

Minutes of Meeting  
Dagsboro Town Council  
Bethel Center- 28307 Clayton Street  
Monday- March, 21, 2016

I. Call meeting to order:

Mayor Truitt called the meeting to order at 6:00 p.m. Those in attendance were Mayor Truitt, Vice Mayor Baull, Councilman Miller, Councilman Chandler, Councilwoman Ulrich, Town Administrator Stacey Long, Attorney Rob Witsil, Kyle Gulbranson from AECOM and others listed on the sign in sheet.

II. Public Comment:

Mrs. Mach resident of the Woodlands of Peppers Creek states that the community was turned over to Home Owner's Association 6 months ago. There are currently 15 homeowners in the development. Mrs. Mach informs Council that the builder has not made any contributions to the maintenance of the development. One of the issues is snow removal. She is asking for the builder to contribute funds as owners of the lots that are under developed. Mrs. Mach found in the Town Code that when 30% of the buildings are constructed roads are to be completed. Each of the 15 residents pay \$1,000 each for snow removal which is approximately \$15,000. The other issue is the parking. The residents suggested expanding the parking area. There is also concerns with erosion. The fear comes from being so close to the steep incline in the back yards.

Mr. Dubois lives in the development and asked the Code Enforcement Official to explain the language of Section 238-(8) F. Mr. Witsil states that it is at the Council's discretion when public comments become a reply from a building official or town attorney. Mr. Witsil then reads the section which states the developer will be responsible for streets and sidewalks until final acceptance and official release of bond including repairs if necessary and all other reasonable provisions for the convenience or safety of traffic. The developer will be responsible also for the removal of snow from streets when necessary for the convenience or safety of traffic. Kyle states that the issue is the section of the Code stating the developer is responsible for snow removal. You also have the public works agreement that was drafted between the developer and the Town. It states that the developer is responsible for snow removal until such time the streets are dedicated. The Homeowners Association document states that the homeowners are responsible for snow removal. Mr. Dubois brings up the bond that was placed from the original developer. Kyle informs everyone that the bond was verified and is still in place. It also was an LLC that purchased the bond. The original bond included the price of the 5 foot wide black top pathway.

III. Presentation- FY 2015 Financial Statements:

Mr. Haynie presents that Dagsboro received the highest level an auditor can give on any financial statement, which is a modified opinion on the financial statements. The small item from page 1 and 2 is a change on the accounting principal that was put in place for all governments. It is related to how pension reporting is reported on a set of financial statements. Pension reporting is detailed on pages 30 to 34 footnotes. All the notes come directly from the State and Auditor of the state plan. Mr. Haynie states that the general fund increased by \$25,000. This increased the fund balance by \$392,000. Of that \$392,000, \$6,380.00 was from non-spendable funds. \$235,000 was for transfer taxes that is restricted. The \$77,000 is available for future use, and can be carried over for FY2016 with no restrictions. The total revenue for 2015 was \$753,000 which was portioned in from taxes which was \$283,000. Also from grants and various funding from government agencies which came out to \$254,000. The tax revenue decreased by 3%. The actual revenues versus budgeting revenues were about \$200,000 more than what was budgeted. \$113,000 of the \$200,000 was from a grant that the Town accepted for the Fire Dept. parking lot. The expenditures for the year was approximately \$727,000. The amount was inflated because of the fire department grant. The governmental expenditures were up \$154,000. \$113,000 of the \$154,000 again was due to the fire department grant.

The general fund expenses were \$118,000 over budget, of which \$113,000 was the Fire Department grant. It leaves the Town with \$4,400 over budget for the expenditures. Mr. Haynie informs Council that there wasn't a lot of major percentage changes from the prior year, \$639,000 in revenue versus \$591,000 from last year. The water department had an increase of \$20,000 for the year. \$373,000 is unrestricted to carry over to future years. The

rest of the funds are tied up in fixed assets. The total charges in services for the year is \$294,000 that was up by approximately \$60,000 for the year. The impact revenue for the year was \$31,000 that was increased by \$4,800 from the prior year due to construction business. Operating expenses for the year was approximately \$263,000. The water usage charges are the biggest charges in the water department. One of the biggest decreased amounts were in the water department for approximately \$19,000. The biggest driver was the water department not covering as much of the overhead of the general fund in 2015 as it did in 2014. The operating income was approximately \$31,000 for the operations of the water department. The profit for 2014 was \$47,000. The largest expense is the interest expense on the loans for the water department. Councilman Chandler asks about the uninsured deposits. Mr. Haynie states that \$10,000 wasn't covered by the FDIC. The amount was \$260,000 from WSFS Bank versus the \$250,000 that is covered. Councilman Chandler asks what he would rate the town based on the ratio of debt and equity. Mr. Haynie said a decent rating because the debt isn't that great compared to the overall assets.

