

**MINUTES OF THE MILLVILLE
TOWN COUNCIL MEETING
July 9, 2013 @ 7:00PM**

In attendance were Mayor Gerry Hocker, Deputy Mayor Jon Subity, Council Members Robert Gordon, Joan Bennett and Harry Kent; Town Solicitor Seth Thompson, and Town Clerk Matt Amerling.

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 AND NOTES

Deputy Mayor Jon Subity motioned to adopt the Council minutes from June 11, 2013. Council Member Joan Bennett seconded his motion. Motion carried 5-0.

4. ACCEPTANCE OF TREASURER'S REPORT

Council Member Joan Bennett presented the Financial Report for month ending 6/30/13.

June 30, 2013:

General Revenue:	\$ 206,469.	General Expenses:	\$ 43,174.
Restricted Revenue:	45,176.	Restricted Expenses:	2,299.

Deputy Mayor Subity motioned to approve the Treasurer's Report for the month ending June 30, 2013. Council Member Harry Kent seconded his motion. Motion carried 5-0.

5. ADMINISTRATIVE REPORT

Town Manager Debbie Botchie was absent and there were no comments or questions.

6. OLD BUSINESS

A. Discussion and possible vote on Bid 14-01 for a Monitored Fire & Security Alarm System. *Synopsis:* At the June Town Council meeting, the Town Manager was directed by Council to draft and promulgate an Invitation to Bid for a Monitored Fire & Security Alarm System for the Town Hall.

Town Solicitor Seth Thompson stated rather than have a pre-bid meeting based on the limited scope, the Town removed that process and questions will be submitted and answers will be provided to all potential bidders in advance to the meeting.

Council Member Bob Gordon motioned to approve sending out the bid packet 14-01 as written for a monitored fire and security alarm system for the Town Hall. Mr. Kent seconded his motion. Ms. Bennett voted yes. Deputy Mayor Subity voted yes. Council Member Kent voted yes. Council Member Gordon voted yes. Mayor Hocker voted yes. Motion carried 5-0.

7. **NEW BUSINESS**

A. Discussion and possible vote on Resolution 14-01. *Synopsis:* Resolution 14-01 authorizes execution of a Cable Franchise Agreement between the Town of Millville and Mediacom Delaware, LLC.

Mr. Thompson stated this resolution is to authorize the execution of the cable franchise agreement drafted with the Cohen Law Group. Mr. Thompson stated there was a prior public hearing regarding this subject in which residents could address their concerns and provide input. Mr. Thompson further stated this Resolution would authorize the Mayor to sign the agreement as it is currently drafted. Mr. Thompson stated he did not draft the document but he could answer anybody's questions. Ms. Bennett stated she would like to clarify that what Council is doing is taking action to authorize the Mayor's signature on behalf of the Town. Mr. Thompson stated yes, that is correct, the Council is approving the agreement via the Resolution. Ms. Bennett asked if the actual verbiage of the agreement over the course of all the meetings was reviewed by Mr. Thompson on behalf of the Town of Millville. Mr. Thompson stated he did review on behalf of the Town. Mayor Hocker stated this Resolution is the same agreement signed by all the neighboring Towns. Mayor Hocker further stated even though this meeting is not a Public Hearing, the public was still welcome to make a comment.

Mr. Paul Weller, of Pembroke Lane, stated it appears from the conversation the audience is overhearing is that Mediacom is going to be the successor to Mediacom and the property owners who know Verizon and know the line was almost placed into Millville by the Sea (MBTS) know there is no comparison between the two. Mr. Weller stated Verizon with FIOS and its Triple Play package is so superior to Mediacom and if anyone had any idea of the headaches the residents have encountered with Mediacom, he believes the Town should think about allowing Verizon to become the cable supplier and not Mediacom.

