

**MINUTES OF THE MILLVILLE  
TOWN COUNCIL WORKSHOP  
March 22, 2016 @ 7:00 PM**

In attendance were Mayor Bob Gordon, Deputy Mayor Steve Maneri, Treasurer Susan Brewer, Secretary Valerie Faden, Council Member Steve Small, Town Solicitor Seth Thompson, Town Manager Debbie Botchie, Town Executive Assistant Matt Amerling, Town Code & Building Administrator Eric Evans, and Town Financial Administrator Lisa Wynn.

**1. CALL TO ORDER:**

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

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

Deputy Mayor Gordon led the pledge of allegiance.

**3. ROLL CALL**

**4. NEW BUSINESS**

**A. Discuss and possible vote on the Town of Millville's FY15 Audit.** *Synopsis:* Mr. Herb Geary of the TGM Group, LLC, will present to Council the Audit Communications and Financial Report.

Mr. Herb Geary, of TGM Group, LLC, stated his appreciation to Town Manager Debbie Botchie and Town Financial Administrator Lisa Wynn for their cooperation and assistance, making this process better and more efficient. Mr. Geary stated pages three (3) to five (5) is the audit opinion and the really great news is it is unmodified in that this is the highest level of assurance an independent audit firm can provide, so the Town's books are in great shape. Mr. Geary stated the second report is an internal control letter, and the only comment TGM has for the Town is the fact the firm only has Ms. Wynn and a little bit of part-time help, making it a little difficult to get a complete gauge of duties, but that is all the Town has and they did the best job anyone could with the resources the Town has which is all TGM can ask for; also, there are plenty of checks and balances. Mr. Geary stated the next several pages are Ms. Botchie's management discussion and analysis, which highlights the fiscal year and the upcoming year, which Ms. Wynn had informed Mr. Geary of a few of the Town's exciting plans. Mr. Geary stated there are two (2) sets of financial statements after the management discussion and analysis: (1) the statement of activities which is pages 16 to 18, and (2) the governmental fund financial statement which is pages 19 to 22; and the difference between the two statements are property and equipment. Mr. Geary stated on pages 16 to 18, the property equipment is listed there with the accumulated appreciation, but it will not be on the governmental fund statement as it is more of a cash fund statement versus the accrual statement. Mr. Geary stated some of the financial highlights are the Town has \$2.8 million cash on-hand at the end of fiscal year 2015 (FY15), and, if restrictive cash is included, the Town has a little over \$7 million of cash at the end of FY15. Mr. Geary stated the Town has done a really good job at collateralizing and insuring those balances through eight (8) different banks. Mr. Geary stated the unassigned fund balance is \$2.8

million and that is the amount the Town can use for any purpose for its citizens. Mr. Geary further stated for FY15, the annual expenditures were five-hundred-twenty-six-thousand dollars (\$526,000.00). Mr. Geary stated the ratio for all of TGM Group's governmental clients is found by taking the actual expenditures divided by the Town's unassigned fund balance and the general rule is most governments would like to get to the twenty (20) to twenty-five (25) percent number, and the Town of Millville is at five-hundred percent (500%), so there is nothing to worry about for the Town. Mr. Geary stated the total net change in funds increased \$1.3 million, making it a very positive year for the Town.

Council Member Valerie Faden motioned to accept the Town of Millville's FY15 audit report as written and presented. Deputy Mayor Steve Maneri seconded the motion. Motion carried 5-0.

**B. Discuss and possible vote on draft Ordinance 16-06 – Town Solicitor Seth Thompson**

*Synopsis:* Draft Ordinance 16-06 amends Town of Millville Code at Chapter 155, Article IX "Sign Regulations." If approved, there will be a Public Hearing held at the April 12<sup>th</sup> Town Council meeting.

Town Solicitor Seth Thompson stated the most recent law coming out of the U.S. Supreme Court in 2015 was that certain signs needed to be more content neutral, meaning there should not be too many content-based judgements made on signs, thus favoring one kind of speech over another. Mr. Thompson stated this is one reason why he removed the term "instructional sign" from the Town's sign regulations, because the instructional sign's message on the sign makes it instructional. Mr. Thompson further stated one of the easiest examples to point out in terms of content-based judgements is the "political sign" which the Town's definition originally has as "a temporary sign intended to advance a political candidate ...," and the way the Town now deals with that sign is to make it content-neutral but keep the same regulations in place; in other words, rather than putting up a sign for a candidate, someone could put up an additional sign for their business, as long as it fits the Code's size and placement requirements. Mr. Thompson stated the Town is sort of on the forefront about this in terms of getting things developed and he does not know how other municipalities are going to handle this Supreme Court case law.

