

## REGULAR COUNCIL MEETING MARCH 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, Councilpersons 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.

State of DNREC-TCE CLEANUP SUMMARY- Robert Asreen from DNREC and Paul Caprio of EA. Engineering came before Council to summarize what has been done and to outline what is planned for the future of the TCE Cleanup. Council and those present were told that cleanup looks to be a 14 year, \$6.2 million project. Robert Asreen reported the TCE contamination was first found in October 2005 in the drinking water at the Boys and Girls Club in Dagsboro, DE. The TCE contamination reportedly came from a poultry laboratory along W. Dupont Highway where poultry vaccines were made. The TCE was used in freeze drying vaccines before there were any regulations for the use of TCE in this manner. DNREC has removed steel drums, piping and approximately 209 tons of contaminated media, including soil, from the area where the TCE contamination is thought to have begun. Six charcoal filters have been placed on wells to remove any further contaminants before the water goes out into the public system. Mr. Asreen did report the contamination plume is about 1 500 feet long, 300 feet wide and 80 feet deep. It has moved northeast from the site where the TCE originated. DNREC is reimbursing the town for the cost of the clean-up which to this point has reached \$700,000. Mr. Asreen told Council that in the past few months of testing, concentrations have basically stabilized. In an effort to get TCE levels down to state and federal drinking water standards, consulting engineer Paul Caprio, with EA Engineering, Science and Technology, outlined a feasibility study completed last month and a preferred DNREC alternative. Included in the three-stage plan is chemical oxidation at the source area, a permeable reactive barrier (PRB) made of iron shavings and carbon filters at the wellheads. Once a remedial plan is selected, construction is expected to take about two years and the PRB stage could take several injections and up to 14 years.

Public Hearing/Vacate Alley-Vice-Mayor Larry Gum opened a public hearing to hear comments on the possibility of changing the street structure within the corporate limits of the Town of Millsboro relating to an unnamed alley parallel to U. S. Route 113 at MidSussex Shopping Center. David Hutt, of Wilson, Halbrook and Bayard, was present to represent the Mid-Sussex Shopping Center group. Hearing was left open until later in the meeting to allow for further comments.

Public Hearing/Annexation Luv Homes-Vice-Mayor Larry Gum opened a public hearing to hear comments on the possible annexation into the Town of Millsboro the lands now or formerly of CMH Homes, Inc., dlb/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 U. S. Route 113 and the west side of Mitchell

Street(Sussex County Road 83), Tax Map 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. Hearing was left open until later in the meeting to allow for further comments.

Public Hearing/Buffering, Screening/Landscaping-Vice-Mayor Larry Gum opened a public hearing to hear comments on the consideration to amend 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 collector drives. Town Solicitor Tempe Steen informed council and those present this amendment was part of the implementation to Comprehensive Plan to widen buffers from wet lands and add collector drives for safety and ascetic purposes. Kevin McBride of Plantation Lakes commented on the use of buffers to remove contaminants from wet lands. He informed Council that he had attended a meeting two weeks ago with DNREC where this issue was discussed. He would like to see Council defer making a decision until Council could have a chance to review the results from the state meeting. Kevin did state that two years ago DNREC proposed to increase the buffer size regulations, but since these most recent meetings they have changed some of their thinking. Tom Ford of Land Design said he had spent two years with DNREC in discussions concerning the buffer issue and he agreed with Kevin McBride that the town should review findings from these meetings with DNREC before making a decision to change the regulations on buffers within the town limits. Kevin McBride also told Council that land taken for buffers did not improve water quality as water is taken to retention ponds in developments. Michael Lasher commented on the promise made by the plantation Lakes development to him to place a 50 ft. buffer between their development property lines and the Lasher property. Hearing was left open until later in the meeting to allow for further comments.

