

MINUTES
COMMISSIONERS OF BRIDGEVILLE
June 13, 2016 – 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 Tim Banks, Sharon McDowell, Lawrence Tassone, Town Manager Jesse Savage and Solicitor Dennis Schrader.

II. QUORUM PRESENT

President Correll reported a quorum was present to discuss Bridgeville Town business. The meeting began with the Pledge of Allegiance and Prayer.

III. COMMISSIONER OATH OF OFFICE – Mr. Thomas F. Carey

New Commissioner from District #4, Mr. Tom Carey, took the Bridgeville Commission Oath of Office administered by Solicitor Dennis Schrader. Mr. Carey is replacing District #4 Commissioner, Kevin Carson, who resigned on May 1st due to a move to Seaford and recommended Mr. Carey for the District #4 seat.

IV. APPROVAL OF AGENDA

Motion to approve the Agenda – Tassone; 2nd – McDowell; motion carried.

V. APPROVAL OF MINUTES

Motion to approve Minutes from the May 9th Commission meeting, the May 17th Budget Workshop and the May 24th WWTP Preliminary Engineering Report Workshop – Tassone; 2nd – McDowell; motion carried.

VI. CORRESPONDENCE

There was no Correspondence to consider at this meeting.

VII. APPROVAL OF FINANCIAL STATEMENTS AND BILLS PAYABLE

Balance Sheet – May 31st

General Fund – \$737,797 (increase of \$54,569 from last month)

All Accounts – \$1,899,710 (increase of \$55,081)

Accounts Receivable – \$65,483

Budget Report Target – 92% (11 months into budget year)

Income – \$2,294,774 (Income at 89% of budget)

Expenses – \$2,194,651 (Expenses at 85% of budget)

Net Income – \$100,123

Accounts Payable

Bills – \$38,288

Expected Expenses – \$267,000 (half of which is debt service)

Total estimated amount to be approved – \$305,288

Motion to pay the bills as presented – Tassone; 2nd – Carey; motion carried.

VIII. TOWN REPORTS

Department reports were reviewed and there were no questions.

IX. CITIZENS PRIVILEGE

Mr. Bill Jefferson from 204 S. Main St. has talked to Marty Miller from MillerMetal Fabrication about constructing an additional four Town benches (frames/seats) for the Fire Company. Mr. Jefferson will make the wood seats, put them together and donate the benches.

Mr. Jefferson related continuing problems on Walnut St. and trusts the Town Manager/Police Department will be pro-active. Eggs are being thrown on the street and a gate blocks portions of the alley. The neighbors are very frustrated about the lack of action being taken. These residents rev their motors and squeal tires all the time. He questioned whether the Town Attorney can assist.

Town employees are dealing with the issues. The Police have patrolled that area, making up to 30-40 passes daily; however, we would need a warrant to go onto the property. The owner has been fined at least three times for approximately \$600. Code Enforcement Officer (CEO) Butler will re-visit the area.

Per President Correll, this property has been taken to court and someone bails them out each time and they are back in Bridgeville before the Police officers return. (The court system has our Town codes.)

Solicitor Schrader advised he will be meeting with Town Manager Savage later this week and they will discuss the issues and possible solutions.

X. OLD BUSINESS

A. **Public Hearing, Discussion and Possible Voting on AN ORDINANCE TO AMEND THE ZONING DISTRICT DESIGNATION FOR THE LANDS OF VIRGINIA M. KEFAUVER FROM R-1 RESIDENTIAL TO C-1 COMMERCIAL DISTRICT FOR CERTAIN PARCELS OF LAND LYING AND BEING IN THE TOWN OF BRIDGEVILLE ON WILSON FARM ROAD CONTAINING 4.72 ACRES, MORE OR LESS**

Mrs. Kefauver filed an application for C-1 zoning in September 2015 and attended a Public Hearing before the Planning and Zoning Commission (P&Z) on May 17, 2016. The application was denied (4 to 1) and now comes before the Town Commission. The present use of the property is an auto repair business.

Mrs. Kefauver has owned the property at 500 S. Railroad Ave. for 30 years. She rents the shop out to Rolando Rivas – currently operating as “Auto Repair Rivas LLC”. She desires the business to continue for the rental income it provides. Mr. Rivas joined the business 3 years before Mr. Kefauver’s death 5-6 years ago. The business has been operating continually.

