

**MINUTES  
COMMISSIONERS OF BRIDGEVILLE  
April 8, 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, Code Enforcement Officer (CEO) Jerry Butler and Town Solicitor Dennis Schrader. The meeting began with the Pledge of Allegiance and Prayer.

**II. QUORUM PRESENT**

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

Police Chief Longo introduced Mrs. Robin Bohn, the new Administrative Assistant for the Police Department. She has 25 years' experience in the court system and has already had a very positive impact on the department in the short time she has been there. Mrs. Bohn is in the Police Department office Mondays, Wednesdays and Fridays from 8:00 A.M. to 4:30 P. M. for phone calls and walk-ins. Mrs. Bohn reported that the Town has a good group on men on the police force. President Correll is very pleased that Mrs. Bohn has joined the department; her level of experience will be a real asset to the department.

**III. APPROVAL OF AGENDA**

President Correll requested that the Commissioners add Item H. to New Business, allowing the Commissioners to consider an ad for an upcoming sports book.

Commissioner Tassone made a motion to modify tonight's Agenda, with the above addition, to add the following wording under paragraph IX, Old Business: "Discussion of a Proposed Motion to Censure." He had asked that this verbiage be added to tonight's Agenda at the March 11<sup>th</sup> meeting concerning a matter of ethics on the part of a Commissioner. He believed that with a lack of objection at that time by any Commissioner, this would be placed on tonight's Agenda. It has not; therefore, he is forced to reiterate his request this evening in the form of a motion for an addition to the revised Agenda.

Solicitor Schrader clarified that there is a request to add an Agenda item concerning an ad for the sports book, as well as Commissioner Tassone's request to add the matter of censure. He recommended taking each request before the Commissioners separately.

Motion to approve the addition of Item H., Sports Book Ad Approval, to New Business – Kovack; 2<sup>nd</sup> – Tassone; motion carried.

The motion by Commissioner Tassone for censure failed for the lack of a second.

Motion to approve the Agenda as a whole with the one modification – Tassone; 2<sup>nd</sup> – Mervine; motion carried.

Commissioner Mervine requested permission to speak on the issue of censure. He believes Commissioner Tassone has made a number of valid points; however, there is currently no mechanism for censure in our Town Charter/Code Book. He has discussed with Town Manager Savage the possibility of creating such language in the future. While the conduct that Commissioner Tassone mentioned may have been in poor taste, it wasn't illegal, to the best of his knowledge.

#### **IV. APPROVAL OF MINUTES**

Commissioner Kovack made a correction to the March 11<sup>th</sup> Commission meeting minutes. He believes that the O'Leary property next door previously held an "existing use" not a "conditional use," as that term did not come into existence until the passage of Chapter 234 concerning Land Use and Planning. Solicitor Schrader advised the change is not of great consequence; it was an expired non-conforming use prior to the adoption of the Ordinance.

Motion to approve minutes from the December 10<sup>th</sup> Police Staffing/Scheduling meeting; January 24<sup>th</sup> Budget Workshop; February 8<sup>th</sup> Executive Session–Police Candidate Interviews; March 11<sup>th</sup> Commission meeting – Tassone; 2<sup>nd</sup> – Kovack; motion carried.

#### **V. CORRESPONDENCE**

Town Manager Savage advised the Delaware Commission of Veteran Affairs will conduct their annual Memorial Day Service on Thursday, May 30<sup>th</sup> at the Memorial Bridge Plaza in New Castle at 10:30 A.M. and also at the Veterans Memorial Cemetery in Bear.

#### **VI. APPROVAL OF FINANCIAL STATEMENTS AND BILLS PAYABLE**

Balance Sheet – March 31, 2013

General Fund - \$252,040 (increase - \$31,307)

Reserve accounts - \$607,605

All Accounts total \$1,049,990

Accounts Receivable - \$181,651

Budget Report Target – 75% of budget

Income - \$1,791,090 (79%) Expenses - \$1,608,861 (71%)

Accounts Payable

Bills - \$43,707

Expected expenses - \$127,617

Amount to be approved - \$171,324

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

#### **VII. TOWN REPORT**

**Bridgeville K9 Unit** During March, Corporal James and Flash conducted eight narcotics scans, which resulted in multiple arrests and drug discoveries.

**Drug Take Back Day** Saturday, April 27<sup>th</sup>, 10 AM – 2 PM at the Bridgeville Fire Company.

**Police Arrests** Commissioner Tassone was pleased to see that out of 23 criminal activities during March there were 22 arrests, with 1 pending. He was also enthusiastic concerning the amount of drugs that have been confiscated.