Public Hearing/Add "Hotel" As Permitted Use-Vice-Mayor Larry Gum opened a public hearing to hear comments on the consideration to amend the Zoning Ordinance of the Town of Millsboro, Chapter 21a, Article IV, District Regulations, Subsection 210-18,

Highway Commercial (HC) District, by adding HOTEL as a permitted use in said district. Hearing was left open until later in the meeting to allow for further comments.

Public Hearing/Amend Map 7, (Future Land Use)-Vice-Mayor Larry Gum opened a public hearing to hear comments on the consideration to amend 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 U. S. Route 113 and adjacent to the town's current boundaries, tax map number 1-33-16 parcels 130, 105 and 105.1. Hearing was left open until later in the meeting to allow for further comments.

SECRETARY'S REPORT - Secretary Irene Keenan presented the minutes from the February 5, 2007 council meeting for Council's approval. Keenan motioned, Bryan second to approve the minutes from the February 5, 2007 council meeting as written. Motion carried with Brady and wilkins absent.

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

MILLSBORO FIRE COMPANY -Ray Burton, President Millsboro Fire Company, presented the monthly report to the Council. In January there were 132 ambulance/EMC calls while in February there were 126 calls. Fire calls are increasing for the department. The recent fellowship evening was a great success and President Burton thanked those Council members that attended.

CHAMBER OF COMMERCE - Fran Bruce, Director of the Greater Millsboro Chamber of Commerce reported to Council the fifteen commemorative benches should be here by mid April. They will be shipped unassembled. There will be enough money left over from this purchase to help fund a dedication ceremony. The new Chamber website is up and running. A 32 second resort video on Millsboro will begin to air on Comcast TV stations five times a day. This will hopefully encourage visitors to the Millsboro area. They are also working on a60 second video highlighting the Nanticoke Indian Pow wow. This is to be shown on Kid Zone in July and August. Chamber will be hosting an Easter Egg Hunt on April 7th at the Cupola Park. They are asking the town to be one of the sponsors for a donation of \$250.00. This money will be used to buy plastic eggs and candy. Bryan motioned, Truitt second to help sponsor the Chamber Easter Egg Hunt on April 7th with a donation of \$250.00. Motion carried with Brady and

wilkins absent.

PARKS AND RECREATION - No report

STREET REPORT -A request has been received by the town asking that a traffic light be placed at the Rt. 113 and Delaware Ave, intersection. This is the intersection where McDonalds is located. After some discussion it was suggestion that a letter of support for

this light be sent to the DelDot. Bryan motioned, Truitt second to have a letter of recommendation sent from the town supporting the request for a traffic light at the Rt. 113 and Delaware Ave. intersection. Motion carried with Brady and wilkins absent.

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

On February 20th PFC Forester attended a RADAR Instructors class at the DSP Academy.

On February 23rd Det. Lowe attended a class on Forensic wound Identification at Poly Tech.

The recruits are doing well in their field training. No issues to report.

CALEA UPDATE-Lt. Quigley has finished writing policies and directives. The administrative review done in January went very well. As these policies have been implemented we have experienced very positive feedback from the patrol staff. Our next step is for U. Quigley to begin building files, we will then move to a mock assessment phase which will give us a very good indication where we stand with our full accreditation. Quigley, who was present, reported that the Millsboro Police Dept. is one of the smallest agencies in the Mid-Atlantic region that are seeking this accreditation.

WATER/SEWER REPORT -No report MAYOR'S REPORT:

Public Hearing/Vacate Alley-Tempe Steen commented on the reasoning for this vacating. It will make the area affected less dangerous. She also noted the town will be receiving an easement for signage and utilities. After no further comments were heard Thoroughgood motioned, Bryan second to close public hearing. Motion carried with Brady and Wilkins absent. Thoroughgood motioned, Bryan second to approve changing the street structure of the Town relating to that part of an unnamed, unvacated alley/street alley extending parallel to and on the east side of U.S, Route 113 from a point at the corner of lands now or formerly of Delaware National Bank and lands now or formerly of Millsboro Carpet Mart, L.L.C., in a southerly direction through a point between the lands now or formerly of Millsboro Carpet Mart, L.L.C., and lands of Mid-Sussex Associates, L.P., a distance of 100 feet, said point appearing to be the end point of said unnamed alley, adjacent to Sussex County Map No s. 1-33-21.00-4.04 and 1-33-21.00-4.03. Motion carried with Brady and wilkins absent.

