

Minutes

DAGSBORO TOWN COUNCIL

Bethel Center – 28307 Clayton Street

Monday, July 17, 2017

I. CALL MEETING TO ORDER

6:00 p.m.

Meeting was called to order by Vice-Mayor Truitt at 6:00 p.m.

In attendance were: Mayor Brian Baull, Vice-Mayor Norwood Truitt, Councilman William Chandler, Councilman, Patrick Miller, Councilwoman Theresa Ulrich, Town Administrator Cynthia Brought, Engineer Kyle Gulbronson, Police Chief Floyd Toomey, and Attorney Rob Witsil. See attached sign in sheet for other members of the audience.

II. PUBLIC COMMENT

No public comment was made.

III. PUBLIC HEARING

A. DE-ANNEXATION BIRELEY/HEARN PROPERTY

- a. This is a resolution approving the recision from the governing and zoning jurisdiction of the Town of Dagsboro a certain 18.82 acres of land identified as Sussex County tax parcel 2-33 11.00 3.00, being the lands of Lucinda C. Hearn and Joanne C. Bireley, co-executrices of the estate of Alvin A. Campbell, pursuant to testamentary letters issued May 24, 2007, and Charles Bireley and Joanne Bireley, husband and wife as tenants by the entirety, as to 50% interest and Terry Hearn and Lucinda C. Hearn, husband and wife as tenants by the entirety, as to 50% interest and as tenants in common, as to the whole.

Attorney Witsil informed those present that the Public Hearing has been held with very few people in attendance, and the evidence was entertained. The Planning and Zoning Commission has also given their opinion through the Chairman.

Councilman Chandler recused himself from voting, but reminded those present that the record shows this vote is in regard to a property that was annexed into town uniquely to have access to town services, which were ultimately unable to be afforded. Due to the property being annexed into the town on that mistaken premise and the fact that services never were provided to the property, it is now in the judgement of the town a uniquely situated property for which this unique remedy is appropriate.

Councilman Miller made a motion to approve the resolution to de-annex the above property from the town's jurisdiction. Councilwoman Ulrich seconded the motion. All in favor. (Councilman Chandler abstained.)

- b. This is an ordinance to amend the zoning map of the Town of Dagsboro by rescinding from the R-Residential District a certain 18.82 acre parcel of land identified as Sussex County tax parcel 2-33 11.00 3.00, being the lands of Lucinda C. Hearn and Joanne C. Bireley, co-executrices of the estate of Alvin A. Campbell, pursuant to testamentary letters issued May 24, 2007, and Charles Bireley and Joanne Bireley, husband and wife, as tenants by the entirety, as to 50% interest and Terry Hearn and Lucinda C. Hearn, husband and wife as tenants by the entirety, as to 50% interest and as tenants in common, as to the whole, and designating the said lands to be subject to Sussex County zoning regulations.

The rationale for the ordinance to amend the zoning map would be the same rationale discussed for the resolution. Councilwoman Ulrich made a motion to approve the ordinance. Councilman Miller seconded the motion. All in favor.

B. COURT OF APPEALS – FOLLOW-UP FROM JUNE 19, 2017 TOWN COUNCIL MEETING

Mr. Eric Piner went back to check the square footage of the Mach residence and confirmed that her information on the square footage was correct. Mr. Piner also checked on the Austin residence. Both properties were on the list from last month for him to review and he has re-assessed them based on the new information he has gathered. The Mach's new property assessment value is now \$135,800 and the Austin property's new assessed value is \$141,200.

Attorney Witsil asked Mrs. Dena Mach if she withdraws her appeal, based on the new assessment value. Mrs. Mach replied that with the new value, she does withdraw her appeal. The Austins were not present, but they had not filed an appeal.

Councilman Chandler made a motion to accept the two new assessments. Councilman Miller seconded. All in favor.

IV. APPROVAL OF MINUTES

- a. June 19, 2017 – Town Council Meeting

Councilwoman Ulrich made a motion to approve the Town Council meeting minutes from June 19, 2017. Councilman Chandler seconded. All in favor.

