

Minutes of Meeting
Dagsboro Town Council
Bethel Center-28307 Clayton Street
Monday- April 27, 2015

Call Meeting to Order:

Mayor Truitt called the April 27, 2015 meeting to order at 7:00 p.m. Those in attendance were Mayor Truitt, Vice Mayor Baull, Councilman Chandler, Councilman Miller, Councilwoman Ulrich, Town Administrator Stacey Long, Attorney Rob Witsil, Chief Toomey, Kyle Gulbronson from URS and others listed on the sign in sheet.

Public Comment:

Must adhere to Section 17.6 of Adopted Rules & Procedure of the Town Council:

Scott Crater asked Council if there is a time frame associated with the sidewalks being completed for Woodlands of Peppers Creek. He expresses concern about the subdivision being 75% done and then the storm drain and sidewalks being installed that it might be the Town's responsibility if there was a problem. Kyle informs Council that a time frame had not been established and they were supposed to submit revised plans. Mayor Truitt suggests giving them a call if the plans are not submitted before the May meeting.

Public Hearing & Council vote on the following:

Application for a preliminary site plan for Pepper Creek Crossing, Sussex County tax map parcel #2-33-11.00-224.02 and part of 225, located on the west side of county route 401, Main Street

John Murray, project manager of Kercher Engineering and Charles Zonko, owner of B&Z Builders presents that the project came before Council at the March meeting. Pepper Creek Crossing is a proposed 18 lot single family home subdivision and the property is zoned cluster residential. It was rezoned by Council on November 28, 2005. All properties would be serviced by sewer from Sussex County and water from the town. Mr. Murray informs Council that he added additional buffering areas to the perimeter of the parcel and 17 of the 18 lots are adjacent to open space. The property is located approximately 200 feet from the signalized intersection on Main Street and Route 26. The preliminary approval was granted on February 27, 2006. Mr. Murray states he received regulatory agency approvals from the office of the State Fire Marshal, DE Department of Transportation, DNREC, and the County. They did not obtain an approval from the Sussex Conservation District due to an outstanding issue with the tax ditch. The property line is shared with the center line of the Pepper Creek tax ditch main branch. There is an upstream tributary known as prong 4 of Pepper Creek that bisects a portion of the property. Prong 4 only has water running through it in storm events. Prong 4 was not created within an area that DNREC describes as the right-of-way for the ditch. DNREC's mapping shows that the right-of-way for prong 4 runs in a North/South fashion through the property. The ditch does not follow that same alignment. DNREC suggested relocating the easement on the ditch line or finding an alternate means to relocate the ditch within where the easement is supposed to be. Mr. Murray states that they plan to regrade the ditch due to concerns from the owners about their property. In order to amend or obtain a court order change, they had to obtain 100% signatures from property owners benefitting from the ditch. Mr. Murray informs Council that he was not able to obtain all the signatures. Mr. Murray informs Council where prong 4 enters into Mr. Zonko's property from the Southern boundary that the ditch will be intersected by a piping system. The piping system will be installed down the Southern property boundary within the subdivision lands and daylight to the rear of lots 9 & 10, effectively bypassing the runoff coming into the property and redirecting to Pepper Creek. Mr. Murray informs Council that the document has been signed off by the tax ditch managers, Mr. Zonko and DNREC. There was a question regarding compliance with the woodlands preservation requirement. He states that the time since the project was originally submitted to the Town and now, the zoning code was changed in such a manner that the woodland preservation ordinance was enacted. They are preserving 2.63 acres of the woodlands on the property. The code allows them to remove portions of the right-of-way needed for Pepper Point and Clearwater Drive within the woodlands from the net requirement calculations. Mayor Truitt asked if the underground portion of the tax ditch will be reflected in a future drawing. Mr. Murray says that the engineering plans will be modified to reflect the piping system. DNREC's mapping system and right-of-way mapping for the ditch will no longer show prong 4. The engineering drawings will be on file with DNREC and the Sussex Conservation District. The right-of-way areas will be recorded with DNREC. Councilman Chandler asked if there will be a final site plan and will there be a line indicating the pipe. Mr. Murray says that they will be showing the easement areas where the piping will be. Kyle states that the Town Council will keep a set of construction drawings. Councilman Chandler asked if planting or screening will be installed on the easement. Mr. Murray spoke with Mr. Krobowski from DNREC and he informed Mr. Murray that trees will not be planted within the easement. If a screen was required, DNREC recommends an easement

