

**MINUTES OF THE MILLVILLE  
TOWN COUNCIL MEETING  
June 10, 2014 @ 7:00PM**

In attendance were Mayor Gerry Hocker, Deputy Mayor Bob Gordon, Council Members Harry Kent and Steve Maneri; Town Solicitor Seth Thompson, URS representative Kyle Gulbranson; and Town Manager Debbie Botchie and Executive Assistant Matt Amerling.

**1. CALL TO ORDER:**

Mayor Gerry Hocker called the meeting to order at 7:12 p.m.

**2. PLEDGE OF ALLEGIANCE TO THE FLAG**

Mayor Hocker led the pledge of allegiance. Mayor Hocker stated he wanted to add to the agenda the appreciation and recognition of former Council Member Joan Bennett who is no longer a Town resident and resigned her seat on the Council. Mayor Hocker stated it was a pleasure to have Ms. Bennett as a council member and wished her the best of luck in all of her future endeavors.

**3. ADOPTION OF TOWN COUNCIL MINUTES**

**A.** Adoption of Town Council Minutes – May 13, 2014

**B.** Adoption of Town Council Executive Session Minutes – May 13, 2014

Council Member Harry Kent motioned to approve the Council and Executive Session minutes for May 13, 2014. Deputy Mayor Bob Gordon seconded the motion. Motion carried 4-0.

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

Town Manager Debbie Botchie read the Financial Report for the month ending 5/31/14.

**May 31, 2014:**

General Revenue:	\$	134,706.	General Expenses:	\$	38,471.
Restricted Revenue:		31,709.	Restricted Expenses:		10,842.

Deputy Mayor Gordon motioned to approve the Treasurer's Report for the month ending May 31, 2014. Council Member Kent seconded the motion. Motion carried 4-0.

**5. ADMINISTRATIVE REPORT**

Town Manager Debbie Botchie stated the Town's total cash assets have finally broken the \$6 million mark with \$6,158,301.00.

**MOTION TO ENTER PUBLIC HEARING**

Deputy Mayor Gordon motioned to enter the public hearing at 7:20 p.m. Mr. Kent seconded the motion. Motion carried 4-0.

**1. PUBLIC HEARING**

A. Public Hearing Notice – Secretary Harry Kent

B. Written Comments – Town Manager

C. Review and discuss the final subdivision site plans submitted by Millville Town Center LLC, located on Tax Map Parcel 134-12.00-380.00 (Part Of), in the Millville by the Sea Master Plan Development. The applicant is proposing a total of 83 lots in Summerwind Village. *Synopsis:* The Planning and Zoning (P&Z) met on October 21, 2013 to review the preliminary subdivision site plans and voted 3-0 that Town Council approve said plans with specific reference that consideration be given to assure the uniformity of setbacks, traffic circles are provided with adequate signage for safety reasons, and provided with landscaping including required irrigation, as well as the developer will re-record the entire community of 2C-3 and 2C-4, which includes the model village and Summerwind Village as one complete phase.

Council Member Steve Maneri recused himself from this item of business. Ms. Botchie stated there were no public written comments to read. Mr. Chuck Ellison, of Miller & Smith, introduced Mr. Ron Sutton, of CEA, who was also present to answer any questions from Council. Mr. Ellison stated this is the next village of homes across from the lifestyle center, and all of the agency reviews have been held. Mr. Ellison stated he is showing the preliminary plan tonight as since there are changes between the preliminary and the final, showing the older plan might be an easier way to show the primary changes to the new final plan. Mr. Ellison stated the two primary changes are:

1. Regarding the traffic circles noted on the description, after working closely with URS Corporation, Miller & Smith decided the challenges with installing and implementing the circles were “a little too much” so the circles have been deleted from the final plan; and
2. The buffer along the four adjacent lots, there is a tax ditch in the area with a maintenance easement on top of it and the Delaware Department of Natural Resources and Environmental Control (DNREC) requires the maintenance easement not be landscaped and have access to the ditch for maintenance purposes. Mr. Ellison stated there will be screening in ways of a white fence and after talking to the Town’s P&Z Commission suggested wildflowers be planted along the fence.

