

*Minutes*

**DAGSBORO TOWN COUNCIL**

**Bethel Center – 28307 Clayton Street**

**Monday, July 16, 2018**

I. CALL MEETING TO ORDER

6:01 p.m.

Meeting was called to order by Vice-Mayor Ulrich at 6:01 p.m.

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

II. PUBLIC COMMENT

No public comment was made.

III. PUBLIC HEARING

AN ORDINANCE TO AMEND CHAPTER 275 OF THE MUNICIPAL CODE OF THE TOWN OF DAGSBORO, SECTIONS 275-68, 275-69, AND 275-74 TO PROVIDE FOR AMENDED DEFINITIONS, AMENDED REQUIREMENTS FOR REAL ESTATE SIGNS IN ALL DISTRICTS AND AMENDED REQUIREMENTS FOR SIGNS IN THE C – COMMERCIAL, TC – TOWN CENTER, AND I – INDUSTRIAL DISTRICTS.

The rules for the public hearing were read. During the public hearing, no persons spoke in favor of or in opposition of the ordinance.

Councilman Chandler asked Mr. Gulbranson to explain the difference with the real estate sign requirements now. Mr. Gulbranson informed Council that a larger parcel of land will be able to have a sign that is thirty-two square feet instead of the typical two by two real estate sign. Vice-Mayor Ulrich asked if a larger sign can be used on just a single lot. Mr. Gulbranson explained it has to be commercial property with at least 100 feet of street frontage. Councilman Chandler stated that the requirement that the sign must be placed on the property itself has not changed. Mr. Gulbranson confirmed.

The public hearing was closed after no further discussion. Councilman Chandler made a motion to approve the ordinance. Councilman Miller seconded the motion. All in favor.

IV. APPROVAL OF MINUTES

A. June 18, 2018 – Town Council Meeting

Councilman Chandler made a motion to approve the meeting minutes for June 18, 2018. Councilman Miller seconded the motion. All in favor.

## V. CONSENT AGENDA

### A. Police Department Report

In addition to his report, Chief Toomey informed Council of the National Night Out on August 7<sup>th</sup> from 6 p.m. to 8 p.m. at the fire hall on Clayton Street.

### B. Treasurer's Report

### C. Administrative Report

In addition to her report, Town Administrator Brought informed Council that Ward Lane was paved.

### D. Economic Development Committee

### E. Building Official Report

### F. Code Enforcement Report

### G. Meeting Reports

### H. Water Department Report

Vice-Mayor Ulrich asked how the water has been. Town Administrator Brought replied that there was a .62 reading for chlorine at the interconnect meter. The town may flush some hydrants at the end of the line to pull more chlorine through, if needed.

### I. Prince George's Chapel Cemetery Report

### J. Correspondence

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

## VI. PLANNING & ZONING COMMITTEE

### A. Recommendation on Preliminary Plans/Comprehensive Sign Package for Two Farms (Royal Farms) Facility starting at the corner of Clayton Street and Route 113 going North

Cathy Flowers, Co-Chairperson of the Planning & Zoning Committee, was present. She informed Council that after a lot of discussion regarding safety at the entrances and exits, the Planning and Zoning Committee recommended the approval of the preliminary plans and comprehensive sign plan for Two Farms.

## VII. NEW BUSINESS

### A. Discussion and Possible Vote on Preliminary Site Plans and Comprehensive Sign Package for Two Farms (Royal Farms) Facility

Jonathan Street from Becker Morgan Group was present on behalf of Royal Farms. He informed Council that they have submitted plans and have been in communication with AECOM. They are currently working through some issues with the property. A tax ditch bi-sects the property and then runs along the back. The sewer line does this as well. They have already been in discussions with DNREC for the tax ditch and Sussex County for the sewer. Sussex County is okay with the sewer lines being moved. They have also talked to Sussex Conservation District and they do not have any questions or concerns.

Becker Morgan Group met with Del-Dot recently to discuss their entrances. They are widening a section of road so there is a left turn lane for those traveling east on Clayton Street. There will also be a right turn lane for traffic coming off of Route 113 into the site. Becker Morgan Group is working with the town and Del-Dot to reduce the speed limit on the highway in that area.