The Town Council thanked PKS for their presentation and they left the meeting.

#### IV. Approval of minutes:

Councilman Chandler made a motion to approve the February 22, 2016 minutes. It was seconded by Councilman Miller. All were in favor. Motion carried.

#### V. Consent Agenda:

Stacey states that she handed out an addendum report.

Mayor Truitt informs Council that Swamp Road has been paved and the construction on Main Street is completed. Councilman Chandler made a motion to approve the consent agenda. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

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

- Downtown Development District Task Force Meeting #4  
Kyle informed Council that the Task Force is on schedule and will have a draft to the Town Council for their approval and a hearing at the May Council Meeting.
- Proposed Conditional Use Ordinance  
(refer to Old Business B for specifics)

Scott Crater informs Council that the committee approved and sent the conditional uses back to Council for their approval.

#### VII. New Business

##### a. Consideration of approval of the Woodlands of Peppers Creek Final Plan Addendum

Kyle informs Council that there were 2 meetings regarding sidewalks in lieu of the path that follows the circumference of the perimeter of the project with a 5 foot black top pathway. A petition was filed by the property owners from the Woodlands requesting that the town reconsider the requirement. The compromise was that Fernmoor Homes would provide sidewalks on both sides of Shady Creek Lane to the intersection with the first intersecting street on the North side of Shady Creek Lane. Also, there are two retaining walls that are proposed on the addendum to protect the wetland areas on the Eastern side of the property. Kyle signed off after the review was completed. Mr. Witsil states that there is a resolution that the Town Council will need to approve for the final site plan for addendum #1 for the Woodlands of Peppers Creek. The revised site plan is dated for February 19, 2016. Councilman Chandler made a motion to approve and adopt the resolution approving the final site plan addendum #1 for the Woodlands of Peppers Creek. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

b. Consideration of setting a fee for new business certificate of occupancy applications.

Stacey informs Council that there is a process that a new business needs to apply for. One is an administrative change of use. The other is a full site plan review change of use. Some businesses may not change the use of the building so this new application would come into play for those. For example the All State business at Savannah Square didn't change the layout of the building. The business still needed the Fire Marshal review. The only change to the unit was carpet and no permit was needed. Five years ago the retail shop was fitted out and the permit was approved. The use didn't change so a change of use wasn't necessary. However, we need a process where agency approvals are required to be submitted and that the new business is a permitted use. Councilman Chandler asks if \$200.00 is going to cover Stacey and Kyle's time. Stacey has received numbers and how long it would take for AECOM to review the application and all the items attached. It was decided that 2 or 3 hours would be for the building inspectors to review and a physical inspection to be conducted. Councilman Chandler made a motion to approve the proposed certificate of occupancy application and fee of \$200. It was seconded by Councilman Miller. All were in favor. Motion carried.

C. Ratification of engagement of Employment Agency and appointment of temporary employee to fill interim staffing shortage at Town Hall.

Stacey informs Council that the new part-time employee is a great fit. She will be working at Town Hall until September. Councilman Chandler made a motion to approve the temp agency and hiring of the new temporary employee. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

D. Consideration of hiring a full time police officer to fill the current vacancy

Chief Toomey informs Council that Corporal Kurten submitted his resignation to the Town of Dagsboro. Three applicants showed interest in working for Dagsboro one applicant. Mr. Joles, is currently employed with the Town of Frankford. March 10, 2016 he completed the last phase of his police training. He is a Senior Airman with the Delaware National Guard. He also has training in Florida. Mr. Joles is willing to sign a 15 month contract. Three months would be for field training and 1 year would be for the expectations of working in Dagsboro. Chief would like for Mr. Joles to begin employment on April 1, 2016 and have Council approve his employment. Councilman Chandler made a motion to authorize Chief to hire Mr. Joles. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

E. Review, discussion and possible consideration of proposals from Govolution and Mercantile Processing Inc. for accepting credit card payments as a form of payment for municipal services.

