***Minutes***

**DAGSBORO TOWN COUNCIL**

**Bethel Center – 28307 Clayton Street**

**Monday, November 18, 2019**

1. CALL MEETING TO ORDER

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

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

1. PUBLIC COMMENT

Mayor Baull wanted to express his appreciation to everyone that attended the Prince George’s Chapel program with Charlie Paparella from WBOC and his band. He stated that there were about 60 people in attendance. Afterwards, Dagsboro Business Alliance folks did a tour of the chapel.

Mayor Baull also wanted to thank American Legion Post 24 for their generous donation of $1,000 dollars to replace some of the American Flags that are starting to get worn out on the poles throughout town. The Town will hang onto that money and put it to good use once it comes time to replace them.

1. APPROVAL OF MINUTES

Councilman Chandler motioned to approve the minutes for the regular session with one spelling correction of hare to hair, as well as, approval of the executive session meeting minutes. Vice Mayor Miller seconded the motion. All were in favor.

1. CONSENT AGENDA
   1. Police Report

Chief Flood was unable to attend tonight’s meeting but attached his report. Town Administrator Brought stated that Sargent Disciullo contacted her and wanted to add to the report that they had 3 DUI’s and 2 were felonies.

* 1. Treasurer’s Report
  2. Administrative Report

Town Administrator Brought asked if everyone was good with the December 16 date for the Town Council meeting. Councilman Truitt stated that he could not be there but everyone else would able to be attend.

Councilwoman Ulrich asked about the wiring throughout the Town. Councilman Chandler asked if the attached quote was just to fix the section between Bodies and the railroad track. Town Administrator Brought stated that this was correct. She talked to Expert Wire and they said it could be more or it could be less, it all depends on what they find when doing the work. The quote is for four hours of time. Town Administrator Brought shared that she compared the quote to Tony’s Electric quote from last year and Tony’s was much more to replace that section. Councilman Chandler motioned to approve the quoted price from Expert Wire in the amount of $1,853.10 to fix problems with Christmas light wiring, as per proposal. Councilman Truitt seconded the motion. All were in favor.

Councilwoman Ulrich asked the Town Administrator about the approval of the police shed electrical lighting. Councilwoman Ulrich and Councilman Chandler agreed that the proposal was fine. Councilman Chandler stated that if for nothing else, for safety reasons this should be done.

Councilman Chandler asked about the banners. Council agreed to table this until the Spring.

Councilman Chandler asked about Chief Flood’s pension. Town Administrator Brought stated that we hired him with thoughts that he could join the Administrative Pension, but that was not the case since he is a Police Officer. Chief Flood’s financial advisor said that there is nothing legally the Town can do, for example, a 401K with matching funds. Chief Toomey and Chief Flood were under the impression that he could join the Administrative Pension. Councilman Chandler asked Mr. Morris to run this by his partner who is a State and perhaps a National Power Broker when it comes to things like dealing with the State Pension Office, Mr. Liguori may have a contact or even an argument we could use, or that the Chief could use.

* 1. Economic Development Committee
  2. Building Official Report
  3. Code Enforcement Report

Councilman Chandler stated that he would like some assurance that we are prepared to pursue all of the tax delinquencies due to the Town and those that are in arrears, and have accrued interest on those arrears, are pursued by filing actions in the Superior Court and proceed with the Monitions Sale process to collect those overdue taxes. Councilwoman Ulrich questioned including 2019 taxes. Councilman Chandler stated that he thought we should go with the older ones and the size of the amount of tax due. Town Solicitor Morris advised that the ones we initially did were chosen with a cutoff dollar amount, and with that, some have already paid in full. Town Administrator Brought stated that we do have one property that we cannot locate the owner and it has not been paid in years. Town Solicitor Morris stated that with a Monitions Sale process, the only thing required is the property has to be posted. If it is posted, that is considered notice. At that point, if they do not either respond to the complaint or pay then we set it for Sheriffs’ Sale. Councilman Chandler felt that even those that are not aged should receive letters from our Counsel.

* 1. Meeting Reports
  2. Water Department Report
  3. Prince George’s Chapel Cemetery Report
  4. Correspondence

Councilman Chandler motioned to approve the Consent Agenda. Councilwoman Ulrich seconded the motion. All were in favor.

