

**MINUTES
COMMISSIONERS OF BRIDGEVILLE
February 11, 2013 – 7:00 P.M.
TOWN HALL**

I. CALL TO ORDER

The meeting was called to order by President Pat Correll at 6:30 P.M. Present: Commissioners Paul Kovack, Jay Mervine, Lawrence Tassone, 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.

III. EXECUTIVE SESSION – LAND ACQUISITION

The Commissioners went into Executive Session at 6:31 P.M. to discuss land acquisition.

IV. RECONVENE OPEN SESSION

Commissioner Tassone made a motion to reconvene the Open Session. Commissioner Kovack seconded the motion. Motion carried. The Open Session reconvened at 7:03 P.M. No votes or actions were taken during the Executive Session. The Open Session began with the Pledge of Allegiance and Prayer.

V. APPROVAL OF AGENDA

Commissioner Kovack made a motion to approve the Agenda as presented. Commissioner Tassone seconded the motion. Motion carried.

VI. FY-2012 INDEPENDENT ANNUAL AUDIT REPORT – Firm of Lank, Johnson and Tull

Mr. Rick Tull advised this is an unqualified opinion, which is the highest level. It is in accordance with generally accepted accounting standards and there were no significant findings to relate to the Commissioners. Most of his comments came from the Management Discussion and Analysis portion of the report because it is written in laymen's terms. The Town's net assets remained relatively constant from 2011 to 2012. Salaries and benefits were allocated to the Water and Wastewater Departments for the first time in this fiscal year, giving the Town a truer picture of the conditions. General Fund actual revenues of \$1.13 million exceeded budgeted revenues of \$1.1 million, mostly due to unanticipated transfer tax revenues and unbudgeted grant funds. Total assets equaled \$21,770,000; liabilities were \$7.7 million, with a net asset of \$14 million. Mr. Tull believes those totals are very good, although they could be easily used up in a capital project. He believes this financial statement reflects positively on the Town and the Town has been able to manage its growth fairly well. He attributes the success to the Commissioners and Town Manager Savage. Exhibit B is a

statement of activities, similar to an Income Statement in a for-profit business. The “net profit” for the year is \$48,755, which isn’t a bad result, given the state of the economy.

Mr. Tull advised it has been a pleasure working with Town Manager Savage and the Town staff. Commissioner Tassone made a motion to accept the audit report. Commissioner Mervine seconded the motion. Motion carried.

VII. APPOINTMENT OF CERTIFIED PUBLIC ACCOUNTING FIRM

Commissioner Mervine made a motion to accept the firm of Lank, Johnson and Tull as its certified public accounting firm. Commissioner Tassone seconded the motion. Town Manager Savage advised this firm has been working with the Town more than 9 years, which is how long he has been employed.

VIII. APPROVAL OF MINUTES

Commissioner Kovack made a motion to approve the minutes from the January 14, 2013 Commission meeting. Commissioner Tassone seconded the motion. Motion carried.

IX. CORRESPONDENCE

Town Manager Savage advised there was no correspondence to report this month.

X. APPROVAL OF FINANCIAL STATEMENTS AND BILLS PAYABLE

Balance Sheet – January 31st

All accounts \$1,048,236 (decrease of \$82,867)

General Fund – \$360,910 Escrow accounts – \$512,737

Accounts Receivable – \$210,380

Budget Report target – 58%

Income – \$1,562,979 (69%) Expenses – \$1,295,271 (57%)

Accounts Payable

Bills – \$19,169 Expected expenses \$109,100

Amount to be approved – \$128,269

Town Manager Savage advised the \$7,600 bill in the Wastewater Department involved a digester pump rebuild for \$3,200, engineering invoices related to a leak and chemicals/testing. The \$4,000 bill in the Street Department relates to the Delmarva Power bill for the street lights.

Commissioner Tassone made a motion to approve the bills as presented. Commissioner Kovack seconded the motion. Motion carried.

