

## **Planning and Zoning Commission Meeting June 10, 2013 @ 7:00pm**

In attendance were Chairman Bob Linett, Commissioners Jim Koozer, Christine West, and Susan Brewer, URS Representative Kyle Gulbranson, Town Manager Debbie Botchie, and Town Clerk Matt Amerling. Commissioner Steve Maneri was absent.

- 1. CALL TO ORDER:** Chairman Bob Linett called the meeting to order at 7:00 p.m.
- 2. PLEDGE OF ALLEGIANCE**
- 3. ADOPTION OF MEETING MINUTES – May 13, 2013:** Commissioner Susan Brewer motioned to accept the adoption of the minutes from the May 13, 2013, Planning & Zoning (P&Z) Meeting. Commissioner Christine West seconded her motion. Motion was carried 4-0.
- 4. NEW BUSINESS:**
  - A.** The Town Manager and the Planning & Zoning Commission will begin the five (5) year review on the 2008 Millville Comprehensive Plan which was approved by Governor Markel in 2009. Synopsis: Comprehensive development plans are required by 22 Del Code, §702. At least every 5 years a municipality shall review its adopted comprehensive plan to determine if its provisions are still relevant given changing conditions in the municipality or in the surrounding areas. The adopted comprehensive plan shall be revised, updated and amended as necessary, and readopted at least every 10 years.

Mr. Kyle Gulbranson, of URS, stated Delaware state law requires that every five (5) years, a community has to review its comprehensive plan to make sure it is still relevant, and if it is not relevant, then the community has to suggest changes; and to review the plan, and if it is still relevant, then simply contact the State and inform them. Mr. Gulbranson stated knowing the Town's plan, he does not think there are any dramatic changes, but he believes the Town population has changed since the 2010 census, and the population is now probably around 700 residents. Town Manager Debbie Botchie stated she and Mr. Linett looked at the population trends and projections which stated the 2010 year-round occupancy would be 704, but the Town is currently at 544. Mr. Gulbranson stated the census was nearly three years ago, so Mr. Gulbranson imagines the Town population may be around 800. Mr. Gulbranson stated it is the Planning & Zoning (P&Z) Commission's task is to meet, review the plan, and decide whether the plan is an accurate depiction of the Town's fundamentals, growth scenario and the goals are still relevant. Mr. Gulbranson stated the Town's implementation items – unless there's been some fundamental change – should be the same. Mr. Linett stated the fundamental aspect is whether the Town's implementation items might change and how to prepare in case they do. Mr. Gulbranson stated the projected growth rate is – based on today's economy – overestimated, unless the economy does a "miraculous turnaround." Mr.

Gulbranson stated Millville is very fortunate in that the Town has the rate of development that a lot of Towns in the area do not have, including communities to the east, but even with the growth, the rate is still overestimated. Ms. Botchie stated the comprehensive plan stated in 2015, the population would be 1600, so Ms. Botchie asked Mr. Gulbranson if he thought the Town should go back and decrease the number of the growth rate expectancy. Mr. Gulbranson stated the Town could if it wanted but it did not have to change the number. Mr. Linett asked about how the estimate of the growth rate was achieved. Mr. Gulbranson stated the number was estimated from the number of improved units in Town, but this number was estimated in 2008. Mr. Gulbranson further stated at the end of 2008 – after submission of the comprehensive plan – the end of the housing boom occurred. Ms. Botchie asked if the overall comprehensive plan affects the numbers. Mr. Gulbranson stated no, not changing the rate has no impact on the plan.

Mr. Jim Koozer asked when the next interim review would be held. Mr. Gulbranson stated the next review would be in another five (5) years – February 2019. Mr. Koozer asked if the Town could hold a review on 2015, because it may be more helpful to review in two years – or every two years – as opposed to five years. Mr. Gulbranson stated the Town could if they wanted to do it, and just because the State says every 5 years, the Town could hold a review any time. Mr. Koozer asked what the State reviews on the comprehensive plan. Mr. Gulbranson stated the only thing the Delaware Office of State Planning Coordination (OSPC) looks at is to check off that the Town review has been done and Mr. Gulbranson does not believe the State Planning Office will nitpick at every item on the plan. Mr. Linett asked, regarding the areas of concern, is the State or County supposed to tell the Town about their concerns or is the Town supposed to be proactive and ask the State about the concerns. Mr. Gulbranson stated the State is supposed to tell the Town but Mr. Gulbranson does not know who is looking at the comprehensive plan concerns. Mr. Linett stated his main reason for asking is because he and Ms. Botchie were talking about the connectivity to Glen Cove, which is not in the Town's limits, and how there will be a break in the sidewalks. Mr. Gulbranson asked where the development is located. Ms. Botchie stated Glen Cove is right next to Dove Landing on Burbage Road. Mr. Gulbranson located Glen Cove and stated the community is definitely in the Town's area of concern and the Town has every right to ask questions of the State and County. Ms. Botchie stated Bob Harris bought the property and the community is called Glen Cove at Coventry, and Mr. Harris talked about annexation with the Town but Bill Davy told Mr. Harris that the Town's fees are too high. Mr. Gulbranson stated on an issue like breaks in a sidewalk, the Town should work with DeDOT on their entrance improvements and tell DeDOT the Town wants a continuous sidewalk.

