***Minutes***

**DAGSBORO TOWN COUNCIL**

**Virtual Meeting**

**Monday, July 20, 2020**

1. CALL MEETING TO ORDER

Mayor Baull stated that this meeting is being conducted remotely consistent with Governor Carney’s executive order due to the current State of Emergency in the State of Delaware given the outbreak of COVID-19. The Governor’s order suspends the requirement of the open meeting law to have all meetings in a publicly accessible physical location, further all members of public bodies are allowed and encouraged to participate remotely. This order also allows public bodies to meet entirely remotely as long as reasonable public access is afforded so that the public may follow along with the deliberations of the meeting. All the votes as well as discussions will be taken individually so that all the Council members will have the time to speak if they so choose also so we can properly document it. Mayor Baull stated that this meeting is being recorded and Town Administrator Brought is taking notes as well.

Meeting was called to order by Mayor Baull at 6:02 p.m.

In attendance were: Mayor Brian Baull, Vice-Mayor Patrick Miller, Councilman William Chandler, Councilwoman Theresa Ulrich, Town Administrator Cynthia Brought, Police Chief Steven Flood, Town Engineer Kyle Gulbronson, P&Z Member Cathy Flowers, Reporter Glenn Rolfe and John Thaeder and Rob Penman with Artesian. Absent was Councilman Norwood Truitt.

1. PUBLIC COMMENT

Mayor Baull stated that National Night Out which was scheduled for August 4th, 2020 has been postponed until 2021.

1. APPROVAL OF MINUTES

June 15, 2020 Virtual Town Council

June 29, 2020 Virtual Special Meeting

Councilman Chandler made a motion to approve the minutes. Councilwoman Ulrich seconded the motion. All were in favor.

1. CONSENT AGENDA
   1. Police Department Report

Chief Flood stated that as far as the stats there were 12 accidents for the month of June, which is pretty on par with summertime traffic. A part-time officer started last week, his name is Rene McKinnon, and he is a five year veteran of the Seaford Police Department. Chief Flood stated that the only difference with the part-time officers is they will be wearing a very professional polo shirt. Megan Loulou is a five year veteran with Selbyville Police Department and her first day will be July 28th. The third part-time officer is Kyle Linville, he is a fifteen year veteran of the Seaford Police Department and he has not started yet.

* 1. Treasurer’s Report
  2. Administrative Report

Town Administrator Brought discussed a temporary sign placement for Delmarva Billiards if the owner is in fact able to re-open. Mayor Baull asked for Town Engineer Gulbronson to explain that further. Mr. Gulbronson stated that the temporary sign permit allows the Town to put restrictions on what the sign contains and how long it can be up. Mayor Baull asked if the Town would have control over the size of the sign. Mr. Gulbronson stated that there is no cap on the size, but the Town can put a restriction on it. Councilman Chandler asked what the purpose of the banner is. Town Administrator Brought stated that is for people to realize that he is open again. Vice-Mayor Miller stated that he understands what he is trying to do as he is in the same predicament at the coffee shop. Councilwoman Ulrich stated that she also understands the need for the banner as she would hate to see any business close permanently over this. Town Administrator Brought stated that he would still fill out the temporary permit application and show us what he putting on it and it would still get reviewed by Town Engineer Gulbronson for approval. Mayor Baull stated that he is agreement as well as supporting any business within Town.

* 1. Economic Development Committee
  2. Building Official Report
  3. Code Enforcement Report
  4. Meeting Reports
  5. Water Department Report

Mayor Baull asked Town Administrator Brought to update Council on the water situation. Town Administrator Brought stated that the new registers have been shipped as of June 29th. Mayor Baull asked if the $33,000 is minus the money we are getting from Sussex County. Town Administrator Brought stated that we are getting $10,000 toward that. The goal is to get the new registers switched out for the August water meter reading.

* 1. Prince George’s Chapel Cemetery Report
  2. Correspondence

Mayor Baull asked for a motion to approve the Consent Agenda; Vice-Mayor Miller motioned to approve the Consent Agenda. Councilwoman Ulrich seconded the motion. All were in favor.

1. NEW BUSINESS
   1. Artesian – John Thaeder
      1. New Water Supply Detail – Discussion
      2. Interconnection between Dagsboro and Frankford Discussion

Mr. Thaeder stated that when they start running the plant, which will be April or May of next year, they would be pushing water into town or pushing water out of town. Once connected to the Town we will be impacting the system by filling water that will be coming from your elevated storage tank. The meter monitors would catch water going both ways and therefore we would either deduct from what is billed to you or pay you for the water.