**Building Permits** It was noted that building permits are increasing, with 19 permits in March.

**False Alarm** CEO Butler is not fining an elderly individual with numerous false alarms, due to a difficulty in understanding how to arm the system; a local church is involved in resolving the issue.

**Dollar General** continues to have false alarms and pay fines. CEO Butler has instructed Dollar General to move their balloons away from the heat and air vents or confine them because the motion trips the alarm and they continue to ignore his recommendations. He fines them when a police report is initiated. (It was mentioned that Salisbury has gone to a \$1,000 fine for a 3<sup>rd</sup> false alarm.)

## **VIII. CITIZEN'S PRIVILEGE**

Mr. Leo Lynch from 106 Emily's Pintail Dr. commended the Apple Scrapple Festival for their activities; he brings his grandchildren to the fenced-in carnival rides every year. He expressed concern that so many adults are smoking cigarettes at the carnival and ignoring the fact that smoke is harmful to children and adults. He recommended the children's fenced-in area by the carnival rides be identified as a No Smoking Area for both ride employees and fair attendees. President Correll is on the Apple Scrapple Festival and will bring it up at the next meeting. The Town doesn't own the property and can't mandate anything, but the committee, as tenant, can establish rules for the vendors and property.

## **IX. OLD BUSINESS**

There was no Old Business to discuss at this meeting.

## **X. NEW BUSINESS**

### **A. Public Hearing, Discussion and Possible Voting on: 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**

Solicitor Schrader advised there are two Ordinances to be considered this evening. The first came before the Planning and Zoning Commission with a recommendation from its Chairman, Mr. Bill Atwood, to the Commissioners of Bridgeville for approval. The first Ordinance "amends the code as it relates to land use and development to require landscaping plans in residential planned communities and subdivisions to be developed in phases". This would allow the Town's Planning and Zoning Commission to investigate and make as a condition of approval property landscaping plans that are subject to a phasing plan. A landscape and maintenance plan shall be submitted for approval with each development plan. The second Ordinance involves Chapter 90, as it relates to brush, grass and weeds by adding certain exemptions concerning "land used primarily for agricultural products, forestry,

horticultural, floricultural products, etc. and undeveloped vacant property within a subdivision or residential planned community which is a portion of an approved phasing and landscaping that has yet to be developed,”

Solicitor Schrader explained that in lieu of following the Ordinance that grass cannot grow over 8 inches in a phased community or subdivision; the developer can submit a phased landscaping and maintenance plan for approval. This takes the continued maintenance out of Code Enforcement and brings it to the Planning and Zoning/Commission for approval. The landscaping plan would still require enforcement.

Heritage Shores has submitted a plan which has been heard by the Planning and Zoning Commission. President Correll is concerned that the Commission makes knowledgeable decisions concerning a landscaping plan and she admits, at this point, she is missing a lot of what she needs to make a good decision. Solicitor Schrader encouraged Commissioners not to think of Heritage Shores; decisions must be made that will cover all RPC's/subdivisions built in Town limits.

Planning and Zoning Commission Chairman Bill Atwood was asked if he is comfortable with the Ordinances in their present revised form. He assumes all changes recommended by the Planning and Zoning Commission have been made. He is also concerned about noxious weeds and investigated surrounding Delaware towns; many have a prohibition against noxious weeds and Bridgeville does not. He believes the Town did not have the Planning and Zoning structure in place when Heritage Shores began to develop. It is important that all the requirements be in place before the developer begins.

Solicitor Schrader advised if these two Ordinances are approved, the Commission will have the jurisdiction to review landscaping/maintenance plans for Heritage Shores and any future RPC's or subdivisions.

Commercial, industrial and manufacturing developments are not included in this Ordinance. Solicitor Schrader advised another Ordinance can be written to deal with these issues; however, they cannot be added to this Ordinance and still be adopted tonight. He also does not believe commercial, industrial and manufacturing necessarily belong in the same Ordinance. Commercial and industrial entities do not go through the same development plan reviews as RPC's. Solicitor Schrader added it is not complicated to draft a new Ordinance adding commercial and industrial; however, he cautioned against an extremely detailed Ordinance. We need neat and presentable maintenance, but not cookie-cutter.

CEO Butler advised Heritage Shores must keep Phase II (currently under construction) at 8 inches, per Chapter 90; although, technically, the Home Owner's Association calls for 5 inches.

According to Solicitor Schrader, the Town adopted the Land Use and Development Code from the University of Delaware Institute of Public Administration, along with other Delaware Towns, and has struggled with it because one size does not fit all.

Concern was expressed that the developer could farm portions of the RPC property. Solicitor Schrader agreed that a landscaping plan could include farming; the developer could continue to farm the land until development. It would be subject to review and approval. It was clarified that Chapter

90 does not necessarily address subdivisions or RPCs. He understands that you can farm anywhere you want in this state and it is possible for an RPC to ask to have farming as a part of its plan. The right to farm is not contingent on the number of acres involved.

