

MINUTES
COMMISSIONERS OF BRIDGEVILLE
DECEMBER 9, 2013 – 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, Sharon McDowell, Jay Mervine, Lawrence Tassone, Town Manager Jesse Savage and Town Solicitor Dennis Schrader. The meeting began with the Pledge of Allegiance and Prayer.

Commissioner Kovack wished everyone attending a “Merry Christmas.”

II. QUORUM PRESENT

President Correll reported a quorum was present to discuss the business of the Town of Bridgeville.

III. APPROVAL OF AGENDA

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

IV. FY-2013 AUDIT REPORT – Lank, Johnson & Tull, CPA’s

President Correll expressed condolences to Rick Tull and his family concerning the recent death of a brother in North Carolina, who also is a brother to President Correll’s son-in-law, Jeff Tull.

Mr. Tull is from Lank, Johnson and Tull CPA firm. He drew the audience’s attention to page 3 of the audit report. There are technical changes to the report this year, which are new “clarity” standards with different terminology, but the same basic information is included. Mr. Tull is presenting an unqualified opinion, which means there are no qualifications; it is the highest standard possible. Page 5 begins a series of white pages, which concern “Management Discussion and Analysis” in layman’s terms. Page 6 includes a graphical depiction of a statement of the “net position” of the Town of Bridgeville, which is the difference between assets and liabilities. If you have a positive net position, your assets exceed your liabilities and vice versa. The Town’s net position remained relatively constant from 2012 to 2013. The General Fund net position increased by 17%, due to management’s ability to fund current expenses with current revenues and still have surplus to fund capitol escrow accounts. Business-type funds decreased by 1%. Per Mr. Tull, the Town’s total revenue, excluding transfers, increased \$2.67 million. Revenue from business-type activities decreased to \$1.4 million, which is attributable to lower usage fees, a 38% decrease in impact fees and various fee decreases. Governmental revenues increased by 8.9% to \$1.23 million, which is attributable to federal/state grants, transfer taxes, fines, licenses and permits. The total cost of all programs and services increased by 1.17% to \$2.59 million. Cost of business-type activities increased by 6.47% to \$1.48 million, primarily due to water/wastewater facility plan updates and increases in engineering fees and other operating expenses. Costs of governmental-type activities decreased by 5.13% to \$1.1 million.

Page 7 depicts the Budget Highlights. The budget was amended one time during the fiscal year. General Fund actual revenues exceeded budgeted revenues by 14%, due to greater than anticipated federal/state grants, transfer taxes, licenses and permits.

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General Fund actual expenditures exceeded budgeted expenditures by \$.07 million. This unfavorable variance was primarily the result of higher various line item expenditures than anticipated in the budget.

Mr. Tull advised there wasn't a lot of fluctuation; it was a "break even" year. The Town was able to fund its reserve, which is important. Town Manager Savage's comments are located on page 9 of the report. Page 10 includes the Balance Sheet or Statement of Net Position. The Town has total assets of over \$21.5 million. Liabilities total over \$5 million. There are prepaid impact fees for Heritage Shores of \$1,662,000. The Town's net position is \$14,116,349. Of that amount there is an unrestricted balance of over \$150,000, which for a small Town is very good. Page 11 includes what is similar to the Town's profit/loss statement, if it were a for-profit business. There is (as it were) an \$80,682 profit.

Mr. Tull advised he will gladly answer any questions here, or his phone number is on the document. He added that it is a pleasure to work for the Town and with the employees, as everyone is competent in their positions and easy to work with.

Commissioner Tassone assumed the \$80,000 profit will be placed in the reserve fund. Town Manager Savage advised that is true. It takes into consideration everything except the transfers from other accounts.

Motion to accept the audit report from Lank, Johnson & Tull – Tassone; 2nd – McDowell. Motion carried.

President Correll thanked Mr. Tull for his time and efforts on the Town's behalf. She also thanked Town Manager Savage for his time in finding and providing all of the paperwork that the auditors needed for the task.

