

BOROUGH OF MILLSTONE
BOROUGH COUNCIL REGULAR MEETING AGENDA
April 24, 2007

TIME:

CALL TO ORDER – OPENING STATEMENT: The regular meeting of the Borough Council, Borough of Millstone will please come to order. Adequate notice of this meeting has been noticed to the Hillsborough Beacon and Courier News. If any member of this body believes this meeting is being held in violation of the Open Public Meetings Act, please state your views at this time, stating the reason for which you feel the notice is improper. Hearing none, we proceed to the next item on the agenda.

PLEDGE TO THE FLAG:

ROLL CALL: Councilman Joe Dempster
Councilwoman Carol Halm
Councilman Norman Hewitt
Councilwoman Donna Lucash
Councilman Robert McCarthy
Councilman William Poch
Mayor Raymond Heck

MINUTES:

- January 4, 2006 Reorganization Meeting minutes
- February 6, 2006 Budget Work Session minutes
- February 19, 2007 Regular meeting minutes
- February 19, 2007 Executive meeting minutes
- March 19, 2007 Regular Meeting Minutes

REPORTS:

- Assessor
- Clerk
- Emergency Management
- Finance
- Historic Commission
- Millstone Valley Fire Department
- Recreation Commission
- State Police
- Tax Collection – March 2007 report (attached)

PRESENTATION OF BILLS FOR PAYMENT:

COUNCIL REPORTS:

- Buildings and Grounds
- Planning Board
- Traffic and Roads

MAYOR'S REPORT

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MEETING OPEN TO THE PUBLIC:

- Motion to Open the Meeting to the Public
- Motion to Close the Meeting to the Public

NEW BUSINESS:

- Introduction of **ORDINANCE NO. 2007-003: ORDINANCE TO EXCEED THE MUNICIPAL BUDGET COST OF LIVING ALLOWANCE AND TO ESTABLISH A CAP BANK WHEN THE COLA IS EQUAL TO OR LESS THAN 2.5% (N.J.S.A. 40A:4-45.14)**, and set the public hearing for May 21, 2007

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A:4-45.1 et seq, provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% or the Cost of Living Adjustment (COLA), whichever is , over the previous year's final appropriations, subject to certain exceptions; and

WHEREAS, N.J.S.A. 40A4-45.15a provides that a municipality may, in any year in which the COLA is equal or less than 2.5% increase its final appropriations by a percentage greater than the COLA, but not to exceed the 3.5% rate as specified in the law, when authorized by ordinance; and

WHEREAS, the COLA for 2007 has been certified by the Director of the Division of Local Government Services in the Department of Community Affairs as 2.5%; and

WHEREAS, N.J.S.A. 40A4-45.15a provides that a municipality may, in any year in which the COLA is equal to or less than 2.5%, may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% rate as an exception to its final appropriations in either of the next two succeeding years; and

WHEREAS, the Borough Council of the Borough of Millstone in the County of Somerset finds it advisable and necessary to increase its 2007 budget by more than 2.5% over the previous year's final appropriations, in the interest of promoting the health, safety, and welfare of the citizens; and

WHEREAS, the Borough Council hereby determines that a 1.0% increase in the budget for said year, amounting to \$2,892.92 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS, the Borough Council hereby determines that any amount authorized hereinabove that is not appropriated, as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW, THEREFORE, BE IT ORDAINED, by the Borough Council of the Borough of Millstone, in the County of Somerset, a majority of the fully authorized membership of this governing body affirmatively concurring, that, in the 2005 budget year, the final appropriations of the Borough of Millstone shall, in accordance with this ordinance and N.J.S.A. 40A:4-45.14, be increase by 3.5%, amounting to \$10,2125.22, and that the 2007 municipal budget for the Borough of Millstone be approved and adopted in accordance with this ordinance; and,

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BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with the Director within 5 days after such adoption.

This Ordinance shall take effect upon its final passage and publication according to law.