Council Member Steve Small stated he is missing what would compel Council in this revised signage ordinance to allow businesses an additional commercial sign during elections as it does not seem to go to the purpose of the political sign at all. Mr. Thompson stated he agrees, but, unfortunately, the alternative is to make it so people cannot have political signs; so how does Council strike the right balance? Mr. Thompson further stated, in other words, to keep the sign content-neutral, Council could entirely eliminate the possibility of having political signs, but Mr. Thompson thinks that is bad policy because Council wants people to know who the candidates are, as well as have an interest sparked in what is coming up, making them attend Town Hall meetings and read referendums, etc. Mr. Small asked if it is customary here for businesses to erect political advocacy signs. Mr. Thompson stated the businesses can do so, and the way the Town zones it, political signs are allowed in any district, but he is not sure how often anyone sees political signs in front of businesses. Town Manager Debbie Botchie stated people can mostly see them in a residential front yard. Mr. Small stated he also does not recall seeing many political signs in front of businesses and that is why he is wondering why the Town is backed into allowing

political signs which really aren't going to exist, but, in the process, opening the door to temporary commercial signs for a six-week period, which Mr. Small does not think for most businesses is a "high-business period." Mr. Thompson stated one way Council could tailor this ordinance down is to have the political signs go from being allowed in every district to only being allowed in residential districts. Mr. Thompson stated if the businesses are not currently using the ability they currently have, then why open up the possibility they have an additional business sign? Mr. Small stated he thinks what is missing here is the restriction on one sign of such types, so if someone is restricted to one sign and they put a political sign in then you cannot put in another, but most residential would not be putting another type of sign up, so Mr. Small submits most businesses would not be putting up a political sign. Mr. Thompson stated political signs are limited to one (1) sign per candidate, but you could have the possibility of multiple positions being open, and the business owner then has more than one extra sign to put up. Mr. Thompson stated the Town can move political signs out of the "permitted in all districts" section and move it into the "permitted in residential districts" section of the Code. Ms. Botchie asked if Council does as Mr. Thompson suggests, which is to take political signs out of the "permitted in all districts" section, will that be in violation of anything to do with the federal Supreme Court case. Mr. Thompson stated no, because at that point the Town is judging the message on the sign, and this would be the same as prohibiting billboards. Town Code & Building Administrator Eric Evans stated there are residential homes along Route 26 which are zoned as commercial but are used for residential, so that may be a problem with the prohibition of political signs in commercial. Mr. Thompson stated the Town could create an exception to the amendment. Ms. Faden asked, regarding the content of the signs, the language is content-neutral but is there a limitation that the sign has to be relative to a political election or a referendum? Mr. Thompson stated the Town is simply using the election or the referendum as a setting period of time for when such a sign is permitted rather than content.

Ms. Botchie stated she would suggest Council amend the ordinance as Mr. Thompson has written it, and then see what happens this political year in terms of the amounts of signs being put up and in what zones they are put up, and if there is a problem that arises, then Council can revisit this issue. Mr. Small stated he can conceive of a business putting up a political sign in the case of a referendum, because it may affect their business or industry, but Mr. Small would think businesses would mostly try to stay neutral in terms of politics as not to alienate some customers. Deputy Mayor Steve Maneri stated he feels when it comes to the business part, the business would have to get permission from a candidate to put their political sign in the business window or on its property, and he does not believe a business should be excluded from being able to put up a political sign. Ms. Faden asked if the new regulation does not allow someone to say what a political sign is for or for what election, as that information is not neutral enough? Mr. Thompson stated yes. Ms. Faden stated the term "political sign" carries with it a definition, so it has something to do with politics. Mr. Thompson stated it is a little bit of a "cat-and-mouse game" in the sense that one is calling it a political sign and that is the sign which will be the most common kind but it's not the only one.

