

*Minutes*

**DAGSBORO TOWN COUNCIL**

**Bethel Center – 28307 Clayton Street**

**Monday, May 15, 2017**

I. CALL MEETING TO ORDER

6:00 p.m.

Meeting was called to order by Mayor Baull at 6:05 p.m.

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

II. PUBLIC COMMENT

Brad Connor, chairman of the Planning and Zoning Commission, informed the Town Council that they met last week and discussed the de-annexation of the Hearn/Bireley property, which is about to be voted on. Town Attorney Rob Witsil informed Mr. Connor that there would be a time during the Public Hearing to get the Planning and Zoning Commission's comments.

III. PUBLIC HEARING AND VOTE

- A. This is a resolution approving the rescission 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 of the rules for a Public Hearing and the order in which it will proceed – the application will be explained, the applicants will briefly present the reason for the proposed resolution (in this case the Town of Dagsboro is the applicant and has responsibility of the burden of proof that the application promotes the health, safety, and welfare of the citizens and inhabitants of the town, as well as the required elements of Title 22 of the Delaware Code, Municipal Code section), and the Hearn's and Bireley's may submit any evidence they wish in support of this application. Council members may ask questions and then at the conclusion of the application, the council will invite public comment.

At the conclusion of informing those present of the rules and procedures, Attorney Witsil gave a summary of the application. For the past several months there has been discussion on the application to rescind an annexation. The history of this annexation is that on, or about, April 27, 2009, the Town Council approved a resolution annexing the subject parcel into town with a residential zoning designation. The approval was in accordance with the property owner's request to annex into town, which proceeded all of those proceedings. The resolution was recorded with the Sussex County office and has been recorded in D book 37-74, page 59, together with an ordinance amending the zoning

ordinance and zoning map of the town, which was required. Attorney Witsil also reminded those present that he has informed them that the Town Charter does not have a “de-annexation process.” The resolution before the council tonight has been drafted by Attorney Witsil, by the council’s direction, attempting to match the process by which the property was annexed. The state code in the Municipal Title (Title 22) of the Delaware code does not specifically address a situation where a town or a property owner is desirous of de-annexing a property back to the county. The legislation that Attorney Witsil has drafted in resolution and ordinance forms is his best attempt to rescind the annexation that was approved several years ago. This process started on November 11, 2016, when the Hearn and Bireley families signed a letter to the Town Council. Attorney Witsil read the letter which stated they requested to annex into town for water and sewer, but then learned that sewer would not be available or if it would be, would cost \$750,000, which is a financial hardship to the property owners. For this reason, they request that the property be removed from the town’s jurisdiction.

In pursuant to follow the reverse process to the annexation, the Town Council then formed a committee to investigate the propriety of de-annexation consisting of Norwood Truitt, Pat Miller, and Theresa Ulrich. On February 6, 2017, the committee reported through its chairman, Norwood Truitt, that the de-annexation request is due to the cost of sewer making the property economically unviable, there were no other future annexations tacked on to the property, and the committee finds there would be no adverse effect on fire, law enforcement, or the health, safety, and welfare of the townspeople of Dagsboro. The committee also stated that de-annexation would require a change to the land-use map, however, it should not affect future comprehensive plan approvals and that while it will make a small decrease in the town’s revenue, they found no significant negative impacts to the proposed de-annexation. The committee recommends de-annexation approval for this request.

Attorney Witsil read the first paragraph of the resolution aloud, giving the history of the annexation of the property and then described the approval process. He noted that this approval process that has been laid out is not provided for in the Town Charter and he has followed, in reverse, the process for annexation, which would include a requisite super-majority, two-thirds of the Town Council, as in the annexation.