V. APPROVAL OF MINUTES

Motion to approve the Minutes from the November 4th Referendum Public Hearing and the November 11, 2013 Commission meeting – Tassone; 2nd – Kovack; motion carried.

VI. CORRESPONDENCE

Town Manager Savage advised a letter has been received from the Apple Scrapple Committee Chairman, Karen Johnson, thanking the Town for its service and numerous tasks accomplished by the various departments for the festival.

A letter was received from Representative John Carney in response to a letter the Town sent to him on November 19th concerning the move of the Social Security Administration (SSA) office from Georgetown to Lewes. He appreciated Bridgeville's letter and has contacted the General Services Administration concerning his disapproval of the proposed move. Residents are welcome to contact Mr. Drew Slater from Representative Carney's office with additional comments; Town Manager Savage has already contacted Mr. Slater concerning the matter. We understand the GSA will be sending a response to Mr. Slater soon.

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President Correll advised we received a response from Mr. Carney very quickly. All Sussex County Towns were asked to contact their representatives concerning the SSA move. Town Manager Savage added that due to the make-up of our community, Bridgeville residents would be severely impacted if the Social Security office moves to Lewes. President Correll advised Bridgeville just found out about the intended move three-four weeks ago and others have known about it since last May.

VII. APPROVAL OF FINANCIAL STATEMENTS AND BILLS PAYABLE

Balance Sheet – November 30, 2013

General Fund – \$451,000

All Accounts – \$1,275,904

Accounts Receivable – \$133,812

Budget Report Target – 42%

Income – \$1,291,292 (55% of budget)

Expenses – \$1,048,574 (45% of budget)

Net Income – \$242,718 to-date

Accounts Payable

Bills – \$50,875

Expected Expenses – \$253,300 Debt service payments are due for the semi-annual DNREC payment for spray irrigation upgrades which is due and the quarterly USDA loan.

Amount to be approved – \$304,175

Motion to approve the bills as presented – Tassone; 2nd – Mervine; motion carried.

VIII. TOWN REPORTS

Commissioner Tassone questioned what appear to be two audits, one from Lank, Johnson & Tull and another from Morris, James, Wilson, Halbrook & Bayard. Town Manager Savage advised audit and legal bills share the same expense line item.

Police Chief Longo was unable to be in attendance tonight and present a report. Commissioner Kovack asked Town Manager Savage to find out if the unsolved crimes on the Chief's report includes the Walnut St. shooting and if there are additional leads in the case.

President Correll advised the Bridgeville Police Department is back in the schools in place of Resource Officers. The school system, Town Manager and Police Chief have worked out the details. Town Manager Savage advised the Town has agreed to put an officer in the school for 4 hours/day, with no over-time funds being used. The school district has agreed to reimburse the Town at \$45/hour. Several of the teachers told President Correll it is a positive move.

Town Manager Savage advised the Police Department is not providing a full-time officer due to lack of available funding; a half-day wage is what the school currently has available to pay an officer. They are trying to secure additional funds for next school year. (A school-year is 180 days.) The time of day varies, as well as which school the officer visits. If the police are called in, that is considered part of the 4 hour shift. This new schedule began in November.

Next school year the new high school in Greenwood will open. The school is under Delaware State Police Troop 5's jurisdiction; however, it will cost the school twice as much for state troopers to come. Town Manager Savage believes we will need to meet with the school and State Police to iron out policing requirements. If the schools want to contract for a full-day officer, the Town would likely have to hire a new officer who would be available to the schools during the school year and to the Town during the summer months.

Commissioner Kovack questioned Code Department income. Town Manager Savage advised we budgeted low on fine collections and are over budget expectations. Additionally, building permits are well above budget. Rentals and contractor licenses are mostly repeats from previous years.