Mr. Kyle Gulbranson, of URS, stated everything is in order with all of the agency approvals submitted and all major issues addressed. Mr. Gulbranson stated there is one minor grading issue which can be addressed “out in the field,” but all of the engineering issues have been taken care of. Mr. Kent asked Mr. Gulbranson regarding the note in Mr. Gulbranson’s memo about the issue of soil erosion and if it had been addressed to Mr. Gulbranson’s satisfaction. Mr. Gulbranson stated yes, the issue there is some of the street profiles were off by less than two-tenths of an inch, but Mr. Gulbranson thinks they are construction issues which can be addressed in the field.

Mr. Kent stated he was looking at the prints for the utility section with a temporary propane

facility removed; however, Mr. Kent sees in the print – what appears to be – gas lines in the road and that is an inconsistency he does not follow. Mr. Kent further stated he does not know of any temporary tank farm so either this is a new temporary tank farm or Mr. Kent is not sure what is going on. Mr. Ellison stated the temporary tank farm listed is a drafting error but Miller & Smith has since removed that item and submitted a revised plan with the tank farm omitted. Mr. Kent asked how the gas is getting from the tank farm to the area. Mr. Ellison stated the pipes will run parallel to a bike trail that comes down to the lifestyle center and then continue to run parallel with the trail up to the tank farm. Mr. Kent asked if someone has a plan for the proposed utility because Mr. Kent is assuming this will be part of a utility package or right-of-way issue and it would have to be addressed somehow because the distance is quite far. Mr. Ellison stated the land completely belongs to Miller & Smith so there is no real right-of-way issue. Mr. Kent stated he understands that but Mr. Kent is trying to follow the logic that if Miller & Smith are building phases and there is a lot of empty space land located separately from the phase, then the utilities have to tie in somewhere. Mr. Kent stated he wants to know where the right-of-way utilities are located and how are they going to be delineated because Mr. Kent does not see a plan that indicates anywhere how Miller & Smith are providing a utility going from one area to another. Mr. Ellison stated Miller & Smith do not need a separate right-of-way because it is Miller & Smith's land; however, if the Town desires it, Miller & Smith could very easily attach the previously-approved trail plan to this proposed plan to show the propane line. Mr. Kent stated Miller & Smith are going to be running exposed line and Mr. Kent's concern is in a construction environment, there might be an accident with a backhoe digging. Mr. Gulbranson stated he thinks Mr. Kent's concern is Miller & Smith has shown the gas distribution system through the subdivision, but, in terms of how the actual gas line coming to the site, that is somewhat of an open question. Mr. Ellison stated Miller & Smith can submit an addendum to the plan, but this gas line will run parallel to the trail and not simply through an open field. Mr. Kent asked if that line will be a permanent routing for this gas line. Mr. Ellison stated it will probably get adjusted some over time just as the trail will be readjusted. Mr. Ron Sutton stated the line will be underground. Mr. Kent stated he realizes the line will be underground but Mr. Kent is familiar with enough utility right-of-ways that Mr. Kent gets concerned because there is a four-inch gas main running down an open field when that space could be subject for more potential land development in the future. Mr. Sutton stated they could put in the fiberglass gas line identification posts in the ground. Mr. Kent stated he thinks these things need to be delineated and explained and shown so everyone understands up front where the gas shut-offs are going to be located. Mr. Ellison stated it will be very easy to take the previously-approved plan, lay the location of the propane line on it and bring it to the Town. Mr. Gulbranson stated he thinks the Town should have that on file. Town Solicitor Seth Thompson stated he would think Miller & Smith sent it to Mass Utility as well. Mr. Ellison stated all propane companies need to keep a record of where there are lines and submit them to a federal office which governs underground gas lines.

Mr. Kent stated Miller & Smith has two lots defined in their schematic and one of them sits on a small lot with 57 feet of width, 11 ½-foot setbacks and 5 ½-foot setbacks, and when Mr. Kent looks at a larger lot with 70 feet of width across, the setbacks are 5-foot and 5-foot respectively, and Mr. Kent wants to know if the 70-footer is the one represented as the “yellow lots” on the plan. Mr. Ellison stated that is correct. Mr. Kent asked if those houses will be 10 feet apart. Mr.