- Introduction of Ordinance 2007-004: Open Space Tax (to be provided by Steve Offen), and set the public hearing for May 21, 2007.
- Introduction of Ordinance 2007-005 and set the public hearing for May 21, 2007:

**AN ORDINANCE TO CREATE THE POSITION OF
MUNICIPAL HOUSING LIAISON FOR THE PURPOSE OF
ADMINISTERING THE BOROUGH OF MILLSTONE'S
AFFORDABLE HOUSING PROGRAM PURSUANT TO
THE FAIR HOUSING ACT.**

BE IT ORDAINED by the Governing Body of the Borough of Millstone in the County of Somerset and State of New Jersey that the following amendments be made to Chapter *[insert number]* of the Borough of Millstone:

Section 1. Purpose.

The purpose of this article is to create the administrative mechanisms needed for the execution of the Borough of Millstone's responsibility to assist in the provision of affordable housing pursuant to the Fair Housing Act of 1985.

Section 2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

MUNICIPAL HOUSING LIAISON – The employee charged by the governing body with the responsibility for oversight and administration of the affordable housing program for the Borough of Millstone

ADMINISTRATIVE AGENT – The entity responsible for administering the affordability controls of some or all units in the affordable housing program for the Borough of Millstone to ensure that the restricted units under administration are affirmatively marketed and sold or rented, as applicable, only to low- and moderate-income households.

Section 3. Establishment of Municipal Housing Liaison position and compensation; powers and duties.

- A. Establishment of position of Municipal Housing Liaison. There is hereby established the position of Municipal Housing Liaison for the Borough of Millstone.

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- B. Subject to the approval of the Council on Affordable Housing (COAH), the Municipal Housing Liaison shall be appointed by the Governing Body and may be a full or part time municipal employee.
- C. The Municipal Housing Liaison shall be responsible for oversight and administration of the affordable housing program for the Borough of Millstone, including the following responsibilities which may not be contracted out, exclusive of item 6 which may be contracted out:
- (1) Serving as the Borough of Millstone's primary point of contact for all inquiries from the State, affordable housing providers, Administrative Agents, and interested households;
 - (2) Monitoring the status of all restricted units in the Borough of Millstone's Fair Share Plan;
 - (3) Compiling, verifying, and submitting annual reports as required by COAH;
 - (4) Coordinating meetings with affordable housing providers and Administrative Agents, as applicable;
 - (5) Attending continuing education opportunities on affordability controls, compliance monitoring, and affirmative marketing as offered or approved by COAH;
 - (6) If applicable, serving as the Administrative Agent for some or all of the restricted units in the Borough of Millstone as described in F. below.
- D. Subject to approval by COAH, the Borough of Millstone's may contract with or authorize a consultant, authority, government or any agency charged by the Governing Body, which entity shall have the responsibility of administering the affordable housing program of [the Borough of Millstone, except for those responsibilities which may not be contracted out pursuant to subsection C above. If the Borough of Millstone contracts with another entity to administer all or any part of the affordable housing program, including the affordability controls and Affirmative Marketing Plan, the Municipal Housing Liaison shall supervise the contracting Administrative Agent.
- E. Compensation. Compensation shall be fixed by the Governing Body at the time of the appointment of the Municipal Housing Liaison.
- F. Administrative powers and duties assigned to the Municipal Housing Liaison.
[Select only those tasks that are not delegated specifically to an approved Administrative Agent as part of a contract and will therefore be the responsibility of the Municipal Housing Liaison.]
- (1) Affirmative Marketing
 - (a) Conducting an outreach process to insure affirmative marketing of affordable housing units in accordance with the Affirmative Marketing Plan of *[insert name of municipality]* and the provisions of N.J.A.C. 5:80-26.15; and
 - (b) Providing counseling or contracting to provide counseling services to low and moderate income applicants on subjects such as budgeting, credit issues, mortgage qualification, rental lease requirements, and landlord/tenant law.