Commissioner Tassone asked if we expect to get any salvageable materials from the Banks house; i.e. windows/floors, etc. Town Manager Savage believes there is a slight chance; some of the windows are salvageable. President Correll suggested letting Habitat for Humanity take a look just prior to demolition. Commissioner Kovack suggested bringing in a contractor to salvage floors, etc. Our Public Works employees can be used to strip salvageable metal, etc. Town Manager Savage advised he is waiting on the outcome of the N. Main St. property as a potential funding source for the demolition of the Banks property.

Commissioner Tassone questioned the house just outside of Town on S. Main St. that has been stripped for demolition. It was noted the building underwent a controlled burn on December 7th.

IX. CITIZEN'S PRIVILEGE

Mrs. Ruth Skala from 108 Whistling Duck Dr. questioned line item #4170, which is at 183% of budget. She asked what is being repaired. Town Manager Savage advised the repairs are for emergencies at the Wastewater Treatment Plant. It is currently in the operating fund; however, he hopes to move money from another line item and use sinking funds to cover it when the mid-year budget amendment takes place.

Mrs. Skala also questioned the high number of alarms (13). Town Manager Savage advised that is not an unusually high number of alarms; he knows there were 3-4 false alarms last week. Code Enforcement Officer Butler handles the excessive alarms.

Mrs. Skala announced that the Bridgeville Public Library will host a program on Holiday Celebrations Around the World on Tuesday, December 10th at 7:00 P.M. All are invited to attend.

Additionally, the Mustang 4-H Club will sponsor Christmas Caroling at the Historical Society Park on Sunday evening, December 15th at 6:30 P.M.

The Commissioners have been given several potential dates for a mid-year Budget Amendment Workshop in January; the date chosen is Wednesday, January 15th at 2:00 P.M.

It was determined the Commissioners will recognize the Woodbridge Football Team's winning season after the holidays.

President Correll reported that Ms. Paula Gunson from the Seaford Chamber of Commerce is retiring and she would like to honor her in the near future, as she has done a lot for Bridgeville.

Bridgeville will sponsor the SCAT (Sussex County Association of Towns) meeting in April this year. Commissioner Kovack had suggested honoring her at that meeting; however, it would be better to acknowledge her in the near future.

X. OLD BUSINESS

A. Public Hearing, Discussion and Possible Voting on: AN ORDINANCE TO CREATE A NEW CHAPTER OF THE BRIDGEVILLE CODE, REQUIRING THE MAINTENANCE AND CARE OF ABUTTING RIGHTS-OF-WAY AND CURBS, SIDEWALKS, BIKE PATHS, WALK PATHS, OR SWALES Introduced 11/11/13 – Tassone (2013-J)

Solicitor Schrader read the Ordinance in its entirety and opened the Public Hearing at 7:39 P.M. Mr. Bill Atwood from 113 Emily's Pintail Dr. questioned why this Ordinance is being considered. Town Manager Savage advised the current Charter says that the Town can install and repair sidewalks and charge the property owners; however there is nothing in the code concerning enforcement of that Charter provision; other regulations are enforceable by code. Mr. Atwood questioned the addition of bike paths/walking paths/swales when, as far as he knows, they are not an issue and they are only located in Heritage Shores, not in the older portion of Town. Town Manager Savage reported the Town is making an effort to be all-inclusive and avoid problems in the future. Some areas do not have sidewalks, but have swales (i.e. Jacobs Ave.) A homeowner blocking the swale would be problematic and this Ordinance is attempting to cover all bases. Mr. Atwood checked other Ordinances in our code book along with other Towns' codes concerning a homeowners' ability to prune Town trees (i.e. up to 20%) and suggested the Town consider these types of Ordinances. Town Manager Savage reported the Town does not want to allow any new trees to be planted in the grassy area between the sidewalk and the curb. Concerning the trees that are already planted, they are Town trees and some residents have taken it upon themselves to cut off all the limbs killing the trees or use other pruning methods that are harmful to the tree, thus the decision to have Town staff prune trees in the right-of-way.

