

Minutes
DAGSBORO TOWN COUNCIL
Bethel Center
Monday, September 18, 2023

I. 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 Theresa Ulrich, Councilman William Chandler, Councilman Norwood Truitt, Councilman William Labor, Town Administrator Cynthia Brought, Chief Steven Flood, Sgt. Nicholas Disciullo, Town Solicitor Greg Morris and Engineering Consultant Kyle Gulbranson. See sign in sheet for others in attendance.

II. PUBLIC COMMENT

Ed Burton, of 28380 Clayton Street, stated that he would like to commend the Dagsboro Police Department for monitoring and enforcing the speed limit on Clayton St. He added that they are present on a regular basis during the week/weekends and at various times throughout the day.

Emily Gaither, New Membership Manager for The Bethany-Fenwick Area Chamber of Commerce, stated that she wanted to introduce herself and plans to attend Council meetings often. She added that she is available if anyone needs anything from the BFACC.

Mayor Baull announced that he would like to announce that Wayne Bowden, Lifetime Member of the Dagsboro Volunteer Fire Company, was awarded as 2023 Sussex County Fire Police Officer of the Year. He stated that the Town of Dagsboro would like to present a Certificate of Appreciation to congratulate Mr. Bowden on his achievement and thank him for his dedication to the citizens of Dagsboro. He added that when the Town has events, Mr. Bowden is always available.

III. APPROVAL OF MINUTES
July 17, 2023 Town Council Meeting

Councilman Labor made a motion to approve the Town Council Minutes as presented. Councilman Truitt seconded the motion. All were favor.

IV. CONSENT AGENDA
a. Police Department Report

Chief Flood stated that the stats for July and August were included in the packets. He added that the two new Durango's have been delivered and one is currently being marked. The vehicles are both scheduled for upfitting, and he hopes to have them back and ready to use in December.

He also stated that the Police Department is looking to obtain duty phones that will help when Town Hall receives calls for the Department, and no one is in the office. These phones can be used for calls that are not a 911 issue, and Town Hall would be able to give the phone number out for them to respond to. Chief Flood added that the duty phones would be through First Net, and they would have priority service in case there is a natural disaster, hurricane, or snowfall and have loss of power. These phones would be on First Net's system and would not lose cell service. He also added that these phones have worked well for other local police and fire companies.

Chief Flood stated that DelDOT installed three new cameras to monitor traffic in Town and are live feed only but hasn't seen them available online yet. Mayor Baull asked if the cameras would be there permanently. Chief Flood replied, "That is my understanding."

Chief Flood stated that this past summer they had discussed having In-Car Cameras installed in the police vehicles and at the time they weren't sure how they would pay for them. He stated that they were able to obtain grant money and with that, the first 2.5-3 years will be paid for. They were able to pay \$45,0000 towards the \$77,000 that is owed and won't have to worry about making any other payments for about 3 years and felt confident that they would be able to cover the balance with other grants.

He also stated that they went to an Office of Highway Safety meeting in Dover and OHS would be offering multiple grants due to the number of deaths on the highways. The Department will be working more overtime hours that focus on highway safety.

Councilman Chandler stated that from looking at the July stats, it was a busy month for the Police Department. Chief Flood stated that July and August are busy months for accidents and a lot of the tickets were for speeding, cellphone, and distracted driving.

- 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**

Mayor Baull asked what amount the Town received for Municipal Street Aid this year. Town Administrator Brought stated that they received \$21,288.69 which was less than last year.

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

V. PLANNING & ZONING REPORT

Layfield Property Preliminary Approval Recommendations

Engineering Consultant Gulbranson stated that the P&Z Commission met on Sept. 7, 2023, and recommended Preliminary Approval for the Layfield Subdivision RTC and the applicants are here this evening to discuss their plans.

Cathy Flowers, P & Z Commissioner, stated that safety concerns were discussed about having only one entrance on Clayton Street with of the number of homes being proposed.