2013 Municipal Election The 2013 Election is scheduled for Saturday, March 2, with voting from 12:00 P.M. to 7:00 P.M. District #5 had only candidate file – Mrs. Sharon McDowell has won the

seat. Mrs. McDowell is in the audience this evening. District #4 will have an election – Incumbent Mr. Paul Kovack has filed, as well as Dr. Kevin Carson. Both are at the meeting this evening.

Greenwood Agreement Town Manager Savage advised there has been no change since the Commission's last discussion at the Budget Workshop. Greenwood is having a workshop this week with an in-depth discussion on the topic. Bridgeville should have answers by March.

Heritage Shores right-of-way easement for a Bike Path Town Manager Savage has received an application from DNREC for a 50% grant, which is not a time-sensitive grant; they meet quarterly to review current applications. He needs to determine if the developer is on-board and then they would need to stake-out the proposed land. The project will cost an estimated \$70,000-80,000, half of which would be the Town's responsibility.

Office of Drinking Water Town Manager Savage advised they are still reviewing our full loan application for several projects. The lack of a signed wastewater contract with Greenwood has not been a deterrent to these proposed projects. There has been a consolidation of offices (Clean Water/Drinking Water) so there might be issues in the future.

Sinkhole on Market St. President Correll advised the sinkhole was close to Union United Methodist Church and it has been fixed by a contractor. It was caused by an abandoned lateral line that collapsed and was dislodged. Currently, there is a temporary cover over the area.

Surface water issue at Jimmy's Grille Town Manager Savage reported the storm drains on the property are connected to where their grease trap is located. It appears the caps are not functioning properly and there is storm water in the grease trap which overflows into the parking lot. A plan has been submitted by the restaurant to fix a portion of the problem, but not all of it. This problem has been long-standing. The Town and DNREC were even involved years ago when Jimmy Tennefoss owned the restaurant; the problem has never been rectified and needs to be taken care of. A violation was issued today, along with a fine. The restaurant was advised it will receive a fine every day for 30 days until the problem is fixed. If the problems are not dealt with, the restaurant will be shut down.

XI. TOWN REPORTS

Commissioner Tassone commented he appreciates the clarification added to the Police Report regarding miscellaneous police duties on the departmental hourly break down.

Salt and sand usage this winter Town Manager Savage does not have accurate figures, but believes salt and sand have been laid out approximately three times. He will contact Street Superintendent Passwaters for accurate information.

Slick entrance into Heritage Shores Street Superintendent Passwaters has not been able to contact DelDOT as of yet concerning the problem, due to other pressing issues. It was noted, the catch basins belong to the Town, not to DelDOT.

Heritage Shores Construction Entrance A meeting was held last week concerning the back entrance into Heritage Shores. Town Manager Savage advised it will be up to the developer to decide if they want to make the necessary improvements or close the second entrance. He believes a letter is to be issued with a June deadline for the developer to make a decision. The Town supports keeping the entrance open; however, there is a significant cost involved. The original intent of that entrance was for construction traffic only, not for the use of the homeowners. It was agreed that the Bridgeville Fire Company may very well want to weigh in on this particular discussion, due to their ability to service Heritage Shores in a timely fashion. DelDOT continues to see the entrance as construction only. DelDOT did do a traffic study confirming that residents are the main user of the entrance. To keep the entrance open DelDOT would require proper lighting, widening of the road, new pavement base, repaving and ditch drainage improvements. Commissioner Tassone questioned whether DelDOT is aware that the other road which was to be built to the connector road has not been built. They are aware and cite all the original approvals and understanding that this entrance would be for construction purposes only and would eventually close. Town Manager Savage advised the Town will be able to send a letter of request to DelDOT concerning this matter.

Building Permits President Correll commented she was pleased to see the Code Department write nine building permits in the month of January, which is usually a very slack time.