Solicitor Schrader asked if Mrs. Kefauver understands that the shop is not permitted under the current Town Code. She did not understand and applied to the Town to change to C-1 zoning to continue the business.

A Public Hearing was held before P&Z in May, with discussion concerning the poor condition of the property/business practices. Mrs. Kefauver indicated she would immediately direct Mr. Rivas to clean-up the property.

Solicitor Schrader asked what has been done since the date of that hearing. Mrs. Kefauver advised they have removed untagged, wrecked, dismantled and inoperable vehicles, as well as engines, transmissions and auto parts. Solicitor Schrader asked if a non-erosion resistant material has been placed on the parking lot. She is not familiar with the material. Solicitor Schrader questioned if the business holds a valid State of Delaware business license. Mrs. Kefauver advised it does. She also submitted a copy of the business' insurance.

The business occupies approximately 1 acre of the 4.7; there is access to a public road from this property, but it has no Town services. It has operable well/septic, including water and a restroom in the shop.

Commissioner Tassone reviewed the P&Z report and noted the following: 1) A lack of oversight on the part of Mrs. Kefauver concerning the actions, or lack thereof by the tenant. 2) The business does not meet the standards of a "home-based business", which is the only business-type allowed on this property. 3) There is no written lease. 4) The tenant has failed to remove the numerous junked and stored cars. 5) The lack of a business license for five years. 6) The tenant's practice of accepting only cash for work done with no receipts. Commissioner Tassone is not in favor of a change of zone to allow this business to continue, based on the demonstrated lack of compliance and a history of negligence in the past five years.

Solicitor Schrader opened the Public Hearing at 7:30 P.M. Ms. Sandy Smith advised CEO Butler gave Mrs. Kefauver a letter at the May 17th P&Z concerning violations dated April 24th. There was no possibility to clean-up before the May meeting. Since receiving the letter they have been removed cars/ parts.

Mr. James Arrington from 420 S. Main St. questioned if the commercial change would benefit the Town tax structure. Solicitor Schrader advised the decision is whether or not a commercial use is appropriate for that land; this is a land use decision, not a taxing decision.

Ms. Dottie Harper, Heritage Shores (H.S.) Development Coordinator, advised H.S. is approved for development in that area, which would come in close proximity to Mrs. Kefauver's commercial use. She understands and appreciates everyone's right to do business; however, the distance between the two entities is small. Her concern is selling homes and the quality of life for those who live in close proximity to that use.

Mr. Jack Dalton from 207 Delaware Ave. serves on the Economic Development Committee (EDC) and believes the Kefauver land is of interest to people for future use. It would make sense to change the property to commercial use now and he recommends approving the C-1 application. (Public Hearing closed at 7:34 P.M.)

Commissioner McDowell asked Mrs. Kefauver how long she has lived in Bridgeville. She has lived here since 1981. She has never had any business problems with the Town and this is her livelihood. Commissioner McDowell asked if she is willing to correct the issues; Mrs. Kefauver is willing.

Commissioner Tassone read from a report that CEO Butler gave Mrs. Kefauver when she received her temporary C.O. on Oct. 30, 2015. He advised her she was not allowed to have more than 4 or 5 cars on the property and she responded that the property would be cleaned up; however, she did not follow-through as promised. Solicitor Schrader reported that accurately reflects CEO Butler's testimony.

Commissioner McDowell advised the business is Mrs. Kefauver's livelihood and she is willing to clean things up. There have likely been financial issues involved with the lack of moving forward. She suggested if Mrs. Kefauver doesn't move forward appropriately, the Town could re-visit the issues. Mrs. Kefauver has had extenuating circumstances with a recent surgery.

Commissioner Carey questioned if the Commissioners could table this issue until Mrs. Kefauver has complied with all the requirements. (Car removal, insurance checked, business license, erosion, etc.)

Solicitor Schrader advised if the Commission approved the application this evening, within approximately 60 days it would become a final, non-appealable order of the Commission. The approval of this use is un-related to the condition of the property. The issue here is whether or not if this property were re-designated on the zoning map (R-1 to C-1), are the uses for C-1 District appropriate for this particular land. There are other uses she could choose in addition to the auto repair shop if she receives permission for C-1 zoning. The question tonight is whether or not you believe this is an appropriate location for a C-1 property and all of the possible commercial uses. He added the Commissioners may defer this application indefinitely, as long as all of the current Commission members continue in their positions.