VI. NEW BUSINESS

MAYOR BAULL CHANGED THE ORDER OF THE AGENDA TO ACCOMMODATE CHRIS BASON WITH THE ORSTED SKIPJACK WIND PROJECT PRESENTATION.

a. Orsted Skipjack Wind Project Presentation

Chris Bason, Stakeholders Relations Lead for Orsted, gave a power point presentation on the Skipjack Wind Project. See attached pamphlet.

Councilman Labor asked when the lines have been completed, would Orsted become the supplier at that time, or the current supplier would still handle the billing? Mr. Bason stated that Orsted has a financial arrangement with the State of Maryland, and they have laws to meet certain renewable energy targets and this project is producing renewable energy credits for the State of Maryland. Councilman Labor asked for confirmation if there is a windfarm in Maryland already, since you mentioned that this one is for Delaware. Mr. Bason replied, "No, this is the only project." Councilman Labor asked if there were studies available from the last mile providers that shows what the kilowatt supply charge is before and after the project?" Mr. Bason replied that there is a blended average between two projects that they bid on for State of Maryland which is about \$.08 per kilowatt hour for a residential customer and in the most recent Maryland Legislation they had a rate payer cap which states that for this project and US Wind Project, it would not be more than \$.88 on a rate payers bill in Maryland per month and there is not impact to the State of Delaware's rate payers bills for this project.

Vice-Mayor Ulrich asked, "Does this project benefit Delaware?" Mr. Bason replied, "Yes, very much." Economically it will be being jobs to the area, over 400 million economic impacts, and when the green power comes to the grid it would lower the energy rates in the area due to the low cost of the energy.

Engineering Consultant Gulbranson stated that on the map where it shows potential testing locations, it seems to show that there are two locations that are close to Prince George's Cemetery and Chapel, which is a State Historical Site and could be a problem. Mr. Bason stated that they did identify that space and would not be pursuing that location.

Councilman Chandler asked for confirmation that the sample testing locations come down Vines Creek Rd. and then go up Main St. and that these are sites that there would be drilling and testing done. Mr. Bason replied, "That is correct." Councilman Chandler asked if these would be permanent or removed after the testing. Mr. Bason replied that the work for each site is temporary and lasts about one day per location and the area will be restored to its normal state except for Katie Helm Park, which is where they would put a temporary ground water monitoring well in and the well would be there for a year. Councilman Chandler asked if there is a description of where the underground cable would go. Mr. Bason replied, "That is still under development and the final location of the cable would be determined by the results we come up with and whether the cable can be placed here." Councilman Chandler asked for confirmation on the section of the presentation where it was mentioned about the potential climate, health benefits and how many short tons of CO2 would be produced, would this be annually or the life of the project? Mr. Bason replied that it would be for the life of the project. Councilman Chandler asked if he had deducted that from that the amount of contribution to CO2 that is caused by the construction project itself. Mr. Bason stated that it is a net number and accounts for the emissions that would occur during the construction of the project and the decommissioning of the project and is projected for a 35-year life cycle project.

Councilman Chandler asked what permits/applications need be made to the Town of Dagsboro to act on and when would this happen, and what is the turnaround period for it. Mr. Bason stated that he is committed to keeping the Town informed and if the Town would like to provide access to Katie Helm Park, then he would work with the Mayor and Town Administrator on what that would include. He added that he doesn't know the answer to Mr. Chandler's question right now but would be working with the Town Council to see what permissions are needed and would need permission from the State of Delaware and likely Legislation would need to be passed.

b. Layfield Property Preliminary Approvals – Presentation DBF & Schell Brothers Rep Town Council Review, Discuss, Possible Vote on Preliminary Approvals (237 single family/townhome mix development along Clayton Street)

Jon Horner, Attorney for Schell Brothers, introduced himself, Zac Crouch, Engineer for Davis, Bowen & Friedel and Greg Tobias, Schell Brothers Land Acquisition. He stated that they are seeking Preliminary Approval for the Layfield Property and have previously been before Council three other times during different stages of this project to get feedback and review. He added that they can answer any questions on code compliance.

