

Minutes

DAGSBORO TOWN COUNCIL

Bethel Center – 28307 Clayton Street

Monday, October 22, 2018

I. CALL MEETING TO ORDER

6:01 p.m.

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

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

II. PUBLIC COMMENT

No public comment was made.

III. PUBLIC HEARING

A RESOLUTION TO CHANGE THE TOWN OF DAGSBORO WATER RATES FROM A \$40.00 MONTHLY RATE TO A \$35.00 MONTHLY RATE FOR ALL USERS AND A USAGE CHARGE OF \$4.15 PER THOUSAND GALLONS. (Town Council discussion and possible vote on the increase to the water rates.)

Mr. Morris noted the public hearing was advertised in the Coastal Point. He reviewed the resolution for those present and the rules for the public hearing. The public hearing was opened first to those in favor of the rate change.

Jim Thompson of Shady Creek Lane stated he is okay with what the Council decides. He was at the previous meeting, but stated the current agenda does not say what happens to the first 3,000 gallons. If the first 3,000 gallons are included, he is in favor of the change; if they are not included, it is a rate increase. Mr. Morris replied that there is not a 3,000 gallon allowance.

Cathy Flowers of New Street stated she has attended all of the meetings regarding the water and is in favor of the new rates. She feels it will be beneficial to the town and does not feel the rates will change too much for the average users.

No other residents spoke in favor of the rate change so Mr. Morris opened the public hearing to those in opposition of the rate change.

Nancy Marvel of Piney Neck Road stated that she is at the end of the line and is against the rate change. She feels she has the worst water and nobody has fixed it. She said she has to buy bottled water and have a bottled system in her home.

Jim Thompson of Shady Creek Lane stated that the 3,000 gallon a month user will be paying \$7.60 more. He stated he is okay with the \$35.00 monthly rate and the user rate going to \$4.15, but he is not okay with taking away the 3,000 gallon allowance.

James Stewart of Waples Street doesn't agree with the \$35.00 charge. He feels it does not cover anything and would rather 2,000 gallons be included.

Bob Burns of Beach Air Landing Road was not for or against the rate change – he just was wondering if it was for cost savings for the consumer or for the town, as he was not at the previous meetings. He has been in the business for thirty years so he understands the meter reading and understands that the town had voted in the past for the monthly billing versus the quarterly billing. Now the town is reading meters and billing twelve times a year instead of four – he feels there is a savings there. He assumes the problem was that people didn't budget their money to afford the quarterly bills.

Mr. Morris asked those in attendance if anyone else wanted to speak for or against the rate change and after no response, asked if Town Council had any questions of anyone.

Councilman Truitt asked for verification of the surplus with this rate. Town Council asked Jean Holloway to come forward and give an overview since she did the rate study and presentation at the previous town meetings regarding this. She explained that this is the standard methodology for water rates – to have a fixed charge to cover fixed costs, in the this case debt service and reserves and then to have a variable charge to cover the variable costs. She found that the \$40.00 fixed charge was a little high – it was covering more than what the fixed costs to the town warranted. She suggested reducing that charge and increasing the variable charge slightly. In terms of eliminating the gallon allowance, Mrs. Holloway stated that is something she commonly does unless the town insists on having it. She did present calculations with and without the gallon allowance at previous meetings. She still recommends eliminating the gallon allowance because it promotes conservation and it is a more equitable way to charge water users. For those who use very little water, there could actually be a savings for them.

Vice-Mayor Ulrich asked Mrs. Holloway to explain why she was asked to do the rate study. Mrs. Holloway replied that the town was coming up with a deficit in the water department and at the current rates, with her calculation, there was about a \$17,000 deficit. The first calculation she did was to simply eliminate the gallon allowance and keep the current rates (\$40.00 charge plus \$4.00 per 1,000 gallons) – that would have given the town about at \$28,000 surplus. She then adjusted the numbers to reduce the fixed charge without increasing the usage charge too much.

