

**MINUTES  
COMMISSIONERS OF BRIDGEVILLE  
MAY 10, 2010 – 7:00 P.M.  
TOWN HALL**

**I. CALL TO ORDER**

The meeting was called to order by President William Jefferson at 7:00 P.M. Present: Commissioners Patricia Correll, Michael Collison, Earl Greason, Lawrence Tassone and Town Manager Bonnie Walls. The meeting began with the Flag Salute and the Lord's Prayer.

**II. QUORUM PRESENT**

President Jefferson reported a quorum was present to conduct the business of the Town of Bridgeville.

**III. APPROVAL OF MINUTES**

Minutes from the April 12<sup>th</sup> Commission meeting and the April 29<sup>th</sup> Special Commission meeting were presented for approval. Commissioner Correll made a motion to approve the minutes as presented. Commissioner Tassone seconded the motion. Motion carried.

**IV. CORRESPONDENCE**

Town Manager Walls advised the Commissioners have received a note from the Kiwanis Club of Bridgeville thanking them for their sponsorship of a table at the May 1<sup>st</sup> Kiwanis Prayer Breakfast.

**V. HERITAGE SHORES SPECIAL TAX DISTRICT REPORT FY 2010-2011**  
**Mr. Joshua Forster, MuniCap**

President Jefferson introduced Mr. Joshua Forster from MuniCap for a discussion and adoption of the Heritage Shores Special Tax District Report for the next fiscal year. Copies of the report were made available to the Commission and a copy is also attached to the permanent minutes. Mr. Forster reported the special tax requirement for this upcoming year is the exact same amount as last year, \$1,460,000. Mr. Forster directed the Commission to various tables throughout the report for the Commission's review and pointed out account balances and rates of return as of March 31, 2010. Table C, page 4 contains a breakdown of the special tax requirement for both Series A and Series B bonds. The tax requirement for the Series A bonds is \$1,265,592 and Series B bonds is \$194,408. Debt service payments are made twice per year. Administrative expenses have increased 2% from last year. Available funds to pay the expenses include the reserve fund investment income and the prior year surplus (see Table C). Page 7 of the report deals with assignments to land use categories. As of May 1, 2010, there were 297 units developed, 207 of which were single-family detached and 90 of which were single-family attached units. The balance of the property is classified as undeveloped for the 2010-2011 tax year. The special tax rate for the 297 units is shown on Tables E and F; \$330,326 of the special tax revenues will be generated from the 297 units. The balance of \$1,129,674 will be collected from the undeveloped property, which is divided between the platted and unplatted

properties. Mr. Forster advised six developed units will be taxed at a higher rate, as their partial pre-payment percentage was different than the other developed properties.

Mr. Forster opened the floor for questions. Commissioner Tassone questioned the 0.01% interest rate on the bonds. Mr. Forster reported that is the re-investment rate. Whatever proceeds remain are re-invested by the trustee and are earning a 0.01% rate of return. The rate being paid on the bonds is 5.45% on the Series A bonds and 5.125% on the Series B bonds. You cannot earn more interest on re-investing than what you're paying out. Mr. Forster advised the money market fund is FDIC insured. There are no better rates available than .01%. Mr. Bill Atwood of 113 Emily's Pintail Drive asked permission to study the documents and then address questions to Mr. Forster afterward. Town Manager Walls advised a copy of the documentation is available for public view, or a copy can be purchased by filling out a Freedom of Information request at the Town office. In the past, Town Manager Walls has directed all questions to Mr. Forster. He advised he is still available for questions by phone. The rates for single-family attached and detached dwellings for this year were questioned. Mr. Forster advised the rate for single-family detached units is \$1,104.08 and for single-family attached units it is \$753.65, a 2% increase from last year. (This amount is higher for those 6 units mentioned earlier that paid a lower percentage and this will continue for the full 30 years.) Commissioner Tassone made a motion to (1) set May 1, 2010 as the date of the 3 classifications of properties; (2) set the amount to be repaid in the 2010-2011 bond year at \$1,460,000; (3) accept the tax report prepared by MuniCap, which will become public information with the tax rolls. Commissioner Correll seconded the motion. Motion carried.