Ms. Regina McNamara, of Pembroke Lane, stated she has lived in her residence for 15 months and she has had five visits from Mediacom. Ms. McNamara stated the first four visits she had to wait anywhere from 7 to 10 days for a technician to come to her home, and she was the only home involved – so it was not as a result of a storm's power outage – and she had a recent encounter with them on June 28, 2013, in which she had no telephone and internet (she has cable television with another provider), and Mediacom told her on June 28 that they would not be able to service her until July 9, 2013, and she told them that would not be satisfactory. Ms. McNamara stated the next day, June 29, she called Mediacom again and reached another dead end; and on the day after that, June 30, Ms. McNamara was told no one answers the phone on Sundays for technical calls and she would have to call on Monday. Ms. McNamara stated she called on Monday, July 1, and told Mediacom she was not hanging up until she talked to a supervisor because she was not happy with her current situation, and, after talking to three people, she talked to a supervisor who assured her a technician would be at her home that same evening or the next day. Ms. McNamara stated a technician came the next day, July 2, but it took too long for them to respond to a single call – Mediacom's service is nonexistent and they do not have an appropriate number of technicians to service the contracts they have signed with their customers. Ms. McNamara further stated as a consumer, she feels she is "being held hostage" because she has no choice of a telephone and internet provider. Ms. McNamara stated another example is when over Memorial Day weekend, her internet went down for two to three

hours and she found out her neighbors encountered the same difficulty, she talked to a technician from Mediacom and asked if the internet problem was the result of too many people using the internet and the technician said yes, it could be from too many people using it. Ms. McNamara asked if MBTS is still not fully developed yet and they are having a problem with the amount of people using the service, what is going to happen when more people move in and they have to use Mediacom. Ms. McNamara stated Mediacom knows they have a monopoly and the consumers are “being held hostage,” and she would like Council to consider getting another provider so the public has a choice.

Mr. Charles Laskowski, of Coventry, stated he does not have Mediacom but has Verizon FIOS internet, and the problem is Mediacom never placed cable down. Mr. Laskowski stated he prefers Verizon and having two providers so there is some competition, the consumer can negotiate prices. Mr. Laskowski stated he is currently “locked in” with DirectTV and Verizon, and for Mediacom to now come in, they are going to have to dig up the streets to lay down cables. Mr. Laskowski stated he thinks the study is obsolete and should be revisited because he read that Bethany that Verizon is only supposed to only come down as far as Indian River, but now they are down in Millville.

Mayor Hocker stated he appreciates the public’s comments and he would advise the public obtain a copy of the Resolution to read because there are some levels of service that Mediacom has to obtain, therefore, each of the audience are due for a credit. Ms. Carol Weller, of Pembroke Lane, stated that the credit is not giving the public a choice nor is it correcting the difficulty the public is having with Mediacom. Ms. Weller asked why her current company (Mediacom) should be the sole provider. Ms. Weller stated this is the United States, the public has choices, and this is a monopoly.

Mr. Thompson stated to clarify the Resolution; this is a non-exclusive license agreement so if there is another provider which is willing to come in to the Town, the company could approach the Town about coming in to provide service. Mr. Thompson stated this agreement is not to say that people can only choose Mediacom. Ms. Weller stated she and her husband were told when they first bought their home that Mediacom was “the only game in town,” but Mr. Laskowski, who lives right down the road only 500 or 1000 feet away, has Verizon. Mr. Laskowski stated Verizon will not provide video (cable) because of Mediacom, who Verizon says runs the cable in the area. Mayor Hocker stated Verizon would have to approach the Town, and he thinks a while ago Comcast approached Mediacom about providing cable, but Mediacom would not acquiesce, and Comcast ended up declining to be in the area. Ms. Weller asked why that would happen because the providers are fighting to get into certain places and this all seems territorial. Mayor Hocker stated Council cannot ask the question of why a certain provider comes in. Ms. Weller stated the public have to ask questions and that is what the public are asking the Town to do. Ms. Weller further stated she – and the rest of the attendants – wants a choice, and she has spoken with other people who have had difficulty and they want a choice. Ms. Weller stated there was a consumers report which rated Mediacom as one of the lowest quality providers. Mayor Hocker asked, as a consumer, has she tried to contact Verizon and ask them to come to the area. Ms. Weller stated she went to Verizon and they said it is Mediacom and she cannot believe Verizon or Comcast are afraid of Mediacom and no other provider is allowed to come into this area – it feels like there is a “silent agreement” between the companies not to service particular areas, and the public are the ones being punished. Mayor Hocker stated Council or the

Town cannot tell any company they cannot come to our area. Ms. Weller stated she knows the Town is not telling a provider they can or cannot come to our area, but rather it seems like there is a silent agreement between all of the providers.

