

**MINUTES OF THE MILLVILLE
TOWN COUNCIL MEETING
February 12, 2019 @ 7:00 PM**

In attendance were Mayor Bob Gordon, Deputy Mayor Steve Maneri, Treasurer Susan Brewer, Secretary Peter Michel, Council Member Ronald Belinko, Town Solicitor Seth Thompson, Town Manager Debbie Botchie, GMB Representative Andrew Lyons Jr., and Town Clerk Matt Amerling.

1. CALL MEETING TO ORDER

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

2. PLEDGE OF ALLEGIANCE TO THE FLAG

3. ROLL CALL

Mayor Gordon stated everyone was present.

4. ADOPTION OF TOWN COUNCIL MINUTES AND NOTES

A. Adoption of Town Council Executive Session Minutes – December 11, 2018

B. Adoption of Town Council Minutes – January 8, 2019

C. Adoption of Town Council Workshop Minutes – January 22, 2019

Treasurer Susan Brewer motioned to adopt the December 11, 2018, Town Council Executive Session minutes, the January 8, 2019, Town Council minutes, and the January 22, 2019, Town Council Workshop minutes. Deputy Mayor Steve Maneri seconded the motion. Motion carried 5-0.

5. FINANCIAL REPORT – Treasurer Susan Brewer

A. January 2019

Treasurer Susan Brewer read the Financial Report for the month ending 1/31/19.

January 31, 2019:

General Revenue: \$ 57,835. Restricted Revenue: \$ 26,951.

General Expenses: 52,661. Restricted Expenses: 21,855.

6. ADMINISTRATIVE MATTERS

A. Administrative Report for January 2019 – Town Manager

Town Manager Debbie Botchie stated the Planning & Zoning (P&Z) Committee met on Friday, February 1, 2019, to review a preliminary site plan submitted by Millville Boardwalk, LLC, for an indoor/outdoor amusement which was approved for Council to vote on. Ms. Botchie stated the P&Z also met on Monday, February 11, 2019, to review a preliminary subdivision site plan submitted by Land Design, Inc., on behalf of

Miken Builders, for the proposed Southern Landing subdivision which will consist of sixteen (16) homes, and it will also go before Council.

MOTION TO ENTER PUBLIC HEARINGS

Treasurer Susan Brewer motioned to enter the public hearings at 7:05 p.m. Secretary Peter Michel seconded the motion. Motion carried 5-0.

7. NEW BUSINESS

A. Public Hearing Notice – Secretary

B. Written Comments – Town Manager

Secretary Peter Michel and Council Member Ron Belinko recused themselves from the dais. Ms. Botchie stated the Town received a total of six (6) letters from Bishop's Landing residents, all of which have been distributed to Council. Ms. Botchie stated the first letter is from Ellen and William Finn, who reside at 19125 Greys Neck Court in Bishop's Landing; however, the letter is written a different subject matter than what is to be discussed tonight so she will read the one sentence which pertains to tonight's subject matter. Ms. Botchie read, "Having the gardens and dumpster will bring an influx of insects and rodents as this area will become a nuisance with live garbage and vegetable food source just sitting there." Ms. Botchie stated the Town received a letter from Patricia and Robert Owen, of 19139 Greys Neck Court in Bishop's Landing; however, this letter cannot be read to record as the subject matter is not on the public hearing agenda. Ms. Botchie stated the Town received a letter from Michael and Ellen Lerche, of 19143 Greys Neck Court in Bishop's Landing; however, this letter cannot be read to record as the subject matter is not on the public hearing agenda. Ms. Botchie stated the Town received a letter from Mark and Harriet Schneider of 19135 Greys Neck Court in Bishop's Landing, and this letter is predominately on a subject matter which is not on tonight's public hearing agenda, so the one sentence which is applicable is, "Also, please do not put a dumpster at the end of our street. It would be an unsightly eyesore that definitely does not belong."

Ms. Botchie stated the Town received a letter from Linda and Richard Duggan, of 19160 Flagstone Lane in Bishop's Landing, which reads, "Town Council of Millville – We have been told that there is a need for additional dumpsters in Bishop's Landing. This has been addressed by the HOA (homeowners' association) and Beazer with the addition of two dumpsters next to the new pool. One is for garbage and the other recyclables. During the summer another garbage dumpster will be added next to the existing one near the Dog Park. There will be three or four weekly dumpster pickups during the busy summer months. Please give this plan the summer of 2019 to show that it will solve any garbage being left outside of dumpsters. Thank you."