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

Finance Director Savage directed the Commission to the Balance Sheet for the period ending April 30, 2010. (The following amounts are in rounded figures.) There is a total of \$1,238,000 in all accounts. The general savings and checking accounts (cash on hand) total \$653,000, which includes \$480,000 which must be reimbursed to the state for the RBC project. Accounts receivable stands at \$58,000, which includes \$47,000 billed to Greenwood for the first quarterly wastewater payment. The Town is anticipating \$90,000 in reimbursements from the state for the Well #6 project. Concerning the Budget Report, we are ten months into the fiscal year and should be at 84% of our budget. Our total income is at 81% of the budget. Service fees are down as usage is lower than previous spring seasons. We should receive \$23,000 in transfer tax for May, which will bring us well above budget in that category. Looking at the expenses, total expenses are currently 71% of the budget. The overtime is high, related to snow events this past winter. On Bills Payable, the Town has received \$29,980 in bills and anticipates another \$99,500 (including health benefits and payroll) for a total of \$129,000. Commissioner Collison made a motion to pay the bills as presented. Commissioner Tassone seconded the motion. Motion carried.

## **VII. DEPARTMENT HEAD REPORTS**

President Jefferson advised Department Head Reports are available to the public. Commissioner Collison questioned the crack in a "y" fitting at the spray irrigation facility. Town Manager Walls has been informed it will be repaired this week.

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

President Jefferson asked Ms. Dottie Harper from Brookfield Homes for an update on Heritage Shores. Ms. Harper reported they have had two new settlements this week. They only have one completed home available for sale, which is very good news. (At one point last year they had 18 completed homes not yet sold.) There are also currently four attached models for sale. Two new homes are in the construction phase for June settlements and Brookfield intends to build two new spec homes. Ms. Harper also gave an update concerning standing water at the Heritage Shores entrance on Route 13. On the entrance lane the pipe and drain had become blocked with silt; it has since been cleared. The exit lane will require additional review, as there is no drain at that location and there is a grade issue to be resolved. There were no additional questions or comments from the citizens of Bridgeville.

### **IX. TOWN MANAGER'S REPORT**

Town Manager Walls advised the Town's sixth annual Memorial Day Celebration will be held on Monday, May 31<sup>st</sup> beginning at 9:30 A.M. at the Veterans Memorial in the Bridgeville Cemetery. Parking will be available at St. Mary's Episcopal Church on William St. and at the Union United Methodist Church on Laws St. Please plan to attend and join us in paying respect to those who have and are currently serving our country.

The Town has met with representatives from the Federal Emergency Management Agency (FEMA) regarding the possible recovery of funds used during the recent winter snow storms. In the near future, FEMA will schedule a follow-up meeting to review expenses.

The Community Health Walk was very successful and we extend our thanks to all who participated. Woodbridge had 378 participants. We learned after the Walk that the calculation rules had been changed. We extend our congratulations to Sussex Tech High School, who won the trophy with 314 participants.

The Town received notification of a road closure to replace the existing railroad crossing on Road 546 (Railroad Ave.) between Road 561 (Wesley Church Rd.) and Road 17 (Federalsburg Rd.). Effective work dates were May 3 through May 8, with weather delays not included. The work was completed on schedule and appears to have been efficiently done.

Ms. Mary Jones, representing Mt. Calvary United Methodist Church, advised the clean-up project of N. Cannon St. and along the stream bank would take place on May 6<sup>th</sup>. Ms. Mary had enlisted the help of several church members, along with the support of the Sussex County Correctional prisoners. Town Manager Walls received a phone call on May 6<sup>th</sup> that the project would not take place that day, as there was a problem with a lack of needed supervisors for the inmates. As soon as logistics can be arranged, the project will be addressed.

Mr. Alex Pires has provided an update regarding the movie "Mayor Cupcake." The movie is coming along well; at the present time sound is being added to the movie in California. Lea Thompson's daughter now has an important role in the movie, and, per Mr. Pires, she performed very

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well. Mr. Pires is considering the month of July for a showing and is trying to secure a theatre. He will keep us updated as the movie production proceeds toward completion.

Stones have been removed from the front of the Town parking lot and replaced with pavers and sod. Trees along the back fence area of the parking lot have been trimmed and restriping of parking spaces is scheduled for the week of May 17<sup>th</sup>. A Cherry Tree was also planted in this area in observance of Arbor Day. Future Farmers of America (FFA) students, along with teacher Amanda Hill, assisted with the planting. We appreciate their assistance and expertise.

Town Manager Walls requested a status report regarding the plan to update Sussex County's emergency operations plan. Mr. Joe Thomas advised an advertisement has been placed requesting consulting services for the update. Letters of interest will be accepted until May 14<sup>th</sup>.

