

REGULAR COUNCIL MEETING February 5, 2007

7:00 P.M. meeting called to order in the Council Chambers, Vice--Mayor Larry Gum presiding. Present were Secretary Irene Keenan, Treasurer Robert Bryan, Council persons John Thoroughgood, Michelle Truitt, Town Solicitor Tempe B. Steen, Adm. Assistant Brenda J. Morris, Development Coordinator Linda Johnson, Finance Director William Sauer. Absent Mayor Joseph Brady, Town Manager Faye Lingo, Councilman John (Jack) Wilkins. Guests see attached.

NRG PRESENTATION - Gerry Hopper, Director of Regional Affairs for NRG, presented the energy provider's plan to develop a 600-mega watt Integrated Gasification Combined Cycle (IGCC) facility at the existing Indian River Power plant. This process allows the carbon to be affordably captured and stored deep underground. The IGCC process would turn coal to synthetic gas which would be injected over 4,000 feet underground into an isolated salt water aquifer. NRG will be retiring two of four existing units if the IGCC project is awarded contract with the remaining units being cleaned up. This process would provide more energy for Delaware by providing enough energy for over 300,000 homes. There would be 85% overall reduction in sulfur dioxide, 60% overall reduction in nitrogen oxides, and 85% overall reduction in mercury. Mr. Hopper also informed Council that the IGCC process could help solve Millsboro's water disposal problems by possibly using up to 1 million gallons per day of the town's treated effluent for cooling and other operational purposes. Bids are being reviewed now with the successful bidder hopefully being awarded the contract sometime in the second quarter of this year. The approximate in service date is 2013. Mr. Hopper said NRG would like a letter of support for this proposal if Council is in agreement. Thoroughgood motioned, Bryan second to send a letter of support for the IGCC facility to NRG. Motion carried with Joseph Brady and Jack Wilkins absent.

SECRETARY'S REPORT - Secretary Irene Keenan presented the minutes from the January 2, 2006 council meeting for Council's approval. Keenan motioned, Thoroughgood second to approve the minutes from the January 2, 2006 council meeting as written. Motion carried.

TREASURER'S REPORT - Treasurer Robert Bryan presented the bills and bank balances to Council for approval. Thoroughgood motioned, Truitt second to pay the bills from the designated accounts as presented. Motion carried.

MILLSBORO FIRE COMPANY -Ray Burton, President Millsboro Fire Company, presented the monthly report to the Council. 452 YTD alarms were responded to. 31% of those were in town, 48 % out of town, 15% in assists and 5 1/2 % false alarms. He reported that lifetime member Henry Phillips had passed away and they assisted in his funeral.

CHAMBER OF COMMERCE - Fran Bruce, Director of the Greater Millsboro Chamber of Commerce reported to Council on the commemorative benches. Fifteen benches have been ordered and will be placed in nine different locations around town. Nine will be going to Cupola Park, two to the W.B. Atkins Little League Park, and others to Sussex Central Middle School, Library, Main Street and the Diary Queen.

PARKS AND RECREATION - No report

STREET REPORT -No report

POLICE REPORT - Chief Murphy reported the monthly police report to Council.

All members of the department were re-certified on CPT/AED at the Millsboro Volunteer Fire Dept. on January 18th.

All members of the department were also recertified on the TASER on January 30th

On February 2^d, recruit officers Lyons and Morris graduated from the Delaware State Police Academy. On Monday, February 5th, they were sworn in by Judge Graves of Superior Court. Lyons starts his field training on Tuesday, February 6th and Morris will

start Wednesday evening, February 7th". Chief Murphy received very positive reports from the academy staff about these two recruits performance in the academy.

One of Millsboro's past officers was laid to rest at Millsboro Cemetery on February 1st. Henry L. Phillips retired in 1976 after serving 15 years with the Millsboro Police Department. The department assisted the Millsboro Volunteer Fire Co. and the Fire Police with the service.

The department took delivery of the BMW police motorcycle earlier this month. They are currently working on the equipment and training aspects of this project at this time.

WATER/SEWER REPORT -Water leaks were reported at 300 Monroe Street and Unit 410 Houston Acres. The sewer cost was adjusted per town ordinance by the Town Manager.

