

**MINUTES OF THE MILLVILLE
TOWN COUNCIL WORKSHOP
December 22, 2015 @ 7:00 PM**

In attendance were Mayor Gerry Hocker, Deputy Mayor Bob Gordon, Secretary Steve Maneri, Council Member Susan Brewer, Town Solicitor Seth Thompson, Town Manager Debbie Botchie, Town Code & Building Administrator Eric Evans; and Town Executive Assistant Matt Amerling.

1. CALL TO ORDER:

Mayor Hocker called the meeting to order at 7:00 p.m. Mayor Hocker stated before the meeting proceeds, Council would like to note it now has a four (4)-person Council. Mr. Hocker stated in the wake of the passing of Harry Kent, Mr. Hocker would like to have a moment of silence, followed by the pledge of allegiance. Mr. Hocker further stated the Town of Millville lost a true asset to the Town. Mr. Hocker stated Mr. Kent moved to the Town and immediately became involved in the Town of Millville, and fell in love with the Town of Millville – and not for a passion to change the Town, but to adapt and learn, and he was a true asset. Mr. Hocker stated we will all forever miss him. The attendees went into a moment of silence.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

Mayor Hocker led the pledge of allegiance.

NEW BUSINESS

Mayor Hocker stated Council does have a quorum consisting of four (4) people, and Council will be moving around its agenda a little bit tonight. Mr. Hocker stated Council will be starting the meeting with its new business, item number four (4).

4. Review and possible vote on bids for Bid 16-01, to construct the new Town municipal building.

Town Code & Building Administrator Eric Evans stated the Town started back a while ago, and we solicited with George, Miles & Buhr LLC (GMB) to go out and solicit bids for the design of the addition for the Town Hall. Mr. Evans stated the Town received five (5) bids that were completed bids for the addition, and on November 19, 2015, the bids were received, opened and read publicly. Mr. Evans further stated the Town went through all of the packages and the bidders acknowledged receipts of the addendums, they provided the required performance and payment bond premiums, and they all met and provided other proper qualification requirements. Mr. Evans stated, in reviewing all bids, Harkins Contracting, Inc., came in at one-million-sixty-two-thousand-three-hundred dollars (\$1,062,300), Conventional Builders came in at one-million-one-hundred-thirty-seven-thousand dollars (\$1,137,000), Kent Construction Company came in at one-million-one-hundred-seventy-nine-thousand dollars (\$1,179,000), Willow Construction, LLC, came in at one-million-two-hundred-nineteen-thousand dollars (\$1,219,000), and Regional Builders, Inc., came in at one-million-one-hundred-sixty-five-thousand-four-hundred-seventy-two dollars and forty-two cents (\$1,165,472.42). Mr. Evans stated, after reviewing all of the documents, GMB would recommend the award of the Millville

Town Hall addition to Harkins Contracting, Inc., for a total amount award of one-million-sixty-two-thousand-three-hundred dollars (\$1,062,300).

Mayor Hocker asked Council if they had any questions. None of them had any questions. Town Solicitor Seth Thompson stated, just for the record, Council has the GMB letter dated December 22, 2015. Council confirmed they do have the letter. Mayor Hocker asked if this amount will be funded out of the restricted account. Mr. Thompson stated this is a capital improvement.

Deputy Mayor Bob Gordon motioned to accept the bid from Harkins Construction, LLC, at the price of one-million-sixty-two-thousand-three-hundred dollars (\$1,062,300). Council Member Susan Brewer seconded the motion. Motion carried 4-0.

5. Presentation by the Millville Volunteer Fire Company (MVFC) on a new program entitled “Community Discount Ambulance Service Program” – Doug Scott, President

