

**MINUTES OF THE MILLVILLE
TOWN COUNCIL MEETING
March 11, 2014 @ 7:00PM**

In attendance were Mayor Gerry Hocker, Council Members Joan Bennett, Robert Gordon and Harry Kent; Town Solicitor Seth Thompson, Town Clerk Matt Amerling and Town Financial Administrator Betsy Christian. Town Manager Debbie Botchie was absent.

1. CALL TO ORDER:

Mayor Gerry Hocker called the meeting to order at 7:00 p.m.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Hocker led the pledge of allegiance.

3. SWEARING-IN OF COUNCIL MEMBER – Gerald Hocker, Jr.

4. APPOINTMENT OF COUNCIL MEMBER – Steve Maneri

Council Member Bob Gordon motioned to appoint Steve Maneri to Town Council. Council Member Joan Bennett seconded the motion. Motion carried 4-0.

5. SWEARING-IN OF NEW COUNCIL MEMBER – Steve Maneri

6. TOWN COUNCIL APPOINTMENTS

Council Member Gordon motioned to nominate Gerald Hocker, Jr. for Mayor. Council Member Kent seconded the motion. Motion carried 5-0.

Council Member Kent motioned to nominate Robert Gordon for Deputy Mayor. Council Member Steve Maneri seconded the motion. Motion carried 5-0.

Council Member Kent motioned to nominate Joan Bennett for Treasurer. Deputy Mayor Bob Gordon seconded the motion. Motion carried 5-0.

Council Member Bennett motioned to nominate Harry Kent for Secretary. Deputy Mayor Gordon seconded the motion. Motion carried 5-0.

7. SELECTION OF COMMITTEES

Mayor Hocker motioned to appoint Deputy Mayor Gordon as Event Coordinator. Mr. Kent seconded the motion. Motion carried 5-0.

Mayor Hocker motioned to appoint Deputy Mayor Gordon as Volunteer Group Liaison. Mr. Kent seconded the motion. Motion carried 5-0.

Mayor Hocker motioned to appoint Council Member Harry Kent as Facility Maintenance Liaison. Council Member Bennett seconded the motion. Motion carried 5-0.

Mayor Hocker motioned to appoint Deputy Mayor Gordon and Council Member Kent to the

Salary & Benefit Study for Town Employees. Council Member Maneri seconded the motion. Motion carried 5-0.

8. APPRECIATION AND TRIBUTE TO FORMER DEPUTY MAYOR JON SUBITY

Mayor Hocker stated it is with deep appreciation that the Town presents a gift to Jon Subity for his service on Council from March 2008 to March 2014. Mayor Hocker further stated Mr. Subity was a wonderful councilman who “always gave 110 percent to the Town of Millville” and all of his work is very much appreciated.

9. ADOPTION OF TOWN COUNCIL MINUTES

Council Member Harry Kent motioned to adopt the Council minutes from February 11, 2014, the Executive Session minutes from February 11, 2014, and the Executive Session minutes from January 28, 2014. Council Member Joan Bennett seconded the motion. Motion carried 5-0.

10. ACCEPTANCE OF TREASURER’S REPORT

Council Member Bennett read the Financial Report for the month ending 2/28/14.

February 28, 2014:

General Revenue: \$ 51,484. General Expenses: \$ 28,061.
Restricted Revenue: 29,773. Restricted Expenses: 5,567.

Council Member Harry Kent motioned to approve the Treasurer’s Report for the month ending February 28, 2014. Council Member Bob Gordon seconded the motion. Motion carried 5-0.

11. ADMINISTRATIVE REPORT

Town Manager Debbie Botchie was absent so the report was not discussed.

12. NEW BUSINESS

A. Discuss and possible vote to have Town Manager research logistics for building a New Garage for Town Hall – Mayor and Town Manager

Mayor Hocker stated item A would be postponed due to the absence of Town Manager Debbie Botchie and will discussed at the next meeting.

