

**MINUTES
COMMISSIONERS OF BRIDGEVILLE
FEBRUARY 13, 2012
TOWN HALL**

I. CALL TO ORDER

The meeting was called to order by President Pat Correll at 6:00 P.M. Present: Commissioners Paul Kovack, Steve McCarron, Jay Mervine, Lawrence Tassone, Town Manager Merritt Burke IV and Town Solicitor Dennis Schrader.

II. EXECUTIVE SESSION – Personnel Matters

Commissioner Tassone made a motion to go into Executive Session to discuss Personnel Matters and Land Acquisition/Disposal. Commissioner Mervine seconded the motion. Motion carried. The open session recessed at 6:01 P.M.

III. RECONVENE OPEN SESSION

Commissioner Kovack made a motion to come out of Executive Session. Commissioner Tassone seconded the motion. Motion carried. Commission President Correll re-convened the open session at 7:17 P.M. The Commission discussed Personnel Matters and Land Acquisition/Disposal during the Executive Session and no votes were taken. The open session began with the Flag Salute and the Lord's Prayer.

IV. QUORUM

A quorum was present to conduct the business of the Town of Bridgeville

V. APPROVAL OF AGENDA

Commissioner Tassone advised he would like to add an item to the Agenda under New Business concerning the Dog Ordinance. Commissioner Kovack made a motion to add this item to the Agenda. Commissioner Mervine seconded the motion. Motion carried.

VI. PROCLAMATION – FFA WEEK

President Correll introduced members of the Woodbridge High School Future Farmers of America and reported the week of February 18 – 25 is FFA Week. The mission of the FFA is to make a positive difference in the lives of students by developing their potential for leadership, personal growth and career success through agricultural education. The Woodbridge FFA's leaders are Mrs. Karen Breeding and Ms. Monica Neal. The organization is celebrating FFA Week with several activities. The FFA will be serving breakfast on Wednesday, February 15th at 7:20 A.M. at the Ag classroom and the Town is invited to join them. Next week a state officer team and a national officer will be coming to meet with their group of 300. The FFA Proclamation was read into the record. President Correll also advised the FFA group will be selling spring flowers soon and the FFA continues to assist the Town in planting flower barrels in Town Center. The Town is very proud of the local FFA group; they win many accolades at the county and state levels.

Commissioner Mervine introduced another special guest, Patrick Davis, who was honored as the News Journal/Delaware Online Varsity High School Athlete of the Week. Patrick was the first Woodbridge High School athlete to capture 100 wrestling victories. President Correll reported Patrick was also honored by WBOC-TV as the January Scholar Athlete of the month, winning a \$1,000 scholarship. President Correll also announced the upcoming Community Health Walk, which will take place at the high school sports complex on Saturday, April 21st.

VII. APPROVAL OF MINUTES

Finance Director Savage made the Commissioners aware of an error in the January 9th Commission meeting minutes. In Section IX, Approval of Financial Statements and Bills Payable, there was a typographical error. Instead of a net income of \$2,011, it should read \$211,481. Commissioner Kovack made a motion to approve the Minutes of the December 29th Special Commission Meeting on Redistricting and the January 9th Commission meeting, with the above mentioned correction. Commissioner Mervine seconded the motion. Motion carried.

VIII. CORRESPONDENCE

There was no correspondence to share at this meeting.

IX. APPROVAL OF FINANCIAL STATEMENTS AND BILLS PAYABLE

Finance Director Savage advised on the Balance Sheet for the period ending January 31st, accounts totaled \$993,274, which is a decrease of \$79,000 from the previous month. The General Fund stands at \$230,254 and Reserve Funds stand at \$553,990. Accounts Receivable stands at \$170,682. On the Budget Report, the Town is seven months into the fiscal year and should be at 58% of the budget. Income stands at \$1,567,369, which is 61% of the budget and Expenses stand at \$1,421,921, which is 56% of the budget. Net income stands at \$145,448. Commissioner McCarron questioned whether our financial situation is healthy and whether or not we need to get rid of positions or employees. Finance Director Savage advised the Town has a balanced budget; as far as he knows everything is accounted for. On Accounts Payable, the Town has received bills of \$51,912. Expected monthly expenses total \$103,000 and the total bills to be approved is \$154,912. Commissioner Tassone made a motion to pay the bills as presented. Commissioner Kovack seconded the motion. Motion carried.

