

Minutes
DAGSBORO TOWN COUNCIL
Virtual
Monday, June 21, 2021

I. 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 William Chandler, Councilman Norwood Truitt, Councilman Patrick Miller, Councilwoman Theresa Ulrich, Chief Steven Flood and Town Administrator Cynthia Brought. See attached sign in sheet for other members of the audience.

II. PUBLIC COMMENT

No public comment was made.

III. COURT OF APPEALS

Property Taxes Fiscal Year 2021-2022 (Eric Piner – PTA Deval/Mayor and Council)

a. Determination on taxes for Anthony Lorenz Property - Woodlands

Eric Piner stated that there was one property appeal at the May 17, 2021 Town Council meeting, which was Mr. Lorenz of 29198 Shady Creek Lane. Mr. Lorenz had stated that his assessment should not have any land value due to the fact that his property is a condominium and not a townhouse. Mr. Piner stated that he reviewed Mr. Lorenz's deed and he is correct in the fact that he does live in a condominium and not a townhouse. He also reviewed the Declaration and Regulations in regard to the common elements. Being a condominium doesn't exclude the fact that there is an equal interest in the land value in the common elements, such as, parking lots, sidewalks and pool etc. In other words the land value would go away in the current format, but would become part of his equal interest in the common elements and would be expressed in the property improvements of his property record card, thus the overall improvement value would stay the same. Mr. Piner stated that his recommendation is to convert Mr. Lorenz's property from his current status as a townhouse to a condominium. The overall

value would remain the same at \$129,600. Mr. Piner stated that the other units within the Woodlands at Pepper's Creek should be changed to make them uniform. This change should take place next year since Town Council has already voted to accept the tax assessment for the current year.

Mr. Lorenz thanked Mr. Piner for looking into and straightening out the condominium versus townhouse situation. As far as the land elements and the value of the land elements, the Woodlands of Pepper's Creek is a very small development with 48 units (twin homes on nine acres and within the nine acres are also wetlands). He stated that they do not have amenities such as a pool, clubhouse, or playground. They have limited parking, with a limited sidewalk, streets that are not dedicated as of yet and therefore there is no Township responsibility as far as snow plowing or paving. The common elements themselves, the land is not developable and as he expressed before, part of the land is wetlands. The 48 homes, if you were to divide that by the nine acres, equals less than a fifth of an acre per unit. The condominium association does pay a tax ditch tax, which is part of their association dues.

He stated that as he expressed in his appeal, he felt the taxation in the town does not seem equitable for homes the same size. He is not attacking any individual or trying to hurt their property value, it is just for comparative reasons. For example, a property on Piney Neck Road that is 1.07 acres, three bedrooms and 1792 square feet is valued at \$97,000 by the Township with a \$543 tax bill. A property that is on Waples Street that is .89 acres is valued at \$111,000. There was a recent sale on Clayton Street priced at almost the same exact rate as Mr. Lorenz. He has 1650 square feet and they have 2250 square feet with a detached garage, four bedrooms, two baths and two and a half acres. He stated that he knows the Woodlands is a newer development and has newer residents, but he feels they should be taxed equally.

Mr. Piner stated that it is hard to compare townhouses to dwellings. He understood Mr. Lorenz's point, but part of the problem is that it has been so long since they have had a re-assessment and there are a lot of inequities that developed over time. This is one reason that the County is doing a general re-assessment of all properties over the next couple of years. He stated that the Woodlands is a newer development, which is also the reason for the inequity with an old home versus a new home.

Vice-Mayor Chandler stated that he had a question with respect to when was the last time that the Town did an assessment of properties. He stated that he believed the last time the Town did an assessment of properties was in the 90's, which has been a couple of decades, in terms of evaluation and rates that were used between the County and the Town. The County's rate was based off of an assessment that was done in 1976, almost five decades ago. This would be the difference with the two assessments.

Councilwoman Ulrich asked Mr. Piner who determines the assessed rate. Town Administrator Brought stated that the tax assessor does. He goes out and looks at the properties. Councilwoman Ulrich asked that if the homes Mr. Lorenz is describing were twenty or thirty years old versus the newer homes, if that wouldn't make a difference in the assessed value.

Mr. Piner stated that yes, it would depreciation wise. Normally there are different square foot rates for single family dwellings and townhouses. He stated the square foot rates were set at the last re-assessment in the 90's. Therefore anything built since then has been assessed at those rates. He stated that normally there are two sets of rates, one for townhouses and one for single family dwellings. The time period does create some inequities and then you add depreciation to something that was built a year ago versus something that was built 30 years ago. He stated that there are all kinds of variables that can affect the bottom line of assessments.