Public Hearing/Annexation Luv Homes-After no further comments were heard Thoroughgood motioned, Bryan second to close the public hearing. Motion carried with Brady and wilkins absent. Bryan motioned, Thoroughgood second to approve the annexation 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 U. S. 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 of the Town of Millsboro dated July 1973, as amended,

to include said territory in the Highway Commercial (HC) District. Motion carried with Brady and Wilkins absent.

Public Hearing!Buffering,Screening,Landscaping Regs.-After hearing no further comments Thoroughgood motioned, Keenan second to close the public hearing. Motion carried with Brady and wilkins absent. Bryan motioned, Truitt second to table a decision on this amendment until further information could be studied and consultants had a chance to review. Motion carried with Brady and wilkins absent.

Public Hearing/Add HOTEL as a Permitted Use-After hearing no further comments Thoroughgood motioned, Truitt second to close the public hearing. Motion carried with Brady and wilkins absent, Bryan motioned, Thoroughgood second to approve amending the Zoning Ordinance of the Town of Millsboro, Sussex County, Delaware, 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.

Public Hearing/Amend Map 7, "FUTURE LAND USE"-After hearing no further comments Thoroughgood motioned, Keenan second to close the public hearing. Motion carried with Brady and wilkins absent. Thoroughgood motioned, Keenan second to approve 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 U. S . Route 113 and adjacent to the Town's current boundaries, Tax map number 1-3 3-1 6-13 0,105 and 105 .01 . Motion carried with Brady and wilkins absent.

Tom Williams/Skateboard Park-Tom Williams, Youth Director at Grace U.M.C., Millsboro, came before Council with a proposal for a partnership with the town for a skateboarding facility. He asked the town to provide a designated site and the site prep needed. Grace U.M.C. would then provide all necessary equipment and all supervision. It would be run much like the Little League at the W.B. Atkins Park, functioning with a committee of volunteers. Grace had been allowing skateboarders to use their parking lot at certain times but have since had to disallow that per advice from their insurance company. It was suggested that this be turned over to John Thoroughgood in Parks and Recreation for further study.

Plantation Lakes Clubhouse/Final Plan Approval-Kevin McBride of Plantation Lakes asked the Council to defer final plan approval for the clubhouse due to conservation district approval has not been received as of this date.

Plantation Lakes Special Tax District Update-Timothy A. Frey of Saul Ewing LLP gave update on the Special Tax District and answered questions from those present. Mr. Frey informed those present that the commercial piece of the Plantation Lakes property is coming out of the Special Tax District and that the Dukes property that has been combined with the Plantation Lakes Development will be included in the new tax district. This tax is to be use to pay for the infrastructure within the Special Tax District,

Plantation Lakes and will only be placed upon owners of property within Plantation Lakes. This way the owners within that development will be paying for the infrastructure within Plantation Lakes and not the tax payers from the rest of the town. Lasher questioned if the development should fail would that affect the bond rating of the town? Mr. Frey assured those present that as this is not a general obligation bond and therefore would only affect that particular bond if the development should fail in the future. It puts all the risk of financing on the developer and not the town. Mr. Frey also assured

those present that this special obligation bond will not cost the town anything. The town is not guaranteeing the bond so therefore the town's credit is not being pledged and is in no risk of being damaged.

Resolution to borrow money from USDA-The town will need to borrow money from the USDA for water & sewer improvements. Town Solicitor, Tempe Steen asked the Council to defer any decision on this until a meeting can be held with CABE Assoc. No action taken.

Dukes Property Lot Restrictions-Kevin McBride came before Council requesting the removal of lot size restrictions within the Dukes property. Thoroughgood motioned, Bryan second to remove lot size restrictions on the Dukes property passed last month, with the minimum lot size to be 75x100 and no increase in the number of lots. Motion carried with Brady and wilkins absent.

