

Minutes

DAGSBORO TOWN COUNCIL

Bethel Center – 28307 Clayton Street

Monday, January 23, 2017

I. CALL MEETING TO ORDER

6:00 p.m.

Meeting was called to order by Mayor Baull at 6:00 p.m.

In attendance were: Mayor Brian Baull, Vice-Mayor Norwood Truitt, Council Members Patrick Miller, William Chandler, and Theresa Ulrich, Town Administrator Cynthia Brought, Police Chief Floyd Toomey, Engineer George Bendler (in for Kyle Gulbranson), and Jeffrey Harman from Becker Morgan. Attorney Rob Witsil and Engineer Kyle Gulbranson were absent. See attached sign in sheet for other members of the audience.

II. PUBLIC COMMENT

No public comment was made.

III. PUBLIC HEARING AND VOTE

This is an ordinance to amend Chapter 275-5 of the Municipal Code of the Town of Dagsboro, entitled, "Prohibited Uses," to add a provision to prohibit business or commercial uses, either temporary or permanent, upon any property condemned for noncompliance with building or maintenance sections of the Municipal Code.

Mayor Baull informed those present of the rules for a Public Hearing and proceeded to state the proposed changes for the ordinance to amend the Municipal Code of the Town of Dagsboro, Delaware, Chapter 275-5, entitled, "Prohibited Uses," to add a provision to prohibit business or commercial uses, either temporary or permanent, upon any property condemned for noncompliance with building or maintenance sections of the Municipal Code.

Mayor Baull opened the public hearing. There were no comments on the proposed ordinance. Councilman Chandler informed those in attendance that the purpose of this amendment is for public safety - if a property is condemned, then allowing commercial uses at that property would be putting people at risk. Following this discussion and explanation of the origins and the purpose of the proposed amendment to the ordinance, a motion was made to close the public hearing by Councilman Chandler and seconded by Vice-Mayor Truitt. The motion carried unanimously. Councilman Chandler then made a motion to adopt the proposed ordinance as drafted. It was seconded by Vice-Mayor Truitt. The motion carried with all in favor.

IV. APPROVAL OF MINUTES

A. December 12, 2016 – Town Council Meeting

- a. Councilman Chandler suggested more details should be added to the minutes of the colloquy between the Council and Kyle Gulbranson during the public hearing of the December Town Council meeting.

A motion to approve the minutes with the changes suggested by Councilman Chandler was made by Vice-Mayor Truitt and seconded by Councilwoman Ulrich. All in favor.

B. January 9, 2017 – Special Meeting Town Council

A motion to approve the minutes from the Special Meeting of the Town Council was made by Councilman Chandler and seconded by Vice-Mayor Truitt. All in favor.

V. CONSENT AGENDA

A. Police Department Report

Chief Toomey reviewed his monthly and annual reports with Town Council. He also had a comparison report from 2006 to 2016.

B. Treasurer's Report

Councilwoman Ulrich suggested that the Petty Cash report be separated between income and debits. Councilwoman Ulrich also questioned the Town using ADP for payroll and made the suggestion that the Town go back to completing payroll ourselves. Town Administrator Brought will research this option and report back next month.

Councilman Chandler suggested the Real Estate Transfer Tax account could possibly be moved into an account that would earn interest. Town Administrator Brought will research this and report back, as well.

C. Administrative Report

D. Economic Development Committee

E. Building Official Report

F. Code Enforcement Report

G. Meeting Reports

H. Water Department Report

I. Prince George's Chapel Cemetery Report

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. Reorganization meeting January 18, 2017

a. Chairperson – Brad Connor

b. Vice-Chairperson – Cathy Flowers

B. Next scheduled meeting February 15, 2017

VII. NEW BUSINESS

A. AECOM to present Delaware National Guard Preliminary Armory Project/Plans

George Bendler from AECOM was present to fill in for Kyle, who could not be in attendance. In reference to the letter from AECOM addressing the project, a few issues needed attention. Mr. Bendler directed the Council's attention to number nine in the letter regarding the water storage tanks and the set-back requirements. Jeffrey Harman from Becker Morgan informed everyone that the new design actually combines the two separate storage tanks into one storage tank with two compartments to save space. This change has now made the design in compliance with the set-backs.

