

MAYOR and COUNCIL TOWN OF MILLSBORO REGULAR COUNCIL MEETING JANUARY 5, 2009

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

PUBLIC HEARING/Peninsula Crossing II- This public hearing was left open from the December 1, 2008 council meeting. Preston Dyer-Millsboro Towne Center II, LLC has made an application for annexation for properties that will extend the original Peninsula Crossing commercial development on US 113 which is the new location of Lowe's and BJ's. This extension is being called Peninsula Crossing II by the town for clarification purposes. The properties are described as Sussex County Map #2-33-5.-00 parcels 112.00, 113.00 and 114.00, which is a total of 10.288 acres more or less. These properties, when and if annexed, would be used to continue the shopping center. He also informed Council that Millsboro Towne Center II, LLC have settled on the properties. Mr. Dyer informed council that there will be no additional entrance from 113 and that the entrance to these properties would be from Town Center Blvd. They do now have an application in for an adjustment to the ditch location and town water and sewer would be provided to these parcels. This property is within the Town's annexation area and earmarked by the State of Delaware as Level 1 and 2 as appropriate for commercial development. Property is already zoned for commercial development. They are asking that these properties be annexed into the town limits and that the zoning is set as Highway Commercial (HC) District. The annexation committee for this request met on September 26, 2008. They are recommending that this property be annexed into the corporate limits of the Town of Millsboro and that the zoning be set as Highway Commercial. Thoroughgood motioned, Bryan second to approve the resolution annexing (1) properties now or formerly of Roger W, and Judith H. Mitchell/Millsboro Towne Center II, L.L.C., contiguous to the present southerly limits of the Town of Millsboro, on the West side of U. S. Route 113 and the east side of Handy Road (County Rd. 337), tax map no. 2-33-5.00-113 and 114, 5.40 acres, more or less; and (2) property now or formerly of Marie Handy/Millsboro Towne Center II, L.L.C., contiguous to the present southerly limits of the Town of Millsboro, on the west side of U. S. Route 113 and the east side of Handy Road (County Rd. 337), tax map no. 2-33-5.00-112, 5.03 acres, more or less; and an ordinance amending the zoning map and zoning ordinance of The Town of Millsboro to include both said territories in the Highway Commercial (HC) District. Motion approved unanimously with Councilman Jack Wilkins absent.

AUDIT REPORT: Sheldon Forney, of Jefferson, Urian, Doane and Sterner, reported on the audit for the fiscal year ending June 30, 2008. The town's liabilities and assets were presented to Council with important areas reviewed by Mr. Forney. He explained that the Executive Summary found on pages 3-7 was divided up between water, sewer and governmental activities. He also explained the comparison between 2007 and 2008 revenues and expenses found on page 6 of the audit report. He reported the

audit shows the town is in a strong financial state as of 6-30-08. Thoroughgood motioned, Bryan second to approve and accept the audit report as presented by Jefferson, Urian, Doane and Sterner for the fiscal year ending June 30, 2008. Motion approved unanimously with Councilman Jack Wilkins absent.

SECRETARY'S REPORT - Secretary Tim Hodges presented the minutes from the December 1, 2008 council meeting for Council's approval. Bryan motioned, Keenan second to approve the minutes from the December 1, 2008 council meeting as written. Motion approved unanimously with Councilman Jack Wilkins absent.

TREASURER'S REPORT- Treasurer Michelle Truitt presented the bills and bank balances to Council for approval. Bryan motioned, Hodges second to pay the bills from the designated accounts as presented. Motion approved unanimously with Councilman Jack Wilkins absent.

MILLSBORO FIRE COMPANY - President Ray Burton gave report for the Millsboro Fire Company. He reported that they have responded to a total of 487 alarms this year. Last year, 2007, they responded to 455 alarms. As of the end of November the EMS have answered a total of 1,700 calls. Last year, 2007, the number of calls responded to was 1,654. With the growth in population comes the growing number of calls the Fire Department and EMS crews are being asked to respond to. At this time there are nine full time paid employees and several part time. Mr. Burton feels that in 10 years the town might be looking at the need for a paid fire department. Mr. Burton introduced the newly elected and installed president Ron O'Neal who will be reporting to the Council in the future.

CHAMBER OF COMMERCE - No report. STREET REPORT - No report PARKS AND RECREATION - No report

POLICE REPORT - Sgt. Lowe, Pfc. Doughty and Pfc. Forester attended Field Training Officer's course at the DSPTA.

The department did makeup firearms qualification; all officers received their yearly mandated training.

Lt. Calloway will be submitting his end of the year report for CALEA next month for Council's review.

