

**MINUTES OF THE MILLVILLE
TOWN COUNCIL MEETING
August 9, 2016 @ 7:00 p.m.**

In attendance were Mayor Bob Gordon; Deputy Mayor Steve Maneri; Treasurer Susan Brewer; Secretary Valerie Faden; Council Member Steve Small; Town Solicitor Seth Thompson, AECOM Representative Kyle Gulbranson, and Town Executive Assistant Matt Amerling. Town Manager Debbie Botchie was absent.

1. CALL MEETING TO ORDER

Mayor Bob Gordon called the meeting to order at 7:08 p.m.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. ADOPTION OF TOWN COUNCIL MINUTES AND NOTES

A. Adoption of Town Council Minutes – July 12, 2016

Deputy Mayor Steve Maneri motioned to approve the minutes from the July 12, 2016, Town Council meeting. Council Member Susan Brewer seconded the motion. Motion carried 5-0.

4. FINANCIAL REPORT – Treasurer Susan Brewer

A. July 2016

Council Member Susan Brewer read the Financial Report for the month ending 7/31/16.

July 31, 2016:

General Revenue: \$ 320,333. Restricted Revenue: \$ 57,275.

General Expenses: 58,563. Restricted Expenses: 53,605.

Council Member Valerie Faden motioned to approve the Treasurer's Report for the month ending July 31, 2016. Council Member Steve Small seconded the motion. Motion carried 5-0.

5. ADMINISTRATIVE MATTERS

A. Administrative Report for July 2016 – Town Manager

Ms. Faden stated she had a question about the attached proposed change order from Harkins Contracting, Inc., but Town Executive Assistant Matt Amerling told her he'd reply to her and Council with the information. Ms. Faden asked Town Solicitor Seth Thompson if this "HCI fee" does not seem like one of those instances or the type of work where Harkins could charge the fee they are currently attempting to charge. Ms. Faden stated she doesn't think what this fee is has to do with anything related to structure, but Ms. Faden thinks Council will have to wait and see what Mr. Amerling finds out on it. Mr. Thompson stated he wants to make clear that Town Manager Debbie Botchie was given permission through Resolution 17-02 to approve any change orders ten-thousand dollars (\$10,000.00) and under; and there are two items on the proposed change order – one is a credit and the other is a charge – and Mr. Thompson wanted to make sure Council was OK with the order and that was Council's intention with the Resolution, because the

way the Resolution was passed, this fee is acceptable due to the credit lowering the price to below \$10,000.00.

6. NEW BUSINESS

A. Appointment of Board of Adjustment (BOA) Commission Member Nancy Maupai – Town Council

Council Member Susan Brewer asked Ms. Maupai about her prior experience with the Town's Board of Adjustment (BOA). Ms. Maupai stated she was on the Town's BOA from 2006 to 2009, when Mayor Gary Willey was in office, and was on her town's planning board from when she had previously resided in New Jersey. Council Member Steve Small stated his welcome to not just Ms. Maupai on the BOA, but also to her business (Beach Shore Fitness) in Town.

Council Member Steve Small motioned to appoint Nancy Maupai to the Town of Millville Board of Adjustment (BOA). Mayor Gordon seconded the motion. Motion carried 5-0.

B. Swearing-in of new BOA Commission Member Nancy Maupai – Executive Assistant

C. Discuss and possible vote on final site plan submitted by A Shade Above, Tax Map Parcel #134-12.00-414.02, 35722 Atlantic Avenue, Millville, DE 19967, to tear down the vacant residential unit on the site to build a new building for a new retail establishment, located on Route 26 between Artisan Bank and First Shore Federal Bank. Synopsis: The Town Board of Adjustment (BOA) held a hearing on January 11, 2016, to consider A Shade Above's request for a variance of Town Code 155-29B(2), to reduce the buffer to twenty-four (24) feet; Town Code 155-28C(13), for parking encroachment of front yard by two-and-a-half (2 ½) feet, as well as encroachment into the side yard by eleven (11) feet. The BOA voted 3-0 to grant the variance to A Shade Above. At the April 12, 2016, Town Council meeting, the Council voted 4-0 to approve the preliminary site plan presented for A Shade Above by Land Design.

