

Minutes
DAGSBORO TOWN COUNCIL
SPECIAL MEETING
Bethel Center
Monday, February 8, 2024

I. CALL MEETING TO ORDER

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

In attendance were: Mayor William Chandler, Vice-Mayor Norwood Truitt, Councilman Brian Baull, Councilman Jason Russell, Councilwoman Carol Thompson, and Town Administrator Cynthia Brought. See sign in sheet for others in attendance.

II. PUBLIC COMMENT

No public comment was made.

III. NEW BUSINESS

a. State Ethics Code – Presented by Counsel to State Public Integrity Board

Mayor Candler introduced Deborah Moreau, Deputy Attorney General and member of the Public Integrity Commission. He stated that one requirement of being sworn into office for the Town Council is to follow the principles and laws of the Public Integrity Act and felt it was important for everyone to know what the Act is.

Deborah Moreau, Member of the Public Integrity Commission, referred to the handout that she presented and stated, "Why do you have to be concerned about ethics, because the citizens are concerned about ethics." She explained the background and where the ethical laws came from. She added that there is a lot of information on the Public Integrity Commission website.

She also stated that the Code of Conduct Opinion Synopsis lists the categories of all the opinions that the commission has heard and decided on since 1991 and that it can be used as a reference to see what the Commission looks at. Deborah Moreau highlighted that the Statutory Purpose is to ensure that the government is respected and that State employees have standards of conduct to follow without setting the standards so high that no one wants to work for the State. She stated that the Conflict-of-Interest section of the Ethics Code is the most important part because violating it can result in criminal penalties and described several examples of violations.

Mayor Chandler asked if it would be considered a violation for the Town to ask for donations to offset costs for Town events, such as a Christmas Parade or Easter Egg Hunt. Deborah Moreau stated that it

would depend on whether the donations are for the Town event or for promoting a specific business for the event but using the event to do so.

Deborah Moreau stated that if an instance comes up, they can reach out to her by email and explain the situation and if she is unsure of the answer, then they would meet with the Commission. With this process, the answer would be in a written opinion and would be kept confidential unless you confess to a criminal violation. She added that members of the public can file sworn complaints and if it is a valid complaint, there would be a hearing. Ms. Moreau stated that the Conflict-of-Interest provision can have criminal penalties and are considered misdemeanors.

b. Discussion of the Freedom of Information Act – Greg Morris & Mayor Chandler

Mayor Chandler stated that the Freedom Act governs all public bodies and requires the public body to conduct business in public, which means meetings must be held in public, agendas must be publicly posted 7 days in advance and a public record must be kept of the meeting. He stated that the Meeting Minutes must be approved and encouraged all members of the Council to read the minutes.

Mayor Chandler stated that Town Administrator Brought is the FOIA Coordinator. He asked for confirmation that they receive updates to the FOIA manual and FOIA training sessions. Town Administrator Brought replied, "We receive updates and participate in website training." Mayor Chandler stated that Town Administrator Brought is trained and coordinates with the Attorney General's Office. Town Administrator Brought stated, "Town Clerk Stacy West is also trained."

Mayor Chandler stated that if 3 Council members meet and discuss public business (quorum), they would be in violation of the Freedom Act because the public was not notified of the meeting. He added that if 2 Council members are discussing public business, that would be fine but when there is a 3rd member of the Council involved, the violation takes place. He also stated that Executive Sessions, where only the Council members are in the room, are permitted but notice must be published in advance with the reason why the Executive Session is taking place. There must be an affirmative vote with the majority of the Council and it must be publicly stated that they are going into session and can only be held for certain limited reasons such as litigation advice for the attorney, considering purchasing property, and discussing personnel issues. Mayor Chandler stated that minutes must also be taken for the Executive Session and the Council must come back into public session to take any action or vote.

He stated that members of the public can sue any public body and seek conjunctive relief and stop whatever had been done illegally or they can get a declaratory judgement that a meeting was held, or action taken was void because it wasn't carried out illegally. A petition can be filed with the Attorney General's Office with an investigation to see what was done illegally and how it was done.

Councilman Baull asked how far back someone can go back to file a FOIA request. Mayor Chandler stated that he did not believe there was a statute of limitation. Vice-Mayor Truitt asked, "If we felt the volume of information requested was excessive, who would we contact?" Mayor Chandler stated that

they can charge a fee for requesting the records/minutes and a reasonable photocopying charge is how they can offset the costs for the Town if an excess amount of information is demanded. Councilman Russell asked for confirmation that all the minutes are posted on the website. Town Administrator Brought stated, "Yes, all of them except for Executive Sessions."

c. Discussion and Vote/Voting Benefit DNREC – Pepper Creek Tax Ditch – Mayor Chandler

Mayor Chandler stated that the Pepper Creek Tax Ditch Meeting is scheduled for Feb. 17, 2024, and the Town of Dagsboro can vote in the process since they pay Tax Ditch Assessments. He added that he would be at that meeting and would volunteer to vote on the Town's behalf unless someone else wanted to. He also stated that whoever votes must bring a signed and notarized statement that they are authorized to vote for the Town.

