

Town of Milton

115 Federal Street
Milton, DE 19968



www.milton.delaware.gov

Phone: 302-684-4110

Fax: 302-684-8999

Town Council Meeting Minutes

Monday, June 3, 2019

5:00pm Executive Session; 6:30 pm Regular Meeting

1. Call to Order at 5:00pm by Mayor Kanakos
2. Roll Call:
 - Councilman Baty
 - Councilman Kelly
 - Councilman Cote'
 - Councilman Garde
 - Councilman West
 - Mayor Kanakos
3. Additions or Corrections to the Agenda: depending on the presence of Chairman Bushey, item 14c may need to be removed later due to no paperwork in the packet.
4. Agenda Approval: Councilman Garde made the motion to approve the agenda as presented, second by Councilman West. All in favor. Motion carried unanimously.
5. Executive Session: Councilman West made the motion to enter executive Session, second by Vice Mayor Kelly. All in favor. Motion carried 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. Personnel matters in which the names and abilities of an individual employees are discussed
 - d. Preliminary Land Acquisition

Councilman West made the motion to come out of Executive Session, second by Vice Mayor Kelly. All in favor. Motion carried unanimously.

Councilman Garde made the motion to go into regular session, second by Councilman West. All in favor. Motion carried unanimously.

6. Discussion and possible vote on Executive Session items

A motion was made by Councilman Garde to grant the waiver that was requested and discussed in Executive Session. Seconded by Vice Mayor Kelly. All in favor. Motion passed unanimously.

7. Moment of Silence

8. Pledge of allegiance to the Flag

9. Promotion Recognition: Chief Longo presented Promotion of Lt. Derrick Harvey to Captain effective May 6, 2019. Captain Harvey's family participated in the pinning ceremony. Congratulations from all in attendance.

Vice Mayor Kelly noted that it is the 5th anniversary of the Milton Community Food Pantry. Opened on June 9, 2014 and served nine families. Since then over 400,000 meals have been served to neighbors. Currently an average 140 adults, 100 children receive assistance each week. There are currently 50 volunteers. President Barbara Wright and Mr. John Oates that were in attendance were recognized.

10. Public Participation

Alex Donnan spoke on the Milton Rails to Trails lighting issues. He stated that most of the residents along the trail do not want lights installed that would reflect into their backyards. The Georgetown trail does not have lights and thinks it is costly to put in lighting. Suggested looking into solar or other forms of lighting. Asked Council to delay a decision on lighting.

Don Mazzeo presented a copy of Delaware Rails to Trails and Rails with Trails master plan. Discussed Page 54, Section 3.7.6 DelDot states that many security problems occur at the trail head itself. Consideration should be given to parking lot areas or eliminate access at night. Solution could be to put gates at each end of the trail. Lighting is not a necessity. He is not in favor of lighting in any other areas at this point in time.

Kathryn Greig of Women's Club of Milton talked about the conservation project at 214 Union St. next to the Milton Historical Society. A lot of volunteers helped with the planting. Thanked Greg Wingo and two others in the Public Works department who donated their time to help. On June 30, 2019 there will be a reception at 1:00 PM at the museum to introduce to the public. This garden is for the purpose of attracting birds, bees and butterflies and will be an ongoing project for the Women's Club.

Edward Roskos sent an email to council in opposition to the lights on the Milton Rails to Trails. Houses were pushed back when developer started to build. Our backyards are very short and the trail is right behind back windows. There are water issues which recently caused equipment to be stuck. Public Works will have to maintain the property. The trail is too close to our homes and expressed concern about seeing into bedroom windows especially at night or people knowing when they are not at home.

Roy Turci also sent an email to Town Council respectfully requesting that the town does not approve lighting on the trail. Leave as daytime use only trail.