Attorney Witsil then asked Town Administrator Brought if any other information has been received by the town regarding this matter. Town Administrator Brought replied that she has not received anything. Attorney Witsil also recommended that the resolution decision be held open for any further comment until the next Town Council meeting, at which the ordinance for amending the zoning map. He then opened the meeting up to any questions from the Town Council and having none, gave the property owners a chance to comment. Mrs. Bireley, one of the property owners stated it was pretty much covered, but explained they inherited the property after their father’s passing in 2007 and they were planning to sell the property. At that time, it was suggested to them that anyone wanting to buy it would want water and sewer. After the annexation took place, they proceeded to try to sell the property and met with the county on several occasions and were told it was impossible to run the sewer or if it were a possibility, it would cost three-quarters of a million dollars. Consequently, they have been unable to sell the property. They also know that if someone would want to put farm animals on the property, it would be against the town code. Therefore, they feel in order to sell the property, it would need to go back under the county.

At this time, Brad Connor, Chairman from the Planning and Zoning Commission, was given the opportunity to share the Planning and Zoning recommendation regarding the property. The purpose of annexing into a town is for water and sewer and to increase the tax base for a town. In a property like this, a developer could place twenty houses on it and they would pay for the infrastructure by backing that into the cost of the houses. He also expressed concern over the cost to the town to make appropriate changes to the charter and anything else. For those reasons, the Planning and Zoning Commission recommends that the town does not proceed. This would be an expense to the town and it would set a precedent - Chairman Connor does know of others that are interested in de-annexing, if this does go through. Chairman Connor did express he is friendly with the property owners, but he feels he has to do what is best for the town. The state has never had another case like this and Chairman Connor is concerned that this is closing the door to future revenue. Attorney Witsil clarified that this decision is not just Chairman Connor's, but of the Planning and Zoning Commission and Chairman Connor confirmed that it was a unanimous decision with the commission. Cathy Flowers, another Planning and Zoning Commission member, stated that she was at the meeting and confirmed it was the decision of the commission. She stated a lot of their reasoning was that the town is always concerned about setting a precedent and this would be setting one. The commission feels bad for the property owners, but are very concerned that if this decision is made to de-annex, there will be others requesting the same thing. Mayor Baull asked the commission members if as far as they know, this process has never happened in another town in the state. Chairman Connor responded that it hasn't. Mrs. Flowers asked if Mr. Gulbranson or Attorney Witsil knew of any. Mr. Gulbranson stated that he spoke with the state planning office and they are not aware of any de-annexation that has ever taken place. Vice-Mayor Truitt stated that Millville did, but that was a different circumstance. Mrs. Flowers confirmed it was due to an issue with boundary lines. Mr. Gulbranson also confirmed stating that was a boundary clean-up where Lord Baltimore Elementary was in three different jurisdictions: Millville, Ocean View, and Sussex County. Knowing who would respond in an emergency was a challenge and that is why their boundaries were corrected. It was not a true de-annexation.

Mrs. Bireley responded to the Planning and Zoning Commission recommendation by stating that they are not receiving the services in town that the other properties in town are receiving. She stated that they have talked to developers that said they would never put out that kind of money for just eighteen acres of property. She doesn't see how the town would receive any benefit for keeping the property other than a few hundred dollars in taxes.

Attorney Witsil then opened the meeting up to any other public comments for those in favor of the de-annexation. Sandy Gherkin, who lives on the property adjacent to the Hearn and Bireley property, but is in town, spoke in favor. She stated that at the time of the annexation request, everybody thought it would be possible for them to hook up to water and sewer. There were no comments made by anyone in attendance opposed to the de-annexation.

Vice-Mayor Truitt responded that in regards to setting a precedent, anyone seeking a de-annexation in the future would have to be subject to the committee making a report so the Town Council would have a say and the application they would submit does not mean they will be approved. Attorney Witsil confirmed that is correct. Councilwoman Ulrich stated it wouldn't set a precedent because there are not any other situations like this. Councilman Miller agreed that it doesn't set a precedent because the owners are not receiving any benefits from the town.

Vice-Mayor Truitt made a motion to close the public hearing portion of the meeting and Councilman Miller seconded. All in favor.