Zac Crouch, of DBF, stated that about six months ago, a Concept Plan on the project was presented to the Town Council and they addressed the comments/concerns from the Town Council from that meeting. He added that they have completed the PLUS meeting and Traffic Impact Study. Mr. Crouch stated that the plans presented at the meeting include the completed items addressed by the Council which include the reference to overflow parking for the townhouse residents, special events and guest parking, etc. and have added 7 additional areas for overflow parking. The Town Code requires two parking spaces per unit, and additional parking lots have been provided for a total of 596 parking spaces.

Councilman Chandler asked for confirmation that 474 spaces are required for the units, which leaves an additional 122 spaces. Mr. Crouch replied, "Yes, that is correct."

Mr. Crouch stated that there are two stub streets shown for a future connection point. He added that there would not be any access from these streets, but they would like the connection for future growth as well as the cul-de-sac which is needed for Fire Department access. Engineering Consultant Gulbranson stated that this would also be a temporary construction entrance. Mr. Crouch replied, "Yes," and they would request a construction entrance off of Dagsboro Road and all the construction equipment/traffic would use that entrance. Councilman Chandler asked where exactly the construction entrance would be located off of Dagsboro Road. Mr. Crouch stated that it would be north of the railroad tracks.

Councilman Labor asked if there would be any chance of making the construction entrance a permanent entrance. Mr. Crouch replied, "No," but the goal is to construct the north part of the property also, which would have a different entrance from this one.

Mr. Crouch stated that the plans show additional open space, including a walking trail with a road that already separates two existing wetlands and a gazebo with a sitting area for residents. He added that there are plans for a pool/clubhouse, bocce/pickleball courts, etc. which would bring the total open space to over 7 acres. One of the concerns with the open space was the number of trees that would be removed. The plan shows preserving 73% of the trees. Councilman Chandler stated that after reading the PLUS Review, DNREC's recommendation, because of the medium potential for precontact resources in the forested area, that an archeological survey be completed since the land has been undisturbed for so long. He asked, "Has this been completed, or will it be completed?" Mr. Crouch replied, "No," there was one place on the far side of the overall big project, but it was noted that there are no known archaeological areas. Councilman Chandler stated that it does state that there is a medium potential for things to be found, which is why they recommended it. Mr. Crouch stated that he sees the same comment on numerous PLUS applications and feels like it is a standard comment and they specifically requested maps that show where sightings were at and there are no studies that have occurred. He added that archeological studies are very in depth, and it is only a recommendation.

Councilman Chandler stated that because of the maturity of the trees, DNREC also recommended an assessment of which trees could be removed and which ones should be preserved. Mr. Crouch stated that this is one reason why when they develop the land, they would keep most of the trees in the wetlands and on the outskirts on the plan shown.

Councilman Chandler asked for confirmation if there is anything showing in the plans about planting trees elsewhere to compensate for the trees that will be removed. Mr. Crouch replied that it is not showing in the plans currently but would be included at Final Approval when they present the final landscape plans.

Mr. Crouch stated that another concern was in reference to the buffers and identified the buffers on the plan which are required every 100 ft. and would be detailed on the final landscaping plans at Final

Approval. The lighting plans would be included in the final plans since the utility company doesn't look at the plans until Final Approval.