Mr. Doug Scott, President, MVFC, stated his thanks for being here tonight, and, from the last business from the last Council meeting (December 8, 2015), he wanted to take responsibility and apologize to the Council for not being at that meeting. Mr. Scott stated his thanks to the Mayor and Council for their approval of the funding, which will go toward to pay off a loan for two (2) ambulances and a traffic control vehicle the company acquired. Mr. Scott stated he is here tonight to simply give an overview of the ambulance service, although he doesn't have all of the information probably needed tonight, but just wanted to give the Council an idea of what the program is about. Mr. Scott stated his company is a volunteer fire company but that is almost a misnomer anymore because his fire department is a combination fire department made up of eleven (11) career staff and they respond both to medical emergency calls and fire calls. Mr. Scott stated last year the company had eighteen-hundred plus (1800+) EMS calls and over three-hundred-fifty (350) fire calls, with a total call for services at about two-thousand (2000), with the numbers steadily increasing. Mr. Scott further stated, in 2009, the MVFC gave the ambulance service up, which MVFC served Bethany, South Bethany, Fenwick Island, and they were running in that area about eight-hundred (800) calls a year, on top of what they were responsible for. Mr. Scott stated they decided then it was not a good idea to try to keep servicing that area because their area was growing enough – they had a lot going on – so while the dropping of those towns made their numbers drop, their numbers are starting to increase again due to a growing population. Mr. Scott stated right now, during the day time, their staffing consists of four (4) career staff on at all time, with two (2) here in Millville and two (2) stationed at the Clarksville station, and their most call to duty, probably eighty (80) percent of the time, is to take ambulance calls. Mr. Scott stated volunteerism is down nationwide for the fire service, and MVFC is impacted by that. Mr. Scott stated the MVFC does not have any other departments answer their calls, they try to keep that level of responsibility for their own district as much as they can. Mr. Scott stated, at nighttime, after seven (7) p.m., the MVFC only has two people on duty – they do not have a second crew – so if there are two (2) calls that occur at the same time, they have five (5) minutes to make a response, and if they don't, they'll send out an available unit from a neighboring station. Mr. Scott stated the MVFC doesn't like that or want that to happen because they think that's counterproductive and kind of shirking their responsibility, but the volunteer numbers taking those calls are not what they or the community want it to be.

Mr. Scott stated the MVFC's goal in next year's budget is to staff two (2) units around the clock, to have four (4) staff on duty around the clock, and obviously that impacts their payroll, which is the biggest line item in their budget. Mr. Scott stated to close the gap, the MVFC is trying to come up with new funding sources and the grant which Millville instituted this year is a big help, but the grant is pretty specific on capital items, so MVFC can't use the grant for payroll, fuel or other things. Mr. Scott stated the MVFC has to figure out how they're going to deal with the gap created – if MVFC hires more people, they will have to figure out how to fill the gap in payroll – so they can put people in the fire house and get the ambulance on the road. Mr. Scott stated currently, MVFC sends a subscription to every property owner in the MVFC fire district, and they do that through the county tax records, so if one owns property, that person will get what is called a subscription. Mr. Scott stated the easiest way to look at a description is it's an insurance policy – somewhat akin to an AFLAC insurance policy. Mr. Scott further stated what happens with this subscription is if you were to be taken to the hospital, if you had insurance, the first thing done is MVFC would bill your insurance for the ambulance call. Mr. Scott stated, if after your insurance either paid some or part, MVFC would then bill you for the remainder of that ambulance call. Mr. Scott stated an average ambulance call costs someone around eight-hundred dollars (\$800), that's what we charge. Mr. Scott stated if your insurance pays only a portion, then the MVFC will go to the individual for the remainder of the balance. Mr. Scott stated if an individual has an ambulance subscription with the MVFC, you or anyone in your household is covered; so we would write off the balance and that's the end of the bill. Mr. Scott stated if you don't have insurance – but had a subscription – the MVFC would write off the entire bill. Mr. Scott stated right now the subscription is rather narrow in focus in that only members of the immediate household can be covered and you're all covered for as many times within that one-year time period. Mr. Scott further stated what he and the MVFC are going to propose is, if they could take the entire Town of Millville and the MVFC approached Council and asked Council to assess the Town's citizens thirty-five dollars (\$35) – instead of fifty dollars (\$50) – for everyone who lives in Town, with quarterly installments paid to the MVFC, the MVFC would cover everyone in Town for a lower cost because, the MVFC figures on average, about forty-three (43) percent of the people the MVFC sends the subscription to would reply back to the MVFC and they would get a forty (40) percent return. Mr. Scott stated if the MVFC could get a hundred (100) percent return, which would be enacted or a legislation from the Town, the MVFC would get a hundred (100) percent participation and the MVFC could lower their rates and the money could be used toward the MVFC's payroll to guarantee they have the response for the Town. Mr. Scott further stated the MVFC would expand the coverage so instead of the coverage being just for immediate members of the household, the MVFC would cover visitors to the property (such as renters, visiting relatives, etc.). Mr. Scott stated the citizens who normally give the MVFC the fifty dollars (\$50) to cover them, they will get a break with this new program. Mr. Scott stated some people may think the MVFC and its ambulance service is fully paid and fully funded but they are not. Mr. Scott stated it would take the Town's participation to make this a valid program and the MVFC has no way of collecting it otherwise. Mr. Scott further stated the MVFC wants to show more demographics on the program and will do so at a future Council meeting.

