

**MINUTES
COMMISSIONERS OF BRIDGEVILLE
AUGUST 11, 2008 – 7:00 P.M.
TOWN HALL**

I. CALL TO ORDER

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

II. QUORUM PRESENT

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

III. APPROVAL OF MINUTES

Minutes from the July 14, 2008 monthly Commission meeting and the July 14, 2008 Executive Session were presented for approval. One correction was previously made concerning the length of time a resident must live in Bridgeville before they can vote (30 days); all Commissioners have received a corrected copy of page 6. Commissioner Correll made a motion to approve the minutes as presented. Commissioner Jefferson seconded the motion. Motion carried.

IV. CORRESPONDENCE

Town Manager Walls reported the receipt of copies of letters sent by the Friends of the Bridgeville Library to Senators Adams, Venables and Simpson, and Representative Ewing concerning their support of funding for the new Bridgeville Library.

The Summer 2008 issue of the Bridgeville Historical Society newsletter and the Delmarva Power newsletter are available for review.

The Commissioners have been invited to the graduation exercises of the Delaware State Police's Municipal Recruit Class on Friday, August 29, 2008, 2:00 P.M. at Delaware State University in Dover. The Town has one recruit in the academy. Please RSVP to Town Manager Walls.

V. APPROVAL OF FINANCIAL STATEMENTS AND BILLS PAYABLE

Finance Director Savage directed the Commission to the financial report dated June 30, 2008. (The following amounts are in rounded figures.) The Town has received additional bills and income related to FY-08, which are reported in this update. The auditor came in late July to audit the FY-08 books, several months earlier than usual; therefore, the FY-09 budget may need to be amended in December to reflect bills that could not be included before the audit. President Conaway reported the Town ended the fiscal year with a surplus. Unlike other municipalities, when

the Town recognized the shortfall, they immediately amended the budget down and the Town finished the year with \$308,000 more than original projections. Town Manager Walls and Finance Director Savage are to be commended for making that a reality. Finance Director Savage reported this update reflects the \$299,000 net ordinary income that will reduce to a little over \$200,000, due to carryover grants and accounts payable for reimbursables. The Balance Sheet for July 31st indicates a Savings and Checking General Fund of \$573,000; escrow and impact fees total \$530,800. President Conaway noted that appropriated surplus funds have been moved from the escrow accounts for this year's budget use; it is currently in the savings account and is accruing interest. On the Profit and Loss report, the Town is one month into the new budget year and the target percentage is 8.3%. There were no building permits issued for new homes in July. The property tax collection is at \$58,000, which is \$30,000 more than this date last year. On the Accounts Payable report, bills have been received to date totaling \$49,834; additional expected expenses total \$83,500 for a combined total of \$133,334. Davis Bowen & Friedel invoices total almost \$35,000; only \$1,800 is not reimbursable. The Town now has 522 trash customers. Commissioner Correll made a motion to pay the bills as presented. Commissioner Skala seconded the motion. Motion carried.

VI. DEPARTMENT HEAD REPORTS

President Conaway advised Department Head Reports have been distributed and are available to the public. Commissioner Correll questioned the progress on the defective Parkson GeoReactor. Town Manager Walls advised it is scheduled to be delivered August 22nd. There is concrete work to be accomplished before installation by the low bidder, Hopkins Construction. They should be completing that work soon so the material can cure before the reactor is installed. Hopkins Construction was not responsible for any of the problems with the defective geo-reactor; the blame falls squarely on Parkson. They are required to cover the complete expense of replacement, including the concrete work by Hopkins.