Solicitor Schrader advised anything requiring DelDOT approval may have a multi-modal component to it. The new Wawa might have a sidewalk, bike path, or a swale requirement as a part of the highway improvements that Wawa would have to adhere to.

Mr. Atwood added that he hopes this Ordinance will not require CEO Butler to be called every time a resident goes out to trim their trees. Town Manager Savage advised the only problems would be with tree trimming in the right-of-way. Mr. Atwood highly recommends looking into the Ordinance he discovered concerning permission to trim any tree up to 20%.

Commissioner McDowell questioned if the Ordinance allows installing sidewalks anywhere a resident desires. It was clarified that issue is not addressed in this Ordinance. Only the maintenance of sidewalks is covered. Per Solicitor Schrader, the Town has the right to put in sidewalks in its rights-of-way any time it chooses.

Mr. Frank Mills from 64 Emily's Pintail Dr. asked that curbing be fully explained. Solicitor Schrader advised curbing is defined in the Ordinance as "a raised line of concrete, stone, or asphalt at and/or forming the edge of the paved roadway." Solicitor Schrader reported, per the Ordinance, the property owner is not responsible for maintenance of curbing. Town Manager Savage stated that typically when the Town accepts a street for repair and maintenance they are accepting the roadway from curb to curb. For some streets in Town, that is the whole right-of-way, for other streets in Town it leaves the devil's strip and sidewalk out of the Town's repair/maintenance. His goal is to make every property the same, as far as sidewalks are concerned. He added, the whole right-of-way is dedicated to the Town and the Town accepts the maintenance and repair of the streets/curbing. The sidewalks, devil strip grass, etc. are to be maintained/mowed by property owners. It was clarified that Mr. Mills would not have to replace a curb due to something like heavy truck damage.

Town Manager Savage advised if the Town plants a tree in the devil strip and the sidewalk is uprooted because of the tree; it is the Town's responsibility, not the property owner's responsibility. He added the Town is getting rid of street trees because they damage the sidewalks and curbs.

Solicitor Schrader read correspondence submitted by Mrs. Jackie Vogle from 124 Widgeon Way concerning the disrepair of the sidewalks being turned over to the homeowners for maintenance. According to Mrs. Vogle, the Town is requiring all curbs to be approved for acceptance by the Town, but is disregarding the condition of the sidewalks that are in disrepair. (Attachment to the original Minutes)

Commissioner Tassone commented that Mrs. Vogle's point is valid. Town Manager Savage responded to the letter by saying the Town is treating this as if we are buying a new house and we are requiring certain repairs to streets/curbs before we "buy". The same could have been done when Mrs. Vogle purchased her house and the sidewalk. When this goes into effect, the property owners will know that they are responsible for the sidewalks. The Town can only make sure that the sidewalk is constructed according to Town standards; we can't question other aspects of sidewalk construction.

Commissioner Tassone reported the Town has no legal grounds to force the developer to do anything about poorly constructed sidewalks. Solicitor Schrader commented that theoretically you don't have to accept them into the Town system if they were constructed in something that was dedicated to the Town. On the other hand, this does not change any contractual obligations the developer might have had with the land owner/purchaser. If I, as the developer, sold you a lot and failed to construct a sidewalk that would survive a reasonable amount of time for a sidewalk, there could be issues between the developer and the land purchaser. Sidewalks are somewhat different; they don't have the same wear and tear as streets. He suggested a sidewalk has approximately five times the life of a street. Town Manager Savage advised the Town has changed its Certificate of Occupancy (C.O.) inspection procedures to take into account sidewalks. Each Town Department is inspecting a property before a C.O. is released. Commissioner Tassone commented that doesn't help the 250 homeowners whose sidewalks were made by a previous homebuilder – Lennar. These 9 year-old sidewalks have not held up well.

Solicitor Schrader closed the Public Hearing at 7:50 P.M.

