

**MINUTES**  
**COMMISSIONERS OF BRIDGEVILLE**  
**February 9, 2015 – 7:00 P.M.**  
**TOWN HALL**

**I. CALL TO ORDER**

The meeting was called to order at 7:00 P.M. by President Pat Correll. Present: Commissioners Sharon McDowell, Jay Mervine, Lawrence Tassone, Town Manager Jesse Savage and Solicitor Dennis Schrader. The meeting began with the Pledge of Allegiance, followed by a moment of silence in honor of Commissioner Kovack's wife, Lynette, who has passed away.

**II. QUORUM PRESENT**

President Correll reported a quorum was present to discuss the business of the Town of Bridgeville, despite the absence of Commissioner Kovack.

**III. APPROVAL OF AGENDA**

Motion to approve the Agenda as written – Tassone; 2<sup>nd</sup> – McDowell; motion carried.

**IV. APPROVAL OF MINUTES**

Motion to approve the minutes from the January 12<sup>th</sup> Commission meeting – Tassone; 2<sup>nd</sup> – McDowell; motion carried.

**V. CORRESPONDENCE**

Town Manager Savage reported the receipt of a letter from the Bridgeville Public Library requesting a rain date for the Apple Scrapple Festival Carnival on Sunday, October 11, 2015. The hours would be 1:00 – 6:00 P.M. and only in the event the carnival is rained out on Thursday, Friday or Saturday. It was clarified they must extend the insurance to cover the extra day. He suggested the Commissioners review the idea and make a decision at the March Commission meeting.

**VI. APPROVAL OF FINANCIAL STATEMENTS AND BILLS PAYABLE**

Balance Sheet – January 2015

General Fund – \$342,016, a decrease of \$180,475 decrease over last month

Library Fund - \$2,265

All Accounts – \$1,388,081, a decrease of \$180,192

Accounts Receivable – \$558,437

Budget Report Target – 58% (7 months into budget year)

Income – \$1,892,511 – 77% of budget

Expenses – \$1,555,597 – 63% of budget

Net Income – \$336,914

Accounts Payable

Bills – \$419,388 A portion of that total (\$369,609) will be reimbursed through loans from the State, which will be paid with future debt service payments.

Expected Expenses – \$120,600 (including health insurance, payroll, utilities, etc.)

Total estimated amount to be approved – \$539,988  
Motion to approve the bills as presented – Tassone; 2<sup>nd</sup> – McDowell; motion carried.

## **VII. TOWN REPORTS**

Commissioner Tassone questioned the 21 parking violations. Per Town Manager Savage, people have been parking illegally on the grass in their yards, rather than on a paved or stone driveway, as Town Code requires. Code Enforcement Officer Butler has been cracking down on infractions.

Town Manager Savage advised all but approximately 100 new water meters have been installed. By the next reading date all new meters should be operational. This will allow the Public Works Department to read all meters in approximately 1-1/2 hours, rather than 2 full days.

Commissioner Mervine questioned the Bridgeville Police car at East Coast Restorations. Police Chief Longo advised the 2007 vehicle is being checked out for various continuing problems. They may pursue a grant for a new vehicle this year.

Commissioner Mervine questioned the battery on the portable speed detection unit. Chief Longo advised the battery continues to go dead and they are pursuing options.

## **VIII. CITIZEN'S PRIVILEGE**

Mr. Harvey Lieberman from 144 Widgeon Way asked if anything new has transpired concerning the dog park. President Correll advised she has visited the park, but has not talked to Dottie Harper about the issues. Per Ms. Harper, Heritage Shores has had numerous requests for a dog park. The area would allow dogs to be off-leash in a confined space. This park has been enclosed with a fence and a double entry system for safety. It also has a water station. The landscaping is not complete on the outside back side of the fencing. Rules and regulations have been published. Dog owners must fill out paperwork concerning vaccinations, tags, immunizations, etc. A professional service comes to clean, disinfect, etc. They have sent the dog park plan to all of the homeowners in the immediate vicinity and believe they have covered all of the bases. At this point, Ms. Harper does not believe more than 6 dogs have used it. Only one complaint has been received.

President Correll continues to believe that the dog park is Heritage Shores' responsibility, not the Town's responsibility. Ms. Harper believes it would fall under the Town's jurisdiction if Town Ordinances were violated.