Mr. Tom Ford, of Land Design, stated he and property owner Keith Kalmbach are in full compliance with the Town's Code and all State agencies necessary for approval, as well as the site plan containing landscaping and a lighting plan. AECOM Representative Kyle Gulbranson stated the plan does have Fire Marshal approval as well as approval from the Conservation District. Mr. Gulbranson stated there is a ditch behind the building so the new owner needed relief from the requirement of the ditch area and to allow the parking to be somewhat in front of the building. Mr. Gulbranson stated the new structure being proposed meets all of the Town's Route 26 design standards and the entrance to the property off Route 26 was constructed by DelDOT during the construction process so the entrance was already built to DelDOT's standards. Mayor Gordon asked if the ditch on the property is a tax ditch or is it more of a drainage ditch. Mr. Gulbranson stated he thinks it's a drainage ditch and not a Delaware Department of Natural Resources and Environmental Control (DNREC) tax ditch. Mr. Gulbranson stated there has been prior interest in the property but without the variance which was granted to Mr. Kalmbach, the site would be undevelopable.

Council Member Valerie Faden asked if the final site plan had been changed to reflect the proper parking as indicated in Mr. Gulbranson's letter under item three (3). Mr. Gulbranson stated he believes it was changed. Deputy Mayor Steve Maneri asked who would be in charge of cleaning the drainage ditch. Mr. Gulbranson stated DNREC is responsible for cleaning it even if it's not a part of the tax ditch system. Mr. Maneri asked if DNREC were to clean out the ditch, how would DNREC work out the fees with the property owner? Mr. Gulbranson stated DNREC would have to negotiate the invoice fees with the property owner. Mr. Maneri asked, referring to the April 12, 2016, Town Council minutes, Mr. Thompson suggested changing the parking from one (1) space per two-hundred-fifty (250) square feet to one (1) space per three hundred (300) square feet, and Mr. Ford said he would make that change, but the site before Council tonight does not reflect that change to three-hundred. Mr. Ford stated he believed he had changed it to three-hundred. Ms. Faden stated that aspect was what she had just asked. Mr. Gulbranson stated even if the Town were to use the three-hundred square feet, Mr. Ford is still over his required parking spaces, so everything is good. Mr. Maneri stated his only concern was to keep the consistency with what was stated would be done at the April 12, 2016, Town Council meeting. Mr. Ford stated the three-hundred is more generous with parking and he would make the amendment of one space every three-hundred square feet to the final site plan. Ms. Faden stated the Council simply wants to be as consistent as possible so the actions reflect with what was said at the meetings. Mr. Ford stated he is in total agreement and completely understands.

Ms. Faden motioned to approve the final site plan submitted by A Shade Above, Tax Map Parcel #134-12.00-414.02, 35722 Atlantic Avenue, Millville, DE 19967, to tear down the vacant residential unit on the site to build a new building for a new retail establishment, with the condition that, on the final site plan, the applicant modify the change to one (1) parking space for every three-hundred (300) square feet. Mr. Maneri seconded the motion. Motion carried 5-0.

- D.** Discuss and possible vote on a proposed thirty (30) mile per hour (mph) speed limit along Dukes Drive. Synopsis: The Delaware Department of Transportation (DelDOT) needs the Town's approval to execute the Speed Restriction Resolution that will make the proposed signage enforceable.

Town Solicitor Seth Thompson stated he looked at the State Code to how speed limits are set up, and the way the State sets up the speed restrictions depends on what type of road is under review. Mr. Thompson stated DelDOT considers Dukes Drive to be a two-lane road, so the current speed limit – because there is no speed limit sign – is fifty (50) miles per hour (mph), and DelDOT can lower that speed limit if certain engineering and traffic studies are performed and the end result is the current speed is not safe. Mr. Thompson stated the Town is in a position to lower the speed limit if the Town wanted to have its own traffic studies done; however, if the road is a state-maintained road (which Dukes Drive is), then the Town would need DelDOT to approve the speed limit. Mr. Thompson further stated the reason DelDOT needs the Town's approval is because none of this goes into effect until the speed limit signs are up, and the Town is the entity responsible for paying for erecting said signs.

