

**MINUTES OF THE MILLVILLE
TOWN COUNCIL MEETING
December 9, 2014 @ 7:00PM**

In attendance were Mayor Gerry Hocker, Deputy Mayor Bob Gordon, Council Members Harry Kent, Susan Brewer and Steve Maneri; Town Solicitor Seth Thompson; and Town Manager Debbie Botchie and Executive Assistant 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

3. ADOPTION OF TOWN COUNCIL MINUTES

A. Adoption of Town Council Minutes – November 10, 2014

Council Member Harry Kent motioned to approve the Council minutes for November 10, 2014. Deputy Mayor Bob Gordon seconded the motion. Motion carried 5-0.

4. FINANCIAL REPORT – Treasurer

A. November 2014

Treasurer Harry Kent read the Financial Report for the month ending 11/30/14.

November 30, 2014:

General Revenue: \$ 51,169.	General Expenses: \$ 38,622.
Restricted Revenue: 49,342.	Restricted Expenses: 2,182.

Council Member Susan Brewer motioned to approve the Treasurer's Report for the month ending November 30, 2014. Council Member Steve Maneri seconded the motion. Motion carried 5-0.

5. ADMINISTRATIVE MATTERS

A. Administrative Report for November 2014 – Town Manager

Town Manager Debbie Botchie stated, under the financial report, if Council looks at the Town's financial standing right now on the budget, the Town is 99.42 percent of receiving the Town's revenue and this is only six (6) months into the fiscal year. Ms. Botchie further stated the Town's expenses are at 35.23 percent at six (6) months into the fiscal year. Ms. Botchie stated she has received the FY14 draft financial statement, which she and Town Financial Administrator Lisa Wynn are reviewing, and they will probably be bringing before Council within the next month.

6. NEW BUSINESS

A. Discuss and possible vote on a request from Mike McCarthy regarding land use.

Mr. Zachary McCarthy, of Michael McCarthy Enterprises, of Atlantic Avenue, stated he is representing his family tonight – father Michael, mother Patty, and sister Caitlyn – and wants to discuss an addition to their business. Mr. McCarthy stated McCarthy Enterprises would like to open up a yard waste facility at its McCarthy Stones business, with two concrete bins – measured 18 feet wide by 24 feet. Mr. McCarthy stated these bins would be used for yard waste (leaves, grass clippings, brush and limbs no larger than six (6) inches in diameter) from customers because McCarthy Stones gets a lot of requests from its customers to remove said yard waste. Mr. McCarthy stated the purpose of this business offering would be a “one-stop shop” for customers so as the customers are coming in to pick up their mulch, the customers can drop off their yard waste and return to their house with the new hardscape material they purchased without having to run their yard waste to a landfill facility faraway. Mr. McCarthy further stated the same thing is with the Coastal Rentals and if the customers rent a chipper from McCarthy Stones, the customers can run their branches through the chipper but they need some place to drop off these chippings, and the customers can drop off the chippings for McCarthy to haul away. Mr. McCarthy stated this is just an extension of the service McCarthy Stones is offering in the Town and they are looking at a ten (10)-mile radius as the core of McCarthy’s customers. Mr. McCarthy stated McCarthy Enterprises invested heavily in a new roll-off truck – which is one of their dump trucks remodeled so the container bins can roll off the flatbed. Mr. McCarthy stated the truck will hold the bins and the yard waste can be hauled offsite to be processed at a true recycling center. Mr. McCarthy stated for people looking to pick up a lot of mulch and other yard waste debris, McCarthy Stones can also drop off these containers at the customer’s house, then once the container is filled, McCarthy can pick it up at the customer’s house to take to the recycling center, as opposed to having the customer take several trips back and forth to McCarthy Stones. Mr. McCarthy stated this is a service which will help the customers from having to leave the county to dispose of their yard waste as well as a service which the Town does not currently have. Mr. McCarthy stated by no means is this a recycling center where one can bring their aluminum cans or glass – that will not be accepted – but just leaves, grass clippings, brush and small limbs. Mr. McCarthy further stated any types of large stumps, large lumber, construction material, or bagged debris will be turned away and not accepted. Mr. McCarthy stated this yard waste dropoff is a fitting service for McCarthy’s current customers and the people of Millville, as well as a compliment to McCarthy’s business.

Deputy Mayor Gordon asked what happens when someone brings McCarthy bags of leaves – is McCarthy going to accept them or open them up and what will McCarthy do with the leftover bags. Mr. McCarthy stated yes, McCarthy Stones will open up all the bags, empty the contents into the bin, and they will have the customer haul the trash bags away. Mr. Gordon asked what the hours of operation will be for this service. Mr. McCarthy stated the hours will be the same standard hours as the store: Monday through Friday, 7:30 a.m. to 4 p.m., and during the summer season, McCarthy will be open on Saturdays too, from 7:30 a.m. to 3 p.m.