Jim Welu purchased property at the corner of Chestnut and Mill Street near the Cemetery 14 months ago. Believes the property has always been two separate dwellings because there are two electric meters and two sewer lines. Mr. Welu had an application from insurance agency dated 1876 showing it as a two-story dwelling, with one story attached. Referred to a drawing for Chestnut St. with a large fireplace heat for that unit and the back unit on Mill St. with another large fireplace for heat. There are two brick walls. It was established as two units since 1860 and was two units when he bought it. He requested that the town affirm the property as a 2-unit single family home. Mr. Welu expressed his opinion that the two units are grandfathered. Mr. Collier explained that any pre-existing non-conforming use approval expired upon it being vacant. Town Solicitor stated that the Mayor and Council do not have that authority. It would be a determination of a code from Town Code Enforcement Officer and that Mr. Welu could appeal to Board of Adjustment. Mr. Welu stated he was not asking for a variance, but just wanted affirmation.

Bernard Miller stated for the record that he lived at 108 Mill St. from 1969 until 1979 and to confirm it was a two-family unit. While living there, the Bennett family lived in the 202 Chestnut unit He lived there 1969 to 1979.

11. Requests for removal of items from the Consent Agenda: Councilman Garde requested removal of Item 12d, not in the packet.

12. 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: May 6, 2019
- e. Executive Session Minutes: May 6, 2019

Motion by Councilman Garde to accept the committee reports of the Sustainability Committee dated 04-23-19, Water Committee dated 2-13-19 and 3-13-19, and Planning and Zoning dated 04-06-19 and that we approve the balance of the consent agenda with the exception of item 12d, second by Councilman Baty. All in favor. Motion carried unanimously.

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

none

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

a. Lighting of Rails to Trails, Phase II

Ms. Rogers stated that tonight's discussion was whether to move forward or not on installation of lighting on the trail. Presentation was made at the March 18 Town Council meeting. It's not the recommendation to move forward with the street light style because it will create too much light pollution in the yards of those living along the trails. Suggests selection of the box-style light. This style light is to project towards the trail, not in the yards of neighboring residents. Need Councils determination on lights. Ms. Rogers commented lights are important for the safety and security, the trail needs to be lit. Direction is needed to move forward with the project. The cost per year will be \$6,000 for electricity. Mayor Kanakos commented a decision needs to be made. The idea is to install the light conduits now because may not be able to afford if installed at a later date.

Chief Longo was asked for his opinion on this. He believes there should be some sort of lights like in the park. Helps with safety and the betterment of the community. Access to the trail should be 24/7. DelDot will not close the trail down. Lighting is important. It revolves around safety and security. There has been a decrease in criminal activity in the parks since the lights were installed.

Discussion on the installation of gates to eliminate access at night. It was thought that gates will not keep people out. People will go around them.

Don Mazzeo is opposed to \$6,000 to run the electricity which will come out of everybody's pockets, every year forever. Town Manager K. Rogers stated that DelDot needs a decision to proceed with the final plans. The hope is to go to bid in June or July for construction in September. The cost for the underground infrastructure and lights is \$175,000.

Much discussion about the type and style of lighting, the height of the poles, the direction of the lighting and the installation of gates.

Public Comment from a resident living across the street. She understands the angst the 10-12 neighbors have. But they need to consider the safety of all 160 not just those along that area. All of us will be using the trail and all of us will be impacted.

Motion was made by Councilman Garde to go forward with lighting such that Wagamons West Shore Drive residents are not affected by the lights, second by Vice Mayor Kelly.

Motion withdrawn after discussion.

Vice Mayor Kelly has been involved in the process since the beginning. Gates will not keep someone out. There is a duty that falls to the Council and lighting is a factor that needs to be addressed. Not to have the lighting be intrusive is a concern and a responsibility to the Town and Council has considered. But the trail has to be made safe. We cannot pretend that a non-lighted part of the trail 24/7 will not be a hazard. The Town will ensure that the lighting does not intrude into your backyards. There needs to be a compromise to accomplish both illuminating the trail in a way that it does not penetrate into yards and windows.

Box lighting was mentioned and Mr. Wingo stated that the closest example of light box was at Food Lion but on a 30' pole and the wattage is higher for parking lots. Box-style lights could be installed 20' range and the light could be placed so as not to get blow-back.

Also discussed were screens behind the lights, and other style lights including solar. It was suggested that there may be grants available for solar lighting. Various different trees and shrubs will be planted on the home sides once asphalt and grading are complete.