within lots 8 & 9 to create a forest type buffer. DNREC would like there to be small shrubbery at about 6 feet so the roots wouldn't damage the concrete piping. The concrete pipe is a 36 inch class 3 reinforced concrete pipe. There will be a mountable curb around the island in the event of needing emergency apparatus within the development. Vice Mayor Baull made a motion to close the public hearing and it was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

Mr. Witsil reads the resolution he has prepared which states: now therefore it be resolved by the Town Council, of the Town of Dagsboro in session met, a quorum pertaining to at all times, that the preliminary site plan and notes thereon, be and is hereby approved subject to the following conditions. 1. Developers shall comply with all subdivision requirements of the municipal code and specifically the bonding and guarantee provisions of Section 238-9 and maintain all vegetation in any buffer areas in a proper manner. Restrictive covenants shall require proper maintenance and/or replacement of the vegetation in the landscaped buffer areas by the developer of the homeowners' association. 2. The developer shall comply with the requirements of the March 10, 2015 AECOM correspondence of Kyle F. Gulbronson, AICP and require all necessary permits, easements and/or right-of-ways as indicated in said correspondence and in all notes of the plan pursuant to the provisions of 275-40B (4) (a) of the code, there is a two year initial period before the sunsetting of an approved preliminary site plan. 3. The location and the indication of the existence of the reinforced concrete pipe line along the Southern boundaries of the storm water management area and the passive open space buffer adjacent to lots 8 & 9 be described on the final site plan to be recorded. Vice Mayor Baull made a motion to approve the preliminary site plan for Pepper Creek Crossing with the conditions just read. It was seconded by Councilman Chandler. All were in favor. Motion carried.

Public Hearing & Council vote on the Following:

An ordinance to amend Chapter 238 of the Municipal Code of the Town of Dagsboro, Delaware, entitled "Subdivision of Land", Section 238-12 entitled "Sunsetting of Major Subdivision Approval," and Chapter 275, entitled "Zoning", Section 275-40 F entitled "Sunsetting of Site Plan Approval", to add a provision addressing a one year extension from the present five year period before sunsetting upon showing of good cause.

Mr. Witsil states that the ordinance provides for a one year extension from the present 5 year period before sunsetting automatically occurs in two different sections of the code. One addresses subdivision approvals and the second addresses site plan approvals. The Town's ordinance states a major subdivision approval granted by the Town Council subsequent to the effective date of this section shall be rendered null and void if substantial construction is not commenced there on within 5 years of the date of recordation of the final site plan, pursuant to this chapter and that date was May 25, 2004. That section will be taken out and will add in its place any major subdivision approval granted by the Town Council subsequent to May 25, 2004 shall be rendered null and void if substantial construction is not commenced there on within 5 years of the date recordation of the final site plan, pursuant to this chapter, notwithstanding the foregoing, the Council may upon showing of substantial efforts by the applicant towards the acquisition of permits and of substantial difficulty on attaining all necessary subdivision requirements after reasonable effort grant, a 1 year extension from the date of the previously enacted sunsetting date. In the event that a 1 year extension is granted the preliminary or recorded plan shall become null and void at the expiration of such 1 year extension term. Mr. Witsil informs Council that similar language is proposed for Chapter 275-40 F2 which presently provides for a 5 year period for site plans without any extension.