Out of 400 customer accounts, the Town received 76 responses for the survey that was sent out asking customers what their preferred payment was. 54 of the 76 said they would like to pay by cash, check or money orders. 18 said they preferred online credit card payments, and 4 prefer walk in credit card payments. Stacey and Mayor Truitt met with Jeremy of Mercantile Processing who is associated with Bank of Delmarva. Mercantile Processing does credit and debit processing. Govolution said the Town would have to set up several pages for services for collection. Each of those pages would have its own monthly maintenance fee. Mercantile Processing informed Stacey that the customer would indicate what they are paying for. Mercantile Processing will never increase their fees. Councilman Chandler asks what would happen if the contract was breached. Mercantile Processing has a 3 year contract. If the town found a cheaper business this company would match the price. However if it was found this was not for the Town, he would not hold us to the 3 year contract. They will batch and send to Stacey and someone will manually post the payments received. There is a onetime fee of \$193.00 and a \$25.00 monthly maintenance fee. Councilman Chandler wants to know if the town's revenue will decrease because a percentage of payment is going to the business. Stacey states the town will only lose the \$25.00 per month maintenance fee. The collection may increase because a lot of the residents will pay by credit card if it is available. Stacey will look into who will pay for the \$.20 per transaction item. More information will be discussed at the April meeting.

F. Review and discuss Town Charter Section 30, entitled “Curbing and Paving” in regards to sidewalks in disrepair throughout town.

Councilman Chandler asks if the individual who was hurt was to sue who it would be against. Mr. Witsil states that it would be against the property owner. The charter provisions states it would be the responsibility of the town to notify the owner of their sidewalk not being properly maintained. Mr. Witsil suggests a uniformed inspection to be made for all sidewalks. Stacey informs Council that in 2015 she did a survey of sidewalks that were in disrepair. She attempted to receive a grant through the Sussex County Economic Development Fund. When she met with Deldot they said they would require ADA requirements at each curb cut and traffic control. The figure they gave us was extremely high. Councilman Chandler suggests sending notices to owners about repairing and maintaining sidewalks. Councilman Chandler made a motion to take surveys of sidewalk properties with official notices to each property owner with an attached picture if possible. Stacey will check with Deldot to see what the process is for individual repairs to sidewalks. It was seconded by Vice Mayor Baull. All were in favor. Motion carried.

VIII. Old Business:

a. Consideration of partnering with the South Eastern Readiness Team.

The funds have to be used by June 30, 2016. Councilwoman Ulrich suggests using the funds with a reading in the park activity. Councilman Chandler called the Town of Frankford and they never heard of the Readiness Team. Council will keep the item in mind for future consideration.

b. Discussion and consideration of setting a public hearing on an ordinance to amend the Dagsboro Code to adopt conditional use zoning classifications in the following districts: C- Commercial District by adopting new section 275-16(I); HC-Highway Commercial District by adopting new section 275-17(G) ; LI-Light Industrial District by adopting new section 275-18(G); TC-Town Center District by adopting new section 275-21(K); to authorize the Planning & Zoning Commission to review conditional use applications by amending section 34-8; to adopt a definition of “Conditional Use” by amending section 275-8; to adopt a procedure to review, determine and regulate conditional uses by adopting new section 275-47 entitled “Conditional Uses”; to provide notice requirements by an amendment to section 275-63; and to provide for site plan review of a conditional use application by amending section 275-40.

Planning & Zoning Commission reviewed the item on March 16, 2016. They recommended that the ordinance move forward for approval by the Council. The public hearing and the resolution was passed last month by Council. Once the conditional use is approved the applicant wouldn't have to reapply every year. Conditional uses transfer when a property is sold or the business itself is sold and it is in section 7 which is amendment 275-47 entitled “Conditional Uses” subsection D. Mr. Witsil then reads the section. Councilman Chandler states in 2009 the Council voted to remove the conditional use ordinance from the code. The conditional uses were in every zoning district at the time. Mr. Witsil left out the residential zoning so it would be immune from non-residential zoning. Mayor Truitt suggests making a proposal to incorporate residential districts.

