

MAYOR and COUNCIL TOWN OF MILLSBORO

REGULAR COUNCIL MEETING April 6, 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. (One council seat vacant). Guests see attached.

DELDOT - Jennifer Baldwin, Delaware Bicycle Council, was not present to address Council with information concerning the 2009 Delaware Bicycle Summit.

PUBLIC HEARING - An ordinance was presented to Council for discussion and possible approval that would amend the zoning ordinance of the town, chapter 210, Article IV, District Regulations, by adding additional permitted uses and conditional uses including golf courses, country clubs, horseracing facilities, swimming pools, convention centers, amusement parks, sports arenas, colleges, universities and research facilities to the "Planned Commercial (PCD) District". This amendment was proposed two months ago and has been revised by Town Solicitor, Tempe Steen for clarification of some of the entries. Ms. Steen handed out an outline showing the changes and additions to the ordinance for clarification. One of the changes would clarify horseracing track with accessory uses on same parcel being listed under the horseracing track conditional use that would include stables, riding academies and video lottery terminal lounges. Under Area, bulk and yard requirements height limits would be set at eight-five feet (85'), parking would state 200 units in a cluster and the drive aisle would be set at 24'. Ms. Steen also informed Council that there were no regulations for any residential uses included at this time and suggested adding residential uses in mixed commercial residential projects pursuant to regulations in 210-24 [new] "Traditional Neighborhood Development". Ms. Steen also informed Council that the Comp Plan has to be finalized and approved, and this ordinance approved before they can act on the two annexation requests before Council for the J.G. Townsend and Chesapeake Tract LLC properties. Preston Schell, representing Chesapeake Tract LLC, spoke to Council about the concern he had with the language used for one of the accessory uses listed under the horseracing tract conditional use. He would like Council to consider changing "Video Lottery Terminal Lounges to "casino". He realizes that at this time that all that is allowed by the state is the "Video Lottery Terminals" but the state is considering changing that to "Video Lottery Terminals and Table Gaming" as soon as this week. Shawn Tucker, legal advisor for Chesapeake Tract LLC, asked the town to see if the casino language as permitted by the state might fit in. Town Solicitor, Tempe Steen, asked Mr. Tucker if he would look into and advise her what his findings were. He did note that sports betting could be approved state wide this week by the governor. Due to further adjustments and discussion needed on this ordinance this public hearing was left open with no action taken.

BALD CYPRESS MAINTENANCE - Dan Atkins, arborist with Complete Tree Care, Inc., gave a report to Council on the bald cypress maintenance that he performed in the Cupola Park. Four tons of dead wood was removed from the tree and turned into mulch. Part of the wood was saved and will be used to make a new gavel for the Mayor. There are plans to use the proceeds from the mulch to do an educational display at sometime on the lot beside the Dairy Queen. He also would like to have the town's permission to do something to commemorate Arbor Day. He suggested planting a tree on Arbor Day at the Cupola Park using a first grade class's participation. This is a class from the Longneck Elementary School that they have adopted. Council felt this was a very good idea. Mayor Gum also asked that if there was enough wood that a second gavel be made and presented to the Burton family for which the cypress tree is named.

SECRETARY'S REPORT - Secretary Tim Hodges presented the minutes from the March 2, 2009 council meeting for Council's approval. Bryan motioned, Keenan second to approve the minutes from the March 2, 2009 council meeting as written. Motion approved unanimously.

