

**MINUTES
COMMISSIONERS OF BRIDGEVILLE
SEPTEMBER 10, 2012 – 7:00 P.M.
TOWN HALL**

I. CALL TO ORDER

The meeting was called to order by President Pat Correll at 7:00 P.M. Present: Commissioners Paul Kovack, Steve McCarron, Jay Mervine, Town Manager Jesse Savage and Town Solicitor Dennis Schrader.

II. QUORUM PRESENT

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

III. APPROVAL OF AGENDA

Commissioner Kovack requested that the Commissioners discuss the recent Planning and Zoning Commission minutes under Old Business. Commissioner McCarron made a motion to approve the Agenda with this addition. Commissioner Mervine seconded the motion. Motion carried.

IV. APPROVAL OF MINUTES

Commissioner Kovack made a motion to approve the minutes of the August 13, 2012 Commission meeting. Commissioner McCarron seconded the motion. Motion carried.

V. CORRESPONDENCE

Town Manager Savage reported the receipt of a letter from the Bureau of Alcohol and Tobacco Enforcement commending Police Chief Longo and the Bridgeville Police Department for their cooperation and professionalism in a drug operation within the jurisdiction of Bridgeville. Town Manager Savage also thanked Chief Longo for a job well done.

The Town has received a letter from the Delaware Department of Insurance congratulating the Town on qualifying for a premium discount for Worker's Compensation insurance of 17%, or approximately \$5,000.

A letter has been received from the Apple Scapple Festival, Inc. requesting permission to store rented golf carts at the Wastewater Treatment Plant fenced area. They are scheduled to arrive on October 11, 2012. Commissioner McCarron made a motion to allow the Apple Scapple Festival committee to store the golf carts at the Treatment Plant. Commissioner Mervine seconded the motion. Motion carried.

State Senator Joe Booth has agreed to fund several street projects in Bridgeville, including paving the Treatment Plant driveway, paving the Town's portion of Railroad Ave. (approximately Market St. to Walnut St.) and the storm drain replacement project. These projects will cost \$45,000-50,000.

VI. APPROVAL OF FINANCIAL STATEMENTS AND BILLS PAYABLE

Town Manager Savage advised on the Balance Sheet, as of August 31st, the General Funds totaled \$212,257, which is an increase of \$73,660 from the previous month. Reserve accounts totaled \$511,836 and all accounts totaled \$845,108, which is an increase of \$75,089 from the previous month. Accounts Receivable stands at \$643,958, which is an increase of \$50,322 from the previous month. This amount includes the quarterly wastewater billing to the Town of Greenwood. On the Budget Report, the Town is two months into the new fiscal year with a target of 17%. Income stands at \$708,414, or 30% of the budget. Expenses stand at \$288,384, or 12% of the budget. Net income stands at \$420,030. On Accounts Payable, the Town has received bills totaling \$20,675. This includes the Water Facilities Plan and office supply expenses for the Bridgeville Golf Tournament (which will be reimbursed in the amount of \$222.00). Expenses include a bill from Cannon Enterprises to tint the windows of the K-9 vehicle (2009 Crown Victoria) and \$12,000 for the dog and training. The Town has expected expenses, including payroll, health insurance, quarterly debt service to USDA, utilities bills and miscellaneous expenses in the amount of \$154,100. The total amount to be approved is \$174,775. President Correll questioned a possible rate increase in insurance; however, Town Manager Savage advised there will not be an increase. Commissioner McCarron made a motion to pay the bills as presented. Commissioner Mervine seconded the motion. Motion carried.

VII. DEPARTMENT HEAD REPORTS

President Correll brought up the issue of excessive truck traffic in Town. She has asked that the Police Department discontinue writing truck tickets until after this discussion tonight. She has received many phone calls from grain truckers about being able to access T.G. Adams and Sons, which is inside Town limits. She is aware there is a truck bypass around Town; however, this is an agricultural community and local deliveries are unavoidable. These trucks will need to travel on state and Town streets to access the local businesses. In addition to T.G. Adams, there is Cannon Cold Storage (which is close to the bypass), RAPA Scrapple, Cisco and Dollar General trucks with local deliveries. President Correll requested that the Commissioners come to a consensus as to how to deal with truck traffic in Town. There are truckers waiting for an answer from her concerning local deliveries. President Correll has driven out to the bypass and parked to count trucks that are coming into Town vs. using the bypass. Many trucks use the bypass. She added that S. Main St. (where she lives) has approximately 1/4 of the trucks it had 10 years ago. What President Correll does have a problem with is early morning truck traffic that assumes the police aren't on duty and travels at 60 mph through Town. She is in favor of all speeding trucks being stopped.