V. CONSENT AGENDA

A. Police Department Report

- a. SRO Position Findings

Police Chief Toomey informed the Council that he had contacted the Indian River School District about assuming the responsibilities of the School Resource Officer and attended their School Board Meeting on June 19, 2017. He presented them with the letter that he had mailed to the Superintendent, the Board President, and the local representative. He also shared the statistics with the School Board, such as how many complaints were made at Indian River High School and how many the Dagsboro Police Department responded to (which was two-thirds of the time). He also informed the board of the qualifications of the proposed officer and about Home Rule. This was all held in the executive session

and Chief Toomey was informed that he would receive a letter with an answer. Chief Toomey then read the letter he received to the Town Council, in which the School Board declines the proposal due to the fact that they already have a School Resource Officer in that position.

Vice-Mayor Truitt responded that it is disappointing since it would save them quite a bit of money. Chief Toomey replied it would save \$33,250. He feels it is now up to Town Council to determine how to proceed. Vice-Mayor Truitt asked how often this comes up. Chief Toomey replied that it did not go to a vote, at least not in that session. An e-mail he received from Dr. Statler, who is on the board and in favor of this proposal, stated that there was no motion for change and therefore, nothing was voted on. Councilman Chandler asked why it was considered in an executive session. Chief Toomey did not know or understand why they made it an executive session and was concerned about that decision also. Vice-Mayor Truitt clarified that Dagsboro solicited the School Board with this proposal and that there was not an offer out to replace the SRO. Chief Toomey confirmed that is correct. Councilman Chandler asked if they wanted to pursue this any further if it would be up to the Town Council at this point because Chief Toomey has done all he can. Chief Toomey affirmed.

Vice-Mayor Truitt stated they could try again another time, but that the response seems insulting. Councilwoman Ulrich agreed, especially when the school budget is a concern. Councilwoman Ulrich also asked about the Home Rule. Attorney Witsil responded that it seems like the School Board response is that they don't know Dagsboro's legal authority to extend into their school system. Chief Toomey responded that Dagsboro is providing the service to the schools – the State Police only provided services one-third more, but are getting paid for the service. Mr. Gulbranson asked if the current SRO is an Indian River School District employee. Chief Toomey replied that it is a State Trooper.

Councilman Chandler made a motion for the Town Council to write a letter asking the School Board to formally explain why they turned down the request to save the school money and that he could draft the letter and have it signed by the mayor. Councilwoman Ulrich seconded the motion. All in favor.

Chief Toomey also informed the council that a job opportunity opened to one of the officers that is only ten minutes from home and received his resignation. The officer made the decision with regret because he likes Dagsboro, but it is only ten minutes from his home instead of the hour and fifteen minutes spent to get to Dagsboro so he is saving two hours of his day. Chief Toomey recommended that the position be held, but not filled at this point. Vice-Mayor Truitt asked if scheduling and summer would be okay for this period of time. Chief Toomey replied that it would be. Councilman Chandler stated that he understands if there is a contract negotiation or something occurring that expects confidentiality, but asked if not, which officer will be leaving. Chief Toomey informed the council that it is Patrolman Joles.

Chief Toomey also informed the council that he has been approached by a council member from Frankford about possibly combining the Dagsboro and Frankford Police Departments, as long as it would be to their mutual advantage. Councilman Chandler asked Chief Toomey if he thinks it would be worth his time to pursue this. Chief Toomey replied that he thinks it would and he would just put together a foundation of what it would cost and what the towns would get because that would possibly make the decision for them. Councilman Chandler and Vice-Mayor Truitt stated they don't see any harm in it, if Chief Toomey is willing to do it.

Attorney Witsil stated they would need a General Assembly to change the charter. Chief Toomey is aware of this, but his proposal was going to be for two separate police departments with a single

leadership. He would be sworn in as the Chief in Frankford and Dagsboro and so would all of the officers.