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- (2) Household Certification
 - (a) Soliciting, scheduling, conducting and following up on interviews with interested households;
 - (b) Conducting interviews and obtaining sufficient documentation of gross income and assets upon which to base a determination of income eligibility for a low- or moderate-income unit;
 - (c) Providing written notification to each applicant as to the determination of eligibility or non-eligibility;
 - (d) Requiring that all certified applicants for restricted units execute a certificate substantially in the form, as applicable, of either the ownership or rental certificates set forth in Appendices J and K of N.J.A.C. 5:80-26.1 *et. seq.*;
 - (e) Creating and maintaining a referral list of eligible applicant households living in the housing region and eligible applicant households with members working in the housing region where the units are located; and
 - (f) Employing the random selection process as provided in the Affirmative Marketing Plan of *[insert name of municipality]* when referring households for certification to affordable units.
- (3) Affordability Controls
 - (a) Furnishing to attorneys or closing agents forms of deed restrictions and mortgages for recording at the time of conveyance of title of each restricted unit;
 - (b) Creating and maintaining a file on each restricted unit for its control period, including the recorded deed with restrictions, recorded mortgage and note, as appropriate;
 - (c) Ensuring that the removal of the deed restrictions and cancellation of the mortgage note are effectuated and properly filed with the appropriate county's register of deeds or county clerk's office after the termination of the affordability controls for each restricted unit;
 - (d) Communicating with lenders regarding foreclosures; and
 - (e) Ensuring the issuance of Continuing Certificates of Occupancy or certifications pursuant to N.J.A.C. 5:80-26.10.
- (4) Resale and rental
 - (a) Instituting and maintaining an effective means of communicating information between owners and the Administrative Agent regarding the availability of restricted units for resale or rental; and
 - (b) Instituting and maintaining an effective means of communicating information to low- and moderate-income households regarding the availability of restricted units for resale or re-rental.
- (5) Processing request from unit owners
 - (a) Reviewing and approving requests from owners of restricted units who wish to take out home equity loans or refinance during the term of their ownership;

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- (b) Reviewing and approving requests to increase sales prices from owners of restricted units who wish to make capital improvements to the units that would affect the selling price, such authorizations to be limited to those improvements resulting in additional bedrooms or bathrooms and the cost of central air conditioning systems; and
 - (c) Processing requests and making determinations on requests by owners of restricted units for hardship waivers.
- (6) Enforcement
- (a) Securing annually lists of all affordable housing units for which tax bills are mailed to absentee owners and notifying all such owners that they must either move back to their unit or sell it;
 - (b) Securing from all developers and sponsors of restricted units, at the earliest point of contact in the processing of the project or development, written acknowledgement of the requirement that no restricted unit can be offered, or in any other way committed, to any person, other than a household duly certified to the unit by the Administrative Agent;
 - (c) The posting annually in all rental properties, including two-family homes, of a notice as to the maximum permitted rent together with the telephone number of the Administrative Agent where complaints of excess rent can be made;
 - (d) Sending annual mailings to all owners of affordable dwelling units, reminding them of the notices and requirements outlined in N.J.A.C. 5:80-26.18(d)4;
 - (e) Establishing a program for diverting unlawful rent payments to the municipality's affordable housing trust fund or other appropriate municipal fund approved by the DCA;
 - (f) Creating and publishing a written operating manual, as approved by COAH, setting forth procedures for administering such affordability controls; and
 - (g) Providing annual reports to COAH as required.
- (7) The Administrative Agent shall have authority to take all actions necessary and appropriate to carry out its responsibilities hereunder.

Section 4. Severability.

If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall

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have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

Section 5. Inconsistent Ordinances Repealed.

All ordinances or parts of ordinances which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

Section 6. Effective Date.

This Ordinance shall take effect immediately upon final adoption and publication in the manner prescribed by law.

