

**MINUTES OF THE MILLVILLE  
TOWN COUNCIL MEETING  
April 8, 2014 @ 7:00PM**

In attendance were Mayor Gerry Hocker, Deputy Mayor Bob Gordon, Council Members Joan Bennett, Harry Kent, and Steve Maneri; Town Solicitor Seth Thompson, URS representative Kyle Gulbranson; and Town Manager Debbie Botchie. Town Clerk Matt Amerling 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. ADOPTION OF TOWN COUNCIL MINUTES**

**A.** Adoption of Town Council Minutes – March 11, 2014

**B.** Adoption of Town Council Executive Session Minutes – March 11, 2014

**C.** Adoption of Town Council Workshop Minutes – March 25, 2014

**D.** Adoption of Town Council Executive Session Minutes – March 25, 2014

Council Member Joan Bennett stated she did not receive item B – the minutes from the March 11, 2014, Executive Session. Town Manager Debbie Botchie stated she was not involved in that meeting so she did not have the minutes. Town Solicitor Seth Thompson stated because no one else on Council received those particular minutes, they will be struck from tonight's meeting and pushed back for approval at the next meeting. Council Member Bennett motioned to adopt the Council minutes from March 11, 2014, March 25, 2014, and the Executive Session minutes from March 25, 2014. Deputy Mayor Bob Gordon seconded the motion. Motion carried 5-0.

**4. ACCEPTANCE OF TREASURER'S REPORT**

Council Member Bennett read the Financial Report for the month ending 3/31/14.

**March 31, 2014:**

General Revenue: \$ 61,189. General Expenses: \$ 30,857.

Restricted Revenue: 26,267. Restricted Expenses: 703.

Council Member Harry Kent motioned to approve the Treasurer's Report for the month ending March 31, 2014. Council Member Steve Maneri seconded the motion. Motion carried 5-0.

**5. ADMINISTRATIVE REPORT**

Town Manager Debbie Botchie had no comments.

**6. PUBLIC HEARING:** Deputy Mayor Gordon motioned to open the **Public Hearing** at 7:03 p.m. Council Member Kent seconded his motion. All present voted in favor. Motion carried 5-0.

## **PUBLIC HEARING**

**A.** Discuss and possible vote on a revision of a previously approved subdivision submitted by Dove Barrington LLC final site plan for Bishop's Landing, Phase 1B, tax map parcels #134-12.00-2852.00 through 2879.00, to reduce the 28-foot-wide townhomes from 28 lots to 20/40-foot-wide villa lots. *Synopsis:* Dove Barrington is asking for revisions to the lot size and number of villa type units to be built in Phase 1B along Lone Cedar Landing to better serve the current housing market trends.

Mr. Steve Marsh, of GMB, stated the reason he is here to seek approval for revised subdivision plans for Bishops Landing, which Council had previously seen the plans at its February 2013 meeting and the original Bishops Landing subdivision approval was at Council's July 2012 meeting. Mr. Marsh stated what Dove Barrington is asking for tonight is a reduction in the number of lots specific to phase 1B, which is the area along Burbage Road. Mr. Marsh further stated as it is currently approved of right now, there are twenty-eight (28) 28-foot townhomes in that area, and Dove Barrington is asking to revise those lots to be twenty (20) lots of the 40-foot wide villa product, so that will be a reduction in density by eight (8) units. Mr. Marsh stated this revision changes for the total project the 40-foot villas increase in number to 86 units, and the 28-foot townhomes decrease in number to 153 units for the total project. Mr. Marsh stated there is no impact to the open space for amenities and Dove Barrington received approval from the Town's engineer URS as well as Tidewater Utilities on the water and Sussex County engineering on the sewer so there would just be a relocation of services to the homes, but the main for the water and sewer does not change. Mr. Marsh further stated the reason Dove Barrington is asking for this is to continue the sales pace that is maintained and there is a great demand for the villa unit product. Mr. Marsh stated when Dove Barrington presented this before the Town's Planning & Zoning (P&Z) Commission at its March 10, 2014, meeting, Dove Barrington received a unanimous vote for a favorable recommendation to Council to approve of this revision.