B. Treasurer's Report

C. Administrative Report

Councilwoman Ulrich stated that Dell has a sale currently and that she could bring Town Administrator Brought the book. Town Administrator Brought stated that would be good and that Vice-Mayor Truitt will be coming into the office in a couple of days so that they can work on a proposal for new computers at Town Hall.

Councilwoman Ulrich asked about the water in the crawlspace at Town Hall and Town Administrator Brought replied that it is all cleaned up – it had apparently dried up when Mr. Flowers went to check on it.

D. Economic Development Committee

E. Building Official Report

F. Code Enforcement Report

G. Meeting Reports

H. Water Department Report

Turning to the water, Councilman Chandler asked for the current chlorine reading. Town Administrator Brought replied it was 0.04; it had been 0.23 on Saturday (three days prior). Councilman Chandler asked why that is. Town Administrator Brought replied that she did call Millsboro to ask that and that they told her that it is on Dagsboro and this happens every time it gets warm. Town Administrator Brought shared last summer's reports with the Town Council so that they could see the numbers were not this low last summer. Councilman Chandler recalls it was hot last summer as well.

Mr. Gulbranson has been in contact with water engineers from Newark and informed the council that this time of year the water temperatures are warmer and it sits in the tower, resulting in the chlorine dissipating over time. It has been discussed in prior years to have a chlorine injector pump added to the tower. The recommendation of the engineers he spoke with was to do an analysis first of how much water is used every day and how long the water sits in the tower. The engineers can then figure out how quickly the chlorine dissipates over that period of time. Councilman Chandler asked who could do this, when it could be done, and how much it would cost. Mr. Gulbranson will get an estimate. Vice-Mayor Truitt asked if a base line would be needed. Mr. Gulbranson replied that water testing with samples would be needed at the interconnect meter so that the water coming in from Millsboro could be checked. Attorney Witsil stated that the point beyond the valve, on the Dagsboro side, is where he would need to know the level. Mr. Gulbranson stated the interconnect, the tower, a few points within the town, and then the end of the line toward Frankford would be where the testing should be done. He believes the problem is that Dagsboro is on the end of Millsboro's line so they could have great results

at their water plant, but Dagsboro is five miles away. Vice-Mayor Truitt pointed out that the numbers from last year are so much higher and Mr. Gulbranson agreed that is perplexing.

Town Administrator Brought stated that Kenny doesn't return her calls or speak to her, but she contacted Sheldon Hudson, Millsboro Town Manager. He informed her that Kenny had said this happens every summer when it gets hot, but she checked last year's report and doesn't find that to be true. She did find that one time in September it was down to zero, but then it came back up during the same week and stayed consistent. There was a chlorine-line break on June 12th, but the problems began on June 9th. She asked Mr. Hudson why the levels were down before that line even broke and he told her that is a good question and it never has been answered. She informed him today that the water was tested several times at the interconnect meter when this all started and the results were zero. She asked if at the interconnect meter the water should be quality water and Mr. Hudson's response was no – it isn't Millsboro's problem and that once it hits the meter, it is Dagsboro's problem. He stated that their numbers are fine and they are doing what they need to do. Town Administrator Brought has been trying to get estimates on the injection system and is hearing it could be \$15,000 to \$20,000 between the contract to take care of the system and the system itself. She will work to get an estimate on what it will cost. Mr. Gulbranson stated those numbers sound accurate. Councilman Chandler asked if the testing should be done before going forward with an injection system. Mr. Gulbranson agreed that the testing should be done before spending money on the injection system because there might be another solution such as draining the tower or keeping less water in the tower that costs less than the injection system.

Town Administrator Brought stated they had opened a couple of fire hydrants at the end of the lines recently to try to pull the chlorine through and the chlorine level did go up, but Kenny did call and complain that had been done. She told him that she did not know what to do since he does not return her calls. The chlorine number did go up that week, but then dropped over the weekend again. Mr. Gulbranson stated that could be because the water level in the tower had been lowered through the fire hydrants running so then fresh water was added.

Town Administrator Brought stated that once a month state testing is completed and the last two times the chlorine level was 0.02 and the water temperature was 86 degrees due to the heat. He did get it down to 80 degrees, but the warm water is when bacteria can grow, which is the biggest concern.

