

REGULAR COUNCIL MEETING

MILLSBORO TOWN COUNCIL

322 WILSON HIGHWAY

MILLSBORO, DELAWARE

August 3, 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, Greg Hastings, Town Manager Faye Lingo, Town Solicitor Tempe B.Steen, Administrative Assistant Brenda Morris, Development Coordinator Linda Johnson. Guests see attached. One council seat vacant.

SWEARING IN: Greg Hastings, was sworn in as Councilperson representing the At Large District which will expire in 2011. Town Manager, Faye Lingo, administered the oath. This was the Council seat which was left vacant due to the death of Councilperson John (Jack) Wilkins in January 2009. Newly sworn in Councilmen Hastings addressed the Council and public stating that he was humbled by Council's decision asking him to serve in this capacity. He looks forward to serving the community along side of this Council and the town's office personnel.

REORGANIZATION OF COUNCIL

Mayor – Bryan motioned, Thoroughgood second Larry D. Gum as Mayor. With no other nominations Bryan motioned, Thoroughgood second to close the floor to nominations, approved unanimously. Vote called for, Gum for Mayor, approved unanimously.

Vice-Mayor – Thoroughgood motioned, Hodges second Robert Bryan as Vice-Mayor. With no other nominations Thoroughgood motioned, Truitt second to close the floor to nominations, approved unanimously. Vote called for, Bryan for Vice-Mayor, approved unanimously.

Secretary – Truitt motioned, Bryan second Tim Hodges as Secretary. With no other nominations Thoroughgood motioned, Bryan second to close the floor to nominations, approved unanimously. Vote called for, Hodges for Secretary, approved unanimously.

Treasurer – Thoroughgood motioned, Hodges second Michele Truitt as Treasurer. With no other nominations Bryan motioned, Thoroughgood second to close the floor to nominations, approved unanimously. Vote called for, Truitt for Treasurer, approved unanimously.

SECRETARY'S REPORT – Secretary Tim Hodges presented the minutes from the June 1, 2009 council meeting for Council's approval. Thoroughgood motioned, Hastings second to approve the minutes from the June 1, 2009 council meeting as written. Motion approved unanimously.

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 approved unanimously.

Auditor Contract – Council was informed that it is time for the town to renew the contract for a firm to perform the annual audit. Jefferson, Urian, Doane & Sterner, P.A., the current audit firm for the town, submitted a three year contract for Council's consideration. This would provide services to the Town of Millsboro for the years ended June 30, 2009, 2010 and 2011. The fees submitted in the contract for their services were \$18,285, \$18,885 and \$19,485 for the years ended June 30, 2009, 2010 and 2011, respectively, exclusive of any services related to OMB Circular A-133. Services related to OMB Circular A-133 will be billed separately. After some discussion Thoroughgood motioned, Truitt second to accept the three year contract submitted by Jefferson, Urian, Doane & Sterner, P.A. as presented for the years ended June 30, 2009, 2010 and 2011. Motion approved unanimously.

MILLSBORO FIRE COMPANY – Ron O'Neal, President, presented report from the Millsboro Fire Company. The second quarter emergency reports (as of June 30th) were as follows: EMS – 479, bringing the total to 951 as of 06/30/09. This is a 7.5% increase over same time frame 2008. FIRE – 102, bringing the total to 203 as of 06/30/09. This is a 8.3% increase over same time frame 2008. The engine in Ladder 83 has been replaced by Buntings in Dagsboro and the truck has been delivered to Delmarva Pump Center in Marydel, DE for replacement of the turntable hydraulics. Once the ladder passes testing, the truck will be delivered to Millsboro to be placed back in service. Engine 83-2 is at DPC for repairs after an incident with a power pole in front of Station 83, responding to a field fire in July. Repairs for the most part are cosmetic. After problems locating a chassis due to the shutdown of truck lines by GM, the new ambulance is on schedule and should be delivered by the first of September. Chassis' were finally located in Houston, TX and delivered to Diamond State Ambulance in Newark in early June. Our first run ambulance, C-83, has now been equipped with the County mapping software, which allows the crew direct access to dispatches from the Emergency Operations Center. The software tracks all times, from dispatch through completion of the call and has a built in GPS system which shows the location of the emergency and tracks the ambulance throughout the call. Demolition and construction of the new front concrete pad at the firehouse continues. The next step will be testing and compaction of the sub soil. Once completed, pouring of the new concrete will begin. Curing of the new pad will be approximately 30 days. Millsboro Fire Company sponsored a Basic Vehicle Rescue class in