URS engineer Kyle Gulbranson stated GMB has addressed all of URS's engineering issues, has gotten all agency approvals and there is no change to the drainage plan as the conservation district did not need to reapprove, so everything is in order. There were no comments from the public.

Council Member Bennett motioned to close the Public Hearing at 7:09 p.m. Deputy Mayor Gordon seconded her motion. Motion carried 5-0.

## **7. NEW BUSINESS**

**A.** To consider for approval the application submitted by Dove Barrington, LLC.

Deputy Mayor Gordon motioned to approve the revision to reduce the 28-foot-wide townhomes from 28 lots to 20/40-foot-wide villa lots. Council Member Kent seconded the motion. Ms. Bennett voted yes. Council Member Maneri voted yes. Mr. Kent voted yes. Deputy Mayor Gordon voted yes. Mayor Hocker voted yes. Motion carried 5-0.

**B.** Discuss and possible vote on a preliminary subdivision site plan submitted by Millville Town Center, LLC, in Lakeside Village, formerly 2B-2 South, tax map parcel #134-16.00-02.01 (Part Of), to change the number of lots from 70 quad-plexes to 45 building lots. *Synopsis:*

The P&Z Commission previously discussed and reviewed the Millville Town Center, LLC, site plan to build 70 quad-plexes in 2B-2 South of Millville by the Sea (MBTS); the Commission shelved the matter until Miller & Smith addressed various issues with the plan.

Council Member Maneri recused himself from this item of business. Mr. Chuck Ellison, of Miller & Smith, stated the plans presented to Council tonight are preliminary plans for Lakeside Village which is a continuation and last action of the master plan. Mr. Ellison stated to give Council an idea of where Miller & Smith are with MBTS, and as Council will see on the east side of Sand Dollar Lake, as it is noted in the description of the property on the existing approved master plan, there is a parcel designated for townhouses and Miller & Smith had submitted some plans for some quad-plex product to the P&Z board and it was interesting to everybody but there were some very valid questions which were raised. Mr. Ellison stated as Miller & Smith went back and reviewed the questions raised and took a look at the marketplace, Miller & Smith convinced themselves that perhaps the quad-plex product was not appropriate given that folks were going to be driving through Sand Dollar Village and Miller & Smith would prefer to go with the same product featured in Sand Dollar Village, which results in a significantly smaller development of 45 lots rather than 57 lots. Mr. Ellison stated what Miller & Smith has now created is an extension of Pembroke Lane that will go through the property and eventually cross over the outfall of Sand Dollar Lake and tie into the spine road which leads all the way down to the lifestyle center. Mr. Ellison stated Miller & Smith do not exactly know the orientation at this time because this is a buying process, but Miller & Smith will be extending the road across and, in an interim basis, will tie it up to the streets in Sand Dollar Village phase two and the construction access road constructed some time ago. Mr. Ellison stated the lot sizes and the lot housing price are the same as they are in Sand Dollar, and there will be some other features around the lake, but one of the things Miller & Smith will have to do is relocate a portion of the trail system which is around Sand Dollar Lake today and move it to another particular area, which is proposed to happen first before any further construction so that the trail remains intact and there will also be safety fencing on the outside of the trail as necessary so those using the trail will be protected from the construction site. Mr. Ellison further stated Miller & Smith also have a major stream crossing at the outfall of Sand Dollar Lake and it does require a waters-of-the-U.S. permit which takes a little longer to obtain than a Town permit, so Miller & Smith will not file for the 26 other permits until they've obtained the U.S. permit. Mr. Ellison stated Miller & Smith are pretty comfortable that they can get that permit in the same time frame to keep going, but Miller & Smith believe it was more appropriate to "cap ourselves" to make sure they were "keeping our nose to the grindstone."

