

Minutes of Meeting  
Dagsboro Town Center  
Bethel Center- 28307 Clayton Street  
Monday, August 24, 2015

Call Meeting to Order:

1. Mayor Truitt called the meeting to order at 6:05 p.m. Those in attendance were Mayor Truitt, Vice Mayor Baull, Councilman Miller, Councilwoman Ulrich, Councilman Chandler, Town Administrator Stacey Long, Chief Toomey, Kyle Gulbranson from AECOM, Attorney Witsil and others listed on the sign in sheet.

Public Comment:

2. No one from the public commented.

Approval of Minutes-June 22, 2015

3. Councilman Chandler made a motion to approve the June 22, 2015 minutes. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

Consent Agenda

4. A. Police Department Report:

Chief Toomey informs Council that Tyler Bare graduated from the academy. Chief Toomey completed Phase 3 of the Law Enforcement Executive Development Course. Three radar signs have been installed around Dagsboro. Dagsboro Police Department is the first agency to have all officers A-LERT trained.

- B. Treasurer's Report:

Councilwoman Ulrich asked Stacey if the petty cash item can be broken down. Stacey informs her that it is broken down at the end of each year for the audit.

- C. Building Official:

No changes.

- D. Code Enforcement:

Mr. Witsil states the Court of Chancery litigation against Zachary King was dismissed as all items have been completed as required on the Consent Order.

- E. Water Department:

Councilman Chandler suggests getting quotes for a sump pump to install in the interconnect pit as recommended since it is constantly filling with water.

- F. Prince George's Chapel Cemetery:

No changes.

- G. Correspondence:

Councilman Chandler complimented Chief Toomey for the radar signs and selling the 1995 Chevy pickup. Chief informs Council that the last vehicle is being used for parts and it is not tagged or insured.

Stacey submitted an addendum report that included the meeting held with Mr. Marconi on August 20, 2015. Councilman Chandler, Stacey and 3 representatives of AECOM were present for the meeting with Mr. Marconi. A structural engineer from AECOM assessed the property on June 11, 2015. (Mr. Marconi joined the meeting at the time Stacey was informing the Council.) Mr. Marconi does not agree that there is a structural problem with the apartment building. Per Mr. Marconi's argument he had a consultant assess his property who informed him that there were only cosmetic issues. He further informed Council that this consultant implied that there were no safety risks to the tenants who occupied the upstairs and downstairs. Mr. Marconi was given recommendations during the meeting held on August 20, 2015 which were: He could retain his own engineer to review the structural engineer report submitted by AECOM and provide the Town with a written report rebutting the findings on the Town's report. The second was he could agree to remove the tenants and undertake the structural repairs that were identified in the report. After passing the appropriate inspections by the Town, he could potentially regain a certificate of occupancy to rent the building. The third option would be doing nothing and have the Town condemn the building.

Mr. Marconi states he would be more than willing to fix the problems if he could be provided more detailed information about the structures. He doesn't agree with dislocating people in the process. He informs Council that tenants are still occupying the building. Mr. Marconi is living in the commercial building on the property with the intention of moving to the ground floor of the apartment building. Mr. Marconi apologized to Councilman Chandler about his property being an eyesore because of the proximity of their homes. He asks Council to give him thirty days to fix his property.

It was asked if Mr. Marconi applied for a renter's license before the tenants moved in. Stacey informed Mr. Witsil that Mr. Marconi only applied for a renter's license in 2014. Mr. Marconi states the town was aware of the tenants living on the property because there was a fire in 2006. Mr. Dehaven came and inspected the property when it was rebuilt. He was given the approval by Mr. Dehaven and Mayor Wayne Baker. He was never sent a letter to inform him of being in violation. Stacey informs Mr. Marconi that every year property owners who have tenants receive renewal notices of rental licenses and forms to return for the rental taxes. Mayor Truitt asks if any repairs have been documented. Stacey states with the initial inspection is when structural problems were identified and that led to a second inspection with the structural engineer. One interior inspection was conducted on May 1, 2014 that was interior and exterior on three buildings: 1 residential, 1 commercial and the building in the rear that collapsed.

Kyle informs Council that the structural inspection was only in areas that were accessible and visible. They did not remove any walls or go under any structures. They didn't want to destroy or damage the property during the inspection. Stacey informs Council that the interior inspection noted they had concerns with water damage, support columns, items not anchored properly, crawlspaces, and plumbing exposed, and exterior walls with holes. Councilman Chandler asked Mr. Marconi if he has contacted his consultant for an inspection

as recommended during the August 20, 2015 meeting. Mr. Marconi tried contacting him by phone and letter with no reply.