Mr. Thompson stated he eliminated the "instructional sign" because somebody can put up another business sign and you don't want an overabundance of business signs on one property. Mr. Evans stated a few things were cleaned up as there were inconsistencies in the Code, one of which was "bulletin boards," "changeable signs," etc. Mr. Evans stated a

bulletin board is a sign placed on a wall, like the one outside of Town Hall on its garage, where you can pin a paper notice to the board or change the little one-inch letters on the board. Mr. Evans stated changeable signs would be more of the changeable letters – two (2) to three (3) inches in size – with the back of the sign illuminated so the public can see them, such as the one on the Banks Liquors sign. Mr. Evans stated the biggest change is the changeable sign which is now defined as “a detached sign that is designed so that the characters and letters can be changed or rearranged manually, but not electronically, without altering the face of the surface of the sign, and which may be affixed to another permitted sign to appear as one (1) sign.” Mr. Evans stated the changeable sign can be put on the bottom of a business name sign to make the sign all look as one, but it all must fit the square-footage requirements for the particular size property. Mr. Thompson stated the Town changed the details of lettering on a changeable sign and that would obviously not require a sign permit each time the sign’s letters were changed. Mr. Evans stated yes. Mr. Thompson stated the Town already has businesses which have this kind of changeable sign as pre-existing nonconforming since they were erected before the Town’s code was established, but now those signs are allowed, because this new amendment will allow new businesses to be permitted to have those changeable signs. Mr. Thompson stated on page seven (7), under item B-1, Mr. Thompson added the language of “for a shopping center” of the sentence “Changes on a bulletin board or display encasement” so when a new business tenant comes into a shopping center like the Giant food shopping center, the “skin” is pulled out of the main big sign and the new business “skin” is put in its place.

Mr. Evans stated if it pleases the Council he would like to see this ordinance go before the public hearing at the next Council meeting on April 12, 2016. Mr. Small stated he would like to see a discussion on the conformity of the Town’s business signs, particularly the two shopping centers, which is not consistent of what Council is trying to do elsewhere. Mr. Small stated he would like some proposed language as to the “grandfathering,” which Mr. Small thinks should not be permanent and should not show favoritism over someone who is ordering a sign a few weeks later than the previous business. Ms. Botchie stated back in 2007, when the whole zoning code was approved, the Town gave two (2) years for every business to conform its signs, and Ms. Botchie informed the Council back then that it was impossible to get people to conform, so what Council ended up doing was deciding on waiting until the Route 26 project was completed. Ms. Botchie stated the Town has worked with the businesses which felt they had a hardship with the placement of the sign, but the businesses still have to conform to the size. Ms. Botchie further stated once the Route 26 project is finished, any business which had a hardship and had to move its sign, the business had to conform to the Code; however, there are other businesses that did not have to move their signs and they are the businesses which the Town has to contact to inform them they need to conform. Mr. Small stated the large commercial signs, to him, are an absolute variance with the spirit of what Mr. Small thought the Council was trying to do. Mr. Small stated he would like to see every business have to follow a specific date or time-period of conformity. Ms. Botchie stated she did send a letter out in October 2015 to all of the businesses in Town, informing them of what the Town plans on doing with sign conformity. Mr. Thompson stated from a legal standpoint, the Delaware Supreme Court has said the vested rights issue on a sign are not permanent and the Town can set a deadline for conformity. Mr. Thompson stated the language for this is in the Town’s Code in 155-47(C), where it talks about in two (2) years’ time, the Town can remove the signage with the cost of the removal borne by the sign owner. Mr. Evans stated because DeIDOT took so much right-

of-way from roadside businesses along Route 26 to complete the road project, there will always signs which are non-conforming when it comes to placement. Mr. Small stated even if signs are conforming, it seems to Mr. Small the largest signs currently in the community belong to fairly large companies which are either regional or international in character, and Mr. Small thinks those companies are now accustomed to downsizing and restyling their signs for particular places. Mr. Small further stated he doesn't think the major problems down the line – as long as the transition rules are handled – will be with the larger companies but Mr. Small's reservation is have those larger companies gone big enough with those signs and keeping in tone with a community. Ms. Botchie stated the two properties which Mr. Small is talking about were built on Route 26 before the Town even had a commercial zone and those lots have been rezoned to C-2 because they are larger-scale shopping centers, which are not allowed anymore on Route 26. Ms. Botchie stated as shown in the Town's comprehensive plan, it is down Route 17 that has potential for larger scale centers, and if one looks at our Code the size of the sign is based on the front façade of the building on the lot, so the shopping center signs are proportionate to the size of their building; however, there will be no more big shopping centers along Route 26 in Millville. Mr. Thompson stated he thinks the Town should revisit the aspect of sign size at a later time. Mayor Gordon stated the public hearing would take place at the Town's meeting on April 12, 2016.