Ellison stated yes. Mr. Kent asked if there will be any special easements involved with those parcels. Mr. Ellison stated no. Deputy Mayor Bob Gordon asked Mr. Ellison if he just said he sent changes to Town Code & Building Administrator Eric Evans regarding where the gas lines are going to be laid out. Mr. Ellison stated it was not where the lines are laid out but just correcting the terminology. Mr. Gordon asked when that happened. Mr. Ellison stated he thinks the week before last when it was called to Miller & Smith's attention.

#### **D. Property Owner Comments & Questions**

Mr. Thompson stated at this point in the hearing, it is the public's turn at asking questions and making comments. Mr. Walter Bardus, of Huntington Street, stated he has a lot of interest in the propane site because he lives in the original site where the tank farm was originally to be located. Mr. Bardus stated he has been down the path and it crosses several ditches and a stream, so how deep does the line have to be and are there any environmental rules needed to be followed? Mr. Ellison stated he is not a propane installer so he will do his best to answer. Mr. Ellison stated the propane lines are roughly shallow – between 18 inches and 24 inches – so the lines will go under any channels or streambeds, and is placed in with a ditch witch to make sure the dirt gets dug out and put back in fairly quickly. Mr. Bardus asked if signage would put out so people know where the lines are located and no one accidentally digs up or severs the lines. Mr. Ellison stated yes, signage will be put up.

Ms. Penney McCormick, of Tybee Street, stated she is paranoid when it comes to the chance of a fire or gas explosion, and her concern is how are the gas lines going to be placed across the stream and how/if it will be identified. Mr. Ellison stated there are specific regulations within the federal guidelines which cover how the propane lines are laid out in terms of location and labeling. Mr. Sutton stated Miller & Smith cannot disturb the ditch already there because it is regulated by the U.S. Army Corps of Engineers, so the ditch has to be directionally drilled underneath of, making it probably two (2) to three (3) feet below the channel. Mr. Gulbranson asked if there should be any disturbance to the stream. Mr. Sutton stated no, there should be no interference. Ms. McCormick asked if the propane line would be close to the walking path that is currently located there. Mr. Ellison stated yes, it will be. Ms. McCormick asked if that path is temporary. Mr. Ellison stated yes, the path is temporary. Ms. McCormick asked if it should be anticipated to have the line located to the permanent walking path. Mr. Ellison stated eventually there are roadways which will run up into that direction so it will depend on where the location of the propane tank farm is which will depend on the future roadway which runs up there, but the path may or may not be close to the roadway, depending on how the final design comes out.

#### **MOTION TO EXIT PUBLIC HEARING**

Mr. Gordon motioned to exit the public hearing at 7:41 p.m. Mr. Kent seconded the motion. Motion carried 3-0.

### **7. NEW BUSINESS**

**A.** Review and discuss the final subdivision site plans submitted by Millville Town Center LLC, located on Tax Map Parcel 134-12.00-380.00 (Part Of), in the Millville by the Sea Master

Plan Development. The applicant is proposing a total of 83 lots in Summerwind Village.

Synopsis: The Planning and Zoning met on October 21, 2013 to review the preliminary subdivision site plans and voted 3-0 that Town Council approve said plans with specific reference that consideration be given to assure the uniformity of setbacks, traffic circles are provided with adequate signage for safety reasons, and provided with landscaping including required irrigation, as well as the developer will re-record the entire community of 2C-3 and 2C-4, which includes the model village and Summerwind Village as one complete phase.