The Christmas parade was held as scheduled with no issues to report. Recruit Rogers is progressing well in the academy, with no issues to report. Street Report - No report

WATER AND SEWER REPORT - A change order for the MCC 2 Breaker, at the wastewater plant, in the amount of \$5,476.80, was presented to Council for approval. This was not done at the time of the design as it was not realized that the breakers that were in the original design would not be able to handle the current and future load. Bryan motioned, Thoroughgood second to approve the change order for the MCC 2 Breaker at the wastewater plant in the amount of \$5,476.80 and as presented to council. Motion approved unanimously with Councilman Jack Wilkins absent.

An amendment to the engineering contract for the Wastewater Treatment Facility Phase I Upgrade, in the amount of \$180,000.00, was moved to Executive session for discussion.

MAYOR'S REPORT

Plantation Lakes - Jim Petruzella, a homeowner in Plantation Lakes and part of a self appointed leadership committee, came before Council with some concerns he and other property owners in Plantation Lakes have with the future of that development. The Home Owners Association is located in Virginia and there is no representation here in Millsboro. Some of the concerns were: 1) Builders pulling out. Only one left at this time is Gemcraft. They are concerned how those amenities that were promised to them are going to be built. Some of those are the pool, clubhouse, finished golf course, streets and road signs. The management is rarely seen or visible.

2) Some homeowners were never told about the Special Tax.

3) There have been no financials listed by Municap since July 2008.

4) Would like to know when the new firehouse and playground/park is going to be constructed.

5) They would like to know who the actual owner of the undeveloped land is. They have been told Lennar and US Homes. When they go into the Lennar computer site Plantation Lakes is not listed as one of their developments. They were informed by Faye Lingo, Town Manager that the water tank sited for that development is to have construction begin in the spring.

Annexation Application, Del Pointe - The Town of Millsboro has received an annexation application for properties described as Sussex County Map No. 1-33-11.00 parcels 5.00, 6.00, 7.00 and 4.00. The intent is to have these properties annexed into the town limits of Millsboro and set the zoning as Planned Commercial District and to use the parcels 5.00, 6.00 and 7.00 as a horse racing facility. Gene Lankford of TP One, LLC and Preston Shell were present to answer council questions and concerns about this possible annexation. This is a 367 acre farm contract located east of 113 and north of Millsboro. They are looking to build a one mile harness racing tract with grandstand. A Great Wolf Lodge with an indoor water park is anticipated to be part of Phase I as well. Phase II could include a possible shopping center. There are no plans to develop parcel 4.00 at this time. Council was informed they have secured a license

from the Standard Bred Harness Racing Commission. The public would be able to place bets on simulcast video lottery terminals. There is some possible future development with the University of Delaware. If a casino is established there it could possibly create 645 jobs. They would like to be racing by August but feel that is not very optimistic. The Video Lottery Terminals would be located on the second floor of the grandstand. Town Solicitor, Tempe Steen, questioned what made this property contiguous to the town limits of Millsboro. The J.G. Townsend Jr. & Co. property, parcel 4.0 which is next to this property, is also asking for annexation into the town limits. If the Townsend property is annexed it would make the Chesapeake Tract, LLC property contiguous to the town limits. The Townsend property is being surveyed at this time. Tempe Steen also advised council that these two requests for annexation should be treated as two separate annexations. Mayor Gum appointed Councilman Robert Bryan/Chairman, Tim Hodges and Irene Keenan to a committee to study these annexation requests and bring back their recommendations to the council.

Memorandum of Understanding- Sussex County Council is offering a Memorandum of Understanding to each municipality for consideration. This is a statement of cooperation and communication between the county and town regarding land use planning near their corporate boundaries. After some discussion it was Council's decision that this request be studied in more detail and brought back to February's Council meeting for further discussion.

Comprehensive Map Amendment - A resolution that will amend the annexation area in the current comprehensive plan was presented to Council for approval to go to public hearing. Thoroughgood motioned, Bryan second to approve the resolution proposing that a public hearing be held on Monday, February 2, 2009, on the subject of amending the Comprehensive Plan for The Town of Millsboro dated May 17, 2004, amending Map #7, "Future Land Uses" and Map #8, "Annexation Area" to expand the annexation area for the town and to designate proposed future land uses for certain properties be included in the annexation area: tax map parcel numbers 1-33-11-3.00; 4.00, 5.00, 6.00 and 7.00; 133-15-30.00, 30.01; and 1-33-16-75.00 and 75.03. Motion approved unanimously with Councilman Jack Wilkins absent.