Attorney Witsil recommended that Town Council does not vote at this time as there is an unrelated section, but not totally unrelated, in the Delaware code that suggests public comments to be submitted in written form for up to thirty days. However, the decision to vote at this meeting or next month is up to the council. Vice-Mayor Truitt asked if that thirty days is in relation to annexation. Attorney Witsil replied that it is. Councilwoman Ulrich made a motion to allow the thirty days for public comment. Vice-Mayor Truitt seconded the motion. All in favor.

For clarification, Councilman Chandler informed Mayor Baull that he abstained from this motion and the motion to close the public hearing for the reasons he has stated in the past.

#### IV. APPROVAL OF MINUTES

##### a. April 17, 2017 – Town Council Meeting

There were no suggested changes to the meeting minutes. Councilman Chandler made a motion to approve the minutes. Seconded by Councilwoman Ulrich. All in favor.

#### V. CONSENT AGENDA

##### A. Police Department Report

Police Chief Toomey shared his monthly statistical report with the council and gave a briefing on a joint operation initiated by the Dagsboro Police Department on Friday, May 12, 2017 and the DEA Task Force.

##### B. Treasurer's Report

##### C. Administrative Report

Councilman Chandler made a motion to approve the finance clerk's contract with the town at a rate of \$12.50 an hour, for another six months. Councilwoman Ulrich seconded. All in favor.

##### 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. De-annexation Recommendation

This was given during the public hearing portion of the meeting

### B. Heather's Homeworks Recommendation

Chairman Connor informed the council that Heather's Homeworks is requesting to move their parking lot to the back of the building and to use crushed rock instead of paving. The ordinance requires blacktop, but due to other costs, the request has been made to allow for two years using crusher run instead of paving. They will have the proper barriers and this is just for employee parking for two years. In two years, it will be revisited to see if it should then be paved. The Planning and Zoning Commission approved this and recommends giving the DeMarie's (owners of Heather's Homeworks) two years before paving.

### C. DE Army National Guard – Final Site Plan Recommendation

The Planning and Zoning Commission also approves the final site plans for the Delaware Army National Guard project.

## VII. NEW BUSINESS

### A. David Steele with Fernmoor Homes – The Woodlands

David Steele from Fernmoor Homes introduced himself and stated he was open to answer questions that the council may have. Councilman Chandler shared that at the last meeting some of the questions that came up were pertaining to when the street (Shady Creek Lane) and the sidewalks would be completed. Minutes from a past meeting show that this was discussed a couple of years ago and the council is curious as to where this now stands. David Steele responded that they submitted the first site plans for this last March and also emailed the town. They were told the blacktop is required when the community reached 30% completion for that phase. He stated this is unusual, but in this case, the homeowners wanted the roads to be turned over to the town for things like snow plowing and street lights. This being different from normal construction was discussed at a council meeting and the council discussed making the percentage 75 or 80%. Fernmoor Homes was in the process of re-engineering the site to remove the walking trail and place sidewalks so they asked if they would topcoat the roads, if they could then dedicate those roads back to the town, but they never received a response. They did hear from some of the homeowners a few weeks ago that this was brought up at a Town Council meeting, voted on, and approved, but Fernmoor never received a response. They started the site work for Phase III and were planning on taking the bond and starting the earth work on Phase II because they would like to have all of the earth work done before they topcoat the roads. They fully intend to topcoat the roads.

As far as sidewalks, the walking trail was removed when the sidewalks were added and there was no time restraint set on that. Mr. Steele stated that Fernmoor communicated that it would be done at the end of the project.

Councilman Chandler stated that there were three issues: the topcoat for Shady Creek Lane, the sidewalks, and the flooding issues occurring during heavy rains. He asked if the catch basins have been inspected and if there is any plan to prevent future flooding. Mr. Steele responded that there are two issues – there is an inch of curbing that is in the way causing the water pond until the topcoat is put in; there is also a storm water pond behind phase two, but the piping has not been completed yet. These two factors contribute to flooding during significant rains, but it subsides within a couple of hours. It does not extend more than 24 hours, which is the maximum allowed by SCD. The flooding issues will be gone once phase two is completed. Vice-Mayor Truitt asked what the timeline is for finishing the pipes to the storm drain. Mr. Steele replied that it will be completed with phase two, but he cannot give an exact date. He stated that last time it took them from March to September to get everything approved to begin working on site work. Vice-Mayor Truitt asked if that means that right now, the storm drains are not working. Mr. Steele stated that one currently deposits into the creek to alleviate some of the water. Mr. Gulbranson clarified that it is basically running at 50% capacity until phase two is completed.