Solicitor Ryan Showalter, attorney for Passwaters Farm/ Heritage Shores, asked to address questions and concerns that have surfaced. He advised a landscaping plan was submitted last fall. He agrees that until the Town adopts this legislation that allows you to deal with a plan, you can't address a plan that is submitted. He urges the Commissioners to adopt the Ordinances that have been presented, with the understanding that there may be some fine tuning to do by adding commercial and industrial. It is very important to Heritage Shores that a mechanism be created to put the plan in place because the grass is starting to grow. A revised plan was submitted with the Text Amendment, which he will give to the Commissioners after the meeting. They have set out stakes in the Heritage Shores community that identify where the grass will be maintained at 8 inches and other areas that will allow the grass to grow taller. He has photos to understanding the developer's landscaping plan. He also advised the developer is not contemplating agriculture on any portions of the site.

A Public Hearing was opened at 7:56 P.M. Mrs. Jackie Vogle from 124 Widgeon Way questioned compliance with the county. She attended a county meeting several years ago and discovered that they required plantings (i.e. cypress trees) around major developments like Heritage Shores. She asked why these same rules were not being followed at Heritage Shores. It was clarified the county has a different law and they have no jurisdiction in the Towns.

Mr. Bill Atwood from 113 Emily's Pintail Dr. stated that noxious weeds need to be included in Chapter 90. It is a health and public safety issue that many local Towns and the state include in their laws. Solicitor Schrader advised there is already state law that would supersede Town law concerning noxious weeds.

The Public Hearing was closed at 8:01 P.M. Solicitor Schrader advised it would not make sense to pass one Ordinance without the other. Although it seems complicated, he believes it is actually quite simple. If you want to be exempt from the grass cutting Ordinance as a subdivision or RPC, you must have a landscaping and maintenance plan approved under Chapter 234-37.

A motion was made to approve the two Ordinances concerning Chapter 234 and Chapter 90. The motion failed for lack of a second. Commissioner McDowell requested time to get more information about the Ordinances so that she can make a good decision.

Motion to table the discussion concerning the two Ordinances until the May 13<sup>th</sup> Commission meeting – Kovack; 2<sup>nd</sup> – McDowell; motion carried.

President Correll recommended that the Commission schedule a workshop to discuss the Ordinances further.

**B. Public Hearing, Discussion and Possible Voting on: 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**

This Ordinance was discussed in conjunction with the Ordinance above; therefore, it was included in the motion to table the Ordinance until the May Commission meeting.

**C. Planning and Zoning Commission Reappointments**

President Correll advised the Planning and Zoning Commission appointments of Mr. John Shockley, Mr. Jack Cannon and Mr. Joe Conaway are coming to an end in early May. Mr. Shockley and Mr. Cannon are willing to serve another three-year term. Mr. Joe Conaway is not interested in serving another full three years, but is willing to serve until a suitable replacement can be found. President Correll advised that seat is open; individuals are welcome to submit letters of interest, including their qualifications, to the Commissioners for consideration.

Motion to reappoint Mr. John Shockley and Mr. Jack Cannon to three-year terms on the Bridgeville Planning and Zoning Commission – Mervine; 2<sup>nd</sup> – McDowell; motion carried.

**D. Planning and Zoning Commission Annual Report**

President Correll advised Chairman Atwood has done an excellent job on the Planning and Zoning Commission and spends a great deal of time in preparation for each application. The Commissioners have received copies of the Annual Report for their review.

Motion to accept the 2013 Planning and Zoning Commission Annual Report – Tassone; 2<sup>nd</sup> – Kovack; motion carried.

**E. Grease Trap Exemption – Williams Chapel**

President Correll advised Williams Chapel has requested a grease trap exemption, as other Bridgeville churches and the Fire Company did last month. Wastewater Superintendent Collins has inspected the church kitchen and recommends an exemption for Williams Chapel.

Motion to approve a grease trap exemption for Williams Chapel – Kovack; 2<sup>nd</sup> – Mervine; motion carried.

**F. Proclamation – Red Hat Society**

The local Red Hat Society requested a Proclamation from the Town Commission concerning their upcoming Red Hat Day on April 25, 2013. Commissioner Tassone read the Proclamation. A copy is attached to the permanent minutes.

**G. Office of Highway Safety Grant Approval – 2013 Motorcycle Enforcement – Wave 2**

This is a \$900 grant for enforcement from April 19<sup>th</sup> through the 27<sup>th</sup>.

Motion to approve the OHS grant – Tassone; 2<sup>nd</sup> – McDowell; motion carried.