Mr. Ellison stated there was one minor adjustment to the orientation of the trail system he would like to share with Council and he went over it with Town Code & Building Administrator Eric Evans, who suggested it would be appropriate to bring before Council tonight. Mr. Ellison stated as he was looking at the trail system and the relocation, he came up with the idea that Mr. Ellison thought would improve the system a bit and it is to push the bridge a further distance so it would cross the lake proper and place a little bay on it so someone may fish off of it. Mr. Ellison stated Miller & Smith would like to make this minor adjustment part of the process tonight if they could. Mr. Ellison further stated he also spoke with Mr. Evans about possibly starting on the bridge before Miller & Smith start on some of the other final approvals, and Mr. Evans stated if it was acceptable for Council, it was fine with Mr. Evans, so Mr. Ellison would

like to get the trail relocated as soon as possible.

Council Member Joan Bennett asked Mr. Ellison regarding needing the permit from the U.S. Army Corps of Engineers, as it regards to the crossover, and capping Miller & Smith's activity at 26 lots, will the 26 lots be further away and closer to the connecting of Pembroke Lane so Miller & Smith are starting to build where Pembroke Lane currently ceases, so that the 26 lots will be away from the area where Miller & Smith are awaiting the bridge approval. Mr. Ellison stated yes, Miller & Smith were not going to specify the exact 26 but the logic is to keep the lane from coming out there. Ms. Bennett asked in terms of the depiction Mr. Ellison presented to Council this evening, Ms. Bennett would like to know if it is procedurally correct for Council to consider and to grant the revision based on the notion that the P&Z Commission has already seen and approved an earlier rendition that did not include this, and Ms. Bennett does not know if it is appropriate for Council to review or approve this adjustment this evening. Mr. Ellison stated if the action is not appropriate, then Miller & Smith will be happy to go through the formal process. URS representative Kyle Gulbranson stated he would think once this is given preliminary approval tonight, that is when the developer goes into the "heavy engineering stage" so those construction plans will come back to the Town for review and Council will also see the plan again at the final plan approval stage with specifications and more detailed plans for the bridge crossing. Mr. Gulbranson stated he thinks what Mr. Ellison is proposing is an aesthetic and function improvement to the original idea. Town Solicitor Seth Thompson stated the difficulty is procedurally there is nothing in the Town's Code which allows for this kind of exception, so even if all of Council considers this adjustment a good idea, there is nothing in the Code that would allow circumventing P&Z, which is there as "an extra set of eyes" to make good determinations for the Town. Ms. Bennett asked if another set of expenses would be incurred to the developer to bring the plan back to Council again to look at the small adjustment. Mr. Thompson stated it is important to keep in mind this is just a preliminary phase, so this is not final approval, and he thinks Council is free to give the developer its thought process, but the final site plan will go before P&Z again before Council. Town Manager Debbie Botchie stated the final site plan does not get reviewed by P&Z. Mayor Hocker stated he considers this change more aesthetic so is this something that can be on the final site plan. Mr. Thompson stated the change certainly can and Mr. Thompson always thinks of subdivision as when the developer is drawing up lots versus the site plan where the developer is putting in the improvements, and this is more of a site plan issue rather than the subdivision of the parcel. Mr. Thompson stated he thinks Council can give feedback on the issue but the Code does not allow for circumventing P&Z. Mr. Gulbranson asked if it would make Council more comfortable if they found the plan is acceptable as is and they want to give it preliminary approval, could there be a conditional approval based on this bridge issue being reviewed by P&Z with a positive recommendation. Mr. Thompson stated Council could do it as Mr. Gulbranson stated and it saves the applicant an extra trip back to Council. Mayor Hocker asked Council if they were OK with Mr. Gulbranson's and Mr. Thompson's suggestion. Council agreed.