Councilman Truitt stated that he thought the assessed value was half of the purchase price. Mr. Piner stated that there is a percentage versus the fair market value. For example, if the fair market value is \$100,000 there is a percentage of that value that is taxed and he is not sure what that value is in Dagsboro. Councilman Truitt stated that he thought that if the purchase price was \$202,000, that would make the assessed value \$101,000. Mr. Piner stated that he doesn't know what the percentage is that they tax on. Just because something sold, that doesn't mean that individual sale makes the market. He stated it goes back to the rates at the last re-assessment not what it was sold for. That is why the County is doing another re-assessment as theirs is over 40 years old. There have been so many inequities and so many sales that the County assessments are a joke essentially because they are so low and so old they are nowhere near market value. Just because it sold at \$100,000 or \$200,000 it doesn't mean that you change that assessment.

Councilman Miller stated that he realizes the market right now is crazy and a house built on Waples just listed for \$355,000 but for Mr. Lorenz to think that his property is only worth \$109,000, he felt it is way under the assessed value.

Mr. Lorenz stated that the reason he feels his property should be assessed lower is because it is a condominium not a single family home and not on a piece of land. He stated that he knows that the common elements were discussed and the condominium association is already paying a partial tax on the tax ditch, but he doesn't feel his property should be in the same ball park as the property on Waples Street.

Mr. Piner stated that his recommendation is that the property remain at the current value of \$129,600. The land value of \$20,000 should be moved to the property improvements on the property card and convert it from a townhouse to a condominium.

Councilwoman Ulrich asked Mr. Lorenz if she was correct in that he felt he should not be assessed the \$20,000 for the land. Mr. Lorenz stated yes, that is how he feels as it is undevelopable land. She asked if the COA pays a tax on the land. He stated he is not sure but knows that they pay on the tax ditch. She stated if they don't pay on the land, someone would need to, which carries over to each individual homeowner. Mr. Lorenz stated that is true, but his point is the land has negligible value because you cannot develop it as well as not having any amenities to increase that value.

Vice-Mayor Chandler motioned to approve Mr. Piner's determination on Mr. Lorenz's taxes with assessment remaining at the current value of \$129,600, making the change \$20,000 land value being moved into property improvements on the property card and converting it from a townhouse to a condominium. Councilwoman Ulrich seconded the motion. All were in favor.

Mr. Lorenz asked what rights he might have to go further with the determination if he chose too. Town Administrator Brought stated that she doesn't know of anything personally, as we have already gotten a professional opinion and she is not sure where else to go with it. Mr. Lorenz asked if the Township will be doing a re-assessment. Mayor Baull stated that the County will be doing a total re-assessment. Town Administrator Brought stated that the Town has no plan to do a re-assessment as of now. Mr. Lorenz questioned that since the County is doing a re-assessment, why the Township would not go by that re-assessment. Town Administrator Brought stated that they do not use these assessments because the town has their own private tax assessor. Mr. Piner stated that the Town could use the County's re-assessments. Town Administrator Brought stated that we could but the Town Council would have to make that determination. Councilwoman Ulrich stated that there was an article in the Cape Gazette in regard to the re-assessment for Sussex County. The amount of the re-assessment for the County is nine million dollars to re-assess 182,000 homes.

Mr. Lorenz stated that his point is that the Township is not taxing equitably. He stated he has to live by the Council's decision, but does not agree with it because of the amount of property and land they live on.

IV. APPROVAL OF MINUTES

May 13, 2021 Special Meeting Executive Session

May 17, 2021 Town Council Meeting

June 02, 2021 Special Meeting Executive Session

Councilman Miller made a motion to approve the minutes as submitted. Councilman Truitt seconded the motion. All were in favor.

V. CONSENT AGENDA

a. Police Report

Chief Flood stated that we had a couple of good months with low accidents and it has started to creep back up. They thought it would happen with summer time season and it is not uncommon. He had his first meeting for Dagsboro Night Out a couple of weeks ago and they are planning to move forward with that. He will keep everyone informed as it arises. Town Administrator asked if it was planned for October. Chief Flood stated yes, as it will be cooler and kids will be back in school. Corporal Glaeser started last week.

b. Treasurer's Report

c. Administrative Report

- d. Building Official Report
- e. Code Enforcement Report
- f. Meeting Reports
- g. Water Department Report
- h. Prince George's Chapel Cemetery Report
- i. Correspondence

Town Administrator Brought stated that she met with John Thaeber from Artesian in regard to the CPCN because Kyle had some questions on it. Mr. Thaeber reviewed it with Town Administrator Brought and basically in the Interconnection First Agreement Section 1.3 with Artesian allows them to prepare for the probable annexation but they don't actually serve them water. There are people requesting water since they know Artesian is coming in therefore this is a matter of prep for future expansion.