Mr. Weller asked if the Council would suggest getting a petition going between the developments (MBTS, Coventry, etc.) to approach Verizon about coming to the area. Mayor Hocker stated if he put that upon himself to do that, it would be fine, but the Town could not be involved in the process. Mr. Steve Maneri, of Pembroke Lane, stated what was told to the public the middle of last year was there were trenches dug and Verizon put in the cables, which went up Substation Road, Beaver Dam Road, and that area. Mr. Maneri stated MBTS had a Home Owners Association (HOA) meeting and they invited the “heads” from Verizon to attend, and Verizon told the HOA that Verizon could provide internet and telephone but they could not provide video (cable) because Mediacom is the only provider for video in the Town of Millville, but if Millville will let us, we can provide the video. Mr. Maneri further stated Verizon told him all Verizon would have to do is go to their substation on Central Avenue and Route 26, and Verizon would “fix it” so the video could run through, but Verizon could not do that until the Town set up an agreement with Mediacom. Mr. Thompson stated Verizon could be concerned they would be in an exclusive agreement, but that is not exclusive. Mr. Thompson further stated Verizon’s business model somewhat prevents it because if they had more people in Town, they may think it is more worthwhile to lay down the wires. Mr. Thompson stated in terms of legality, this Resolution is non-exclusive so if Verizon wants to come in and file an application for a new franchise with the Town, that is fine. Mr. Thompson stated the only thing the agreement does is it would require the Town to negotiate with Mediacom if the Town – for some reason – gave Verizon a less cumbersome deal. Mr. Thompson stated it sounds to him when Ms. Weller says there is a “silent agreement,” it would be an agreement between providers if they feel there might not be enough of a market for two or more providers in the same Town, but the Town is not in control of how they do their business. Mr. Thompson stated what the Town is in control of is its licensing and, again, this Resolution is non-exclusive, which allows the public to have the choice if two businesses feel it makes financial sense to provide that choice.

Mr. Maneri asked if Verizon approached Council with providing Verizon’s video, would it be fine with Council to permit Verizon as a provider. Mr. Thompson stated yes, but Verizon would have to be the ones to apply. Mr. Thompson stated this Resolution with Mediacom allows that to happen. Mayor Hocker stated it is the same agreement the neighboring Towns have with Mediacom.

Deputy Mayor Jon Subity motioned to approve Resolution 14-01 as written. Mr. Gordon seconded his motion. Ms. Bennett voted yes. Deputy Mayor Subity voted yes. Council Member Kent voted yes. Council Member Gordon voted yes. Mayor Hocker voted yes. Motion carried 5-0.

B. Discussion and possible vote on Ordinance 14-01. *Synopsis:* Ordinance 14-01 amends Chapter 48, § 48-01 of the Town of Millville Code to adopt the building construction standards in the International Building Code 2012 Edition and the International Residential Code 2012 Edition, with exemptions.

Mr. Thompson stated this Ordinance is a “housekeeping Ordinance” in which the Code currently references to the 2003 International Building Code (IBC) and International Residential Code (IRC) and this updates it so it is the 2012 edition. The only substantive items being added are in terms of the IRC, the exceptions provided now in the Town’s Code would be that a landing is not required in the exterior of a sliding door, and an automatic fire sprinkler system would not be necessary for one of two family dwellings in townhouses. Mr. Thompson stated those exemptions exist in the Sussex County Code, so that is why the Town’s Code Enforcement Officer thought the exemptions made sense for the Town.

Council Member Kent motioned to adopt the amendment to Ordinance 14-01 as written. Deputy Mayor Subity seconded his motion. Council Member Bennett voted yes. Deputy Mayor Subity voted yes. Council Member Kent voted yes. Council Member Gordon voted yes. Mayor Hocker voted yes. Motion carried 5-0.