Commissioner Tassone asked if each phase will have a dog park. Ms. Harper reported there will likely be one in a future phase, but not all phases. This current area was never in use, so they put it to good use.

Mrs. Ruth Skala from 108 Whistling Duck Drive advised her dog really loves the dog park.

Mr. James Stephenson from 29 Amanda's Teal Drive asked about patrolling the dog park. Ms. Harper advised she expects people to obey the rules that they signed. Routine maintenance takes place 3 times per week and the community will soon have dog tags to indicate their approved use of the park. Mr. Stephenson commented there are concerns from neighbors about the noise.

Mr. Steve McCarron and Ms. Karen Johnson from the Apple Scrapple Committee came to discuss the Heritage Shores property that is used for the Apple Scrapple Festival parking each October. The 21-acre property (next to Jacobs Ave. on S. Main St.) has been used and mowed at no expense to the Committee. Use of the property for parking is essential for the festival to continue. They have pursued other possible parking locations to no avail. They wish to enter into an agreement with Heritage Shores that is fair to both sides.

President Correll brought up the grass height issue. This property has received a special exemption and grass is allowed to reach 21" before being mowed. She believes the use of the property for Apple Scrapple should be determined by Heritage Shores and the Apple Scrapple Committee alone. Mr. McCarron advised this is the Town's biggest developer and the Town's biggest festival; he believes the Town should take some ownership in this issue. He does not want the landlord (Heritage Shores) to be unhappy.

Ms. Harper from Heritage Shores advised it started with the Festival committee needing parking and Heritage Shores' aversion to mowing grass/weeds. They discussed the possibility of the Future Farmers of America (FFA) growing hay for profit on the property; however, that would require Heritage Shores to pursue agricultural overlay zone permission. Ms. Harper runs the risk in the future that the Town will not approve the removal of the ag overlay when Heritage Shores is ready to develop that property. It is a risk she cannot take. Ms. Harper is willing to allow the Apple Scrapple Festival to mow the area and to use it for the festival; however, they also need to take responsibility for any fines, due to a lack of not following the mowing code precisely.

Town Manager Savage believes the concerns stem from our Planning and Zoning Code and state regulations. In order to receive an ag overlay, Heritage Shores would have to subdivide the property.

Solicitor Schrader believes this debate has been going on for a number of years. Part of the debate has been whether or not an RPC like Heritage Shores could keep part of their property in cropland during phasing plans. It was decided previously that the developer could not keep portions of the acreage in cropland.

Mr. McCarron advised that policy is not consistent throughout the Town. Commissioner Mervine reported that the inconsistencies in other portions of Town are not in RPCs. He personally would not have a problem in granting an exception for a group like the FFA to grow hay on that particular land.

It was clarified that Jimmy Walls (adjacent to the property in question, but not in Town limits) bales his grass.

Mr. McCarron commented they will be grateful for Heritage Shores' permission to use the property as a parking lot and if they have to mow it, it's better than not having a parking lot at all. The festival committee would be responsible for the \$3,000-4,000 to mow the land from a \$25,000 festival budget (12-15%).

Mr. McCarron has approached the FFA and they would be interested in baling the hay with their equipment to feed their animals and/or sell the excess hay. (No money would change hands between the Festival and the FFA.) They would need an exception from the Town Commissioners to do this. It would be an added benefit for the FFA.

Commissioner Tassone asked Solicitor Schrader if this could be handled through an MOU (Memorandum of Understanding). Solicitor Schrader advised it could not be, due to the fact that it is a zoning issue with complications, as there is a negative impact on Heritage Shores. If 21 acres of land are taken out of Heritage Shores for AIOZ zoning, they lose density (number of housing units). Solicitor Schrader will be glad to help work through the issue; it may take an Ordinance.

Commissioner Mervine recommended the Commissioners, Heritage Shores and the Apple Scrapple Committee meet together in the near future to look further for solutions to this problem. This needs to be resolved before the mowing season begins.

President Correll advised there are other, similar land situations within Town limits that also need to be addressed. Commissioner Tassone believes that exceptions should be made for charitable activities that are beneficial to the Town charities. (Apple Scrapple Committee, FFA, etc.)

Mr. Lieberman asked what would happen if someone was injured on the property? Ms. Harper advised the Apple Scrapple Committee always provides insurance coverage for the property during the festival. It would need to change to year-around insurance if these proposed mowing changes take place.