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

MILLSBORO FIRE COMPANY - Ron O'Neal, President, gave the Millsboro Fire Company monthly report. The first quarter statistics for the months of January, February and March were, EMS - 468 calls, approximately 14,000 miles traveled. The same time period in 2008 shows 420 calls. The fire calls responded to were 101 with 106 during the same time period in 2008. A contract with Diamond State Ambulance for the Fire Company's new 2010 Kodiak ambulance was signed on March 7. Final details of the apparatus' assembly will be finalized in early May, with a 6-9 month projected delivery date. On Tuesday, March 24th, the company's 28 year old ladder truck experienced catastrophic motor failure at the Delmarva Pump Center in Marydel, DE, where it was scheduled to have hydraulic repairs made to the ladder turn table. The estimates for repair of the turn table range from \$3100 for repair of the hydraulics to \$9200 for total replacement of the turn table. Estimates from DPC on the motor repair range from \$8700 for reconditioning of cylinder heads to \$32k for replacement of the motor itself MFC also has a second bid from Buntings Garage to replace the motor for approximately \$15k. The Company held a special meeting on Thursday, April 2, to discuss the situation and determine a path forward, at which time the decision was made to make the necessary repairs and to return the truck to service. A committee will also be formed with the task of putting together specifications for a new aerial apparatus, but with no specific timeline on placement of an order. The Baskin-Robbins organization will be hosting a 31 Cent Scoop Night on Wednesday, April 29, at their location on DuPont Highway. The organization will reduce the cost of their ice cream and will be donating \$100k to the National Volunteer Fire Council's Junior Firefighter Program as a way of honoring firefighters across the country. The MFC will be working with Baskin-Robbins and participating in the event, setting up a display of apparatus and possible helping with the serving of the ice cream. President O'Neal also informed the Council and those present that Joseph Lingo, 62 year member and past Chief passed away on Monday, March 30th at the

age of 91. Funeral services were held on Friday, April 3rd at St. Mark's Church, at which members of the Fire Company served as pallbearers. It was also noted that Mr. Lingo served on the Town Council and was Mayor for three years.

CHAMBER OF COMMERCE - Chamber Director, Fran Bruce, reported several upcoming events. She informed Council that the Millsboro Chamber has two goals that they try and meet, 1) community enhancement and 2) business development. The Chamber will once again sponsor and oversee the Easter egg hunt in the Cupola Park. It will be held on Saturday, April 11, 2009 at 12 noon. Several new sponsors have given to make this event a success. Concerts in the Park are being planned. As of this date entertainment has been scheduled for each Sunday evening, May through August, except for two holiday weekends. For the first three Sunday concerts a caterer has been scheduled to serve meals at the park for those who might be interested in having a meal while enjoying the musical entertainment. Sponsors for all the scheduled entertainment have been signed and advertisement for the concerts will begin this week. Big Thursday plans are underway. The sponsors for the entertainment have been secured and the WSFS Bank is going to supply the t-shirts for the volunteers this year. The Big Thursday event will coincide with the car show to be held that same weekend at the Millsboro Middle School. The Chamber is also planning the 2nd annual 4th of July parade. This is for children 12 and under on non-motorized vehicles. They are looking for t-shirt sponsors for this event. Ms. Bruce informed Council that they will once again be giving a \$1000 school scholarship to a student in either the 19966 or 19939 zip codes. Any student within these two zip codes is eligible to submit an application.

STREET REPORT - Four quotes have been received for the tree removal on Monroe Street. All have met the new specifications outlined last month by council. Town Manager, Faye Lingo, also informed council that all insurance paperwork for each company presenting a quote has been received and reviewed. Quotes received were Jim Driver-\$600.00; Jacono-\$700.00; Complete Tree Care-\$1100.00 and Clark Tree Expert\$1125.00. After some discussion Hodges motioned, Keenan second to accept the bid from Complete Tree Care, Inc. for \$1100.00. Motion approved unanimously.

PARKS AND RECREATION

Cupola Park Entertainment - The 2009 Concerts in the Park entertainment schedule was presented to Council for approval. Bryan motioned, Truitt second to accept the 2009 Concerts in the Park entertainment schedule as presented by the Millsboro Chamber of Commerce. Motion approved unanimously.

POLICE REPORT - The Tactical Team Training was held from the 22nd to 26th

Pfc. Lowe and Pfc. Ober attended a DUI conference in Virginia Beach. This was sponsored by the Office of Highway Safety.

The on-site inspection for CALEA is scheduled for later this month.

Recruit Rogers graduates this Wednesday, April 8th. Chief Murphy will be attending the ceremony and leave from the Police Dept. at approximately 12:30 PM if anyone on Council would be interested in attending.

Chief Murphy asked for Council approval to promote Officers Ober, Lyons and Morris from Patrolman to Patrolman First Class. Bryan motioned, Truitt second to approve the promotions for Officer Ober, Lyons and Morris from Patrolman to Patrol First Class.