Mr. Witsil then reads the proposed language for the site plan sunsetting for chapter 275-40F2 amendment which states: any site plan approval granted by the Town Council subsequent to May 25, 2004 shall be rendered null and void if substantial construction is not commenced thereon within 5 years of the date of recordation of the final site pursuant to this section notwithstanding the foregoing that Council may upon a showing of substantial efforts by the applicant towards the acquisition of permits and of substantial difficulty in attaining all necessary efforts granting 1 year extension from the date of the previously enacted sunsetting date. In the event that a one year extension is granted the site plan shall become null and void at the expiration of such 1 year extension term. It was asked if anyone in the audience would like to speak on this matter.

Richard Julian with 2026 Ventures speaks in favor of the proposed ordinance. There was no one in the audience that opposed the proposed ordinance. Vice Mayor Baull made a motion to close the public hearing and it was seconded by Councilman Chandler. All were in favor. Motion carried.

Councilman Chandler states he is not in favor of this ordinance. The Council has denied extensions in the past and he is concerned about the Council granting some and not others and whether they can do so in a reasoned and principled way that they can justify on a case by case basis. Councilman Chandler's second concern is sunsetting provisions have a purpose and they serve as an objective. They give planners notice with respect to the availability of infrastructure so that planning for future developments can be done in an orderly and reasoned way. Councilwoman Ulrich states that she understands it is a difficult time for developers. Kyle states that reading the definition of substantial construction it says that you have to break ground. Kyle then reads the entire definition which states payment of surety bonds the clearing and grading of site, installation of roads, parking, circulation and utilities, and placing of initial foundations as required or called for under the subdivision approval

process or site plan process, Developer's Agreement or Construction Improvement Plan so that the essentials necessary for meeting the requirements established by the Town are finished. Councilman Chandler made a motion to deny the proposed amendment to Chapter 238 for reasons and justifications that were offered earlier in his statement. Councilman Miller voted to deny the amendment because of the reasons offered by Councilman Chandler. Councilwoman Ulrich voted to deny the proposed ordinance for the reasons stated by Councilman Chandler. Vice Mayor Baull voted to deny the proposed ordinance because of the same reasons. Mayor Truitt voted to deny because it would be setting a poor precedence and the vagueness of the cause. The amendment to the ordinance has been denied with a vote of 0 in favor and 5 opposed.

Approval of Minutes: March 23, 2015 & April 7, 2015

Councilman Chandler made a motion to adopt the minutes as presented. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

New Business:

Consideration of extension on the sunsetting provisions for the final site plan for Vines Creek Village.

1. Councilman Chandler made a motion to deny this request because the proposed ordinance was denied and we have no authority to grant this request. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

Consideration of annual yard sale request for the Dagsboro Church of God.

2. Pastor Curtis Jones informs Council that the yard sale will be on Saturdays from 8-12. They start the yard sales in mid spring to Labor Day. Pastor Curtis informs Council that items will not be placed in the front yard and the yard sale will be held inside the building. Any money raised will go towards the electric used to run the yard sale and the rest is placed in the benevolence fund. Councilman Chandler made a motion to approve the request for an annual yard sale by the Dagsboro Church of God on the conditions that it is for a charitable organization and situated in Highway Commercial district on Route 113. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

Consideration of appointing Marjie Eckerd as a Board of Adjustment member for a term of 5 years.

3. Councilman Chandler states that he cannot vote for the candidate based on her answers on the application. Councilman Chandler thinks that she is qualified for the position but he has concerns with her visions for the future of the Town. He feels if her visions aren't consistent with everyone else, it worries him about her serving on the Board as a representative of the Town. Vice Mayor Baull made a motion to approve Marjie Eckerd for the Board of adjustment. It was seconded by Councilwoman Ulrich. 4 Councilmembers were in favor and 1 abstained.

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

4. Chief presents that the past policy was too liberal. The previous Council back in 2006 amended the policy so that vacation was not permitted to be carried over. Every year, he had to meet with the Mayor and inform them that an officer was unable to use their vacation within the timeframe permitted. Chief had to ask for an extension for every officer every year. Councilman Chandler suggests having a Council workshop meeting to discuss this matter. Councilman Chandler made a motion to table the item and have a workshop. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

Discussion on Town fleet cars regarding those that are being retained and those that are being released.