Council Member Harry Kent asked, regarding the government approval for closing the drainage area, if the approval will be all-inclusive so it will be for a permanent structure and all of the utility purpose items going through that area. Mr. Ellison stated yes, anytime there is involvement with waters of the U.S., a builder must obtain that permit and it is all-inclusive of everything that is required for that aspect. Mr. Kent asked Mr. Ellison if what he is saying at the

26 approvals, which Miller & Smith hold themselves accountable, is for the implementation of that particular structure. Mr. Ellison stated it is for getting the permit in hand so Miller & Smith can go ahead and build it, but Miller & Smith would still be bonding it in the normal Town procedure process so all of the guarantees would be there. Mr. Kent asked regarding Mr. Ellison alluding to the fact that he does not know where the road is going to go, which Mr. Kent can understand to some degree, but Mr. Ellison has to have some kind of indication of some determination at some point of maintaining the gravel until a permanent road is put in place. Mr. Ellison stated yes, it will be the same construction as Miller & Smith did on the haul road which is 20-foot wide and roughly six inches of stone material so there is a hard surface. Mr. Kent stated his concern is that emergency services would have an alternate access point maintained for their vehicles. Mr. Ellison stated yes and in this particular case, there is a driveway on the adjacent property, so there is another way in. Mr. Kent stated what he is looking at is if Miller & Smith are going to put 26 residences in there, there may be some sort of a situation where a vehicle is either going to have to loop around or traffic may pass through, depending on water conditions and other issues. Mr. Ellison stated what Miller & Smith plan to do with these three crossings is put in a temporary crossing which Miller & Smith can use with timber mats to bridge it, which are solid enough to hold construction equipment so there will be a way in but it will not be the final crossing.

Town Manager Debbie Botchie stated she wanted to clear for the record particularly with the temporary connection to Sand Dollar Village, and how until such time that 26 certificates of occupancy (c.o.'s) are issued, in the previous meeting minutes, it says "26 building permits," which is different from c.o.'s, and Ms. Botchie wants to know which Mr. Ellison meant to say. Mr. Ellison stated he was talking about building permits. Ms. Botchie asked if it was c.o.'s or building permits or both. Mr. Ellison stated both. Ms. Botchie asked if Mr. Ellison was anticipating getting 26 building permits or 26 c.o.'s. Mr. Ellison stated he was anticipating 26 c.o.'s, but Miller & Smith would not start more than 26 homes.

Mr. Gulbranson stated there were a couple of small items on the landscaping plan which can be taken care of and Mr. Gulbranson is comfortable with them as well as the engineering plans. Ms. Botchie stated the Town will get a full landscaping plan at the final site plan review. Mr. Gulbranson stated Miller & Smith have given the Town an idea of the types of plants used and where the plants will be located, but not where which particular type species of plants will be located, but that will come with the final site plan. Mr. Gulbranson stated another final engineering issue was a model design for the trail bridge. Mr. Kent stated he has a concern with the crossing issue, that there is something in plan which indicates that Mr. Ellison and/or Miller & Smith will maintain the crossing until such time that it becomes permanent in place, because it is a safety issue. Mr. Thompson asked if the permit from the U.S. Army Corps of Engineers expires. Mr. Ellison stated if he remembers correctly, Miller & Smith's permit will be valid for three years. Mr. Thompson stated one of the conditions of the permit is to make it permanent, so if Miller & Smith don't do it, Miller & Smith have to answer to the U.S. Army Corps of Engineers. Mr. Gulbranson stated that construction on-site will stop as well. Mr. Ellison stated Miller & Smith will have to be doing a development agreement so Miller & Smith can add the agreement to maintain the crossing until it becomes permanent. Mr. Gulbranson stated Council should make the twenty-sixth c.o. requirement a part of the approval motion.

