

**NOTES OF THE MILLVILLE  
TOWN COUNCIL WORKSHOP  
January 27, 2015 @ 7:00PM**

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

**1. CALL TO ORDER:**

Mayor Hocker called the meeting to order at 7:00 p.m.

**2. PLEDGE OF ALLEGIANCE**

**3. NEW BUSINESS**

**A.** Discuss and possible vote on a Full Service Architectural and Engineering Proposal from George, Miles & Buhr, LLC (GMB) for the design and construction documentation for the new construction of a municipal building for the Town.

*Synopsis:* The project consists of new 40' x 50' two-story building with a vertical circulation connection including an elevator to the existing Town Hall. The first floor will house four garage bays, one of which will be an enclosed wash bay; additional repair shop and storage for maintenance equipment. The first floor will include two secure interview rooms to be utilized by the Delaware State Police (DSP). The second floor will house an open flex space to be used as a mini-troop, police training, two bunk rooms, two full bathrooms and a kitchenette.

Town Manager Debbie Botchie stated she had previously spoken with each Council member separately and this proposal outlines the project description and breaks down to the architectural design, constructional design, civil and site design, etc. Ms. Botchie stated the proposal gets to the fee summary, which gives Council the figures for each design and process for this project. Ms. Botchie further stated she and Council Member Steve Maneri have met with GMB on two occasions – and with Mayor Hocker once – and this proposal is for \$106,942.50, meaning, for this price, GMB would do this project from start to finish with all the permitting and approvals from all the state agencies, and do the actual building design and engineering. Town Solicitor Seth Thompson stated this is not subject to competitive bidding because it is professional services and, at one point when he and Ms. Botchie met with GMB, Mr. Thompson raised some concerns with GMB, which GMB addressed many of them – though not all. Mr. Thompson stated one such concern had to do with the general conditions – on the last page in the last paragraph – there is talk of governing laws and venue. Mr. Thompson further stated this section states “the agreement is going to be interpreted in accordance with the laws of the state of Maryland and the venue for any dispute is going to be in Wicomico County.” Mr. Thompson stated GMB agreed this sentence did not make much sense given the fact the Town is in Delaware, so if Council looks at the

prior page (page 6), the proposal says the general conditions and venue section does not apply. Mr. Thompson stated GMB does not change their form terms of conditions but GMB does override the particular venue section and the same was done with no mark-up on external expenses. Mr. Thompson stated the biggest issue he had, from a legal perspective, was the liability in claims – so if GMB do a terrible job and the Town sues GMB, and the Town does not win, then the Town will have to reimburse GMB’s legal fees; however, if the Town wins, GMB does not reimburse the Town’s legal fees. Mr. Thompson stated another item is Council will need to put in their contract for the contractors that they will indemnify and hold GMB harmless against any claims or unsafe site conditions. Mr. Thompson stated another item was the hazardous materials and we as a Town are agreeing to indemnify and hold GMB harmless for anything related to hazardous or toxic materials, though Mr. Thompson thinks that is not a real concern, given the nature of the project. Council Member Harry Kent asked if the digging for the project starts and something is found which the Town did not know about, then the Town is holding GMB harmless from that? Mr. Thompson stated yes, so if GMB has a contractor digging and the plans don’t identify a hazardous substance, and the contractor sues GMB for not putting that substance on the plan, then the Town has to pay any claims against GMB, as well as pay GMB’s litigation costs. Mr. Kent asked if the “hazardous materials” specifies what qualifies as such and if that includes compressed gases. Mr. Thompson stated the proposal does not define hazardous or toxic materials. Mr. Kent asked if the Town had a release of something during a welding operation, then GMB would be held harmless? Mr. Thompson stated when the term is not defined in the contract, it gets its plain meaning right, so that would be a question in terms of whether or not the plain meaning of hazardous or toxic materials includes those items. Council Member Steve Maneri asked what would happen with that if there are any kinds of fuels or liquids coming off GMB’s – or the contractor’s – machines, and running into the nearby water. Ms. Botchie stated in that instance, the liability for the run-off would fall on the contractor who is doing the digging. Mr. Thompson stated yes, and it’s important to remember that if the contractor does something improper and poisons the water, the Town is going to end the contract. Mr. Thompson further stated this is a situation where GMB are trying to protect themselves in the event of the contractor sues GMB for some presence of hazardous material, and this is a less-than-likely scenario. Mr. Thompson stated GMB is protected in the sense that the Town has to pay for any claims against GMB.