Council members questioned the lack of a right turn lane for traffic going west on Clayton Street. Mr. Street replied that it isn't required due to the twenty-five mile per hour speed limit and approaching a traffic signal. There will be an eight foot shoulder, but they won't be able to widen the street to get the eleven feet required for a turn lane. The new entrance on Clayton Street will be about one hundred-ten feet from Route 113.

At the Planning and Zoning meeting, Chief Toomey expressed concern about traffic exiting Royal Farms to the left on Clayton Street and not being able to see past the traffic in the left turn lane going east on Clayton Street trying to enter the site. Mr. Street at the time did not have a good solution, but he discussed it with others at his office. He is not sure that there is any situation other than a traffic light that could stop potential accidents, but they did widen the road so if a car does pull out, it has some room to stop if needed.

Councilman Chandler expressed concern about traffic exiting Royal Farms to go east needing to cross three lanes of traffic: a right turn lane, the through traffic going west, and the traffic going east. Mr. Street explained that there is no right turn lane – those exiting will just cross one lane of westbound traffic and then merge into the lane going east.

Chief Toomey stated his biggest concern was a crosswalk at that same location, but the crosswalk has been moved. Mr. Street confirmed it was moved.

Councilman Chandler asked if it will be a stop sign or a yield sign for the traffic exiting Royal Farms onto Route 113 and if there will be an acceleration lane. Mr. Street stated it will probably be a yield sign as Del-Dot has stopped using stop signs in a yield condition and they have stopped using acceleration lanes. He was told the reason was due to a lot of accidents where a person was in the acceleration lane and couldn't merge and stopped and then was hit by a person behind that was trying to accelerate to merge.

Councilman Chandler asked what the existing Royal Farms will be turned into and if there will be traffic coming into the new Royal Farms from the existing location. Mr. Street could not say for sure. He stated that typically, they will reuse the store for some type of retail that does not sell gas. He can't predict if people would go from that store to the new store, but it won't be the majority of the traffic. They are trying to account for the traffic that is generated by the store and the traffic on the surrounding roads.

Vice-Mayor Ulrich asked about the sidewalks shown on the plan. Mr. Street stated it is a ten foot shared use path that Del-Dot is requiring. It will be an asphalt path that runs the length of the property to the end that borders Savannah Square. Councilman Chandler asked if there is any plan to connect to Savannah Square or Cea-Dag. Mr. Street stated there are no plans to connect to Cea-Dag, but they are providing a stub for Cea-Dag at the shared use path. If somebody wanted to re-develop Cea-Dag, Del-Dot would have them connect with the stub. Mr. Street does not think there are any pedestrian walkways currently at Savannah Square, but if there are, they would amend their plan to meet up with any existing sidewalks.

Councilman Chandler asked if the plan is to take down the current residence and medical facility. Mr. Street stated they will be taken down. Mr. Street did inform Council that they have to provide a buffer between their commercial property and the residences behind them. There is a piece of the property that has a tax ditch along the back of the property so they cannot plant anything. At the minimum, they will be providing a six foot high fence. The rest will be screened and planted.

Vice-Mayor Ulrich asked if there are any plans for a carwash. Mr. Street replied that there are not right now. He was under the impression that would have a favorable response so he did suggest it to them, but they have not responded to it.

Councilman Chandler asked Chief Toomey his thoughts about the traffic going towards Route 113 from Clayton Street joining the traffic traveling north on Route 113 that want to turn into Royal Farms. Chief Toomey clarified with Mr. Street that there will be a right turn lane into Royal Farms off of Route 113. Mr. Street replied there will be – it will be three hundred and sixty-five feet long. Councilman Chandler is concerned about the meshing of the cars turning into Royal Farms from the highway with the cars joining the highway from Clayton Street. Mr. Street replied that is an issue almost anywhere, but they made the turn lane long enough that cars do not have to enter it right away. Chief Toomey replied that there are already accidents at the intersection due to people not paying attention and merging. He feels at least the turn lane gives some cars the opportunity to get out of the way and the speed reduction, if it is approved, would help also.