1. PLANNING & ZONING COMMITTEE

Chairman Connor gave a report on the November 7, 2019 meeting and a recommendation to approve a Change Of Use for Flooring Solutions located at the Indian River Marine & RV Building at 29118 Piney Neck Rd.

P&Z Chairman, Brad Connor, stated that it was a unanimous decision for the Change Of Use. Leslie Marra of Flooring Solutions was available to explain what the changes would be. They have yet to get the final Fire Marshal approval, but hope to get the approval this week.

Town Consultant Engineer Kyle Gulbronson stated that the Change Of Use was needed as the previous building was a retail store selling tackle, bait, beach supplies, and things of that nature. That business has ceased to operate. Leslie, of Flooring Solutions, is in the process of buying the building to have a Southern Delaware warehouse and retail facility.

Leslie stated that basically on the plan shown, yellow is the existing office, orange is the retail and blue is the warehouse. She stated that they do a lot of work in Southern Delaware so they have been looking for a place rather than hauling everything down from Wilmington and back. She also stated that the warehouse would store commercial flooring materials and supplies such as ceramics, carpet, LVT (luxury vinyl tile), hardwood, backer board etc. They are not really going to be retail for customers; it will be more for sub-contractors to pick up materials, supplies and tools. They realized that there is not really anything down here other than Lowe’s. To start, they will have one employee with operating hours of 8:00 am to 4:30pm, depending upon the need. Some contracts they have done in the past are, Hampton Inn, Sun Behavioral in Georgetown, Brittingham Elementary in Milton, as well as state contracts throughout the State of Delaware.

Mayor Baull asked Leslie about the size of vehicles that would frequent the business, due to the size of Piney Neck Road. Leslie stated that they would have a tractor trailer delivering, but of the smaller variety which she believes is 48 feet, to the building. They also have a large and small box truck. Councilman Chandler asked if customers would be parking there at the same time of deliveries. She stated that they may, but the deliveries are more in the back. Councilman Chandler asked if the footprint of the building is not being changed. Leslie stated that there are no plans at this time.

Mr. Gulbronson stated that they have a letter of no objection from DelDot and that the only outstanding agency approval needed is from the Fire Marshal. Leslie stated that she talked to the Fire Marshal and there are four requests ahead of hers and it should be early in the week that she receives the letter.

Councilwoman Ulrich stated that the contractors will want to be in and out. Councilwoman Ulrich stated that she works with contractors and that they like to get their materials by 7 am so they can be on jobsites by 8am.

1. New Business
   1. Discussion and possible vote for approval of Change Of Use for Flooring Solutions.

Councilwoman Ulrich motioned to approve the Change Of Use for Flooring Solutions contingent upon Fire Marshal approval. Vice Mayor Miller seconded the motion. All were in favor.

* 1. Amended Ordinance on Yard Conditions and Civil Penalties – Councilman Chandler and Town Solicitor Greg Morris.

Councilman Chandler stated that this is the long awaited revisions to our ordinances regarding yard conditions and also motor vehicles on properties that are unregistered, unmovable, and in a state of disrepair. Councilman Chandler stated that it creates a couple of questions, at least. One condition being that Town Administrator Brought would become the Appellant Court, so to speak, if someone challenges a notice of violation by the Code Enforcement Officer. Therefore, the other question is who will become the Code Enforcement Officer. My guess is that it will be Stacy, because Cindi cannot be both. Town Administrator Brought stated that it would be Stacy. Councilman Chandler asked if there is a training program for that. Councilman Chandler suggested speaking with Stacey Long with the Town of Selbyville as she went to a Code Enforcement training program. Mr. Gulbronson stated that he thought that the International Building Code has training for Code Enforcement officials. Mr. Gulbronson said he would try and find out for Town Administrator Brought.