MAYOR'S REPORT:

Special Development District Update- Town Solicitor, Tempe Steen, gave an update explaining the conception of the Special Development District. Those present were informed that Heritage Shores, located in Bridgeville, De. has been designated as a Special Development District. Procedures used by the Town of Bridgeville to create this district have been taken into consideration and studied by Ms. Steen and Council. Plantation Lakes brought the concept for this type of special district to the town's attention. The first application was filed by Plantation Lakes late 2005 asking that the Plantation Lakes development be considered as a Special Development District to help infrastructure financing. In June of 2005 a charter change was approved allowing for Tax Increment Financing which would allow municipal special development districts if the town chose to do so in the future. In January 2006 Council approved a resolution designating a Special Development District to be known as the "Plantation Lakes Special Development District". This resolution was passed to identify this special tax district. A tax or special assessment will be charged on each property in the Plantation Lakes development only. Bonds will be sold that are supported by the special development district. The development will pay back the proceeds of the bond with interest over 20 to 30 years. It's not an obligation by the town. It's not paid for by the citizens other than those who will buy property in the Plantation Lakes development. The Town of Millsboro will eventually see revenue of 5 million dollars from this Special Development District. Ms. Steen informed Council there were some steps that will need to be taken before this special tax district can be put in place. Plantation Lakes has asked for a formal melding of Plantation Lakes and the Dukes Property. The developer's agreement will need to be amended after the two properties are designated as one. A resolution creating a fund for a special tax district will need to be approved by Council. An ordinance setting the terms for the bond will need to be written and approved by Council. The time frame for this process is early spring. Tax calculations figured in the beginning will remain the same through the life of the bond. First collections probably will not be done until 2008 or 2009.

Plantation Lakes/Dukes Property Melding- Kevin McBride, representing Plantation Lakes, came before Council asking that the Preliminary Site Plan for Plantation Lakes include the Dukes Property. Solicitor Tempe Steen informed Council she believed it was always intended to amend the Annexation and Development Agreement for Plantation Lakes to include the Dukes Property when it was annexed as part of the town. If the Dukes Property is to be an integral part of the Plantation Lakes development and project, then the Plantation Lakes Site Plan and RPC must be amended to include the Dukes Property. In addition, the Annexation and Development Agreement must also be amended to include the Dukes Property. Ms. Steen informed Council that she feels there

needs to be a clarifying clause added to the original resolution stating where the Dukes Property as part of the whole project falls under and the phasing plan for this section. It was also noted that the combined Preliminary Site Plan was presented to the town for review on January 8, 2007. The zoning for the Dukes Property will remain as Medium Residential (MR). Bryan motioned, Thoroughgood second to approve the resolution proposing to combine the Preliminary Site Plans and approvals of the existing High-

Density (HR) Residential planned Community (RPC) District know as Plantation Lakes and the existing project known as the "Dukes Property", zoned in a Medium Density (MR) District as presented with an additional paragraph being added to clarify the Dukes Property's part of the project as a whole and the phasing process for this portion of the project. Motion carried with Brady and Wilkins absent.

Vacate Unnamed Alley - The committee report was given to Council by Vice Mayor -Larry Gum concerning vacating an unnamed alley located along US 113 at the MidSussex Shopping Center. This alley is a 30 ft. strip of land in the Blvd. addition. It has been there since before Dupont Highway came to be fully expanded. This property is located on the east side of US 113 at the Mid-Sussex Shopping Center between Delaware National Bank and Carpet Mart. It is in the corporate limits of the Town of Millsboro. The property will belong to MSA Realty and become part of the Carpet Mart property. It was suggested that an easement must be retained for utilities and signage. It was the committee member's consensus that there was no reason not to vacate this alley. Thoroughgood motioned, Keenan second to approve the resolution to set a public hearing for March 5, 2007 regarding the possibility of changing the street structure within the corporate limits of the Town of Millsboro relating to an unnamed alley parallel to US Route 113 at the Mid-Sussex Shopping Center with an easement retained for signage and utilities. Motion carried with Brady and Wilkins absent.