Mr. Witsil states on page 12 of the May 1, 2014 inspection report there is a list of items that needed to be completed within 30 days and 60 days of the notice. Stacey informs the Council that Mr. Marconi has had tenants in the building even though the inspection report of May 1, 2014 declared the building not habitable and it is not to be leased until the items are taken care of as listed. Councilman Chandler asked Mr. Marconi if he is willing to post a fully insured indemnification bond for the Town of Dagsboro if it is ever sued, for 2 million dollars. Mr. Marconi said he would be willing to have it done.

Councilman Chandler made a motion to give Mr. Marconi 30 days if he could have an insurance policy for 2 million dollars taken out if a tenant sued the Town and proof of the insurance bond must be submitted to Town Hall no later than close of business on August 31, 2015. It was seconded by Councilman Miller. All were in favor. Motion carried.

It was reiterated that if the insurance policy is not presented by next Monday, the tenants have to be removed immediately. Mr. Marconi replied that he understood and thanked the Council.

#### H. Administrative Report:

Stacey checked on the status of the porta potty and Clean DE cleans it every Monday. Stacey has notified the construction workers from Woodlands of Peppers Creek that they could not use the porta potty as she was getting complaints of this. Mayor Truitt and the Council agreed to remove the porta potty once the weather begins to get cooler. If people complain about one not being available they will reconsider. August 31, 2015 is the last day for the trial period at the new location.

Mayor Truitt informs Council of the Town Hall repair completions. Mr. Czapp is going to repoint the bricks on the south rear of the building. Mr. Czapp has also started fixing the cemetery wall. Councilman Chandler states he will not be voting on fixing the wall again because the Town can't afford to keep fixing it when it gets damaged. He would be in favor of putting post fencing around the corner of the cemetery. Councilman Chandler complimented Stacey and Autumn for the new Town website. Councilman Chandler made a motion to approve the consent agenda. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

#### 5. Planning & Zoning Committee Report:

The planning commission did not have a meeting for July or August. The next meeting is scheduled to be on September 15, 2015.

#### 6. New Business:

1. Consideration of setting a public hearing on the request from Savannah Square Business Park to add "massage spas and services performed by a professionally licensed massage therapist" as a permitted use in the Highway Commercial Zoning District

Mr. Crane is a paralegal and a case manager for Savannah Square Business Park LLC. Savannah Square is currently 71% occupied. Mr. Crane states when he signed a lease

with Royal Spa on May 11, 2015 he was not aware that it was not a permitted use. The spa has 6 locations and they have been doing business for many years. Mr. Crane supplied the Council with copies of the lease. Stacey and Mr. Witsil stated that they reviewed the permitted use list and determined it did not allow the requested use. The suggested language is to add to the list in Section 23, the words, "massage spas and services performed by a professionally licensed massage therapist." Mr. Witsil asks if they are Delaware licensed and do they do background and criminal checks. Councilman Chandler made a motion to set the public hearing for September 28<sup>th</sup> Council meeting and also to have this matter referred to the Planning Commission for a recommendation. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

2. Review and discussion of Town's voting requirements as specified in Section 7(G) of the Towns Charter

Councilman Chandler states that a lawsuit was made against the City of Rehoboth concerning their special election rules. He informs Council that Rehoboth requires 6 months to be a resident in order to vote and the Town of Dagsboro requires 30 days. It was asked what our eligibility to vote process was. Stacey informs Council that if you are on the deed, you are eligible to vote. Residents who rent or spouses that are not on the deed have to register to vote. Councilman Chandler is concerned with the Charter being out of date that someone might dispute about not being able to vote if they do not reside in Dagsboro. The Charter mentions partnerships, corporations, and associations but not LLC's, LLP's or statutory trusts. Mayor Truitt states that he is comfortable with how our charter reads regarding the 30 day requirement. No action was taken on this matter.

3. Consideration of adopting the proposed amendments to the Town's personnel policy  
Chief Toomey informs Council that he collected data for comp time and he did a survey. He states from January 1, 2015 to June 30, 2015 there was a total of 316.5 hours for work based on time and a half if the police were on overtime they would've cost the Town \$7,127.00 for 6 months.