Town Solicitor Seth Thompson asked what McCarthy will do with the materials once McCarthy receives them. Mr. McCarthy stated once the bins reach their full capacity, McCarthy will fill one of its 27-yard containers, which get placed onto one of McCarthy’s trucks and the container gets hauled away to a recycling center – such as Blue Hen Organics or something of that nature. Mr. McCarthy stated McCarthy Stones is acting as the “middle man” for people so the customers don’t have to bother driving out to the landfill. Mr. Kent stated are the bins at

McCarthy Stones restricted in any way during closed hours. Mr. McCarthy stated yes. Mr. Kent asked if it would be set up so no one could simply sneak in after business hours and dump their own waste. Mr. McCarthy stated no, that would be trespassing, because the entrance to the business is closed off and locked. Mr. Kent asked what would happen if a customer had waste which exceeded the truck size to haul. Mr. McCarthy stated if a customer had that much yard waste, McCarthy Stones would politely direct the customer to take the waste to the recycling center themselves. Mr. McCarthy further stated if a customer is looking to haul out that amount of yard waste from their lot – such as having to brush cut the entire lot – McCarthy Stones will take a container directly to the customer’s lot, fill it up there and go directly to the recycling center. Ms. Brewer asked if McCarthy Stones is going to recycle any of the clippings for resale. Mr. McCarthy stated no, although those companies who receive the clippings usually do recycle them, which McCarthy may buy back in an effort to “keep things green.”

Mr. Thompson stated perhaps it would help Council for Mr. Thompson to lay out the legal perspective on this. Mr. Thompson stated the way the Town’s current zoning ordinance works, the zoning districts have authorized or permitted principal uses and each parcel is supposed to have one principal use and only one principal use, and it needs to be one of those which is articulated in the district as being automatically permitted or there are specially permitted uses. Mr. Thompson further stated there are also conditional uses and those would probably be a little more invasive and require some more conditions, which are approved by Council and are only valid for a year. Mr. Thompson stated based on McCarthy’s enumerated uses, this fits within the wholesale storage and warehousing operations use, and it is not an authorized accessory use. Mr. Thompson stated for the C-1 (commercial) zoning, the Town’s accessory uses are going to be storage parking but the storage would have to be inside a structure, and the residences of employees and/or owner. Mr. Thompson further stated those are the accessory uses which the Town’s Code allows, but this use here sounds like two separate uses, thus the problem here. Mr. Thompson stated Council can either (1) consider expanding what the Town views as an accessible accessory use; (2) make it a specially-permitted use which would go to the Town’s Board of Adjustment (BOA); or (3) Council can make it a conditional use, which would come before Council, and would only be good for one year. Ms. Botchie stated the conditional use would only be good for one year unless it is a perpetual use and the use does not change, in which case, McCarthy would not have to come back every year. Mr. Thompson stated yes. Mr. Kent asked if the Town were to amend the Code, could there be a secondary permitted use. Mr. Thompson stated yes, there could be a second permitted principal use, but this is the current Code is the law as it currently stands, so the question is if Council wants to potentially craft something to deal with it, but Council also has to consider unintended consequences. Mr. Thompson stated, for instance, if Council says one can have multiple principal uses on a parcel, and a building – not a shopping center – which houses a dry cleaner, a tailor shop, a shoe repair, a bank and a photographic studio, then such a building would be allowable. Mr. Gordon stated McCarthy’s use is all outside and not in one building. Mr. Thompson stated yes, but it is still counted as a use, which is the main problem. Mr. Thompson further stated if this were a C-2 and it involved McCarthy just storing materials in conjunction with their principal business, then Council would not have to meet about this tonight because it’s allowed under their principal use. Mr. Kent asked if it was because of the business being in the C-1 was why there was a conflict. Mr. Thompson stated there has to be indoor storage and also the materials are not what McCarthy is using for their principal business.