Commissioner McCarron advised Kenny Brothers Produce, which is on the edge of Town with no residences in the vicinity, is currently bringing almost 50 trucks in and out of the business on a daily basis; however, the residents who are impacted the most with commercial traffic are those who live on Main and Market Sts. and they are responsible for the majority of the complaining. The Town has industry, which is a good problem to have. He believes the Town Hall staff needs to be advised of the Town policy on trucks and be the responsible party to share with disgruntled residents, rather than involving the Police Department.

Commissioner Kovack advised in 1993 the Town had a problem with truck traffic and in 1995 a moratorium was placed against trucks on Main and Markets Sts. At that time the substructure of the road was not adequate to handle the load. Home foundations had fractures due to the condition of the roadway

and the truck traffic. The state came in and completely re-surfaced Main and Market Sts., which are owned and maintained by the state. Since those repairs, the state has had no weight restrictions on these two roads. The Town does have a weight restriction on local deliveries in Bridgeville (approximately 4 tons). He worked with Chief Longo in canvassing truck traffic and found that 9 out of 11 trucks were local deliveries. He reiterated this is a farming community and trucks must make local deliveries.

President Correll advised area farmers have always been loyal to the T.G. Adams family business. The Town does not want to encourage the farmers to take their grain elsewhere. The issue is approximately 3 weeks of truck traffic for grain in the spring and corn and soy beans later. Commissioner Mervine added that agriculture is the largest industry in the state and we don't want to be unfriendly to farmers' livelihood.

Commissioner McCarron believes we should abandon enforcement of the "no trucks through Town" policy. Commissioner Kovack advised you can't refuse something that the state allows. The state is giving trucks the right-of-way to travel on state roads with no weight restrictions. The Town will continue to demand that the trucks abide by the posted speed limits.

Solicitor Schrader believes the Town is saying they want to protect local industries that depend on truck deliveries. It's the thru-traffic that should be limited. President Correll believes we don't have an overabundance of thru-traffic. Commissioner McCarron advised the complication is stopping every truck to find out which are local deliveries and which are not. Chief Longo advised when the police made a special effort to stop trucks, they discovered only 8 out of 72 were not local deliveries. Commissioner McCarron advised the truck-stopping project was well planned and he appreciated the hard efforts of the police officers. Unfortunately, the traffic ticket will give a truck driver points on his license even though driving through Town isn't an unsafe driving violation.

It was generally agreed that the Police Department should allow truck traffic due to the high percentage of local deliveries; however, all speeding vehicles should be detained and ticketed whether they are cars or trucks.

Commissioner Kovack asked for clarification of the 94 assaults since January on the Police Department Report. Chief Longo advised they were simple assaults and 90% of them were school-related.

Chief Longo reported Bridgeville's National Night Out will take place on Thursday, September 13th from 5 – 8 P.M. behind the Fire Hall. The Drug Take Back Initiative will take place Saturday, September 29th from 10 A.M. – 2 P.M.

Commissioner McCarron questioned the status of the Greenwood Wastewater Agreement. Town Manager Savage advised the Greenwood Council has not voted on the document; Greenwood's attorney is still overseas. Commissioner Mervine asked if there is a time limit on grant approval. Town Manager Savage advised there isn't a time limit on some of the finances; however, some of the matching money is through the Fish and Wildlife grant, which does have a December deadline.