X. DEPARTMENT HEAD REPORTS

President Correll pointed out that the Town's Wastewater Treatment Plant had no violations this month. Greenwood's wastewater flow stands at 29%, which is a slight increase.

XI. TOWN MANAGER'S REPORT

A report was not presented, as Town Manager Burke left the meeting early.

XII. CITIZEN'S PRIVILEGE

Mrs. Ruth Skala from 108 Whistling Duck Dr. understands that the Town has purchased the O'Leary property next door. President Correll advised that is true. Mrs. Skala questioned how the Town was able to pay for that purchase and what the Commission's intent was with the purchase. President Correll advised it would be addressed by the Commission later in the meeting.

Mr. Larry Skala from 108 Whistling Duck Dr. learned of a drug bust from Commissioner Tassone and wanted to congratulate the Bridgeville Police Department on this local victory.

XIII. OLD BUSINESS

A. Public Hearing and Possible Adoption of Ordinance A11-7, An Ordinance to Amend Chapter 234-22, Land Use and Development, Extending Preliminary Development Plan Approvals

Solicitor Schrader advised the purpose of this Ordinance is to extend, for one additional year, the preliminary plan approvals of developers and to lengthen the subsequent extension from one-6 month to one-1-year extension. The economy of the country is such that persons wishing to develop are unable to pursue their current development projects which already have preliminary approval. Rather than having developers start over again in a lengthy and costly process to re-apply, this Ordinance would extend approvals for another year when, hopefully, the economy will improve to the extent that developers will be able to move ahead with their plans. Solicitor Schrader advised the benefits include: 1) There is less inconvenience for developers. 2) Properties are assessed at their highest use for tax purposes and with no extension; the properties would revert to prior zoning and lose value. 3) Many of the properties were appraised at their highest and best use under zoning permits and values were assigned to them at the time loans were given. If the permits were vacated, the properties would revert to their prior designations under the zoning code and would lose their value, as well as affect the owner's ability to borrow money, based on the devaluation of the property. Solicitor Schrader advised these were the issues that the Planning and Zoning Commission dealt with at their January 18th meeting. They unanimously voted to recommend passage of the Ordinance to the Commissioners of Bridgeville. President Correll opened the Public Hearing at 7:39 P.M. to allow the public to express their opinion, whether in favor or against the proposed Ordinance. She advised Sussex County passed a similar Ordinance with slightly different provisions. There being no one in favor or against the Ordinance, the Public Hearing was closed at 7:40 P.M. Commissioner Tassone made a motion to adopt Ordinance A11-7. Commissioner Kovack seconded the motion. Motion carried.

XIV. NEW BUSINESS

A. Delaware Nature Society Presentation – Ms. Madeleine Russell

Ms. Madeleine Russell came to share a slide presentation concerning choosing clean water and water quality throughout the Chesapeake Bay Watershed, of which Bridgeville is a part. The presentation gives communities ideas about how they can positively impact water quality. Ms. Russell advised she has visited towns and counties in the state. She advised Delaware is 1% of the Chesapeake

Bay Watershed; however, we contribute 2% of the pollution. The Delaware Nature Society is approaching local governments in an effort to reduce watershed pollution. It is important to understand the sources of pollution. Contributors include grass fertilization and runoff from car washing. These are only a few examples of ways that nitrogen and phosphorus enter our waterways. The results of excessive nitrogen and phosphorus are algae blooms and, eventually, fish kills. Unfortunately, Trap Pond is no longer swimmable due to high levels of bacteria. Hurricane Irene brought a great deal of sediment/pollution into the watershed from Washington, Baltimore and further north. Stream restoration is possible through introducing new plants, as they will use the excess nutrients. The DE Nature Society will visit your backyard through the Backyard Wildlife Habitat program to help identify areas which are conducive to providing food, water and cover for backyard creatures.