5. Chief Toomey states that the K-9 car has been taken off the Town's auto insurance policy and is being used for parts. When the car is exhausted of all its parts it will be sold for its weight. Chief states that Mr. Draper suggests keeping the 3rd car instead of the 4th because it is in better shape. Chief informs Council that he would like to keep the blazer to help with plowing snow. It was also suggested that we sell the 1995 Chevy truck and retain the 2004 Crown Vic to use for a police spin car and for Town personnel. Councilman Chandler made a motion to accept Chief's recommendations on selling the 1995 Chevy and a 2009 Crown Vic. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

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

6. Councilman Chandler made a motion to table the item and refer it to the workshop. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

Approval of amendments to the Rules of Procedure of the Dagsboro Town Council (adopted 6/27/11) and to include a meeting attendance policy in Section 16.2.

7. Councilman Chandler suggests leaving the executive session at the end of the meeting on the order of business section. The two options presented is 16.3 and # 20 is newly added. Mayor Truitt states if the Council or Mayor asks

an employee to attend an event, the Town should pay for it. Stacey reads option #1 under 16.3 which state any member of Council so appointed shall be responsible for registration fees or mileage necessary for attending the meeting, function or event. An employee so appointed to attend said function, meeting or event will have registration and meal paid for by the Town. Mileage will not be reimbursable to employee, however, a Town vehicle may be available for travel. Mayor Truitt is more inclined to approve the first option. Another section that was added is Rule 20, which reads property that has been issued to a Council member has to be returned at the end of their term. If it has been lost, damaged, destroyed, stolen or failed to be returned, the Council member shall reimburse the Town for replacement costs. Mayor Truitt wants to add "includes but is not limited to". Vice Mayor Baull made a motion to approve amendment to the Rules & Procedures of the Town Council including the first 16.3 as read by Stacey and rule 20.1 & 20.2 with 20.2 to say property includes but is not limited to. It was seconded by Councilwoman Ulrich. Motion carried with a vote of 4 in favor 1 opposed.

Consideration of applying for Division of Parks & Rec matching grant fund for Katie Helm Town Park improvements

8. Stacey informs Council that it is a 50/50 matching grant and there is a pre-application deadline which is June 10, 2015. Stacey informs Council that we propose the project and amount and they would either approve or deny the request. Kyle states that it is the same grant that provided all the funding for the Town's park. Stacey will contact the Division of Parks & Rec to let them know the Town is interested. The money would be permitted to be expended from the Public Service Impact Fee account and the Property Transfer Tax account since it would be considered a capital improvement expenditure restricted funds. Vice Mayor Baull suggests tabling the item.

Consideration of opening Certificate of Deposits- Water Impact Fees & Replenish CD that was cashed in for \$40,000 from FY2012

9. Stacey informs Council that there is \$229,000 in the impact fees savings account in the water fund. The money is used for future upgrades, emergency fixes or repairs on the Town's water system. A CD was cashed in for general operating expenses on June 6, 2012 for \$40,000. Stacey suggests taking \$20,000 from the general checking account, \$20,000 from the transfer tax account to place in a certificate of deposit to replenish the last of what was cashed in. She also suggests placing \$150,000 in a CD from the water impact fees. Councilwoman Ulrich made a motion to take \$150,000 from the water fund to open a Cd and it was seconded by Vice Mayor Baull. All were in favor. Motion carried. Councilman Miller made a motion to have two individual CD's of \$20,000 opened, one from the general account and the other from the transfer tax account. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