Solicitor Schrader advised approving this zoning change would not be precedential to future applications. No two properties are identical. CEO Butler brought photos to the P&Z meeting of other sites that could potentially ask for that zoning change. Solicitor Schrader advised no precedence would apply.

President Correll advised the Town cannot consider “spot zoning” in Bridgeville.

Commissioner Banks questioned the number of violations addressed. Per CEO Butler there are untagged vehicles on the property; they still work on vehicles outside; there are EPA issues due to draining brake fluid, oil, etc. on the ground. Although the property has been cleaned up somewhat, he expects it to return to previous condition.

Commissioner Banks asked if there was any reason why the business does not have a lease. Mrs. Kefauver advised they had never pursued it, although she doesn't believe there would be a problem asking Mr. Rivas to sign a lease. She added if CEO Butler went out to the site tonight, he would find that the cars/equipment have been taken away, much of it today.

Commissioner Banks knows that Mrs. Kefauver is a longtime resident and understands her anxiety over her livelihood; however, P&Z is correct in their findings. For the Town Commissioners to overturn the P&Z's recommendation for application denial would go against the Town Code concerning violations. He would love to see her business flourish; however, the business practices have been poor. He is concerned about someone getting hurt due to the business practices. It's a larger issue than zoning.

Solicitor Schrader advised the Commission could make a motion to defer action until the July Commission meeting and request a report at the July meeting from CEO Butler, leaving the record open only for the purpose of accepting his report and only allowing Mrs. Kefauver to respond to the report.

Commissioner Tassone made a motion to reject the Ordinance to amend the zoning district designation for the Kefauver property, due to the five-year history that is replete with examples to convince the P&Z members that this is not a viable business operation. Original notification went to Mrs. Kefauver in 2015 and they are just now hauling stuff away. He doesn't have any confidence in future promises. Commissioner Carey seconded the motion. The votes were recorded as follows:

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|-----------------------|-----|----------------------|-----|
| Commissioner McDowell | No | Commissioner Banks | Yes |
| Commissioner Carey | Yes | Commissioner Tassone | Yes |
| Yes President Correll | Yes | | |

A. Resolution to Adopt FY-17 Budget

A Resolution was presented at the second Budget Workshop on May 17th to adopt the FY-17 Budget of \$2,683,850. This is a balanced budget with a 4% increase. General Fund total – 47% / Enterprise Fund – 53%.

Commissioner Tassone advised Commissioners have received a letter from the EDC concerning workshops they conducted with bankers/real estate agents who gave the Town advice concerning building infrastructure ahead of time to attract new businesses. Bridgeville is not in a position financially to pursue that avenue now; however, we have sufficient funds (after budget passage) to start a planning process to review those properties that would likely be considered for implementation in the future.

Priorities will be considered in the near future; they will know transfer tax carry-over in October/ November. They have previously determined to use the carry-over to pay outstanding debt with high interest rates. There is also an opportunity to put pipes in the ground for future commercial growth, or we could earmark the money for a new Police Station, which we have committed to.

Motion to adopt the FY-17 Budget Resolution – Tassone; 2nd – Banks; motion carried.

B. Committee Appointments

Ms. Deborah Brown has been recommended by EDC Chair-person Ruth Skala to join the Committee and Mr. Duane Pierce has been recommended by Commissioner Banks to take his previous position on the P&Z.

Motion to appoint Deborah Brown to the EDC – Tassone; 2nd – Carey; motion carried.

Motion to appoint Duane Pierce to the P&Z – Banks; 2nd – McDowell; motion carried.

XI. INTRODUCTION OF ORDINANCES

Commissioner McDowell made a motion to introduce Ordinance #2016-B – “An Ordinance to Amend Chapter 190 of the Code of the Town of Bridgeville as it relates to Wastewater Specific Pollutant Limitations.” Town Engineers Davis, Bowen & Friedel, Inc. will be in attendance to review and discuss the Ordinance with the Commissioners at the July 11th Commission meeting.

XII. GOOD OF THE ORDER

Mr. Harris Mager questioned the environmental clean-up issues at the Kefauver property. Per Town Manager Savage, clean-up will be the next step. EPA and DNREC will be made aware of the potential issues.

XIII. ADJOURNMENT

Motion to adjourn – Tassone; 2nd – McDowell; the meeting was adjourned at 7:48 P.M.

Respectfully submitted,

Lawrence Tassone, Commission Secretary

Peggy Smith, Transcriptionist