

MAYOR and COUNCIL

TOWN OF MILLSBORO

REGULAR COUNCIL MEETING

June 1, 2009

7:00 P.M. meeting called to order in the Council Chambers, Mayor Larry Gum presiding. Present were Vice-Mayor Robert Bryan, 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. Absent Secretary Tim Hodges. Guests see attached. One council seat vacant.

PUBLIC HEARING -TND-Traditional Neighborhood District

Mayor Gum opened a Public Hearing to hear comments on a pending ordinance that would amend the town zoning by adding a new section, the TND(Traditional Neighborhood District). This will be a mixed use residential district and will allow development consistent with design principles of traditional neighborhoods. Uses allowed in a TND zoning could include residential, commercial, civic and open space uses in close proximity to one another in the neighborhood. Jim Petruzella of Plantation Lakes questioned Council where this might be used. Town Solicitor Tempe Steen informed him that at this time there was not anywhere within the town that this zoning is being used or asked for. If anyone would like this zoning on a parcel they will have to make a zoning change request. Hearing no further comments the hearing was left open until later in the meeting.

PUBLIC HEARING-PCD-PLANNED COMMERCIAL DISTRICT

Mayor Gum opened a Public Hearing to hear comments on a pending ordinance that would amend the town zoning, PCD(Planned Commercial District), by adding additional permitted residential and mixed residential commercial uses, golf courses, country clubs, horseracing facilities, swimming pools, convention centers, amusement parks, sports arenas, colleges, universities and research facilities. Some of the changes that were introduced last month and included in the revised zoning code were the addition of Video Lottery Terminal lounges, casino as defined in the Delaware Code, height limits and Traditional Neighborhood District. Hearing no comments the hearing was left open until later in the meeting.

PUBLIC HEARING-COMPREHENSIVE PLAN

Mayor Gum opened a Public Hearing to hear comments on the resolution to adopt the revised and amended Town of Millsboro Comprehensive Plan. Kyle Bronson, of URS, reported to Council and those

in attendance that the updated 2009 Comprehensive Plan is ready for adoption by the town. After the town council approves to adopt the revised and amended plan it will be sent to the state for certification. All of the maps have been updated and the state did make some comments that were addressed. The state suggested that the town add and include agriculture preservation areas; agriculture business in the industrial zone and farmers market locations in the five year plan update. Marie LaRocca, of Plantation Lakes, asked when the 2009 Comprehensive Plan would be available to the public. She was informed by Town Solicitor, Tempe Steen that it would not be available to the public until it has received state certification and that the time line for that was not know at this time. After hearing no further comments the public hearing was left open until later in the meeting.

PUBLIC HEARING-ANNEXATION J.G. TOWNSEND JR. & COMPANY Mayor Gum opened a Public Hearing to hear comments on a resolution to consider the possibility of annexing properties of J.G. Townsend Jr. & Company and amending the zoning map and ordinance of the town to include 30 acres in the Highway Commercial District and 50 acres in the High Density Residential District. This property borders the northerly limits of the Town of Millsboro. Hearing no comments Mayor Gum left this public hearing open until later in the meeting. Council was informed by Town Manager Faye Lingo that they could not vote to annex this property into the town limits until they had voted on and adopted the revised Comprehensive Plan later in the meeting.

PUBLIC HEARING-ANNEXATION CHESAPEAKE TRACT, LLC

Mayor Gum opened a Public Hearing to hear comments on a resolution to consider the possibility of annexing properties of Chesapeake Tract, LLC and amending the zoning map and ordinance of the town to include these parcels in the Planned Commercial (PCD) District. Council was informed by Town Manager Faye Lingo that they could not vote to annex this property into the town limits until they had voted on and adopted the revised Comprehensive Plan; annexed the Townsend property into the town limits; which will then make the Chesapeake Tract, LLC contiguous to the town; approved the addition of the Traditional Neighborhood (TND) District zoning and the Planned Commercial (PCD) District as revised and with the additional conditional uses. There were 76 petitions presented to Council in favor of this annexation and zoning. Hearing no further comments Mayor Gum left this public hearing open until later in the meeting.