Mr. Linett stated the sidewalk at Bishop's Landing is really nice and asked if the sidewalk connectivity is in the Town's residential planned community (RPC) or did the Town create Bishop's Landing as a RPC as an additional condition? Mr. Gulbranson stated the RPC requires connectivity and when the site plan was first reviewed, the connectivity was stressed. Mr. Linett stated the connectivity was not required and the Town suggested it. Mr. Gulbranson stated he thinks it is required although the requirement is vague in that it says there will be

sidewalks and walkways, providing connectivity. Ms. Botchie asked Mr. Gulbranson about how the sidewalks will work on Substation Road because there will be sidewalks on Windmill Road, because of DeIDOT, and then going down to Burbage Road where Bishop's Landing is located, then on Substation Road. Mr. Gulbranson stated when the Town goes through the site plan process for each individual community phase of Millville by the Sea (MBTS), P&Z needs to make sure those pathways and sidewalks are there and that is in the Town's comprehensive plan as a goal. Mr. Gulbranson further stated DeIDOT – as part of their entrance permit process – is requiring all new developments to have that pathway from in the street, like on Windmill Road, and it was done to Bishop's Landing, which can look odd sometimes because there is development out in the middle of nowhere with a five-foot-wide bicycle path parallel to the road; however, the plan is to have a future development fill in the empty areas so more pathways and sidewalks interconnect the various developments. Mr. Linett stated there are places in Millville along Windmill Road and Burbage Road that are not a part of the Town. Ms. Botchie stated she thought DeIDOT was taking care of the one side of Windmill Road, in which case that road would not be of concern to the Town. Mr. Gulbranson stated the issue takes P&Z back to the question of "Does the Town have the right to inquire about development in the Town's area of concern?" Mr. Gulbranson stated yes, P&Z and the Town do have the right, and the Town can contact DeIDOT to tell them to make sure the connectivity is developed. Ms. Botchie stated to contact DeIDOT and not Connie Holland, and asked who the Town should specifically contact. Mr. Gulbranson stated the Town should contact DeIDOT first, sending a letter about the Town's concerns of connectivity. Ms. Botchie asked who the Town should specifically contact at DeIDOT, would it be Gemez Norwood who does most of the entrance permitting. Mr. Gulbranson stated someone from DeIDOT's southern division.

Mr. Linett stated when Mr. Gulbranson helped put the Town's comprehensive plan together, there were several categories, such as the "community character" category, land-use annexations, open-space environmental protection, and community service utilities. Mr. Linett stated when people move down to this town, it's not just for "the smell of the ocean" but also for the small-town character, and the Town seems to be growing because of this draw. Mr. Linett further stated, with growth, that "small-town" character begins to go away, but the Town can try to maintain it. Mr. Linett stated when someone drives through Dagsboro, there is a feel of "small-town," however, there is no such feel when driving on Route 26/Atlantic Avenue. Mr. Gulbranson stated one has to wonder why that is because the same volume of traffic that drives through Dagsboro drives through Route 26. Mr. Linett stated he thinks the Town should focus on maintaining the small-town atmosphere, and if there could be park benches on the corner of intersections and small trees along the sidewalks, then that might help bring the "small-town" feel to the Town. Ms. Botchie stated she and Mr. Linett have not given up on the streetscape plan, which will have trees and plants as well as the sidewalks, and even though the funding is still there, the project had been put on hold. Ms. Botchie further stated she has to focus on getting the streetscape back on track. Mr. Gulbranson stated Dagsboro does have connectivity issues in that it is difficult to get from one side of the road to the other because of no crosswalk due to traffic. Ms. Botchie stated she has some ideas and the next process is to get the sidewalks installed at Cedar Cove. Mr. Koozer asked if she could