WATER AND SEWER REPORT - No report

MAYOR'S REPORT

Chesapeake Tract, LLC Annexation Committee Report - Councilman Bryan presented the report from the annexation committee for the Chesapeake Tract, LLC application for annexation and zoning. The committee, following review of the Project, the submitted documents, the reports, and the discussion with Chesapeake, concludes that the advantages of the proposed annexation outweigh the disadvantages for both the Town and the property proposed to be annexed as the Del Pointe development. In addition, while recognizing the disadvantage to the Town's culture through the provision of VLTs, the Annexation Committee recognizes that the creation of a destination resort, within and controlled by the Town of Millsboro to the extent of services, land uses, and revenue, will be more beneficial to the Town than not annexing the property into the Town. For these reasons, the Annexation Committee recommends that the Town proceed with the proposed annexation requested by Chesapeake Tract, LLC. Council does understand that the annexation cannot go forward until the Comp Plan has been updated and approved and the PCD District ordinance revision clarifying conditional uses and accessory uses approved. Bryan motioned, Truitt second to accept the committee report and to send the application for annexation of the Chesapeake Tract LLC to public hearing on June 1, 2009. Vote take: Gum-aye; Bryan-aye; Truitt-aye; Hodges-aye; Thoroughgood-aye; Keenan-abstain-reason given conflict due to employment as a realtor. Motion carried.

J.G. Townsend, Jr., & Co. Annexation Committee Report - Councilman Bryan presented the report from the annexation committee for the J.G. Townsend, Jr., & Co. application for annexation and zoning. Townsend has requested annexation concurrently with the request of Chesapeake Tract, LLC, ("Chesapeake"), property owners to the north of the Townsend tract. The Townsend tract is necessary for the Chesapeake tract to be annexed as it will provide the contiguity required by law. Townsend has also requested, in addition to annexation, that the property be zoned in two parts, the 30 acres fronting on U.S. Route 113 as HC-Highway Commercial and the remaining 50 acres to the east as HR-High Density

Residential. There are no current proposed site plans for specific development; the proposed zoning designations do not require any concurrent review of site plan or development plan. The committee after reviewing the application and discussion with representatives of Townsend has concluded that it is advantageous to both the Town and the Property to be annexed into the Town for several reasons. A copy of the report has been attached to the minutes. Among those reasons given the committee feels the Town would benefit from additional impact fee revenue, additional property tax, transfer tax, building permits fee, cable television franchise fee, municipal street aid funding, license fees, and other tax revenues. The Town will also be able to exercise a greater measure of control over the development of the property through annexation. As with the Chesapeake Tract, LLC annexation request the approval of the Comp Plan and the revised PCD District ordinance will need to be done before this property can be annexed into the town limits. Bryan motioned, Truitt second to accept the committee report as presented and to send the J.G. Townsend Jr., & CO. annexation application to public hearing on June 1, 2009. Vote taken: Gum-aye; Bryan-aye; Truitt-aye; Hodgesaye; Thoroughgood-aye; Keenan-abstain-reason given as conflict due to employment as a realtor. Motion carried.

Comprehensive Plan - A draft has been submitted to the state for their comments.

Some amendments are to be expected but after several meetings with different state agencies Town Manager, Faye Lingo, feels most issues have been ironed out. The Town has not been given a date for the PLUS review.

Tax Assessment - The properties that have changed values were presented to council for their information. Letters have been sent to the property owners advising them of the change. The public hearing will be May 4, 2009 to review any appeals that still need resolving.

Villages of Millwood Sign Applications - The Villages of Millwood has submitted application for signage conditional use. This is for two signs marking the development as having homes for sale. One of the signs on the south end was given a temporary structure permit but this temporary approval has expired and they are now applying for a conditional use. The second sign they are requesting has never been permitted and it is not on their property. It is on the property of Lee Mears which is situated between Millwood and Industrial Blvd. The sign on the north end was placed in the wrong location by the sign company. They are only allowed one movable sign per town ordinance. These two signs are 3x5', which is larger than the 8 sq. ft allowed and are affixed. Town Solicitor feels a variance is needed and that this request should go before the Board of Adjustment. The fee already paid for the conditional use application could go towards the Board of Adjustment fee for a hearing. No action taken tonight as it was decided to send this request before the Millsboro Board of Adjustment.