Mayor Baull asked when the last time any rate change was done for the town. Mrs. Holloway replied that to her knowledge, she believed it was 2012. She had done a rate study at that time under a different council and administration and recommended it go up to \$4.00 from \$3.50.

Councilman Chandler clarified to be sure they answer Mr. Burns' question – the purpose of the rate change is due to the town running a deficit. The rate study was done to address that deficit. Mrs. Holloway confirmed and specified that it was a study done to reduce the deficit without causing too much impact on the consumer and to make it more equitable.

Mrs. Marvel asked if the town did not consider this back when they put the water system in. Mrs. Holloway responded that she wasn't a part of that, but at that time, the costs were what they were then. She explained just like a gallon of milk doesn't cost the same today that it did then, it's not the

same price for 1,000 gallons of water that it was then. Mrs. Marvel stated she pays about \$43.00 and that she can't use the water and wants the town to fix it. Councilman Chandler replied that he understands her concern and that she is at the end of the line, but feels there should be a way that Artesian or someone can solve the problem. Mrs. Marvel stated if the water is flushed, it goes into the neighbor's yard and that family does not want that problem. Mrs. Holloway suggested contacting Delaware Rural Water Association to see if they can help with a solution.

Councilman Chandler also addressed Mr. Burns' question regarding saving some money by going to quarterly billing. He informed Mr. Burns that the town changed from the quarterly billing to the monthly billing because other townspeople came to complain that they could not afford the larger bills on the quarterly basis and only had the budget for the monthly bills. Mrs. Holloway informed those present that when she recommends an increase in the water rates, she recommends monthly billing to improve cash flow and it makes it easier for consumers to pay their bills.

Councilman Chandler summarized how the new proposed rates came about. Essentially, people were over-paying for the fixed costs so that rate could be adjusted to \$35.00. The reason it was suggested to eliminate the 3,000 gallons is because that penalized the lower end user and rewards the high volume user. The high volume users were basically being subsidized by the low volume users.

After no other discussion, Councilman Truitt made a motion to close the public hearing. Councilman Chandler seconded the motion. All in favor.

Councilman Chandler feels that there is a problem with just the "status quo" and that Mrs. Holloway has explained that you cannot live on just the status quo – if the town does, it will increasingly grow the deficit. If the deficit grows, then the options are to find ways to cut and conserve, such as cutting the police force or town staff or find ways to adjust, such as considering going back to a quarterly billing system. He feels Mrs. Holloway has done an analysis that demonstrates the economic rationale for doing the rate change. It is more equitable and more fair to those on the lower end of usage and according to statistics, that is the majority of the people in Dagsboro. There are a lot of widows, widowers, elderly, and part-time residents and the current rates penalize them and subsidize those that live here full-time and use more water. Councilman Chandler also responded to Mr. Thompson's comments not approving of eliminating the 3,000 gallons. At the last meeting Mr. Thompson suggested getting rid of the fixed charge and just charging \$10.00 per 1,000 gallons of water. Councilman Chandler stated that he understands the logic of that, but the economy shows that anytime the price of goods increases like that, the demand responds. Mr. Thompson may be confident that the demand would not decrease enough to run a deficit again with such a large price increase, but Councilman Chandler stated that he is not confident enough to run that risk. He has more confidence in Mrs. Holloway's experience, it is the more equitable choice and he doesn't believe they have a choice to just stay at the status quo. Councilman Chandler did add a caveat that there needs to be a remedy to the Marvel's water. Given all of that, he is in favor of the proposed resolution.

Mrs. Holloway also explained to those present that she did initially complete a calculation that allowed the 3,000 gallon allowance, but to do that, the variable rate would need to be raised to over \$5.00. Councilman Chandler asked if that would have the same surplus. Mrs. Holloway couldn't guarantee it would be the same surplus without the numbers. Councilman Truitt stated the surplus of only \$4,000 is tight. Mayor Baull stated the system is still in relatively good shape for the age, there will be a time in the near future when something will break. Everything won't be covered if a major disaster happens,

but it will at least be something to get started as opposed to having nothing. Mrs. Holloway stated that reserves are built into her calculation also. She reminded those present that if a gallon allowance is included, the variable rate will need to increase dramatically.