Vice-Mayor Truitt asked, "What is the vote about?" Mayor Chandler stated that there are 2 items to be voted on at the upcoming meeting which are the Annual Election of the Officers and a vote to decide whether to consolidate the 47-mile Tax Ditch into one or have it broken out into 6 different sections.

The entire Council agreed for Mayor Chandler to vote on behalf of the Town of Dagsboro. All were in favor of consolidating the Tax Ditch.

Mayor Chandler stated that there are other items on the agenda for the Tax Ditch Meeting which include a discussion of what has been accomplished in the past year on the tax ditch, what is planned for the next year and that they have adopted a 3-year plan that will layout a future plan. Vice-Mayor Truitt asked, "What about the tax rate?" Mayor Chandler stated that the tax rate would not change, it was changed last year, and their budget is much better now from the increase last year. Councilman Russell stated that there was a big increase last year. Mayor Chandler replied, "Yes, it went from 5% to 10%."

IV. PUBLIC COMMENT

Linda Hitchcock, of Woodlands of Peppers Creek, stated that the Woodlands of Peppers Creek Condo Association used to pay the tax ditch fees because it was listed under Fernmoor and now the citizens are paying the fees. She asked, "As a tax paying citizen, do we have the right to come and vote?" Mayor Chandler replied, "Absolutely." Linda Hitchcock asked if tax paying citizens have a right to know what is going on with the drainage because there is a problem with the drainage by the bridge at the WPC due to a large amount of trash in it and can they bring their concerns to the Tax Ditch Meeting. Mayor Chandler replied that she can come to the meeting and bring her concerns up as an issue and there will be people there that can address her concern. He added that his "unofficial" answer to her is that the Tax Ditch Organization doesn't do trash cleanup but there is a State Agency that handles issues where someone has dumped a large item in the tax ditch, and it is obstructing the flow of water. The State Agency most likely will not come out for bottles and paper in the ditch, and he suggested self-help for the issue she was describing. Mayor Chandler stated that when there is trash in his tax ditch, he goes

out and cleans it up himself. He also stated that the Tax Ditch Association and the Town of Dagsboro did not make the decision for the homeowners to pay the tax ditch dues, it was decided by Sussex County because they decided they wanted it to be on an individual unit basis. Mayor Chandler stated that their assessment amount is based on only having 25ft of space between the homes and the tax ditch. The developer that bought the property went to DNREC and requested that the amount space between the homes being built and the creek be reduced and had to get a court ordered change from Superior Court and in return the tax ditch assessment was increased. If there is a special need in the future for the tax ditch, the homeowner would have contributed sufficiently to make it possible with the increased fees. Schell Brothers agreed to a higher assessed rate so there would be a shorter distance between the homes and the creek. Normally, there is 180 ft. right of way for equipment to have adequate space to clean the tax ditches out and haul away the spoil, which will be a problem when the ditches need to be cleaned at the WPC. When the trucks and excavators have only 25ft to work in, the dirt and spoil will be dumped in residents' back yards. The only way to do it without damaging property would be to wait until the ditch is so dry that the excavator can drive directly into the ditch to clear it out.

Sherine High, of WPC, stated that she appreciated everyone coming together at the meeting with Fernmoor and felt like everything is progressing in a positive way. She added that with Town Administrator Brought's suggestion, she contacted DNREC about the trash in the tax ditch and spoke with an officer that told her to call DNREC if she sees anyone dumping trash in the ditch and that there was a prisoner program a couple years ago where the prisoners would clean the trash up and was funded through the Tax Ditch, she believes, but this was stopped because of Covid. She also stated the officer told her that no citizen should go into the tax ditch and clean it out and it would come down to some type of community service that would clean the ditch out but doesn't know who that would be, but this is conflicting from what Mayor Chandler has stated. She added that watching trash float down into the bay is disheartening. Mayor Chandler stated that he hopes 1-2 people from WPC can come to the Tax Ditch Meeting because DNREC will be at the meeting, and they can address this.

Mayor Chandler stated that since WPC residents are now paying their own tax ditch fees, they should be able to vote at the meeting.

V. ADJOURNMENT

Councilman Baull made a motion to adjourn. Councilwoman Thompson seconded the motion. All were in favor.

Meeting adjourned at 7:07 p.m.

Respectfully Submitted,
Wendy Rayne, Finance Clerk