The Delaware Nature Society recommends:

- Cover crop planting.
- Rain gardens (planting where rainwater normally collects; plants grow quicker and water runoff problems will be solved).
- Rain barrels (keeps water runoff from leaching nutrients out of the soil and into the streams).
- Floating Wetlands (made from recycled soda bottles).
- Think Blue – Think Clean (i.e.: use native plants, plant more trees, use fewer chemicals, restore habitat whenever possible).
- Think about our streams in your everyday life.

Commissioner Kovack suggested aerating Trap Pond to increase the oxygen and mentioned Nanticoke River future sediment dredging. Clean-up is anticipated, per President Correll. The Commissioners expressed their appreciation for Mr. Russell's presentation.

B. FY-12 Budget Amendment Approval

President Correll advised the Commissioners held a workshop on Wednesday, February 9th to discuss mid-year amendments to the budget. The Amendment was approved at that meeting and, therefore, will not be considered on tonight's Agenda.

C. Resolution – Office of Drinking Water Planning Grant

President Correll advised the following three grants must be approved by the Commissioners in order to borrow money from the state. They were approved by the Commissioners by voice vote at the January meeting; however, the approval must include these signed Resolutions to move forward with the grant process.

Commissioner Kovack made a motion to sign the Resolution to apply for an Office of Drinking Water Planning Grant. Commissioner Tassone seconded the motion. Motion carried.

D. Resolution – 2012 DNREC Wastewater Planning Matching Grant

Commissioner Tassone made a motion to sign the Resolution to apply for the DNREC Wastewater Planning Matching Grant. Commissioner Mervine seconded the motion. Motion carried.

E. Resolution – Delaware SRF Financial Assistance Application (WWTP Effluent Line Replacement Project)

Commissioner Tassone made a motion to sign the DNREC loan application for the wastewater effluent line replacement project. Commissioner Mervine seconded the motion. Motion carried.

F. State of the Town Report

The State of the Town Report was not read at this meeting. Copies will be available at Town Hall and the report will be posted on the Town website, www.bridgeville.delaware.gov.

G. Appointment of Certified Public Accounting Firm

President Correll advised the Commissioners of Bridgeville must appoint a certified public accounting firm at this time each year. Commissioner Kovack made a motion to re-appoint Lank, Johnson and Tull as the Town's certified public accounting firm. Commissioner Mervine seconded the motion. Motion carried.

H. 2012 Mosquito Control Services

President Correll advised the State of Delaware contacts each municipality yearly concerning their interest in receiving mosquito spraying services. These services have been very effective in Bridgeville during the 11 years President Correll has been on the Bridgeville Commission. Commissioner Tassone made a motion to request mosquito control services for 2012. Commissioner McCarron seconded the motion. Motion carried.

I. Introduction of Ordinance(s)

There were no new Ordinances to be introduced at this meeting.

J. Consideration of and Possible Voting on Issues Discussed at Executive Session

President Correll advised in 2011 Mrs. Barbara O'Leary considered selling her property next door to the Town Hall at 103 S. Main St. She came to the Bridgeville Commissioners to gauge their interest in the property and allowed the Town to purchase the property without placing it in the hands of a real estate agent.

President Correll advised the Town has recently received a purchase offer for the Town-owned O'Leary property with the intention of redeveloping the property, along with other lots adjacent to the O'Leary property. Solicitor Schrader advised the purchase offer was discussed during tonight's Executive Session and was not accepted. The consensus of the Commissioners was that the Town will keep the O'Leary property and will consider leasing the property until such time as the Town needs the property for its own use. Mrs. Ruth Skala of 108 Whistling Duck Dr. questioned the price paid for the property. Commissioner Tassone believes they made that public over a month ago. President Correll advised Finance Director Savage could answer any questions residents might have. Concerning

leasing the property, Solicitor Schrader advised the Commissioners would have to vote if they plan to list the property with a real estate agent. Commissioner McCarron made a motion to actively pursue the leasing of this property, with the assistance of the Commission President and Town staff. Commissioner Kovack seconded the motion. Motion carried.