Vice-Mayor Chandler stated that logically he doesn't see a problem with Artesian serving whomever they want to serve and that doesn't mean that the Town has to annex anybody for Artesian to give them water service. He is not sure there is an issue.

Town Administrator Brought stated that she did receive a letter of resignation from the Duane Kenton, the Finance Clerk. She stated that she had moved forward with doing interviews and has sent a formal letter to Raymond Wilson to fill the part-time position of 20 hours and he agreed to accept the position at \$16 an hour. He does have to submit a two week notification and would start with the town probably after the Fourth of July, July 6th.

Councilwoman Ulrich stated that the T-light is very confusing with a red light and a red arrow. Town Administrator Brought stated that until she sees it work, she has no idea. She stated that Mayor Baull suggested maybe providing a little video once it is up. Councilwoman Ulrich stated that it really does not make sense to her and she would like to talk to DelDOT. Chief Flood stated that he is confused as to how it will work, but he did come through there last evening around 6 p.m. and it seemed to navigate to a green arrow pretty quickly. Town Administrator Brought stated the part that is confusing to her is that they are removing all the signage, and installing t-lights, but she doesn't understand how they work at this point. Her interpretation of it is that when someone is in the crosswalk everything will be red. Vice-Mayor Chandler stated that he agreed with Town Administrator Brought's interpretation. He felt you should only get a green arrow to turn right from Clayton onto Main when there is no one in the crosswalk permitting anyone to cross. Then when there is a pedestrian there crossing Main Street at that crossing that turn light will be a red arrow. He agreed that the signage is confusing and maybe it will get better but right now he doesn't understand it.

Councilwoman Ulrich made a motion to approve the consent agenda as presented. Vice-Mayor Chandler seconded the motion. All were in favor.

VI. NEW BUSINESS

- a. July 1, 2021 – June 30, 2022 Artesian Licensed Operator Contract Review and Possible Approval

Town Administrator Brought stated that the monthly service fee increased \$57.55 and everything else stayed the same although the contract itself is up \$690.60 from last year.

Councilman Miller made a motion to approve the Licensed Operator Services contract from Artesian for the Town of Dagsboro as presented in the amount of \$12,033.12. Vice-Mayor Chandler seconded the motion. All were in favor.

- b. Meeting With Greg Tobias, Ocean Atlantic Companies & Zac Crouch, Davis, Bowen, Friedel, to discuss Dagsboro Property – Schell Brothers (Highlands Peppers Creek) on June 9, 2021 (Cindi Brought, Greg Morris, Kyle Gulbranson)

Engineering Consultant Gulbranson stated that they met with Zac and a representative with Schell Brothers to discuss a potential residential development, which was on the lands of General's Green on Clayton Street and it also incorporates the Riverview Associates land, which is north along Rt. 20. The meeting with the Town was to discuss zoning, annexation, and utilities. They are developing a Conceptual Plan and are doing the due diligence work to see if the numbers work to do this project. The project would include over 500 homes, both single family and townhouses. He stated that 162 acres are already in the Town of Dagsboro and the remainder of the property is in the County and they are interested in annexation of those properties into the Town of Dagsboro. The way the Conceptual Plan is laid out at this time, and could change, it would be 296 units in the Town of Dagsboro and 278 units in the County and both sides of the property would be a mix of single family homes and townhomes. We discussed the annexation process and the current zoning on the property in the Town of Dagsboro portion of the property. He stated that if they do move forward they would do the development in the phased approach and would start with the phase with the property in the Town of Dagsboro since there is no annexation requirement, the zoning is in place and the utilities all come in off of Clayton Street.

Overall the project would include a clubhouse, pool, possible train museum, and since they want to incorporate the agriculture heritage of the area they would like to have community gardens and some type of agricultural amenity, but are unsure at this point what that would be. He stated it is a very large project and they stated that they had 90 days to decide whether to move forward or not based on the County and the Town.

Engineering Consultant Gulbranson stated that they also found out that Zac Crouch, Davis, Bowen, & Friedel, is also working on the Highlands of Pepper's Creek project, which is next door on Clayton Street. They approached us a couple of months ago about revamping that project, which was a mix of single family and townhouse units. They have gone back and did some environmental work on the site and the actual area of wetlands has expanded since the initial delineation was done about ten years ago. Based on that, they have lost some acreage and will come back to the Town with a plan for the Highlands,

which will be all single family homes and no townhouses. He stated there is a lot of potential development coming towards us.

Town Solicitor Morris stated he felt at the meeting they were trying to get a feel if the Town Council would be in favor of the annexation, which no answer could be given as it hasn't been presented to the Council. He felt they also wanted to know the procedure that would take place with any plans and Kyle formally told them that it had to go through the preliminary review and then to the Council. He stated that the other issue they were concerned about was the cost the Town would be passing on, which Kyle addressed during the meeting as well.