Mr. Bendler also called attention to the east side of the property and how the design is up against a future planned residential community and that the design needs to meet the buffer standards. Mr. Harman explained that the current security fence is on the property line and there would not be space for a buffer. Due to the parking and storage space needed there would not be room for a planted buffer, but he asked if doing a screen of some type would suffice.

Councilman Chandler asked if this project needed to go before the Planning and Zoning Committee first. Town Administrator Brought responded that Kyle Gulbranson from AECOM had looked it up and it did not need to go before Planning and Zoning first. Mr. Bendler agreed that since the plan is just an adjustment to what is currently there, Kyle had said it does not need to go before Planning and Zoning. Councilwoman Ulrich asked if they are tearing down a building. Mr. Bendler responded that they are tearing down the maintenance facility, but that is exactly what is being put back – there is not a change of use. They will be replacing it with a larger maintenance facility with larger bays and more modern equipment. Councilman Chandler understood and agreed, but feels the input of the Planning and Zoning Commission would be beneficial. With the potential new development adjacent to this property and being near a school, in the future sidewalks would be a beneficial feature and it was proposed that the project consider sidewalks in their design. Mr. Bendler agreed to ask the National Guard if there would be any security concerns in adding a sidewalk to the design.

Councilwoman Ulrich asked for clarification on the water storage tanks. Mr. Harman explained that the two proposed storage tanks will be combined to one so it will still hold the same volume, but will be more compact. It was also confirmed that the storage tank would meet the set-back requirement of thirty feet. Councilwoman Ulrich was concerned that the homeowners across the street would probably have complaints with the storage tank and a buffer should be considered. Mr. Harman responded that he could look into continuing the screening around the front, as well.

The bio-retention ponds were addressed as another concern. There were four planned originally, but the underground area is going to be enlarged, eliminating the four ponds out front. The front will now have a lawn area instead. The option of moving the storage tank was also questioned, but Mr. Harman responded that they have been turned ninety degrees and moved an extra twenty to twenty-five feet further than they are currently. He will check to see if there would be any security concerns with the National Guard being able to see in or out to see who is on the perimeter for any

potential screening to help with the visual aspect. The fence will be a security fence so there will be some security feature on the fence, but the exact feature has not been determined yet. The fence along the perimeter will be the security fence, however, inside the perimeter, the fence will just be chain link fencing to separate the different functions of the spaces.

Mr. Bendler described the exterior of the building as matching the Readiness Building so it will be a much nicer, brick aesthetic compared to the current building. Councilman Chandler confirmed that the plan is meeting the setback requirements and Mr. Bendler replied that the storage tank was the only part that was not in compliance, but that it will be in this new design. He offered to send revised plans to Council.

Councilwoman Ulrich raised the question of whether the water tank would be inside the security fence or outside. Mr. Bendler replied that originally it was outside, but it will now be inside. He also clarified that it will now be one storage tank with two compartments, not two separate tanks. Councilman Chandler asked if some sort of privacy fencing could go around it to help hide it. Mr. Bendler stated that he will ask, but is unsure if that would cause a security issue with the National Guard not being able to see out, along the perimeter.

Mayor Baull asked if the process would be delayed if this would be presented to the Planning & Zoning Commission to get their input. Mr. Bendler replied that they are fast tracking this and would like work to start in March, but that the February 15th meeting would be possible. Mr. Bendler will get the revised plans to the Planning and Zoning Committee members before the next meeting on the 15th and then the Planning and Zoning Commission's input will be given at the next Town Council meeting on February 27th.

B. Mike Cummings – Clayton Crossing for a presentation regarding new building plans

Mr. Cummings explained that he first started the Clayton Crossing project back in 2006. He was not expecting to have to pay \$800 for his building permit for the Mediacom building. At that time, he states that Town Council agreed to reduce the building permit fees to \$55 a square foot instead of \$85 a square foot. Mr. Cummings is requesting that Council would allow the reduction again, as he interpreted it to be for both phases. He stated that he has a good partnership with the Town, paying \$100,000 in real estate taxes over the past 10 years and \$50,000 a year for the gross rental receipts and that number will grow. Mr. Cummings also already has a signed lease for 8 years with Ryan Homes so it will not be sitting empty. This also will be completing the project. Mr. Cummings is asking for the Town's help. He would like to have his building permit next week and he will honor whatever the Town decides, but is a good business partner with the community and would like to continue to be.