Town Engineer Gulbronson stated that you cannot connect Artesian’ s system to Dagsboro’s system until we have ceased purchasing water from Millsboro because you are going to be pushing water into Millsboro, which is in violation of our agreement with them. Mr. Gulbronson stated that this will have to be timed appropriately with the Town stopping purchasing water from Millsboro and connecting to the Artesian system. Mr. Thaeder stated that they are fine with that and would set the system up so it flows through the south plant until the town is ready to connect to Artesian. He stated that Millsboro doesn’t have an exclusive agreement with the Town, but he understands how if flowing back to them it could be an issue. Town Engineer Gulbronson stated that there is some language in the agreement about co-mingling of water. One issue that has been a problem in the past has been both Dagsboro and Millsboro are adamantly opposed to water from Frankford coming into the system due to fears of water quality issues. Mr. Gulbronson stated that hopefully now that Artesian has taken over the Frankford system the water quality will improve there. Mr. Thaeder stated again that this is different than the Agreement you have with Millsboro. Mr. Gulbronson stated that with the Agreement that all three towns have, the connection between Dagsboro and Frankford has come into play in the past for fire situations. Mr. Thaeder felt that the valve between Frankford and Dagsboro is just a valve in the road and they would like to install a formal interconnection that could be one way if that is what the Town wants. Water can be feeding from the Dagsboro system into Frankford or it could be a two way interconnection that would allow water to flow either way. Artesian does not have a strong preference to either, but would like the ability to turn that into an interconnection that could be used and would measure the water. Obviously there are benefits to Artesian and the town because it would get rid of a fairly long line of pipe that has very few customers on it and would improve the water quality. Mr. Thaeder stated that they think there are benefits, but if they can’t move the water that way, they will have to come into Frankford a different way. Mr. Thaeder stated that there is no interest to move water from Frankford towards Dagsboro because they think that at the end of the day the plant being built in Dagsboro will provide not only superior water quality, but the kind of water quality that you need to properly flush and maintain systems that our current system does not have the ability to do. Mr. Gulbronson asked Town Administrator Brought the actual end date of the contract with Millsboro. Ms. Brought stated December of 2022 and Millsboro is not interested in letting us out earlier. Mr. Gulbronson stated he has had some conversations with some folks in Millsboro in regard to the water situation that they have right now. Mr. Gulbronson feels that due to the growth in Millsboro that Dagsboro could possibly go to them with an end date for water service and they might appreciate gaining that water back into their system that they are currently selling to Dagsboro. Town Administrator Brought stated that we could attempt it again once we have a firm date. Mr. Gulbronson stated that if we had an estimated date from Artesian as to when they will be ready to connect to Dagsboro’s water system we should contact Millsboro and see if they would be willing to meet again to discuss ending the contract early. Councilman Chandler stated that his recollection is that there was no interest in letting Dagsboro out of the contract early as well, but he also is in agreement with Kyle that circumstances have evolved some since that conversation with Millsboro. The contract actually says that either party has the right to effectively terminate if they give a 60 day notice, but it can only be for failure to fulfill an obligation or condition of the Agreement. Therefore, you would have to have something that says they failed to fulfill an obligation in order to do that. Councilman Chandler stated that he thinks the better approach would be to just approach them and see if they would be interested in an earlier termination. Like Kyle said, they have some heavy duty demands on their water system and they might be interested in seeing us go. Mr. Gulbronson stated that he thinks if they could gain back those 90,000 gallons a day usage, that they are obligated to supply Dagsboro, it might make their situation better. Town Administrator Brought asked Kyle if Millsboro is planning on putting a new facility near Plantation Lakes. Mr. Gulbronson stated that they are, but it has been delayed repeatedly and their water usage just keeps increasing. Vice-Mayor Miller asked if all the present issues that we are having with Millsboro and the lack of communication that they are providing to us presently, as far as the chlorinating, if that wouldn’t fall under a breach in contract. Mayor Baull asked for Councilman Chandler to address this. Councilman Chandler stated that it is arguably a breach, but like every contract, there are two sides to every story and they would argue strongly that they have not breached. Councilman Chandler stated that he would rather try and do this amicably and thinks they have some self-interest so maybe re-gaining the 90,000 gallons a day, that they are required to provide us, would be the best approach. He feels an amicable approach is preferable over trying to go with the breach of contract route. Vice-Mayor Miller stated that he agrees with Councilman Chandler, however, if the amicable approach does not work, that the lack of communication etc. falls under the category of a breach in contract.  
  
Councilman Chandler asked if there is an estimated date of completion for the water system that Artesian is installing to be up and running. Mr. Thaeder stated that they are working diligently to have the system up and running by April or May 2021.