Wharton's Bluff Final Site Plan Approval - Council was presented with a resolution for approval of the final site plan for Wharton's Bluff, Parcel B (Phase II). They have received preliminary plan approval and the committee has reviewed the finals along with URS and C&BE. The Planning Commission has agreed

that all items of concern have been satisfied. The Wharton's Bluff committee report recommends that final approval be given pending the bonding being in place and all agreements fully executed. It was noted that a correction needs to be made to the resolution in the "Now Therefore Be It Resolved" paragraph changing preliminary site plan to final site plan. Keenan motioned, Bryan second to approve the resolution for final site plan for Wharton's Bluff, Parcel B (Phase II), located on the east side of south State Street, also known as Iron Branch Road, (Sussex County Road 331), 10.55 acres, more or less, part of Sussex County Tax Map number 1-33-17.00-16.02, within the Town limits. Motion carried with correction made as noted above.

Zoning Resolution/Bars/Taverns - A resolution proposing zoning changes to regulations relating to restaurants in the Highway Commercial, Urban Business, and Planned Commercial Districts was presented to Council. The current town zoning permits "Taverns" in the Urban Business District and permits restaurants in other commercial districts without regard to the service of alcohol or the nature of the restaurant business. The Town Council now sees the need for more explicit regulations to maintain the small town atmosphere of the Town and the provision of popular services at restaurants in the area. The Council also feels that the regulation of restaurants should include specific limits on bar areas and outdoor service areas in order to clearly prohibit taverns and other drinking establishments but provide for restaurants with bar service. This resolution would add several descriptive factors and definitions on what an eatery and restaurant is. It also has definitions for bar, bar area, outside service area, patron area, permanent seated dining area and requirements for the service of alcoholic beverages within each particular area. Tempe Steen, Town Solicitor, did advise the council that they need to set a ratio between bar area and restaurant, which this resolution does not address. After some discussion it was decided to not send this to public hearing in May but to put back on May's Council meeting agenda for further discussion after the committee has met again.

Zoning Ordinance/Signs - The current sign ordinance has been in need of revising and staff has been working on it. A resolution was presented to council that would define permitting procedure, signs permitted in all districts, prohibited signs and general measurements. It would also change the sign regulations in the Residential and Commercial Districts provide for special requirements for large scale commercial complexes, offices or educational campuses and provide for an amortization for nonconforming signs. Council feels there is a need for underlying rules for all signs in town and a need to set a date when all businesses need to comply with ordinance. After some discussion it was decided not to send this to public hearing in May but to place back on May's council agenda for more discussion and revision.

Election Slate - The slate will be going up on April 17th and will come down on May 15th, 2009. Districts that will expire are one seat in District 1 held currently by Robert Bryan and one seat in District 3 held currently by Irene Keenan. The Board of Election will stay the same as last year; Reginald Brittingham, Kathryn Miles, Sandra Brigandi with alternates Helen Jackson and Joe Fox. If needed an election will be held June 13th, 2009.

Personnel Committee Report - The confirmation of new hire Greg Short was postponed until after further discussion in executive session.

Keenan motioned, Bryan second to recess the Regular Council meeting at 8:20 PM and to enter into an Executive Session at 8:30 PM to discuss legal and personnel issues.

Respectfully submitted,

Tim P. Hodges,

Secretary

SECOND REGULAR SESSION MINUTES

APRIL 6, 2009

9:20 pm meeting called to order, Larry D. Gum presiding. Present were Vice Mayor Robert H. Bryan, Secretary Tim P. Hodges, Treasurer Michelle Truitt, Council persons John Thoroughgood, Irene Keenan, one council seat vacant, Town Solicitor Tempe B. Steen, Town Manager Faye L. Lingo.

Bryan motion and Keenan second to ratify the hiring of Greg Short at the hourly rate discussed in executive session, approved unanimously with one council seat vacant.

Hodges motion, Bryan second to approve purchasing and installing two frequency drive pumps at the wastewater treatment plant that were not in the contract; approved unanimously with one council seat vacant.

Truitt motion and Bryan second to adjourn the council meeting, approved unanimously with one council seat vacant.

Respectfully submitted,

Tim P. Hodges,

Secretary