Mr. Crouch stated that the Tax Ditch along the perimeter of the property has been reduced to 25ft. from top of bank. He added that the area where the entrance is located at, has not been reduced but they would be requesting it be reduced to 25ft. from top of bank. He also stated that they would have to go through the process to have this completed. Councilman Chandler stated that every tax ditch is routinely cleaned out every 4-5 years and after the developer has completed the project, it would get turned over to the Homeowner's Association and it would be their responsibility to maintain it. He asked how an excavator would be able to get in with a 25 ft. right of way and where would the spoil be deposited at? Mr. Crouch stated there would be 25ft. on each side. He added that the purpose of a tax ditch is to help with drainage and when they were created, they had an 80 or 120 ft blanket easement and the reason the tax ditches need to be cleaned out is because of farming. Mr. Crouch stated that 25 ft. is adequate room to complete the maintenance on the tax ditches. He added that when fields are not being farmed and tilled, there is less waste ending up in the tax ditches and less maintenance is required. Councilman Chandler stated that they can agree to disagree because Cea-Dag has a 25 ft. right of way for their tax ditches and the excavators are not able to clean out their ditches and now there is flooding in the development. He added that a solution to this is to have a parabolic ditch with a green grass way on each side so the grass can be mowed and there is room for the excavator to come in every 4-5 years to clean it out. Mr. Crouch stated that in two separate communities, they have cleaned out the entire ditch from start to finish and this makes it easier to maintain because it removes all the waste from the beginning including trees. Councilman Chandler stated that he feels there is a way to do this, but it must be planned out and done correctly with the parabolic ditch. Mr. Crouch stated that he has concerns about the parabolic ditch but agrees with having the entire ditch cleaned out in the beginning. Mr. Horner stated that they can have it added in the HOA Covenants that there are easements and requirements and that no trees can be planted in that area. Councilman Chandler stated, "That would help a lot." Mr. Horner replied that they could add that as a condition.

Mr. Crouch stated that everything else is addressed on the plans and the Town has received letters from Engineering Consultant Gulbranson. He added that he feels the plan meets the Town's requirements with notes added and having the tax ditches cleaned out as part of their SCD Approval. Councilman Chandler asked for confirmation that they had not received SCD Approval as of now. Mr. Crouch stated, "No, that will be part of Final Approval." Councilman Chandler asked if they have gone through the Court Ordered Change Process. Mr. Crouch replied, "No," the process is to submit the plans to SCD because that is part of their approval process, and the SCD forwards them to the drainage assessment, and then the drainage assessment starts their review and then a combined review with the SCD and Drainage Assessment is completed. He added that once they are both satisfied, then the Court Ordered Change Process would begin.

Ed Burton stated that his property is at 28380 Clayton Street and asked what the light blue section, north of his property is showing on the plans. Mr. Crouch replied, "Open space." Mr. Burton asked, "What is that little line north of my property?" Mr. Crouch replied that the property ties into Clayton

Street and there is 30-40 ft. between Mr. Burton's property and the Highland Height's property. Mr. Burton stated that he would like to know how wide the piece of property is and who owns it. Mr. Crouch stated that it is 19.73 ft. and is owned by Schell Brothers according to the County Tax Map. Mr. Burton asked, "What impact do you foresee this project having on my property?" Mr. Crouch stated that his property is 200 ft. from where the construction will start, and there will be a buffer on the side of the lots. Mr. Burton asked for confirmation that the houses to the left of the entrance would be single-family homes. Mr. Crouch replied, "Yes, Sir." Mr. Burton stated that he did not see much detail about the acceleration lane for the entrance. Mr. Crouch stated that the entrance would require a protective left and a right turn lane. Mr. Burton asked if there would be an impact on his property. Mr. Crouch stated, "No, because there is a right turn lane on his side, and they are not shifting the road over." He added that the right turn lane is 175 ft. and would not come down to Mr. Burton's property.

Councilman Chandler stated that there is a small amount of wetlands that is being disturbed by this project and asked if they are required to receive a permit from DNREC or the Corp of Engineers. Mr. Crouch asked, "What wetlands are you referring to?" Councilman Chandler replied that he doesn't know but was referring to the PLUS Review and it says that there is about a ¼ acre of wetlands being disturbed. Mr. Crouch replied that first they had the PLUS Meeting, and then came to the Town Council meeting and since that time the plans have changed. He explained where all the buffers would be and that they would not be touching the wetlands. Councilman Chandler asked how many acres of the open space are considered stormwater retention ponds? Mr. Crouch replied, "Twelve acres of stormwater management." Councilman Chandler asked if that was included in the 60 acres of open space. Mr. Crouch replied, "That is correct." Councilman Chandler asked how much of the wetlands is considered open space? Mr. Crouch stated that there are 8.2 acres of wetlands. Councilman Chandler stated that would leave 40 acres of usable open space and that the Town has requirements for passive and active amenities and asked if there were any other amenities besides the pool/clubhouse, bocce/pickleball, etc. for residents to occupy themselves. Mr. Horner replied that there would be walking trails, benches, and a gazebo. Mr. Crouch stated that there is a walking trail through the wetlands that is already there which makes it a natural feature without needing any permits. Mr. Horner stated that the Town Code limits 25% of the open space for stormwater ponds and they are under that limit.