enforce a code to have the sidewalks installed immediately. Ms. Botchie stated with this project, the land owner has to donate the property. Mr. Koozer stated Route 26 is keystone to the “small-town feel” the Town wants to capture, and MBTS has it with the lifestyle center located at the entrance. Mr. Koozer further stated the other good news is the latest developers who are building in Millville are building correctly. Mr. Gulbranson stated there will be large portions of the Town that will be created the right way, but it is really difficult to recreate the “small-town” feel through zoning. Mr. Gulbranson stated Dagsboro, for instance, could burn down tomorrow and because of the contemporary zoning, it would be difficult to rebuild that same “feel.” Mr. Gulbranson stated Millville has town center zoning so the Town may be able to build up the “small-town” look like Dagsboro. Ms. Botchie asked if the area on the west side for tree mitigation and a park would work together. Mr. Gulbranson stated a person would think so, and he wonders why the State chose the site in the middle of the community for wetland mitigation and tree mitigation. Ms. Botchie stated she listened to some past meeting minute recordings, and Senator Bunting kept asking, “Why did you pick the middle of Millville when you have 150 miles of watershed?” Ms. Botchie stated Tom Banez said, “We walked the corridor and this was the best space,” to which Senator Bunting said, “No.” Ms. Botchie further stated Tom Banez was supposed to have a meeting with the Town and the Army Corp of Engineers but that did not happen, and he probably thinks the Town has forgotten about it but the Town has not. Mr. Linett stated the Town has already let the State “get away with murder” on the instance there is a sewage pump station across the field from Town Hall, and it is just sitting there with nothing there to mitigate the station, which is “just wrong.” Ms. Botchie stated the State said there would be buffers and landscaping. Mr. Linett stated the buffer statement is what is always said – particularly from developers – but if the Town does not tell the developers exactly what the Town wants, the developers will minimize the buffer. Mr. Gulbranson stated DelDOT does not have to go through the Town’s developer process and DelDOT will give the Town what they give the Town. Ms. Botchie stated DelDOT submitted two plans. Mr. Linett stated the Town has plans in the developments too, but the developer does not stick to the plan. Ms. Botchie stated she thinks the Town still has leverage because of what the State did and how they did it. Mr. Koozer stated for good or bad, the Town has a new senator too. Ms. Botchie stated she thinks Senator Bunting did a fine job and Senator Hocker will do a fine job too. Mr. Koozer stated it is critical to get the new representative “up to speed.”

Mr. Linett stated he thinks the P&Z has used every avenue, but there is one thing not working. Mr. Linett further stated there is something called intergovernmental coordination and it is broken – it is broken in that no one has talked to P&Z about the particular area for tree and wetland mitigation and how to handle it for interconnectivity, it is broken in that the sewage station was placed where it is across from Town Hall and no one said anything to the Town about it. Mr. Linett stated he thinks the Town should have DelDOT come to a Town Council Meeting or Workshop, and have them explain what the State is going to do. Mr. Koozer asked if P&Z can be more specific to the Town’s goal in those discussed areas. Mr. Linett stated yes. Mr. Koozer stated P&Z should put the review in right now. Mr. Gulbranson asked if P&Z would be satisfied with just a report to State. Mr. Linett stated no, and right now P&Z is asked for a letter