XII. CITIZEN'S PRIVILEGE

Mr. David Levy from 34 Amanda's Teal Drive questioned the recent train derailment and the second closure of Wilson Farm Rd., from an Emergency Planning viewpoint. (Mr. Levy is a member of Bridgeville's Emergency Planning Committee.) He believes it is essential that the Fire Company/Police Department be the first ones notified of a road closure and he trusts that matter is high on the list of priorities in emergency situations. It appears there was very little notification of the second closing for the train derailment clean-up on Wilson Farm Rd. Town Manager Savage advised there was a break in the communication due to the usual Town employee contact for DelDOT not being available the day the phone call came to the Town. A letter will be sent to DelDOT to clarify the chain of command for road closures in the future. It was added that the Fire Company and police should be contacted directly each time. Mrs. Sharon McDowell from 408 Laws St. advised, as a school bus company driver/owner, she always receives notification of closed roads and was informed of the Wilson Farm Rd. closure. It appears perhaps the Town was the only one that was not contacted.

Mrs. Dottie Harper from Heritage Shores wished to comment on the construction entrance. She reported the construction entrance has been just that since the beginning. In the early days of the development, Brookfield Homes had lighting and advertising of the development at the construction entrance and DelDOT required them to remove it because it was a construction entrance only. She admitted residents on that side of the development have always used it, even though it is not a legitimate entrance. The developer is taking resident concerns under consideration; however, it would be very costly to make the improvements DelDOT has proposed. She advised the interest in keeping that entrance open has not fallen on deaf ears and the developer is investigating it further. Ms. Harper advised DelDOT had suggested constructing gates at the construction entrance and giving keys to emergency vehicles to gain access to the development.

Mr. Russ Beard from 25 Amanda's Teal Dr. commented that the back entrance is much safer and convenient when going into Bridgeville than the front entrance. To leave the front entrance and go into Bridgeville, a driver must turn right and get into the left turn lane immediately to make a u-turn on Route 13 and head north to go into Bridgeville. He strongly supports leaving the back entrance open.

Commissioner Tassone recommended that Mr. Beard express this same opinion at the Heritage Shores Homeowner's Association meeting at the end of the month.

Mr. Beard also commented on Greenwood paying their sewer bills. If Greenwood not paying their fair share makes Mr. Beard's bill higher, he has a problem with that. This issue with the Greenwood Agreement has continued since Mr. Beard first moved to Bridgeville.

XIII. OLD BUSINESS

A. Second Reading and possible adoption of an Ordinance to grant a Conditional Use in a C-2 commercial district for a gasoline station and convenience center

Solicitor Schrader read the Ordinance. It was introduced on January 7, 2013 at the request of DMS Development, LLC. A Public Hearing was held by the Planning and Zoning Commission on January 16th and the members recommended approval of this Conditional Use application to the Commissioners of Bridgeville. Solicitor Schrader opened the Public Hearing at 7:40 P.M. and advised this property is located at the old Pep-Up gas station on Route 13. Two recommended conditions were attached to the application by the Planning and Zoning Commission, as follows:

- 1) The applicant shall secure all other licenses and permits required for the use of the premises as a gasoline station and convenience store from state, federal or county agencies with jurisdiction over the use of the property and shall otherwise comply with all applicable rules, regulations, statutes or ordinances relating to the use of the premises as a gas station and convenience store.
- 2) The applicant shall submit upgraded design elements/façade for this property.

Engineer Robert Rauch of Robert D. Rauch and Associates was in attendance to represent DMS Development. He advised the project is the construction of a Wawa gas station and convenience store. The conditional use would allow both of those activities on the site. The project will be constructed on five separate parcels that are being consolidated into one. There will be one approved state highway entrance onto Route 13. The Town engineers have reviewed the water/sewer utilities; they are adequate to serve the property. The current buildings on the properties will be demolished. There will be access to the property off of the service roads that currently service Walgreens. A frontage road is being abandoned and incorporated into the properties.

Commissioner Mervine questioned the Planning and Zoning Commission's condition that an updated façade be considered. Mr. Rauch said the desire is to put extra elements into the façade to make it nicer than the standard corporate Wawa look. Jurisdictions are currently looking for those types of upgrades; however, the corporate appearance must be recognizable, as it is a major aspect of

their marketing and sales. He understands that there might be some architectural additions the Town would like to see for a unique appearance. The final site plan will include these suggested elements.

