

**MAYOR and COUNCIL
TOWN OF MILLSBORO
322 Wilson Highway
Millsboro, Delaware 19966 - 1216**

OFFICE HOURS
MONDAY — FRIDAY
8:00 a.m. to 4:30 p.m.



**Phone: (302) 934-8171
Fax: (302) 934-7682**

TOWN OFFICE
PARKS/RECREATION
STREETS
WATER/SEWER

POLICE DEPT. 934-8174

**Minutes
Millsboro Town Council
Regular Council Meeting
Millsboro Council Chamber
322 Wilson Highway
Millsboro, Delaware
May 6, 2013**

7:00 P.M. Meeting called to order by Mayor Robert Bryan in the Council Chambers located at 322 Wilson Highway Millsboro, DE. Present were Vice-Mayor John Thoroughgood, Secretary Greg Hastings, Treasurer Michelle Truitt, Councilpersons Tim Hodges, Jim Petruzella, Irene Keenan, Town Manager Faye Lingo, Assistant Town Manager Matt Schifano, Town Solicitor Mary Schrider-Fox, Public Works director Kenny Niblett and Finance Officer William Sauer. Guests - see attached list.

Pledge of Allegiance

Public Comments - none

Sam Parsons - Eagle Scout Project - Mayor Bryan introduced Sam Parsons who is planning to erect a fence at the Grace Methodist Church for his Eagle Scout Project. Mr. Parsons said he planned to put the fence up, with landscaping, to keep the residents safe. Mayor Bryan asked if Mr. Parsons was asking to have the Town's permit fee waived. Mr. Parsons answered affirmatively. Mayor Bryan then asked when construction would take place. Mr. Parsons said he was currently raising funds and was almost ready to proceed. Mr. Thoroughgood asked Mr. Parsons to clarify where the fence would be since it was not on the prints. Mr. Parsons said it would run about sixty feet from the left front of the house to the sidewalk on Morris Street. Mr. Hodges said he assumed the fence was outside the easement. Mr. Parsons said "yes". Thoroughgood motioned to waive the building permit fee. Hodges seconded, motion approved unanimously.

Public Hearing - Tax Appeals - Mayor Bryan said we have none so we can make a motion to approve them as they stand. Thoroughgood motioned and Petruzella seconded to approve the tax roll as it stands. Motion approved unanimously.

SECRETARY'S REPORT - Secretary Hastings reviewed the minutes and submitted for approval the minutes from the March 4, 2013 and April 1, 2013 council meetings. Hodges moved and Truitt seconded to approve the minutes as written. Motion approved unanimously.

Regular Council Meeting – Town of Millsboro
May 6, 2013

TREASURER'S REPORT - Treasurer Truitt presented the bills and bank balances to Council for approval. Hodges moved and Keenan seconded to pay the bills from the designated accounts as presented. Motion approved unanimously.

MILLSBORO FIRE COMPANY - President Mr. Ron O'Neal presenting.
Delmarva Volunteer Firefighters Association Convention- Mr. O'Neal said they attended the convention this past weekend in Parsley, VA. There were about one hundred companies from the tri-state area attending. Millsboro will host this convention in May 2015. The last time Millsboro hosted was about 2005.

Professional Firefighters Institute Dinner - Representatives from the Millsboro Fire Company will travel to Washington, DC this Thursday to attend the dinner. Delaware has always had a strong presence in this organization. Vice President Joe Biden will be the guest speaker.

Siren - The fire company was very busy last week but nobody heard the siren, it is broken. They have called in a repairman and hope to have it functioning shortly.

GREATER MILLSBORO CHAMBER OF COMMERCE - Amy Simmons, Executive Director presenting.

Hall Rentals - Ms. Simmons reported that rentals are moving right along with two rentals down. They updated the lighting scheme based on rental feedback. Ms. Simmons said she would provide updates to Mr. Schifano, Chief Murphy and Mayor Bryan as to what weekends are booked.

Ms. Simmons Contact - The Chamber has provided Ms. Simmons with a smartphone so that she can check emails and conduct business while she is out of the office. She provided the number to those present.

Hall Rental Business Card - Henninger printing is doing a mock-up of a business card for Ms. Simmons to use for Hall rentals. The card will have a picture of the building with all of Ms. Simmons contact information. The card should be ready next week for Ms. Lingo's approval.