CMH Homes, Inc./DBIA LUV Homes Annexation - The committee report was presented to Council on the application for annexation by LUV Homes. The first thing established was the zoning. LUV Homes is not sure what the county has it listed as, but the Town of Millsboro would list it as Highway Commercial (HC). After the property is annexed into town the lot owned by CMH will eventually be sub-divided into two lots, one for LUV Homes and the other for Oakwood Homes. They will be using the same entrance which will require Del-Dot approval. The committee recommended that the road between Arby's and LUV Homes, which belongs to M&T Bank, become part of the Town of Millsboro also. The road would still belong to M&T Bank but be in the town limits. All committee members agreed that LUV Homes should be annexed into the town limits of Millsboro. Bryan motioned, Thoroughgood second to approve the resolution to set a public hearing on March 5, 2007 to consider annexing into the Town of Millsboro the lands now or formerly of CMH Homes, Inc., d/b/a LUV Homes, 6.5655 acres, more or less, located contiguous to the existing corporate limits of the Town of Millsboro, on the east side of US Route 113 and the west side of Mitchell Street (Sussex County Road 83), Tax Map Number 2-33-5-10.03, and amending the zoning ordinance and the zoning map of the Town of Millsboro to include said territory in the Highway Commercial (HC)

District. Motion carried with Brady and Wilkins absent.

Proposed Amendment to Millsboro Zoning Code - A proposed amendment to the Millsboro Zoning Code/Performance Standards concerning buffers from wetlands, water body requirements and collector drives separation in parking lots from parking aisles was presented to Council for public hearing consideration. Thoroughgood motioned, Bryan

second to approve that a public hearing be set on March 5, 2007 to consider amending the Zoning Ordinance of the Town of Millsboro, Chapter 210, Article V, General Provisions,

Subsection 210-41, relating to performance standards, Subsection A, buffering, screening and landscaping regulations to establish buffers from wetlands and water bodies; and providing for collector drives. Motion carried with Brady and Wilkins absent.

Zoning Amendment/HC Include Hotel - A resolution for a public hearing to change the zoning ordinance to include Hotel as a permitted use in the Highway Commercial (HC) District was brought before Council. There has always been a definition of the word Hotel in the zoning definitions but it was never listed as a permitted use in the Highway Commercial (HC) District. Thoroughgood motioned, Bryan second to approve a resolution to set a public hearing for March 5, 2007 to consider amending the Zoning Ordinance of the Town of Millsboro, Chapter 210, Article IV, District Regulations, Subsection 210-18, Highway Commercial (HC) District, by adding "HOTEL" as a permitted use in said district. Motion carried with Brady and Wilkins absent.

Annexation Request/Millsboro Auto Mart - The committee report was presented to Council on the annexation request from Millsboro Auto Mart. After discussion it was made clear to Millsboro Auto Mart that they as the developer are responsible for the running of the water and sewer lines. They were told that water will eventually run by this location but not necessarily sewer. Sewer will be discussed at a later date. The committee feels this will bring more services to the town limits, increase the Town's taxes and no additional entrance is being requested into Oak Drive. It was noted on the survey there are some name changes that need to be made. The committee agreed for Millsboro Auto Mart to continue this procedure starting with the survey changes and DelDot approvals.

Amendment To Comp Plan Map 7- It has been brought to Council's attention that the property proposed by Millsboro Auto Mart for annexation is designated as a Residential District in the town's Comprehensive Plan, map #7, "Future Land Use". It has been suggested that the proposed property be changed to designate it as a Highway Commercial (HC) District zoning. Thoroughgood motioned, Bryan second to set a public hearing on March 5, 2007 for the purpose of considering amending Map #7, "Future Land Use", of the Comprehensive Plan, to change the proposed future use designation from "Residential" to "Highway Commercial" for parcels on the west side of US Route 113 and adjacent to the town's current boundaries, tax map number 1-33-16.00, parcels 130, 105 and 105.01. Motion carried with Brady and Wilkins absent.

Broughton Resignation - A letter of resignation was brought before Council from Jeanetta Broughton. Her last day was January 29, 2007. She is relocating to North Carolina. Bryan motioned, Thoroughgood second to accept the letter of resignation from Jeanetta Broughton, with regrets. Motion carried with Brady and Wilkins absent.

Thoroughgood motioned, Bryan second to recess the Regular Council meeting at 8:15 P.M. and to enter into an Executive Session at 8:25 P.M, to discuss legal and personnel issues.

Respectfully submitted, ,

Irene Keenan Secretary