#### **H. Sports Book Ad**

President Correll advised Bridgeville coach, Mr. Fillmore Clifton, is being honored posthumously by the Delaware Sports Museum Hall of Fame on May 15<sup>th</sup>. Our Bridgeville stadium is named in his honor and he coached in Bridgeville for many years. A sports book is being prepared and Bridgeville has been invited to submit an ad in remembrance of Mr. Clifton; the Kiwanis Club of Bridgeville is also sponsoring an ad. There is also a scholarship in his name at Woodbridge High School, which Mr. Clifton originally sponsored himself.

Motion to submit a full-page ad in honor of Mr. Clifton – Tassone; 2<sup>nd</sup> – Kovack; motion carried.

#### **XI. INTRODUCTION OF ORDINANCES**

Town Manager Savage advised if a Commissioner is willing to introduce an Ordinance, that Ordinance will be entertained. The first is a Noise Ordinance which was drafted in 2011 at the request of the Code Enforcement Department.

Commissioner Mervine requested that no additional Ordinances be introduced at this time. He believes the Ordinances currently being considered are confusing enough, based on our earlier discussion, without adding more Ordinances and additional confusion. He doesn't believe Commissioners should entertain Ordinances at the last minute based on requests for Ordinance applications by residents, etc. He believes Ordinances should be sponsored by one of the Bridgeville Commissioners who has knowledge of the issue. He does not believe they should be introduced in a haphazard fashion, as has been done in the past. There has been a lot of confusion and a lack of understanding about the newly introduced Ordinances. Concerning the Noise Ordinance, specifically, it needs a precise decibel number; it is too vague in its present form. Solicitor Schrader advised no motion was necessary by the Commissioners; the Ordinances would simply not be introduced this evening.

Town Manager Savage recommended that appropriate procedures be developed for the future and suggested when a resident/business submitted an application for a Ordinance, a meeting would be scheduled with the district Commissioner, Town Manager and if necessary, Code Enforcement Officer, to discuss the proposed Ordinance. The District Commissioner would have the opportunity to back the Ordinance and introduce it at the next Commission meeting. If that Commissioner did not agree to introduce that Ordinance, there would be an opportunity to appeal the decision during Citizen's Privilege at the monthly Commission meeting. A request from the Town staff or Commissioners would be circulated among the Commissioners for their review. Commissioner Kovack recommended the Commission President, District Commissioner and the Code Enforcement Officer meet with Town Manager Savage so they would all understand the proposed new Ordinance.

Solicitor Schrader advised there may be times when the Ordinance is not a Land Use issue. It may be Police/law enforcement. Commissioner Mervine believes whatever entity has an Ordinance

need should have the support of a Commissioner. There has also been confusion when Ordinances have been revised and more than one copy has been circulated.

Town Manager Savage does not believe a Commissioner should be compelled to introduce an Ordinance. Solicitor Schrader advised the exception to this practice would be the need for zoning change or conditional use Ordinances. It is also helpful to know that someone on the Commission is interested in the Ordinance before the Town spends money and Solicitor Schrader spends time drafting the Ordinance.

There are other Ordinances from Passwaters Farm for the Commissioners' review. A meeting will be scheduled in the near future for discussion. The other Ordinance that was to be introduced tonight concerns noise; it was requested by the Code Enforcement Officer.

## **XII. ADJOURNMENT**

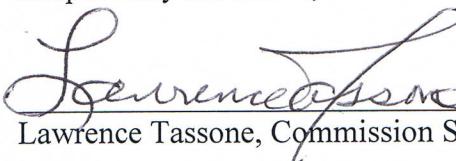
Motion to adjourn – Tassone; 2<sup>nd</sup> – Mervine; motion carried. The meeting was adjourned at 8:24 P.M.

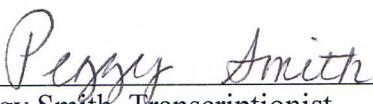
The meeting was re-opened at 8:25 P.M. to consider the introduction of an Ordinance to grant a Conditional Use to Christ's Church of New Hope to hold their Sunday church service at the Bridgeville Banquet Center, owned by Jimmy's Grille & Catering. Mr. White was in attendance to represent the church. Solicitor Schrader advised the Land Use and Development Code of the Town of Bridgeville does not contemplate places of worship in any of its zoning districts, except by conditional use; therefore, the church is requesting a conditional use to operate at the Banquet Center.

Motion to introduce – Kovack.

Motion to adjourn – Kovack; 2<sup>nd</sup> – Tassone; motion carried. The meeting was adjourned at 8:27 P.M.

Respectfully submitted,

  
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Lawrence Tassone, Commission Secretary

  
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Peggy Smith, Transcriptionist