Millbilly Festival and Redneck Games - The event is shaping up with a lot of feedback from people wanting to help. Ms. Simmons contacted Shirley Waples from the Millsboro Little League to let her know about event changes and suggested opening the concessions stand during the festival to raise money for the Little League.

Membership Meeting - The next membership meeting will take place on May 16, 2013 at Pizza King with guest speakers Dennis Swain from the Millsboro fire Company and Bill Slavin from the Little League World Softball Series.

Millbilly Festival and Redneck Games - Mayor Bryan asked Amy what type of calls she was receiving about the festival. Ms. Simmons said she was getting calls from both prospective vendors and sponsors. The next organizational meeting will be held on May 13, 2013 at 4pm.

MILLSBORO POLICE DEPARTMENT - Chief Murphy presenting.

New Cadet Update - Chief reported that the three new cadets are doing well. Graduation will be the first week in August.

Regular Council Meeting – Town of Millsboro
May 6, 2013

Training - Officer Berrios attended Problem Oriented Policing at the DSPTA.

Homeland Security - No issues

CALEA - No issues

113 Accident old Ames Crossover - Chief Murphy brought to the attention of council a four-vehicle accident including one bus that occurred in front of the old Ames and Rt. 113 crossover. He said that the irony was that with DelDot's current intersection reconfigurations that are taking place in Millsboro, this intersection, that he has addressed with council on at least two other occasions was not being addressed. Chief Murphy said he thought that this was probably the worst intersection south of Milford and that it has an easy fix. Mayor Bryan said that a good solution would be to have the cars exit the center going south and then turn north at the Arby's light. Chief agreed that this would be the good and easy fix. Mayor Bryan said that Representative Atkins was here in the audience tonight and that hopefully he was listening. Representative Atkins agreed that he and Mayor had had this conversation plenty of times after DelDot gave them the list of intersections that they were going to modify. Representative Atkins and then Senator Bunting met with DelDot and tried to convince them to do something about that intersection. Representative Atkins then suggested that Town Council and the Police Department both send letters either to his office or directly to DelDot addressing the issue and that he could bring Secretary Bhatt down here to see the intersection first hand. Mayor Bryan thanked Representative Atkins.

STREET REPORT - NO REPORT

PARK AND RECREATION REPORT - No REPORT

WATER AND SEWER REPORT - Carrie DeSimone from CABE presenting.

Contract F - Ms. DeSimone said that contract F is for the pop up spray irrigation at the Middle School. She reported that the project had been completed, tested and is ready for use. Mayor Bryan asked for questions at the end of Ms. DeSimone's presentation and Ms. Truitt asked if the irrigation could be turned on. Ms. DeSimone said yes, it had been tested. Ms. Lingo added that we have received the permit from the state, so it is good to go.

Contract G - Ms. DeSimone reported that the beneficial reuse pipe from W.B. Atkins Park to the White Farm has been installed but not tested. The water main extension has also been installed and pressure tested but final connection to Mill Landing has not yet been done. The extension of the fiber optic cable has also been completed. Ms. DeSimone also stated that we are waiting on an acceptable submittal for the storage tank.

The contractor has requested the addition of air release valves, (ARV) in the beneficial reuse pipe. The pipe is a gravity feed as opposed to a force main and therefore CABE did not include any ARV's in the contract. When the pipe is filled, air pockets will form and they will need to be released through manual corporation stop valves that are in the pipe. The area of biggest concern for air pockets is on the far side of Millsboro Pond and the railroad tracks; these are the high points in the system. CABE had recommended that the corporation stop

Regular Council Meeting – Town of Millsboro
May 6, 2013

valves remain in place after the pipe is filled in the unlikely event that air would get into the system.

The contractor has submitted change order number 1 to add two ARV's to the pipeline for a total of \$14,319.54. These valves would work automatically to release air from the pipeline anytime it is present. Ms. DeSimone said that this cost would be offset by a final balancing change order reducing a contingent item; select borrow, for approximately \$22k that was not used.

