***Minutes***

**DAGSBORO TOWN COUNCIL**

**Bethel Center – 28307 Clayton Street**

**Monday, October 21, 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, Police Chief Steven Flood, Town Engineer Kyle Gulbronson, and Town Solicitor Greg Morris. See attached sign in sheet for other members of the audience.

1. POLICE DEPARTMENT PROMOTION

Chief Steven Flood stated Nick Disciullo wasn’t at the last meeting for his promotion due to training in New Castle. Lance Corporal Nick Disciullo is a hardworking, dedicated officer and I am pleased to promote him to the rank of Sergeant.

1. PUBLIC COMMENT

Joe McComas, 33259 Main Street, is located right across from the movie theater and was concerned that we need a crosswalk there. He stated that he knew you cannot put an overhead light without a crosswalk. He also stated you cannot see and people park over at the lodge and cross over, especially with the more popular movies.

Cathy Flowers, 31860 New Street, stated that in addition, if you get anywhere with that, she had asked previously about a crosswalk at Bethel Chapel for the members crossing on Sundays. The tourists leaving town are going pretty fast and it is unsafe. She stated they were not able to get that approved before by Del Dot. Kyle stated Del Dot typically does not want to do a crosswalk without a signal entrance.

Nancy Townsend, 31867 Swamp Road, stated that people traveling Swamp Road go pretty fast even though there is speed limit of 25 mph. She stated that she is concerned with kids’ safety. Chief Flood suggested moving the speed trailer to some of those areas, as well as more patrol.

1. PUBLIC HEARING

Mayor Baull stated that a Resolution to change the water rates to a $35.00 monthly rate for all users and a usage charge of $6.00 per one thousand gallons was being proposed.

Greg Morris, town solicitor, advised of how the public hearing works. He confirmed with Town Administrator Brought the Notice for Public Hearing was published, she stated yes it was. Those in favor of the Resolution may speak first and those in opposition shall be permitted to speak afterwards. When you speak, please identify yourself, your address. Any member of council may ask questions of the speaker or staff pertaining to the comments made by any of the speakers. After all persons desiring to be heard have had an opportunity to speak, the public hearing will be closed upon a proper motion by Council. The Mayor shall then inquire if Council desire to discuss the matter any further and then they shall consider whether or not they are going to vote for or against the proposed Resolution.

Mayor Baull asked Jean Holloway with SERCAP to give the “cliff notes” on where we stand. Please address some background and comments on methodology for deciding on the proposed water rates. Water rates are based in part on cost causation, what costs are caused by whom or by what portion of the operation. The recovery costs or the rate structure is designed based off of the cost causation. The methods that I use are supported by the AWWA (American Water Works Association) manuals, specifically M1 and M54, developing rates and by every other text that I have ever read in terms of recovering costs by a fixed charge to cover the towns fixed costs. The fixed charge covers the installation, as well as the debt service and reserves that take care of the system itself, which is paid by every equivalent dwelling unit. There is a variable charge that is based on usage/volume and that fluctuates based on water that is produce/sold. The fixed charge with our system varies with the size of the meter; larger meters are paying a multiple of that fixed charge.

Jean was asked by the town to come up with scenarios and the Mayor and Town Council chose the $35 for fixed charge and $6 per one thousand gallons. This was not the Town’s doing as the Town of Millsboro raised the rate and the Town Council is in the position where they have to cover costs or operate at a loss.

Jim Thompson, asked if this was statute? Jean stated no there is no statute; there is guidance on how to set water rates. Jim stated “in other words, it’s not the law that they have to follow this?” Jean stated “not that she is aware of.” Councilman Truitt asked of Jean if fixed costs also include continuing maintenance. Jean stated “yes sir,” “reserves for continuing maintenance, not just ordinary maintenance, but eventual repair or rehabilitation of the system, as well as emergency repairs that cannot be anticipated both planned and unplanned maintenance.”

Mayor Baull asked if anyone would like to speak in favor of the resolution.

Bob Flowers, 31860 New St, “I don’t want to say that I like this thing that we are talking about, but I think it is the best way to deal with the situation.” “Our water system underground is getting some age to it, and if we don’t make money on our water system we are going to be in deep trouble in the next few years.”

Mayor Baull asked if anyone would like to speak in opposition of the resolution.