Mayor Baull stated that the last time the rates were raised was at least seven or eight years ago and nobody is paying the same price now that they did for something that long ago. He used the example that even a water bottle costs a lot more now than it did seven years ago. Mrs. Holloway also stated a person might pay \$1.00 for a 16 ounce bottle of water. At that rate, it is \$8,000 for 1,000 gallons.

Councilman Chandler made a motion to approve the resolution for the water rates. Vice-Mayor Ulrich seconded the motion. All in favor.

Councilman Chandler also confirmed with Mayor Baull that Town Administrator Brought has permission to do what is necessary to solve the water problem for the Marvels. Mayor Baull confirmed.

IV. APPROVAL OF MINUTES

A. September 17, 2018 – Town Council Meeting

Councilman Chandler made a motion to approve the meeting minutes for September 17, 2018. Councilman Truitt seconded the motion. All in favor.

V. CONSENT AGENDA

A. Police Department Report

Chief Toomey informed Council that the Delaware State Police has initiated an evidence program and are willing to make the program available to municipalities as well. At the same time, the department was actually in contact with them asking about the status of a statewide evidence system. The Dagsboro Police Department has been asked to be a “guinea pig” and be the first agency within the state, other than the state police to have this evidence system. The hardware that will be required will be less than \$1,000. This is not a budgeted item, but there are line items in the budget that can be moved to cover this cost. Chief Toomey wanted to make Council aware, but they will not be exceeding their current budget. The fact that the department is being asked to be the first municipality to use this system speaks volumes to how the department is viewed within the police community and Chief Toomey thinks it is an excellent opportunity.

Councilman Chandler doesn’t disagree, but questioned if there could be help to cover the cost, such as the Justice Council or if Chief Toomey thinks they can manage within the budget. Chief Toomey replied that he thinks they can, but he is looking into a couple of grants. Mr. Morris offered some contacts if Chief Toomey needed to speak with someone. Chief Toomey replied that the challenge is not speaking with someone, but that the application for the CJC grant can be time consuming.

B. Treasurer’s Report

C. Administrative Report

Vice-Mayor Ulrich asked Town Administrator Brought if there has been any response to the delinquent taxes. Town Administrator Brought replied that Mr. Morris recently sent out letters and there has been a decent response so far. Mr. Morris informed the Council that he did send some letters out and received a couple of responses as well. He referred those people to Town Administrator Brought. She

stated some people have set up payment plans and she is fine with that, but the issue will be revisited if the property owner breaks their payment plan and they are aware of that.

Vice-Mayor Ulrich asked about the old fire hall and if anything has changed. Town Administrator Brought stated the business purchasing it is light industrial, which is not allowed according to the code. The real estate agent will be coming to the next Planning and Zoning meeting on November 8th.

Mr. Gulbranson stated it would take a Comprehensive Plan change and a zoning change, both of which would require public hearings and state approval. Town Administrator Brought stated there is a full price contract on the property. Mr. Gulbranson informed Council it is zoned residential which only allows houses, churches, schools, and offices. Town Administrator Brought mentioned that the business owner is already advertising that he is coming to Dagsboro soon. The applicant is not coming to Planning and Zoning, which would have to happen; this next meeting it will just be the real estate agent present.

The company re-bottles lotion, but they claim there is no manufacturing and no equipment, but Town Administrator Brought doesn't see how they can rebottle without it. Mayor Baull stated they must have some because they claim to fill 75 bottles a minute. Town Administrator Brought stated she has talked to the owner of the business and informed him she doesn't think it will work there because they are light industrial, but they keep denying that they are and say they are commercial, but even commercial would not be allowed in a residential zoning area.

- 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 Vice-Mayor Ulrich and seconded by Councilman Chandler. All in favor.