PUBLIC HEARING-AMENDING HIGHWAY COMMERCIAL (HCD) DISTRICT Mayor Gum opened a Public Hearing to hear comments on a resolution to amend the Highway Commercial (HCD) District zoning ordinance of the Town of Millsboro by adding a new Subsection (26) to provide for business, personal, retail, social and research service establishments. This is to clean up the existing ordinance and add items that are common in today's business world. Hearing no comments Mayor Gum left this public hearing open until later in the meeting.

SECRETARY'S REPORT - In the absence of Secretary Tim Hodges, Mayor Gum presented the minutes from the May 4, 2009 council meeting for Council's approval. Thoroughgood motioned, Bryan second to approve the minutes from the May 4, 2009 council meeting as written. Motion carried with Secretary Tim Hodges absent.

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

The final draft of the 2009 Town Budget was presented to Council for adoption. Council has been able to balance the budget without any fee increases this year for a total of \$3,901,493. Council was informed by Town Manager Faye Lingo that the two items they had discussed at the budget meeting have been added. Bryan motioned, Truitt second to adopt the 2009 town budget as presented with the two additional items added. Motion carried with Secretary Tim Hodges absent.

MILLSBORO FIRE COMPANY -No Report

CHAMBER OF COMMERCE - Fran Bruce, Millsboro Chamber of Commerce Director, reported several upcoming events are planned for this summer. The Chamber of Commerce Yard Sale will take place June 6, 2009. They have had a good response to requests for tables that day. The 2009 Chamber Scholarship was presented to James Phillip Showell from Sussex Central High School. The Sunday Concerts in the Park are continuing and being enjoyed by many who attend. The next concert on June 7th will have All For Him in concert. On June 14th the Jones Brothers will perform. Both of these groups are being sponsored by Daisey Well Drilling. The Chamber is once again helping to plan a 4th of July parade. The parade route starts at St. Marks Church on State Street and ends at Cupola Park. This is for children 12 and under who decorate their bikes, wagons and themselves for the 4th of July. No motorized vehicles are allowed. This was enjoyed by all who attended last year. Big Thursday is fast approaching and plans are underway for a successful festival. As in the past there will be lots of good entertainment, food and an auction held on Thursday evening. Ms. Bruce reported that the Chamber office is in the process of becoming a Green Office and the newsletter will be going on the website to help with this process.

STREET REPORT - DELDOT - Council was informed of a public workshop that will be held on June 8, 2009 from 4:00 pm - 7:00 pm at the Millsboro Fire House to discuss road work planned in town between Sussex Alley to Old Landing Road on State Street. The proposed improvements may include (but are not limited to): pavement resurfacing, curb and sidewalk reconstruction and utility pole relocation along Iron Branch Road/State Street.

PARKS AND RECREATION - No Report

POLICE REPORT -Cpl Wheatley and Pfc. Ober took Narcotics investigations at the Bethany Beach Police Department. This was a two week course sponsored by the DEA.

On May 7th Pfc. Lowe took Youth Crimes at the DSPTA.

On May 13th Sgt. Lowe and Pfc. Lowe took Auto Theft Investigations at the DSPTA. Recruit Rogers is still in field training status with no issues to report.

Currently the "Park Regulations" sign in Cupola Park bans drinking. Chief Murphy informed Council that to his knowledge this is the only form of prohibiting drinking in the park. Unfortunately, this regulation is not a state law or town ordinance so the Police Dept. has no way of taking enforcement action. They have been using Trespassing 3rd in Delaware code with limited success. Chief Murphy suggested that Council develop and implement an ordinance that the Police Dept. could enter into the system so that enforcement action can be taken. He also suggested it might be worthwhile to review any other issues regarding updating some of the other park regulations to actual ordinances. Town Solicitor, Tempe Steen, is to do some research on this matter and report back to Council with her findings.