late July. The five day training, taught by instructors from the Delaware State Fire School, involved class room instruction, held at the Fire Company banquet hall, and hands on experience held at Buntings in Dagsboro. 14 students attended, including 4 from Millsboro. Millsboro Fire Company has been requested and will provide EMS coverage for the Hispanic Festival on Sunday, August 23rd. The Fire Company will also host the Sussex County Fire Chief's Association, Fire Police Association and Ambulance Association meeting on Thursday, August 20th.

CHAMBER OF COMMERCE – Fran Bruce, Millsboro Chamber of Commerce Director, reported that the Concerts In The Park have been received with much enthusiasm from those in attendance. There have been approximately 150 people each week enjoying the concerts and the beautiful Cupola Park. Big Thursday activities are ready to get underway the weekend of August 13-15. The three day event will once again begin on Thursday night with the auction. This will be held at the Millsboro Civic Center at 5:00 PM. There will also be some pre-event entertainment that night. On Friday the activities will begin at 5:00 PM at the Cupola Park and continue until 10:00 PM on Saturday night.

POLICE REPORT – PFC. Berrios and Chief Murphy attended the North Carolina Highway Patrol Basic Motor Officer Training. The training was 80 hours over two weeks. Both officers passed the course.

Lt. Calloway, Cpl. Wheatley and Chief Murphy attended the CALEA conference in Hampton, Virginia. The Millsboro department received accreditation along with 85 other agencies. Mayor Gum and Council commended Chief Murphy and Lt. Calloway on all their hard work which resulted in the CALEA accreditation.

Recruit Rogers has completed field training with no issues to report. The scheduling has been completed for the 5K Run, Big Thursday, the Car Show and the Hispanic Festival in the month of August.

The Senior League Softball World Series, to be held in Roxana, will be housing the teams here in Millsboro at the Atlantic Budget Inn. The Police Dept. will be providing extra security at the Atlantic Budget Inn for the week that the teams will be staying there.

STREET REPORT – No Report

PARKS AND RECREATION – The Millsboro Chamber of Commerce has submitted new several new entertainers for the Cupola Concerts in the Park for approval from Council. They include Joe Dawson, Harbor Church Praise Band and the Back Bay Strummers. The Chamber has also acquired additional sponsors to be able to continue the Sunday entertainment at the park. Bryan motioned, Hodges second to approve the new park entertainers that were presented. Motion approved unanimously.

WATER AND SEWER REPORT- Woodlands Agreement – A draft copy of the proposed agreement between Millsboro and Sussex County regarding providing sewer service to the Woodlands of Millsboro was presented to Council for approval. It was noted by Town Solicitor, Tempe Steen, that this agreement will be for treatment only of the wastewater from the Woodlands. Ms. Steen reported that she and the Sussex County Engineer have reviewed the proposed agreement and changes have been made that were necessary. Wastetreatment Supervisor, George K. Niblett, has also reviewed the proposal and given his approval. Councilman Hastings asked what the timeline was on this project and was informed that they hope to break ground by the end of this year. After further discussion Thoroughgood motioned, Hodges second to approve the proposed agreement between Millsboro and Sussex County regarding providing sewer service to the Woodlands of Millsboro with any noted changes to be corrected. Motion approved unanimously.

Three sewer adjustment requests were received by the Town for water leaks that did not go through the sewer. They were for locations at 19 Marie Court-Hub Court, 62 Kyle Circle-Hub Court and 400 Mitchell Street. All three were adjusted as ordinance allows.

MAYOR'S REPORT

Mayor Gum and Council presented Brenda J. Morris, Administrative Assistant with a presentation. Ms. Morris will be retiring from the Town after 21 years of service.