Solicitor Schrader drew the Commissioners' attention to the preliminary site plan – the placement of the buildings, pumps, entrance, stormwater management pond, etc. He advised there are at least 26 state agencies that have input in the project, the most important of which are the Department of Transportation and the State Fire Marshall. There will likely be changes to this site plan. Mr. Rauch advised they have been through the entrance plans with DelDOT, which is a significant milestone. He advised the stormwater management pond will not only service the Wawa development, it will also service for the adjoining commercial parcel.

Commissioner Mervine questioned whether the old diner is rare and wondered if there might be a market for it, rather than demolition. Mr. Rauch advised he would suggest that to the property owners.

Solicitor Schrader asked if there were any persons who wished to speak in favor of the Wawa. There being none, he asked if there were any persons in attendance who wished to speak against the Wawa. There being none, the Public Hearing was closed at 7:49 P.M.

Motion to adopt: Commissioner Tassone – 1st with both conditions intact and all state requirements followed; Commissioner Kovack – 2nd; motion carried.

B. Second Reading and possible adoption of an Ordinance to amend Ordinance A12-2 relating to violations and penalties and sections 84-9 through 84-11, Chapter 84, Article II, Dogs

Solicitor Schrader advised Ordinance A12-2 involved the consolidation of violations and penalties in the code book. This new Ordinance amends the previous one by adding new changes and deleting incorrect changes in the code book. This will allow a uniform violations and penalties section for all Town codes. The Public Hearing was opened at 7:50 P.M. Solicitor Schrader asked for comment from the public in favor or against the Ordinance; there being none, the Public Hearing was closed at 7:51 P.M.

Motion to adopt: Commissioner Tassone – 1st; Commissioner Kovack – 2nd; motion carried.

C. Second Reading and possible adoption of an Ordinance to reenact Bridgeville Code relating to violations and penalties in sections 84-9 through 84-11, Chapter 84, Article II, Dogs

Solicitor Schrader advised this Ordinance makes some minor adjustments to aspects of the dog Ordinance. The Public Hearing was opened at 7:52 P.M. Solicitor Schrader asked for comment from the public in favor or against the Ordinance; there being none, the Public Hearing was closed at 7:53 P.M.

Motion to adopt: Commissioner Tassone – 1st; Commissioner Mervine – 2nd; motion carried.

XIV. NEW BUSINESS

A. Consideration of Wastewater NPDES Permit

Town Manager Savage advised the Town is working on its NPDES permit for the Wastewater Treatment Plant. Our engineer from Davis, Bowen & Friedel, Inc., Mr. Jason Loar, will share an update on where the Town stands.

Mr. Loar advised the Town has an NPDES permit to stream discharge treated effluent into the Nanticoke River and a permit renewal is required periodically. This is the final version to be made public for comments. Due to the Chesapeake Bay initiative, there are several changes to the Town's permit. The fact sheet includes general information about the permit and several changes to be made.

Changes include:

- 1) Wording change regarding the calculation of the effluent. (no major issues)
- 2) Nutrients required to be cut in half for stream discharge. The Town has been negotiating this requirement for several years and was informed at the last permit renewal that this requirement would be included in this permit renewal.
- 3) The 5-year compliance schedule that enables the Town to meet requirements of the permit. The state will not relent on the Town's nutrient reduction. The state anticipates the Town to go to 100% spray irrigation and quit stream discharge of effluent and the Town wants and intends to go to 100% spray irrigation; however, it needs this permit to fall back on in the case of a line leak, when the Town would be forced to return to stream discharge temporarily.

When this permit goes into effect, the Town will have 59 months to meet the requirements of the permit, which includes: wastewater planning, pursue funding, purchase additional land for spray irrigation, build a second lagoon, update the treatment plant, etc. to meet the permit requirements.