Ms. Faden motioned to schedule a public hearing on draft Ordinance 16-06. Ms. Brewer seconded the motion. Motion carried 5-0.

**C. Discuss and possible vote on the draft FY17 Budget – Town Manager Debbie Botchie & Finance Administrator Lisa Wynn**

Ms. Botchie stated before she has gone over this FY17 budget individually with the Council members and on the first sheet, the general and administrative expenses have the background excluding any employee salary adjustments and payroll taxes. Ms. Botchie stated the Town's expenses this year are looking at five-hundred-twenty-five-thousand-seventy-four dollars (\$525,074.00), which was no percentage increase over last year's. Mr. Maneri asked what line item the Council chambers come out of. Ms. Botchie stated it would come out of capital improvements, and if it is over a thousand dollars (\$1000.00) which needs to be spent, it would come out of restricted, under transfer tax.

Ms. Botchie stated with regards to the general revenue, the Town still uses the same methodology as far as the Town's developers in that the developers give the Town one figure and the Town drops it because the Town is conservative. Ms. Botchie further stated the figure under property taxes will most likely go up as the transfers continue to come in until the Town bills for taxes on May 2, 2016. Ms. Botchie stated, with the gross rental receipts (GRRs), the Town has received eighty-thousand dollars (\$80,000.00) on it, but the Town stays conservative because some individuals stop renting. Town Financial Administrator Lisa Wynn stated the amount the Town receives on GRRs could go up or down because the renters may not rent throughout the entire year or during particularly busy seasons and the Town doesn't know until they get the GRR forms.

Ms. Botchie stated transfer tax is based on the estimated amount of sales and this is based on the average sales and average square-footage, and last year the Town was over in revenue

because there were more sales but the Town can only do its best with the formula it has used for the past nine (9) years and it's worked really well. Ms. Botchie stated the Town always keeps money in the capital hardware/software in case a computer(s) may break, and as far as the capital building improvement, monies were put in to cover for the building of the new municipal complex. Ms. Botchie stated the Town kept the police coverage at twelve (12) hours per week, and the Town kept sixteen (16) hours of coverage just in case the Delaware State Police (DSP) approached Ms. Botchie about needing to increase coverage due to increasing criminal activities. Ms. Botchie stated, fortunately, the only criminal activity reported is mostly traffic violations. Ms. Botchie stated, as for the Town park and playground, as well as site work and clearing away previous structures, based on the Town's meeting with AECOM representative Kyle Gulbranson and a GameTime representative, the Town put in \$1.5 million, and that is the cost for everything.

Ms. Botchie stated with economic development, the Town's Great Pumpkin Festival was cancelled due to the big storm at the time (October 3, 2015); however, the Town had everything already and paid up, so Ms. Botchie used the same figure for this year. Ms. Botchie stated there will be no Farmer's Market this year, and Ms. Botchie is still looking into getting holiday decorations for the light poles in Town, which will most likely have to wait until the Route 26 project is completed. Ms. Botchie stated she would like to approve the FY17 budget at the April 12, 2016, Town Council meeting.

#### **5. PROPERTY OWNERS/AUDIENCE COMMENTS AND QUESTIONS**

There were no comments.

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

Mr. Maneri motioned to go into executive session at 8:16 p.m. Ms. Faden seconded the motion. Motion carried 5-0.

- 6. EXECUTIVE SESSION** – Discussion of personnel matters in which the names, competency, qualifications and abilities of individual employees will be discussed.

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

Ms. Faden motioned to come out of executive session and reconvene the open meeting at 9:40 p.m. Ms. Brewer seconded the motion. Motion carried 5-0.

#### **7. NEW BUSINESS**

- A.** Discussion and possible vote on Executive Session matters.

Ms. Brewer motioned to approve the Executive Session matters. Mr. Maneri seconded the motion. Motion carried 5-0.

#### **8. ANNOUNCEMENT OF NEXT MEETING – TOWN COUNCIL MTG., APRIL 12, 2016**

## **9. ADJOURNMENT**

Mr. Small motioned to adjourn at 9:47 p.m. Mr. Maneri seconded the motion. Motion carried 5-0.

Respectfully submitted,  
Matt Amerling, Town Executive Assistant