Jim Thompson, 29199 Shady Creek Lane, asked what everyone paid to Delmarva Power to be hooked up to the power, the monthly rate, he stated zero right? We have metered propane where I live, Sharp Energy, their charge is $9.95 a month and that is basically administrative costs (producing the bill, collecting the checks etc.) not $35 a month or $40 a month like it was last year. Just to give you an idea of how bizarre this proposal is in my eyes, what if there was one gas station in every town in Sussex County. Every gas station said you can have all the gas you want for $.60 a gallon. On top of that you have to pay a $350 a month base rate in order to get the gas at that rate. My point is, the way this system is being proposed; it shifts the burden of the costs of the water system to the small volume users, the 5-6,000 gallon user, and lets the big volume users 30-50,000 gallons pay basically nothing. Mr. Thompson proposed to the Council and audience “The Thompson Plan”. This plan would be a $10 per month fixed rate and one cent for every gallon used.

Pat Rice, 33559 Main St, asked if anyone talked to the Town of Frankford, and why are we so set on keeping the Town of Millsboro as our water supplier. Mayor Baull stated that we have a contract with Millsboro that runs to the year 2022. Frankford also has way too many problems, they provide their own water. Ms. Rice questioned if we had a contract with Millsboro why didn’t the contract state how much we were going to pay them? Mayor Baull stated that it did, however, they raised their rates in their last council meeting. Town Administrator Brought stated that they can and that they can raise the rates as needed. Ms. Rice asked if that nullified the contract. Mayor Baull stated, “no it did not nullify the contract.” Jean Holloway stated that Frankford has the highest water rate in the state of Delaware. Jean Holloway also stated also that Town of Frankford has the highest water rate in Delaware that she is aware of.

Councilwoman Ulrich spoke and asked Mr. Thompson, “you stated that your propane service was $9 something a month for the service and that is to cover expenses, but that is a small system.” Councilwoman Ulrich also stated that this is a large system. “Don’t you think our expenses would be greater; our costs to repair or replace the existing system wouldn’t deem fit to have more money?” “You are paying $9 a month whether you use a gallon of that gas or not.” Mayor Baull stated, “plus the propane company has thousands of customers and we have 430 to pull from.” Mr. Thompson stated that the lower the monthly fixed rate and raise the rate to $10 per thousand gallons for the usage. Jean stated the only problem with that was that it makes the town vulnerable to usage fluctuation and there is not a revenue stream stable enough to cover debt service and so forth. If you raise the rates from $4.15 to $10 people are going to conserve and your revenue is going to go down.

Jean Holloway read from the AWWA manual one section:

A cost of service approach to setting water rates results in the distribution of cost to each customer or customer class based on the costs that each causes. A dual set of fees fixed and variable is an extension of this cost causation theory. In light of the decreased predictability and increased volatility of variable or the consumption portion of water rate revenues many utilities are looking to increase the portion of fixed charge revenues.

Councilman Chandler asked Jean how many towns she represents, advises or consults for water rates. Jean stated she has 9 rate studies underway right now not including waste water rate studies. I have been teaching classes on how to set rates for about 20 years. Councilman Chandler asked, “are you aware of any towns, whether they are comparable in size to us or not, who do not have a base rate charge for capital costs?” Jean stated that she is not aware of any in Maryland or Delaware but there may be some. Councilman Chandler asked Jean if she would be at all surprised to learn that Georgetown charges a $35 base rate just like we do, and Jean stated, “not at all, and it is important to point out you were charging a $40 base rate and it went down by five dollars.” “Councilman Chandler also stated that Georgetown charges an additional $35 if you use more than 30,000 thousand gallons of water.” “I guess I am asking as much as saying, that the logic for that is that the very high end user perhaps puts more pressure on the infrastructure and therefore the base cost should be higher for that user. Jean stated that the higher end user has a larger meter and therefore is paying a multiple of that $35. The Town of Dagsboro has very few large meters. Councilman Chandler felt that if you went to a straight just charge for the gallons of usage, you can call it $.01 per gallon or the real number $.10 per thousand gallons, if you charge just for that, and not collect the base rate to cover the infrastructure cost, you run the risk that eventually people are going to be conserving water more and more because of the high cost per gallon, which means the revenue to the town will decrease proportionately as those users conserve, which means the town cannot pay the debt that it owes for the infrastructure that transports that water to everyone. Jean stated “absolutely” “I want to also point out that if that gallon of water costs $.89 that means it cost $890 for a thousand gallons.

Councilman Chandler motioned to close the public hearing. Vice Mayor Miller seconded the motion. All were in favor.