- Resolution for annual Tonnage Grant Application Resolution

Mandatory Source Separation and Recycling Act

WHEREAS the Mandatory Source Separation and Recycling Act, P.L. 1987, c.102, has established a recycling fund from which tonnage grant may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and the spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and to expand existing programs; and

WHEREAS the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for apply for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a resolution authorizing this municipality to apply for such tonnage grants will memorialize the commitment of this municipality to recycling and to indicate the assent of the Borough of Millstone to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such a resolution should designate the individual authorized to ensure the application is properly completed and timely filed.

NOW, THEREFORE BE IT RESOLVED by the Borough Council of the Borough of Millstone hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates William Poch to ensure that the application was properly filed in 2006; and

BE IT FURTHER RESOLVED that the monies received from the recycling tonnage grant by deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling

- Discussion - Millstone Plan Endorsement (see Carter Van dyke memo attached)

OLD BUSINESS:

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- Resolution to rescind budget introduction resolution from March 19, 2007 meeting

WHEREAS, on March 19, 2007 the Millstone Borough Council took action to approve a resolution introducing the 2007 Millstone Borough Budget; and

WHEREAS, due to circumstances beyond the Borough's control the budget is required to be re-introduced.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Millstone Borough Council that it hereby rescinds the March 19, 2007 resolution introducing the Borough budget

- Resolution to re-introduce the 2007 Millstone Borough Budget and set the public hearing for June 18, 2007 (this resolution appears on Sheet 2 of the Borough budget as prepared by the Borough Auditor)

BE IT RESOLVED that the following statements of revenues and appropriations shall constitute the Municipal Budget for the year 2007;

BE IT FURTHER RESOLVED that said Budget be published in the Courier News in the issue of May 15, 2007

The Governing Body of the Borough of Millstone does hereby approve the following as the Budget for the year 2007:

RECORDED VOTE			
(Insert last name)	{	{	ABSTAINED {
	{	{	
AYES	{	NAYS	{
	{		{
	{		ABSENT {
	{		{

Notice is hereby given that the Budget and Tax Resolution was approved by the governing body of the Borough of Millstone, County of Somerset, on April 24, 2007

A hearing on the Budget and Tax Resolution will be held at Borough Hall, on June 18, 2007 at 7:30 (p.m.) at which time and place objections to said Budget and Tax Resolution for the year 2007 may be presented by taxpayers or other interested persons.

- Second Reading/Adoption Ordinance 2007-002: **AN ORDINANCE PROVIDING FOR ALTERNATES ON THE HISTORIC DISTRICT COMMISSION AND AMENDING THE DEVELOPMENT ORDINANCE OF THE BOROUGH OF MILLSTONE, SOMERSET COUNTY, NEW JERSEY**

This ordinance was originally scheduled for public hearing on April 16, 2007. We may need to table the public hearing and adoption until May 21, 2007

BE IT ORDAINED by the Mayor and Council of the Borough of Millstone:

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1. Section D-113C, Historic Zoning; Historic District Commission, subsection (2), first paragraph, of the Development Ordinance of the Borough of Millstone is hereby amended as follows:
 - (2) The Millstone Historic District Commission shall consist of five (5) members at least three (3) of whom shall reside within the Historic District and two (2) Alternates. The First Alternate shall reside within the Historic District, and the Second Alternate may reside within or outside the Historic District.
2. This Ordinance shall take effect upon its filing with the Somerset County Planning Board and its passage and publication, as provided for by law.