Chief Murphy presented four grant requests to Council for approval:

Sussex County Revenue Sharing - Currently there is \$3,580.07 in this grant. Chief Murphy requested permission to send two officers (Murphy and Berrios) to motor training at a cost of \$3,465.94. This covers the cost of the training, all per diem and equipment. The grant coordinator advised the Chief that this is an allowable expense. The training is from June 14th until June 2e at the North Carolina State Police Training facility that we have used in the past. No funds have been expended pending council approval.

Bulletproof Vest Partnership Grant - The Police Dept. has applied for the maximum allowable funding for an agency their size. If this grant is approved we would receive \$3,215.00 to either purchase new vests or offset purchases that have already been made. No funds have been expended, waiting for grant approval from BVP and Council approval.

SLEAF Grant - Chief Murphy has requested funding to purchase two in car camera systems to replace old VHS systems currently in use. On May 12th, 2009 this request was approved for \$12,175.75. This will cover the cost of purchasing and installing two new systems. No funds have been expended pending Council approval.

SALLE - Chief Murphy requested permission to use funds from this grant to purchase a new ID machine. The printer they are currently using is no longer serviceable; the software is also antiquated and cannot be updated to work with Microsoft Vista. He has received a quote of \$1,400.00 for a new machine from Card Imaging for a printer along with Vista compatible software and 250 blank cards. Currently the Roxanna Fire Company uses a machine similar to the one he is proposing. Cpl. Wheatley used the machine and made several cards and reported that the machine and software worked very well and made a professional looking card. The department would also use this equipment to make cards for the maintenance department and the Millsboro Vol. Fire Company if they needed them made. No funds have been expended for this line pending council approval.

Thoroughgood motioned, Bryan second to approve the four grant expenditures as presented by Chief Murphy. Motion carried with Secretary Tim Hodges absent.

WATER AND SEWER REPORT

Water Plant Improvements - 33.15% of time has elapsed and 14.98% of the work is completed to date on the water plant. Notice to proceed was January 20, 2009 and 279 days remain until final completion date of February 24, 2010.

Sewer Plant Construction - The Town is currently retaining \$491,692.23 for Contract C. This amount is 5% of total work completed as specified in the contract documents. Bearing Construction has submitted a request for payment for \$391,692.23 of the retainage amount. This would reduce the retainage amount to \$100,000. The Town has taken use of the Contract C facilities. The committee has met with the contractors and CABE has reviewed the request. CABE recommends that the retainage amount be reduced to \$200,000. There are modifications to the centrifuge and punch list items that Bearing must complete. CABE expects that the \$200,000 retainage amount is sufficient to "cover" any outstanding work. CABE has discussed this figure (\$200,000) with Bearing and they find this amount acceptable. Thoroughgood motioned and Bryan second to approve the reduction of the Contract C retainage to \$200,000 per CABE's advisement. Motion carried with Secretary Hodges absent.

MAYOR'S REPORT

Comprehensive Plan Public Hearing - Mayor Gum closed this public hearing after hearing no further comments. Bryan motioned, Thoroughgood second to approve the ordinance to adopt the revised and amended 2009 update to the 2004 Town of Millsboro Comprehensive Plan as presented with an effective date to be when the state certifies the Comprehensive Plan. Motion carried with Secretary Hodges absent.

Traditional Neighborhood Development (TND) District Public Hearing -

Mayor Gum closed this public hearing after hearing no further comments. Town Solicitor, Tempe Steen, informed Council that she will be doing further study on this zoning ordinance and that this was just the first step in the process of developing this zoning ordinance. Bryan motioned, Truitt second to approve the ordinance amending the zoning ordinance of The Town of Millsboro, chapter 210, Zoning, Article IV, District Regulations, by adding a new section "210-25" Traditional Neighborhood Development (TND) District and regulations as presented. Motion carried with Secretary Hodges absent.