Councilman Chandler asked for confirmation that there is a 30 ft. buffer from the edge of the wetlands. Mr. Crouch replied, "That is correct." Councilman Chandler stated that DNREC is recommending that be extended to 100ft. Mr. Crouch stated that it is a recommendation not a requirement. Councilman Chandler stated that in the PLUS Review letter, it stated that there needs to be a jurisdictional determination conducted on this site to flag all the wetlands and boundaries of those wetlands to determine what impact would occur to them. He asked if the jurisdictional determination was completed or is it not necessary? Mr. Crouch replied, "It is not necessary," but they do have a wetlands consultant, ERI, and all the flags shown are on the preliminary plans and ERI will be signing off on the plans. Councilman Chandler replied, "That hasn't been done yet?" Mr. Crouch stated that it has been done. Councilman Chandler stated that DNREC must approve it and sign off on it. Mr. Crouch replied, "No, they don't." Mr. Horner stated that if the wetlands were being disturbed and required to have permits then the jurisdictional determination process would need to be completed. Because the

wetlands are completely undisturbed on this project, they are required to delineate them and there is no requirement for jurisdictional determination. Mr. Crouch added that they would be having the Wetlands Consultant, which is certified, sign off on the plans.

Councilman Chandler asked if the SCD has approved the stormwater plan for this project or is that submitted later? Mr. Crouch stated that they would be setting up a pre-submittal meeting with them to complete the process.

Councilman Chandler asked if the project would be serviced by gas or electric or both. Mr. Crouch replied, "Both." Mr. Horner stated that if it is available, natural gas would be their preference.

Ed Burton asked if there were any plans to use the blue strip of land that is north of his property for construction or as part of the entrance. Mr. Horner replied, "No, it would be open space." Mr. Burton replied that he could keep cutting the grass. Mr. Horner stated that if it doesn't interfere with their open space calculations, they could possibly give Mr. Burton that small piece of land. Mr. Burton stated that he would be open to negotiating that.

Councilman Chandler stated that the PLUS Review recommends that solar panels be installed for this project. Mr. Horner stated that Clean Energy USA is the largest supplier of solar energy in Delaware and hopes that every single homeowner buys solar. He added that they have been trying to push for better community solar laws to allow for community solar systems but it's hard with the legislative requirements.

Councilman Chandler asked if they would be supplying recycling dumpsters. Mr. Horner replied that most trash services offer recycling to their customers.

Councilman Chandler stated that he was sure that Mr. Horner is familiar with Senate Bill 103 for electric charging stations for electric vehicles at every home and townhouse. Mr. Horner stated that it is a requirement for EB Infrastructure, and you don't have to have the charging station in place. He added that they were able to negotiate into the EB Charging Bill, that it would be sufficient for you to have the ability to install an EB Charger if there is a breaker box in the garage and if there is not a breaker box in the garage, then conduit would need to be installed. Councilman Chandler asked why they couldn't have super chargers installed in the overflow parking area. Mr. Horner stated that the main reason is the cost, and it would be something that the HOA would have to maintain long term and the HOA would have to pay for having them metered separately. He added that he feels that it is sufficient for residents to be offered to have it at their home and if they choose not to, they have the structure to do it later.

Councilman Chandler stated that Bill 246 isn't a law yet but would increase the size of the buffers for any kind of stream or water way to 300 ft. Mr. Horner stated that he is familiar with it but does not expect that to ever become law because it is overly broad and virtually makes all of Sussex County undevelopable.

Councilman Chandler referred to General Notes #1, 2, 3 and 9 and stated that it should be revised to include, "The Town of Dagsboro has no responsibility" on each of these. Mr. Horner replied, "I have no problem with that." He added that as part of the Final Approval, they would submit drafts of their Covenants and will clearly state the maintenance obligations for open space, stormwater management, etc.