B. Draft of FY15 Budget – Town Manager and Financial Administrator

Town Financial Administrator Betsy Christian stated the draft which everyone received has a few items which are blank, because the Town is waiting for more information to fill in the blanks and redistribute to Council. Deputy Mayor Bob Gordon asked if there was anything outstanding that has changed from the budget for 2014. Ms. Christian stated the most significant change from years past would be in building and grounds maintenance which Council Member Kent has started his function of inspecting what has been done and what should have been done. Ms. Christian further stated the operating expense page rolls up all the line items that are in a particular general ledger number so that would have to come under columns and the next three pages give the Council an idea of all the items which are in each of those items. Ms. Christian stated the big items the Town is still waiting on are salary and benefit information, and capital expenditures, but both of those items would be information coming from the Council. Council

Member Joan Bennett asked about the Christmas Décor page at the end and wanted to know whether the Town Manager wants Council to vote on the pricing. Ms. Christian stated she does not have that paper so she does not know what was expected of it. Ms. Bennett showed the paper to Ms. Christian. Ms. Christian stated that paper is related to whether or not Council wanted to proceed with purchasing the additional lights for the parts of the building that had not been purchased the year before. Ms. Bennett stated the north end and the back of Town Hall. Council Member Kent stated it also includes an additional wreath. Ms. Bennett stated her question is whether the Christmas Décor item would be taken under consideration tonight and wanted to thank Town Manager Debbie Botchie and Ms. Christian for their work on this budget. Ms. Christian stated she wanted to add that Town Code and Building Administrator Eric Evans had significant input with the developers and in terms of coming up with figures for building permit revenue issues, and Town Accounting Clerk Anna Scarola was able to do a lot of research in terms of prior expenditures so Ms. Christian had good actuals to work with. Mayor Hocker stated his thanks to Ms. Christian and it is nice to know that the Council can always have a current snapshot of the financials of the Town. Mayor Hocker stated to answer Ms. Bennett's question, he would assume the Christmas Décor issue will be shelved until the Town Manager can explain in more detail.

C. Resolution 14-03 - Discuss and possible vote on Resolution 14-03. Synopsis: If approved, Resolution 14-03 establishes the fee schedule for FY15.

Mayor Hocker stated if Council would turn to page four, the only change to the fee schedule would be under the planning and zoning fees, under the escrow requirement, instead of a flat rate there would be prices broken down by acreage of the property; \$1000 for parcels less than 100 acres, \$2500 for parcels from 101 to 350 acres, and \$5000 for any parcel over 350 acres. Ms. Bennett asked if these prices are only under consideration when it comes to a concept or schematic. Mayor Hocker stated yes.

Council Member Bennett motioned for the Council to approve Resolution 14-03. Council Member Kent seconded the motion. Motion carried 5-0.

D. Discuss and possible vote on a three (3) year extension on the approved final site plans for the H&D subdivision on the corner of Beaver Dam and Substation Roads, tax number 134-16.00-5.00 and 134-16.00-7.01. Synopsis: Final Plans for the H&D 57 unit townhouse community subdivision were approved in May of 2011; the Code states a subdivision will be deemed null and void after three (3) years of recording unless substantial construction is in place.

Mayor Hocker recused himself from this item and stepped down from the Council dais. Mr. Peter DeMarie, of H&D Subdivisions, stated the reason he is requesting this extension is because the economics of townhouses has been quite poor, but the housing market has picked up this past year, and just this year H&D is starting to see townhouses "making a comeback." Mr. DeMarie stated H&D did not want to build a low-end townhouse product, but rather a 28-foot-wide with a garage and H&D wanted a little more expensive product. Mr. DeMarie further stated right now, houses are at the same cost as what H&D would charge for these (townhouse) units, and H&D would like to wait so the three-year extension is all H&D are requesting. Deputy Mayor Gordon asked if anything to date has been done to the property. Mr. DeMarie

stated no. Deputy Mayor Gordon stated he has noticed before that one of the other developers which needed to have substantial construction done to their site prior to expiration. Town Solicitor Seth Thompson stated if H&D or the other developer had done substantial construction to their respective site, the request would not be before Council tonight, but, rather, the purpose for tonight is the developer has not met that threshold, so getting the extension allows the approval to continue for three years. Deputy Mayor Gordon asked Mr. DeMarie if he had any idea when Mr. DeMarie plans on starting construction. Mr. DeMarie stated construction is planned to start within this three years.

