the case with Heritage Creek. Title search has been done.

Question on when the warranty begins: Today's date, December 3, 2018, but not the official date of transfer. Do we wait for the written deed including the legal description filed at the Recorder of Deeds?

Solicitor: Warranty runs when the bond is released. As soon as you release the bond, you have that one-year warranty. Date can be "as of". Requires a deed for public record. A document that is recorded is easier to access rather than go through town minutes.

Motion and second in place. All in favor. Motion passed unanimously.

d. Ordinance 2018-007 to amend Town Code Chapter 95, entitled "Clean Hands Policy"

K. Rogers: Additional items have arisen that require strengthening the "Clean Hands Ordinance". Proposing any outstanding maintenance in letter "H", letter "K" including any snow removal or repairs to streets, curbing and sidewalks, letter "L" any property applicant interest and any repairs required for streets and curbing, sidewalks and outstanding obligations required by the Town. This should capture some of the most recent items that Town Hall would use to withhold a building permit or approval.

Solicitor: Worked well with outstanding financial obligations. The thought here is to spell out that it includes snow removal costs that the Town has incurred. The same thing with the streets, curbing and sidewalks costs. Also extends to someone who has received a notice that you need to fix the sidewalk and they have chosen not to up until that point. The other element added are emergency costs related to any property. Example, Owner X where the Town incurred some costs out of an emergency at one of the properties and Owner owns a different property in Town that he wants to build on. They will not be able to get a building permit for that other property. Designed to cover the fact that the Town really relies on outside agencies such as storm water management.

Question: Does it include any property that the applicant has an interest in other states or limited to the incorporated Town of Milton? Perhaps insert the word "Town" where any or all property is mentioned. Suggested a written synopsis be included with ordinances in the future during review rather than have an explanation by Ms. Rogers at a meeting.

Motion made by Councilman Garde to adopt Ordinance 2018-007 to amend Town Code Chapter 95, entitled "Clean Hands Policy" with the addition of one word "in" and between any property and insert the word "Town". Seconded by Councilman West.

Motion made to allow further discussion by Mr. Crawford to speak on the motion.

Mr. Crawford: Inserting the word "Town" between any property could infer that it is Town property. Suggested adding located "in Town".

Motion is revised to delete the word "Town" between any and properties and insert "in Town". After the word "in" and before "which". Seconded the amendments. Roll call. All yes. Motion passed unanimously.

APPROVED

- e. Ordinance 2018-008 to adopt the 2018 Town of Milton Comprehensive Plan

Motion made by Councilman Fleetwood to adopt the Comprehensive Plan Ordinance that has been accepted by the State of Delaware. Seconded by Councilman West. Roll Call. All yes. Motion passed unanimously.

- f. Ordinance 2018-009 to amend Town Code Chapter 215, entitled “Water”

Motion made by Councilman West to adopt this change for Ordinance 2018-009 215-5 changing failure to pay from 30 days to 15 days. Seconded by Councilman Garde. Council asked for discussion on why this is change is needed.

K. Rogers: Billing process typically takes a quarter by the time meters are read, first billing mailed, 30 day due, another delinquent notice is sent, due in 30 days, termination notice, now pushing billing cycle out 80-90 days. The potential change is reducing the delinquent notice to 15 days. Discussions recognize all the utilities do not provide that length of time to make the payments. We are trying to reduce the costs and reduce the staff time and feel that 15 days would assist us to do that.

It was stated that 400-500 are late after 30 days. Mayor thinks it is a great improvement. It is the delinquent notice where it is reduced to 15 days. Termination notice is still be sent by certified mail. That portion is not changing.

Motion made and seconded ahead of discussion. Roll call. All yes. Motion passed unanimously.

- g. Final land acquisition
Nothing.

14. Adjournment – Motion made by Councilman Garde to adjourn at 7:24 PM, Seconded by Councilman West and all in favor. Motion passed unanimously.

APPROVED