Review and discuss FY 2016 draft operating budgets

10. Councilman Chandler asks Stacey about the line item 13 on the operating revenue. Stacey answers that the item is back property taxes owed to the Town in the amount of \$15,488.00. Stacey informs Council that the Town gives a 3% discount if paid before a certain date. Stacey states once the Town holds a Court of Appeals in May she will know the exact figure. Line item 35 is for the 3rd party agreement we entered in with the Fire Department to have the parking lot paved. Stacey informs Council that the draft does not have the balance brought forward because we are unsure of the figure. Councilman Chandler asks Stacey about the trash amount. Stacey states that we have two trash receptacles and one recycling receptacle. Councilman Chandler asks Stacey to email him a breakdown of each contract and dues. Stacey states the money is transferred from the water fund to the general fund for General Government overhead for audits, liability insurance, advertising, commercial gas, and maintenance on vehicles, salary, taxes, health insurance, telephone and electric. Stacey explains that there is not a lot of changes on the expenses in the water budget because the Town pays a set fee each month on operations and maintenance. The average income on a transfer is around \$2200. The public service impact fee is based on the amount of homes projected to be built over the upcoming fiscal year. The Town always runs into a deficit in the PGC account. The Town does donate \$500 each year to the cemetery fund. The MSA account might be reduced and the Town has to offset the cost for street lighting which is about \$5,000-\$7,000.

Review of Stormwater Study conducted by URS.

11. Kyle states the stormwater study will be ready in May. DNREC wanted changes made to the maps such as: town ditches and tax ditches to be shown.

Consideration of purchasing a supported version of QuickBooks as required for payroll and accounting purposes.

12. The online services and support is being discontinued for QuickBooks Pro 2012. One quote from QuickBooks Intuit was \$199.95 and the one on Amazon was \$189.99. Councilman Chandler made a motion to approve the amount necessary as quoted by Stacey for the upgrade to the accounting software. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

Approval of Executive Session minutes for December 8, 2014

13. Councilman Chandler objects to the minutes being maintained as executive session. They should be posted online as public session because nothing occurred at many of the meetings that is consistant with Executive Session requirements. Councilman Chandler recommends the January 27, 2014 & 1 ½ of the February 24, 2014 to also be posted on the Town's website. Councilman Chandler states that FOIA does not cover discussions of salary increases for employees of the Town. Councilman Chandler made a motion to approve the minutes to be posted on the Town's website and it was seconded by Councilman Miller. All were in favor. Motion carried.

Consideration of accepting the proposals from Sussex Conservation District to repair a Sinkhole on Main Street and a Drainage Ditch Dip Out on Waples Street.

14. Kyle states there is an erosion on Main Street, South of the bank, on the West side of Main Street. It appears that two sections of the stormwater pipe has eroded. The cost estimate is for repairing and filling which is \$640.00. The Town is paying for 50% of the true cost. The second is on Waples Street with the culvert. The culvert is filled with debris and sediment and the head of the culvert is not visible from the surface. The Conservation District will remove the debris and place rock back on the shore line and restore a positive flow on the pipe for \$620.00. Vice Mayor Baull made a motion to approve the work estimate for the Main Street sinkhole repair. It was seconded by Councilman Miller. All were in favor. Motion carried. Vice Mayor Baull made a motion to approve the work for the Waples Street drainage ditch dip. It was seconded by Councilman Chandler. All were in favor. Motion carried.

Old Business

Status on Dagsboro Fire Department wall sign application and process forward

1. Gary Cox of the Dagsboro Fire Company states that he has not submitted anything because of landscaping problems. He will be contacting the Town when he is ready to submit the site plans. Kyle informs Gary that they have to apply for a sign permit and it will be reviewed to make sure the setback calculations are correct.

Update on Town website

2. Rebecca Stancliff sent a letter stating she will not extend her services of maintaining the website. The new website is in the design process and will take up to 3-4 weeks to complete.

Regulations to add a requirement that all properties must bring their signs into compliance with existing regulations within a five (5) year time period.

3. Planning & Zoning did not have a meeting and therefore this item has not been addressed any further.

Reports

Police Department

Chief presents that the officer's drove approximately 3200 patrol miles. There were 66 traffic arrests, 42 traffic warnings and 28 criminal arrests. There were 490 total hours. 270 hours were patrol, 61 investigative and 58 were administrative. 1200 business checks were conducted, 62 complaints and 1 collision were reported.