Planned Commercial District Public Hearing - Hearing no further comments Mayor Gum closed this public hearing. Some noted changes to this zoning include the addition of Video Lottery Terminal lounges; casino as defined in the Delaware Code and height limits shall not exceed eighty-five feet (85') in the PCD District for any conditional use. Bryan motioned, Truitt second to approve the ordinance amending the Zoning Ordinance of the Town of Millsboro, Sussex County, Delaware, Chapter 210, Zoning, Article IV, District Regulations, adding additional permitted uses, conditional uses and regulations including residential and mixed residential-commercial uses, 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". Motion carried with Secretary Hodges absent.

J.G. Townsend Jr. & Company Annex. Public Hearing - After hearing no further comments Mayor Gum closed this public hearing. It was noted that the committee report, which was included in the Council packet, found that the only disadvantage currently to the Town with this annexation request and proposed residential zoning, if developed currently, is the lack of a current market for additional commercial or residential development. However, Townsend represented that it is not prepared to develop the property in the near future. Thus, the property would remain wooded open space and serve as buffer on the northerly boundary of the Town. Bryan motioned, Thoroughgood second to approve the annexation of property now or formerly of J.G. Townsend Jr. & Company, contiguous to the present northerly limits of The Town of Millsboro, on the east side of U.S. Route 113, easterly part of tax map #1-33-11.00-4.00, 80 acres more or less and amending the zoning map and zoning ordinance of The Town of Millsboro to include 30 acres of said territory which are parallel to and easterly of U.S. Route 113 as a Highway Commercial (HC) District and the remaining easterly 50 acres as a High Density Residential (HR) District, with the effective date of the annexation to be the certification date of the revised and amended 2009 update to the 2004 Town of Millsboro Comprehensive Plan by the State of Delaware. Motion carried with Councilperson Keenan abstaining due to possible conflict, as she works for a realtor. Vote taken: Gum aye, Bryan aye, Truitt aye, Thoroughgood aye, Keenan abstain, with Secretary Hodges absent.

Chesapeake Tract, LLC Annex. Public Hearing - After further discussion and the presentation of 76 petitions in favor of the annexation of this property from Jim Petruzella of Plantation Lakes Mayor Gum closed this public hearing. Bryan motioned, Truitt second to approve the resolution annexing properties

now or formerly of Chesapeake Tract LLC, contiguous to lands of J.G. Townsend Jr. & Company, also applying for annexation into the town and which are contiguous to the present northerly limits of The Town of Millsboro, on the east side of U.S. Route 113, tax map nos. 1-3311.00-5.00, 6.00 and 7.00, 420 acres, more or less; be and are hereby annexed into The Town of Millsboro, with an effective date of the certification of the 2009 update to the Town of Millsboro Comprehensive Plan and subject to the following:

1. All professional fees including but not limited to legal and engineering fees expended by the Town in reviewing the application for the project shall be reimbursed to the Town within 60 days of the date of this resolution.
2. The annexation fee of \$3,987,529, or as subsequently modified, shall be paid within 60 days of the date of this resolution.
3. An annexation agreement acceptable to the Town and Applicant be executed.
4. The applicant shall proceed promptly with the submission of its preliminary plans for Phase LA to the Town for subdivision and land development review pursuant to Chapter 178.
5. The Project shall be developed in phases represented to the Town and shown on Conceptual Master Plan 3.A dated February 9, 2009, using a rustic theme for aesthetes, as follows:
 - I.A. Race Track
 - 1.1B Grandstand and paddock
 - 2.A. Family resort destination hotel and recreational activities 2.B. Racing hotelFuture Phases. Commercial and residential development on the northerly portion of the project; advanced education or other public services on the southern end of the project.
6. The application for the building permit for Phase 2.A shall be made within 24 months of the application for building permit for Phase 1.B., grandstand and paddock.
7. The application for the building permit for Phase 2.B shall be made concurrently or subsequent to the building permit for Phase 2.A., family resort destination; and the zoning map of The Town of Millsboro dated July 1973, as amended, be further amended to include said territory in the Planned Commercial (PCD) District, with an effective date of the certification of the 2009 update to the Town of Millsboro Comprehensive Plan. Councilperson Irene Keenan abstained stating conflict due to her working for a realtor. Vote taken: Gum aye, Bryan aye, Truitt aye, Keenan abstain, Thoroughgood aye. Motion carried with Secretary Tim Hodges absent.