C. Discussion and possible vote on the Town Manager’s letter to the Office of State Planning Coordination regarding the Comprehensive Plan 5 year review. *Synopsis:* The Town’s 2008 Comprehensive Plan was certified by Governor Markel in February of 2009. The State Code requires municipalities to review their adopted comprehensive plan every 5 years to determine if its provisions are still relevant given changing conditions in the municipality or in surrounding areas.

Mr. Thompson stated the background on this letter is the wetlands mitigation site is not in Town however, DelDOT put the deed restrictions on that particular parcel, and DelDOT had proposed a couple of improvements which would fit within the deed restrictions. Mr. Thompson further stated DelDOT had not formalized the agreement on that so the Town is looking to the Office of State Planning (OSP) to help out the Town to move that process along in having whatever can be done while still in compliance with the deed restrictions for the mitigation to beautify that parcel. Ms. Bennett stated she had a question about the discussion and possible vote on the agenda tonight and whether it is relative particularly to the potential adoption of the 5-year comprehensive plan review and the June 26, 2013, letter to Dorothy Morris wherein the third paragraph, the letter talks about an excerpt in the report and addresses the Town’s concern regarding the parcel across the street from Town Hall. Ms. Bennett stated before she could vote on this item, she wants to know what the intent or effect of paragraph three in the June 26 letter to Dorothy Morris would be. Ms. Bennett further stated she wants to know if Council needs to incorporate the intent into Council’s action this evening as it regards item 7C on tonight’s agenda or not. Ms. Bennett further asked if Council is only seeking advisory help or does Council wish to incorporate the language from paragraph three in the June 26 letter into Council’s motion this evening as it regards the 5-year comprehensive plan. Mr. Thompson stated from his perspective, he thinks the Town Manager wanted the Council’s blessing in going into a meeting with OSP that this language was something the Council supported in terms of the OSP’s assistance in trying to rectify the situation across the street. Ms. Bennett asked Mr. Thompson if he’s seeing it as being outside of any action or motion Council would make regarding item 7C, and it may not be incorporated as a request for advisory assistance. Mr. Thompson stated he sees it as the Town Manager wanting to make sure she is not misrepresenting Council’s position with regard to what they would like to see done on the parcels. Ms. Bennett asked if the two items are exclusive of each other. Mr. Thompson asked in terms of the letter, was she looking at it as something different from the actual Town resident

plan. Ms. Bennett stated the letter does talk about the implementation of the comprehensive plan in the second paragraph and that is where she makes the connection between the two items and she is now wondering if it was the intent to ask Council to include in Council's action tonight – should there be any – on the implementation of the 5-year review of this item but she does not know for sure. Mr. Thompson stated he does not want to speak for the Town Manager other than his impression of what he sees here. Ms. Bennett asked if it was appropriate for Council to ask for advisory assistance as part of this action but she does not want to misstep. Mayor Hocker stated what he thinks the Town Manager is asking is for OSP's assistance before Council completes the 5-year review, because it is obvious DelDOT is not going to do anything with the corner property and the property is becoming an eyesore. Mayor Hocker stated at this point, the Town Manager is asking for help beyond the Town and she is asking for permission to merely send the letter presented. Ms. Bennett stated that was what she wanted to know.

Council Member Kent motioned to approve the Town Manager's letter as written. Mr. Gordon seconded his motion. Council Member Bennett voted yes. Deputy Mayor Subity voted yes. Council Member Kent voted yes. Council Member Gordon voted yes. Mayor Hocker voted yes. Motion carried 5-0.

8. PROPERTY OWNERS/AUDIENCE COMMENTS:

Mr. Paul Weller, of Pembroke Lane, MBTS, stated he thought the total discussion of tonight's meeting should be recorded in the meeting minutes. Mr. Weller asked who was responsible for making sure the water wheel at Roxana Road and Burbage Road turned. Mayor Hocker stated the current owners of MBTS would be responsible for the wheel.

9. ANNOUNCEMENT OF NEXT MEETING:

Mayor Hocker announced the workshop scheduled for July 23, 2013, was cancelled and the next meeting of the Council would be on August 13, 2013.

10. ADJOURNMENT:

Council Member Gordon motioned to adjourn the meeting at 7:36 p.m. Deputy Mayor Subity seconded his motion. Motion carried 5-0.

Respectfully submitted,
Matt Amerling, Town Clerk