Mrs. Jacqueline Vogle from 128 Widgeon Way asked what will happen to the parking area at full build-out of Heritage Shores. That cannot be answered at this time.

## **IX. OLD BUSINESS**

### **A. Planning and Zoning Commission Appointment**

With the resignation of Mr. John Shockley from the Planning and Zoning Commission, there is a vacancy on the Commission. There are currently six members on the Commission. The Town Commissioners have received two letters of interest, from Mr. John Gladmon and Ms. Eleanor Bennett.

Motion to appoint Ms. Eleanor Bennett to the Planning and Zoning Commission – McDowell; 2<sup>nd</sup> – Mervine; motion carried.

### **B. Wheatley De-Annexation**

Town Manager Savage advised the Town has received an application and \$1,500 fee from Mr. Dale Wheatley to de-annex four parcels on the south side of Town. This property was part of the Heritage Shores property proposed for development. Mr. Wheatley removed it from the RPC and re-zoned the property in 2010. The parcels are residential and have an AIOZ overlay. He is asking the Commissioners to either move forward with the de-annexation or to refund the check.

Solicitor Schrader advised this property can be removed from the municipality provided a majority of the members of the Commissioners of Bridgeville agree to a Resolution establishing a Referendum of the qualified Town voters to decide whether or not the property should be removed from the Town. If the Referendum is successful, the property would be removed from the assessment rolls, after confirmation from the General Assembly.

The financial impact of this de-annexation has been questioned. Town Manager Savage advised the Town receives \$258.00 from the four parcels in taxes annually.

It was re-iterated that a de-annexation has only come before Delaware's General Assembly 2 times in state history and neither request was approved.

President Correll wanted to clarify the process. It is her understanding that if the Commissioners vote "no" tonight on the Wheatley De-annexation, the process would not move forward and the Town would refund Mr. Wheatley's \$1,500. If the Commissioners vote in favor of the De-annexation, the issue would go to a Referendum. If the Referendum vote approved the De-annexation, the issue would go to the State Legislature to revise our Charter concerning Town property. Town Manager Savage believes the \$1,500 charge will cover all aspects of the process. A Resolution would be drafted setting the time and place for a Public Hearing concerning a Referendum and then the Referendum itself would take place and residents would vote on the issue using Sussex County Board of Elections voting machines. It was clarified this is a lengthy process.

Mr. Wheatley was in attendance and advised the original plan concerning his property (a second Heritage Shores development) did not materialize. He has since put the property into Agricultural Preservation, which will not be of any advantage to the Town. He believes it would be appropriate to remove the property from the Town.

Commissioner Mervine questioned his intentions. Mr. Wheatley reported his property used to be in 10-year preservation and has now been placed in permanent Agricultural Preservation. He has been approved, but the property hasn't settled yet. Mr. Wheatley understands the Ag Board has already met and finalized his application and that he is scheduled to go to settlement in the next 30 days. Solicitor Schrader advised he will pursue the process further and find out where the application stands.

Town Manager Savage understands that a property is automatically placed in Ag Pres. for 25 years. If a hardship is proven – that it is no longer fit for use as agricultural land, it can be removed from the program. The farmer would need to re-purchase the rights.

Commissioner Tassone asked what the limitations are in Ag Preservation. Per Mr. Wheatley, you can do anything a farmer can do with a property. Solicitor Schrader believes you can also take out 1-acre tracts for personal dwellings.

Commissioner Tassone contends the Planning and Zoning Commission put restrictions on Mr. Wheatley's AIOZ property in 2010 as follows: "No farm animals will be raised or housed on this property without prior approval of the Bridgeville Town Commission." This would be removed if the property was de-annexed from Town limits and that troubles him. He is not terribly concerned about what Mr. Wheatley would do with the property, but he is concerned about the future if Mr. Wheatley either sells or eventually dies.

Commissioner Mervine added the Town is encouraging economic development and the future of Mr. Wheatley's farm is an unknown, which is a concern for Heritage Shores, which is in his backyard.

Solicitor Schrader advised the problem which occurs when you remove property from Town zoning is that the property will then be placed under county zoning, over which the Town has no control.

Mr. Wheatley has no intention of putting farm animals on his property and would have no problem with putting a deed restriction on the sale of his property concerning that, if requested by the Town.