Councilman Chandler motioned to approve the Resolution to amend the water rates a fixed rate of $35 and $6.00 per one thousand gallons. Councilwoman Ulrich seconded the motion. All were in favor. Mayor Baull stated will be effective November 1st, 2019.

1. Approval of Minutes

September 18, 2019 (Regular Town Council)

September 18, 2019 (Executive Session Town Council)

Councilman Chandler moved to adopt the minutes for the regular session and executive session meeting minutes. Councilman Truitt seconded the motion. All were in favor.

1. Consent Agenda
   1. Police Department Report

Chief Flood stated complaints went up just a hair and with that investigative hours go up as well and with two of us that has been difficult, but we are managing. Also today was officially Tyler Bare’s last day on the books. Mayor Baull asked about finding a replacement. Chief Flood stated on October 5th we sent out a hire notice advertising for a certified police officer. As of today, I have two certified officers that have applied. We are going to send it out again with more information and a two week deadline on it to see if we can pull in more applicants. Vice Mayor Miller asked about scheduling. Chief Flood stated, “obviously it is a little difficult.” If you haven’t noticed on the weekends you probably don’t see a Dagsboro police car. Essentially with Nick taking over Harry’s duties and some of my duties he has to work a lot of day work and is working 9-5. Chief Flood also stated that he did go into the crime view to look, which tells us our peak times for complaints, and the peak times are Monday through Thursday during the day. We have both been working overtime until we can get someone hired.

* 1. Treasurer’s Report
  2. Administrative Report

Mayor Baull asked about the handicap sign issue. Town Administrator Brought stated that we still need to figure out where to go with that, if it is even possible to put some type of buzzer. Councilwoman Ulrich stated that she liked the sign where you could list the phone number and they could call. Town Solicitor, Greg Morris stated that his only concern was that we are assuming everyone has a cell phone and if they don’t, that could be setting up the town. Councilman Truitt asked, “if they are driving then shouldn’t they be somewhat mobile?” Mayor Baull stated that we will keep doing research on it.

Mayor Baull asked about water meter issues. Town Administrator Brought stated that she is going to have the software/hardware people come down next month to talk to us again. We still have some investigation to do, and she is not sure if they have a box that they can bring down, that they know works and figure out the problem. They could go out with Stacy and see if there equipment works versus ours. We are trying all the methods that they have asked, like cleaning off the glass on the registers and leaving the lid off, but it reads meters all around it, but not the problem meters. We have tried replacing registers, but nothing picks it up (example Mayor Baulls). Councilman Truitt asked if our software license is running out soon. Town Administrator Brought stated that she thinks we have a year at the max.

* 1. Economic Development Committee
  2. Building Official Report
  3. Code Enforcement Report
  4. Meeting Reports
  5. Water Department Report
  6. Prince George’s Chapel Cemetery Report
  7. Correspondence

Councilman Truitt made a motion to approve the consent agenda. Vice Mayor Miller seconded the motion. All were in favor.

1. NEW BUSINESS
   1. Summary and discussion regarding the meeting with the Town of Millsboro addressing water concerns on October 8th between Mayor Baull, Councilman Chandler and Town Administrator Brought.

Councilman Chandler stated that this was put on the agenda to share with the fellow council members as well as members of the public. As I recall, at the last council meeting someone suggested, “why don’t you meet with the Town of Millsboro and get some answers to some of the issues.” Councilman Chandler stated that the first issue Millsboro wanted to get clear about was, “what is the pink stuff that shows up in your toilet or bathtub,” because that came up at our last council meeting. The Town of Millsboro handed out a two page document from the Division of Public Health and the Office of Drinking Water and another document that is off the internet. The gist of this document is that it is not the water that causes the pink slime in your bathtub or in your toilet. The water is fine. It is an airborne bacteria, carried by the air, which gets in your water and causes that pink discoloration. It is harmless, it will not harm you, and it is not threatening. The only things you can do about it is make sure it is not floating in the air in your house and clean your bathtub and toilet religiously and you will not have the pink slime issue.