Councilwoman Ulrich asked if we couldn’t get out of the contract with Millsboro, was there a minimum usage for Millsboro that we had to meet. Town Administrator Brought stated “no we can buy as little or as much as we want.” Councilwoman Ulrich asked if it can just be shut off until the contract terms. Town Engineer Gulbronson stated that we are going to have to figure out how to shut if off because as the system works currently there are three elevated water towers, two water towers in Millsboro and one in Dagsboro, all on the same elevation and with the connection they pull and push from all three water towers. There will have to be some engineering involved to figure out how this connection with Artesian is going to happen, what the impacts are going to be to the system and when the valve is cut off at the interconnect on Rt. 20, how this water is going to function and move and what is the impact going to be to the storage tank. Mr. Gulbronson stated that this is not just as simple as shutting it off and being done with it. John Thaeder suggested Artesian spend time with Kyle and go through the hydraulics of how this would work, including how the hydraulics would work depending on what kind of controls are at the Millsboro interconnection, to look at what the impacts are on the system. Mr. Thaeder stated they are all workable and it is just a matter of having our Engineers talk to Kyle about how it would work and then the Council deciding if that is acceptable. Mayor Baull and Town Engineer Gulbronson agreed that is a good place to start.

Councilwoman Ulrich asked what would happen if we did nothing and intermingled the water and if that would be a breach of contract; wouldn’t Millsboro just end the contract with us at that point? Councilman Chandler stated that would create a breach of contract if water intermingled and that would give them grounds to terminate the contract; maybe under one scenario, that would be done smoothly and they would just terminate and then just have Artesian providing the Town. On the other hand, they could sue us and claim that it damaged something in their system or that it did something to their water system that was impermissible and have to pay the damages for having to get it remedied. Councilman Chandler stated that he thinks that is a slippery slope and does not recommend going down it and it’s not clean. John Thaeder asked if the intermingling clause was with just Frankford water or any water. Mayor Baull stated that Town Administrator Brought thinks it is just geared toward Frankford due to their quality of water over the years. He also stated that since he has been on the Council, the one time that we did open up the interconnect to Frankford due to a major fire, to say that the Town of Millsboro lost their minds a little bit was an understatement. Mr. Thaeder stated it would be interesting to see if that clause is related to Frankford as it is not our intention to mingle Frankford plant water. We are building this facility for a reason. Town Engineer Gulbronson stated that knowing Millsboro the way we do, I don’t believe they want anybody else’s water but their own going back into their system. Mayor Baull stated that Mr. Thaeder and Town Engineer Gulbronson should discuss a plan to take to the Town of Millsboro.

Mr. Thaeder asked if the Council wanted to discuss the chlorine issue. There was a question whether you would need chlorination after we start serving water. It was asked if the equipment needed to boost the chlorine would be useful to Artesian and the answer is no, you would not. Councilwoman Ulrich stated that the problem we have now is our water tower losing the chlorine levels. “Once your system goes into play doesn’t that mean we won’t have to have an injection system?” Mr. Thaeder stated, no, I don’t believe you will and it is for several reasons. The travel time from our water to your system is going to be much lower and when we work out where we are moving more water throughout the system, then it will allow the tank to move more and allow more chlorinated water to enter the system. Therefore, kicking up the demand in your system is going to greatly help your chlorine levels; right now the chlorine is sitting in the tank too long. Councilwoman Ulrich stated that this only seems to happen when the temperature goes way up in the summertime so the question becomes do we want to install this chlorine injection system for only one summer. Mr. Thaeder stated that Artesian’ s plan is to have the plant running before next summer, so the question is whether there is an amicable decision with the Town of Millsboro as to whether you have to take their water or not.

Councilman Chandler stated to Mr. Thaeder that we have been advised that the regular testing that is being done at the Town Hall and at the interconnection site is reported to State public health authorities and that if there was any concern by those authorities with the level of chlorine that was in our system that they would alert us to that fact “Is that correct?” Mr. Penman stated that they send a monthly report to the Office of Drinking Water with all the chlorine levels from testing of the water at Town Hall. Mr. Thaeder asked Mr. Penman if they have ever heard back from Public Health with concerns about chlorine residual that is less than .30. Mr. Penman stated he is not 100% sure whether the Office of Drinking Water has said anything to the Water Quality Department or not. Mr. Penman stated that he has not heard that any issues have been raised, but they do note on the reports when it is below optimal levels so he feels they are aware of it. Mr. Thaeder stated that they will get back to Council after they research it. Mr. Thaeder stated that he doesn’t believe any action is taken unless there are multiple failed Bact T’s; even then they are not usually quick to jump in. Mr. Thaeder stated that in the past when they have had an issue it has been months later when they hear from them. Town Administrator Brought stated that the Bact T samples are taken once a month at Town Hall. Mr. Thaeder stated that it is required to report it monthly and he doesn’t recall having a bad Bact T at Town Hall. Councilman Chandler stated that he would like John and Rob to follow up and make sure the State agencies have no issues with the chlorine level readings in Dagsboro.