Town Manager Debbie Botchie asked Mr. Scott if he wanted to present the information at the next Town workshop. Mr. Scott stated he thinks the next workshop would be good. Ms. Botchie asked, regarding the thirty-five dollars (\$35) per household, if the MVFC would prefer the fee to be charged on the Town's annual tax bill. Mr. Scott stated yes, that is the way he would assume it would go, as a line item. Mr. Scott stated the MVFC will present this program to

Ocean View as well in January, and then the MVFC wants to go out of the Town, to Bay Forest and Salt Pond. Mr. Scott stated it is so much easier to do it this way because the Town has the “all-inclusiveness” and the MVFC can “capture more with less effort.” Mr. Scott stated if the Town rejected this program, the MVFC would still approach developments in Town like Bishop’s Landing and Millville by the Sea (MBTS), and ask them if they would like to participate, so the things would be more piecemeal. Ms. Botchie stated if the MVFC were to do it through the individual developments, the paperwork would be a lot more involved and difficult to keep up with, but she knows this program works well for “the big four (4).” Mr. Scott stated “the big four” – the service oversight committee of the four (4) towns – is where the MVFC got this idea from and it’s how they collect. Ms. Botchie asked Mr. Scott if the MVFC had a percentage of the amount of residents in the Town of Millville who participate in the current fifty dollar (\$50) program. Mr. Scott stated he asked the MVFC administrative assistant to do a sampling of which Mr. Scott picked four (4) communities – in this case, White’s Creek Manor, the Salt Pond, Bay Forest, and Blackwater Village, all of which are out-of-town communities – and they all were in the thirty-five (35) to forty (40) percent range. Ms. Botchie stated those communities are also more well-established. Mr. Scott stated he can only assume the percentages are pretty representative of a full-time community and the return rate. Mr. Scott stated the right way to do this is have a county-wide collection because the bigger capture group, the more equal pay for everyone. Ms. Botchie stated she gets the texts every time a fire alarm goes off and she knows the MVFC does a lot of county work. Mr. Scott stated absolutely. Ms. Botchie further stated a lot of people don’t realize Millville’s town limits stop two (2) houses in to the north and south, and the rest is county, so she can understand where Mr. Scott is coming from.

Ms. Botchie asked Mr. Thompson if Council should go this route with the program, does it have to be put to referendum to the residents. Mr. Thompson stated he was wondering if other towns were doing this. Ms. Botchie stated yes, it is Bethany Beach, South Bethany, Sea Colony, and Fenwick Island. Mr. Thompson stated the Town is allowed to tax for any municipal purpose, so Mr. Thompson would like to double check to make sure this tax is within the enumerated power of providing, preserving the health and safety of the public welfare. Ms. Botchie stated the Town has only raised taxes once, which was back in about 2006 or 2007, and it was on the agendas as a public hearing, but it was not a referendum. Mr. Thompson stated you do not have to take an increase in taxes to take it to a referendum, but your limitation on the property taxes is the three (3) percent. Mr. Thompson asked Mr. Scott if the Town decides to do this program, will the MVFC still – for the people outside of Millville’s jurisdiction – charge fifty dollars (\$50) or would it be the thirty-five dollars (\$35). Mr. Scott stated the MVFC would propose to go to the community with homeowners associations (HOAs) and offer the same program at thirty-five dollars (\$35). Mr. Thompson stated the one thing which would worry him would be to have the Millville jurisdiction alone is that everyone would have to pay it and the other people don’t have to pay it but they still get the cheaper rate. Mr. Scott stated if you are outside of a town limit or a HOA, the price would be fifty dollars (\$50). Mr. Scott further stated if the MVFC can get large groups (such as a town or HOA community), the MVFC would offer the ambulance services as a package, and Mr. Scott thinks the MVFC comes ahead monetarily on it, based on the forty (40) percent return rate. Mr. Scott stated if someone does not belong to a HOA and simply has a parcel along a county road, the MVFC will send an annual subscription for fifty dollars (\$50). Mr. Thompson asked if the offer is based on the parcel or the number of residents (i.e., two residences on one parcel). Mr. Scott stated he thinks it would be an improved

property that has residents on it, and he cannot see the MVFC charging for a parcel, because you can't charge someone for a vacant lot.