The second issue that the Town of Millsboro wanted to clarify for us was, with respect to the occasions when the chlorine level in the water in Dagsboro falls below what is the recommended chlorination level. That is explainable, in their view, by first the distance that the water has to travel from the Millsboro interconnect meter, where it delivers the water to Dagsboro, the distance is roughly a mile. I think that is what they told us from there to our water tank. Chlorine degrades the longer the distance it has to travel and the more the chlorine in the water degrades. Heat can also affect the pace of degradation of the chlorine in the water. For example in the summer months, the chlorine would degrade even more because of the heat, as well as the distance that it is traveling. Millsboro’s point was a fair one, that they are required to deliver to Dagsboro at the connection point, the proper chlorination in the water and so long as they are doing that from that point forward it is Dagsboro’s issue not Millsboro. The Town of Millsboro’s understanding, which apparently was correct, is that when the water system was installed in Dagsboro there was a recommendation from the public water system suppliers that we install in Dagsboro our own chlorine injection system at our pump house beneath the water tank behind the old fire hall. That injection system would make sure that the chlorine levels remained at the appropriate .3%, that it is supposed to be at in all water for safe human consumption. The first point Millsboro was trying to make is that they only have to deliver the .3% level of chlorine to the connection meter and beyond that it is Dagsboro’s problem and secondly that a chlorine injection system had been recommended for Dagsboro and has not, to this date, been installed that may be the remedy for any problems we are having in maintaining appropriate chlorination levels.

The Town of Millsboro raised an additional point about the usage of water in Dagsboro. They felt we used more water than perhaps we needed too. We pointed out that we are required to do flushing’s of our system in order to prevent the sediment from building up in the water and that this is what is recommended to us by the experts. We have to flush the system and flush hydrants periodically to accommodate that problem. The Town of Millsboro emphasized that they felt there was a lot of water usage being wasted because of this particular phenomenon in Dagsboro.

The Town of Millsboro expressed their view, which they feel they did not do anything improper as far as raising the water rate. They had raised their water rate in accordance with the law, they are entitled to raise their water rate, and that they had done so properly. They were not apologetic about the fact that they did not notify us about it until after they had already raised the water rate. They confessed and did apologize for the fact that they had forgotten that Dagsboro gets charged for water monthly. Millsboro charges all of its customers quarterly. When they raised the water effective July 1, they felt they had ninety days until the next quarter before that bill would be received by their customer and therefore they could send out a postcard after July 1 that would inform their customer before the bill actually hit. They recognized that they overlooked the fact that Dagsboro is not on a quarterly system, it is on a monthly system. Accordingly when they did that it meant that we got a bill before we ever got any notice from Millsboro that they were going to raise their rate. We asked why they couldn’t have informed us before July 1 when they were discussing the issue of raising their rates, and their position was that they couldn’t reveal that until the council had actually voted on it at a Town Council meeting because it would have been premature and inappropriate to reveal something to us that had been formally approved and voted on by their Town Council.

The final point was that they felt Dagsboro had been rather unkind in its comments about Millsboro and the way that they had raised the rates. They were hopeful that we would have been more kind, considerate, and gentle going forward with respect to any comments about why they raised the rates. Councilman Truitt asked if they ever explained why they raised the rate. Councilman Chandler stated that the only explanation heard was they felt that they had to raise the rate in order to meet their costs. They have increased demand and their costs are going up. They have five wells that are developed with three that are in active service.

Town Administrator Brought stated that we continue to have chlorination problems both last week and as of today. Millsboro did inform me at the end of last week that they had a bad batch of chlorine; Coyne was coming in to talk to them. It improved by Friday, but it is back down again today. It is not reaching the interconnect meter at the proper levels right now.

Councilman Chandler stated the only action items that came out of the meeting with Millsboro was that each side agreed to a couple of things. Millsboro agreed to test the water on a regular basis at the interconnect meter, to see exactly what the chlorine level is when it hits Dagsboro as that was there obligation. Dagsboro’s obligation was that we committed to investigating and trying to find out the answer to the question regarding a requirement that the town install a chlorine injector system in the town system, at the time of the installation, and were the actual monies appropriated and designated for that specific purpose. Town Administrator Brought has been investigating and talking to folks that were on the council back in 2004 and 2005, as this was before any of us were around. Kyle has been helpful in trying to track down exactly why the system wasn’t installed. Was it an optional thing? Kyle stated that if you install a chlorine injector obviously you have to have someone with proper training, someone to check that system every day to make sure that it is operating properly, just as Millsboro is, as an example, system doesn’t always work. They may put too much chlorine in the water, which is not good for your health; they may not put enough chlorine in the water, which is not good for your health either. You have to have the ability to hire someone with that qualification, who can check that meter and be sure that system is operating properly every single day. That may have had some bearing on the town’s decision back in 2004 or 2005 when this system was installed.

