

Minutes of Meeting
Dagsboro Town Council
Bethel Center- 28307 Clayton Street
Monday-March23, 2015

Call meeting to Order:

Mayor Truitt called the March 23, 2015 meeting to order at 7:00 p.m. Those in attendance were Mayor Norwood Truitt, Vice Mayor Baull, Councilman Chandler, Councilman Miller, Councilwoman Ulrich, Town Administrator Stacey Long, Attorney Rob Witsil, Chief Toomey, Kyle Gulbranson from URS and others listed on the sign in sheet.

Public Comment: Must adhere to Section 17.6 of Adopted Rules & Procedures of the Town Council:

Steve Davis who lives at 31812 Waples Street informs Council about an area around the ditch beside his house. The pavement on the road is cracking and there are sinkholes in the grass above the culvert. He is worried that the road will collapse and he has pictures for the Council. Mike Delehanty states that the ditch has stagnant water and there is no flow. Stacey stated she will look into this matter and get back to them.

Presentation: FY2014 Financial Statements- PKS & Company:

Lee McCabe from PKS & Company informs Council that he has worked on the Town's audit for the past year with Stacey and Autumn. The audit report says that management is responsible for the preparation and fair presentation of the financial statements of the Town. The auditor's responsibility is to express an opinion on the financial statements based on the testament of the auditor. PKS & Company conducted their audit tests in accordance with governmental audit standards. The audit report issued was a clean and unmodified opinion. It stated that the financial statements of the Town and all material respects the financial position of the governmental activities. Mr. McCabe enlightens Council that this comment is the highest opinion an auditor can issue on financial statements.

The Town had an increase in the general fund balance for the year in the amount of \$101,000. The balance on the fund at the end of the year was \$293,944.00. Of that amount, \$11,000 was considered non spendable and about \$185,000 was considered restricted. Non spendable means money that is already spent. Restricted balances represent the amount such as impact fees, grant money and realty transfer taxes that are restricted to certain things it can be spent on. The remaining balance is approximately \$89,000 which is unassigned and is available for future use. Total revenue for the year was \$591,005. The largest source of revenue was from taxes which was 49% of the Town's revenue. It was approximately \$292,000. Intergovernmental revenue was \$108,000. Taxes increased approximately 47% from the previous year. That increase was due to the Town raising taxes between 2013 and 2014 from \$.38 to \$.56 per \$100 of assessed value. Intergovernmental revenues decreased from the previous year by \$31,000. There were several grants in FY2013 that were fully expended and did not carry over to the next year. The most significant grant for 2014 was the continuation of the COPS Hiring grant program which is \$125,000. In 2014 the Town elected to allocate some payroll costs to the water fund. Public safety expenditures increased about \$47,000 this is related to the increases in salaries for the staffing of the police department. The capital outlay for the year decreased about \$46,000 because there was no further work in the Katie Helm Park during FY 2014.

The water fund had a decrease at about \$65,000. The position at the end of the year was \$2,533,226. Almost \$2,300,000 was invested in capital assets. The remaining \$282,000 is unrestricted and ready for use. The total charges for the year was \$234,971.00 that is a decrease of \$14,000 from the previous year. The impact fee revenue was approximately \$26,000 which was a decrease at about \$12,000 from the prior year. There was a decrease because the fire department paid their impact fees in FY 2013 and was a large amount. The operating fund expenses for the year was \$282,407.00. The largest area of expenses was the water usage charge. Mr. McCabe informs Council that PKS sends out three letters and the one letter that changes year to year is the management letter. He recommends that the Town annually approve a list of the reoccurring bills that do not require a purchase order. Mr. McCabe suggests that it is a better control to let QuickBooks print checks through that software rather than writing a manual check. He also suggests there be more documentation of the cops grant. Mayor Truitt asks Mr. McCabe if the current controls are adequate. Mr. McCabe answers with a Town being our size the controls are good with the limited staffing the Town has. The best control to have is the Council and Mayor looking at what is being done in the Town Hall. Councilman Chandler asked about the opinion of the internal controls. Mr. McCabe states that a financial statement audit is not intended or designed to test internal control or issue an opinion on the internal controls. They have to gain an understanding on what those controls are in order to design an audit procedure that will enable them to express an opinion on the financial statements. Mr. McCabe states that they note internal control items that they can talk about, but in no way is this a substantial test of internal controls to issue an opinion on sufficiency of the internal controls. Councilman Chandler asks if any of the recommendations that PKS returned, change their opinion and give him a basis on which to opine on the internal controls. Mr. McCabe states that would be a different engagement. Mr. Haynie informs Council that would be a lot of sampling involved and the sampling amount would have to be higher. He decided to test 2/3 of the checks issued for the year to make sure of the proper signatures and invoices were obtained. Councilman Chandler asked if the Town of Dagsboro compares favorably to or inconsistently with what their usual findings are. Mr. McCabe answers that all the smaller towns have the same internal control weaknesses. To get proper segregation it would cost the Town more money to staff Town Hall with more employees so no one does anything incompatible.