Ms. Botchie stated the Town received a letter from Katherine Miegel, of 16955 Bellevue Court, Lot 391, in Bishop's Landing, which reads, "I am writing to the

Millville Town Council to present information related to the pending decision on the placement of a second set of dumpsters in Bishop's Landing. I am asking the Council to deny the request to place these dumpsters permanently by the new pool next door to my house. I purchased my home at 16955 Bellevue Court in January 2017. On the master plan of Bishop's Landing that I was shown, Lot 391 was an end unit villa. It backed up to a walking path with another villa on one side and a 'to be built' pool on the other side. There no site plan shown for any dumpsters anywhere around Lot 391. If dumpsters had been shown, I certainly would not have purchased the villa. Having large trash receptacles next door to your home is certainly not any kind of selling point. Imagine sitting outside on your patio looking at them. Since they were installed a few months ago, there has been a definite increase in traffic around the area as people dump trash and other items (this is the off-season so I expect a greater increase beginning in May); swinging and banging gates that are in front of the dumpsters – they are often left open after they are emptied (some of us have been closing them and notice that the gates are already showing wear and tear that could prevent closure in the future); and spilled debris behind and around the dumpsters including snack food, fruit, empty beverage containers and other rodent attracting items (again, this will only get worse beginning in May). A last point regarding the ability to empty the dumpsters when the pool opens: the pool, pool-house, playground, dumpsters and parking spaces are all on one housing lot. Once the parking lot is striped and cars begin to park there, there will be no way for the trucks to get to the dumpsters. Thank you for your consideration of my request.”

- C. Discuss a final amenity site plan submitted by George, Miles and Buhr, LLC on behalf of Beazer Homes, for Bishop's Landing. The applicant is requesting in Phase 5 to remove the dumpsters, and to install a tot lot near the Phase 4 pool.

Mr. Steve Marsh, of GMB, stated Mr. Steve Brodbeck, of GMB and former employee of Beazer, as well as Mr. Steve Frisina, of Beazer, are also in attendance tonight. Mr. Marsh stated the original plan approved as of now was the rendering originally submitted back during Phase 5 public hearing for preliminary in January 2017, and the Town Council final approval on March 28, 2017. Mr. Marsh stated tonight's first request for amendment tonight is to move the tot lot from the southeast corner of Bishop's Landing to being beside the Phase 4 pool. Mr. Marsh stated the plan was to always place the tot lot in the referenced area since there is a walkway from the pocket park which sneaks through the berm and goes out to the DelDOT multi-modal path on Windmill Road. Mr. Marsh further stated it was thought maybe the location was not the best place for the tot lot because of such easy access to the main road, and GMB and Beazer thought that was understood so they knew they'd have to document that change, which is why they are here tonight. Mr. Marsh stated the second issue is relative to the dumpsters in Phase 5, and when going back in the iterations of Bishop's Landing, there were originally four-hundred-fifty-seven (457) lots and Holts Lane was a dead end which did not have a "T turnaround," so the dumpsters were placed at the dead end road and not so close to the homes as shown now. Mr. Marsh stated the Fire Marshal made GMB and Beazer put the "T turnaround" in due to emergency safety

vehicles being able to turn around more easily, so when they put in the “T turnaround,” they placed the dumpsters where they are currently marked, and during construction, realized that location was not the best place for the dumpsters. Mr. Marsh stated, as land planners, GMB struggles with this all the time because they understand dumpsters need to be somewhere on site but it’s very difficult to find a site of which people will not complain. Mr. Marsh stated GMB and Beazer feel the current site is not an appropriate site to have the dumpsters placed. Mr. Marsh stated the dumpsters at the Phase 4 pool were always there, so those dumpsters the applicant is not asking to add; however, the applicant is requesting the dumpsters at the end of Holts Lane be removed.

Mayor Bob Gordon asked if there was any consideration to “find another home” location for the dumpsters in Phase 5. Mr. Marsh stated it’s not a question of Beazer not being willing to spend money to put the dumpsters in, but a question of where can the dumpsters go, and Mr. Marsh’s opinion is to add more dumpsters where there are some already located (i.e., the Phase 4 pool) because that site has been approved, or working with the development’s homeowners’ association (HOA) to have more frequent trash pick-ups. Mr. Steve Frisina, of Beazer, stated the dumpsters located at the Phase 4 pool, the pad was made a lot larger, double in capacity, and it can handle four (4) seven (7)-yard dumpsters in there, so the dumpsters can be double stacked – meaning one can be dumped, moved to the side, and then the other behind it dumped. Mr. Frisina stated right now, there are two (2) dumpsters – one (1) for recycling and one (1) for trash – but it can handle two (2) more in there. Town Solicitor Seth Thompson stated one of the letters received before the meeting stated there is a concern of parking being there so when a trash truck pulls up to dump the one dumpster and has to set it aside, it will have to place it in the parking area of the pool. Mr. Frisina stated the way it is striped, the truck would come in and dump the one then pull back to dump the other.