Mr. Thompson stated this will obviously be different from the property tax because the property taxes are based on the assessed value, so this would be a different tax. Ms. Botchie stated this would be a flat rate tax, which is what they do with "the big four (4)." Mr. Scott stated "the big four's" rate right now is fifty-three dollars (\$53). Ms. Botchie further stated she spoke with one of the councilmen in Bethany Beach, which they have also formed a committee for each town or community, to meet with the fire company periodically and it's basically for the ambulance service. Mr. Scott stated MVFC would not be against forming a committee and having meetings if the two towns (Millville and Ocean View) both got in on this program. Council Member Steve Maneri asked if Millville passes this and it's thirty-five dollars (\$35) per family, and someone outside of Town is charged the fifty dollars (\$50) but asks why does the other person pay thirty-five (\$35), will that put the MVFC in "a hard spot?" Mr. Thompson stated the justification is sort of the person outside of Town does not have to pay for it if they choose whereas the person in Town does. Mr. Scott stated at that point, the MVFC is asking for a donation which actually has some value and it's not just a donation, but rather a form of insurance. Council Member Susan Brewer asked if the current fifty dollar (\$50) subscription covers visitors, renters, etc. Mr. Scott stated it does not, but rather just members of the immediate household. Mr. Scott stated the MVFC will always bill insurance – whether in Town or out of Town – and one of MVFC's major funding sources is billing services for ambulance and the MVFC cannot have that (not billing insurance) not happen as well. Mr. Scott stated you have to treat every patient along the billing process the same. Mr. Thompson asked if there is a visitor and they need an ambulance, will the MVFC bill the visitor's insurance? Mr. Scott stated yes, but under the new plan, the visitor will be covered. Mr. Gordon asked if the MVFC will still bill the insurance company first. Mr. Scott stated yes, and a major part of the MVFC's funding is from the ambulances. Mr. Scott stated the billing is done through outsourcing to another company. Ms. Brewer asked if Mr. Scott could provide how many scratches the MVFC has from seven (7) a.m. to seven (7) p.m. Mr. Scott stated he can give it to her another time but not tonight as he doesn't have the information presently on him, but it's most likely one (1) percent. Ms. Brewer asked if the MVFC solicits the HOAs, would the HOA be all-inclusive of all residents or just the individuals who paid. Mr. Scott stated if you own a home, and you are being assessed HOA fees, then that is what the MVFC is looking to capture, and HOAs know who they're sending their yearly fees to, which is who the MVFC is looking to tack onto. Mr. Scott stated with this program, the Town can always defer the raise in taxes back to the MVFC and the usage of ambulance services. Ms. Botchie stated if the Town took part in this program, it would advantage everyone in Town limits, including businesses. Mr. Scott stated he was an EMS chief in Bethany for five (5) years and when he was there and the businesses were covered, then the employees of that business would be covered as well; and that would be in this deal as well. Mr. Scott stated his thanks for all of the Council's help.

6. Discuss and possible vote on the requested revisions to the FY16 Budget – Town Manager

Ms. Botchie stated there were not many line items to increase on, and what Financial Administrator Lisa Wynn and she tried to do was put in a requested addition and try to provide an explanation as to why it was added as there were several things which happened throughout the year which does not normally happen. Ms. Botchie stated as far as the general revenue goes, the Town is only looking to bump it up \$8,500, and the Town has a \$307,000 carry-over which

was assessed. Ms. Botchie stated, as for the transfer tax, because there was land purchased this year for the park, which the Town did not originally budget for, the total settlement was \$809,000. Ms. Botchie further stated Executive Assistant Matt Amerling worked on applying for a grant with the Delaware Department of Parks and Recreation, and the Town was awarded \$200,000 for the reimbursement of the \$800,000, so it brings the cost of the land down to \$609,000. Ms. Botchie stated the Town also only budgeted for the purchase of one (1) HVAC unit, but ended up having to buy an additional one, and the Town had to purchase a new network server for \$12,000. Ms. Botchie further stated getting the zoning ordinances codified cost more as there were more to send through General Code, and the Town increased its police coverage this year so that was an addition. Ms. Botchie stated where the Town may need help on is the construction of the capital improvement – the new municipal building – as the Town put in one million five, which was done before the awarding of the bid tonight to Harkins at one-million-sixty-two-thousand-three-hundred dollars (\$1,062,300), but Ms. Botchie wants Council to keep in mind the Town still has to work with the Delaware State Police (DSP) on the equipment they will need for the building, which was not put into the bid due to the fact the DSP information technology (IT) people said they go through the State to purchase the equipment they will need. Ms. Botchie stated the security fire alarm like the Town has with Delaware Electric Signal is being purchased by the Town because the Town can get it cheaper rather than if it was purchased through a sub-contractor. Ms. Botchie further stated there are also appliances and a lot of the things she and Mr. Evans know they can go someplace like Lowe's and purchase. Town Code and Building Administrator Eric Evans stated he thinks the \$1.5 million will cover the Town until next fiscal year. Ms. Botchie stated she thinks that's possible because, as the Town found out with the current addition, Council gave Ms. Botchie the authority – via resolution – to approve change orders of up to \$10,000. Council Member Steve Maneri stated he thinks the Town should stay with the \$1.5 million.