VI. PLANNING & ZONING COMMITTEE

- A. No report from October 4, 2018 meeting – working on the required ten year update of the Comprehensive Plan for Dagsboro

Cathy Flowers, Co-Chairperson of Planning and Zoning, stated that they did make some progress on the plan. Mr. Gulbranson informed Council that they have a meeting on October 31st to get feedback from the state agencies on the plan.

VII. NEW BUSINESS

- A. Introduction of Greg Morris, Town Solicitor

Mayor Baull introduced Greg Morris, the new Town Solicitor. Mr. Morris is excited to have the opportunity. He also represents the Town of Bethany Beach with his partner. Mr. Morris shared a little of his background to Council.

B. Snow Plowing Bids

There were three bids submitted. Town Administrator Brought informed Council that it has been advertised three times. Vice-Mayor Ulrich asked what the town was being billed per hour. Town Administrator Brought replied that they weren't billed per hour, they were just given a bill.

Gray's Creative Touch bid for \$100 per hour per truck with the opportunity to provide salt or ice melt. Royal Lawn Care bid for \$150 per hour and the third bid was for \$120 per hour – neither of those mentioned salt or ice melt. Town Administrator Brought informed Council that she does know that Gray's currently does the Town of Ocean View, the post office parking lot, and a lot of other local areas. He has six trucks now and he does not have to do the salt - that is just an extra that he does have access to it if the town would ever want to use it. Vice-Mayor Ulrich stated that most times the state will salt the main roads anyway. Council agreed and Town Administrator Brought replied that is correct and this would just be for the town maintained roads.

Vice-Mayor Ulrich made a motion that the town accept the Gray's Creative Touch bid for snow plowing at \$100 an hour. Councilman Chandler seconded the motion. All in favor.

C. Reduction of Bond – Fernmoor Homes at Woodlands of Peppers Creek (Kyle Gulbranson); Council discussion and possible approval of bond reduction

Mr. Gulbranson stated that there is currently a bond held for the town for the improvements of section two in The Woodlands. The improvements are the street, the stormwater in the street (the right of way), and the water system. Mr. Gulbranson informed Council the town doesn't bond sewer or stormwater outside of the right of way (that would be bonded by the county and the Conservation District). The bond that was in place was for \$372,273.91 – the total construction cost at 125%. The town always requires an extra 25% just in case construction costs are higher than predicted. The improvements have been completed – the water is in, stormwater is in, and the street base pavement is done. They reviewed the construction estimates to complete that street and that cost at 125% comes to \$42,387.50. Mr. Gulbranson recommends to reduce the bond to \$42,387.50 and for that to be held until the street is completed.

Vice-Mayor Ulrich asked about the sidewalks. Mr. Gulbranson replied that the sidewalks are in and there is not a bond on phase one; there is a small bond remaining on phase three. Fernmoor has asked for a reduction on that one as well, but Mr. Gulbranson recommends they leave that one alone at \$9,500 until they finish the sidewalks and install a rail that is supposed to be on the top of the retention wall. Mr. Gulbranson informed them he would not be recommending a reduction of that bond so the one to discuss would be the reduction of the bond on phase two.

Councilman Truitt clarified that the bond amount of \$42,000 would be for the road. Mr. Gulbranson replied that would be for the topcoat of the road when the construction is all complete. When that happens, they can reduce the bond again, but they would hold 10% for a year. Vice-Mayor Ulrich asked if Mr. Gulbranson is comfortable with reducing it. Mr. Gulbranson confirmed and stated they are in good shape for phase two. Councilman Truitt asked what the bond amount was and what it is going to. Mr. Gulbranson stated it was high – it's \$372,273.91 and going to \$42,387.50, but there isn't much left to be done.