Councilman Chandler asked about the speed limits in surrounding towns. Chief Toomey replied that Selbyville and Millsboro are both 50 miles per hour. Places like Harrington are 35 miles per hour. He stated Del-Dot will probably do a traffic study before they approve anything, but the town was just informing them of what they would like to see.

Vice-Mayor Ulrich asked about the lighting because it is a large area and there are residences right behind it. Mr. Gulbranson replied that lighting was discussed at the Planning and Zoning meeting. The lighting plan actually comes at the final stage. Mr. Street replied that any shielding that needs to be done will be shown at that point.

Councilman Chandler asked if there will be an island at the entrance/exit on Clayton Street. There will be a striped island for traffic going east. As far as in the entrance and exit area, Del-Dot has requirements for those islands. Mr. Street stated it is a double edge sword because it can benefit by separating traffic itself, but it reduces the ability for traffic movement. Currently, there is a wider entrance (the typical size is between twenty-five and thirty feet and this one is thirty-six feet) which gives cars the ability to move around. Councilman Chandler is concerned about the number of accidents that might be caused there. He feels the safest way would be the most inconvenient way of making traffic exiting go right only towards Route 113. Mr. Street replied that a store in Dover has the right only exit and people just drive over the island to go left anyway. Chief Toomey stated they discussed this at the Planning and Zoning meeting and agreed that many people would turn left anyway. Councilman Truitt asked how it would be done if they did the right only exit. Chief Toomey replied they would have to go out to Route 113 and down to a crossover and then come back to the light at Clayton Street.

The council also reviewed the Comprehensive Sign Plan for Royal Farms. Mr. Gulbranson stated that they are proposing something very similar to what they have at the current store. He believes the size is appropriate for the property. Mr. Street stated the only noticeable difference is that they have added

small directional signs. The larger sign will be about a foot wider, but the height (twenty-six feet) will be staying the same. All of the other signs will remain the same.

Councilman Chandler asked Mr. Gulbranson for his input on the project. Mr. Gulbranson replied that he knows traffic is a concern, but the plans have addressed all of the other concerns: parking, landscaping, buffering, etc. and they meet the town requirements.

Councilman Chandler made a motion to approve the preliminary site plan and comprehensive sign plan for Royal Farms. Councilman Truitt seconded the motion. All in favor.

B. Woodlands – Complaints in regard to Sussex Conservation and request for holding all permits in regard to Fernmoor until problems are resolved – Jim Thompson

Jim Thompson was present because he asked to be on the agenda. He stated that he does not have complaints about the Sussex Conservation District. He believes there are problems with the new phase being built up. A lot of sand has already run into Pepper's Creek and building permits do not take into account properties with streams running behind them. Mr. Thompson has not been given an answer yet, but he believes the wetland and wetland buffer areas are federally protected. He feels this is a problem because the creek can get plugged and then water starts backing up into Main Street.

Mr. Thompson feels something needs to be done. He showed that the Woodlands is one parcel of land, not 48 separate lots. There are 48 units, but the land itself is one parcel and owned by the homeowners association. Therefore, he feels when the bulldozers and trucks are bringing the extra dirt in and pushing it around, it is the association's land and if there are any problems, it falls on the association. Mr. Thompson requested that the town does not issue any more building permits until the work is inspected by the Sussex Conservation District and DNREC. He also stated that on the original plan that was back when Schell Brothers was the developer, it stated they agreed to have everything inspected. He doesn't want the town to have to do anything except ask the developer to show it meets the conservation district, DNREC, and EPA requirements before issuing permits.

He is also concerned with the building that is starting. The town code requires a ten foot setback in the rear and he believes four houses do not have that.

Mr. Gulbranson informed Council that he and Town Administrator Brought went to the Woodlands in the prior week. They talked to AP Croll, the firm that is doing the grading. They are doing something a little more unusual – they created a berm to keep water from flowing into the creek when there was a lot of torrential rain back in May and allow it to flow into the street. They will be coming back to remove that – they will take out about three and a half to four feet of soil. Then they will re-grade the area and stabilize it with sod. Mr. Gulbranson also stated that the silt fencing will stay until the Sussex Conservation District says it is okay. Mr. Thompson replied that it is eight or nine feet tall and that might not be enough. Mr. Gulbranson stated those lots were raised to get them out of the floodplain. Mr. Thompson stated Fernmoor does not have a choice – they have to abide by the plan that the town approved back in 2008. He also feels the town is the only one that has any leverage with them.