EXECUTIVE SESSION (if necessary):

WHEREAS, the law commonly known as the “Sunshine Law” requires that Borough Council meetings be open to the public except for the discussion of certain subjects; and

WHEREAS, the “Sunshine Law” requires that a closed session be authorized by Resolution;

NOW, THEREFORE, BE IT RESOLVED by the Borough Council of the Borough of Millstone that the balance of this meeting shall be closed to the public; and

BE IT FURTHER RESOLVED, that the meeting shall be adjourned at the end of the closed session; and

BE IT FURTHER RESOLVED, that the subjects to be discussed and the time of public release of the minutes of the closed session are indicated below:

SUBJECT MATTER

TIME WHEN AND THE CIRCUMSTANCES
UNDER WHICH THE SUBJECT MATTER
CAN BE DISCLOSED

ADJOURNMENT:

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MILLSTONE BOROUGH
Report of Current Month's
Receipts
MONTH ENDING MAR. 2007

	YTD Thru Last Month	Current Month	Year To Date
\$495,533.88			
Current Year Taxes		11,829.93	240,107.99
Prior Year Taxes		0.00	2,535.81
2007 Prepaid Taxes		0.00	0.00
Tax Title Liens		0.00	0.00
Interest & Costs		54.94	165.05
6% Penalty		0.00	0.00
Misc. Revenue (Bad Ck)		0.00	0.00
Tax Searches		0.00	0.00
Sub Total		11,884.87	242,808.85
Total		11,884.87	242,808.85
2006 Prepaid Taxes		0.00	0.00
Percent Collected to Date - Current Year			49%

Respectfully Submitted

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Carter van Dyke Associates

CVDA

Landscape Architects/Planners

40 Garden Alley
Doylestown, Pennsylvania
18901-4386

Voice: 215 345 5053
Fax: 215 345 4324
Web: www.CVDA.com

MEMORANDUM

DATE: April 12, 2007
TO: Mr. Stephen Offen, Esq.
FROM: Carter van Dyke, ASLA, AICP
PROJECT: Millstone Borough Plan Endorsement
SUBJECT: Letter to request meeting

Any municipality that wishes to petition for a Plan Endorsement can request a Pre-petition meeting with the Office of Smart Growth and representatives from other state agencies (e. g. DEP, DOT, Ag, COAH). The purpose of this meeting is to advise the petitioners on the requisite planning documents they need to submit in order to have their petition for plan endorsement considered by the State Planning Commission. The Pre-petition meeting is also an opportunity to discuss the items that should be included in the Plan Endorsement Contract.

For the first stage, the Initial Plan Endorsement, a petitioner submits the fundamental planning documents, which most municipalities have already prepared, to the State Planning Commission. These documents will be reviewed by the Office of Smart Growth, which, after consultation with other state agencies, will make a recommendation to the State Planning Commission as to the consistency of the petitioner's plan with the state plan.

The purpose of the Planning and Implementation Agreement is to outline the commitments on the part of the State and the petitioner to implement the plan. The Office of Smart Growth will work with the petitioner to prepare a Planning and Implementation Agreement.

The process establishes a method by which government agencies at all levels may develop capital investments and planning decision making mechanisms that are consistent with the State Plan and are therefore coordinated with each other. Technical assistance is provided throughout the process.

According to Somerset County, the Village designation is what we would be requesting. This has already been completed by the following Somerset County communities such as: Bradley Gardens, Far Hills, Flagtown, Martinsville, Montgomery, Peapack-Gladstone, Pluckimin, Rocky Hill, Warrenville, and Watchung.

Our office has complied most of the information requested. We are about to complete this task. But before we submit the documents, we need a letter from Borough Council requesting a Pre-petition meeting. We would greatly appreciate your bringing up this matter before Council at your next meeting so that we may get this process started. The following is a list of what has to be submitted:

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1. A letter from the Governing Body requesting the pre-petition meeting.
2. A copy of the Master Plan
3. A copy of the re-examination report
4. A copy of the Zoning map and zoning schedule
5. A copy of the adopted Capital Improvement Plan
6. A copy of other planning documents, such as a Natural Resource Plan, Waste Water Management Plan, or Storm Water management Plan
7. A document proposing any changes to the existing planning areas to the State Plan or any proposed center designation.

Please do not hesitate to give me a call with any comments or questions.

Thank you in advance for your attention to this matter.

/cvd

cc Mr. Gerald Muller, Esq.