Councilman Chandler stated that he feels that a project of this size, entering/exiting on a very busy street that is very close to the DVFD, Royal Farms and the intersection at Rt. 113, needs another entrance/exit. He added that DeIDOT is allowing them to have a construction entrance and feels that they should give them the right to access the property from Dagsboro Rd. as well as Clayton St. He asked, "What effort has been made to persuade DeIDOT?" Councilman Chandler stated that the Town was not present at the PLUS meeting but would be willing to approach DeIDOT with them to let them know that this is going to be an issue in the Town of Dagsboro. Mr. Crouch stated that the Town was present for the Scoping meeting for the Traffic Impact Study where they went over what they needed to study because that is where these issues are presented. Mr. Horner stated that it would be an issue since the construction entrance falls on Sussex County land and would complicate the project because it is not annexed into the Town, and they would have to go separately to Sussex County for a whole set of subdivision approvals. He added that he believes that in the future, the second half of the property will be developed and have a second entrance. Councilman Chandler stated that he had hoped that Schell Brothers, in an effort to demonstrate their good will and faith towards the Town of Dagsboro, were going to develop the second half of the project as a park for the Town of Dagsboro citizens and this would be a great way to help the environment and a way to convince everyone that this a great company that does great things for local communities. Mr. Horner stated that he firmly believes that Schell Brothers is a great company that does great things, and no other company can compare to what they do for the community. He added that they are a local builder and the money stays in the community to go to local families and businesses. It goes to community effort, massive donations to Beebe Hospital and is the largest donor to land trust. Mr. Horner stated that they are builders and developers and that involves land being developed. Councilman Chandler stated that he appreciates what Schell Brothers has done but this is the Town of Dagsboro and maybe something should be done for Dagsboro because they have given land to other towns when they have developed elsewhere. Mr. Horner stated that they give back to the community that they are involved in, but he is not going to make a commitment that the County land is going to be open space for Dagsboro because the property was bought for the purpose of development. He added that other times that they have acquired land for a different purpose and Schell Brothers is committed to giving back to the communities that they build in. Mr. Horner stated that his commitment to the Town of Dagsboro when developed, will be to thoughtfully develop. The feedback from the Council about the second entrance will be taken into consideration.

Councilman Truitt asked, "Does County land start where the blue ends on the map?" Mr. Crouch replied, "Yes, that is actually the Town border line." Councilman Truitt asked what the dotted line represents. Mr. Horner replied, "That is the tax ditch." Councilman Labor asked if there is a possibility to just annex in the section of land where the construction entrance would be? Mr. Crouch stated that

from the Scoping meeting, they submit exactly how many units are being proposed and then the project is scoped out, as far as what intersections need to be studied and the entrance is based off that and added that he can send a copy of the study for review. Councilman Labor stated he knows they have completed a lot of work and just wondered if annexing that portion of the property into Town would help with the traffic.

Mr. Horner stated that DeIDOT is the one who says what is/isn't warranted for an intersection and Schell Brothers doesn't want to sell homes in a community that you can't get in and out of, but if we were to tell DeIDOT that they want to put up a traffic light, they would tell them no because it is not warranted and would mess up the flow of traffic at different points in Town. He added that DeIDOT are the experts about what will help the flow of traffic and that is the point of the traffic study. Mr. Horner stated that they share the concern and hope within time that they can have a second entrance.

Vice-Mayor Ulrich asked if DeIDOT came out and completed a traffic study where they sat and counted traffic because with the number of developments that keep coming in, DeIDOT isn't doing anything about the traffic. She added that she is concerned with the traffic backup from June to August with residents coming in and out of one entrance. Mr. Horner suggested talking to the State Legislature because all the funding for roads, has gone to northern Delaware. Vice-Mayor Ulrich stated that she understands what he is saying about the Legislature but feels it needs to start at the County Council and County P&Z. Mayor Baull stated, "They do not control the roads." Vice-Mayor Ulrich replied, "But they control the development and the massive influx of people." Mayor Baull stated that the roads have not kept up with anything, not just development. Vice-Mayor Ulrich asked for confirmation if the side setbacks were 5 ft. or 10 ft. for the houses? Mr. Crouch stated the side setbacks are 10ft. Vice-Mayor Ulrich stated that she understands that they are building as many houses as they can because of what was paid for the property, but it is so many houses.