Commissioner McCarron brought up the new NPDES permit. He advised if the Town were subject to the new NPDES permit two years ago, we could not have come into compliance. This year we would be in compliance, due to being able to spray-irrigate all year; however, looking at past years, we

would have been in violation of the new regulations regularly. Unless we have a good year weather-wise and can spray irrigate all year, there is no way we can comply with this new permit. Mr. Jason Loar from the Town's engineering firm, Davis, Bowen and Friedel, Inc. agreed that without spraying, the Town cannot abide by the new permit.

Commissioner Mervine asked Mr. Loar about the recent DNREC meeting on this topic. Mr. Loar reported in order to meet the Chesapeake Bay TMDL (Total Maximum Daily Load, which establishes the maximum amount of an impairing substance or stressor that a waterbody can assimilate) we must comply with the regulations of this new permit. The problem is, there is no compliance time schedule in the permit, which is not reasonable. This issue will be going out again for public comment soon and the Town will be able to make additional comments concerning a time schedule for compliance. Commissioner McCarron added that originally we were only given 3 days to comment on something that was presented to us 8 months late. He believes the agency is going to jam the compliance down the Town's throat. We need a reasonable time frame to implement the new permit regulations.

Mr. Loar advised the way the permit is written, we must comply immediately upon receipt of the permit. Commissioner Mervine stated, "But they know we can't comply." Mr. Loar advised the permit is a way for the state to cover themselves before the Environmental Protection Agency and the Chesapeake TMDL. The reason Bridgeville cannot comply is that the agency is tightening the nutrient requirement by cutting it in half; however, our plant is not made for nutrient removal and is not able to do it. We need to find out the best case scenario for the Town – pay fines or pursue a new treatment plant. Mr. Loar stated that funding for additional spray irrigation is dependent upon the signing of the Greenwood Agreement. The Town wants to spray as much as possible, but does not want to let go of the permit for stream discharge, as there are times when spray is not possible. We need good weather for spray or additional lagoon storage and additional land for spray. At least double our current acreage would be necessary.

Commissioner Mervine asked if the Town would be allowed to renew the old permit. Mr. Loar advised that is not possible. The state tried to cut our nutrients with the last permit renewal and allowed us to wait until this permit renewal to cut the nutrients, so our time has run out. Commissioner Mervine acknowledged it doesn't make sense to demand compliance when there is no possible way to comply. Mr. Loar agreed and said it doesn't make sense to give us a permit we can't comply with and no time schedule to come into compliance. Typically there is a compliance schedule of several years to get things in order. Mr. Loar advised they can't issue a permit to us that we cannot meet; they must offer a compliance schedule – i.e. a chance to meet the permit requirements – and hopefully money to meet the requirements. The issue is if Bridgeville doesn't do something about its wastewater treatment, Delaware cannot meet its Chesapeake Bay TMDL. The Town has spoken to DNREC Secretary Collin O'Mara and will likely re-open talks with him. Hopefully the state will offer financial assistance; compliance must include money to enable the Town to meet the standard.

President Correll thanked Mr. Loar, WWTP Superintendent Collins and Town Manager Savage for preparing important paperwork in a very short 3-day period to accommodate the deadline.

VIII. TOWN MANAGER'S REPORT

Town Manager Savage advised the Delaware Department of Transportation (DelDOT) is continuing work on the Main and Market St. intersection. They have moved the signal box closer to the

parking lot on Market St. and are working on the new light poles. They anticipate finishing by the end of September. The new crosswalk at the intersection will be constructed, despite Town disapproval.

Bridgeville Police Officer Bobby James will begin a six-week K-9 training program with the dog on September 17th.

National Night Out is September 13th. It is a great family event with entertainment and food.

Lank, Johnson and Tull has completed the record-gathering portion of the annual audit. A completed draft should be available for review around the middle of October.

Town Manager Savage has spoken to Ms. Dottie Harper of Brookfield Homes about the Heritage Shores bike path. Currently the path runs along Wilson Farm Rd. for the length of Whistling Duck Dr. to the construction entrance. The original proposal brings the path to the library on S. Cannon St. The completion of the path has been placed in the development budget for 2013.

The Town has been approved for a USDA matching grant to fund a Wastewater Inflow & Infiltration Study. The Town must fund 25% and the USDA will fund 75% of the money. The approval for that grant is on tonight's Agenda.