Attorney Witsil stated that Millsboro has responsibility of the water quality to the valve so that is where he would like testing done. Vice-Mayor Truitt agreed because if the water is bad on Dagsboro's side of the valve, it must be bad on the other side. Town Administrator Brought asked if there was a way that Dagsboro could test Millsboro's water to see if what they are saying is true about their water being the quality it should be. Councilman Miller stated he has property in Millsboro that he can get water from. Town Administrator Brought mentioned Millsboro's report from last year had some 0.02 readings also.

Councilman Chandler wants to make sure they get on top of this issue right away. Mr. Gulbranson is going to check into the water testing and Councilman Miller will get a sample from Millsboro.

I. Prince George's Chapel Cemetery Report

Town Administrator Brought informed the council that the two-year CD for \$32,693.52 for the Prince George's Cemetery will be up on July 20th. Their funds are running low and they do need to pay expenses, such as grass cutting. The committee had decided they would like to change the CD to a one-year CD so that funds are available. They would like to take the \$2,693.52 and roll it into the checking account. This would put \$30,000 in a yearly CD and they have another CD that is about \$32,000 that is in a two or three year CD. Town Council is okay with that decision.

Councilman Chandler asked for clarification on the cemetery. He understands that the Town Council acts as trustee for the cemetery, but they do not own the cemetery, physically. The cemetery raises its own funds through burials, donations, etc. Town Administrator Brought confirmed that is correct. The contract with the Delaware Department of Corrections is then under contract to cut the grass at the cemetery. Town Administrator Brought stated they only cut the town's part of the cemetery, not the back part owned by the state, which answered Councilman Chandler's question. Councilman Chandler asked if that is paid by the cemetery and not the town. Town Administrator Brought confirmed the cemetery has their own separate contract and pays out of their funds.

J. Correspondence

Motion to approve the consent agenda was made by Councilman Chandler and seconded by Councilman Miller. All in favor.

VI. PLANNING & ZONING COMMITTEE

A. Report from July 13, 2017 Meeting – Town Engineer Kyle Gulbranson

Chairman Connor and Co-Chair Flowers were not able to attend this meeting so Mr. Gulbranson gave the Town Council the report from Planning and Zoning.

a. Kerns – Old Heathman Jeweler's

Mr. Gulbranson informed the Town Council that the Kerns came to the Planning and Zoning Commission to discuss parking at their property, which is the old jewelry store. They plan to renovate it, put a small addition on the back, and add a second story for an office space for a small restaurant. They had been in contact with the Clayton Theater about an easement to the back of the property, but ultimately the owner did not want that to be attached long-term to her property. Based on their current plans, the Kerns would need approximately 15 parking spaces. The Town Center zoning code allows for a couple of different options – either on-street parking or parking on a site that is not on the subject property. They are looking into a combination of on-street parking and talking to a couple of property owners on Main Street for overflow parking. Steve Parsons has also offered his property for parking for employees. The next step for the Kerns is that they will bring a site plan once they have it.

b. Sign Ordinance for the Town Center District

The Planning and Zoning Commission has been looking at the sign ordinance for the Town Center District for the last few months. They now have some recommendations that they will draft into an ordinance and submit to Attorney Witsil for his review. Once it is updated, it will be ready for the Town Council to review, probably in September.

VII. NEW BUSINESS

A. Charles Moon Plumbing – Jerry Green; Discuss business concerns

Mr. Green was not able to attend and will be attending in September instead.

B. Water Interconnect Agreement – Consideration of Implementing the Drafted Agreement from 2005

Mr. Gulbranson stated that he thinks the agreement was drafted back in 2005. Basically it is an overview of the procedure for opening a valve in an emergency situation. Frankford, Dagsboro, and Millsboro are all connected for the water, which is a unique situation. For some reason, the agreement was never signed by all three towns and it was just dropped. The fire recently in Frankford has brought the need for an agreement like this back. Mr. Gulbranson informed the council that for that fire, the procedure in the draft agreement was followed. Frankford has asked for Dagsboro and Millsboro to reinvestigate this agreement and if they would be willing to sign.