Treasurer's Report

General Checking \$95,293.77, Special Events \$2,957.00, Public Service Money Market \$6,724.71, Police Grant Account \$4,608.77, Police Money Market \$21,423.00, Property Transfer Checking \$108,857.54 and 5 CD's of \$28,031.29, \$47,824.25, \$5,157.38, \$20,000 and \$50,000. Water checking \$91,182.96, savings \$229,396.63 and the reserve account \$35,836.63. MSA checking \$7,350.41, PGC checking \$1,113.96 and savings \$2,774.66 with 3 CD's of \$32,704.26, \$44,689.36 and \$32,127.74. SALLE checking \$6,846.75. Vice Mayor Baull made a motion to accept the treasurer's report. It was seconded by Councilman Miller. All were in favor. Motion carried.

Administrative Report

There was a worker's comp audit on April 22, 2015. A preconstruction meeting was held on March 30, 2015 for the Sussex Street Culvert Replacement. Work began on April 13, 2015 to April 15, 2015. There was a notice of road closure posted on each property on Sussex Street, Town's website, Facebook, Town Hall and post office.

Economic Development Committee

Stacey states a list needs to be made of the streets and sidewalks that are in disrepair. The \$10,000 needs to be used by June 30, 2015.

Code Enforcement & Building Official

Stacey states she received the review letter for Healthy Habits for the signs from URS. She is in the process of drafting a letter to enforce removal of the signs that are in violation.

Mr. Witsil received a letter from the Court of Chancery for Mr. King regarding the property located at 33225 Main Street. Court of Chancery will not grant a second continuance. The last inspection on the property was conducted on June 18, 2014. The building has been condemned and Mr. King cannot rent out the property or inhabit the structure until several items are rectified. Six of the eleven violations were in compliance as of June of 2014. Councilman Chandler recommends asking the court for permission to tear down or sell the house. Mr. King has removed one of the out buildings, removed unregistered and inoperable vehicles, removed yard waste and rubbish. Mr. King has posted his permanent emergency address identification as of February 28, 2013. By March 15, 2013 he was to remove all overhanging and detached gutters and siding and replace with new materials. Those violations were not completed. He also has not removed all boards or storm barricades from all the windows. He still has to repair and replace all doors. On May 22, 2013 Mr. King applied for a building permit. On May 2, 2013 the court was informed that the owner continued to work on the structure and the Town requested for the consent order to remain inactive for 6 months. June 18, 2014 Stacey spoke with Mr. King, he informed her that he ordered windows and siding. He stated that the work would be done in 2 months. All the certified mail that has been sent to the owner is returned as unclaimed. Councilman Chandler made a motion to continue litigation to get the matter handled through the court. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

Personnel Policy Committee

A meeting needs to be scheduled for a final review then it can be forwarded to Council.

Water Department Report

The Dagsboro Church of God sent in a request for the meter to be removed from the house. They removed all the fixtures in the building as per an inspection conducted by URS. They also recommended that the church receive Fire Marshal approval for the thrift store. They did obtain the approval letter on March 25. Stacey had the meter and water shut off and ceased billing on this structure.

Prince George's Chapel Cemetery

The next meeting will be on May 31, 2015 at 2:00 p.m.

Correspondence

Sussex Community Correction Center sent a flyer about them selling picnic tables. The gentleman who served as Santa Clause at the Christmas parade and from the Railroad Club dropped off information to be given to Council for a donation. A letter from Rebecca Stancliff was received and a correspondence from the Bank of Delmarva regarding Shorebirds tickets.

Public Comment:

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

Scott Crater informs Council that the red brick crosswalk in front of Town Hall is in need of repair. He asked if Porto Pizza will be sent a violation since they still haven't screened the dumpsters as they were informed during a site check by URS.

Adjournment

Councilman Chandler made a motion to adjourn the meeting at 10:00 p.m. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

Respectfully Submitted,

Autumn Gardner, Town Clerk