Mr. Kent stated he is concerned with the temporary nature of this item, particularly when it comes to gas lines and services to people. Mr. Ellison stated it is only temporary – or possibly temporary – in location because the installation is the exact same as if it were a permanent facility – meaning there is no difference in how it is installed or the types of material used, but rather a case of if Miller & Smith shifts the trail to another location or decide it is better to have the propane line next to something else. Mr. Kent asked if he would be incorrect in assuming when the road in Summerwind – going north and south – gets expanded upon at some point, that the propane line would potentially go down that roadway. Mr. Ellison stated yes, and Mr. Ellison’s guess is most of the trail will remain in the current location with the road being right next to it so Miller & Smith probably won’t have to relocate very much at all. Mr. Ellison further stated if there is anything which will change, it will be located more at the southern end as some of the intersections are being configured. Deputy Mayor Gordon asked Mr. Ellison if he had a full-size drawing of where the propane line was going to run through the development. Mr. Ellison stated he did not have one with him, but Miller & Smith can submit one very quickly. Mr. Gordon stated a picture is worth a thousand words so if Council could actually see where the line was going to run, it would be better than simply hearing about it. Mr. Ellison asked if there were any aerial photographs the Town had which Mr. Ellison could draw over to show where the lines would be located. Ms. Botchie stated no. Mr. Ellison proceeded to draw a rough sketch of where the propane line will lie next to the trail. Mr. Ellison stated the permanent tank farm is on the backside of the sewage pump station, and right now, the line for Sand Dollar Village runs parallel to the power line, crosses it and then goes through an open space parcel and into Sand Dollar Village; and that line serves all of Sand Dollar Village I and II. Mr. Ellison further stated Miller & Smith have run the trail immediately adjacent a couple of feet off the property line, and then the trail comes around down to the lifestyle center. Mr. Ellison stated up in the other area, the trail runs over to Sand Dollar Village and goes back behind some lots in Sand Dollar Village. Mr. Ellison stated Miller & Smith would be extending the line on the west side – away from Sand Dollar Village – up to the trail, going down parallel to the trail and the adjacent property, and down into Summerwind Village. Mr. Ellison stated when Miller & Smith will be submitting the master plan, Miller & Smith will most likely be running the “spine road” right up against the property line, which will be Miller & Smith’s recommendation because it is the most efficient use of land and Miller & Smith will most likely have to relocate the portion shown because it will work in nicely with the future plan. Mr. Gulbranson asked who ultimately has the final say on where the gas line will be located. Mr. Ellison stated “at the end of the day, it’s me,” but Miller & Smith do work with Pep-Up when it comes to “what’s the best to do and where to do it” for both parties. Mr. Kent asked if there was a ditch area in the parcel area. Mr. Ellison stated there is a ditch and pointed on his sketch as to where the ditch is located, and that is the ditch in which the line will run under. Mr. Thompson asked, in terms of the area Mr.

Ellison circled, if it was subject to final site plan approval. Mr. Ellison stated no, it is not subject to final plan approval, and the next step Miller & Smith has to do, after Summerwind Village and Lakeside Village, is submit and gain approval of the revised master site plan. Mr. Ellison further stated after the revised master site plan is approved, Miller & Smith can submit the individual site plans for the individual areas. Mr. Thompson asked if the Council will be seeing that area in more detail. Mr. Ellison stated yes, when the plan comes in, there will be existing locations, the trail, and any modifications at that time which Council will see. Mr. Thompson stated, from the legal standpoint, the Town needs to insure there are adequate plans for utilities, but the Town does not dictate where the utilities are placed on a property. Mr. Kent stated he wants to make sure Mr. Ellison and Miller & Smith conforms with the requirements of the regulatory agencies, and Mr. Kent is concerned with the public welfare. Mr. Gulbranson stated there was an addendum plan with regard to the propane line handed out to each of Council. Mr. Kent stated the only plan submitted to him was a small photocopy with no stamp or seal, which Mr. Kent would not accept; and Mr. Kent feels there should be proof of performance and he would make a motion (to approve the plan) as long as there are criteria Miller & Smith will adhere to. Mr. Thompson stated Mr. Ellison is correct Miller & Smith need to go through the agreement process but there is also the permitting process and if Miller & Smith have not met conditions, then they should not be issued a building permit – so there are “built-in enforcement mechanisms” to ensure this is something the Town does not see again.

Mayor Hocker motioned to approve the final subdivision site plan submitted by Millville Town Center LLC, located on Tax Map Parcel 134-12.00-380.00 (Part Of), in the Millville by the Sea Master Plan Development, for the proposed total of 83 lots in Summerwind Village with the two conditions as previously addressed:

1. To resubmit a plan to the Town with the addendum marking the propane lines; and
2. Removing the note referencing the temporary tank.

Council Member Harry Kent seconded the motion. Ms. Botchie asked if Mr. Ellison submits these, Council will sign the plans, but is there a condition Council will not sign the plans or approve them. Mayor Hocker stated it is a condition that Council must receive a revised site plan. Mr. Kent stated he wants a regular clean drawing of plans of what is being requested, and not a photocopy. Mr. Ellison and Mr. Sutton both stated they will provide a full-sized set of plans. Mr. Kent voted yes. Mr. Gordon voted yes. Mr. Hocker voted yes. Mr. Maneri recused himself. Motion carried 3-0.