Vice-Mayor Truitt asked for clarification on the commitment that was made – if it was \$55 a square foot, period, or if it was \$55 a square foot to start and then the other \$30 a square foot when the space was rented. Mr. Cummings responded that his project was started before the new building permits and that it was for this project alone, Clayton Crossing, phases one and two, that he was given the reduced rate of just \$55 a square foot. He also acknowledged that the reduced rate was given by a different Town Council. It was clarified that this is the second and final phase for this project. Vice-Mayor Truitt explained that he thought the agreement was to pay the \$55 a square foot initially, but then pay the remaining \$30 a square foot when it was rented. Mr. Cummings

stated this was not the agreement and that he did not pay the extra \$30, but just paid the 1.25% for the fit out.

Town Administrator Brought mentioned that she and Stacey Long, the Town Administrator at the time, looked through everything they could find from this time period and could only find proof that Mr. Cummings paid the \$55 a square foot rate.

Councilman Chandler stated that this information changes his attitude about the situation. He gave two reasons: first, a commitment had been made to Mr. Cummings for this reduced rate and that should be honored; second, since Mr. Cummings bought this property before the building permit changes, this would not set a precedent for others to request this reduction.

Councilman Chandler made a motion to allow Mr. Cummings to pay the rate of only \$55 a square foot. Vice-Mayor Truitt seconded the motion. All in favor.

VIII. OLD BUSINESS

A. Discussion/Resolution/Ordinance to ban smoking on grounds of municipal property – Town Hall and Police Station

This was discussed last month and we now have a resolution, but before spending the money to advertise for the public hearing, Councilman Chandler would like to be sure everybody is in favor.

Councilwoman Ulrich mentioned that even though currently, the staff at Town Hall does not smoke, in the future a person may be hired that smokes and wondered what they would do. Councilman Chandler discussed the effects of smoking and having a loved one suffer from lung cancer and that discouraging anyone from smoking would be a positive thing. Councilwoman Ulrich questioned how we would enforce this policy. She addressed Chief Toomey if he would be the one enforcing this policy. Chief Toomey explained he already has a policy for the officers that smoke and that they cannot in public (i.e. they must go behind the building) and he does enforce this policy. He would enforce the policy that Council adopts.

It was decided that this will be advertised and put on the agenda for a vote next month.

B. Discussion/Resolution/Ordinance Planning & Zoning Amendments

Council agreed to go forward with the amendments for Planning & Zoning members. This will be advertised and put on the agenda for next month, as well.

IX. PUBLIC COMMENT

Mayor Baull opened the meeting for public comment. Cathy Flowers, town resident and Planning and Zoning member shared her approval of the smoking ban on Town property, as a non-smoker not wanting to have to walk through the odor of smoke to get to Town Hall.

Chief Toomey raised the question if Town vehicles were included in the smoking ban, as property could be construed as only actual property. Somebody could simply go sit in their vehicle in the parking lot to smoke. It was agreed that vehicles should be added to the ban.

Vice-Mayor Truitt informed Council that Joanne Bireley, requesting the de-annexation, will be present at the next meeting. He sent them a packet with information, but it looks like it will be a difficult process. He shared that the Town of Millville de-annexed part of Lord Baltimore and that they had to have a town vote on the process. State law addressed the annexation process, but does not address the de-annexation process. This process is very much discouraged because it does affect the tax base of the town. In this case, it won't have as much of an effect on the tax base because of the nature of the property. It is currently zoned residential, but the enormous cost of sewer is preventing them from being able to do anything with it. The county gave an estimated cost of three quarters of a million dollars, making the property economically unviable to them.

Councilman Chandler asked the purpose of de-annexing this property. Vice-Mayor Truitt explained that it is to escape the Town zoning laws and ordinances, as well as Town taxes. This would also allow them to sell the property to a developer that could put the sewer system in.

X. ADJOURNMENT

A motion to adjourn was made by Councilman Chandler and seconded by Vice Mayor Truitt. All were in favor. Motion was carried at 7:07 p.m.

Respectfully submitted by;

Megan Thorp
Town Clerk