Vice-Mayor Truitt stated the agreement does not discuss compensation. Town Administrator Brought informed the council that the Frankford Town Council agreed to pay Dagsboro for the water that was used for the fire. They dropped off a check for one thousand dollars, which covered the full cost of the water from the fire. Councilman Chandler had read that Frankford paid Millsboro for the water. Town Administrator Brought replied that the paper was incorrect – the check came to Dagsboro. Dagsboro had already paid Millsboro for the water so Frankford reimbursed Dagsboro. Councilman Chandler asked if there should be a compensation or reimbursement provision in the agreement. Mr. Gulbranson agreed that there probably should be. Councilman Chandler stated it will need to be re-written anyway because it needs to be updated. Vice-Mayor Truitt agreed it would need to be updated, especially concerning the part that states all three towns must have someone present. That is not possible when there is a fire.

Town Administrator Brought looked into the history of this agreement and checked with Brad Connor. One of the questions that had been asked at the time was that all of the expense falls on Dagsboro. There would need to be a meter installed on the Frankford side so it could be read. Councilman Chandler asked what the cost of the meter would be. Mr. Gulbranson didn't know exactly, but did state it is a ten inch water line so it would be a large meter. Town Administrator Brought suggested talking to Frankford to see if they would be willing to share that expense. She will get an estimate for the meter.

Mr. Gulbranson recalls Millsboro being concerned about the water quality coming from Frankford and the possibility of contamination and that is where the agreement seemed to drop. He can't say if that was a valid concern or not. Councilman Miller suggested a check valve. Mr. Gulbranson said they could do that. He also stated that the valve has only been opened once in the whole time that the Dagsboro water system has been in place.

Vice-Mayor Truitt stated they need to be careful not to spend too much on something that would only happen once in ten years. Councilwoman Ulrich asked if there was another option and suggested an agreement that would state whoever used the water is responsible for it and that we could estimate the amount.

Attorney Witsil stated that this draft and the discussions regarding it were done before he was with Dagsboro, but he sees section 7a puts Millsboro responsible for providing quality water even past the interconnect and they probably wouldn't guarantee water quality for anybody except their town.

Vice-Mayor Truitt suggested a Memorandum of Understanding would be better. Attorney Witsil agreed, as did Mr. Gulbranson and added that it should clarify that it is for emergency purposes only.

C. New Business Summit – Discussion – Mayor Baull

This is postponed until the next meeting.

VIII. OLD BUSINESS

A. Appointment of Janice Kolbeck to the Board of Adjustment

Councilman Chandler recommends to appoint Janice Kolbeck to the Board of Adjustment, effective immediately. Councilwoman Ulrich seconded the motion. All in favor.

Attorney Witsil swore Mrs. Kolbeck in.

B. Marvin Steen – Temporary Sign for Prince George's Acres

Marvin Steen has a larger sign down the road that he would like to place at Prince George's Acres for August to advertise the lots for sale in the community. Councilman Chandler asked why Mr. Steen would like to use the large sign instead of the sign he currently has at the location. Mr. Steen replied that his small real estate sign isn't visible due to the traffic going so fast down the road. Councilwoman Ulrich stated it is thirty-five miles an hour on that stretch of road. She thinks a big part of the problem is that the entrance is not appealing and therefore, potential buyers do not want to continue into the development.

Councilman Chandler clarified that the reason for his question is that the code states a real estate sign must be on the property owned by the person trying to sell the land and that they can only be a certain size. Mr. Gulbranson stated the code requirement is only four square feet – about a traditional real estate sign. Mr. Steen stated that is the size of the sign that has been there. Councilman Chandler asked if it will be placed on property that Mr. Steen actually owns. Mr. Steen confirmed it will be. Councilman Chandler asked if there is a right-of-way in this area, like on Main Street and that was confirmed. He stated the problem is that the ordinance bans this specific type of sign due to its size and the location and if one is allowed, then others will need to be allowed.