Ms. Botchie stated Mr. Thompson is aware the Town is revising its zoning code in C-1 and C-2, so there will be a lot of changes as far as uses and permitted uses. Ms. Botchie further stated Mr. Thompson is very correct in all of his statements about the Town's Code, but Ms. Botchie does not see this use as a problem due to the fact the Town is in the midst of amending the Town's Code. Ms. Botchie stated Council and administration have talked about this particular use and everyone thinks this service is a very good service for Millville due to the fact the Town gets a lot of calls from the public wanting to know how to dispose of their yard waste. Ms. Botchie stated she would like to ask Council to let Ms. Botchie research this use and find language to put it – along with the Town's amendments – into the new Code as a permitted use or accessory use to the current McCarthy Stones business. Mr. Gordon asked if Council could do this as a special condition for one year and, in the meantime, Council will have time to research and put in the use to the Code. Ms. Botchie stated she would rather not do this as a conditional use, but would rather see this in the Town's Code as a permitted use or accessory use to McCarthy Stones. Mr. Thompson asked if Mr. Gordon was talking about a moratorium on enforcement. Mr. Gordon stated no, Mr. Gordon would like to see the one year granted under a conditional use, and Council could use that time to turn this into a conditional use and put it in the Code amendment. Ms. Botchie stated the Planning & Zoning Commission (P&Z) is going to be reviewing the Code changes in January and Ms. Botchie does not think she could not do the amendment before that date. Ms. Botchie stated P&Z may recommend it that evening to Council to approve and it has to be at a public hearing, or they may want to have another meeting, so Council could still be looking at February or March before the Code amendments are approved so the Town can get them codified. Mayor Gerry Hocker stated he agrees with Ms. Botchie that the use should be an accessory use or a permitted use. Mr. Thompson stated yes, a conditional use requires a site plan. Ms. Botchie stated a conditional use is a lot of work and it is a lot of money for the applicant, and she does not think this yard waste warrants it all. Mayor Hocker stated he did stop by McCarthy Stones earlier today and checked out the area for the yard waste. Mayor Hocker stated the operation is a much smaller scale than what Mr. McCarthy is in business to do on a daily basis. Mayor Hocker stated if the customers were pulling in and Mr. McCarthy was buying it off them and reselling it to another customer, it would be no different than what Mr. McCarthy is already doing with stone. Mayor Hocker further stated the yard waste being dropped off at McCarthy Stone is so insignificant, most people would not take it all the way to a landfill or recycle center, so this service McCarthy is providing is very beneficial to the Town and its residents.

Mayor Hocker motioned to allow the Town staff to draft language approving small yard waste drop-off facilities and to withhold enforcement on those facilities until Council's consideration. Mr. Gordon seconded the motion. Motion carried 5-0.

B. Discuss Ordinance 15-02 pertaining to the codification of Master Planned Community (MPC) Schematic Development & Sketch Plan Approval.

Mr. Thompson stated part of the Town's master planned community (MPC) is a zoning classification which involves a master plan, which substitutes for what one might otherwise see in the zoning ordinance where the setbacks and such are established. Mr. Thompson stated the MPC is designed to blend the residential use with commercial use, and take a global view so

those two things work well together. Mr. Thompson stated the terminology in the Code struck Mr. Thompson as odd as there were not really any definitions on the online Code. Mr. Thompson further stated he and Town Executive Assistant Matt Amerling spoke, and Mr. Amerling contacted General Code – the provider for the online Code – and found out the original zoning ordinance General Code had codified had a procedure for applying for the MPC in it, but, in 2007, there was a rewrite of the zoning ordinance and Mr. Thompson suspects some of the procedural elements of that section of the Code – for some reason, mostly being an oversight – was not sent to General Code. Ms. Botchie stated those procedural elements were in the original ordinance but those pages did not make it into the revised packet submitted in 2007.

Mr. Thompson stated his suggestion would be – since the Town is revising its zoning ordinance – for Council to consider putting back in the Code some procedure in terms of how an MPC would come into Town (i.e., how to apply, requirements of schematic, the application process, etc.) because, as the Code reads now, the information is not very clear. Ms. Botchie stated the Town has the draft for Council’s review, but, as Mr. Thompson stated, there are some of the procedures which are not very clear because the original MPC was approved back in 2002, so some of the language is not consistent with the Town’s regular procedure, which Ms. Botchie thinks the Town needs to amend and include with the other amendments to go before the Planning & Zoning (P&Z) Commission in January. Mr. Thompson stated he thinks Council would want the amendments to make clear they would be affecting new applications if a new MPC were to come into Town, and it is not going to affect current MPCs.

7. PROPERTY OWNERS/AUDIENCE COMMENTS AND QUESTIONS

There were no public comments or questions.

- 8. ANNOUNCEMENT OF NEXT MEETING** – The next meeting will be the Town Council meeting on January 13, 2015. Mayor Hocker announced the Executive Session for tonight has been cancelled.

9. ADJOURNMENT

Mr. Gordon motioned to adjourn the meeting at 7:41 p.m. Mr. Kent seconded the motion. Motion carried 5-0.

Respectfully submitted,
Matt Amerling, Executive Assistant