Motion was made by Councilman Garde to forward with no lights on Rails to Trails, second by Mayor Kanakos. Vote taken 5 no votes, 1 yes vote.

Opinion expressed this is not the motion Ms. Rogers needs to move forward. A no vote to a negative motion does not present the direction to move forward with lights.

Motion was made by Councilman Garde to install all of the required electric system in order to provide lighting in the form of box lights no higher than 14' along Milton Rails to Trails. Vice Mayor Kelly seconded the motion but asked Town Manager Ms. Rogers if the motion provided what is needed. Ms. Rogers answered that it does not provide the information needed to apply for a grant. The motion needs to be whether lights or no lights. Motion withdrawn.

The motion was rescinded and another motion made to by Councilman Garde install all of the electric system, and box lights no higher than 14', second by Vice Mayor Kelly. There was no more discussion. Roll call vote. Councilmen Baty, West, Cote, Garde, and Kelly all yes. Mayor Kanakos, no. Motion passed.

- b. Recommendation from the Water Committee on future capital improvements

Documents from Water Committee reviewed. The report outlined what requirements the Water Committee is putting forth for future capital improvements. A motion was made by Councilman West to accept the Water Committee's future capital improvements to be implemented over 5-7 year plan, second by Councilman Garde.

Discussion: Vice Mayor Kelly questioned item #9 install new well storage tank. Explained this is a working document and evolving. Ongoing process decision will be made with budget. Town Manager agreed. Council stated that some of the capital projects listed are currently funded. Some items have already started. Items 1, 2 and 3 are funded and 4 not funded but for design.

Councilman Garde requested that a task order for Atlantic Awater main replacement project be on the agenda for the next meeting to begin the engineering and design. Will need larger pipe to support Cannery Village. No vote tonight because not on the agenda.

All in favor of the motion to accept the Water Committee's future capital improvements. Motion carried unanimously.

- c. Recommendation from the Water Committee on FY2020 budget recommendations: Deleted Item c

- d. Resolution 2019-011 relating to water meter replacement outside residences

Background: Some older homes have water meters inside in mudrooms or basements. Need access to them. There are about 100 currently out of compliance. Letters were mailed years ago and did not have much traction because of not being from Council. The cost of moving the meter outside is approximately \$3,000. They have a 2-year window to complete.

It has become a burden in some cases to read the meters. Town Solicitor noted that in final paragraph 2015 10D misunderstand the scope and thought it to mean the Town would install all meters.

Councilman Garde suggested the need to modify second clause, Page 2, to eliminate the option of either hire a licensed plumber or the Town's Public Works Department to install a pit and meter. Change to residents and owners shall hire a licensed plumber to install as needed. The meter must be installed at the owner's cost, outside the residence in full compliance with Chapter 215 of the Town Code, remove the notwithstanding Section 215-10.

Motion made by Councilman West to adopt the changes cited by Councilman Garde in the third paragraph “residents hire” strike the option to either. Meter must be approved by Town. A

Motion was made to adopt with changes suggested by Councilman Garde. Meters must be purchased from the town and can be installed by either the town or a license plumber which would be up to the resident.

Motion on the floor amended to eliminate the option for Town to install. Residents shall hire a licensed plumber to install as needed. A meter approved by the Town installed all at the owner’s cost. Motion second by Vice Mayor Kelly. Roll Call vote. All Council vote yes. Motion carried unanimously.

- e. Request for the closure of Sand Street on September 21, 2019 from Annette Babich, 428 Chestnut Street/107 Sand Street, for the Dogs Days of Summer Festival:

Ms. Babich explained that she is planning a festival for Dog Days of Summer with Happy Animal Rescue and raise money for Milton Historical Society. It will be on her property at 107 Sand St. Parking in vacant lot on Sand St. and Dog Fish Head allowing them to park on their property and will be posted. Time: 3-4 hour in mid-afternoon, 3-7 or 4-7. Alcohol will be served.

Motion made by Councilman West to allow closure of Sand St. on September 21, 2019, second by Councilman Garde. All in favor. Motion carried unanimously.