All Delaware municipalities were notified of a \$25,000 grant for an energy audit of Town-owned buildings, available through the Energy Efficiency and Community Block Grant Program. The state has provided a list of companies eligible to complete the energy audits. With monies being available to the Town, Bridgeville entered into an agreement with AllFacilities Group from Wilmington to complete our audit. A representative was on site last week for two days. We hope to receive the results next week, along with options to make our buildings more energy efficient. Should the Town want to proceed, there is an additional \$35,000 available in non-competitive grant monies to make needed changes. The deadline date to complete an application for this portion of the grant is May 31, 2010. Should there be additional upgrades required beyond the \$35,000 grant; a competitive grant is also available. The amount of monies to be made available through this process has not yet been determined. Commissioner Tassone made a motion to move forward with grant applications as we become eligible. Commissioner Collison seconded the motion. Motion carried.

Town Manager Walls advised the receipt of a bid proposal from Town engineers, Davis, Bowen & Friedel, Inc. (DBF), for RBC replacement in the amount of \$24,300. It includes design and bid documents, along with electrical work, bid phase, contract administration, inspection and as-built drawings. Town Manager Walls realizes the Commissioners have not had the opportunity to review the proposal, but asked for any comments. President Jefferson believes the Commission should not consider the proposal tonight and spend more time reviewing the document. Town Manager Walls asked that the Commissioners contact her with any questions they might have so that she can get those answers from DBF. Commissioner Collison expressed a concern regarding spending an estimated \$24,300 for the engineering of a replacement RBC unit in a system already in operation that DBF designed and produced drawings for which are already in their files. The Town can't sanction that amount of money for the installation of a system that DBF has already engineered and is currently in operation at the wastewater treatment plant. On a related matter, President Jefferson recalled that DBF originally recommended the geo reactor system and believes they should absorb some of the cost for the failed system. Town Manager Walls advised she mentioned this same idea to the DBF engineer working on this proposal. He assured her he is doing everything at his cost and is staying after work and not billing the Town for the extra time he is devoting to our project. Commissioner Correll reiterated that DBF isn't engineering anything new for the system. Commissioner Collison understands that at the bid phase, since it involves state money, there will be administrative costs because they must develop bid documents. He doesn't understand the necessity of the design and electrical review that

are a part of this proposal. There will be inspection fees; however, he doesn't feel they would be exorbitant. He suggests that DBF re-examine their estimated costs before the proposal can be considered.

Town Manager Walls introduced Patrolman First Class Robert James and advised he took part in a traffic stop that resulted in the confiscation of possible drug money. She congratulated him for a job well done. Officer James advised the Police Department applied for the 2009 Byrne Justice Council Grant and requested monies for a number of items, including office furniture, lockers for police gear, tactical vests, a Crown Victoria vehicle and a laptop computer for \$29,607. Commissioner Correll made a motion to approve this grant application. Commissioner Tassone seconded the motion. Motion carried. Officer James added they will soon start a new Click-it or Ticket Campaign, running from May 23<sup>rd</sup> through June 5<sup>th</sup>. He is not certain yet of the amount of money allotted for this campaign. Commissioner Correll made a motion to apply for the Office of Highway Safety Click-it or Ticket Grant. Commissioner Tassone seconded the motion. Motion carried.

## **X. OLD BUSINESS**

### **A. Dangerous Building Committee Report**

#### **Mt. Calvary United Methodist Church – 15 Church St.**

President Jefferson advised the Dangerous Building Committee has reviewed the conditions at an apartment building at 15 Church St., owned by Mt. Calvary United Methodist Church. He highlighted details from the inspection report, which was submitted by the Town's Dangerous Building Committee. This committee includes President Jefferson, Commissioner Collison, Bridgeville Fire Chief Cannon and Bridgeville Code Enforcement Constable Butler. The recommendation of the committee was to condemn and demolish the structure. As a part of the process, President Jefferson asked Dangerous Building Committee member Collison if this structure threatens the life, health, safety or property of the public or its occupants by reason of inadequate maintenance, dilapidation, fire hazard, disaster, damage or abandonment. Commissioner Collison replied yes. President Jefferson asked if this structure is unsanitary, unfit for human habitation or in such a condition that it is likely to cause sickness or disease because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities or other cause. Commissioner Collison replied yes. President Jefferson asked if this structure constitutes a public nuisance as defined by law. Commissioner Collison replied yes. President Jefferson asked if this structure has exits which do not conform to the Town ordinances or any other feature which may cause a hazard to life or safety of the occupants or general public. Commissioner Collison replied yes. Commissioner Tassone made a motion to accept the report of the Dangerous Building Committee. Commissioner Correll seconded the motion. Motion carried. Town Manager Walls advised the next step in this process is to hold a Public Hearing at a future Commission meeting. The property owners will be invited to attend and show just cause why the building should not be condemned and demolished. Ms. Mary Jones, head trustee at Mt. Calvary, agrees with the decision to demolish the apartment building and the Town has provided her with a list of demolition contractors. The dwelling is currently occupied; therefore, adequate time must be allowed for the tenants to find appropriate housing. The Town will continue to move ahead with the steps of its Dangerous Building Ordinance regarding this property.