Mayor Hocker motioned to approve the preliminary subdivision site plan submitted by Millville Town Center, LLC, in Lakeside Village, formerly 2B-2 South, tax map parcel #134-16.00-02.01 (Part Of), to change the number of lots from 70 quad-plexes to 45 building lots, with two conditions as follows:

- 1) That Planning & Zoning review the revision to the trail bridge and submit a favorable recommendation for approval prior to final site plan approval; and
- 2) The permanent bridge be installed prior to the twenty-sixth c.o. issued for the subdivision.

Mr. Kent seconded the motion. Council Member Bennett voted yes. Council Member Kent voted yes. Deputy Mayor Bob Gordon voted yes. Mayor Hocker voted yes. Motion carried 4-0.

#### C. FY15 Organizational Chart – Mayor Hocker

### 8. **OLD BUSINESS**

#### A. Discuss and possible vote on FY15 Budget – Town Manager

Town Manager Debbie Botchie stated administration made the changes spoken of at the last Town meeting, and Town Financial Administrator Betsy Christian inserted everything so it is in order for fiscal year 2015. Mayor Hocker and Deputy Mayor Gordon commended Ms. Botchie for a job well done.

Council Member Joan Bennett motioned to approve the FY15 Town budget. Deputy Mayor Gordon seconded the motion. Motion carried 5-0.

### 9. **PROPERTY OWNERS/AUDIENCE COMMENTS:**

Mr. Paul Ducott, of Huntington Street, stated regarding behind his property, there is a tax ditch and the ditch drains into a pipe which goes across Huntington Street, into a park that is in development, and in the center of that park, there is a drain which has a very large pump attached to it, and that pump is very loud and has been running 24 hours a day, seven days a week for over two weeks. Mr. Ducott this pump and its noise are very loud and an annoyance, and he and other MBTS residents have been told that it is there because the builder is trying to drain the tax ditch behind Mr. Ducott's property because the drain pipe under an empty lot two doors down from him needs to be moved in order for MBTS to sell the empty lot. Mr. Ducott stated Mike Hayman, of Miller & Smith, and Mr. Hayman told Mr. Ducott that "maybe the pump had lost its pride," but Mr. Hayman had men come and fix the problem. Mr. Ducott said the water seemed to recede but the pump is still there, making noise, and it's not doing anything. Mr. Ducott asked for help with this issue. Ms. Botchie asked if the park was what was referred to as Stream Valley. Sally Griffin, of Huntington Street, stated yes, it was called Stream Valley Park but now it's called Huntington Park. Mayor Hocker asked Mr. Ducott if he knows who owns the pump. Mr. Ducott stated he believes the actual pump is owned by Melvin Joseph, and asked if the Town has a noise ordinance. Town Solicitor Seth Thompson stated the Town does have a noise ordinance, but Mr. Ducott would have to call Town Hall and speak with Town Code & Building Administrator Eric Evans to go out, listen, and make a determination if the noise is in violation. Ms. Botchie stated she would take care of passing the complaint to Mr.

Evans.

Linda Kent, of Cypress Point Trail, stated, regarding the volunteers, there will be a Camp Barnes run/walk on May 4, 2014, the volunteers will be at Town Hall stuffing the tax bills in envelopes on May 5, 2014, and, on May 10, 2014, there will be the Ocean View Homecoming but they will not be doing traffic control. Ms. Botchie asked how the Camp Barnes clean-up went. Ms. Kent stated the clean-up went very well and there were at least 25 people there to help open all the bunkhouses. Ms. Kent stated if anyone knows of anyone willing to donate canoes or kayaks to the camp that would be most helpful. Ms. Kent introduced Mr. Dennis Hartline, of Blue Heron Drive, who is a new volunteer with the Town.

10. **ANNOUNCEMENT OF NEXT MEETING:** The next meeting will be the Town's workshop on April 22, 2014.
11. **ADJOURNMENT:** Deputy Mayor Bob Gordon motioned to adjourn the meeting at 7:48 p.m. Council Member Harry Kent seconded the motion. Motion carried 5-0.

Respectfully submitted,  
Matt Amerling, Town Clerk