Mayor Bryan asked our Public Works Director, Mr. Kenny Niblett if he had any comments about the valves. Mr. Niblett supported the inclusion of the ARV's. He stated that if air were in the system, his pump motors would burn out at a much higher frequency. The ARV's would be in manholes and work automatically to remove air from the system. Hodges motioned that we accept the change order to add two ARV's to the system. Hastings seconded the motion. Motion approved unanimously.

Contract H - Ms. DeSimone reported that the wood clearing on the White Farm has been completed in compliance with the environmental review that required the clearing be done by April 15, 2013. The access road improvement on the White Farm has been completed with the new culverts to allow better flow of Sheep Pen Ditch. The control building is being constructed and three of the six ribs have been excavated.

MAYOR'S REPORT -

Millbilly Festival - Chamber Request for Change of Venue - Mayor Bryan reported that we had a request from the Millsboro Chamber of Commerce to use W.B. Atkins Park on September 21st for the Millbilly Festival. Motion by Thoroughgood and second by Petruzella to approve the use of W.B. Atkins Park. Motion approved unanimously.

Millsboro Farmers Market Sign - Town Manager Faye Lingo reported that the Farmers Market had submitted their plans for a sign that they would like to place it under the Town's message board by the railroad tracks. Mayor Bryan asked how long the sign would be up. Market Manager Dave Lomas said that council had previously given permission to place the sign 30 days before the Market starts and take it down 30 days after the season ends. Thoroughgood made a motion to approve the sign. Hastings second, motion approved unanimously.

Conditional Use Application - Mayor Bryan reported that we have received a conditional use application by John Atkins for a produce stand on Railroad Ave. He is asking to lease land from the Town to put a produce stand in the general area where the Town had the first Farmers Market two years ago. Mr. Atkins corrected that the proposed site was between the Hair Depot and the Town Maintenance building on Railroad Ave. Mr. Atkins said, to summarize, he was not opening his market on Rt. 24 this year, that the land lease had become too expensive. Mr. Atkins said that he has two wagons that have been approved by the county for vending produce in Long Neck. They are simple farm wagons on rubber tires with roof and sides for closing at night. The sides serve as shade awnings during the day when they are up and open. Mr. Atkins grows 10 acres of produce. He said he does not want to interfere with the Farmers Market and would close during the Farmers Market's operating hours. Ms. Truitt asked if there was parking there and Mr. Atkins

Regular Council Meeting – Town of Millsboro
May 6, 2013

said yes, the paved area by the Hair depot. He said that many customers would walk over from the local apartments.

Mayor Bryan asked Town Solicitor Mary Schrider-Fox what questions she had. Ms. Schrider-Fox said there were two elements here, the lease agreement and the conditional use permit. Mayor Bryan then asked about a railroad easement. Ms. Schrider-Fox said that she would like to review the easement as well. Mayor Bryan then asked Mr. Atkins if he carried liability insurance. Mr. Atkins said yes, he carried it through Nationwide Insurance. Mr. Atkins also stated that he would be happy at either end of Railroad Ave., he said beggars cannot be choosers; whatever the Town would like. Ms. Keenan asked what hours he would be open. Mr. Atkins replied probably 9am to 6pm daily except Sunday would have a later opening.

Ms. Lingo brought up an application that was denied last year for a produce market. The request was for a market on a land parcel owned by the applicant. The request was denied because of the Town Code produce regulation requiring that the stand be on a minimum of 5 acres. Ms. Lingo said perhaps they could have then applied for a conditional use application, she just wants direction on how to handle future applications.

Ms. Keenan asked about the legality since we had previously turned down a **produce market application**. Ms. Schrider-Fox said that was not a problem because by code that previous application was not an allowed use of the property. That applicant had the same options of special use or conditional use applications available to them that Mr. Atkins is pursuing. Each special use or conditional use application should be decided on its own merits.

Ms. Schrider-Fox said perhaps we could approve it in theory, that lease terms are not worked out, there is no lease agreement, we don't have a definitive property, so terms need to be reached and council action will need to be taken at a special meeting or the next council meeting.

Hodges suggested that perhaps we could approve the concept and delegate the details to a committee. Thoroughgood motioned that we set up a committee and have a special meeting. Petruzella and Keenan both said they liked Mr. Hodge's idea better. Petruzella said that if the committee meets next week and decides we do not want to do it, we pull it out. Hodges says if the committee agrees to fee and terms and legal says it's ok then we approve. Mayor asked if Mr. Atkins would obligate for twelve weeks. Mr. Atkins agreed.