Conditional Use/Cruise In: A conditional use application renewal request has been received by the Town from GKHP Enterprises, LLC (Dairy Queen) for the use of the Post Office property next to the Dairy Queen, 100 Main St., to continue to be used for the weekly cruise in for classic cars. Thoroughgood motioned, Hodges second to grant the GKHP Enterprises, LLC (Dairy Queen) a one year conditional use renewal for the premises at the intersection of Main and Washington Streets, Millsboro, Sussex County Map 1-33-17.13 parcel 143.1, owned by the United States Postal Service, for the "cruise-in" activity, as a commercial use in the UB-Urban Business District. Motion approved unanimously. There were some concerns voiced by Councilmen Bryan about the BBQ/Flea Markets being held on that same property. His concern was not with the BBQ held by non-profits but the Yard Sale/Flea Markets that may accompany them. He feels that they should be monitored better as the Yard Sales can look unsightly coming into town. Councilmen Thoroughgood suggested limiting the property use by non-profits to only the BBQ's. Questions were raised if the town distinguishes between Yard Sales and Flea Markets in the town ordinances. Town Solicitor, Tempe Steen, is to review the town's zoning code to see if and what it says. She will report back to Council at a later date for discussion.

Conditional Use/Villages of Millwood Signage: The Villages of Millwood are requesting a conditional use for two (2) development/sales signage for the communities of Villages of Millwood. It has come to their attention that the original "temporary" approval has expired. The location for this property is Sussex County Map No. 2-33-5.00 parcel 86.00. They would like to continue with signage at Mitchell Street and Bobby's Branch Road and the other at Mitchell Street and Industrial Blvd. Council was informed that from the drawing accompanying the request it appears that the sign at Industrial Blvd. is currently not on Millwood property. The town cannot grant permission for a sign to be placed on another property from a neighboring property owner. Mr. Philip Robino, who was present, told Council he would be willing to move that sign in question back onto the property owned by Millwood. Hodges motioned, Truitt second to approve the conditional use request from the Villages of Millwood for the continued use of two development/sales signage, one at Mitchell Street and Bobby's Branch Road and the other at Mitchell Street and Industrial Blvd. with the noted condition that the sign located at Mitchell Street and Industrial Blvd. be moved back onto Millwood property. Motion approved unanimously.

Conditional Use/John H. Parker, Sr.: The town has received a request for a continued conditional use allowance for apartment #2 from John H. Parker, Sr., located over the warehouse located at 332 Main Street, Millsboro, tax map #21-187. Sussex County Map No. 1-33-17.09 parcel 29.0. As there have been no problems with this usage Thoroughgood motioned, Bryan second to extend the conditional use of John Parker, Sr. for a second conditional use for a second single family dwelling/apartment over the existing garage as a second accessory use at 332 Main Street, Town of Millsboro, Sussex County Map No. 1-33-17.09 parcel 29.0. This conditional use renewal is for one year. Motion approved unanimously.

Zoning/Restaurant/Bar in Highway Commercial: Council was presented with a draft of the resolution that would regulate restaurants and 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. Tempe Steen, Town Solicitor, noted that changes that have been made are in italics or have been crossed through. Council felt having this presented to them with the markups showing where changes were to be made was very beneficial to them. It was decided to have council members review this document and then discuss at the September meeting.

Zoning/Highway Commercial: A public hearing was opened at the June 1, 2009 council meeting but was never closed. After reviewing the town's zoning code Council had decided that a new subsection (26) should be added to include business services, personal services, retail services, social services and research service establishments. It was noted that such establishments primarily engage in providing assistance as opposed to products, to individuals, businesses, industry, government and other enterprises. The reason for this addition to the Highway Commercial District zoning is that most of the permitted uses listed were retail related and this would allow for businesses that provide services. This would be a clarification of the code already in existence. After some discussion Thoroughgood motioned, Bryan second to close the public hearing. Motion approved unanimously. Thoroughgood

motioned, Truitt second to approve the ordinance amending the zoning ordinance of the Town of Millsboro, Chapter 210-18, Highway Commercial (HC) District, by adding a new subsection (26) to provide for business, personal, retail, social and research service establishments. Motion approved unanimously.