Highway Commercial (HC) District Public Hearing-As this hearing was not closed nor was the ordinance amending the zoning approved this will appear on July's agenda for further discussion and approval.

White Farm Annexation Application-The town has received an application for annexation from White Farm LLC. They are requesting annexation of parcels with map numbers 1-33-16.00-75.00 and 75.03; 1-33-15.00-30.00 and 30.01; 1-33-11.00-3.00. They are requesting that the parcels be zoned as a Medium Residential (MR) District. Bryan motioned, Thoroughgood second to accept this application for annexation from White Farm LLC. Motion carried with Secretary Hodges absent. Mayor Gum appointed a committee to study the feasibility of this annexation and to report back to Council within 90 days. This committee will consist of Robert Bryan-Chair, Michele Truitt and Tim Hodges.

Election-Council members and those present were informed there will not be an election this year. The incumbents signed up with no contest. Irene Keenan for District 3 and Robert Bryan for District 1 will be sworn in for a three year term at July's Council meeting.

Vacant Council Seat-The "At Large Seat" is still vacant due to the passing of Councilman Jack Wilkins in January. Letters were received from three town residents interested in filling the remaining 2 years of that position. Council was asked to make a recommendation to fill this seat. Councilman John Thoroughgood recommended Greg Hastings fill this position. Thoroughgood motioned, Bryan second to accept the recommendation that Greg Hastings fill this vacant "At Large Seat" for the remaining two years of the term (until June 2011). Motion carried with Secretary Tim Hodges absent.

Conditional Use/216 Ellis Street-James Schreppler is requesting a renewal to a conditional use for 216 Ellis Street. The property is zoned Urban Business and 216 Ellis is a residential use behind a business. There haven't been any complaints in the last year. Thoroughgood motioned, Keenan second to approve the one year renewal of a conditional use for James R. Schreppler for the use of a second structure, 216 Ellis St., as an accessory use adjacent to an existing commercial building located at 213 Washington St., Town of Millsboro, Sussex County tax map number 1-33-17.13-132, subject to conditions stated in the approved resolution. Motion carried with Secretary Hodges absent.

Parade Permit-The Town has received a parade permit application from Dotty LeCates of St. Mark's Church. They are requesting to have a parade on July 4, 2009. This would take place from 10:30 am to 11:30 am, would begin at Saint Mark's Church on State St. and end at Cupola Park. Participants would be children walking or on bikes decorated for the holiday. The Chamber is also helping to organize this event. Thoroughgood motioned, Bryan second to approve the parade permit submitted by Dotty LeCates for a 4b of July parade with details as given on the permit. Motion carried with Secretary Tim Hodges absent.

Bryan motioned, Thoroughgood second to recess the Regular Council meeting at 7:45 PM and to enter into an Executive Session at 7:55 PM to discuss legal and personnel issues.

Respectfully submitted,

Tim P. Hodges

Secretary

MINUTESREGULAR COUNCIL MEETING

JUNE 1, 2009

8:15 pm meeting called to order with Mayor Larry D. Gum presiding. Present were Vice Mayor Robert Bryan, Treasurer Michelle Truitt, Council persons John Thoroughgood and Irene Keenan, Town Solicitor Tempe B. Steen and Town Manager Faye L. Lingo. Absent was Secretary Tim Hodges and one council seat is vacant.

Bryan motion and Thoroughgood second that the Mayor and Tim Hodges be authorized to offer and executive the contract to acquire the land as discussed in executive session. Approved unanimously, with Tim Hodges absent and one council seat vacant.

8:16 pm Thoroughgood motion and Bryan second to adjourn, motion approved with Hodges absent and one council seat vacant.

Respectfully submitted,

Tim P. Hodges

Secretary