St. Helens Crossing Construction Extension-Chris Lahr of DLM, LLC came before Council informing them that the construction permits for St. Helens expired in December 2006. They are asking for a one year extension. He informed Council the developers were getting ready to start the first model at this date. Thoroughgood motioned, Bryan second to grant DLM, LLC a one year extension for St. Helens Crossing construction permits. Motion carried with Brady and wilkins absent.

Somerton Chase Preliminary Plan Extension-Roger Gross, of Merestone Consultants, came before Council asking for a one year extension for the Preliminary Plan approval for Somerton Chase due to being held up with issues regarding DELDOT and their Traffic Impact Study. They asked for the one year extension to begin in June 2007. Bryan motioned, Thoroughgood second to grant the request for a one year extension for the Preliminary Plan approval for Somerton Chase through June 2008. Motion carried with Brady and wilkins absent.

DELDOT Work Time Waiver-DELDOT has requested a waiver on work time and noise for construction SR 24 from US 113, Dupont Blvd, to bridge and from bridge to eastbound 24 split. They are asking to work at night between the hours of 8:00 PM and

6:00 AM. Thoroughgood motioned, Bryan second to approve the waiver to work time as requested with noise consideration in the nursing home location. Motion carried with Brady and wilkins absent.

Conditional Use Renewal / 317 Main St.-Home Town Properties is requesting a one year renewal to a conditional use for 317 Main St. Thoroughgood motioned, Keenan second to approve a conditional use renewal for one year, June 5, 2007 through June 4, 2008, for Ellen Maude Smith and Bonnie Hitchens ward trading as Home Town Properties for an apartment as an accessory use over an existing commercial building located at 317 Main St., Town of Millsboro, Sussex County tax map number 1-33-17.09-26.01. Motion carried with Brady and Wilkins absent.

Patriots Landing-Bryan Hall, DE State Planning Office, gave comments on the common boundary for possible annexation between the town and Patriots Landing. Upon review the state feels the Millsboro Pond, the bottom of the pond, can be used as the connectivity point between Patriots Landing and the town making the Patriots Landing property contiguous to the town. This would allow the town to go forward with the annexation procedure, if this is what the town would like to do. After some discussion it was decided to defer this issue until the next Council meeting on April 2, 2007.

Transfer Tax Fee Exemption-Councilperson, Irene Keenan, brought up for discussion first time homeowners exemption from town transfer tax fee. She informed Council that Georgetown, Laurel, Seaford and Milford are some of the towns that do offer this exemption to first time homeowners. Ms. Keenan feels this would make Millsboro a more desirable location to move to for first time homeowners. After some discussion it was decided to instruct the town Finance Officer, Bill Sauer, to do a study to compare the tax loss impact other towns may have experienced after implementing this exemption.

Michael Lasher-Mr. Lasher came before Council with several questions concerning the implementation of the "Special Tax District" and the bonds that will be sold to pay for the infrastructure in this district. He questioned whether the documents would be ready for review through FOIA regulations before the "Special Tax District" documents will be signed? He was informed my town solicitor, Tempe Steen, that those documents had not been finalized yet but as soon as something comes forward to be approved publicly they would be presented for public view and comment. He questioned the "no bid contract" clause in the charter change, HB23 1, pertaining to the "Special Tax District" and was told this applies to the developer and not the town. Anything the town contracts out will be bid out. Another question asked was if the golf course was a guarantee, and if the golf course was not built would more houses be built on that portion of land. He was told that if the golf course was not built a clause had been put into the developer's agreement that this land would be left as open space and no more houses would be built on that portion of land.

Thoroughgood motioned, Bryan second to recess the Regular Council meeting at 9:30 P.M. and to enter into an Executive Session at 9:40 P.M. to discuss legal and personnel issues.

Respectfully submitted,

Irene Keenan Secretary