Councilman Chandler stated that Soil Conservation and DNREC are aware of this site – he asked if they have any continuing authority or jurisdiction to review the work. Mr. Gulbranson replied that they also have to approve the plans and the conservation district is supposed to periodically inspect the site to make sure they stick to the plan and to make sure the right sediment control standards are being

followed. Councilman Chandler suggested to Mr. Thompson that is where his leverage is. Mr. Thompson stated that the town issues the building permits and by the time the county does, the building is complete and it's too late. Mr. Thompson says that the new units being built are six feet further back from the curb and all have the extra four foot bump out in the bedroom so that has eliminated the ten foot rear setback. He stated that the other Thompson family was denied adding a deck on the back of their home because eighteen inches of it would have intruded on the wetlands buffer area.

Councilman Chandler asked Town Administrator Brought about the status of the permits currently. Town Administrator Brought replied that they did get one back in April, but since then everything has been on hold. She and Mr. Gulbranson stated Fernmoor has repairs to make to the sidewalks, irrigation, landscaping, and fire hydrants so everything is on hold until those are complete.

Councilman Chandler asked Mr. Gulbranson if the conservation district or somebody gives a final approval so the town can hold the building permits until that approval is given. Mr. Gulbranson replied that they don't typically offer that, but the town can ask for that. He stated that the town could ask the conservation district for something stating that it is built to the plan and it meets current standards. Mr. Gulbranson also informed Mr. Thompson that the wetland buffer is twenty-five feet from the middle of the creek.

Councilman Chandler recommends that the town, in the interim of holding building permits for the other issues, make an inquiry to the conservation district to give an approval of the plans and work done before issuing more permits. Mr. Thompson stated he thinks DNREC needs to give approval also. Councilman Chandler asked Mr. Thompson if he has contacted DNREC and Mr. Thompson replied he has not. Councilman Chandler stated if he is an owner, he has a vested interest and could contact them.

Mr. Gulbranson stated the stormwater pond was being worked on so the conservation district will probably be there soon to inspect that.

#### C. Discussion and possible vote on the position of Town Solicitor

Councilman Chandler informed the rest of the council that the committee (Mayor Baull, Town Administrator Brought, and himself) interviewed four out of the five law firms that applied for the position. The committee agreed that Liguori and Morris fit the needs of Dagsboro.

Vice-Mayor Ulrich asked if notice needs to be given out. Town Administrator Brought stated that Mr. Witsil already knows, but she will write a letter. Councilman Chandler is going to draft a letter to the other firms that were not chosen and contact Greg Morris about his retention contract with the town.

Councilman Chandler made a motion to acquire Liguori and Morris as the new Town Solicitor for Dagsboro. Councilman Miller seconded the motion. All in favor.

### VIII. OLD BUSINESS

- A. Town Council Vote on approving the revised tax assessment for the property of Gayle and William Chandler, 2-33-11.00-224.02 (changed from Cluster to Residential); formerly B/Z Land LLC (Town Council did not have a quorum to complete this at the June 18, 2018 meeting)

Councilman Truitt made a motion to approve the tax assessment for the above parcel. Councilman Miller seconded the motion. All in favor. Councilman Chandler abstained from the vote.

#### IX. PUBLIC COMMENT

Bob Flowers of New Street expressed concern over the Woodlands. He stated they have a homeowners association and questioned why the town needs to spend money to research these problems instead of the homeowners association hiring their own attorney. He feels tax money is being thrown away on an issue that the association should be taking care of themselves.

#### X. ADJOURNMENT

A motion to adjourn the meeting was made by Councilman Chandler and seconded by Councilman Truitt. All in favor. Meeting was adjourned at 7:02 p.m.

Respectfully submitted by;  
Megan Thorp, Town Clerk