Town Manager Debbie Botchie asked what the issue is of leaving the dumpsters in Phase 5 and moving them to the end of Greys Neck Court where the clamshell parking is located, because a truck can go down there, unload and back out because it’s about seventy-six (76) feet away from the corner house. Mr. Marsh stated there will be some folks who live there who would be very unhappy. Ms. Botchie stated she understands that because the Town was inundated with phone calls last year from Bishop’s Landing residents for the insanely amount of trash at the location where a third dumpster was added for the summer, and Ms. Botchie was there three (3) times herself, Code Enforcement was out there, but the Town had no mechanism in place to violate and because of this issue, the Town created an ordinance for dumpsters. Ms. Botchie stated the trash bags were piled high – four (4) to five (5) feet. Mr. Marsh stated if the ordinance was on the number of dumpsters one has to have or just making sure trash is not pile alongside the dumpsters. Ms. Botchie stated the ordinance is for no trash to be piled alongside the dumpsters as well as overflowing from the top and sides of trash bins and dumpsters, so now offenders will be fined. Ms. Botchie stated nothing will be different this year than it was last year (regarding trash dumping) and there were three (3) pick-ups per week last year. Mr. Marsh stated he would be happy

to have a work session and find an alternate way that is not in someone's front yard because it makes things difficult. Ms. Botchie stated she understands and the Town has heard several different rumors recently about where these dumpsters may be placed. Mr. Frisina stated the dumpsters in Phase 4 weren't open last summer so that should make a big difference. Ms. Botchie stated yes, but there's only one (1) dumpster there, and if Bishop's Landing is going to be a "dumpster community," of which Bishop's is the only one in Millville, the dumpsters as planned are strategically placed throughout the community, and the one next to the clubhouse, by the Phase 4 pool and in Phase 5. Ms. Botchie stated she agrees the dumpsters are too close to the house but the site off Holts Lane could have a pad and dumpster.

Deputy Mayor Steve Maneri asked how far back the clamshell parking area goes. Mr. Marsh stated the clamshell parking is just temporary parking for the community garden and people who are parking there to maintain the garden. Mr. Maneri asked if the clamshell parking could be pushed back to near the tax ditch so there would be room to have a dumpster on the clamshell and it will give room for the garbage truck to come and dump. Mr. Marsh stated he would have to look at the tax ditch right-of-way (ROW) only because you're not supposed to have hard structure in the ROW but it's something he could talk to the State drainage people about. Mr. Thompson asked why clamshell was chosen. Mr. Marsh stated clamshell is a lot softer it's something being used more often, particularly in the beach areas so it gives the "beach feel," and it's more impervious. Mr. Marsh stated he would be happy to discuss this further but he will have a difficult time dropping this on the plan. Mr. Maneri asked if there is trash bin service to each home and dumpster service to the community, can't the Town look at having one or the other? Mr. Maneri stated if the community is going with the dumpsters, they might want to have cameras around the dumpsters so the HOA can see who's doing the dumping. Mr. Frisina stated he thinks having the dumpster at the Phase 4 pool this year – which it wasn't last year – will make a significant difference. Ms. Botchie stated with what the Town saw in terms of garbage pile-up, she thinks that may be "wishful thinking." Ms. Botchie stated people here love to eat their crabs which leaves horrible carcasses and smells, and she saw an individual pull up in a station wagon and haul seven (7) bags of trash, throwing all the bags on the ground next to the dumpster. Mr. Marsh stated this same issue is a struggle in Bayside because people come on the weekends, leaving on Sunday, and since the HOA doesn't want the garbage bin out on the street for two (2) days, people use the dumpsters. Mr. Marsh stated at Bayside there is one central location and people have to drive to dump their excess trash. Ms. Botchie stated the fines for people leaving trash out will be ninety-nine dollars (\$99) for the first violation and two-hundred-fifty dollars (\$250) per day for the next violation until the trash is gone. Ms. Botchie stated the Town will be serious about this and people will get violation fees if they don't adhere to it (the Town Code's trash ordinance), because trash can blow out and into stormwater ponds, ditches. Ms. Botchie asked if the dumpsters are just for "weekenders." Mr. Marsh stated everyone has regular trash service so it could be, unless it's possible people are driving into the community and using the dumpsters. Mr. Maneri stated this is why cameras would be a good deterrent. Mr. Thompson stated dumpsters are in some way an "attractive nuisance" because you sort of need them, but it can draw other people

(outside of the community) to use them. Mr. Maneri stated at Millville by the Sea (MBTS), which is not a dumpster community, they have bins for each house but also neighbors can count on each other to take up the bins to a neighbor's house who may not be at their residence or a full-time resident. Mr. Frisina stated he would like to get rid of the dumpsters altogether. Mr. Maneri stated dumpsters are nothing but trouble and Mr. Frisina agreed.