for progress, and P&Z can now say the Town is reviewing for progress but during the 5-year review, the Town is noticing one problem with the plan which is the intergovernment coordination. Mr. Linett further stated P&Z should report to the State that is a concern and in conducting this review, the Town is going to provide more specific details regarding what is expected from the County and State, and if either one would like to talk to the Town beforehand, then that is encouraged. Ms. Botchie stated she liked that idea. Mr. Linett stated P&Z gave the State a very detailed report. Mr. Gulbranson stated Delaware has a unique PLUS review of all development projects and in the early stages it has worked well, but now it has lost some of its relevancy. Mr. Koozer stated what should also be stated is if the Town continues to seek DelDOT support and it is no longer there, the bond is falling apart. Mr. Linett stated the Town sent DelDOT a letter a long time ago when Mr. Gulbranson created a picture of a proposed park for the Town. Mr. Koozer stated the Secretary at DelDOT has changed and the dynamics of the department have changed. Mr. Gulbranson stated the new Secretary of DelDOT is very "pro-connectivity." Ms. Botchie stated the new Secretary sent Mr. Cauley down to the Town because he (the Secretary) could not attend, and the new Secretary got the Town's timeline of what happened regarding the Army Corp of Engineers, but the Secretary just came on board and Mr. Cauley is gone so the Secretary may need a "refresher." Ms. Botchie further stated she was going to work with Town Solicitor Seth Thompson to work through the information. Mr. Gulbranson stated a good way to approach this concern is to submit it in the Town's annual report and P&Z can look at it through the plan, and he would ask for recommendations from the State how to better force agencies to talk. Ms. Botchie stated the Town has a tree mitigation and a wetland mitigation and the acreage is small so a park with the trees may work. Mr. Linett stated he does not want to merely hear about a fence being placed around the sewage station, but rather about the details regarding trees, shrubbery, etc. Ms. Botchie stated Tom Banez said it was dangerous placing a walking trail too close to a stormwater pond. Mr. Linett stated the real issue is what the State "feeds" to the Corp of Engineers. Ms. Linett further stated if the State wants to begin mitigation, then the State should do it right and perform some mitigation behind Town Hall where the wooded area is located, then there might be a nice park for utilization during Town Hall events such as the Millville Farmer's Market. Mr. Gulbranson stated up in New Castle County, where people are more vocal and influential about what they want, DelDOT has an entirely different standard for bridges up there. Ms. Botchie stated she thinks this would be a good discussion at the next working group to see what they have to say to the Town, and the Town would like to see the design for bridges. Mr. Gulbranson stated because the bridge is right on the line of Ocean View and Millville, it might be worth the time to talk with the Town Manager of Ocean View.

Mr. Gulbranson stated P&Z has the tools they need and the plan, but the implementation needs to be stepped up. Mr. Gulbranson further stated if P&Z thinks it needs corner parks along Route 26, then the Town needs to do a park plan, target some areas, be a little more aggressive about it and make it happen. Mr. Koozer stated the Town needs at least one. Mr. Gulbranson stated the Town's plan states that the Town is going to do a park plan so that's fine. Commissioner Christine West stated a dog park would be a good addition. Mr. Koozer stated the problem with dog parks is that they are controversial in that if the Town does not label the

park as such, problems might arise, so he thinks the Town should stay away from adding a dog park and have a regular park. Ms. Botchie asked in regards to the park, would it be something as part of a write-up to the State stating the Town is trying to implement the park plan but the intergovernmental process is not working. Mr. Gulbranson stated he thinks the Town has to draft its annual report and discuss the items, telling the State the Town is having difficulties with the mitigation situation and the Town feels intergovernmental and interagency communication is bad and rapidly getting worse to which the governor will probably have a fit when hearing this because DelDOT is supposed to be improved. Mr. Koozer stated each new Secretary of DelDOT may not necessarily want to adopt the same policy as their predecessor. Mr. Linett stated P&Z could write a letter back to OSPC regarding the intergovernmental communication and send a copy to DelDOT and the Department of Agriculture. Mr. Gulbranson stated right now the Town has a Governor who is very supportive of bikeways and walkways and getting people active, and he is pumping a lot of money into these types of projects. Mr. Koozer stated his concern about the current DelDOT Secretary not supporting the previous Secretary's policies. Mr. Linett stated the proposal that the Town could invite the Governor to come to Millville and take a tour of the roads. Ms. Botchie stated to Mr. Linett that he should draft a letter to the Governor regarding the project and, before it gets constructed, to see what is happening. Mr. Koozer stated not to forget Senator Hocker. Ms. Botchie stated to add Representative Ronald Gray as well. Mr. Gulbranson stated when he looked through the comprehensive plan, he thought there were only possibly two aspects to be slightly tweaked – if the Town wanted to change them, which is not necessary: (1) incorporate the new census data, and (2) with Beebe, he does not know if the Beebe commercial property will move forward or not, so if there are any mapping changes, the Town might want to think about that space. Mr. Gulbranson stated the border change of the school property which now falls in Ocean View. Ms. Botchie stated MBTS asked Beebe to relocate across Route 17, exchanging property, but Beebe was not too excited about the idea so they agreed to move south 300 feet. Mr. Gulbranson stated if the commercial area is pushed further south, MBTS is getting further away from the commercial core of the Town.