Approval of Minutes:

January 20, 2015:

Councilman Chandler stated the January 20, 2015 minutes should reflect when Councilman Miller was on the phone, that he was both audible to the Council and members of the audience in attendance. Councilman Miller signaled that the Council and audience members were audible to him as well. Councilman Chandler made a motion to accept the January 20, 2015 minutes with the revisions and it was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

February 23, 2015:

Councilman Chandler states in paragraph 11 about the police cruiser, there is no indication of a vote taken on the motion. There should be an indication that a motion was approved by an anonymous vote. Councilman Chandler made a motion to approve the February 23, 2015 minutes with the revisions and it was seconded by Councilman Miller. All were in favor. Motion carried.

Planning & Zoning Report (no action necessary):

1. Organization of Members:

Scott Crater informs Council that he is now Chairman, Brad Connor is Vice Chairman, and the secretary position is vacant at this time. The Town Hall employees are performing the duties of the secretary until

a member of the Planning Commission is available. Many members are stating that it is a cumbersome position.

2. Application for rezoning from TC-Town Center to Commercial for 29118 Piney Neck Road and the vacant lot beside it, owned by Prospect Holdings, LLC, TMP#'s 2-33-11.10-12.00 & 13.00

Mr. Crater informs Council that the possible purchaser wants to repair boat engines. Mr. Crater asked the representative what percentage of the possible purchaser's revenue would be repairing the engines. He was not sure and would have to ask his client and be in touch with the Planning Commission. Stacey submitted a draft copy of the minutes to the Council and informs them that they have not been approved by the Planning Commission at this time however it gives a summary as to what occurred during their meeting. Mr. Witsil informs Council and the audience that there will need to be a Town Council public hearing for the change of zoning if it moves forward. This item was tabled until the applicant can discuss the path forward with his client.

New Business:

Planning & Zoning Recommendations to Council for a vote on the following:

A. Approval of the revised preliminary plan for the Woodlands of Pepper's Creek to provide partial sidewalks in lieu of the walking trail.

Kyle informs Council that in 2006 the final plan was approved. The Town code required sidewalks to be on all streets. When the project came through the process the applicant requested a waiver to Town Council to put an asphalt trail around the subdivision instead of the sidewalks. Mr. Witsil reads 238-4B9 to the Council and audience regarding the process of revising a final site plan that has already received approval. Mr. Witsil states that there is no guidance for an amendment after final site plan approval and after lots have been sold. Kyle states the original plan revision was for a sidewalk on the South side with a cross over to the North continuing on the North side along the roadways. The Planning Commission recommended at the last meeting for sidewalks to be on the North and South side with a stub in to the park.