Ms. Brewer motioned to accept the proposed revisions to the FY16 Budget. Mr. Gordon seconded the motion. Motion carried 4-0.

MOTION TO GO INTO PUBLIC HEARING

Mr. Gordon motioned to go into public hearing at 7:48 p.m. Council Member Susan Brewer seconded the motion. Motion carried 4-0.

3. New Business

A. Public hearing regarding Resolution 16-02, a resolution to request an amendment of the Charter of the Town of Millville.

Synopsis: The amendment to the Town Charter will consist of:

- 1) Replacing the metes and bounds description of the Town boundaries with the recorded maps and plots of the Town, to avoid the need to amend the Charter to include the metes and bounds of any annexed territory;
- 2) Allowing 1 of the 5 Council members to be non-resident freeholders within the Town;
- 3) Establishing the timing of the transition to the Council's new composition;
- 4) Updating the Charter's provisions on holding municipal elections, including allowing freeholders to vote, in addition to residents;
- 5) Updating the Charter to remove a provision that may be inconsistent with the Delaware Constitution's provision on oaths;

- 6) Updating and elaborating on the Council's meeting process;
- 7) Updating and elaborating on the Council's process for passing certain acts;
- 8) Adding a process for determining forfeiture of office; and
- 9) Providing the Town Council the flexibility to allocate up to 6% annually of its real property taxes between fire departments, ambulance services, and emergency treatment services, since the current Charter's language divides that same 6% total between the fire companies at 3% and the ambulance or emergency treatment services at 3%.

Town Solicitor Seth Thompson stated for the benefit of the public, or for those who may not know, the charter is the Town's constitution and it is approved by the state legislature. Mr. Thompson stated Council looks to the charter to see what the Town is authorized to do, as well as how the Town has to transact certain business. Mr. Thompson further stated the charter is a law, just the same way as if the legislature enacts a different Delaware Code section, so this charter governs how the Town operates. Mr. Thompson stated if the Council so chooses, Council can approve a resolution requesting the charter change and having it sponsored by the State Representative and a State Senator, so if they agree, they introduce the resolution to the legislature which starts up in the middle of January, and it will have to go through one House, and, if it passes, goes to another House, and then goes before the Governor to either veto or be signed into law. Mr. Thompson stated because this is a charter change, it has to be passed by two-thirds of the House, so two-thirds in the Senate and two-thirds in the House of Representatives.

Mr. Thompson stated the first section of the bill is amending section two (2) of the charter and it's striking all the metes and bounds language, and the reason the Towns are doing this is because the Town's municipal boundaries can change through annexation or perhaps through withdrawal, or de-annexations – which is rare. Mr. Thompson stated someone can go through the annexation process and, seemingly, that parcel becomes annexed into the Town, but, if you look at the charter, the person would not see it within the metes and bounds description, which is a source of confusion. Mr. Thompson stated this amendment will eliminate that aspect by removing the metes and bounds in the charter and replacing it with the maps and charts which are recorded at the Recorder of Deeds office. Mr. Thompson stated as soon as the Town annexes in new territory, the Town would go and record it, and then if someone were to look at the Town's charter, they would have to look elsewhere for the addition – like the Recorder of Deeds. Mr. Maneri asked if there would be a problem with re-annexing something back in again. Mr. Thompson stated there is no problem as this is not changing the process for annexation or the current boundaries, but rather removing the source of confusion if someone were to look at the Town's charter and not realize the Town had annexed in someone new because they were simply looking at the metes and bounds description. Ms. Botchie stated of all the annexations which have occurred since 2002 are not in these metes and bounds description currently in the charter.