Zoning, Planned Commercial District - A resolution that would clarify references to "PCD" rather than "PC" was presented to Council for approval to go to public hearing. Hodges motioned, Thoroughgood second to approve the resolution proposing that a public hearing be held on Monday, February 2, 2009, on the subject of amending the zoning ordinance of The Town of Millsboro, Chapter 210, "Zoning", Article IV, District Regulations, subsection 210-21, "Planned Commercial (PC) District" to change the title to "PCD" District, by adding a "D" to the designation so that the title shall read, "Subsection 210-21. Planned Commercial (PCD) District. Motion approved unanimously with Councilman Jack Wilkins absent.

Zoning Administration and Amendments Procedures - A resolution that would add the "PCD" and LSCOD" (Large Scale Commercial Overlay District) to the site plan review requirements and amendment process was presented to Council for approval to go to public hearing. Hodges motioned, Thoroughgood

second to approve the resolution proposing that a public hearing be held on Monday, February 2, 2009, on the subject of amending the zoning ordinance of The Town of Millsboro, Chapter 210, Zoning, Article XI, District Changes and Amendments, subsection 210-70, Amendments, subsection H, "Procedure for RPC District, by adding to the end of the title, "PCD District and LSCOD District" and including the said districts in the review procedures. Motion approved unanimously with Councilman Jack Wilkins absent.

Zoning Administration and Enforcement - Hodges motioned, Thoroughgood second to approve the resolution proposing that a public hearing be held on Monday, February 2, 2009, on the subject of amending the Zoning Ordinance of The Town of Millsboro, Chapter 210, Zoning, (1) Article IX, Administration and Enforcement, subsection 2106b, "Building Permit and Site Plan Review Procedures", subsection D and subsection D(1), by adding PCD and LSCOD Districts; and (2) Article XI, District Changes and amendments, subsection 210-70, Amendments, subsection H, Procedure for RPC District, by adding to the end of the title, "PCD District and LSCOD District" and including the said districts in the review procedures. Motion approved unanimously with Councilman Jack Wilkins absent.

Zoning, Large Scale Commercial District - A resolution was presented to Council that would add a new zoning classification which would go over an existing commercial zoning district that has been under study by the town council. Bryan motioned, Hodges second to approve the resolution proposing that a public hearing be held on Monday, February 2, 2009, on the subject of amending Chapter 210, Zoning, Article IV, District Regulations, by adding a new section to be designated subsection 210-24, "Large Scale Commercial Overlay (LSCOD) District" and providing regulations therefore. Motion approved unanimously with Councilman Jack Wilkins absent.

Zoning, Planned Commercial District - A resolution was presented to Council that would amend the Planned Commercial District (PCD) to include additional permitted uses, including conditional uses such as horseracing facilities. Town Solicitor, Tempe Steen, brought to Council's attention that there were no time limitations placed on the conditional uses listed in this resolution and felt that this needed to be deferred until February's meeting after Council has had a chance to further review this resolution.

Zoning, Exemption for Municipal Functions - A resolution was presented to Council that would amend zoning code 210-5 by adding exemption for municipal functions. Hodges motioned, Truitt second to approve the resolution proposing that a public hearing be held on Monday, February 2, 2009, on the subject of amending the Zoning Ordinance of The Town of Millsboro, Chapter 210, Zoning, Article 1, Title and Purpose, subsection 210-5, Uses Not Expressly Permitted, by clarifying that government functions are not subject to the provisions of this chapter. Motion approved unanimously with Councilman Jack Wilkins absent.

Sussex County Board of Adjustment Notice - Sussex County Planning and Zoning Board of Adjustment has scheduled a public hearing on January 22, 2009 to discuss amending their comprehensive plan to

change a property on Route 24, east of Millsboro from AR-1 to CR-I. This property is located outside the town limits and is owned by Nicholas and Joann T. Varrato. Council was asked if they wished to make comment to the county on this change but council consensus was not to make comment.

Bryan motioned, Thoroughgood second to recess the Regular Council meeting at 8:30 PM and to enter into an Executive Session at 8:40 PM to discuss legal and personnel issues.

Respectfully submitted,

Tim P. Hodges Secretary

REGULAR SESSIONMILLSBORO TOWN COUNCIL

JANUARY 5, 2009

9:10 pm meeting called to order with Mayor Larry D. Gum presiding. Present Vice Mayor Robert Bryan, Secretary Tim Hodges, Treasurer Michelle Truitt, Council persons John Thoroughgood, Irene Keenan, Town Solicitor Temp B. Steen and Town Manager Faye Lingo. Absent was council person John Wilkins.

Hodges motion, Thoroughgood second to proceed as directed in executive session, approved unanimously with Wilkins absent.

Bryan motion, Truitt second to adjourn at 9:11 pm, approved unanimously with Wilkins absent.

Respectfully submitted,

Tim P. Hodges, Secretary