Ms. Botchie stated the enclave is an area of interest to annex into the Town, but 22 acres of the property is wetlands, and only 14-15 acres can be built on. Commissioner Susan Brewer asked who owns the property. Ms. Botchie stated the property owner's name is Jean Athen and it is the horse farm. Mr. Koozer asked if the Town has ever contacted Ms. Athen for annexation. Ms. Botchie stated Ms. Athen has been in Town Hall every year since Ms. Botchie started working at Town Hall, asking to annex into the Town, but Ms. Athen is not in favor of a residential zoning. Ms. Botchie asked regarding the area of interest (horse farm property) for commercial, what are people's thoughts about the area and why was it deemed residential. Mr. Gulbranson stated the land was deemed residential because it was 50% wetlands, being used for a horse farm, and it was not a part of MBTS. Mr. Gulbranson asked with which kind of land use is Ms. Athen interested. Ms. Botchie stated the land has always been on the commercial side and that it is AR1 (agricultural-residential). Mr. Gulbranson stated MR1 is residential and asked if Ms. Athen wanted the land commercial. Ms. Botchie stated Ms. Athen did want the property as commercial. Mr. Gulbranson stated the land is adjacent to what is supposed to be the

commercial portion of MBTS. Mr. Linett asked if the commercial land to the left (west) of Route 17 is a part of Millville. Mr. Gulbranson stated no, it is owned by Sussex County. Mr. Gulbranson stated even if the Town designated the land as commercial, the land is still AR1 according to the County. Mr. Linett asked if the Town designating the property as commercial means nothing. Mr. Gulbranson stated the next time County does their plan, County is supposed to coordinate with the Town. Mr. Linett stated at the intersection of two roads, making a land commercial does not make sense, but if the Town provides the opportunity to go commercial, then the Town is not creating an incentive to utilizing Atlantic Avenue. Mr. Linett further stated if the Town wants to zone someplace in – for example – Creekside Plaza, the value of Creekside Plaza could rise by not having commercial property in Town on Route 17. Mr. Gulbranson stated the thought was there would be a larger-scale commercial area on Route 17 and it was going to grow with the number of medical offices and other commercial buildings. Mr. Gulbranson stated the Town has heard a number of businesses state they want to be located along Route 26 and not on Route 17. Ms. Botchie stated the “big box” stores want to be on Route 26 and not on Route 17, which is not going to happen because it goes against the “small-town” feel. Mr. Gulbranson stated the parcels are too small along Route 26 for a massive store, unless the developer can persuade several property owners along Route 26 to sell them their property to create a parcel big enough for the proposed store.

Mr. Linett asked if there was anything P&Z has not spoken about already which may be missing from the plan. Mr. Koozer, Ms. West and Ms. Brewer stated no. Mr. Linett asked if P&Z should just look at the issue of keeping the “small-town” look and feel. Mr. Koozer stated yes. Mr. Linett stated P&Z can write the letter regarding the status of the Town as well as the problem with the intergovernmental communication. Mr. Linett further stated Ms. Botchie should talk to the Mayor and Town Council and tell them P&Z is happy with the way the comprehensive plan stands but it is a question of implementation of the “small-town” feel, which means working aggressively with DeIDOT to straighten out the road issue as well as the Town’s bridges and let DeIDOT know the Town is serious to getting this all done. Mr. Linett stated if Council agrees, then P&Z will write the plan in to implement working aggressively with DeIDOT, and begin moving forward with implementing the Town’s comprehensive plan. Ms. Botchie asked in terms of zoning if everything stays where it is. Mr. Gulbranson stated for now, yes. Ms. Botchie asked if someone were to petition for annexation, and it is an area which is inconsistent with the Town’s comprehensive map. Mr. Gulbranson stated the Town would turn in a map amendment. Ms. Botchie asked if the map would go to P&Z before the petition is sent to PLUS review. Mr. Gulbranson stated P&Z would have to review the map, sent to Council for approval, and would not have to go to PLUS review if the building were commercial and less than 50,000 square feet or if it were residential and under 50 residential units. Mr. Gulbranson further stated the property Ms. Botchie was speaking about on Burbage Road does not have to go through a PLUS review because it is under 50.

Mr. Koozer asked on the census if anyone knew the total number of residents. Ms. Botchie stated the census just looked at full-time (year-round) residents and in 2010, it was 544.

**5. PROPERTY OWNER/AUDIENCE COMMENTS:** There were no audience comments.

**6. ADJOURNMENT:**

Ms. West motioned to adjourn the meeting at 8:06 p.m. Ms. Brewer seconded her motion. All present voted in favor. Motion passed 4-0.

Respectfully submitted and transcribed  
by Matt Amerling, Town Clerk