K. Dog Ordinance

Commissioner Tassone requested the floor to discuss the 2008 Dog Ordinance. He stated, "In 2008 there was a situation that required an Ordinance amendment to control a dog problem in Bridgeville. As a result, Town Code Chapter 84 – Animals and Ordinance. No. 521-B, Para 84-10 Definition; Dangerous Dog sub-paragraph H states: *Pit Bulls presumed dangerous. There shall be an irrefutable presumption that a pit bull dog is a dangerous dog and is therefore subject to the requirements of this section.*

"In addition to all the other restraints and constraints placed on this breed of dog alone, there is an elevated fee of \$100 per annum license required and a requirement for liability insurance or surety bond in the amount of \$100,000 at all times. These extra costs are borne by only owners of Pit Bulls who are PRESUMED by the fact of their pedigree to be dangerous in the Town of Bridgeville. Other Towns, for example Seaford, categorize the actions of any dog which qualify it to be considered dangerous and their Ordinance is not breed specific.

"Breed specific legislation is problematic for me personally and I am not, nor have I ever been a dog owner. But when a resident of our Town must pay extra fees and is barred by words in an Ordinance of his Town that states that there is an irrefutable presumption that condemns his particular dog, despite its history, despite its training record, despite its personal acts of community service, and there is no provision for other considerations, than I have to ask Why?

"The dog in question, named Tank, belongs to 5-year Bridgeville residents Fred and Diana Mathews of Heritage Shores and is the antithesis of a dangerous dog. Tank has completed:

- Specialized Therapy Dog Team training, that is, he is specifically trained to perform quality pet therapy; mentoring and tutoring for children when accompanied by his trained owners;
- As a registered therapy dog TANK has been tested and trained for temperament, skills and health;
- His current vet records are on file to ensure he has completed all required vaccinations;
- He has passed a temperament test BEFORE being allowed to enter this rigorous program;
- Since he is dealing with school children, he and his owners have had a background check completed;
- They have completed the program's four required training sessions that led to them becoming a LEAP certified Therapy Dog Team;
- They have participated for 4 months and are continuing to participate in the Greenwood Library's L.E.A.P sessions involving teaching young children to read. Commissioner Tassone commented he has also received a letter from the program coordinator stating how much she appreciates Tank and his owners in the program.

"LEAP stands for Literacy Education Assistance Program. It began in Lewes, DE several years ago and has spread to many Delaware Libraries, Elementary Schools and Senior Citizen Centers and is

growing rapidly. TANK is an American Standard Pit Bull with an outstanding record of involvement in this unique community service program. He and his owners deserve, in my humble opinion, accolades from this body not excessive license fees and additional insurance requirements.

"To conclude, I request two things of this body tonight:

1. Within two days, the Mathews must pay the \$100 license fee for the third time. I ask that the Commission hold in abeyance the requirement for Mr. Mathews to pay any more than the standard dog license fee in Bridgeville this year until the Commission can amend the Ordinance to include a paragraph recognizing that some pit bulls, based on specific criteria to be developed, such as the training and experience that Tank has, are rewarded for their community service.
2. "Create a sub-section of paragraph H that permits a resident relief of these extra fees by crediting a specific number of hours of defined community service each year to be equal to the additional cost levied by the title "dangerous dog". I do not seek to remove the Dangerous Dog title, nor do I seek to modify the wording of the amendment. Just add that if you have this type of dog and you have completed all these trainings and the dog is working with children twice a week in the library to teach them to read, that this community service allows you to only pay the standard dog license fee of \$8.00.