Mayor Truitt states that proposal #1 keeps everything the same except the salary position for a maximum of 12 hours of overtime per month that is permitted and must be used within 30 days. Councilman Chandler proposed option #2 with additional language as stated: "Full time employees who are compensated on an hourly basis and who are required to work overtime (that is, required to work beyond the normal 40-hours per week) shall be eligible for compensatory time for the full amount of the overtime worked. Full time employees who are considered salaried are not eligible for overtime; provided, however, that the Mayor and Town Council may, in their sole discretion, authorize overtime on a case-by-case basis for salaried employees whenever the salaried employee is required to attend an event, meeting or function that is outside the ordinary scope of his or her duties to the Town of Dagsboro. For those hourly employees who work overtime, overtime will be paid only in the form of compensatory

time, which shall be calculated on the basis of 1.5 hours of allowable compensatory time for each 1 hour of overtime worked. At the time of this policy adoption (August 24, 2015), only one employee, the Town Administrator, is identified as a Salaried Employee who is not eligible for overtime.”

Councilman Chandler made a motion to approve proposal #2 as modified by the qualifier that Councilman Chandler read into the record. It was seconded by Councilwoman Ulrich. 4 were in favor. One opposed. Motion carried.

The additional revisions are as follows: 2-4 Recruitment & Selection. Councilman Chandler states the only difference is the Town will reimburse for the cost of anything not covered by their insurance. Under law everyone is supposed to have insurance.

Stacey states Section 4 & 4.1 that the current policy discusses FOIA information. In 4-1(A) the policy is going to refer to the Freedom of Information Act Policy previously adopted by Council. 4-13 is no tobacco in the workplace. It lists the current policy proposals. It went from saying smoking only to tobacco cigarettes, electronic cigarettes, vaping and chewing tobacco is prohibited in municipal buildings and town vehicles. This policy applies to employees and visitors. 4-16 Cellular Telephones is just adding Town Administrator to the list of those authorized for reimbursement. Before it was just the police department. 4-19 Credit Card Policy- Stacey states this is a new section. It states to refer to the Credit Card policy previously adopted by Town Council. Social media was drafted and adopted by the Town Council and making it a part of the personnel policy. Funeral Leave-the only item added was grandparents in-law. Stacey informs Council that there wasn't an inclement weather policy so that is a new section. 6-1 Disciplinary Action is for the police department so they can refer to their standing operating procedures and Title 11 of the Delaware Code instead of listing it in the general policy. 5-8 Vacation Leave was changed to be able to have 10 days cumulative from year to year.

Councilman Chandler made a motion to adopt the revisions to the personnel policy with the amendments described. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

4. Consideration of drafting an ordinance to incorporate the Town's FOIA Policy in the town code or change our policy to incorporate the fees as defined in Title 29 Subsection 10003

Stacey informs Council that Councilman Chandler talked about this item several months ago. A public hearing is needed to make it a part of the Town's policy. If not, the State will supersede the Town's policy and the Town will have to go with the current fees as identified in the state code. Stacey states the higher fees were adopted because of the limited staff.

Chief Toomey informs Council that he is dealing with a FOIA request from the Delaware Police Watch. They are requesting training records, discipline policy and the Code of Conduct. The person is posting the information the chief has provided on his website which is the Delaware Police Watch. Stacey states if the Town's FOIA policy is placed in the Town Code, then the Town's fees would apply. If we leave it as just a policy and not

in the Town's Code, then the states fees will supersede ours. Mr. Witsil will look into the matter and report at the September meeting.

Old Business:

1. Consideration of applying for the DTF Grant for the trail extension at Katie Helm Town Park

Stacey recommends that the Town not move forward with this large expense this fiscal year as the budget is already stretched. The Town can always reapply for the grant at a later date. Mayor Truitt informs Council that he doesn't want to cash in a CD to cover the costs for the project. Kyle suggests talking to George & Lynch for assistance. Stacey tried to reach out to the Woodlands for help but was unable to get a response. Mayor Truitt suggests contacting NRG because they helped in the past. Councilman Chandler made a motion to not proceed with the grant for the Katie Helm Park trail at this time. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

Public Comment:

No one from the public commented.

Stacey states a neighbor of the Fire Department requested to have the Fire Department erect a fence and to forego the landscaping plan. Stacey informs Council that she sent a letter to the fire department with a copy of the request and informed them that since they own the property, the request to the site plan would have to be submitted by them.

Adjournment:

Councilman Chandler made a motion to adjourn the meeting at 8:20p.m. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

Respectfully Submitted,

Autumn Gardner, Town Clerk