**B. Economic Development Committee Update**

Commissioner Collison shared recent advances made by the Bridgeville Economic Development Committee:

- Commissioner Collison expressed his sincere appreciation to Street Superintendent Passwaters and all who helped to remove the stones and plant sod at the Town parking lot on Market St.
- The Phillis Wheatley junior high school students completed the planting of flower barrels for the downtown area and placed them on Market St. It was noted the Lions Club paid for all the plantings in the flower barrels. The plants look nice and the merchants are doing a good job of keeping them watered. The students are to be commended for a great job.
- The Lions Club and Kiwanis Club have agreed to pay for new trash receptacles on Market St. The Economic Development Committee has chosen an aggregate can with a blue lid. The Historical Society is also going to purchase two additional matching trash cans for replacement of their trash cans at the Historical Society Park on William St. and Delaware Ave.
- Senator Booth and Representative Wilson will pay for a new billboard and additional billboard signage for the Town. The billboards should be complete and ready to post in several weeks. Bridgeville will now have billboards at all entrances to Town. A picture of the revised billboard is attached to the permanent minutes.

Commissioner Correll thanked the Economic Development Committee for an excellent job. She also commended the Phillis Wheatley Middle School Conservation Club members for their efforts concerning the flower barrels and for their “Super Star and Education” award from the State Chamber of Commerce.

**XI. NEW BUSINESS**

**A. Introduction and First Reading of Ordinance A10-3, an Ordinance to Create a New Chapter in the Bridgeville Town Code Regulating the Maintenance and Care of Public Rights of Way**

President Jefferson advised this Ordinance has been tabled.

**XII. ADJOURNMENT**

Commissioner Tassone made a motion to adjourn the meeting. Commissioner Correll seconded the motion. Motion carried. The meeting was adjourned at 7:51 P.M.

Respectfully submitted,

*Patricia M. Correll*  
Patricia M. Correll, Commission Secretary

*Peggy A. Smith*  
Peggy A. Smith, Transcriptionist

## MINUTES

### SPECIAL COMMISSION MEETING APRIL 29, 2010, 9:30 A.M. TOWN HALL

#### I. CALL TO ORDER

The meeting was called to order by President Jefferson at 9:38 A.M. Present: Commissioners Patricia Correll, Mike Collison, Lawrence Tassone and Town Manager Walls. Also in attendance were Mr. Robert Rauch, project engineer for Heritage Rocks Properties Two, LLC, Mr. Chris Lannin from Passwaters, LLC, former Bridgeville Commission President Mr. Joe Conaway, Town Engineer from Davis, Bowen & Friedel, Inc., Mr. Bill Remington and Town Solicitor, Mr. Dennis Schrader.

#### II. QUORUM

President Jefferson advised a quorum was present to conduct the business of the Town of Bridgeville, despite the absence of Commissioner Greason.

#### III. DISCUSSION OF WASTEWATER EDU CONCERNS BY HERITAGE ROCKS PROPERTIES TWO, LLC RE: Bariglio Corporation Commercial Project

President Jefferson advised during the April 12, 2010 monthly Commission meeting, Mr. Rauch presented concerns regarding previously established wastewater allocations for the Heritage Shores project written in the developer's agreement. President Jefferson opened the floor for Mr. Rauch to express his concerns.