Commissioner Mervine reiterated Mrs. Vogle's concern about being responsible for a sidewalk when the homeowner doesn't own the land the sidewalk sits upon. His understanding is that the Homeowner's Association (HOA) controls the sidewalks, so all sidewalk issues would be between the HOA and the developer. Solicitor Schrader advised this Ordinance would not supersede the contractual

relationship between the HOA, the landowner and the developer. Commissioner Mervine added if a homeowner sees a sidewalk that is a problem, they might assume it's not their problem; it's the HOA's problem. This Ordinance says it may be the HOA's responsibility, but if they don't take care of it, it's up to the homeowner. Commissioner Tassone agreed the final authority is the property owner. Town Manager Savage advised it is a private matter between the property owner and the HOA as to how it is settled. Solicitor Schrader commented it is easier to fix a lot of sidewalk, rather than a small amount with multiple contractor and skill levels. Commissioner Tassone advised this is a problem he doesn't know how to solve. The sidewalk is the homeowner's responsibility, which is a very common practice in numerous HOA's. Unfortunately, the HOA at Heritage Shores is not highly responsive.

President Correll advised the Town Charter acknowledges that sidewalks are the homeowners' responsibility. Changing the Charter would be an overwhelming process.

Motion to approve Ordinance 2013-J, An Ordinance to Create a New Chapter of the Bridgeville Code Requiring the Maintenance and Care of Abutting Rights-Of-Way and Curbs, Sidewalks, Bike Paths, Walk Paths, or Swales and to rename the proposed Ordinance #2013-J to adopted Ordinance #13-11 – Tassone; 2nd – Kovack. The motion carried with 4 votes in favor and 1 abstention by Commissioner McDowell.

XI. NEW BUSINESS

A. Conditional Use Extension Approval – DMS Development/Wawa

Town Manager Savage advised the Wawa Gas and Convenience Store Conditional Use was approved in February 2013, with a 12-month time period to begin construction. The state/county permitting process is time-consuming and the developer has submitted a written request to extend the Conditional Use permission until February 11, 2015. Mr. Bob Rauch of Robert D. Rauch and Associates, LLC came to represent the request on behalf of DMS Development. He advised the project has received all permits and approvals and is ready to move on to the construction phase. The project is out for bids and pending good weather they will begin demolition/construction. He is here tonight due to a Bridgeville Code technicality; 2 one-year extensions are permissible for Conditional Use projects.

Commissioner Tassone added that the extension approval was recommended by the Planning and Zoning Commission at their November 19th meeting. He also requested that the same plans that were distributed to the Planning and Zoning Commission be made available to the Town Commissioners.

Motion to approve a Conditional Use Extension until February 11, 2015 to DMS Development for a Wawa Gas and Convenience Store – Kovack; 2nd – Tassone; motion carried with 4 votes in favor and 1 recusal by President Correll, as she has family members involved in the development project.

B. Engineering Services Proposal for Water System Improvement Project Davis, Bowen & Friedel, Inc.

Town Manager Savage advised the Town Engineers, Davis, Bowen & Friedel, Inc. (DBF) have submitted an Engineering Services proposal for the Town's Walnut & Laws Street Waterline Replacement, the Water Meter Replacement and SCADA Improvement projects. These projects have

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been approved by the state and the Town has been awarded a loan. This is a contract for the engineering services from DBF.

Mr. Jason Loar from DBF was in attendance to answer any questions. The contract is within the funding requested from the state. It was clarified that engineering services will be billed on an hourly basis, which is a change and will hopefully save the Town money.

Motion to approve the Engineering Services Proposal from DBF – Mervine; 2nd – Tassone. Motion carried 5 to 0.

President Correll reminded the Commissioners that the Town Commission/Employee Christmas party is on Friday, December 13th.

XI. ADJOURNMENT

Motion to adjourn – Kovack; 2nd – Commissioner Mervine; motion carried. The meeting was adjourned at 8:02 P.M.

Respectfully submitted,

Lawrence Tassone

Lawrence Tassone, Commission Secretary

Peggy Smith

Peggy Smith, Transcriptionist