Ms. Schrider-Fox reminded Mr. Thoroughgood that he still had a motion pending. Thoroughgood rescinded his motion. Hodges motioned that we have a committee to determine the fee, parcel and lease, for a twelve-week period; that Ms. Schrider-Fox research the legal aspects and finally that we authorize the Town Manager to act on the committee findings. Keenan second, motion approved unanimously.

Mayor Bryan appointed the committee: Thoroughgood chair and members Petruzella and Hodges.

Construction and Lawn Mowing Hours - Committee Chair Hodges Presenting. Mr. Hodges reported that the committee met on April 16, 2013 and agreed that commercial lawn mowing should be limited to the hours between sev-

Regular Council Meeting – Town of Millsboro
May 6, 2013

en am and seven pm seven days a week with no limitations on homeowners. Town Solicitor Schrider-Fox asked for clarification for a property owner of a vacant lot mowing the vacant lot, would that be subject to the commercial restrictions. Hodges said no, that if it was the owner mowing, it was considered residential.

Mr. Jim Clarke, a resident of Plantation Lakes asked if this regulation was applicable to the Plantation Lakes golf course. Hodges replied that the golf course would be considered a commercial property and that the restriction was applicable.

Town Manager Lingo asked is that normal for a golf course, when do they typically mow their lawn, because they have golfers teeing off at what hours. Brian McManus, Director of Operations at Plantation Lakes who was in the audience responded that tee times start at 6:30am seven days a week. Ms. Lingo asked how do you do that, golf and mow around the golfer.

Hodges replied that this was a very good point and that it had not been brought up in committee. Hodges further said that the golf course should be considered, that the committee's recommendation was just that, a recommendation, and that council could debate the merits of excluding golf courses. Mayor Bryan asked Mr. McManus how frequently they mowed. Mr. McManus said daily and that if the golf course were up and running they would ideally be out there between six and six-thirty daily. Ms. Schrider-Fox said that at a community such as Bear Trap, when you buy into the community, you buy into the nuances that accompany it, stray golf balls and mowing. Ms. Schrider-Fox said the covenants at Bear Trap include items such as you cannot get mad if your car is hit by a golf ball, we will not close the course. You may have recourse with the golfer, but not the community. Ms. Schrider-Fox said if you do not allow the golf course to mow the grass, you are not allowing it to be a golf course. Mayor Bryan agreed. Mr. Clarke said that their HOA agreement had a big section that basically said you do live on a golf course and give up all of your rights.

Mayor Bryan asked Mr. Hodges where he stood on this issue. Hodges said that he felt we should exclude golf courses from this restriction. Ms. Schrider-Fox said we could add some verbiage to say the hours should be as reasonably necessary to keep the golf course as a thriving business so that it does not mow at two am if that is not commercially reasonable. Mr. Schifano agreed and added that would allow them to aerate as well, to allow them to operate a golf course as a golf course. Hodges motioned that we adopt the commercial lawn mowing hours as recommended by the committee, exclude golf courses, and add the language discussed to allow a golf course to operate as a golf course. Keenan second, motion approved unanimously.

Election Slate - Town Manager Lingo said this was for information only. The slate was posted on April 24, 2013, it will come down on May 14, 2013, and that it is for one council seat each in district one and two. She said that there will be an election, that we have had three people sign up in district one. She reported that district two is currently unopposed.

Building Improvements - Asst. Town Manager Matt Schifano presenting. Mr. Schifano reported that we now have a CO on the Town Hall. They are currently doing punch list items on phase two so we have not yet moved. There are change orders that have been discussed previously that are

Regular Council Meeting – Town of Millsboro
May 6, 2013

now just coming through with final pricing. These include additional masonry, an icemaker for the kitchen, concrete ramp at the back door and also some credits. Thoroughgood motioned and Hastings seconded that all the change orders presented by Mr. Schifano be accepted. Motion approved unanimously.

Ms. Lingo reported that there were no additional updates and that no legal action was needed.

At 8:15 pm Keenan moved, Petruzella second to adjourn the meeting, approved unanimously.

Respectfully Submitted,



Greg Hastings
Secretary