Mr. Maneri asked if Beazer can cover the dumpsters better so people on the road can't see them to randomly come in and use the dumpsters. Mr. Frisina stated you have to be careful with the gates, you can't put a lot of weight on those gates. Mr. Maneri asked if there is some kind of mesh to help with that. Mr. Frisina stated yes, and he's getting the gates fitted for it, and he does have slats in there now to help. Mr. Thompson asked if Holts Lane was always a "T turnaround." Mr. Marsh stated no, under the original plan, the road (Holts Lane) originally stopped further back, and the dumpsters could sit at the end of the road and they weren't basically right in someone's front yard; however the Fire Marshal required a certain length for the turnaround (for emergency vehicles), which required the "T" and that's why the plan is now how it is. Ms. Botchie asked Mr. Marsh if he could research near the clamshell parking to see if a dumpster could go there. Mr. Marsh stated yes. Ms. Brewer asked if there is any other space in Phase 5 where dumpsters could be located. Mr. Frisina stated not to adequately get a truck to back in and out to dump. Mayor Gordon stated there would also be a whole new slew of residents in that area complaining about the dumpsters and the noise of dumping. Ms. Botchie asked if the property owners who bought in Phase 5 knew there were going to be dumpsters located in that particular portion. Mr. Frisina stated he thinks so but he can't say for sure. Ms. Botchie stated she asked one property owner and that person said yes, they knew and it's a lot different when you actually move in (to the house). Mr. Marsh stated there are times when it looks like you have more room on paper than in actuality. Mr. Frisina stated he stopped a concrete pad from being put in because the dumpster pad was only nine (9) feet from a resident's home. Ms. Botchie asked how far the dumpster is from lot 391 (located next to the Phase 4 pool). Mr. Frisina stated, from the corner of the house, he would say at least sixty (60) feet. Mr. Thompson asked how many dumpsters there are which Beazer wants to remove. Mr. Marsh stated there are two (2) small dumpsters. Mr. Frisina stated there is enough room at the pad near the Phase 4 pool to hold four (4) seven (7)-foot dumpsters. Ms. Botchie asked how four (4) dumpsters will work – specifically moving the dumpsters in and out during dumping – at the Phase 4 pool location. Mr. Frisina stated the garbage man would have to pull in, dump the first dumpster, set it off to the side and then dump the second one. Ms. Botchie asked how noisy that will be for the residents near the Phase 4 pool. Mr. Frisina stated it would be double the loud dumping noise than the Phase 5 area. Ms. Botchie stated there will be complaints from that area (Phase 4 pool). Mr. Marsh stated it is a "no-win" situation.

D. Residents/Property Owner Comments & Questions

Mr. Craig Kissel, of Fort DuPont Drive and the HOA representative for Bishop's Landing, stated the dumpsters are a big issue and what Bishop's Landing put up with

last year was the result of inadequate dumpster supply based on the dumpster proposal which is in the HOA documents, and it was given to the HOA when Beazer developed the property. Mr. Kissel stated there is no say it's ever been made about not having dumpsters; Mr. Kissel would love to see the dumpsters go. Mr. Kissel stated the HOA brought in a supplemental dumpster, put it in next to the existing dumpster at the clubhouse area – next to the tennis courts – and it took care of a lot of the overflow, but it didn't take care of all of it. Mr. Kissel stated he can't tell Council how many times he and other residents have picked up bags in that area. Mr. Kissel stated the development has a huge problem with renters, and Mr. Kissel sees the current residents' trash bins being emptied and put away; but rental people will not use the trash bins and there are a group of people in the community who persist on not wanting to use their trash bins because they don't want the dirty trash can in their garage. Mr. Kissel stated there are HOA rules and regulations they have to work on with the possibility of putting these garbage bins outside but there are all kinds of ARC (Architectural Review Committee) rules they have to follow, so they will have to be amended and changed, which the community is in the middle of doing right now. Mr. Kissel stated he sees people drive their garbage to the dumpster, but this is an issue many communities with dumpsters have to work with.

Mr. Kissel stated regarding the positioning of dumpsters over in Phase 5, Mr. Kissel and Mr. Frisina talked at length about the standard dumpster size cannot get in there to allow the dumpster truck without doing damage to lawns. Mr. Kissel stated if the dumpsters are going to be moved from the location they are now on Holts Lane to where the potential community garden is located on Greys Neck Court, there will now be an entire neighborhood area who is going to be “up in arms,” as opposed to dumpsters which are already on the site plan at the Phase 4 pool area. Mr. Kissel stated he spoke with Council Member Peter Michel about doubling the dumpsters in that area, and there will be three (3) to four (4) pick-ups per week during the summer. Mr. Kissel stated until Bishop's Landing gets a read on what handles the problem, the development doesn't know how much service they need. Mr. Kissel stated the HOA can't do anything about the removal of all dumpsters until residents have complete control (of the HOA), which won't be for another few years, unless Beazer steps up and decides to do away with the dumpsters, which Mr. Kissel doesn't believe will happen because it's in all the HOA documents.

Mr. Kissel stated a good fix on this is to do something to help Ms. Miegel, who lives next to the Phase 4 pool and about sixty (60) feet away from the garbage pad, which is to possibly put some landscaping in there to make it look better, and that is the only area which will be exposed to noise level. Mr. Kissel stated there really is no other clear space to put dumpsters in the community. Mr. Kissel stated there are repeated letters and fines the HOA sends out so people don't overflow the dumpsters. Mr. Kissel stated if the Town makes too many changes, the Town will start to “rock a lot of cradles” which will create more angst than what there is now. Mr. Kissel stated he thinks if the Town addresses Ms. Miegel's view issue, maybe she will be happy, but you can't get rid of the noise – she has a pool and playground next to her house so she has noise anyway. Mr. Kissel stated they will get a good look real fast if there is

enough capacity to be able to handle the flow of garbage, as well as continuously educating residents of the rules they must follow as well as the fines that will be incurred if they don't follow said rules.