Councilman Truitt asked if General's Green was a cluster development. Town Engineer Gulbranson stated that it was not, that property was never designated as a cluster development. Councilman Truitt asked what the minimum lot size would be. Kyle stated that it is a RPC and the minimum lot size would be 7,500 square feet for a single family home.

Vice-Mayor Chandler asked why annexation was important to them. Town Engineer Gulbranson stated that it sounded like the main reason for the annexation is they wanted to be part of the Dagsboro community and the fact that the approval process from the County is taking so long now, that it would probably be several years before they would get any approvals. The County is behind in development reviews right now.

Vice-Mayor Chandler asked Kyle how many EDU's are available in the Frankford/Dagsboro sewer plant facility for Dagsboro. Kyle stated that he did raise that question to them and they were going to look into that because he felt that sewer was going to be their main issue to deal with and they had not talked to the County at that point.

Vice-Mayor Chandler stated that his observation is there is nothing before us to take a position on until we have something formal from them. Kyle stated that he is correct and it was a very Conceptual Plan that they were presenting. They still have to go and have conversations with all of the agencies and as we all know DeIDOT will probably be an issue for them, as well as the County for sewer capacity.

VII. OLD BUSINESS

a. Tree Cemetery/Ward Lane – Update (Cindi Brought)

Town Administrator Brought stated that she spoke with the Cemetery committee and they are going to take money out of a CD that is just turning over to cover the cost of the disease control and the pruning.

b. Agricultural Ditch Behind Bodies/Clayton Theater (Cindi Brought)

Vice-Mayor Chandler asked Town Administrator Brought the status of the ditch behind Bodies and the Clayton Theater. She stated that she met with DNREC Water Shed Division. The only quotes she received were both for \$10,000 and the DNREC Water Shed Division stated that their only concern is if

the water was not flowing through there and they felt like it was so therefore they will not assist on the issue. Their main goals are Storm Water Management and drainage. They kept referring to the issues in Prince George's Acres and other areas in the town that have Storm Water drainage issues. They did state that they felt the ditch behind Bodies and the Clayton Theater is the only agricultural ditch within the town. Vice-Mayor Chandler asked if either of the quotes received were from Mark Theriault and she stated no, but would like his information and she will contact him.

VIII. PUBLIC COMMENT

Anthony Lorenz, 29198 Shady Creek Lane, stated that he hated to beat a dead horse, but if the County is going to re-assess why wouldn't the Township use that re-assessment or a percentage of it and save the cost of re-assessment. He stated that eventually it will have to be done and the longer it is put off the more it will cost. The town is losing revenue; there would be more money for the town to beautify itself.

In the Town Charter Section 24 on the assessment of taxes, it states that the tax assessor shall 90 days prior to the beginning of the next fiscal year make a just, through and impartial annual evaluation of all real property and improvements located thereon within the Town of Dagsboro.

Vice-Mayor Chandler, speaking as a member of the public, understands Mr. Lorenz's point and if you look carefully at the reason why the County has recently been forced by a Court Order from the Court of Chancery to undertake a re-assessment is because there are vast inequities in the assessment of properties all over the State of Delaware. He stated that he personally agrees with it because he lives in Dagsboro and the County assesses his property and charges him over \$1,000 for his property tax for the privilege of owning property in Sussex County in a home that is over 100 years old and sits on Main Street in Dagsboro. At the same time there is a home owned by an individual well known to everyone in Dewey Beach that is valued at over \$2 million dollars, which was the purchase price, and it has water access and the property tax paid to the County is less than \$400 per year. There are inequities and hopefully the County will assess properties in a way that is fair, just and reasonable throughout the County and all will pay their fair share for the services that each receives for the benefits of living here. Don't feel like you are alone on your point about inequity. For the point you made about the Town using the assessments that the County finally comes up with, which will take years for them to do, your comment is premature to decide that. When the time comes, he agreed that the Town should evaluate what they come up with and there could be reasons for differing with them.

Mayor Baull welcomed the Blood Bank of Delmarva and stated that they had the ribbon cutting a couple of days ago at their new location in Clayton Crossing. Mayor Baull, Councilman Truitt, Town Administrator Brought and Town Clerk Stacy West all attended. It is a very nice facility and if you have not given blood yet please consider doing so as it is in our backyard.

IX. ADJOURNMENT

Councilwoman Ulrich made a motion to adjourn. Councilman Miller seconded the motion. All were in favor.

Meeting adjourned at 5:50 p.m.

Respectfully Submitted,

Stacy West, Town Clerk