Mr. Rauch acknowledged he was sorry to have to express his concerns during the previous Commission meeting and is pleased to have the opportunity to discuss the issues today. He assured the Commissioners it is not in the developer's interest to be uncooperative or unsupportive of the Town in its various activities. He feels it is important that all parties involved be consistent in their thinking about what, where, when and how the utilities are being used and where the Heritage Shores developer stands on these issues. He realized that the arrangements to be discussed pre-date some of the Commissioners' terms of office and involvement in the project. Mr. Rauch divided his concerns as follows:

1. Mr. Rauch advised the pumping station and all the improvements at Heritage Shores were constructed as part of the overall agreement with the Town and with financing paid for annually by the residents of Heritage Shores and Passwaters, LLC. Those improvements have been turned over to the Town and are the Town's facilities. Under the developer's agreement the only obligation the Town has to the developer is, specifically, service to 2,000 residential units, service to the golf course and 30,000 gallons of water service for commercial enterprises. The Town may be responsible for those obligations any way it chooses. Mr. Rauch advised the developer had several issues. According to the

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presentation by the Bariglio Corporation regarding their commercial project on the east side of Route 13 in Bridgeville, their wastewater service would be temporarily connected to the Heritage Shores pumping station because there is available capacity at that location. Mr. Rauch agreed there is available capacity there and will be for quite some time. He has no problem with the Town getting the best bang for its buck with the capacity in its own facilities. The developer's concern relates to the fact that the Bariglio development is planned to receive its ultimate service via a new force main and will then no longer need to use the pumping station at Heritage Shores. Since the use is temporary, the Heritage Shores developer needs guarantees that the temporary usage never evolves into permanent usage, which could compromise the total capacity of that pumping facility. The Heritage Shores developer's banks and building partners are investing in the project with the understanding and confidence that all the capacity will be available when needed. Temporary use is acceptable; however, they are asking that the developer receiving the temporary service take on the necessary responsibilities for guaranteeing the usage is temporary. Additionally, the Heritage Shores developer is paying for the facility that is being temporarily used by another developer and feels some arrangements should be made for the other developer to be responsible for their fair share of the costs.

2. Mr. Rauch advised the Heritage Shores developer has paid their way for every step of the development. In many cases they paid their way well in excess of what the initial project could support. A specific example would be their one commercial building they have moved forward to build. It required that water and sewer be run to it. Paying for the water and sewer to be run far exceeded what the developer could justify for that one building, nevertheless they paid over a million dollars; that is the cost of doing business. Considering the Bariglio Corporation's major commercial facility on the other side of Route 13; they too have one unit to place and must also be prepared to take on the responsibility to provide permanent water and sewer. The Heritage Shores developer does not want to be in the position where another developer benefits from facilities they have paid hard cash to provide. It costs money to develop commercial property and no one should get in for free.
3. The force main that runs directly across Heritage Shores' commercial property is temporary, through agreements with the Town and the State Highway Department. If the Heritage Shores developer needs to work on infrastructure in the area of the force main, they will work around it by simply dropping the force main into one of their manholes. With the flow that is currently going through the force main, that isn't a problem; however, if the flow through that temporary force main is allowed to grow, it will impact how the Heritage Shores developer has to do their sitework, which wasn't part of the deal. If the Bariglio Corporation is going to start using that temporary force main across to the pumping station, they are going to have to address issues with the Heritage Shores developer about how it goes across their property. Currently there is an easement that is allowing temporary access across Heritage Shores property until the permanent is put in. If it continues to grow in capacity and the Heritage Shores developer needs to put in a gravity utility service for their commercial usage, they would have to accommodate additional flows. There must be some additional arrangement that if the Bariglio

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Corporation is going to add their flow into that line, they are responsible to the Heritage Shores developer for infrastructure costs.

Mr. Rauch stated the Heritage Shores developer is not opposed to working out these issues with the Bariglio Corporation; he just wants to make certain Bariglio isn't coming in for nothing and will assume the same responsibilities as every other developer. There needs to be assurances and guarantees that the permanent improvements will be built. Mr. Rauch advised this agreement is between the Town and Passwaters, LLC and introduced Mr. Lannin from Brookfield Homes, who is a managing member of that LLC.

Mr. Lannin spoke on behalf of the developer and Passwaters Farm and reiterated there is an existing agreement which obligates the Town to provide capacity for the 2,000 home build-out at Heritage Shores. He desires to protect the capacity available so it will be there when Heritage Shores needs it. Mr. Lannin suggested the word "temporary" is deceptive, because once you give someone utilities; you can't really come back and take it away. He advised the Commissioners should use caution concerning a temporary connection.