David Steele who is with Fernmoor Homes, the current owner of the subdivision, and Dave Kuklish who is the civil engineer with Boehler Engineering is present tonight to answer questions of the Council. Mr. Kuklish was approached by the current owners who asked to explore the option of the trail being removed due to privacy, safety and environmental concerns in the rear of their yards. The first plan proposed was a sidewalk running along the South side of Shady Creek Lane up to an existing fire hydrant crossing Shady Creek Lane and running along the North side across Woods Court down to unit 40. Mr. Kuklish discussed that option with the Planning Commission. The subdivision was not engineered or constructed to have sidewalks on both sides. There is a number of conflicts such as driveways that average 20 feet long that would have a sidewalk connection that would create an ADA conflict for people trying to cross the back parts of the driveway. Mr. Kuklish met with URS and walked the site and looked at all the possible conflicts. He then prepared a revised plan and issued it to the Planning Commission. Mr. Steele's concern with having sidewalks on both sides is due to grating on the North side as well as a stormwater inlet on the North side. It would have to be bridged in order to have sidewalks on both sides of the road. There are 12 units in the development that are individually owned. Mrs. Mach who is a resident in the Woodlands states that they submitted a letter to the Town in May of 2014 with signatures of all homeowners requesting the trail to be eliminated. When Fernmoor Homes and the engineering firm came with the revised plan they received signatures again. The initial subdivision was for smaller homes. The smallest yard was 17 feet and the newer homes are larger taking away another 2 ½ feet. Currently on the South side of the park there is no paving and no trail. Lot 40 is the only unit constructed on the North side. Councilman Chandler asks why the unbuilt units couldn't be

readjusted so the sidewalk could continue to the rear of the development. Mr. Kuklish answers by saying along the roadways there are parallel parkways between every unit. Mrs. Mach informs Council that the driveways can only fit one vehicle. Kyle stated the original park plan had one loop around the playground and another loop going up the hill around the pavilion and back down connecting to the stub. The stub would be concrete and they would be using asphalt and pavers for the trail. Vice Mayor Baull made a motion to approve the revised site plan for partial sidewalks as presented on both North and South side of Shady Creek Lane in lieu of the original designed walking trail. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

Consideration of preliminary plan approval for Pepper Creek Crossing, an 18 lot single family subdivision B. located on South Main Street

John Murray from Kercher Engineering stated that the property was rezoned from residential to cluster residential in November of 2005. Mr. Murray obtained preliminary approval for a 19 lot subdivision through the Planning Commission and the Town Council on February 27, 2006. He moved forward with the engineering process and he obtained all the agency approvals with the exception of the Sussex Conservation District. He was denied because the tributary of Pepper Creek is considered part of the tax ditch system. Mr. Murray states that there was an error between where the prong 4 ditch is physically shown on the property and where the right-of-way for the ditch is shown on the property for state mapping. Mr. Murray stated the way the tax ditch law is written he has to obtain 100 percent of all signatures from what DNREC considers the homeowners having benefits of the tax ditch. In 2012 the original approval with the Town sunsetted and he attempted to go through the process in 2012 with the Planning Commission. Town Council recommended that Mr. Murray not to proceed any further because of the tax ditch issue was ongoing. Mr. Murray contacted the solicitor for the State of Delaware to investigate the tax ditch law. Mr. Murray stated that they will leave the ditch alignment where it is and regrade the ditch on their client's property. Mr. Murray informs Council that the plan is to close the ditch and capture the run off coming into the ditch and pipe it down to Peppers Creek. That solution does not require signatures from the affected property owners because the benefit is not being changed. DNREC does not want the pipe end to connect directly to Pepper Creek. They recommend the exposed pipe end to be behind Lot 9. There will be storm drain and man holes for access. DNREC's preference is this option rather than grating because it will be less maintenance in the long term. A storm water analysis will have to be performed to demonstrate that there is no more flow coming off of the property. It will have to be approved by the Sussex Conservation District. Mr. Witsil states that a public hearing must be held to approve the preliminary plan. Vice Mayor Baull made a motion to set a public hearing for preliminary site plan approval for Pepper Creek Crossing during the April meeting. It was seconded by Councilman Miller. All were in favor. Motion carried.