Mr. Thompson stated section two (2) of the bill which deals with section five (5) of the charter, which currently talks about the qualifications of a Town Council member. Mr. Thompson stated the charter has language which is the law but also a sub-chapter in Title 15, Chapter 75 of the State Code which occasionally comes into play with municipal elections. Mr. Thompson further stated what this does for a Council member eligibility is that it will be established in the Town charter, meaning the Town has to have some provision in terms of who is eligible to be a Town

Council member. Mr. Thompson stated the State Code says if the charter has no eligibility, then the Town must abide by default to the State Code, which says the person must be a qualified voter within a year of the municipality, they haven't been convicted of a felony, and they are twenty-one (21) years of age. Mr. Thompson stated the Town can change these qualifications as it is noticed in the State Code, and the Town's current situation is an eligible person must be eighteen (18) years old and they must be a "bonafide resident." Mr. Thompson stated the changes for this section would be bumping up the eligible age from eighteen (18) to twenty-one (21), not having been convicted of a felony, and the big change would be a candidate who qualifies as a freeholder (somebody who owns property in Town) for at least six (6) months prior to the election, would be eligible to be a candidate for Council. Mr. Thompson stated the proposed change would have the freeholder – the non-resident – member of Council limited to one (1) out of five (5) seats. Mr. Thompson stated subsection B breaks it down to the resident members and non-resident members, so four (4) of the five (5) Council members have to be residents, and the term "freeholder" was defined. Mr. Thompson further stated the process would be if somebody is elected as a freeholder – the non-resident – to Council, but afterward they sell their Town property, then they are no longer on Council. Mr. Thompson stated if someone is elected as a resident and they retain their property but move out of Town, then that person would still technically be on Council as they are considered a "resident member of Council." Ms. Botchie stated she got this language by looking at Fenwick Island's charter, South Bethany's charter, Bethany Beach's charter, and Rehoboth's charter, which all had different language about how many days someone had to be a resident, etc., but the language and definition of a freeholder is the same.

Mr. Maneri asked, regarding the forfeit section, it says a Council member cannot miss three (3) consecutive meetings, and shouldn't that language be put in the eligibility section? Mr. Thompson stated the candidacy is who is eligible to run for Council, but the three (3) days is more about who forfeits their seat after already being on Council, so that's why the three days is in the other section. Mr. Maneri stated the reason he's thinking the three days should be in the eligibility section is because he thinks a candidate should be told ahead of time that they can run for the position but they cannot miss more than three consecutive meetings, especially if there is one person on Council – a freeholder – who doesn't live in Town all the time. Mr. Thompson stated he thinks the way to handle such an issue is on the notice of candidacy, so rather than reorganizing the flow of the Town's charter, the Town would publish a notice of solicitation of candidates. Mr. Maneri stated if someone is running for Council, they should know what the duties entail. Ms. Botchie stated there are actually four (4) items on page thirteen (13) of the document being reviewed tonight, which candidates would have to do to forfeit their Council seat. Mr. Thompson stated another element which is important to compare and contrast is to currently run for Town Council, a person needs to be a "bonafide resident" for at least ninety (90) days leading up to the election, but the new change would be a resident of six (6) months. Mr. Thompson stated if you look to subsection C of the new section, "Council to act as final judge," it means the Council would be the sole and final judge of the qualifications of candidates, so if someone says they were not convicted of a felony, the Council would be the ones who would make the determination whether that person fits that.

Mr. Thompson stated in section three (3) of the bill, which amends section six (6), this talks about the Council members' terms of office and this is simply logistics. Mr. Thompson further stated if the Town is going to move to a Council which may have the one (1) non-resident, the Town needs this transition period where everyone served two-year periods, but the terms would

be staggered. Mr. Thompson stated the draft bill has an effective date of March 2016, so it would be after the Town's next election and the five (5) Council members who exist after the 2016 election would remain as Council members until the next election in March 2017, where three (3) Council members would get elected for two (2) years, and two (2) Council members who get elected for one (1) year. Mr. Thompson stated the two seats up for the one (1) year term are the two seats which have been in office the longest.