Councilman Chandler made a motion to table the Preliminary Site Plan for a temporary period of time, not to exceed six months, to convince DeIDOT to change its ruling that a single entrance is sufficient for the Layfield Project.

Mr. Horner stated that they hope to have the construction entrance approved, which will be part of the Final Approval, and doesn't require County approvals like a subdivision and permanent road would. He added that they share the Town's concerns, but it is unfair to delay them in the Preliminary Approval process because of things that are outside of their control especially since the plans have been before Council three times and this issue has been commented on and addressed. Mr. Horner also stated that they want to resolve this issue because they don't want an unsafe entrance and to have traffic concerns. He committed to the Council that they would explore this with DeIDOT and discuss making the construction access a permanent access which may include another discussion about annexation with the Town but at this point in the process, it would be unfair to delay them since these discussions have already taken place and have done everything that they are able to do. He stated that there would be plenty of time between now and Final Approval to have discussions with DeIDOT.

Mr. Horner asked the Council instead of tabling their request, to consider granting Preliminary Approval on the condition that they all work together to see if an additional entrance is possible. Councilman Chandler stated that he would agree with him if he felt it would take the amount of time that he is envisioning. He added that he must do what he feels is in the best interest of the Town of Dagsboro and the people who live there, the people who voted for him to be on the Council and based on that and their safety and welfare, is where his decision comes from. Councilman Chandler added that he doesn't believe that it would take months or even weeks to make the contacts with DeIDOT, County and State Representatives to see if this can be completed faster by a partial annexation or another route. He would rather make that determination now rather than later. He stated that he made a motion, and it is on the floor. Councilman Truitt asked for a time frame on tabling the project. Council Chandler replied, "Six months, to have a final answer." Mr. Horner stated, "This is the public hearing tonight, and you are saying it will be six months until a decision is rendered." Councilman Chandler replied, "Right, that is plenty of time and it could be much faster than six months."

Cathy Flowers, Commissioner of Planning & Zoning, stated residents are not happy about the large development and when they realize that there will be one entrance/exit on Clayton St., she feels they will be even more upset with Schell Brothers, P&Z, and the Town Council for allowing this. She added that because of the traffic, it is also dangerous to walk in Town. Mrs. Flowers asked for Schell Brothers to care about the community. Mr. Horner replied that Schell Brothers does care about the community and felt that was unfair. He stated that all the steps have been taken to explore a second entrance. He added that they have had those conversations with DeIDOT, completed the Scoping meeting, and addressed the comments with Council. He feels it is unfair to punish them with an additional six-month delay. Mr. Horner stated that he is not confident that it will get approved. Councilman Chandler stated that they have done this themselves, not with the members of the Town Council and with the Legislatures that this Council knows. Mr. Horner replied, "Then why didn't we have these discussions when the plan came up the first three times in a way that wasn't prejudice to us?" Councilman Chandler stated that they raised the point from the beginning that a single entrance for this project was not going to be practical and now they have come before the Council telling them there is no option. He added that he is saying there is an option, and they would like to explore it before they give an approval.

Mayor Baull stated that there is a motion on the floor, is there a second?

No second motion.