Ms. Botchie stated GMB come highly recommended, they do a lot of municipal work and have a very good reputation at being very good at said work. Ms. Botchie stated one can cherry-pick a lot of this stuff apart but, as far as GMB’s architects and engineers, Ms. Botchie does not think a lot of these terms in the proposal are going to apply with what they are going to be doing. Ms. Botchie further stated when it comes to the contractor, that is a different story, but GMB is – like the Town – simply assuring that they are covered from a legal standpoint. Mr. Thompson stated he did not want to raise any false worries, but simply wants Council to understand what the Town is signed up for if something bad or wrong were to transpire.

Deputy Mayor Bob Gordon asked if the Town ever gets a site plan or layout of how this

building is going to fit on the Town's property. Ms. Botchie stated the plan is a part of what the Town is paying for with this proposal. Mr. Gordon asked if anyone has an idea of where this 40' x 50' building is going to be located. Ms. Botchie stated yes, she and Town Code & Building Administrator Eric Evans have sketched out the location, but Morgan from GMB thinks the Town will be able to move the building in a different way to utilize more space behind the building, but that is all a part of this proposal. Council Member Susan Brewer asked what the "additional repair shop and storage for maintenance equipment" is on page one (1) and whether it is for the Town or for the police. Ms. Botchie stated the shop and storage are for the Town because the old Town garage will have to be torn down (due to the DelDOT Route 26 road widening project) and the Town will need storage of its own. Ms. Brewer asked what the use of the two (2) secure interview rooms will be and whether there will be any holding cells. Ms. Botchie stated this is strictly for training purposes of the police and there will be no holding cell or processing station. Mr. Thompson stated one more item to point out is the construction phase services are not a part of the price, so it will be a subsequent proposal.

Mr. Gordon stated, on the front page of the proposal, there is mention of an initial site plan sketch drawn by Axiom and dated August 6, 2014, and asked if the Town has said sketch. Ms. Botchie stated Council already reviewed the sketch at a prior meeting, and the Town will have continual meetings with GMB throughout the design stage. Mr. Kent asked if the DSP are on board and in agreement with what is being proposed by GMB. Ms. Botchie stated yes, DSP are in agreement.

Mr. Maneri motioned to approve the Full Service Architectural and Engineering Proposal from George, Miles & Buhr, LLC (GMB), which includes the 40' x 50' two-story building with a vertical circulation connection including an elevator to the existing Town Hall; the first floor will house four garage bays, one of which will be an enclosed wash bay; additional repair shop and storage for maintenance equipment; the first floor will include two secure interview rooms to be utilized by the Delaware State Police; and the second floor will house an open flex space to be used as a mini-troop, police training, two bunk rooms, two full bathrooms and a kitchenette – as well as have Town Manager Debbie Botchie sign the proposal for Town approval. Mr. Gordon seconded the motion. Mr. Gordon voted yes. Mr. Kent voted yes. Mr. Maneri voted yes. Ms. Brewer voted yes. Mayor Hocker voted yes. Motion carried 5-0.