Councilman Chandler clarified that Fernmoor will topcoat the roads if the town will accept the street. He isn't sure that the town works with the conditional approval such as that. Mr. Gulbranson agreed that there is a dedication process that must be completed before dedicating the streets to the town. Councilman Chandler asked if he is correct in thinking that it is not the town's job to accept the street before the topcoat is completed. Mr. Gulbranson confirmed that he is correct – typically, once a street is completed, the applicant would petition the town for acceptance and dedication.

Councilman Chandler then addressed Mr. Steele informing him that he is more than 30% completed and has an obligation to top coat. He understands they want to have phase three completed so heavy equipment isn't going through, but that it sounds like they are now in a position where they could do the topcoat. Mr. Steele replied that they are ready to, but he stated that Mr. Gulbranson had made a motion and the council unanimously approved to accept the conditional acceptance of the roads; he believes this was back in May. He has e-mails and the meeting minutes to show this. Their concern is getting the earth work completed before turning over the roads because otherwise, they would still be traveling across. There is a one year warranty bond that goes with the topcoat, but they want to be sure there aren't any hiccups or issues that would slow the process. This is also for the residents - when the town takes over the roads, it would have the costs of plowing them and other expenses.

Councilwoman Ulrich asked for a timeline for how long they will be using the heavy equipment. Mr. Steele cannot give a date, but stated it would be months because they would need to get the approvals. Mr. Gulbranson stated they just need the bond. Vice-Mayor Truitt asked if the earth work could commence and Mr. Gulbranson replied as soon as they get their bonds in place, they can.

Dena Mach, president of The Woodlands at Pepper's Creek Homeowner's Association, wanted to clarify that at the May 23, 2016 Town Council meeting, it was agreed that after phase three, Fernmoor would add the topcoat and then dedicate the roads. In these minutes, Mr. Steele stated that it would be completed by the end of 2016. At the end of 2016, she contacted Mr. Steele who told her it was too cold and they would wait until the weather improved. When the weather turned warmer, she contacted him again and he told her to have the town contact him to discuss it. She never heard any discussion about

phase two being completed first, only after phase three had been roughed in and that is now in. From the beginning, Fernmoor Homes has also refused to help pay for snow removal or street lights; this year the president of Fernmoor has finally agreed to help them. She stated that Town Council did not vote on anything regarding Fernmoor last month and that they just changed the percentage of completion for developments and changed the time period to five years, which The Woodlands has been in existence for about eight years. The homeowners would love to know when phase two will be started and for the drainage issue to be alleviated. She believes the drainage issue has also be exacerbated by Woods Court being built up, causing more water to be flowing down. She suggested maybe a financial penalty to be an incentive to Fernmoor. As homeowners, they are not getting any answers and that is why the approached the town. Mr. Steele replied that the original petition included both phases.

Mr. Gulbranson gave an update for where everything stands now. Phase three has been completed except for the topcoat of that cul-de-sac. Fernmoor is present to request a reduction in the bond – less the amount of finishing the street. Mr. Steele says that once the bond is released, they will place it on phase two and start construction there. Vice-Mayor Truitt asked if there is any topcoat at all. Mr. Gulbranson stated there is not – the topcoat is the last remaining thing for phase one and phase three is complete except the topcoat. He clarified that their phases are a little backwards – phase two is not complete. That is the phase all the way in the back where the storm water pond and storm water infrastructure will be. Once the topcoat is completed, it will help with a lot of the drainage issues.