Mr. Ron Belinko, of Seashore Park Drive (speaking as a resident), stated he's been a resident longer than most present tonight save Mr. Michel and Mr. Marshall Gevinson, but with regards to the playground, when first looking to buy in Bishop's Landing, he and his wife looked at property and there was a playground there, but it was moved without the approval of Council. Mr. Belinko stated he thinks the playground was moved to sell homes and now, as a Council person, Mr. Belinko is embarrassed to come into Town Hall to see on an agenda that Bishop's Landing is coming in for an amenity change which has already taken place. Mr. Belinko stated when people buy their homes, there is one particular plan, but a little later, people come into buy and there's another plan change, and another and another and so on; so there are numerous waves of buyers who have different plans they were shown and things get confusing. Mr. Belinko stated the problem is no one from the sales office is here (at the meeting) to be asked why weren't the old plans picked up, but it can only be to sell more homes; and that is just one problem with making changes without going through the Town. Mr. Belinko asked Ms. Botchie if any of tonight's public correspondence from the five (5) residents mentioned anything about the Fire Marshal's ruling, or if there was any approval from the Fire Marshal in the Council agenda packets. Mayor Gordon stated no. Mr. Belinko stated he would like to see the Fire Marshal's ruling and whether it's a reality or not. Mr. Belinko stated he has spoken to Ms. Miegel and he had to point out that the dumpster pad near her house was on the plan but the plan which Mr. Belinko received when he bought his house shows a buffer between Ms. Miegel's house and the dumpster, which she didn't know was going to go there. Mr. Belinko asked Mr. Marsh if he would want to live in a house within that close proximity of the dumpster. Mr. Belinko stated he doesn't need an answer because he knows what it will be, but the buffer doesn't show up on any of the new plans. Mr. Belinko stated the only solution he sees is if it's put in writing – and not by word of mouth – to have a buffer put in the area between Ms. Miegel's property and the dumpster pad site, as well as a more attractive enclosure, like the one on display near the clubhouse. Mr. Belinko stated it's also a shame that now the people here tonight want to try to put more dumpsters next to her home, even though they've read her letter in opposition of such an action. Mr. Belinko stated no one wants this (the dumpsters) or a volleyball court or a basketball court in their backyard, but yet the development is changing these things. Mr. Belinko stated he cares about Bishop's Landing and about the Town and wants to see better being done. Mr. Belinko stated he would like to see the Fire Marshal report in writing, and Mr. Belinko wants the commitment from Beazer to put Ms. Miegel's buffer in place as well as a more attractive enclosure.

Mr. Glen Bonderenko, of Flagstone Lane, stated everything that has been said tonight is correct, they have had problems with the garbage, nobody wants a dumpster in their backyard, but, like what Mr. Frisina stated earlier, there are other options. Mr. Bonderenko stated yes, the dumpster was originally for Phase 5, and moving it from

one area in Phase 5 to another in Phase 5 is no good. Mr. Bonderenko stated if there has to be a dumpster in Phase 5, there are other alternatives; or, if it's not in Phase 5, adding the dumpsters where they can so those residents in Phase 5 won't be adversely affected. Mr. Bonderenko stated Ms. Miegel has a right to not have to look at a dumpster, and so do the people in Phase 5.

Mr. Marshall Gevinson, of Seashore Park Drive, stated the dumpster by the dog park is very attractive, with stone siding, and why can't Beazer make the dumpsters in Phase 5 or wherever to be just as attractive? Mr. Gevinson stated if there are to be double stacked dumpsters by the Phase 4 pool, the parking spaces will have to be marked off as stating "you cannot park here on trash pick-up days," which limits space for visitors, residents and any maintenance workers. Mr. Gevinson stated if someone were to disregard the "no parking" sign, and there are cars parked in the area when the trash truck comes to dump, what happens then, and who will pay for the garbage guy to come back to empty the dumpsters?