Mayor Gordon asked if it's possible to make a condition within the motion to approve this to review this road again at a later date for even more of a speed reduction because Mr. Gordon thinks everyone on Council is looking for a twenty-five (25) mph speed limit due to the fact that when one looks at a school, the speed limit is twenty-five due to the children's presence, and there will be a park along this road where kids will be playing. Mr. Gulbranson stated Dukes Drive is primarily a residential-zoned area. Mr. Thompson stated it is the zoning aspect which surprised him, because as part of the State's Code, Title twenty-one (21), Section forty-one-sixty-nine (4169), the default for a "residential district" is twenty-five (25) mph, but Mr. Thompson does not know how DelDOT is defining a "residential district" but Mr. Thompson believes that the area being zoned as residential would be how it was defined. Mr. Thompson stated he thinks Council could approve the thirty (30) mph with the condition that DelDOT review and explain why this road or area isn't considered a "residential district" which would necessitate a twenty-five (25) mph speed limit. Ms. Faden stated DelDOT's Mr. Nicholas Slater's July 6, 2016, email does explain how DelDOT came up with the thirty (30) mph speed limit: "The speed being traveled at or above eighty-five (85) percent of motorists has been found to be the best guide toward posting a reasonable and practical speed limit. Radar data indicates that the eighty-fifth (85th) percentile speed of motorists on Dukes Drive is thirty (30) mph. Therefore we are recommending that the existing unposted fifty (50) mph speed limit on Dukes Drive be reduced to thirty (30) mph, effective upon the posting of the proper speed limit signage." Ms. Faden stated DelDOT did some kind of traffic study and that is how DelDOT came up with the 30 mph. Mr. Thompson stated yes, but that analysis is the result of assuming the road is a two-way highway with a 50 mph zone. Mr. Thompson stated if people traveled through Millville by the Sea at 30 mph, the eighty-fifth percentile, the speed limit would still be 25 mph because it's zoned as a residential district, so Mr. Thompson thinks it would be interesting to hear DelDOT's explanation of their reasoning. Mr. Maneri stated when the traffic study was done by DelDOT, it was in the springtime when there are less people and there were potholes on the road so people were most likely not going to travel at a high rate of speed, as well as the recorders for the traffic were only there for two months at most. Ms. Faden stated it appears in this letter as if DelDOT is saying if the Town reduces the speed limit to thirty (30), then DelDOT would sanction that. Ms. Faden asked if there was anything to say that if the Town reduced the speed to 25 mph, DelDOT would also sanction that? Mr. Thompson stated that is a good question, but the Town would not have followed the process and the Code seems to require some findings which support 25 mph being the appropriate speed limit, which is why Mr. Thompson suggested getting DelDOT to determine the area as a residential district, then the speed limit should be 25 mph. Mr. Thompson stated the ultimate authority rests in DelDOT's hands so Mr. Thompson's thought is Council should approve the thirty (30) mph but also request DelDOT provide an explanation as to why that road is not considered a "residential district," which would necessitate a 25 mph speed limit. Mayor Gordon agreed with Mr. Thompson's suggestion regarding DelDOT, and stated 30 mph is a lot better than 50 mph.

Council Member Steve Small stated the only structure currently located on Dukes Drive is a residence and there are no commercial structures, so clearly the area where the road is located is residential and the Town could make the argument for 25 mph or 20 mph,

and Mr. Small is not sure the Town's park was really taken into account by DelDOT when analyzing this road. Mr. Small asked Mr. Maneri what speed limit he would put on Dukes Drive. Mr. Maneri stated he would put, at most, 25 mph. Mr. Thompson stated his recommendation again to approach DelDOT about their explanation as to why the area is not considered a "residential district" and also maybe in the future, revisiting analyzing traffic on Dukes Drive once the park is completed. Mayor Gordon stated he would like to see that analysis done not at the Town's expense. Mr. Small stated if it were up to him, Mr. Small would have the speed limit set at twenty (20) mph once the park is open because it is primarily for children and to put the burden on the children and parents to avoid any accidents is too much of a stress. Mr. Thompson stated the State's Code on speed limits does mention the 20 mph speed limit around schools but only when children are walking around the school, but Mr. Thompson does think an inquiry is justified in asking DelDOT what it will do once the park is up and running.

Ms. Faden motioned to accept the proposed thirty (30) miles per hour speed limit along Dukes Drive, with the condition of asking DelDOT to explain why the road was not considered as being part of the residential district and what DelDOT defines as being a residential district. Mr. Maneri seconded the motion. Mr. Small voted no and stated he would like the speed limit to be set at 20 mph since the Town is moving toward having a park there, and where there's a park, there's children. Motion carried 4-1.

7. PROPERTY OWNERS/AUDIENCE COMMENTS AND QUESTIONS

There were no comments.

8. ANNOUNCEMENT OF NEXT MEETING – The next meeting will be the Town's workshop on August 23, 2016.

9. ADJOURNMENT

Ms. Faden motioned to adjourn the meeting at 7:47 p.m. Mayor Gordon seconded the motion. Motion carried 5-0.

Respectfully submitted,
Matt Amerling, Executive Assistant