C. Determination on Chapter 275-7 Application to Governments to exclude fire companies from the zoning and signage code regulations

Stacey states that the fire department has submitted plans for a wall sign and that the sign doesn't meet the regulations of the district. The Planning Commission has recommended that the Town Council make a final determination on 275-7 as to whether it applies to the fire department or not, or to set a public hearing to amend the commercial sign district regulations to allow for fire companies to be exempt from the sign regulations. Mr. Witsil then reads the provisions of 275-7 from the town code. He informs Council that several years ago he made a legal determination that the word governmental does not apply to a volunteer fire department with the bylaws and framework that the fire department has. Mr. Witsil informs the Council that the Town Code provides for amendments to the Code to be generated by public input for example: someone requesting a zoning provision being changed or the Council suggesting a change to the provision or regulations. The fire department prefers to have Council set a

public hearing to amend the code rather than going to the Board of Adjustments. Councilman Chandler states that surrounding fire departments are governed by the same ordinances and regulations. If it has to go to the Board of Adjustment, the Planning Commission would recommend the Town Council to waive the fee. Councilmember Miller asked why fire stations are listed in 275-7 if it doesn't apply to them. Councilman Chandler stated that it is not a government building and it is not in favor as interpreting it as such. Gary Cox, member of the Dagsboro Volunteer Fire Department asked if our code states town should financially support the fire department. Attorney Witsil says he will peruse the code and check. Mayor Truitt states that while he is researching that, we will move to the next item due to time constraints.

D. Set a public hearing to amend 275-74 Commercial Sign Regulations to add an exclusion for fire companies from the sign restrictions.

Mr. Witsil reads Charter Section 28 (V) and section 28 (W). The digital sign was incorporated in to the site plan that the Town Council had to approve. They granted a waiver of the roof pitch and electronic sign from the provisions of the code. The fire department should file an application for an amendment to the final site plan. Councilman Chandler made a motion to deny the request to amend Section 275-74 to exclude fire companies and recommend that the fire company make an application to the Town for an amended final site plan reflecting the proposed wall sign dimensions. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

2. Consideration of an amendment to the approved final site plan for Vines Creek Village to revise the storm water management design and the entrance design; and consideration of their request for an extension on the sunseting provisions for a major subdivision.

Kyle states that the plan received final plan approval several years ago. They have not started construction because they are waiting for approval from Deldot, the Conservation District and DNREC. Both agencies have changed their requirements for the project. Mr. Tracy presents that after he recorded the plan in the fall of 2010 they started the process with Deldot for receiving entrance plan approval. Deldot construction division had a reaction to the storm water design because it was going to require substantial construction along Helm Street for the purpose of putting an underground pipe to discharge into Peppers Creek and required them to redesign the system. Mr. Tracy states they changed the wet ponds to infiltration ponds. They are no longer discharging water off site and down into Peppers Creek. Instead they will be treating water onsite. He states they will be doing additional work along Route 26 to do some improvements to existing swales. Also, entrance improvements and swale work along Route 20. Mr. Tracy is also asking for an extension on the sunseting provisions because their time expires in September 2015. It was asked if there were entrance changes. Deldot wants some additional easement space, and to be shortened because of conflict with the striping. Mr. Schmidt states that the ponds will be the same shape, depth and size. The ponds will be dry within 72 hours of a storm event. Mr. Witsil then reads 238-10 (A). Mr. Witsil suggests writing an extension into the code with exceptional circumstances as determined. Councilman Chandler made a motion to approve the amendment to the final site plan for the stormwater management design and minor entrance change provided however that such approval should not be or interpreted as affecting the expiration of the sunseting date for this project. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

Councilman Chandler made a motion to amend the code to allow for a one year extension from the final plan sunseting provisions at the discretion of the Council based on showing of substantial effort on the project. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

3. Review and consideration of Commercial Insurance quotes for the town.

Stacey added a more up to date renewal comparison from Selective because the police salaries have increased since last year due to an additional police employee and this resulted in a higher worker's comp premium. Kathy Bennett from Avery Hall states that the liability premium decreased due to the Town having just three officers at the time the application was filed. It wouldn't change until the Town submitted a new application next year. The only item that is auditable is the Workers Comp and they do an audit at the end of the year to pick up actual payrolls. The general liability is based on the Town's current budget. Kathy Bennett states that the umbrella policy gives the Town an additional 2 million dollar limit of liability over all your current liabilities. Everything combined not including the Workers Comp is \$19,599.00 and if terrorism is excluded from the policy it would be reduced by \$523.00.