**B.** To consider for possible vote the revised final site plan submitted by Millville Town Center, LLC, which is currently where the Millville by the Sea Lifestyle Center is located, to relocate the boat dock and extend the existing walkway in front of the Pavilion building to extend to the new dock. Synopsis: The Planning and Zoning met on May 12, 2014, to review the revised final site plan and voted 4-0 that Town Council approves said plans.

Mr. Ellison stated in the original site plan Miller & Smith had the boat dock in the middle of the courtyard out into the lake, but as they looked at the plan over time, Miller & Smith decided it was not the best location. Mr. Ellison stated Miller & Smith are requesting to relocate the boat

dock more to the west side of the pavilion – nearer to Roxana Road. Mr. Ellison stated there were three (3) main reasons why Miller & Smith decided on this:

1. While the area leading to the original dock location may look like a fairly wide area, there is a slope which goes down to the lake, and there are differences between the top of the bank and normal pool elevation because, with heavy rainstorms, the lake water gets higher. Also, with the grading of the slope, it made handicapped access more difficult;
2. A “visual access,” for example, in terms of boat launches from the dock not being aesthetically pleasing if a special event is taking place on the courtyard; and
3. Access in terms of residents having easier access to launching their boats into the water from the newly-proposed area.

Mr. Gulbranson stated this is a simple location and Miller & Smith are not under any requirements from the Town’s perspective. Mr. Kent asked what Miller & Smith will do with the originally planned location. Mr. Ellison stated Miller & Smith have planted some grass and plants, and there will be a small concrete pond.

Ms. Sally Griffin, of Huntington Street, stated there is a gravel path now which is going to where the dock is, and if homeowners are bringing their own boats, would there be a curved access to the water. Mr. Ellison stated Miller & Smith will make sure the path is adequately curved.

Mr. Chuck Slagle, of Tudor Place, asked if there will be storage for canoes. Mr. Ellison stated if there is sufficient demand, Miller & Smith will build a rack.

Mr. Dave Archer, of Huntington Street, asked if there is a timeline for the boat access. Mr. Ellison stated Miller & Smith need to finish up the technical plan – which is held off on until Council’s approval – and Mr. Sutton and Mr. Ellison will go over the technical plan in a week or two, submit the review to URS, and Mr. Ellison would hope it would be toward the end of July or early August.

Deputy Mayor Gordon motioned to approve the revised final site plan as submitted by Millville Town Center, LLC, to relocate the boat dock and extend the existing walkway in front of the Pavilion building to extend to the new dock. Deputy Mayor Gordon seconded the motion. Mr. Kent voted yes. Mr. Gordon voted yes. Mr. Hocker voted yes. Mr. Maneri recused himself. Motion carried 3-0. Mr. Maneri returned to the bench.

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

Mr. Bob Wheatley, of Laurel, DE, stated he is a candidate for Sussex County Council, District 5, and he just wanted to come and let Council know how important he thinks it is for the Town to work with the County on land use issues and anything else with mutual impact.

**9. ANNOUNCEMENT OF NEXT MEETING:** The next meeting will be the Town’s workshop on June 24, 2014.

**MOTION TO GO INTO EXECUTIVE SESSION**

Deputy Mayor Gordon motioned to exit the normal Council session and enter into Executive Session at 8:11 p.m. Mr. Kent seconded the motion. Motion carried 4-0.

10. **EXECUTIVE SESSION** – Preliminary discussions on site acquisitions for any publicly-funded capital improvements.

**MOTION TO COME OUT OF EXECUTIVE SESSION AND RECONVENE OPEN MEETING.**

Deputy Mayor Gordon motioned to come out of the Executive Session at 8:35 p.m. Council Member Kent seconded the motion. Motion carried 4-0.

11. **ADDITIONAL NEW BUSINESS**

A. Discussion and possible vote on Executive Session matters.  
There was no vote.

12. **ADJOURNMENT:**

Deputy Mayor Bob Gordon motioned to adjourn the meeting at 8:35 p.m. Council Member Harry Kent seconded the motion. Motion carried 4-0.

Respectfully submitted,  
Matt Amerling, Executive Assistant