President Jefferson introduced former Commission President Conaway who was a party to the agreement concerning the Heritage Shores utilities. Mr. Conaway felt that some corrections were in order.

1. The Town has guaranteed there will be services for all of Heritage Shores; not just the 2,000 units, but by separate agreement for the additional 1,800 homes. The pump station was sized to handle 4,200 EDU's.
2. This is not the first time a temporary connection has been allowed by the Town. There is no "temporary" connection to the commercial area that Mr. Rauch refers to. The connection occurs at our pump station, which is on the other side of the highway. Royal Farms also joined that system. At the present time Brookfield and Ryan Homes have a total of 314 homes, which is far from the total build-out of 2,000 homes. The Walgreens is actually a wash; there are no additional EDU's being used by anyone, because the business simply changed locations. Mr. Bariglio has a signed developer's agreement and he pays \$7,500 per EDU, rather than the \$3,000 the Heritage Shores developer is paying. (This was corrected during the meeting. Mr. Conaway originally believed the Bariglio Corporation is paying \$5,000 per EDU; it was later stated the Bariglio Corporation is paying \$7,500 per EDU for wastewater and \$2,500 for water.) The Bariglio Corporation also has been advised (per the Planning and Zoning Commission hearing, their motion and the recommendation sent to the Commissioners) that this is a temporary arrangement. If he continues to develop; not only does he have to run the line, but everything south of the existing supermarket will also have to run lines. Davis, Bowen & Friedel, Inc. engineer, Bill Remington can verify or correct this information. Mr. Conaway advised it doesn't matter how the system was paid for; the special tax district has absolutely nothing to do with the Town's obligation to provide service. Mr. Bariglio is going to have to build a line at some point in time. Be aware, this may not be the only time he asks for a temporary connection. It must be understood that the Town owns the facility. The Town

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taxpayers benefit by additional tax dollars and additional usage. It is the Commissioners' decision what they want to do on a temporary basis and it is very clear that it is temporary. Royal Farm's connection is temporary. The water system that services Royal Farms is paid for by Royal Farms. Mr. Conaway can appreciate that the commercial market does not exist today and everyone is looking for a break and is concerned about competition. The Town is responsible for all the people of this community. The Planning and Zoning Commission (of which Mr. Conaway is a member, but did not vote on this issue) made a wise recommendation to approve Mr. Bariglio's temporary hook-up. The Town will have to decide when to run the large line sometime in the future. A proposed Civic Center would obviously impact the future utility needs, as well. If Bridgeville is chosen for the site of a new Civic Center and Mr. Bariglio's property is chosen as the site, the large line will be run sooner, rather than later. Mr. Conaway suggested if Mr. Lannin could guarantee 200 new homes at Heritage Shores yearly, then the Town would have to reconsider the utilities issue. However, that is not imminent. The Heritage Shores pumping station is said to be able to supply 4,200 EDU's. Engineers would say that is a very conservative estimate and with upgrades, could supply more. Mr. Conaway remarked that Mr. Rauch and Mr. Lannin are certainly within their rights to be concerned; however, this Commission has always demonstrated that they know their obligations and are ready to provide service for their properties. Mr. Conaway added there is nothing in this agreement that requires the Town to pay anyone any amount of money for the use of the pumping station facility. There is no payback provision; the agreement is silent regarding paybacks. The Heritage Shores developer built the pumping station system big enough to handle future needs. The water tower is also sized to handle the additional 1,800 homes for Heritage Shores South in the future.

Mr. Rauch acknowledged he is not here to argue about anything. He did not hear anything inconsistent with his understanding of the agreement from Mr. Conaway. He wants to make the Heritage Shores' developer's position understood, that if temporary is approved, the Town must take the necessary steps that the permanent line be accommodated for. Mr. Rauch added that the temporary line going across the property will be relocated as they develop their property. He believes that everywhere else he has developed; the other developers working around him have taken care of their responsibilities. Mr. Rauch does not mean to be an obstacle; they would like to see commercial development in Bridgeville. They want to make sure that the utilization of facilities and the "temporary" framework are properly secured. He agrees that there is plenty of capacity at the pumping station.