Motion to table discussion of the Wheatley De-annexation – Tassone; 2<sup>nd</sup> – McDowell; motion carried. Town Manager Savage was given direction to refund Mr. Wheatley's \$1,500 check.

## **X. NEW BUSINESS**

### **A. 2015 Municipal Election Update**

Town Manager Savage advised District #4 (Paul Kovack) and District #5 (Sharon McDowell) are up for election in this Municipal Election cycle. The candidate filing deadline was 4:30 P.M. on February 6, 2015. Candidates filing included Dr. Kevin Carson (#4) and Mrs. Sharon McDowell (#5). The Bridgeville Election Board will meet on Friday, February 13, 2015 to qualify the two candidates, and if qualified, the Election Board will elect the candidates. There would therefore be no Municipal Election on March 7<sup>th</sup>. The elected Commissioners will be sworn-in at the March 9<sup>th</sup> Commission meeting.

### **B. Appointment of Certified Public Accounting Firm**

President Correll advised the Town wishes to re-appoint Lank, Johnson and Tull as its certified Public Accounting firm. Motion to re-appoint – Mervine; 2<sup>nd</sup> – McDowell; motion carried.

### **C. Appointment to the Economic Development Committee**

A letter has been received from Mrs. Sandie Rementer indicating her interest to be appointed to the Town's Economic Development Committee. Motion to appoint – Tassone; 2<sup>nd</sup> – McDowell; motion carried.

### **D. 2015 Mosquito Control Spraying**

Town Manager Savage advised the Town has received a letter from DNREC concerning mosquito control services for this year. A Resolution is provided authorizing DNREC to control the mosquito population. Advance notification for aerial spraying is included. We also have an opportunity to request the services as needed. Motion to approve – Tassone; 2<sup>nd</sup> – McDowell; motion carried.

### **E. DelDOT Safety Improvements – U.S. Rt. 13 and Rifle Range Road**

President Correll advised the Delaware Department of Transportation held a Public Workshop on Wednesday, January 28<sup>th</sup> at the Woodbridge Middle School concerning U.S. 13 & Rifle Range Road Safety Improvements. The purpose of the workshop was to present the details of the Department's safety evaluation and to solicit input from the public regarding the recommended improvement. The recommendations include the closure of the median crossover at the intersection and restriction of left-turn movements in all directions and through movements in the eastbound and westbound directions.

President Correll advised in 2007 the Town annexed commercial property at the corner of Rifle Range Rd. and U.S. Route 13. Should the state make these "proposed improvements" it would greatly discourage the development of that Bridgeville property and the owner would lose its commercial value.

At the time of the annexation, DelDOT provided a letter acknowledging the intention to place a stoplight at that intersection when the property is developed. Now they maintain that the light would be too close to the stoplight at Rt. 13 and 404. President Correll cited Camden and Georgetown stoplights as being the exact same circumstance, although the two Bridgeville lights would be farther apart than the Camden and Georgetown lights.

The state has been in communication with Representative Dave Wilson and Senator Brian Pettyjohn and has encouraged them to speak with the Bridgeville Commission. Representative Wilson advised he will support Bridgeville's position concerning this traffic situation.

Town Manager Savage advised in 2008 the state provided the developer of that property with a letter stating that the proposed project at that intersection warranted a stoplight. Now DelDOT is saying, since it is currently vacant land, it does not warrant a stoplight at that location, based on recent traffic studies. DelDOT believes the accident count is high at this intersection and is anxious to make it safer. The traffic study favors closing the intersection.

Commissioner Mervine does not believe the accidents there are as bad as DelDOT says. The study took place over a 5.75 year period and almost 1 million vehicles went through the intersection, with only 55 accidents, none of which were fatal, which is a very small percentage of accidents to vehicles through the intersection. Commissioner Mervine quoted the DelDOT Manager as saying he would close-off every east-west intersection in Delaware if he could.

Town Manager Savage believes the state has a budget to spend. Bridgeville's crash rate is actually decreasing. When the 2010 Rt. 404 re-alignment project was in play, Rifle Range Rd. was the only road of choice in the area and there were an inordinate number of accidents because of the construction. Commissioner Mervine added that 10 years ago there would have been a flat line concerning crashes at that intersection.

Per Commissioner Mervine, Senator Pettyjohn was told by DelDOT that left-hand turns would still be allowed on Rifle Range Rd., but not cross-over traffic, which is not what was told to the Town. The Town was told the entire intersection would be closed-off.