Councilman Chandler stated that he wanted the record to be “crystal clear” on this. The record being minutes of our meeting, and the minutes of this meeting should reflect the fact that the Town Council and Town employees have actively tried to address this problem. That way it has been brought to their attention that the chlorine levels have fallen below the requisite levels of .30. They have instantly reached out to the Town of Millsboro to determine whether or not there is some difficulty at the plant that is causing that or some other difficulty. We even met with the Town of Millsboro about this and the record should show that we were assured by the Town of Millsboro at that meeting that they would regularly test the water at the interconnect meter and that they would advise us regularly and promptly what the readings were at the interconnect meter and if there were any plant issues, broken pipes, or other malfunctions of equipment; they were to advise us of that promptly so that we would be aware of perhaps the reasons for any failure of the chlorine level to meet the requisite .30. Councilman Chandler stated that in addition, the Council has explored the purchase and installation of a chlorine injector system and has consulted with Artesian about the cost benefits of doing that and risk rewards and the other timing and practical issues. The Town remains vigilant in carrying out its responsibilities to monitor the situation and to address it promptly, including through this meeting in that asking Artesian to follow up with the Office of Drinking Water. Councilman Chandler stated he just wanted our minutes to show that we have done all those things, in an active way, to try to monitor the problem and deal with it.

* 1. Open Discussion 33124 Main Street Lot - Possibilities

Town Administrator Brought stated that the two things she would like to see are expansion of the Police Department because the evidence should be within the Police Department instead of in a shed and parking of course is critical.

Councilman Chandler stated that he is open to any suggestions or ideas. He didn’t know if Chief Flood might have any ideas or not, but he thinks an expansion of the Police Department, an extension of the existing building, by removing the storage shed and extending the building straight towards the South to the end of that lot would work and then possibly do a 90 degree turn and come straight towards Main Street for a portion of the lot. He stated that he is not sure of the square footage you could get out of that, but maybe a pole building that is 26x30 and approximately 900 sq. ft. It seems it could easily connect to the existing building and provide additional space for the Police Department and it might even accommodate a meeting room for the Council meetings.

Town Engineer Gulbronson stated that he did look at the property and he thinks you can get a larger building than you think. He does think it can be extended to the South and increase your parking. Another good thing to look into would be moving the entrance to the Municipal complex a little bit further south so it is a little bit further away from the intersection for a safer situation.

Vice-Mayor Miller stated he is in agreement with all of the above.

Councilwoman Ulrich stated that she is in agreement as well and the entrance closest to Town Hall should be closed off and widen the entrance on the other side. Her recommendation would be to get a site plan or something done at this point. Town Engineer Gulbronson stated that a Conceptual Plan with the outline of the shape of the parcel should be done. It is in the Town Center District therefore the setbacks are really small. He stated that there is a lot of useable space, but start with a basic layout of what the building could be in terms of square footage and see what is left for additional parking. Councilman Chandler stated that he knows the adjoining land owner and he feels he will be pretty reasonable with setbacks.

Mayor Baull stated that he is in agreement as well, the Police Department needs to expand their room there, and the entrance closest to the traffic light being closed would be a huge help for everybody. Mayor Baull suggested a committee be formed of himself, Town Administrator Brought, another Councilmember and Town Engineer Gulbronson to see what can be laid out on paper and most importantly where the funding would come from. We can discuss this formally at the September meeting.

* 1. Discussion/Possible Vote on Delmarva Billiards Temporary Sign

Mayor Baull asked for a motion to allow Leo of Delmarva Billiards to apply for a temporary sign that he could put out at his business. Town Administrator Brought and Town Engineer Gulbronson can determine the amount of time and other rules and regulations to be followed on that, Vice-Mayor Miller motioned. Councilwoman Ulrich seconded the motion. All were in favor.

* 1. Discussion August Town Council Meeting

Mayor Baull stated that we typically skip the August Town Council meeting. All were in favor. Next Town Council meeting will be September 21, 2020.

1. OLD BUSINESS
2. Chlorine Injection System- Continued discussion/Possible Vote

Town Administrator Brought recommends keeping it as continued until we get definite answers from Artesian and determine what our plan is. All were in favor.

1. PUBLIC COMMENT

Cathy Flowers, 31860 New Street, asked if Planning & Zoning will have off for the month of August as well. Town Administrator Brought stated that she would send out a note that August will be a vacation month.

1. Adjournment

Councilman Chandler made a motion to adjourn. Vice-Mayor Miller seconded the motion. All were in favor.

Meeting adjourned at 6:50 p.m.

Respectfully Submitted,

Stacy West, Town Clerk