Mr. Malloy presents that Pratt Insurance specializes in municipalities. Mr. Lebo states that the property coverage is written with a co-insurance provision. The Town has to be insured to the percentage of the replacement cost in order to not be penalized on the case of partial loss. The total blanket limit is \$2,078,567. If the policy was issued it would show \$2,040,958 or approximately a difference of \$37,609. The reason for the difference is an extension of coverage for outdoor property which covers the playground equipment. The one item the policy has is the water contamination notification expense. It will pay up to \$5,000 as a policy aggregate to notify the Town's customers on any quality issues with Town water. Since the Town has the responsibility of the cemetery, the policy covers tombstones, markers and headstones for theft or vandalism and that is up to \$25,000. There is an inflation guard of 4% which automatically increases the property as the year progresses. There is a 1 million dollar coverage for underground piping and drains and that pertains to a thousand feet of the premises. The Town would also have a time element coverage for utility services of \$50,000 and that would pertain to an issue of off premises power source such as electricity and it causes the Town to lose revenue. The Town has a loss of business income for \$250,000 and that coverage can be extended to include loss of income for fundraiser activities. Each of the property coverage including the auto physical damage includes a deductible waiver. There is a \$500 deductible that applies. Mr. Lebo states that the policy has a \$100,000 to cover the Mayor, Vice Mayor, Secretary-Treasurer, Town Administrator and Town Clerk. The policy also covers law enforcement for the police department. The Town has the ability to apply to the State for a work place safety credit. It would cost the Town \$700 to get the inspection and \$350 each year to have it renewed. The Council decided to meet on April 6, 2015 at the Town Hall to further discuss the insurance policies and vote on coverage due to time constraints at tonight's meeting.

4. Town Hall & Police Station Cleanings price increase. Consideration of continuing to utilize existing company or obtain other bids.

Councilman Chandler made a motion to continue with P.S. Cleaners and accept the increase of prices. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

5. Set Prince George's Chapel Cemetery Burial plot fees. Consideration of amending the Rules and Regulations of the cemetery to require placement of corner stones on the burial plots.

Council voted that new burial plots should be set at \$825.00 and that price includes four corner stones. Also, to amend the rules and regulations to include mandatory corner stones on new graves and graves that are disturbed. Councilman Chandler made the motion and it was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

6. Update on status of violations at 33102 & 33108 Main Street, owned by Marconi Properties.

Stacey informs Council that an exterior inspection occurred on December 5, 2013. On March 21, 2014 the Town noticed by certified mail to the property owner that they were demanding an interior and exterior inspection. The demand date was April 10, 2014 and the property owner

had 10 days to respond. It was rescheduled to May 1, 2014. George Bendler, a certified inspector from URS, Stacey and two police officers escorted them to the property with Mr. Marconi. The report was submitted to Town Council on September 30, 2014. Stacey informs Council that after Council reviewed the report, she, URS building official and Mr. Marconi put together a meeting summary and schedule of compliance. Mr. Marconi was given certain dates to bring the violations up to code. There was a follow up exterior inspection conducted on December 15, 2014. On March 4, 2015 Stacey received a report from URS with the updates and recommendations from that exterior inspection. There are three buildings in violation on the referenced property. Mr. Marconi was injured while demolishing the barn and he asked for additional time to do the repairs. The collapsed building is not completely removed from the property. There was a total of 8 violations just on the exterior. Mr. Marconi provided before and after pictures to the Council of the repairs. The repairs Mr. Marconi conducted was: the piping was insulated, installing insulation in the living space, removing a 220 receptacle, a 4X4 post was installed and secured, he repaired and secured a column, an electrical wire was covered and a drain pipe was cut, capped and covered. The Council would like to have the barn removed and interior repairs complete by July 4, 2015. Mr. Marconi informs Council that there is a tenant in the apartment building. Mr. Witsil states that Mr. Marconi has an untenable premises based upon the violations. It was recommended by the building official to have an updated interior and exterior inspection of the property immediately to view what violations have been rectified and what is outstanding.

7. Consideration of amending the personnel policy for vacation, sick and holiday leave for the police department.

Tabled until April's meeting.

8. Discussion of compensatory time for salaried employees for attending evening meeting or events.

Tabled until April's meeting.

9. Approval of amendments to the Rules & Procedure of the Dagsboro Town Council (adopted 6/2/11) and to include a meeting attendance policy in section 16.2.