Councilman Chandler informs Attorney Witsil of some numbering errors within the proposed ordinance. Councilman Chandler made a motion to include all districts within the proposed ordinance that will move forward to public hearing in April. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

C. Consideration of setting a public hearing on an ordinance to amend Chapter 146, Section 3(E), entitled "Licensing" by adding an annual license fee for a commercial center or building rental license of \$75.00 per unit.

Those who pay rental licenses only rent residential properties as the code currently states. The discussion was to make it commercial as well. Several surrounding towns require a commercial rental license per unit in addition to the business that is operating the unit must have a business license. Gross rental receipts are also paid annually and this is required of both commercial and residential. Mr. Witsil informs Council that he thinks it is appropriate for a business to be charged per unit for mini storages. According to the draft they would only pay a one-time \$75.00 annual fee because it is excluded. It was suggested to make the revisions to a lesser fee per unit for sublet spaces. This new revision will be discussed at the April's meeting.

D. Review and discuss Section 238-7(B) (22) of the Dagsboro Code regarding timing of completion of subdivision streets.

Kyle states that currently the code reads that when 30% of the construction is completed within a development that the roads in the subdivision should be completed. The majority of all towns is about 75% of construction being completed before roads are finished. Kyle will propose 2 possibilities for construction and road completion. Councilman Chandler would not be in favor having a retroactive effect.

E. Consideration of approving the installation/purchase of security devices needed within the Municipal Building.

Mayor Truitt informs Council that the new wireless system that is proposed is only \$20.00 more than the item they discussed previously. It comes with 2 cameras that have to be mounted. Mayor Truitt discussed the gate with Bob. Councilwoman Ulrich's concern is the look of the gate. It will be wood, dry walled and painted. Councilman Chandler suggests going with the camera system. Councilwoman Ulrich suggests putting up a sign that states "Authorized Personnel Only beyond This Point" and try the door buzzer and cameras first and go from there as to the need for the gate. Councilman Chandler made a motion to authorize the expenditure of up to \$400.00 for the installation of security devices in town hall. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

IX. Public Comment

Mr. Thompson is a resident of Woodlands of Peppers Creek and he also serves on the Planning & Zoning commission. He has concerns with the code. He suggests that Fernmoor Homes should be put on notice that they are in violation of the existing code. He would like for them to have a meeting with the commission to see if the situation can be rectified. He also has concerns with the snow removal. He then reads section 238 paragraph (F). Mr. Thompson brings up the sidewalk issue. He states that he nor the other residents were informed of sidewalks being on the original plans. It just shows the walking trails. Kyle states the code requires sidewalks on both sides of the street. Kyle informs Mr. Thompson that the streets will become public in the future.

Stacey recommends a meeting to be held at the town hall regarding these matters since at the present time we do not have the documents in front of us to answer specific questions. Mrs. Mach will be contacted to set up this meeting. Mrs. Mach has met with an attorney and she would like to see the bond that is in place. Mr. Thompson states that the existing roads are falling apart. Mr. Steele informs the residents that Fernmoor Homes is willing to repair the damaged roads while they are completing the top coat in the community. Councilman Chandler wanted the community members to understand the sequence of events that have taken place at the Woodlands of Pepper Creek since the original plan was submitted. Schell Brothers proposed that they should have an exception from what the ordinance required which was a sidewalk throughout the development. Schell Brothers said that a walking trail

would be a better fit in the community. They said no trees would be cut down and pavers would be installed in every driveway. Later the developer came back and clear cut all the property. Two years later they said that it would be cheaper to put black top down instead of pavers. The town gave them permission to do the black top. The current Council said that sidewalks had to be placed if the walking trail was not wanted because of privacy concerns.

X. Adjournment

Vice Mayor Baull made a motion to adjourn the March 21, 2016 meeting at 8:30 p.m. It was seconded by Councilwoman Ulrich. All were in favor. Motion carried.

Respectfully Submitted,

Autumn Gardner, Town Clerk