- f. Request from George Miles and Buhr on behalf of Fernmoor Homes for referral to the Planning and Zoning Commission, the preliminary subdivision plan review for Phase VI of Heritage Creek. J. Collier this is just a formality. It is for a referral to P&Z for consideration.

Motion made by Councilman West to send to Planning & Zoning for review on Phase VI, second by Councilman Garde. All in favor. Motion carried unanimously.

- g. Request for sidewalk waiver from ECS Capital related to 413 Sussex Street, t/m/p 235-14.16-56.07: Seeking partial waiver on side of Bay Ave.

Motion made by Councilman Garde to approve the waiver on sidewalks on Bay Ave. Not granted in perpetuity. At some point may require curbs and sidewalks. Temporary waiver. Revised motion made to approve the request to waive requirement for a curb and sidewalk along Bay Ave. only with respect to the property located at 413 Sussex St, Second by Vice Mayor Kelly. All in favor. Motion carried unanimously.

h. Request for sidewalk waiver from Russ Palmer (on behalf of David and Karen Moskowitz) related to 203 Chandler Street, t/m/p 235-14.19-147.01:

Motion by Councilman West to grant the waiver until such time as sidewalks are required by Town, second by Councilman Baty. All in favor. Motion carried unanimously.

i. Request from Cape Henlopen School District for a waiver of the restriction of improvements on Town-owned strip off of Federal Street identified as tax/map/parcel 235-20.07-20.00

Town Solicitor explained background for the waiver. The renovations to Milton Elementary School are taking place on two parcels that are split by town-owned 12' strip running from Federal St. to Wagamon that splits the two parcels. The Northern parcel accessed over that 12' strip. Town put stormwater pipe into pond. In 1965 the Town entered into an agreement with the school district could cross the parcel to access the northern parcel as long as school district kept free of rubbish, trash, undergrowth. Also prohibited any improvements on it. Two pipes the school district is proposing need to go across the 12' strip as well as some paving for the drive leading up to the maintenance building. P&Z handling site plan. Mayor & Council has authority to waive the restriction over town-owned property for the proposed improvement and would maintain possession. This agenda item allows improvements on the easements and to use the Town property. There will be no structures, and will not affect access or drainage pipe. School District would be responsible for maintenance if the paving is disturbed. School District agreed.

Motion made by Councilman Garde to approve the waiver in accordance with the Solicitor's recommendations, second by Councilman West. All in favor. Motion carried unanimously.

j. Resolution 2019-012 appointment of the Finance Committee and its responsibilities

Motion made by Councilman West to appoint the following members to the Finance Committee: R. Baty, Council Treasurer, M. McGrath, C. Stinar, D. Wellbourn, and S. Renard. R. Baty shall serve as the Committee Chairperson and as its liaison to the Mayor and Town Council, Second by Councilman Garde. Roll call vote: All yes. Motion carried unanimously.

k. Resolution 2019-013 appointment of the new Streets, Sidewalks, and Parks Committee and the sunset of current Streets and Sidewalks Committee and Parks and Recreation Committee

Mayor explained that this basically takes Parks Committee and folds it into Streets & Sidewalks. Councilman Fleetwood does not want to be on the Parks Committee, but would like to continue to be involved with the concerts. This allows us to have a robust committee. A motion was made by Councilman West to appoint the following to the Streets, Sidewalks and Park Committee: Councilman E. West,

Councilman Fleetwood, S. Winterbottom, M. Donnan, J. Lamando, R. Frazier and P. Camenisch. Councilman West will serve as Committee Chairperson and as its liaison to the Mayor and Town Council, second by Councilman Garde. Roll call vote. All yes. Motion carried unanimously.

1. Final Land Acquisition- executive session needed first.
Motion by Councilman West to go into executive session, second by Councilman Garde. All in favor. Motion carried unanimously.

Motion made by Councilman Garde to allow the Town Solicitor and Town Manager to send out the Agreement that was discussed in Executive Session no later than next Monday on the basis to consider and resolve any and all comments received by Mayor and Town Council at that time, second by Councilman West. All in favor. Motion passed unanimously.

15. Adjournment Motion to adjourn by Councilman West, second by Councilman Garde. All in favor.