Town Manager Savage would like to submit a letter during the comment period with the Commissioners' wishes and recommendations, because this proposal affects Bridgeville. The 2008 letter from DelDOT should also be a part of the Town's submittal.

Commissioner Correll believes a light at that intersection, as originally intended, should be pursued. Per Town Manager Savage, there is no one to pay for a light there.

From a policing point of view, Chief Longo strongly encourages a speed reduction area (35 m.p.h.) from the apartments north of the Rt. 13/404 intersection on southbound Rt. 13 to possibly Camp Road, south of the intersection. There are examples in Greenwood, Harrington and other Towns along Rt. 13 already.

Town Manager Savage asked if the Commissioners are adamant not to close the Rifle Range Rd. intersection. They responded in the affirmative. The accidents don't warrant it and it is a dis-incentive

for economic development. Additionally, it would be difficult to re-open that intersection, due to expense, if development occurs in future at that location.

President Correll added they reminded DelDOT that a stoplight will be necessary at Heritage Shores. Motion to send a letter of Commission concerns to DelDOT – Tassone; 2<sup>nd</sup> – McDowell; motion carried.

#### **F. Resolution – Certificate of Public Convenience & Necessity (CPCN)**

Town Manager Savage advised the Town must upgrade its area of water and wastewater coverage. Currently our CPCN only covers our old Town limits for water. The wastewater was updated to include Heritage Shores, but not of the properties annexed from the south or east. The Town intends to cover what was approved as our annexation area in the new Master Plan. Some included parcels already have Tidewater for their water service, which cannot be changed. This Resolution gives the Town Manager, Engineer and Solicitor the authority to talk to the state on the Town's behalf to correct and update the CPCN.

Motion to allow Town Manager Savage, Town Engineer Loar and Town Attorney Schrader to make applications with the Delaware Public Service Commission for any and all Certificates of Public Convenience and Necessity for wastewater and water utilities, as described in the written Resolution – Tassone; 2<sup>nd</sup> – Mervine; motion carried.

### **XI. INTRODUCTION OF ORDINANCES**

#### **A. Ordinance 2015-B – Heritage Shores Special Tax Rates**

This Ordinance was requested by Heritage Shores. Mr. John Stalfort from Miles and Stockbridge has been the Bond Council for the development since 2005 and reported that this Ordinance will reduce the Special Tax rates at Heritage Shores for future attached and detached units. The product mix is based on the current market, which has changed since the first phases of Heritage Shores, along with the methodology.

982 Single-Family Detached units – changing to 1,645 units

724 Single-Family Attached units – changing to 108 units

Tax rates are being reduced to match the reduction of Special Taxes needed. This is due mostly to previous prepayment of taxes by the developer. There are no changes for existing homeowners.

Solicitor Schrader advised this Ordinance is being introduced tonight. There will be a Public Hearing at the March 9<sup>th</sup> Commission meeting.

Ms. Harper advised there is no plan to have a special meeting concerning this change at Heritage Shores, as it does not impact current homeowners and what they pay. The office will send a written narrative to all current homeowners for their information, but it will only affect future sales. Commissioner Tassone introduced Ordinance 2015-B.

**B. Ordinance 2015-C – Restate the Operating and Capital Budgets**

This Ordinance amends and restates the Bridgeville Operating and Capital Budgets for the Fiscal Year ending June 30, 2015. President Correll introduced Ordinance 2015-C.

**XII. GOOD OF THE ORDER**

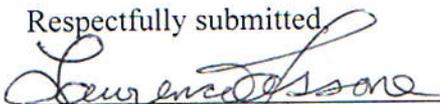
President Correll advised the Town will place information concerning Commissioner Kovack's wife's funeral on the website as soon as it is available.

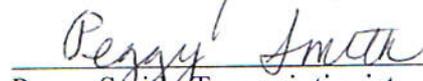
Police Chief Longo thanked the Commissioners and citizens for their prayers, calls and support of his family concerning his grandson's leukemia diagnosis.

**XIII. ADJOURNMENT**

Motion to adjourn – Tassone; 2<sup>nd</sup> – Mervine; motion carried. The meeting was adjourned at 8:16 P.M.

Respectfully submitted,

  
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Lawrence Tassone, Commission Secretary

  
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Peggy Smith, Transcriptionist