Councilman Chandler stated that this is the one issue. The other item is in regard to the amount of the civil penalty for violators who refuse to remediate or fix their code violations. If violators fail to correct the violation in the time they are given, which is thirty days the fine will be doubled. Councilman Chandler asked what the current civil penalty is. Town Administrator Brought thought it was $200. Town Solicitor Morris felt that it is $250, from what he recalled. Councilman Chandler felt that we should keep it the same amount or we could increase it to provide incentive. Councilman Truitt asked if we have had the doubling of the fine before. Councilman Chandler stated that he didn’t believe we did; he stated that the civil penalty is new to our ordinances. So for example, we set it for $250 and if not remedied in thirty days it would become $500. Councilwoman Ulrich stated that is a lot of money for thirty days. Councilman Chandler stated that this is why it is called an incentive. Town Administrator Brought stated that she thinks it needs to be higher just to get people’s attention. Councilman Truitt asked if there would be some discretion if the person was unable to perform the remedy. Councilman Chandler stated that the Appellant Court would decide if the penalty should be waived and if there were certain circumstances that prevented it from being taken care of; we need to have confidence in the Appellant Court. Town Solicitor Morris stated that we tweaked this a bit. Initially, the concern was that any of these violations would have to brought to court by the Town Administrator, which takes a lot of time and effort. There is another procedure that other towns do where they have an administrative process. When someone is issued a violation, the violator should be entitled to vent their issue should they have a one. If they want to appeal it, or if they have a true reason why they couldn’t respond, for example a health reason, then clearly at that point Town Administrator Brought could consider all of that, as she is the ultimate decider.

Councilman Chandler stated that the first part of the Ordinance is for civil penalties and the administrative process. Mr. Morris described the process for the unmaintained properties, properties that the grass is growing uncontrollably, rubbish, or other debris that is laying and not being removed, which then creates risk of vermin and pestilent. Councilman Chandler stated that the other issue is with respect to abandoned vehicles. Councilman Chandler asked if this language covers things like abandoned, unregistered, and inoperable water crafts, such as jet skis, boats and trailers? Town Solicitor Morris stated that he suspected not because it says vehicle, and the language should be amended to include that. Town Administrator Brought stated that she was reading in the ordinance that the police then have the authority, if it is not removed with in a given period of time, to remove the vehicles (have towed). Councilman Chandler stated if you are talking about the removal section, the way I read this is that the police department gives a notice that if there is a vehicle that needs to be removed and they didn’t remove it, then the police department has the power/authority to remove that vehicle. Alternatively, they can have a towing service, which is licensed by the State of Delaware, tow the vehicle to a tow lot. Town Solicitor Morris stated that most police agencies have contracts with tow companies. He also stated that the police are only involved if it is on public property, the private property is when the Town is involved. Town Administrator Brought asked what happens if they refuse to remove the vehicle after she has sent the letter out. Town Solicitor Morris stated that this is when you would make contact with the towing agency. Within the Code, the Town has the ability to correct the problem and then bill them later. Part of the process in this is to try and tweak this a bit because it wasn’t entirely clear whether this becomes a tax obligation. Now, with the way it is rewritten, it becomes a tax obligation. You can now demand, and if they do not pay we file Monition. If they don’t pay, we can then sell the property. Councilman Chandler stated that the point he wanted to make clear, was that the Civil Penalty now becomes part of the tax bill and if not paid that gives the town the teeth to enforce this through the collection of the property tax and the Monition process.

Councilman Chandler stated that if everyone is good with his and Mr. Morris’s tweaks and that everyone was comfortable with the draft of the revised Ordinance that we put it on the agenda for a public hearing at a later date and vote on it. Councilman Chandler stated that he would leave this to Town Administrator Brought and Town Solicitor Morris in regard to scheduling. Town Administrator Brought and Mr. Morris stated that the January meeting would be best.

* 1. Discussion regarding the need for the curbs to be painted in Town – Councilman Chandler

Councilman Chandler stated that the curbing has faded so badly throughout the Town that he has detected a lot of cars parking right up to stop signs. If they were repainted, it would be clearer where you are allowed to park and where you are not; this is especially important on Main Street where there is a lot of traffic flow. Councilman Chandler stated if everyone agrees with that then the question is how to get that done. Councilman Chandler stated that in the past, he was told, that the prisoners from SCI came and did all the town curbing. Councilman Chandler stated that another option is to get quotes from local painters. Councilwoman Ulrich mentioned Matt’s Paving. Town Administrator Brought stated she would get up with Matt’s Paving for a quote as the Town has used them before.

* 1. Re-appointment of Marjorie Eckerd – BOA; term expires 11/30/2019 (3 year term) – Cindi Brought.

Town Administrator Brought stated that Marjorie Eckerd is willing to come back for another 3 years on the Board of Adjustment. Councilman Chandler motioned to reappoint Marjorie Eckerd to another term on the Board of Adjustment. Councilman Truitt seconded the motion. All were in favor.