Annexation/White Farm – Robert Bryan gave the committee report for the annexation request for property known as White Farm LLC, contiguous to the present northwesterly limits of the Town of Millsboro, on the east side of U.S. 113 and north and south sides of Route 20. Tax map and parcel numbers to include: 1-33-11.00 parcel 3.00; 1-33-15.00 parcel 30.00; 1-33-16.00 parcel 75.03; 1-33-15.00 parcel 30.01 and 1-33-16.00 parcel 75.00. The committee met and agrees this annexation is feasible to the town. The two parcels 1-33-15.00 parcel 30.01 and 1-33-16.00 parcel 75.00 will be rezoned as Medium Residential(MR). This portion of the property consists of 172 acres. The three remaining parcels, 1-33-11.00 parcel 3.00; 1-33-15.00 parcel 30.00 and 1-33-16.00 parcel 75.03 will be rezoned as Open Space for the Town. This portion to be annexed is approx. 438 acres. The committee recommends annexing the above describe properties; know as the White Farm LLC, into the Town of Millsboro. Hodges motioned, Bryan second to accept the committee report and recommendation to annex these properties into the town limits. Motion approved unanimously. Town Solicitor, Tempe Steen, introduced a resolution that would amend the resolution to investigate the possibility of annexing the properties now or formerly of White Farm LLC. The amended resolution would appoint a committee to investigate the possibility of adding and including State Route 20 from its intersection with U.S. Route 113 on the east in a westerly direction to its intersection with Governor Stockley Road to the White Farm LLC annexation request. Hodges motioned, Bryan second to approve the resolution to amend the resolution proposing that the Mayor appoint a committee to investigate the possibility of annexing: properties now or formerly of White Farm LLC, contiguous to the present northwesterly limits of the Town of Millsboro, on the east side of U.S. Route 113 and north and south sides of Route 20, and directing that annexation committee appointed on June 1, 2009, to investigate the possibility of annexing State Route 20 from its intersection with U.S. Route 113 on the east in a westerly direction to its intersection with Governor Stockley Road and to submit a report to the Town Council at the September Council Meeting. Motion approved unanimously. A date for the Public Hearing for this annexation request will be set upon hearing the recommendation of the annexation committee at the September Council Meeting.

Comprehensive Plan – The 2009 Comprehensive Plan has been signed by the governor and since the approval was contingent upon the certification of the plan by the state Council can now ratify the adoption of the 2009 Comprehensive Plan. Hodges motioned, Bryan second to ratify the adoption of the 2009 update to the 2004 Town of Millsboro Comprehensive Plan certified June 23, 2009, by letter from Governor Markell dated June 23, 2009. Motion approved unanimously.

Tim Wentling/Somerton Chase – Mr. Wentling presented Council with a request for a time extension for preliminary plan approval for Somerton Chase. Somerton Chase had received preliminary approval June 2005 and in March 2007 they received an extension to June 2008. They have come before Council

tonight requesting an extension until August 2010. They have been working with DELDOT and there have been new design and improvements required. During their last meeting with DELDOT in January a substantial amount of additional design work was needed. Roger Gross of Merestone Consultants has performed the bulk of this work, but everything is taking much longer to complete as the continuing decline in the economy has caused firms to make difficult staffing decisions. Mr. Wentling also informed Council that it has become evident that there is a drainage issue on the east side of Delaware Ave. as it approaches Rt. 24 intersection and DELDOT now wants them to add some storm water pipe on the east side of this road and re-do some of the curb and catch basins on the south side of the intersection, none of which they expected. All other approvals needed have been received. Town Solicitor Tempe Steen explained the choices Council could take concerning this issue. After further discussion Thoroughgood motioned, Hodges second to give Somerton Chase a time extension for preliminary plan approval until August 2010. Motion approved unanimously.

Mayor Gum reminded the public that the yearly tax bills and this quarter's water/sewer bills have been mailed. He also reminded the public that grease traps or grease disposal is not to be put in the town's sewer drains.

Vacant Council Seat – There is a vacant council seat due to Councilperson Irene Keenan's resignation. She has recently had a change in careers and feels she will not have the time to serve the council and has resigned. Council was asked what they would like to do concerning filling this seat. Decision was made to table this decision until September's Council meeting.

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

Respectfully submitted,

Tim P. Hodges

Secretary

8:30 pm meeting called to order with Mayor Larry D. Gum presiding. Present were Vice Mayor Robert H. Bryan, Secretary Tim P. Hodges, Treasurer Michelle Truitt, Council persons John Thoroughgood and Greg Hastings, Town Solicitor Tempe B. Steen, Town Manger Faye L. Lingo. Absent was one council seat held by Irene Keenan.

Bryan motion, Thoroughgood second to approve the request for extension of one year by Lennar as discussed in executive. Approved unanimously with one council seat held by Irene Keenan absent.

8:35 pm, Truitt motion, Thoroughgood second to adjourn, approved unanimously with council seat absent.

Respectfully submitted,

Tim P. Hodges, Secretary