Mayor Gordon stated he's hearing a lot of people tonight saying they don't want dumpsters, so why does this community have dumpsters because they're never going to go away, and Council will be back here in three (3) months having the same discussion because the trash will pile up and people will simply throw their trash bags over the fence and not into the dumpster. Mr. Marsh stated in 2011, Beazer wanted to make sure there were dumpsters to make it convenient for those people who left on the weekend to have a place to dump their trash. Mr. Steve Brodbeck, of GMB, stated it was always the intent to have trash pick-up at every home, and if someone were in and out for the weekend – such as renters – they'd have an auxiliary drop-off to dump their trash, but there is a big problem with people coming in from outside of the community to dump their trash. Mr. Brodbeck stated it's managed by the HOA and if they decide to pull out all of the dumpsters, they'll have to look into that and make sure people use their trash bins. Mayor Gordon asked what is involved with the HOA regulations in regards to the dumpsters. Mr. Kissel stated there are regulations in the HOA documents which call for the setup and use of dumpsters, but there's nothing to say those documents can't be amended – in fact, the HOA is currently reviewing items in the documents which don't fit the community and this could be one more thing to be put on the docket for the attorney to review. Mr. Frisina stated he is sure Beazer would be more than glad to look into getting rid of the dumpsters and help amend the documents. Mr. Thompson stated if dumpsters are removed, Beazer would have to come before Council again to request to have them removed. Mayor Gordon asked Mr. Gevinson, Mr. Michel and Mr. Belinko if they would want the dumpsters removed. Mr. Gevinson, Mr. Michel and Mr. Belinko stated yes. Mr. Kissel stated he would welcome being in talks to get rid of the dumpsters but there is a learning curve and it may take a while. Town Clerk Matt Amerling asked if there is something in the HOA documents which restricts renters from using the property owner's trash bins. Mr. Kissel stated no. Mr. Amerling stated it seems to him that maybe renters are being told not to use the trash bins, but the renters should use them while they are renting there.

Ms. Valerie Faden, of Beach Plum Drive, stated she is the president of her HOA and

their community doesn't have dumpsters but they do have regular trash pick-up; and in their community, people are allowed to use a specific heavier type of plastic bag to put their trash out on the sidewalk, and the people who rent have to have their renters know what the community rules are and if they don't abide by those rules, the property manager will note it and fine those people. Ms. Faden stated even if it is agreed upon to remove the dumpsters, it's not a real issue, just a formality, to come back before Council to get another site plan approved since everyone seems to agree on having the dumpsters removed.

Mr. Gevinson stated trash is not allowed to be outside on the curb without being in a trash bin and Town Code & Building Official Eric Evans stated he can't always issue a permit for a trash enclosure as, depending on the property's setbacks, it may impose upon the setback. Mr. Kissel stated the HOA allows outside showers which stick out further than the trash receptacle would be and we could write the code to accept a receptacle as long as it adheres to the same design standards.

Mr. Thompson stated there was talk about having a buffer near the Phase 4 pool area and is that something Beazer still plans to do or can do? Mr. Marsh stated the first conversation will be whether or not the HOA and Beazer and the residents can all decide on not having dumpsters, and, if that doesn't pan out, Mr. Marsh will be happy to talk to Beazer about what would be appropriate in terms of a buffer. Mr. Frisina stated the dumpster pad by the Phase 4 pool is per plan and it's always been that way, and the reason the dumpster next to the clubhouse was more attractive is because of its location. Mr. Frisina stated he believes there is a buffer which has not been planted and needs to go into the location at Phase 4. Mr. Belinko stated the current plan does not show the buffer. Mr. Frisina stated his final landscaping plan shows a buffer. Mr. Belinko stated but the final plan doesn't show the buffer and that is his concern. Mr. Frisina stated the buffer will be put in the area shown near the Phase 4 pool regardless of whether an extra dumpster goes there or not because it's always been in his final landscaping plan and it should be planted around spring.

- E.** Discuss Ordinance 19-09, which will amend the Town Code at Chapter 155, entitled "Zoning," at 155-13, entitled "C-1 - Town Center Commercial District," 155-14, entitled "C-2 - Town Commercial District," and 155-79, entitled "Definitions and word usage."

Mr. Michel and Mr. Belinko rejoined the dais. Town Manager Debbie Botchie stated this is merely a clean-up ordinance due to back in 2014, Council approved to remove all of the listed uses which a person could apply for a conditional use, and they were all taken out. Ms. Botchie stated in the districts of C-1 and C-2, there were remaining uses still listed, so this is merely to take those uses out to make it more uniform to the rest of the Code. Mr. Thompson stated this ordinance doesn't have an effect on the Town's current conditional uses as those will remain in effect and will still have to go by the conditions set at the time of approval.

F. Residents/Property Owner Comments & Questions

There were no comments.

MOTION TO CLOSE PUBLIC HEARINGS

Ms. Brewer motioned to close the public hearings at 8:15 p.m. Mr. Michel seconded the motion. Motion carried 5-0.