Town engineer Bill Remington spoke regarding the engineering end of this discussion. He advised there is 125 EDU capacity available on a temporary basis. The discussion with the Bariglio Corporation included the temporary basis of this capacity availability and the understanding that Bariglio would need to eventually pay a portion of the cost to extend the force main up Route 13 to the sewer treatment plant. There are other potential projects on that side of Route 13 that would also pay a portion of that expense. It has been discussed all along that a lump sum could be paid to the Town for the cost and be put in reserve, or it could be handled by bonding or some kind of security. They will be using improvements that Royal Farms and Heritage Shores have already made to the system and there will also be other improvements that

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the Bariglio Corporation will need to make to the system. Everyone is in the same boat, so to speak. Everyone adds something new to the system. He acknowledged all developers are being more careful, due to the current economic downturn. Cash flow is not what it was when Heritage Shores began developing in Bridgeville. Mr. Remington advised new developers are also informed they will be responsible for a share of wastewater treatment plant upgrades, storage capacity and wells.

Mr. Lannin stated he was glad Mr. Remington mentioned bonding, as he would like the Commissioners to consider the timing of improvements on the east side of Route 13 and assurances that funding will be available from that developer to initiate those improvements in the future. Mr. Conaway advised there are no greater assurances with the Bariglio Corporation and other developers than there are with Heritage Shores. Bariglio's hook-ups won't take place until he pays his bills, so it will all be paid up front. Bariglio's improvements will also benefit other developers that come after him.

Town Solicitor Schrader advised the agreements that were entered into originally (with the Heritage Shores developer) were entered into in an economic climate that was clearly different than the one we are in today. Mr. Schrader pointed out that during his affiliation with the Commissioners of Bridgeville (since 1972) they have always maintained their commitments to provide public utilities to all of their citizens and property owners, as they are required to, by agreement or by law. It is his understanding that the Heritage Shores agreement includes an obligation to provide 30,000 gallons per day for commercial/industrial/institutional use and 2,000 gallons per day for residential. Mr. Schrader assured Mr. Lannin these obligations will be fulfilled. Secondly, Mr. Schrader advised each commercial developer who comes into Town has an obligation to pay their fair share for the existing facilities that were built in anticipation of their arrival and any expansions that need to be made. He is sure Mr. Bariglio was aware of this when he went through the annexation process.

Mr. Rauch acknowledged that this discussion is coming to the conclusion that both "sides" are in agreement; there is no confrontation. Everything stems on the very narrow issue that the temporary service is dependent on ultimately building an additional piece of major infrastructure – the force main. They are not talking about paying a permanent percentage share of using the pumping station or anything like that; they are only concerned about the assurances from this or any developer that the future force main will be built. He feels confident the Town will always honor their obligation; that is not an issue. If, in the future, Bariglio is the only developer hooking into that new force main, there will not be enough resources to pay for the very costly force main. Mr. Rauch knows the system belongs to the Town and they can choose to allocate its capacity any way it wants to. They would just like to know if this "temporary" will become "permanent."

Commissioner Collison stated he believes it is part of the Bariglio Corporation's developer's agreement, as well as a condition of the Planning and Zoning Commission's recommendation to the Commission the Bariglio Corporation be responsible for the construction of the permanent force main. Commissioner Collison advised the pumping station clearly belongs to the Town of Bridgeville and therefore, the Town can do anything they want with it,

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provided that it guarantees the Heritage Shores developer their allocations. Commissioner Collison believes the proper guarantees are in place and the Commission should move forward to approve the Bariglio Corporation's application for a car wash and retail building that will use the Heritage Shores pumping station on a temporary basis.

Commissioner Tassone acknowledged he has learned a lot by this discussion, as he is new to the Commission. He understands Mr. Rauch's question and realizes there is a lot of money involved in the future permanent connection. He believes the discussion has been healthy and those Commissioners who weren't on the Commission when Heritage Shores was first annexed have been brought up to speed on those early agreements.

Commissioner Correll admitted she was distressed when this issue was brought up at the April 12<sup>th</sup> Commission meeting, as she is uncomfortable with disagreement and controversy. She was unaware that the first time Mr. Rauch knew of the Bariglio Corporation's application was at that meeting. Mr. Rauch reported he had just received the minutes from the March 24<sup>th</sup> Planning and Zoning Commission meeting that evening and had read them before the April 12<sup>th</sup> Commission meeting began. (Mr. Rauch had been in attendance at the March 24<sup>th</sup> Planning and Zoning Commission meeting. His application was reviewed first and he left before the Bariglio Corporation's application was reviewed.) Commissioner Correll advised the Commission will always look out for the best interests of the Town.