The first public participation meeting for the Master Plan will be held on Tuesday, September 25th, 6 P.M. at the Bridgeville Public Library.

IX. CITIZEN'S PRIVILEGE

Mrs. Ruth Skala from 108 Whistling Duck Dr. reminded everyone of the Patriot Day Celebration at Heritage Shores on Tuesday, September 11th at 9:30 A.M. In addition, on Tuesday evening the library is sponsoring a program honoring 100 years of Broadway with the Clear Space Theater Group at 7:00 P.M.

X. OLD BUSINESS

A. K-9 Policy

Town Manager Savage advised a K-9 policy has been drafted and sent to the Commissioners for their review. It must be approved before Police Officer James and the dog complete their training course. Commissioner Mervine asked for clarification of the chain of command with the K-9 unit. There is some discrepancy concerning the responsibilities of various levels of officers and the K-9 unit in the policy. Sergeant Parker handles all scheduling; therefore, he will be involved in the scheduling of the K-9 unit. Officer James and the K-9 will report to Chief Longo for all call-outs. The decision is taken out of Officer James' hands and placed in Sergeant Parker and Chief Longo's hands for emergencies.

Commissioner Mervine asked what happens when the State Police call and say, "We want your dog." Chief Longo advised the dog is not allowed outside the "normal patrol area." The dog will not travel all over the county to assist. Commissioner Mervine believes once it gets around that Bridgeville has a K-9 unit, everyone will be calling with requests. Chief Longo advised the circumstances must meet certain criteria to take the dog elsewhere; i.e. an active shooter/officer shot situation. Commissioner

Mervine is concerned about a situation where the K-9 and handler have completed a full day's shift; get called out overnight and then have to come in for a regular day shift. He does not want the K-9 or handler to be run ragged. Chief Longo advised the use of the dog would depend on the specific situation; the handler's schedule can be revised as emergency circumstances warrant. A flexible schedule will save on over-time hours in this and other situations. The final decision remains with the Chief; the out-of-Town callout must be a major emergency or life-threatening situation. Sergeant Parker will make some decisions; however, the Chief is the final decision-maker. Chief Longo advised when Delmar sends their K-9 unit out by State Police request; the State Police must send a replacement officer to Delmar to cover. Commissioner McCarron advised if there's an emergency, it is likely that other Bridgeville officers will also be going to provide support. Chief Longo has made it clear that this dog is not the Sussex County K-9 unit; there will be normal patrol sectors.

President Correll advised Corporal James must sign a 5-year officer employment agreement before he begins the training course next week. It was clarified that Town Manager Savage has approved the contract. Commissioner McCarron made a motion to adopt the Bridgeville Police K-9 Policy, with several grammatical corrections. Commissioner Kovack seconded the motion. Motion carried.

B. COMMISSIONER KOVACK CONCERNS

Commissioner Kovack has been asked by Town residents when the bike path from Heritage Shores to the library will be completed. He was told it was included in an agreement the Town had signed with the developer of the Heritage Shores community. He was able to find the bike path agreement on page 6 of the developer's agreement. The bike path was to be completed on or before the issuance of the 300th residential building permit. The bike path was to be 10' wide and made out of white asphalt. The developer would grant the Town an easement permitting public use of the bike path. Commissioner Kovack investigated further and found that in 2008 the developer was looking at plans; in August of 2008 the developer's lawyer advised plans had been approved, with completion expected in the fall of 2008. At that point, land development fell and the developer requested a year's extension in 2009. Now we hear they are going to put the bike path in the 2013 budget. Commissioner Kovack knows times are hard, but he believes this is long on rhetoric and short on delivery. When he became a Commissioner he wanted to strive for consistency and fairness. If the Town had been at fault in this agreement, he guarantees the developer would have taken us to task. He believes if a promise is made, it should be honored. Hard times can't really be considered an issue, since the developer has moved forward with over 100 new building permits since this agreement. He believes the bike path should be built expeditiously.

Concerning Planning and Zoning, Commissioner Kovack requested that Solicitor Schrader and the Commission stay after tonight's meeting for a point of clarification that he does not want to bring up publically, so that the Commission doesn't operate capriciously or surreptitiously. Commissioner McCarron advised the meeting would have to be an open meeting. It was clarified that Commissioner Kovack wanted to speak with the Solicitor alone.