8. NEW BUSINESS

- A. Review and possible vote on a final amenity site plan submitted by George, Miles and Buhr, LLC on behalf of Beazer Homes, for Bishop's Landing.
- Mayor Gordon requests individual vote

Mr. Michel and Mr. Belinko recused themselves from the dais. Mr. Thompson stated the two (2) items up for vote are install the tot lot near the Phase 4 pool, which has already been done, and the removal of dumpsters from the Phase 5 Holts Lane location. Mr. Thompson stated Council could not vote tonight to have dumpsters moved to another location as that would be improper without notifying residents of that area. Mr. Maneri stated regarding the tot lot, it bothers Mr. Maneri that these builders and developers keep building things without Council approval and Mr. Maneri asked if there is anything on the Town's side which can be done about this. Mr. Thompson stated if someone is building something which is not appearing on the site plan, they should get a notice of violation from the Town. Mr. Thompson stated he recognizes the Town has a lot going on so it's hard to be everywhere. Mr. Maneri stated it's starting to be every builder doing this to the Town and Council has to put a stop to it, because a developer can't come in and do something without Council's approval. Mr. Thompson stated Mr. Maneri's point is well taken and if something is being built and it wasn't approved by Council, the builder and/or developer should get a cease-work order and they should have to come before Council for approval before moving forward on said work. Mr. Thompson stated with tonight's issue and whether it should be approved, Council still needs to review this with the same factors with regard to the site plan approvals in terms of whether the change makes sense based on the enumerated factors, looking at this as if the developer hasn't already done the job. Mr. Andrew Lyons Jr., of GMB, stated with Mr. Lyons now going out and being in place to do their inspection and being involved throughout the entire inspection process, there shouldn't be much more, if any, of this type of thing. Mr. Lyons stated he will have all the approved plans as they come in and be able to note everything coming in from day one, so that should eliminate a lot of this type of thing. Ms. Botchie stated if Council doesn't think it makes sense to have the tot lot where it was built, Council can have Beazer remove it and rebuild it elsewhere.

Mayor Gordon stated he agrees with Mr. Maneri to nip this in the bud before it snowballs more because that's how it seems to be going. Mayor Gordon stated he doesn't want Beazer to have to tear out the tot lot and rebuild it, but there does need to be some kind of leverage to ensure this doesn't happen again. Mayor Gordon stated in regards to the dumpsters, he'd like to table that issue until Beazer and the HOA can get together and see what they can agree upon and come back with it to Council. Mr. Thompson stated Council can table the entire application, but Mr. Lyons' comment is

valid in that the enforcement on the front end is better at this point than it was in 2015 or whenever the tot lot there was installed. Mayor Gordon asked Mr. Maneri his opinion. Mr. Maneri stated he would like to table both aspects of the application. Mr. Maneri motioned to table the final amenity site plan for Bishop's Landing. Ms. Brewer seconded the motion. Mr. Maneri voted yes. Ms. Brewer voted yes. Mayor Gordon voted yes. Motion carried 3-0-2 abstentions.

- B.** Review and possible vote on Ordinance 19-09, which will amend the Town Code at Chapter 155, entitled "Zoning," at 155-13, entitled "C-1 - Town Center Commercial District," 155-14, entitled "C-2 - Town Commercial District," and 155-79, entitled "Definitions and word usage."

- Mayor Gordon requests individual vote

Mr. Belinko and Mr. Michel rejoined the dais. Mr. Belinko motioned to adopt Ordinance 19-09. Mr. Michel seconded the motion. Mr. Maneri voted yes. Mr. Belinko voted yes. Mr. Michel voted yes. Ms. Brewer voted yes. Mayor Gordon voted yes. Motion carried 5-0.

- C.** Review and possible vote on the Roads & Right-of-Way (ROW) Plat for Millville by the Sea (MBTS) Sand Dollar Village I & II and Lakeside Village revision date January 3, 2019; the Roads & ROW Plat for MBTS Summerwind Village revision date January 3, 2019; Open Space Plats for MBTS Sand Dollar Village I & II and Lakeside Village revision date January 4, 2019; and the Response to Comments letter dated January 3, 2019, as submitted by Civil Engineering Associates, LLC.

Deputy Mayor Steve Maneri and Treasurer Susan Brewer recused themselves from the dais. Mr. Andrew Lyons Jr., of GMB, stated this application is for the subdivision of the open space and the right-of-way (ROW) in Millville by the Sea (MBTS). Mr. Lyons stated originally when the plans came before Council, the ROW and open space were all shown under one entity, but partially to the master HOA and partially to each village. Mr. Lyons stated these plats show Mr. Lyons the subdivision of the streets and open space, into what goes to the master HOA and what goes to each individual village. Mr. Lyons stated no new roads are being created, this is just all being separated out to individual villages or to the master HOA. Mr. Thompson stated from a legal perspective, the one note the Town had put on the original plat for the roadways remains, where it indicates the plats being recorded in conjunction with and with the purpose of conveying of the streets but there will be specific deeds which then have to be approved and recorded later on. Mr. Thompson stated, in other words, by approving this plat, Council is not approving tonight the turnover of any roads to the named HOAs, but rather that will need to happen later on once the roads are complete and have been inspected. Mr. Thompson stated this aspect is taking the open space and the roads and dividing them into individual parcels so they can be assigned to the appropriate master HOA or one of the community associations.