**B. Discuss and possible vote on hiring the Delaware State Police to patrol the Town of Millville on a regular basis. – Town Manager**

Ms. Botchie stated, in the past for about five years, the Town has hired the DSP for 24 to 36 hours per week to patrol the Town, and, at that time, the Town was receiving at least \$5000 interest on the Town's accounts in the bank. Ms. Botchie stated this is no longer the case, however, the Town now has a police fund in which the Town has \$457,000. Ms. Botchie further stated in light of what has been happening in the Town's surrounding areas, with home invasions and whatnot, although these happenings have not been occurring in the Town

limits of Millville, the Town wants to keep safety a priority and contract with the DSP to have DSP patrol the Town, and this can happen four days a week or whatever Council deems necessary. Ms. Botchie stated she contacted Captain Sean Moriarty, of the DSP, today to explain what the Town is looking to do, and Capt. Moriarty explained there are different options in terms of traffic control, patrolling, etc., and these options are in the emails Ms. Botchie distributed to Council tonight. Ms. Botchie stated she would like to discuss with Council about having the DSP patrol the Town, and the fee is still the same at \$84 per hour. Ms. Botchie stated the Town does have the funds and the Town still has monies left over from the grant from Sussex County, as well as an additional \$5000 the County has given to municipalities which do not have a police department and contract with the DSP. Ms. Botchie further stated this will be good through June 30 when DSP's next budget comes out and DSP is looking to still give us \$12,500, and this will be a wash for the Town but this is important for the Town's property and business owners to have peace of mind. Mr. Maneri asked how many hours the DSP might want to work. Ms. Botchie stated when the Town has the DSP for holiday weekends, the DSP does a four-hour block of time, and Capt. Moriarty was thinking three- to four-hour blocks of time. Ms. Botchie stated the 3- or 4-hour blocks are fine with her because the Town is not that large and the DSP could patrol the Town about three (3) times before the end of their shift. Mayor Hocker stated the 4-hour blocks are standard for the DSP. Mr. Gordon asked if the Town were to agree to something which was about 20 hours per week, does the Town have to lay out the time which the Town wants the DSP to work? Ms. Botchie stated yes, and the DSP will do the schedule and let Ms. Botchie know when the DSP will be in Town. Ms. Botchie stated when the Town contracts with the DSP, and there are any kinds of incidents in Millville, the DSP sends Ms. Botchie a report of these incidents. Ms. Botchie further stated if there are any fines to traffic violators, the Town will receive a small portion of the fine collected by the DSP, but the lion's share will go to the DSP. Mr. Kent asked how many hours per week would Ms. Botchie think is sufficient for the DSP to patrol the Town. Ms. Botchie stated she believed twelve (12) hours would be sufficient. Mr. Kent stated the three (3) days at four hours per day would be a great idea. Mayor Hocker stated it may be a good idea to state in the motion the allocation of up to sixteen (16) hours per week as needed, but start with twelve (12) hours per week and see how it goes. Mayor Hocker stated if the remaining four (4) hours are needed per week, then the Town has the hours as provided per the motion.

Ms. Brewer motioned to authorize Town Manager Debbie Botchie to hire the Delaware State Police to patrol the Town of Millville for up to sixteen (16) hours per week. Mr. Kent seconded the motion. Motion carried 5-0.

#### **MOTION TO GO INTO EXECUTIVE SESSION**

Mr. Gordon motioned to go into Executive Session at 7:48 p.m. Mr. Kent seconded the motion. Motion carried 5-0.

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

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

Mr. Gordon motioned to exit the Executive Session and reconvene the open meeting at 8:14 p.m. Mr. Kent seconded the motion. Motion carried 5-0.

**5. ADDITIONAL NEW BUSINESS**

A. Discussion and possible vote on Executive Session matters.

Mr. Gordon motioned to approve matters discussed in the Executive Session. Mr. Kent seconded the motion. Motion carried 5-0.

**6. PROPERTY OWNERS/AUDIENCE COMMENTS AND QUESTIONS**

There were no comments.

**7. ANNOUNCEMENT OF NEXT MEETING - FEBRUARY 10, 2015**

**8. ADJOURNMENT**

Council Member Kent motioned for adjournment at 8:16 p.m. Ms. Brewer seconded the motion. All present voted yes. Motion carried 5-0.

Respectfully submitted,  
Matt Amerling, Executive Assistant