Mr. Thompson stated section four (4) of the bill, which amends section seven (7) of the charter, is the procedural element have to do with eligibility to vote in a Town election. Mr. Thompson stated currently a voter must be eighteen (18) years or older, and a "bonafide resident." Mr. Thompson stated under the new section B, there is the voter qualifications, which still has the voting age as eighteen (18), and it includes whether the person is a freeholder (which is defined) or is a permanent full-time resident of the Town, and they must be a resident for at least two (2) months. Mr. Thompson stated a person may use the following examples as proof of residence: driver's license, ID card, military service card, current photo ID from the state of Delaware or the U.S. government, photo ID from a higher education institution, a utility bill, a bank statement, a credit card statement, a paycheck, pay advance, any other type of bill or statement, a lease or sales agreement, or any other documentation the person might reasonably and commonly accept as proof of identity and address. Ms. Botchie asked if those examples were under State Code. Mr. Thompson stated yes. Ms. Botchie asked Mr. Thompson if he thinks that language needs to be added in the Town's charter. Mr. Thompson stated he thinks it would be duplicative but Mr. Thompson thinks it's important to understand how the day of the election works in terms of proof of residency, but Mr. Thompson's suggestion would be for the Town to either maintain its own residency roll, where people have to register one month in advance of the election, or use the State's registration system. Mr. Thompson stated an LLC is not a freeholder and cannot vote. Mr. Thompson stated if the person is a trustee, they can vote but if the trustee is a corporation, no one from the corporation can vote. Mr. Thompson further stated if someone has a life estate, where the person lives at the property until they die, then the property goes to their children or kin, the person living there can vote, but the children or kin cannot vote. Mr. Thompson stated, regarding the uncontested election, if no one files for office, the incumbent remains in office, and if one (1) person files, then there is no need for an election. Mr. Thompson stated, in terms of the place of the election, it is designated by Town Council, it needs to be within the corporate limits of the Town, and will be the first Saturday in March, at least from 11 a.m. to 4:30 p.m. Mr. Thompson stated the notice for elections needs to be at least twenty-one (21) days in advance of the election day. Mr. Thompson stated the State Code defers to the Town charter in terms of how the Town's election board is set up. Mr. Gordon asked if the voting had to be done with machine or paper ballot. Mr. Thompson stated if the Town decided, the State Department of Elections is asked to provide the machines to the Town, which is the easiest way, and the Town has to pay for the machine(s). Mr. Thompson stated one provision which needs to come out is the reference to a tie, because the State Code says if an election is determined to be a tie, the election goes to the Commissioner on Elections, who would declare the election a tie, and the two people who tied would have another election against one another.

Mr. Thompson stated section five (5) of the bill, which amends section eight (8) of the charter, deals with the oaths of office, and the oath provided is similar to what the Town currently has, but slightly different. Mr. Thompson stated the oath states: "I (state your name), do proudly swear or affirm to carry out the responsibilities of (name the office) to the best of my ability, freely acknowledging the powers of the office flow from the people I am privileged to

represent. I swear or affirm always to place the public interest above any special or personal interest and to respect the right of future generations to share the rich historic and natural heritage of Delaware. In doing so, I will always uphold and defend the constitutions of my country, my state, so help me, God.” Mr. Thompson stated the State constitution says no other oath, declaration or test is to be required for office, so he thinks it’s best to simply have this oath in the Town charter.

Mr. Thompson stated section six (6) of the bill, which amends section nine (9) of the charter, has to do with the description of regular meetings and special meetings, as well as Council having the authority to enact ordinances, adopt resolutions, pass motions, and make all orders and transactions at a special meeting as if they were at a regular meeting.

Mr. Thompson stated section seven (7) of the bill, which amends section eleven (11) of the charter, has to do with the outlining of acts which need to be done by ordinance – amending or adopting an administrative Code, or establishing or abolishing a department, office or agency, which has to be by ordinance, which has to be written in advance. Mr. Thompson stated in terms of granting, renewing or extending a franchise, those must be done by ordinance. Mr. Thompson stated for amending or appealing ordinances, such action must also be done by ordinance. Mr. Thompson stated the most important part of this section is the last sentence where it states “no ordinance shall be passed unless it has the affirmative vote of the majority of the members elected.” Mr. Thompson stated this means if there are five (5) Council members elected, even if there are only three (3) at a meeting, all three (3) have to vote in favor for the ordinance to pass – because it’s a majority of members elected, and not a majority of the members voting.

Mr. Thompson stated section eight (8) of the bill, which amends section thirteen (13) of the charter, deals with the process of if someone were to forfeit office. Mr. Thompson further stated the Council decides whether the felony or missing three (3) consecutive meetings without being excused, and the forfeiture of office. Ms. Botchie stated she thinks the absence of three meetings should not be consecutive but should be just three meetings in general. Mr. Gordon stated the three missed meetings should be in the Council member’s term of two years. Mr. Maneri stated yes, if the missed meetings are unexcused (i.e., someone simply doesn’t show up). Mr. Maneri stated he still believes the three meetings absence should be presented in the qualifications as well.