Mr. Loar advised the above requirements are based on negotiations between the state and the Town. Originally, the state would not offer a compliance schedule to the Town; they have finally added this compliance schedule so that the Town can work toward abiding by the new regulations. This permit does allow the Town limited discharge to the old/alternative outfall – the Bridgeville Branch. Technically, this has been a violation; however, this permit allows this discharge for the next 1-1/2 years. A leak in the effluent line, the construction of a new effluent line, or an emergency would permit the Town to discharge to the Bridgeville Branch. This is a step forward. The permit will likely be issued between late March and the 1st of June; DNREC will conduct a public comment period on our behalf.

Mr. Loar is pleased with the requirements and timetable DNREC has required. The first issue is the effluent line. DNREC is willing to give the Town assistance for replacement of the line following Greenwood's signature on the Wastewater Agreement. The Town has until June, 2014 to replace the effluent line on Redden Rd. If there are delays, Mr. Loar will ask for extensions. The second issue is the treatment plant process and disposal of effluent. Eight specific needs/goals have been identified that must be completed within the time frame. Mr. Loar reminded the Commissioners that five years goes very quickly.

Mr. Loar advised there is nothing unexpected in this new permit; the Town has been aware that the nutrient reduction was imminent. The Town did ask for a compliance schedule and it has finally been granted. The Water Facility Plan update has been completed. DBF is now working on the Wastewater part of the update.

The Wastewater Study involves reviewing wastewater options. The Town has already committed and invested in spray irrigation. The state is assuming the Town will go to 100% spray. On a parallel path, the Town has reduced permitted nutrients to ½. The Town could spend money on a new treatment plant that would meet that nutrient level 365 days/year; however, building a plant to do that seems somewhat financially irresponsible, when we can spray and have invested our money in that process. In addition, DNREC wants everyone out of stream discharge.

Commissioner Tassone asked if there was any “add on” to our plant that would address all of the problems with the old plant. Mr. Loar advised there is no cost-effective fix for our plant. The current plant is beyond additional fixes – it is beyond its age. The Town is committed to spray irrigation; however, we still need an adequate wastewater plant to treat the wastewater to spray irrigation levels. Basically, the Town needs a new plant that will last 20-40 years.

Commissioner Tassone questioned Towns that are selling their water to farmers for spray. That is possible, if you can find the farmers who want to pay you and that need the nutrients you have to offer. Mr. Loar advised a contract with ironclad protection to the Town would be vital. There is also the issue of a farmer being in control of the spigot, rather than the Town being in control.

Commissioner Tassone questioned whatever happened to the proposed AlgEvolve wastewater process. Mr. Loar advised it involved a state grant that we didn’t receive; the algae process has never really panned out to be an effective process for wastewater. He will be glad to reconsider it, if the Commissioners would like.

The next step will be a 30-day comment period to DNREC. Mr. Loar is assuming that EPA has already seen this document and would have already submitted their comments.

XV. INTRODUCTION OF ORDINANCE(S)

- A. An Ordinance to Amend the Zoning District Designation for the Lands of the Commissioners of Bridgeville from R-1 Residential District to TC Town Center District for a Certain Parcel of Land at 103 South Main Street, identified as Sussex County Tax Map Parcel TM #1-31-10.16-172.00**
- B. An Ordinance to Amend Chapter 90 of the Code of the Town of Bridgeville as it Relates to Brush, Grass and Weeds**
- C. An Ordinance Amending Chapter 90 of the Code of the Town of Bridgeville as it Relates to Brush, Grass and Weeds by Adding Thereto Exemptions**

These Ordinances were introduced by Commissioner Tassone.

D. An Ordinance Amending the Code of Bridgeville as it Relates to Land Use and Development to Require Landscaping Plans in Residential Planned Communities and Subdivisions to be Developed in Phases

This Ordinance was introduced by Commissioner Kovack. Solicitor Schrader advised all of these Ordinances will be reviewed by the Planning and Zoning Commission.

XVI. ADJOURNMENT

Motion to adopt: Commissioner Tassone – 1st; Commissioner Mervine – 2nd; motion carried. The meeting was adjourned at 8:21 P.M.

Respectfully submitted,

Lawrence Tassone

Lawrence Tassone, Commission Secretary

Peggy Smith

Peggy Smith, Transcriptionist