Vice-Mayor Truitt feels that months is a long time, especially over the summer when there will be a lot of rain. Mr. Gulbranson stated that the final topcoat on phase one is completed and there is a one-year warranty bond that is held in case any issues arise, money will be available to correct it. Councilman Chandler stated that according to the minutes, the one year bond could be extended longer, if needed. Mr. Gulbranson agreed that could be done.

Councilman Chandler gave his opinion on the sidewalks – that there was a quid pro quo that he thought he was approving for Fernmoor to not have to put in the trails if they put in sidewalks. He was under the impression it would happen sooner, rather than later. He doesn't recall, and asked for others to share if they do, a discussion that it would all be done at the end. He does remember a discussion about the path in the park that was uncompleted that could be completed and joined up to the sidewalk. Mr. Gulbranson confirmed that their plan calls for a stub sidewalk that goes into the park. Councilman Chandler was thinking if the minutes stated the streets would be completed by the end of 2016, the sidewalks would be completed then too. Mr. Steele understands, but stated that they were following the same guideline of the walking trail – it would be completed by the end of the project. He states there was no timeline given from the town council or engineer that the sidewalks had to be committed.

Councilwoman Ulrich asked if phase two with the heavy equipment being needed, would be completed by the fall. When Mr. Steele could not give a date, she asked when they anticipate starting phase two. Mr. Steele stated that would be when the bond gets released – it usually takes about a month or so. Mr. Gulbranson asked if the council approves the bond to be released now, when would they start. Mr. Steele replied probably mid-way through the summer. Councilwoman Ulrich asked if they are waiting until they sell a certain number of homes in phase three because usually in construction a new phase isn't started until the previous one is almost complete. Mr. Steele replied that they intentionally did phase three because it is a fewer number of homes than phase two. He stated that phase three is only an eight home/four duplex phase so it a smaller phase with two units under construction right now. Mr.

Gulbranson reminded the council that phase two does complete the storm water facility, which is important.

Mr. Steele stated they will topcoat the road and turn it over, but they want to be sure the town doesn't have an issue with knowing what Fernmoor has to complete going forward. Typically communities have a back, construction entrance, but that is not possible here. Councilman Chandler informed Mr. Steele that he is not in favor of a conditional agreement, such as, "if you topcoat, I will vote in favor of accepting the road. Mr. Steele replied that they would be doing a final inspection with the engineer to make sure everything is complete the way it was expected to be. He clarified that the condition is not be incomplete in what they do, but that the town would accept the roads knowing that the construction will still be using the roads. Councilwoman Ulrich asked if the topcoat is complete and in the future there is damage done to the road or an issue with potholes, if the town is who would then be responsible for repairing them. Mr. Gulbranson answered that after the maintenance bond is released, three or four years down the road, then it would be the town's responsibility to repair the road. Councilman Chandler stated that the maintenance bond doesn't go away until they vote that it goes away and Mr. Gulbranson said that is correct – they can set a time period, typically it is a year, but can be longer.

Mrs. Mach asked if the town could make the warranty be good through completion of a phase instead of a time period. Mr. Gulbranson said they could, but a time period is best because then it isn't tied to work being completed and it can always be extended if it needs to be. He stated that it is advantageous to everyone for the town to hold a maintenance bond as long as possible. Vice-Mayor Truitt clarified that is a different bond than what is being discussed at this meeting. Mr. Gulbranson confirmed that it is – the bond at this meeting is the bond for phase three. The remaining work on phase three is the final topcoat of the road for that section. The estimated cost is \$7,500 and there is a requirement of 125% so they are asking for the bond to be reduced to \$9,500. Mr. Steele stated that there is a bond for phase one topcoat and asked what percent the town uses for the maintenance bond. Mr. Gulbranson stated it is 10% and confirmed that the rest of that bond would then be returned to the bond holder. He also stated that M&T Bank says the bond is still valid even though the bond company is no longer in business.