* 1. Part time maintenance person Joe Quinn

Mayor Baull stated Joseph Quinn started on October 8th, 2019 @ $18 an hour. He is replacing Bill Bryant due to his resignation. Joe will work the same schedule that Bill worked which are Tuesday/Wednesday/Thursday and also as needed basis. Town Administrator Brought stated that Bill was officially gone as of the 17th.

* 1. Notice of Solicitation of Candidates for Dagsboro Town Council Seats for 2020-2021 term.

Mayor Baull stated that the seats that are up for election this year are myself, Vice Mayor Patrick Miller, and Councilwoman Teresa Ulrich. Candidates interested in filing for a seat on the Town Council for the upcoming term must file their form at Town Hall no later than 4:30 pm on Friday November 8th, a two week publication is enclosed in the packets and the forms are available on the town’s website or at the town hall for anyone who is interested. Town Administrator Brought stated were a few on the table this evening if anyone would like to pick one up.

1. OLD BUSINESS
   1. Comprehensive Plan Discussion and Update (Cabinet Committee/State Planning Office extended our time to complete the plan to December 31, 2019) – Kyle Gulbronson

Kyle stated that last month the town went before the State Cabinet Committee on planning issues and discussed the time table for completing the comprehensive plan. They agreed that we did need until the end of the year logistically. Wednesday, Cindi and I go back up to Dover. The State has had their thirty day review of the draft plan. State agencies will give us comments back on the draft, hopefully nothing surprising or major. They then have thirty days to get their report back to us, which will be November. Hopefully, barring anything drastic or surprising from the State we should have the draft ready for adoption in December. Chairperson of Planning & Zoning Committee, Cathy Flowers, asked Kyle if Planning & Zoning has to review it again after the State reviews it. Kyle stated that in November we won’t have official written comments but Cindi and I will know on Wednesday what their concerns are and we will have a good understanding of what they are looking for.

1. PUBLICE COMMENT

Bob Flowers, 31860 New St., made a comment in regards to the meeting with Millsboro. They claim they are obligated to give us proper chlorine at the interconnect. He has checked the chlorine at the interconnect several times and it does not come close. Mayor Baull stated that we did discuss this with Millsboro and that it was a point of contention between the Mayor and us. She was sure that it was always meeting regulation and we showed that there were times that it was not. Councilman Chandler stated that we went head to head on that, which is when we got them to commit to measure at the interconnect every day. They are also looking into a chlorine detection measurement system, which will alert them when the chlorine is not at the required level. They are insisting as well that we have to do something on our end because it won’t be able to reach us, even though it does reach us.

Town Administrator Brought stated that Halloween is set for October 31st from 6-8 p.m.

Jim Thompson, 29199 Shady Creek Lane, stated that in order to cut costs perhaps you should have considered going to quarterly or semimonthly billing instead of monthly. Mayor Baull stated that we did quarterly billing before and everyone hated it. He also asked if because of the absorbent increase with the Town of Millsboro from $3 to $5.40, is it possible to renegotiate a long term debt or quarterly bond so that we aren’t paying out a hundred thousand dollars a year for debt service, especially since we are robbing money. Councilman Chandler stated that we are using money from one water account to another water account. Mayor Baull also stated that we are moving money from water impact fees to cover the costs because we are over our budget.

Councilman Chandler motioned to adjourn regular session to go into executive session. Councilwoman Ulrich seconded the motion. All were in favor.

Regular session adjourned at 6:58 p.m.

1. EXECUTIVE SESSION

Mayor Baull called regular session back to order at 7:12 p.m.

1. EXECUTIVE SESSION RESULTS

Councilman Truitt motioned to accept the two bids for demolition of the house located next to Town Hall and accept it as a gift from Councilman Chandler, (Mitchell Excavating for the demolition $10,500 and B&B Environmental for the asbestos removal for $4,170). Councilwoman Ulrich seconded the motion. All were in favor. Mayor Baull stated that the vote was 4-0 with Councilman Chandler abstaining from the vote.

Councilwoman Ulrich asked about the surveying. Councilman Chandler stated the surveyor had to know that the gift was accepted and then would proceed per his instructions. Councilman Chandler stated he will now set that up.

1. ADJOURNMENT

Councilman Chandler made a motion to adjourn. Councilman Truitt seconded the motion. All were in favor.

Meeting adjourned at 7:15 p.m.

Respectfully Submitted,

Stacy West, Town Clerk