Councilman Chandler states he is content with all the changes of the existing rules and procedures except for the public comment being out of order. Stacey informs Council that she can draft a policy if she can receive more direction. Stacey wants to add the meeting attendance policy as 16.2 which states if an employee or Council member attends a meeting they need to report at the next council meeting about what was discussed. Councilman Chandler suggest tabling the item until the April meeting.

Old Business:

1. Discussion of the change of use for Dagwoods Deli and consideration of rescinding approval for failure to comply with application requirements. Mr. Bratten apologizes to Councilwoman Ulrich for his behavior at the Town Hall meeting. Mr. Bratten does not have the funds for the change of use. He wants to file criminal charges against the contractors. He informs the Council that the SBA Lenders are trying to help him with additional funding for the project. He is asking the Council for a 30 day extension. He owes the Town \$700 or more. Councilwoman Ulrich asks Mr. Bratten if he can pay a small fee each

week. Councilman Chandler made a motion that if a payment is not made within 45 days, the permit will be rescinded. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

2. Update on Town Website.

Stacey informed Council that after speaking with several website designs, the costs are too high for the Town to consider. Councilman Chandler states that the State will train the staff using Word Press and it will be no cost to the town. Stacey recommends utilizing GIC for the Town's website at no cost. Councilman Chandler made a motion to utilize GIC and it was seconded by Vice Mayor Baull. All were in favor. Motion carried.

3. Consideration of setting a public hearing to amend the Town Center District Sign Regulations to add a requirement that all properties must bring their signs into compliance with existing regulations within a five (5) year time period.

Tabled until the April meeting.

Reports:

Police Department:

Chief Toomey presents that there were 1,000 business checks, 32 complaints and 2 collisions investigated. His report was presented in the Council packets, in the interest of saving time, if Council has read the reports and, does not have any questions, he will be completed with his report.

Treasurer's Report:

General Checking \$145,322.88, Special Events Fund \$2,090.57, Public Service Impact Fee \$16,124.71, Police Grant Account \$5,358.77, Money Market \$12,021.24, Property Transfer Account \$110,212.19 and 5 CD's of \$28,124.29, \$47,758.25, \$5,145.00, \$20,000 and \$50,000. Water Checking Account \$99,797.29, Impact Fee Account \$229,126.34 and the Reserve Account \$35,834.20. MSA Checking Account and Savings totaling \$11,222.14. Cemetery Checking Account \$849.51 and Savings Account \$2,773.64. 3CD's of \$32,704.26, \$44,689.36 and \$32,055.74. SALLE/EIDE is \$6,846.75. Councilwoman Ulrich made a motion to accept the treasurer's report. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

Administrative Report:

Stacey informs Council that it cost the Town \$332.50 for her to attend the Charlotte, N.C. Conference. She received scholarships from writing grants and complimentary registration fees of \$2,330.00. Total travel expenses were \$2,652.51. The Sussex Street Culvert Replacement is coming up. Stacey states she is waiting for the schedule. The \$50,000 CD was opened for .49% interest. It was opened on March 4, 2015. The storm water study is complete and it will be presented at the April meeting. The Town received \$10,000 from the 2015 Economic Infrastructure Grant. Stacey informs Council that multiple people have inquired about the Heathman Jewelers store. Stacey informs Council that a senior from Indian River School District is interested in volunteering at the Town Hall. The person needs to obtain community service hours for the National Honor Society.

Economic Development Committee: N/A

Building Official: No permits or certificate of occupancies were issued.

Code Enforcement:

Healthy Habits has been issued a sign violation. They have submitted their sign permit and it is in the process of being reviewed by URS. Stacey has contacted Porto Pizza regarding the screening of the dumpsters. They informed Stacey they will be installing a 6 foot fence with a gate.

Personnel Policy Committee: N/A

Water Department: N/A

Prince George's Chapel Cemetery: N/A

Correspondence: N/A

Public Comment: Must adhere to Section 17.6 of Adopted Rules & Procedures of the Town Council
No comments.

Adjournment:

Councilman Miller made a motion to adjourn the March 23, 2015 meeting at 11:02 p.m. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

Respectfully Submitted,

Autumn Gardner-Town Clerk