Vice-Mayor Truitt asked when the topcoating would get started if everything gets approved. Mr. Steele couldn't give a date because it would depend on schedules, but he could get a date in a few days. Mr. Gulbranson stated they would need to do an inspection because he did notice some problem areas. Mr. Steele also stated the reason they got behind is because by the time they received the approvals, it was October until they could start phase three and topcoat can only be done with temperatures above 60 degrees. Vice-Mayor Truitt said that it could potentially be done by September. Councilwoman Ulrich was in agreement – she suggested September 18<sup>th</sup>, which is four months from now. Mr. Gulbranson said that is possible, but did share that he is a little uneasy about requiring the topcoat before the phase is finished because there will be a lot of earth movement and doesn't want to see the town be responsible for damage done. Councilwoman Ulrich asked if they should extend the time another month. Mr. Gulbranson replied that he does not think they need to extend it; he thinks it is reasonable.

Carol Thompson, a resident of The Woodlands, asked what happens if Fernmoor does not make the deadline of September 18<sup>th</sup>. Councilwoman Ulrich and Mr. Gulbranson replied that the town would have the right to call the bond at that point.



Councilman Ulrich made a motion to approve the bond for phase three and that the topcoating for phase one will be completed by September 18<sup>th</sup>. Councilman Chandler seconded the motion. All in favor.

B. Kyle Gulbranson – Phase III Bond Reduction for The Woodlands

This was discussed with Mr. Steele in item “A” above.

C. Indian River High School Sign

Ruth Ann Marvel, a representative for the Indian Rive Alumni Association, was present at the meeting to answer any question the council may have. Mr. Gulbranson stated that because the high school is owned by the state, they are exempt from zoning regulations so the council offered them an exception in the past to put in the electronic sign in the front entrance to the school. He stated they reviewed the application for the sign being requested now, at the back entrance, and found no issues with it. Vice-Mayor Truitt clarified the size of the sign and asked how far it is set back. Mrs. Marvel was not sure, but that it is back a good distance and Mr. Gulbranson stated it was at least ten feet back from the right-of-way. Councilman Chandler is in agreement with the sign and thinks it is needed, but is concerned that in ten years it would need to come down. Mayor Baull asked if there would be any lighted letters on the sign. Mrs. Marvel replied that it will be using reflective lettering. Mr. Gulbranson stated that entrance is closed in the evening anyway.

Vice-Mayor Truitt made a motion to approve the sign for the back entrance of the high school. Councilman Chandler seconded the motion. All in favor.

D. Heather’s Home Works – Change of Use Application

Town Administrator Brought informed the council that they are just changing from doctor’s office to a cleaning office, but that it needs the approval of Town Council. Mayor Baull asked if they should vote on the parking proposal as well and Town Administrator Brought replied they should.

Mr. Gulbranson informed the council that the applicant has received fire marshal approval and a letter of no contest from Del-Dot. Mayor Baull asked Mr. DeMarie (the applicant) if he had anything to add. Mr. DeMarie stated they would be an asset to the town and have plans to paint, landscape, and make the area look nice. He also stated they will put nice buffers around the parking. He welcomed all of the council to stop in and visit once they are open.

Councilwoman Ulrich asked if they will be using a dumpster. Mr. DeMarie replied that right now they just use the standard trash can and recycle bin, but they are growing and if they need a dumpster down the road, they will come back before the town.

Mr. Gulbranson also shared with the council that because of the number of parking spaces, it is a requirement that they have two ADA handicapped accessible parking spaces. The DeMarie’s will be designating the two spaces closest to the building as the handicapped spaces.

Councilman Chandler stated that it is great they are coming to town and will be fixing up the property since it is right next to a historic site. Mr. DeMarie complimented the town administrator and said she has been a pleasure to work with.

Councilman Chandler made a motion to approve the change of use application and the additional parking plan. Councilwoman Ulrich seconded. All in favor.

#### E. 2018 Draft of Proposed Budget – Discussion and Recommendations

Councilman Chandler asked about the surplus that he sees. Town Administrator Brought replied that she didn't want to touch that right now until she sees what might be needed. The biggest difference was with the administrative office salaries, health insurance, etc. is quite a bit different from last year. Inspections will also be different last year.