Council Member Maneri motioned for the Council to approve a three (3) year extension on the approved final site plans for the H&D subdivision on the corner of Beaver Dam and Substation Roads, tax number 134-16.00-5.00 and 134-16.00-7.01. Deputy Mayor Gordon seconded the motion. Ms. Bennett voted yes. Mr. Maneri voted yes. Mr. Kent voted yes. Deputy Mayor Gordon voted yes. Mayor Hocker recused himself. Motion carried 4-0.

E. Ordinance 14-03 – Public Records and the Delaware Freedom of Information Act (FOIA).

Synopsis: If approved, this Ordinance creates a new Chapter in the Town Code to both clarify that public records requests shall be governed by the express provisions of the Delaware Freedom of Information Act, as codified in the Delaware Code in Title 29, Chapter 100, and to codify a fee schedule specific to the Town of Millville for such requests.

Mayor Hocker stated he would like to commend Town Clerk Matt Amerling for drafting his first ordinance. Town Solicitor Seth Thompson stated he also wanted to commend Mr. Amerling, and this ordinance is a product of the State legislature a little less than two years ago (August 2012), amending the FOIA to require the Towns can have a different fee schedule in relation to their FOIA requests but it needs to be codified, which is why this ordinance will be placing the schedule in the Town Code, set up under Chapter 115. Mr. Thompson stated he will defer to Mr. Amerling regarding the exact differences but, from what Mr. Thompson has seen, the schedule largely tracks with the default revisions in the State Code. Mr. Thompson further stated the ordinance designates the Town Manager as the FOIA Coordinator and if the Town Manager is not available, there will be a designee by the Town Manager to fill that position in their absence. Mr. Thompson stated this ordinance does not change anything other than stating that when someone comes in to Town Hall to fill out a FOIA request, then the pricing will be available.

Council Member Kent asked if the fees presented are based on Millville criteria or is this some State-mandated criteria. Mr. Thompson stated the fees mainly track with the permissions that the State legislature provided as long as the Town has not codified something different. Mr. Thompson stated, for instance, he saw in the ordinance something about the Town's published documents, which is not in the State Code. Mr. Thompson further stated some items are very similar to the State Code, such as if someone were to walk in and request some documents, the first 20 8"x11" black-and-white pages would be free. Town Clerk Matt Amerling stated the first hour of research by employees would also be free. Mr. Thompson stated after the first hour of research, the requester would be charged \$20 per hour for an employee's research, and the purpose of this is so the requester will make as specific a request as possible so an employee will not have to take all day looking for something. Mr. Kent asked how does looking up most

information in paper handled. Mr. Thompson stated that after the first free hour of research time, the requester would be charged the \$20 per hour to find the paper document. Mr. Kent stated the \$20 per hour is not for processing or copying, but merely for research time. Mr. Thompson stated yes, so, for instance, if the paper document is found and it is only five pages, then the requester will not be charged for copying fees but will be charged for the time above the first free hour.

Council Member Joan Bennett stated she did not see set out in this ordinance a stated method for the public to make a FOIA request, and so she is wondering if this exists elsewhere so there is a set procedure. Mr. Thompson stated there is a form which the Delaware Attorney General's office put out which is what everyone must fill out to make a request. Mr. Amerling stated a copy of the form is on the Town's web site, in the form section. Ms. Bennett asked if this form was used and will be used as precedent even though it is not in the ordinance. Mr. Thompson stated yes and the only thing this ordinance affects is what the cost would be for the Town's response to the FOIA request. Mr. Kent asked if this ordinance applies to the Town's residents or someone who is simply doing research. Mr. Thompson stated this ordinance applies to anybody who were to come in to Town Hall and fill out a FOIA request; however, the way the State law reads, if someone were not a Delaware resident, the Town does not have to respond to their request, but the FOIA request process is not limited to just a Town resident or property owner, but can be members of the press also. Ms. Bennett asked about item number seven (7) sub "A" through "F," regarding published documents (i.e., Town Charter, comprehensive plan, etc.), if a majority of those items are available online. Mr. Thompson stated he was not sure if the Town's comprehensive plan was available online. Mr. Amerling stated the comprehensive plan is on the Town's web site. Mr. Thompson stated anyone could go to the web site and print out these documents themselves so they would not need to request it under FOIA. Ms. Bennett asked if the ordinance is only for requesters who come in and fill in a FOIA request for the information, asking Town administration to search. Mr. Thompson stated yes.