Mr. Lyons stated he has reviewed the plats and all of Mr. Lyons' comments were addressed with making sure the plats agree with the recorded plats. Mr. Lyons stated he

has one question which came up tonight regarding open space and why the individual village instead of the master HOA because there is a pipe going between the two. Mr. Al Ruble, of Millville by the Sea, asked to elaborate. Mr. Lyons stated open space is owed in Sand Dollar Village, which is where the pipe goes from the pond to the big drain square by the paddleboat. Mr. Thompson asked if Mr. Lyons meant the northern end. Mr. Lyons stated yes. Mr. Lyons stated the question he received refers to the section where the piping runs through to the master HOA and the stormwater pond. Mr. Ruble asked if the pipes are now underground. Mr. Lyons stated yes. Mr. Ruble stated, to him, this is not a big deal and he thinks Mr. Ron Sutton, of CEA, looked at this at one time and had some discussion on it, but this has taken so long to do and no one's had an issue until tonight. Mr. Lyons stated there is access to the open space from the road itself and that's the only way you can get to that section. Mr. Ruble stated there has been a lot of discussion on this and until Mr. Lyons mentioned this just now, there was no issue, but it's a little unreasonable to Mr. Ruble someone comes in five minutes before a meeting and suddenly takes issue when all parties have had a while. Mr. Lyons stated this does put the piping in two different HOAs, which has some issues, but it's not unheard of, and the one area to enclose the pipe would cut off access to that area. Mr. Lyons stated the only other way would be the entire area of open space to go through the master HOA which MBTS could get open space added but that is tight, to maintain the ditch. Mayor Gordon asked if Council may want to table this issue tonight. Mr. Lyons stated the access issue would be bigger than the pipe issue because if someone can't get back there, they'll have issues back there they can't access. Mayor Gordon asked how big the pipe is. Mr. Lyons stated it's a thirty (30)-inch pipe. Mr. Ruble stated it makes sense the way it is. Mr. Lyons asked Mr. Thompson, in order to avoid tabling tonight's items, if Council could approve the items contingent on making the requested change. Mr. Thompson stated yes. Mayor Gordon stated he agrees with Mr. Lyons rather than table this, it would be better if Council could make it so it's rendered to the master HOA before it's terminated. Mr. Ruble stated he has to check with some people at MBTS because he thought the section was going to be the master. Mayor Gordon stated maybe it is better to table this until there is more corrected information rather than have something which will come back and haunt Council.

Mr. Belinko motioned to table all mentioned plats and comment letter. Mr. Michel seconded the motion. Motion carried 3-0-2 abstentions.

D. Review and possible vote on Resolution 19-05.

Synopsis: If approved, Resolution 19-05 will release bond #PB03010400611, prepared by Philadelphia Insurance Company, in the amount of \$556,069.00, as requested by Millville Town Center LLC, representing Millville by the Sea.

Mr. Maneri and Ms. Brewer rejoined the dais. Mr. Lyons stated a walkthrough was performed with the developer, contractor and Mr. Lyons, and a punch list was created. Mr. Lyons stated as of this morning, all items on the punch list have been completed. Ms. Botchie stated the warranty bond is in place. Mr. Thompson asked if the bond would be valid one year from tonight if approved. Ms. Botchie stated yes.

Mayor Gordon motioned to accept Resolution 19-05. Mr. Michel seconded the motion. Motion carried 5-0.

9. CITIZENS' PRIVILEGE

Mr. Dennis Hartline, of Blue Heron Drive, asked if there are plans to have dumpsters in the new Bishop's Landing (formerly Dove Landing). Ms. Botchie stated yes and hopefully there will be good discussions to get rid of dumpsters in the new part. Mr. Hartline asked what the status is on the Town park. Ms. Botchie stated the Town is going to bid. Mr. Lyons stated a bid is going out to be advertised very soon. Ms. Botchie stated the Town received a one-hundred-thousand dollar (\$100,000) grant from the State, which will be put toward the park public restroom and maintenance building. Ms. Botchie stated it should be noted that Bethany Beach's park has also been delayed – by eighteen (18) months – because of awaiting State agency approvals, just like the Town.

Mayor Gordon stated Treasurer Susan Brewer has decided not to reapply for Council, she has spent five (5) years on Council, and three (3) years on Planning & Zoning (P&Z). Mayor Gordon stated we are all going to miss Ms. Brewer, she has been instrumental in her tasks, she goes about her duties in a quiet fashion, she has worked with artist John Donato on the Council chambers mural, and she'll be missed by all. Mayor Gordon presented Ms. Brewer with a gift. Ms. Brewer stated her thanks, and it's been a pleasure and an honor to work with Council, the staff and the residents, and maybe one day she will come back.

10. TOWN COMPREHENSIVE PLAN COMMITTEE MTG., FEBRUARY 26, 2019, AT 1 P.M.; AND TOWN COUNCIL WORKSHOP MTG., FEBRUARY 26, 2019, AT 7 P.M.

11. ADJOURNMENT

Ms. Brewer motioned to adjourn at 8:47 p.m. Mayor Gordon seconded the motion. Motion carried 5-0.

Respectfully submitted,
Matt Amerling, Town Clerk