Solicitor Schrader stated he believes Mr. Rauch is actually opposed to the Bariglio application, vs. the vehicle by which the opposition is taking place. It seemed that other Commissioners and attendees at this meeting were under the same impression. Mr. Rauch stated he does not oppose the application at all. Commercial development in this Town is good for everyone. Their concern involves their guarantees to their builders. When an issue surfaces that could compromise their capacity, their obligation to their builders is on the line. Heritage Shores' request was that if the other developer is going to use temporary capacity, make them bond it.

Mr. Conaway believes the Bariglio Corporation's plan to develop on the east side of Route 13 was common knowledge. Mr. Conaway understood that Mr. Rauch had been in opposition to the Bariglio's application at the April 12<sup>th</sup> Commission meeting. He is glad to hear that is not true. Mr. Conaway advised the recommendation of the Planning and Zoning Commission clearly corrects any misgivings Mr. Rauch would have concerning this temporary arrangement. Mr. Conaway believes the Town has been very lenient with the Heritage Shores developer concerning various issues. I.E. – the walking path has been an ongoing issue. It is currently half completed. The agreement states that after the 300<sup>th</sup> building permit is issued, the walking path will be built and that has not happened. Mr. Ryan Showalter of Miles & Stockbridge, attorney for the developer, also advised three years ago the path would be finished by that fall. The Town has not pushed the issue and has been cooperative.

Town Manager Walls stated she is in attendance to support the Town and the developer. She believes all parties have a better understanding of the issue now. She added that Mr. Rauch and his staff have always been very good to the Town. Mr. Conaway commented the Heritage

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Shores developer has always done what they were supposed to do and when there was a problem, the Commission has always worked to resolve that problem.

President Jefferson understands the Heritage Shores agreement and the obligations the Town has to the developer. The Town will be diligent to watch the capacity issue and keep on top of it.

Mr. Rauch's final comment was that there is more than enough capacity for the Town to take advantage of, as opportunities come forward. The developer is in support of its usage. Mr. Conaway advised the more people using it, the less each one pays.

**IV. Planning and Zoning Request – Blackbird Wash, LLC / Bariglio Corporation Response to Planning and Zoning Commission Recommendation Letter of April 9, 2010**

Commissioner Collison reported the Commission is now able to consider the Planning and Zoning Commission request concerning the application by Blackbird Wash, LLC and Bariglio Corporation for approval of a preliminary development plan for a car wash and office/retail space. Mr. Mike Riemann, architect for the project, made a presentation at the April 12<sup>th</sup> Commission meeting concerning the application. The Commission has had the opportunity to review the application; therefore, Commissioner Collison made a motion to approve the application by Blackbird Wash, LLC and the Bariglio Corporation. This approval is conditioned upon adherence to all findings of fact and all contingencies established by the Planning and Zoning Commission and reproduced in their entirety below:

- 1) This request has been deemed to be a “similar use” to existing C-1 zoning uses in Bridgeville.
- 2) A car wash is not expressly prohibited in the Bridgeville Town Code.
- 3) Because the project has commercial zoning and is a “similar use” to permitted uses, this application is compatible with the Comprehensive Plan as adopted.
- 4) This project promotes the health, safety and welfare of the residents.
- 5) This development will be connected to a temporary water/sewer arrangement that will be replaced by a permanent line in the future. The developer will be responsible for requisite costs of the temporary and permanent water/sewer arrangements, as prescribed in the Developer’s Agreement. Water will be provided by a 12-inch line. All Town services are available to this project at the developer’s cost.
- 6) Only 125 EDUs are available on a first come, first served basis at the pump station.
- 7) Approval is contingent on a tunnel-style car wash and a 5,400 square foot retail building; any changes to those uses will require a re-submittal of request to the Planning and Zoning Commission.
- 8) Approval is contingent on the developer satisfactorily resolving all the engineer’s comments before the final development plan review.
- 9) The applicant has identified the outside agencies that this preliminary development plan will be submitted to and, if approved, is subject to approval by those outside agencies.

Commissioner Tassone seconded the motion. Motion carried.

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**V. ADJOURNMENT**

Commissioner Collison made a motion to adjourn the meeting. Commissioner Tassone seconded the meeting. The meeting was adjourned at 10:20 A.M.

Respectfully submitted,

Patricia M. Correll  
Patricia M. Correll, Commission Secretary

Peggy A. Smith  
Peggy A. Smith, Transcriptionist