Attorney Witsil asked about a few specific lots on the map to see if they were sold. He asked Mr. Steen to show exactly where he was going to place the sign. Councilwoman Ulrich stated that there has always been a discrepancy in regards to who owns the property at the entrance with the walls. Mr. Steen said to disregard the request.

C. Kyle Gulbranson – Surface Water Grant

Mr. Gulbranson gave an update to the grant that the town has received. Town Administrator Brought now has the agreements and the purchase order, which was needed before work could start. Mr. Gulbranson stated the first step is to survey for topography and see what areas need addressed.

D. Update on Woodlands Phase I and Phase II Bond

Mr. Gulbranson informed the council that the Phase II bond is in place. They granted a bond for the town for \$372,373.91 and there is a pre-construction meeting today with the conservation district for work to begin this week. The first part will be clearing the area where the storm water pond is and then re-installing it and reconnecting the water infrastructure. Then they will be putting in the water, sewer, and streets for the last phase of the development. They are also in the process of getting estimates to do the topcoat of Phase I and will probably have a bond in for that by the end of the month. Vice-Mayor Truitt asked if the Phase I bond is expired. Mr. Gulbranson replied that it expires August 21st so it needs to get in place quickly. The town is requiring Fernmoor to give a new bond with the estimate for the road because the current bond for that phase expires and the town has given Fernmoor until September 1st for the topcoat.

E. Bob Flowers – Update on beautification of Town Hall and Route 113 median; update on oak tree at Prince George’s Cemetery

Bob Flowers stated that oak tree does look a little off-balance, but that they could only take about one-third of the green growth off of the tree or it will put the tree into shock and probably kill it. One-third was trimmed off and the crack that was on the large limb already is closing. Over the years as the tree recovers, it can be trimmed again and eventually get back to being a healthy tree, but it will take time. Vice-Mayor Truitt asked if there are currently any dangerous overhangs. Mr. Flowers stated they he doesn’t see any dangers with that.

The town is waiting for Rick Green to come work on the sign at Town Hall. He should be coming this week - he was supposed to come in May. On the highway, the southbound side is complete until fall. Lester at Southern States suggested a sparse planting – there are purple Stokes Asters there now that will bloom all summer and then in the fall, mums can be added. This will allow there to be color all summer and into fall, the evergreens will be there to at least have greenery in the winter, and then in the spring the purple will be back. The northbound side is still a work in progress – about half of it is dug up. The project is taking all summer instead of the original estimate of a month. Councilwoman Ulrich asked if there are any local Boy Scout troops that would want to earn the volunteer hours. Mr. Flowers plans to talk to the fire department (where the scout troop meets), but is hesitant about the young men being out in the median of a busy highway.

IX. PUBLIC COMMENT

Bob Flowers asked to make a comment in reference to the water. He stated that chlorine is very corrosive so if the chlorine is dissipating in the tank as fast as the town is being told, there would be signs of it in the tank. Mr. Gulbranson agrees and spoke with engineers that also suggested other options be investigated instead of going too quickly into the chlorine pump. Vice-Mayor Truitt agrees – last summer’s numbers do not indicate the chlorine injector is needed.

Mr. Flowers also shared that Millsboro was concerned when the valve was open for the fire that their water would be contaminated. In the meantime, the water could have bacteria and could contaminate their water and they are not concerned. Councilman Chandler asked if Dagsboro’s water could flow back to Millsboro. Mr. Gulbranson stated the water system was designed so that Millsboro’s and Dagsboro’s water tanks are the same level - when Dagsboro uses a lot of water, it pulls down the tank level in

Millsboro and vice-versa. It probably is very infrequent that the water goes from Dagsboro to Millsboro, but it does happen.

X. ADJOURNMENT

A motion to adjourn the meeting was made by Councilman Chandler and seconded by Councilman Miller. All in favor. Meeting was adjourned at 7:07 p.m.

Respectfully submitted by;

Megan Thorp
Town Clerk