Town Administrator Brought informed the council that she estimated low on new residences because last year the projection was high (twelve), but we only had two. She would rather estimate low and be presently surprised at the end. She also left the real estate transfer tax low. The town was right around \$70,000 this year, but she does not expect it to be that high again next year.

Councilman Chandler asked how much money is expected to come from the state. Town Administrator Brought replied there would be the municipal street aid, but that amount is unknown. Councilman Chandler stated that any money coming in from the state is highly vulnerable, but that we probably won't know what that amount is. Town Administrator Brought agreed – until it comes in, the amount won't be known.

Chief Toomey stated the figures for the violent crimes, highway safety, SALLE, etc. (the funding received by the state for the police) are viable.

Councilman Chandler asked if the street lighting amount is similar to last year. Town Administrator Brought confirmed and said that she didn't change that amount much. She compared what was actually spent and bumped it up slightly because prices tend to increase. 1:30

- F. Money Market Savings Account – Established at the Bank of Delmarva for the DeMarie Financing/Discussion on Appointment of Funds for the Water Department
- G. Discussion on Moving Mature CD's to Banks with Better Interest Rates/Programs
- H. 2017-2017 Tax Assessments/Discussion on Board of Appeals

#### VIII. OLD BUSINESS

##### A. Final Site Plan Review – Delaware National Guard Armory

Mr. Steve Timmons had stated he would have the contract ready for signatures, but that does not seem to be what he sent. It states a price of \$72,750. Councilwoman Ulrich questioned the price. The Town Council had countered an offer of \$79,900. Town Administrator Brought mentioned that he had stated something about his commission. Councilman Chandler agreed and thought that Mr. Timmons was reducing his commission to bring the price to \$75,000. Councilwoman Ulrich asked that with the interested paid, the price gets to their bottom line price. She is concerned that if they counter again, they might be risking losing the sale. Councilman Miller and Councilman Chandler agreed. Councilman Chandler asked who would be signing the contract for the town. Town Administrator Brought replied that she believes it would be Mayor Baull.

Attorney Witsil shared concerns with the contract that he thinks needs to be rectified. He pointed out the financing contingency in paragraph number five, but then under paragraph six they request a settlement within thirty days of acceptance, which would be difficult. Councilman Chandler clarified that the purchasers have already signed it and stated they could ask for an extension. Attorney Witsil stated

it is their language and agreed they could ask for an extension, but that Council should not count on thirty days. He also pointed out it has an “as-is” provision under number seventeen.

Councilman Chandler made a motion to approve the proposed contract and to authorize the Mayor and Town Administrator to sign the contract on behalf of the town. Councilwoman Ulrich seconded this motion. All in favor. Councilman Chandler also stated that he had been in contact with Vice-Mayor Truitt and that he was also in favor of this contract.

- B. Prince George’s Cemetery
  - a. Vote on New Rules and Regulations
  - b. Appoint Brian Baull as Town Council Representative

Attorney Witsil shared that he notified Sussex County and the State planning offices, but has not heard back. He did speak from Janelle at the Sussex County planning office so they are aware that they will receive the property back as AR-1 in a default status and she had no verbal objections. He stated that the next step is for the Council to set a public hearing date.

Councilman Chandler made a motion to schedule a public hearing for April 17<sup>th</sup>. Councilman Miller seconded. All in favor.

Mayor Baull asked if there was any other public comment before moving into the Executive Session. Having none, Councilman Chandler made a motion to adjourn the meeting and move into the Executive Session. Seconded by Councilwoman Ulrich. All in favor.

- C. Condemned Properties – Discussion of How the Town Would Like to Proceed
- D. Update on Surface Water Grant

#### IX. PUBLIC COMMENT

No public comment was made.

#### X. ADJOURNMENT

A motion to adjourn the regular meeting was made by Councilman Chandler and seconded by Councilman Miller. Meeting was adjourned at 7:20 p.m.

Respectfully submitted by;

Megan Thorp  
Town Clerk