"This will recognize that there are Therapy Dog Teams comprised of trained owners and dogs, some of whom may be pit bulls, who have clearly demonstrated by their training and community service that they deserve community support rather than fear.

"In closing, let me commend Mr. Mathews and his wife Diana for their past compliance with this onerous regulation and for their steadfast commitment to the LEAP program and community service here in Delaware."

Commissioner Tassone suggested asking for a few weeks to work out the wording of a sub-paragraph, so that when a dog/dog owner meets those criteria, they will not have to pay the \$100 dog fee that was meant for an untrained dog, for which the Ordinance was originally designed.

Solicitor Schrader acknowledged the Dog Ordinance roughly paraphrases the state law that went into effect in 2010 that transferred responsibility from the state to the counties for animal control. Solicitor Schrader referred to Title 9, Section 920 that relates to dog control in the 3 counties. It does not mention specific breeds by name. Per the state code, a dangerous dog is "one that has killed or inflicted physical injury or serious physical injury upon a human being; killed or inflicted physical injury or serious physical injury upon a domestic animal, provided the domestic animal was on the property of its owner or under the immediate control of its owner; or the dangerous animal was subject to and was used to facilitate animal cruelty or animal fighting". The state establishes a panel which makes the determination of whether or not a dog should be declared to be dangerous and then places control restrictions. Commissioner Tassone advised the Town has a panel for that purpose; it is a 3-person panel with a current vacancy. He added the Town Code Enforcement Officer is one of the panel members. Commissioner Tassone would like to fill the vacancy in an expeditious manner.

Commissioner Tassone clarified he is not asking to adopt the state code that is not breed-specific. Having the breed name in our Ordinance does not concern the Commissioner, in fact he

thinks it should remain, due to the fact we have some of those breeds in Bridgeville. He also does not take exception to the insurance requirements. Commissioner Tassone believes if we have a dog that is clearly not a dangerous dog, the owner(s) ought to be able to have the \$100 fee waived. Commissioner Tassone advised pit bull owners have not been fined, but they have been required to pay the \$100 license fee (instead of an \$8 license fee) and a \$100,000 bond, strictly because of the dog breed.

Solicitor Schrader sought to clarify Commissioner Tassone's position. He understands that Commissioner Tassone means that rather than having a panel declare a dog to be dangerous, the presumption of a dangerous dog by breed remains in effect, but the dog owner can make application to have the dog declared not dangerous based upon educational training, etc. Commissioner Tassone agreed.

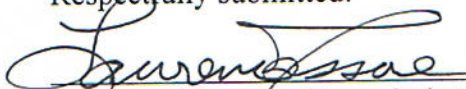
Commissioner Kovack recommended tabling the issue with no fines or penalties written until the Commissioners can research this further. Commissioner Kovack related past insurance issues because of a pit bull they owned. President Correll asked if there is anything concerning this issue in the Heritage Shores Homeowner's Association? No answer was forthcoming. Former Commissioner Ruth Skala advised when the Commission first passed this Ordinance the Mathews were upset and came to her. Mr. Mathews' question was how many registered pit bulls we have in the Town of Bridgeville. It was determined there are 4 registered pit bulls in Town. Former Commissioner Skala advised the Mathews' dog rolls over to be scratched whenever you pay any attention to him at all. She believes this Ordinance needs revision.

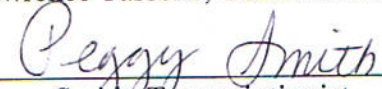
President Correll will instruct Code Enforcement Officer Butler to suspend collecting dog fees on Tank's owners until Commissioner Tassone, Solicitor Schrader and Code Enforcement Officer Butler have an opportunity to discuss possible mitigating circumstances and appropriate revisions of the current Dog Ordinance.

XV. ADJOURNMENT

Commissioner Kovack made a motion to adjourn the meeting. Commissioner Tassone seconded the motion. Motion carried. The meeting was adjourned at 8:21 P.M.

Respectfully submitted:


Lawrence Tassone, Commission Secretary


Peggy Smith, Transcriptionist