Commissioner Mervine asked Solicitor Schrader about additional discussion that has taken place in the Planning and Zoning Commission about the request for a karate studio on Elm St. Mr. Bill Atwood, Chairman of the Planning and Zoning Commission, advised it was an issue brought up by one particular member of the Planning and Zoning Commission and most of the other members were not aware of what ensued concerning the denied conditional use request after the hearing. The

Commissioners of Bridgeville also denied the karate studio request and it seemed that the end result of the karate studio opening for business was improper. Chairman Atwood continued, since it appeared that the Town Commission allowed the business to open, the Planning and Zoning Commission stood with the Town Commission in that decision. Commissioner Mervine understands that the application did not really need to be filed in the first place, but since both Commissions voted "no," doesn't that hold some weight? The opening of the karate studio seems like a challenge to the two Commissions. Chairman Atwood re-asserted that Planning and Zoning denied it, the Town Commission denied it, and he assumed it was acceptable now because the Town Commission didn't take issue with the opening of the business.

President Correll advised that after the decision of both Commissions, the owner attached the garage to the house, which negated the problem of the business taking place in a separate building. The other issue involved is that it is a home-based business and if the Commission closed it down, it would have to close down a myriad of other home-based businesses in Town, which is not fair, nor would the Commission want to do that. Town Manager Savage added that nothing in the code prevented Mr. Smith from attaching the new building to his house and thus, making it agree with the code. President Correll advised she lives on the corner of Elm St. and all karate traffic drives by her home; it has not been a problem. Additionally, there are no Saturday or Sunday classes. She believes both Commissions really need to pay attention to these types of issues in the future.

Chairman Atwood admitted we have learned from this experience. Solicitor Schrader remarked the first time he became involved in the issue, Code Enforcement Officer Butler was comparing the karate studio to a lawnmower repair service. He did not agree with that comparison, as the repair service is noisy, smoky, dirty, etc. He believes a karate school compares favorably with a dance studio. The perception of the Commissioners is that home-based businesses often involve craft, art, tax preparation, individual music lessons, etc. If the Commissioners are in disagreement with any home-based businesses allowed in the code, it can always be changed by Ordinance.

After reading the Planning and Zoning Commission minutes from the karate studio application, Commissioner Mervine understood that the Planning and Zoning Commission's concerns revolved around parking, bathroom facilities, etc. for a large group of children. Commissioner Kovack stated there have been no complaints from neighbors regarding those issues. President Correll admitted she has never gone down the street to investigate. Chairman Atwood advised one of their original concerns was a second business on the premises by Mrs. Smith, but that aspect was withdrawn from the application. Commissioner Mervine acknowledged he is pro-business, but there must have been some reason to reject the application the first time. President Correll advised the Smiths' lawyer told them to go ahead and open. Solicitor Schrader suggested it is rather late to worry about it. In terms of going forward, the code has a lot of aspects that need to be fixed. He has drafted four ordinances for consideration that are floating around somewhere. In addition, as we progress through this, there will be times when we need to fine-tune Ordinances in a similar fashion to the exceptions we recently made for businesses moving into an established building with no changes. Commissioner Kovack reminded the Commissioners that "the horses have already left the barn" in Mr. Smith's case; his lawyer told him to wait one year and one day, which he did, attached the house and garage and opened the studio. Commissioner Kovack agrees we need to look at some of the Town codes. He does not believe the Town should be inconsistent, covert and under-handed about issues that arise.

Chairman Atwood reported the Planning and Zoning Commission has wanted to have a workshop to look at the code thoroughly and has created a list of suggestions that were passed along to previous

Town Managers, but they never went anywhere. There are conflicts in the code to be worked out, as well as the opportunity to make improvements. Solicitor Schrader suggested the code book could also use some simplification. The previous code was based on life in the 1950's. The Institute of Public Administration at the University of Delaware prepared the code which is in use today and there are continuing issues with its practicality.