Deputy Mayor Gordon motioned for the Council to approve Ordinance 14-03. Council Member Maneri seconded the motion. Motion carried 5-0.

13. PROPERTY OWNERS/AUDIENCE COMMENTS:

Linda Kent, of Cypress Point Trail, stated as the Farmer's Market manager, she has sent out 13 emails to different possible vendors and there are two vendors who don't want to return to participate in the Millville Farmer's Market, but there are five vendors who will return. Ms. Kent stated as far as volunteers, there are two people from Coventry who she has to get forms so they can join this year, and Ms. Kent is looking for about \$450 for new shirts and jackets with the new Town seal on them. Ms. Kent further stated she thinks she and the Town will have to go over road usage routes with DelDOT for the farmer's market and how to use backroads to get to the market to avoid traffic jams. Ms. Kent stated she has an email from Town Manager Debbie Botchie regarding meeting with the volunteers and making a plan for dealing with disasters.

Pat Plocek, of Blue Heron Drive, stated he knows Council has been looking for parkland for the Town and one alternative suggestion he has is he sees subdivisions come in and if the Town could look at their design and get adjoining land between subdivisions to work together and have people use the land for a larger park. Mr. Plocek stated he would be happy to work with

the Town on this issue. Mayor Hocker stated his thanks and appreciation to Mr. Plocek and the Town is always thinking of a way to do a park and Council periodically has discussions with developers about it, but it is at the developers' discretion whether they want to dedicate it to public use. Town Solicitor Seth Thompson stated typically the parks within a subdivision get dedicated to the home owners association (HOA), and therefore are only for the residents and guests, but Mr. Thompson understands Mr. Plocek's suggestion that if those could be situated where maybe two subdivisions have land adjoining and there are some means of public access, then it could be dedicated to the general public. Mr. Plocek stated it may take the Town contributing to the upkeep of that particular park since the Town was going to look into building a park itself, then the maintenance fees may be cheaper. Mr. Thompson stated hopefully that would also keep the HOA fees lower in those developments and the properties will be easier to sell. Mayor Hocker stated his thanks to Mr. Plocek for offering his assistance and if, later on down the road, Council needs to form a committee with some of the Town residents, the Council will be in touch with Mr. Plocek.

- 14. MOTION TO GO INTO EXECUTIVE SESSION:** Council Member Joan Bennett motioned to go into the **Executive Session** at 7:44 p.m. Council Member Kent seconded the motion. All present voted in favor. Motion carried 5-0.

EXECUTIVE SESSION

- A. Discussion of personnel matters in which the names, competency, qualifications and abilities of individual employees will be discussed.

MOTION TO COME OUT OF EXECUTIVE SESSION AND RECONVENE MEETING:

Deputy Mayor Gordon motioned to come out of the Executive Session at 8:52 p.m. Council Member Kent seconded the motion. Motion carried 5-0.

- 15. ADDITIONAL NEW BUSINESS:** Discussion and possible vote on Executive Session matters.

Deputy Mayor Gordon motioned to approve the matters discussed in Executive Session. Council Member Kent seconded the motion. Motion carried 5-0.

- 16. ANNOUNCEMENT OF NEXT MEETING:** The next meeting will be the Town's workshop on March 25, 2014.

- 17. ADJOURNMENT:** Council Member Kent motioned to adjourn the meeting at 8:56 p.m. Deputy Mayor Gordon seconded the motion. Motion carried 5-0.

Respectfully submitted,
Matt Amerling, Town Clerk