Councilman Chandler stated his vote would be no because he is not comfortable making a decision today when he doesn't know what could potentially arise in the future with the issues in that community. He is not comfortable reducing the bond by that much with the uncertainty. Mayor Baull asked Mr. Gulbranson what happens if they don't issue the reduction – if it holds them up from continuing work or what it does. Mr. Gulbranson replied he does not know what Fernmoor's finances are, but he does know they are in a hurry to get this reduced and he knows that every developer would say that cash flow is an issue. They have been holding this for two years and he and Town Administrator Brought have heard several times that Fernmoor's cash flow is an issue. Mr. Gulbranson stated hurting their cash flow would affect them being able to move forward. He also addressed Councilman Chandler's concern by stating that if Council did not want to reduce it that much, they could come up with a different number. Councilman Miller suggested they reduce it by \$72,000 and leave the bond at \$300,000.

Vice-Mayor Ulrich clarified that this bond is only for completing the streets. Mr. Gulbranson explained the only things the town bonds are the things that will actually become town property – the street, stormwater in the street (in the right of way because if it breaks it is the town's responsibility but issues with stormwater beyond the street are not the town's responsibility), and the water system. The bond does not cover grating, the stormwater pond, the sewer or anything else. Vice-Mayor Ulrich clarified that the conservation issues are not covered and doesn't have to do with the bond. Councilman Chandler stated when you walk back there, they built up the back section and now they will be taking heavy equipment back there and possibly tearing the road up and that could possibly mess up the stormwater or something else. He would go along with a reduction, but would want an amount that is enough to cover the cost if there would be a real issue. Mr. Gulbranson understands and stated the \$42,000 amount was just following the protocol established in the code. Vice-Mayor Ulrich suggested they hold \$150,000 and reduce the rest.

Vice-Mayor Ulrich made a motion to reduce the bond to \$150,000. Councilman Truitt seconded. All in favor.

D. Upcoming Town Council election information – Town Administrator

Town Administrator Brought stated Councilman Chandler and Councilman Truitt are both up for re-election so that leaves two seats for the 2019-2020 term. Solicitation of candidates opened the previous Friday and the closing date will be November 9th. Forms are available on the website or at Town Hall.

VIII. OLD BUSINESS

IX. PUBLIC COMMENT

Jason Feathers of the Coastal Point asked when the new water rates will go into effect. Town Administrator Brought stated the next billing cycle. Vice-Mayor Ulrich asked if they should wait until the next month so that a notice can go out with the next bill notifying residents of the change. Mr. Morris stated the resolution didn't have an effective date because the town usually has a resolution effective immediately upon signing, however, if they change it, it should have the start date so whatever they change it to, he will change the resolution. Town Administrator Brought asked if they would have to have another public hearing. Mr. Morris confirmed. Councilman Chandler stated the meeting is not

closed and asked if the council could make a motion to amend the resolution and provide an effective date. Mr. Morris stated they could do that.

Councilman Chandler made a motion to amend the resolution for the water to make the effective date January 1, 2019. Vice-Mayor Ulrich seconded the motion. All in favor.

Vice-Mayor Ulrich stated it would be for the billing in January. Town Administrator Brought confirmed and said that would be the billing at end of the month covering the usage from the end of the December.

Cathy Flowers asked if she heard them say that Bill Lucks, the real estate agent for the fire hall, does not have the right to come to Planning and Zoning. Town Administrator Brought clarified that he can come and speak, but he cannot file a formal application because the owner would have to do that.

Mrs. Flowers also stated concerns over the streets. She doesn't remember them ever being paved since she has lived there and the possibility of big trucks going to the old fire hall building would make them worse. Town Administrator Brought informed her one hole has been patched and then it would be a matter of getting grant money to repair the roads. However, with the stormwater issues it makes no sense to fix some of the roads until the stormwater problems are fixed because roads would be getting torn up for that.

X. ADJOURNMENT

A motion to adjourn the meeting was made by Councilman Chandler and seconded by Vice-Mayor Ulrich. All in favor. Meeting was adjourned at 7:00 p.m.

Respectfully submitted by;
Megan Thorp, Town Clerk