XI. NEW BUSINESS

A. Approval of Office of Drinking Water Pre-Applications

Town Manager Savage advised the Town is submitting pre-applications for (1) the Walnut St. Water Main Replacement, (2) Well House Alarms – a budgeted item that we hope to receive grant monies to offset the expense and (3) New Water Meters to complete the upgrade project – another budgeted item.

Commissioner Kovack mentioned an emergency response plan; Town Manager Savage will contact Water Superintendent Kimball for more information concerning that issue.

Commissioner McCarron made a motion to submit pre-application documents to the Office of Drinking Water for consideration of possible loans or grants for these three projects. Commissioner Mervine seconded the motion. Motion carried.

B. Approval of USDA Grant – Wastewater Inflow & Infiltration Study

Town Manager Savage advised we have received an agreement for review; \$25,000 is obligated by USDA and the Town is responsible for \$9,000 to do the study, which includes an engineering report, smoke testing and closed circuit televising of the mains to determine where problems lie. With the Commissioners' approval, the Town will sign the agreement and get the project started. Commissioner McCarron believes this is an important project. We have pipes that run across ditches and there are water issues after a heavy rain. The Greenwood Town Manager has offered their smoke testing equipment for our use. Mr. Jason Loar from Davis, Bowen and Friedel, Inc. advised he would like to start the project this fall. Town Manager Savage reported we must spend the money up-front and then be reimbursed. Commissioner Kovack made a motion to approve the Wastewater Inflow and Infiltration Study. Commissioner McCarron seconded the motion. Motion carried.

C. Approval of Apple Scrapple Food Vendors

The Commissioners approve the food vendor list for the Apple Scrapple Festival each year. Food Chairman, Mrs. Bonnie Workman, will likely add several more vendors to the list before the Festival. Commissioner Kovack made a motion to approve the Apple Scrapple food vendor list, with the stipulation that any additional food vendors added may be approved by the Town Manager. Commissioner Mervine seconded the motion. Motion carried.

President Correll reminded everyone about the upcoming Patriot Day program on September 11th. Mr. John Barr has worked very hard on the program, with assistance from Town Secretary Peggy Smith. This is a community event.

President Correll was approached about having the 4-H group organize the Caroling in the Park event at the Historical Society Park in December (date to be determined). Mrs. Marian Carey did an excellent job of organizing the event last year and they would like to continue the tradition. Commissioner Mervine made a motion to support the Caroling event. Commissioner McCarron seconded the motion. Motion carried.

The Bridgeville Historical Society is having their annual auction on Friday night at Heritage Shores. Mrs. Eleanor Bennett can be contacted for tickets by tomorrow's deadline.

President Correll encouraged any golfers to participate in the Bridgeville Charity Open Golf Tournament on October 12th at Heritage Shores. Contact Mrs. Peggy Smith for more information. All proceeds go to Bridgeville organizations – the Lions Foundation, Kiwanis Club and Senior Center.

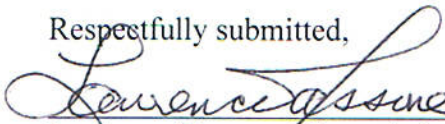
Commissioner McCarron recognized Police Officer McGown for his assistance two weeks ago at Elizabeth Cornish Landing. There was an apartment fire large enough to set off the sprinklers. Officer McGown went into the apartment and pulled the occupant out before the Fire Company arrived. Chief Longo stated he is putting Officer McGown in for an award for his act of bravery. The man did not want to leave the apartment, but the officer dragged him out against his will and saved his life.

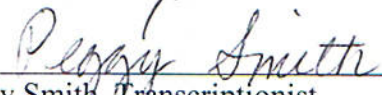
President Correll advised there was a bad car accident by her home on Sunday night. The Bridgeville Police Department came immediately. It involved a DUI and an ambulance took adults and children to the hospital.

XII. ADJOURNMENT

Commissioner Kovack made a motion to adjourn the meeting. Commissioner McCarron seconded the motion. Motion carried. The meeting was adjourned at 8:20 P.M.

Respectfully submitted,


Lawrence Tassone, Commission Secretary


Peggy Smith, Transcriptionist