* 1. Town Election – December 7, 2019 from 1-5 p.m. – Dagsboro Fire Hall – 28331 Clayton Street.
  2. Election Candidate Nominations – Incumbents, Brian Baull, Patrick Miller, Theresa Ulrich, and Candidate James Thompson.

Town Administrator Brought stated that they were all qualified at a meeting on 11-12-19.

* 1. Board of Elections (proposed):
     1. Robert Flowers
     2. Janice Kolbeck
     3. Marjorie Eckerd

Councilman Truitt motioned to accept the Board of Elections of Robert Flowers, Janice Kolbeck and Marjorie Eckerd. Councilwoman Ulrich seconded the motion. All were in favor.

* 1. Christmas Bonuses

Town Administrator Brought stated that last year everyone received a bonus in the amount of $150 across the board whether you were part-time or full-time. Councilman Chandler asked if there was ever discussion on doing a bonus based on the number of years employed with the Town. The consensus was that everyone is fairly new we would just keep it the same. Councilman Chandler motioned to approve the Christmas bonuses for all the staff as historically done in the past. Councilwoman Ulrich seconded the motion. All were in favor.

1. Old Business
2. Update on Comprehensive Plan/State Planning Office – Kyle Gulbronson

Town Consulting Engineer Kyle Gulbronson stated that we are anticipating getting comments back from the State Planning office this week, they have until Wednesday, November 20th. Town Administrator Brought and Kyle stated that a public hearing should be scheduled for December.

Vice Mayor Miller asked who would be responsible for doing a traffic survey in reference to the Botanical Gardens on Piney Neck Road and the anticipated traffic volume through there. Mr. Gulbronson stated that when they applied for approval through Sussex County, the County waived the requirement for a traffic study. Councilwoman Ulrich asked if we find that there is too much traffic due to the Botanic Gardens could we request a traffic study? Mr. Gulbronson stated that we could contact DelDot and he believes they have a phased development plan for that site. Botanic Gardens may have to come back at a later date with some type of site plan process with the County. They do have larger plans for the site.

1. PUBLIC COMMENT

Jim Thompson, 29199 Shady Creek Lane, spoke in regard to the vote last month on the water rates. Council approved the plan that cost the 1,000 gallon a month user $41 dollars a month, $35 plus $6. The 30,000 gallon a month user is only going to pay $215 a month, less than $7 per thousand gallons, six times less per gallon. He stated that they are using thirty times more water every month at thirty thousand gallons. They are using everyday what the small user uses every month and they are paying six times less per gallon. Regarding the operating surplus, revenues are $324,600 dollars based on your plan, which is the $35 a month, per EDU and $6 per thousand on twenty-four million gallons. However, if you subtract the amount that we pay for water at $5.40 per thousand and you subtract long term debt, which is $103,522, unless it has changed, you have an operating surplus of $91,000. You are saying that you need to take $22,000 from the Impact Fees account to add to that $91,000, that is $113,000 dollars. Simple question “can we get an accounting of where that money has gone”, it’s $113,000 a year and you are making the small user pay the bulk of that. Last question, “are there any other transfers of funds from one account to some other account that the people don’t know about?” Councilman Chandler stated that “you can look at the audit that is done of our books every year, Mr. Thompson.” “You are welcome to inspect those documents”. “You have the right to inspect those.” “I know you have to buy postage and you have to mail, that is about $2,000 a year, where is the other $110,000 going?” “You have to get the meters read and do the accounting, I understand that, but there is no way its $110,000.” Councilman Chandler reiterated again that Mr. Thompson can review the audit. “Mr. Thompson stated to Councilman Chandler that he shouldn’t have to do that. “That is what people elect you people to do.” Councilman Chandler stated “alright, you don’t want to have a conversation, I am done with the conversation”. Mr. Thompson stated “fine, will you inspect them with me?” “Will you sit down with me and inspect it with me, at your convenience?” Councilman Chandler stated “I am not sitting down with you Mr. Thompson.” “I am done with you.” Mayor Baull closed Public Comment.

Pastor KC, Bethel UMC, stated that he is concerned with the cleanness of the air with all of the heavy traffic that goes through town. Town Council stated that it is out of their control.

1. ADJOURNMENT

Councilman Chandler motioned to adjourn the meeting. Councilwoman Ulrich seconded the motion. All were in favor.

Meeting adjourned at 6:47 p.m.

Respectfully Submitted,

Stacy West, Town Clerk