Mr. Walter Bartus, of Huntington Street, asked if the Council member could attend a meeting electronically. Mr. Thompson stated you are not allowed to under the Freedom of Information Act (FOIA) currently, but it does allow for teleconference (attendance via video and audio feed from different site) but not via telephone. Ms. Botchie stated, back to the three meetings, she believes the charter should say “... fails to attend three (3) Council meetings without being excused by Council.” Mr. Thompson asked if this rule would apply to the life of the Council member’s term (i.e., two (2) years). Ms. Botchie stated yes. Mr. Thompson stated he suggested, regarding the felony portion, to take out the term “crime involving moral turpitude.” Council agreed to take out the term. Mr. Thompson stated the new subsection C would lay out the process for one (1) and (2), but three (3) and four (4) are automatic.

Mr. Thompson stated section nine (9) of the bill, which amends section thirty-one (31)A(28), which is Council’s enumerated powers, has to do with allocating up to six percent (6%) of real property taxes among any volunteer ambulance or emergency services or any volunteer fire

companies in the State of Delaware, rather than having the percentages as three (3) and three (3). Mr. Thompson stated section ten (10) of the bill is removing the other reference to the three percent (3%), and section eleven (11) of the bill is the effective date clause with a date of March 31, 2016, as the date the resolution is enacted. Ms. Botchie asked if the Town uses the State rolls to register voters for Town elections, then the Town would not need a particular time period or requirements for Town residents to register. Mr. Thompson stated no, because the residents will have already registered to vote through the State. Ms. Botchie asked Town resident Sally Griffin if she registered to vote when she moved to the state. Ms. Sally Griffin, of Huntington Street, stated yes, when she moved here and went to the DMV to get a state driver's license, the voter registration was part of the process. Mr. Thompson stated the town of Milton has its own rolls so when people come in to vote, they often don't know they had to register with the Town. Ms. Botchie stated it is issues like that which she would like to avoid, so she would prefer the Town adopt the rolls from the State. Mr. Thompson stated he was in agreement with Ms. Botchie. Mr. Maneri asked if once a freeholder is allowed to vote via this resolution, then the Town cannot revoke that right. Mr. Thompson stated yes, so this is something to think about in terms of full-time residents thinking their votes are worth a little less.

Ms. Botchie stated the Town billed 1,356 properties on the Town's tax roll, but only 334 properties are eligible to vote because a lot of other properties are simply vacant lots. Mr. Thompson stated if a property owner owns two properties in the Town, that property owner only gets one (1) vote, and not two (2). Mr. Bartus asked if he owned property in Sussex County and also in Kent County, would he be able to vote in both town elections? Mr. Thompson stated it would depend on if the town in Kent County would have the same kind of voter eligibility. Mr. Thompson stated you cannot deny residents the right to vote, but it's a matter of whether you want to allow the non-residents a vote. Ms. Botchie stated the current law is if a person owns property in Town but does not live in Town year-round, and rents out the property, the property owner does not get a vote; but, under the new law, the property owner who is not a full-time resident would be allowed to vote. Ms. Botchie stated she personally believes in this charter change, and believes property owners have the right to vote.

Mr. Maneri stated he hopes whoever runs for Council has the Millville Town in his heart, and does not want someone who is just a freeholder to come in without Millville on his mind. Ms. Botchie stated once someone puts in their letter of intent to run for Council to fill the vacant seat left by Mr. Kent's passing, the rest of Council has every right to ask that interested person questions. Mr. Bartus asked if it would be prudent for the Mayor to be a permanent resident as a part-time resident, by definition, has a split allegiance. Ms. Botchie stated the Town does not vote for the mayor separately, but the Council votes amongst themselves as to appointing the Mayor and Deputy Mayor. Mr. Thompson stated other towns have a specific mayoral election, but there are ways to put it in the charter if Council chooses to do so.

MOTION TO COME OUT OF PUBLIC HEARING

Mr. Gordon motioned to come out of public hearing at 8:51 p.m. Ms. Brewer seconded the motion. Motion carried 4-0.

B. Discuss and possible vote on Resolution 16-02.
Mayor Hocker request individual vote.

Council agreed to table the vote until Mr. Thompson could mark up the changes and edits to the resolution.

7. PROPERTY OWNERS/AUDIENCE COMMENTS AND QUESTIONS

There were no comments.

8. ANNOUNCEMENT OF NEXT MEETING – TOWN COUNCIL MTG., TUESDAY, JANUARY 12, 2016

9. ADJOURNMENT

Mr. Gordon motioned to adjourn at 8:51 p.m. Mr. Maneri seconded the motion. Motion carried 4-0.

Respectfully submitted,
Matt Amerling, Town Executive Assistant