Mayor Baull stated Schell Brothers/DBF have done everything correctly and were told by DeIDOT that this will work, that is who they must listen to. He added that they may not like it because of the traffic, but fair or not fair, it seems like the Council is trying to punish them for doing what they do. Mayor Baull stated that he understands that no one likes the traffic and development but feels like they are trying to make this about development in general. Councilman Chandler stated that maybe they are, but he is not trying to punish anyone, but would like to do what he feels can be done. He added that he knows that they have tried and failed but he feels that if the Town tries, they won't fail. Councilman Labor stated that they can still move forward with the project and try what Councilman Chandler is suggesting. Mayor Baull replied, "They have agreed to keep trying with the Town's help, but why should we put the

brakes on their project?" Councilman Labor stated that the project should still move forward. Councilman Chandler stated that he feels it gives them more leverage with the decision makers. Mayor Baull replied, "I disagree." Mr. Horton stated that he doesn't think delaying them is going to give more leverage to the decision makers because they don't care about the status of their project. Councilman Chandler stated that the government officials have given their approval on the project and don't have a problem with the project and single entrance as it was proposed and feels they will do what they can to get their project started. Mr. Horner replied, "I wouldn't say that at all. They said this is what is permissible, then we obtain the Preliminary Approval, then we go back to them to finalize the design and they don't care if we do this project or not." He added that he doesn't feel the Town would lose any leverage. Councilman Chandler stated that it tells the agencies that the Town has approved the Preliminary Site Plan with a single entrance. Mr. Horner added, "With a condition that we explore other options." He added that DeIDOT doesn't want unhappy constituents, because they don't want Legislature on them either, so if the Town is able to help with getting a second entrance as part of the process, they are willing to work with the Town.

Mr. Horner stated that if they had known this needed to be done six months ago, they would have pulled the Town in and had this discussion about a second entrance. He added that the issue of one entrance was brought up and they believed that they had solved that issue with the construction entrance, which they felt was all they could do after the scoping. He added that he would commit to them to have the discussion and work with the Town. Mr. Crouch stated that the next step in the project would take time and while they are working on having these conversations with DeIDOT, they can move forward with the construction but not without Preliminary Approval.

Town Solicitor, Greg Morris stated that Councilman Chandler's thoughts are if the Town Council approves the preliminary plans, that tells the State that the Town has approved them, and they are less likely to change their minds. Councilman Chandler stated that it not only tells the government agencies, but it also tells every neighbor and friend that he has in Town that he has agreed to go along with a plan that gives one access point on Clayton St and he is not willing to do that.

Councilman Labor made a motion to move forward with the Layfield Property Preliminary Plans with the condition that they will work with the Town to move forward with trying to obtain permission for a second entrance. Mayor Baull seconded the motion. Councilman Labor voted yes. Councilman Truitt voted no. Vice-Mayor Ulrich voted no. Councilman Chandler voted no. Mayor Baull voted yes. The vote was 2-3 with no Preliminary Approval.

Councilman Chandler stated, "But we are willing to work with you to get another entrance on Dagsboro Rd. and will do so in an expedited fashion." The presenters felt that there was nothing more to say and excused themselves from the meeting.

c. Review Proposed Ordinance Amending Chapter 146 To Prohibit The Production and Sale of Marijuana In The Town of Dagsboro

Councilman Chandler stated that this Ordinance is consistent with ordinances that have been adopted recently in their neighboring towns including Millville, Ocean View, Bethany Beach, Dewey Beach, Bridgeville, and Selbyville is considering it.

Town Solicitor, Greg Morris, stated that most towns are agreeing with this ordinance, and it is permitted by the Legislation which allows municipalities to take a position on whether they want to allow it or not. The Delaware Marijuana Control Act provides that a Municipality may prohibit the operation of marijuana cultivation facilities, product manufacturing facilities, testing facilities, and retail marijuana stores. The Town has the capability to, in their interest, to protect the health, welfare and safety of the citizens of their Town because of the Delaware Marijuana Control Act. He added that it has been adopted by various municipalities and is before the Council now.

Councilman Chandler made a motion for the Town Administrator to advertise the Ordinance to prohibit the production and sale of marijuana products in the Town of Dagsboro. Councilman Truitt seconded the motion. All were in favor.

VII. OLD BUSINESS

There was no old business.

VIII. PUBLIC COMMENT

No public comment was made.

IX. ADJOURNMENT

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

Meeting adjourned at 7:57 p.m.

Respectfully Submitted,
Wendy Rayne, Finance Clerk