Police Chief Parsons has done some investigation concerning the large disparity between fines written by the Police Department and revenue which the Town finally receives. Chief Parsons reported he has been researching the traffic and criminal fine revenue system for the Town. Our fines go through the Delaware court system and he has discovered that some of the fines the Town is assessing are being suspended, while the state receives all costs assessed and payable to the state (ie. DelDOT fees, security fees and court costs). The state receives their costs; the Town receives no money at all. This is happening to many Towns throughout the state. With the Commission's permission, Chief Parsons would like to investigate further, and perhaps involve legislators. President Conaway added it is time for the state to react properly; the issue has been with us for a long time. The state always gets its money; the Towns don't. Chief Parsons advised the problem became worse when the DelDOT fund charge of 50% of the original fine was added. The fine was then so costly that the courts became sympathetic to the violators and started to suspend the fine, but collect all state charges. The system is running 30-90 days behind in traffic and mild criminal cases. In addition, it is another 60 days before the court system pursues the violator and begins to send out notices. The average reimbursement time table from fine to payment for the Town is five to six months. The Town receives approximately one-third of its ticketed charges. The Police Chief's association reconvenes in September; Chief Parsons will bring up the issue there. He will

also approach Senator Adams about the situation. With no disagreement from the Commission, he will pursue the investigation.

VII. CITIZEN'S PRIVILEGE

President Conaway opened the floor for comments or questions from citizens. Mr. Leo Lynch of 106 Emily's Pintail Drive asked about the time table for completing the bike trail into Town. Town Manager Walls understands Mr. Bob Rauch, engineer for the Heritage Shores developer, is working on it. Ms. Dottie Harper from Brookfield Homes advised she participated in a meeting on Friday August 8th concerning the bike trail and should find out the timetable later this week. The lack of development in that area has slowed the progress. Mr. Lynch asked about the bike trail that goes through Heritage Shores. There is a break in the path due to a lack of development in the area and he feels it needs to be addressed because it will be a long time before development will take place in that area. The developer is investigating it further. Mr. Rauch came into Town to look at the problem visually and plan a solution.

VIII. TOWN MANAGER'S REPORT

Town Manager Walls advised a meeting was held with Ms. Terry Dukes, who represents the Sussex County Mapping and Addressing Department. This department will re-address properties not using an odd and even addressing system or those not using the correct street names. Properties that are using A, B, or ½ addresses will also be re-numbered. Developments using a development name will be required to use street names. The project is being undertaken in order to comply with Sussex County's 911 Emergency Addressing System. We have found there are a very few needed changes in Bridgeville. The greatest issue will be with housing complexes where unit numbers are currently used for addressing (i.e. Elizabeth Cornish Landing and Laverty Lane.) The Town will not be responsible for any of the work.

Town Manager Walls expressed her thanks to the Union United Methodist Church for their assistance. The church held a summer camp and one objective was for the youth to volunteer for projects throughout Town. When asked what they would do for the Town, we advised their assistance could be most helpful by providing a general clean-up of the Children's Sanctuary Park. The youth pulled weeds, removed debris and raked the mulch. President Conaway reported there has been some vandalism at the park. When the Park was being built, residents were able to honor their children or grandchildren by buying a fence slat and having the child's name placed on it. Some of the fence slats are missing. The matter is being researched so that replacements can be pursued. Commissioner Correll commented that the increased lighting at the Park has been a positive addition.

The Town auditors, Lank, Johnson and Tull, have been conducting the annual audit review for fiscal year 2008. The final report should be ready for presentation in the near future.

A meeting was held with the Animal Control Board to review the new dog ordinance and the Board's responsibilities. Information was once again placed in the Town newsletter pointing out the important issues regarding this Ordinance; in particular, the owners of dangerous dogs.

The Town has received notification from the Forestry Department that Bridgeville will not be funded for the Tree Grant this year and will not receive nine requested trees. There have been more applications received for tree planting than monies available this year.

Town Manager Walls advised that she, along with President Conaway and Commissioners Correll and Skala, attended a Delaware Economic Development workshop regarding Friendly Downtowns. Many topics were covered from recruitment of new businesses to strengthening existing businesses. The workshop was informative, offering different directions for businesses and the Town to consider. The matter of how the Town wishes to proceed will be forthcoming.

Town Manager Walls advised the Spray Irrigation project is approximately 99% complete. The contractor (Daisy Construction) still has not had a passable pressure test on the effluent line, but feel that they will soon be successful. There was a build-up of air in the pipe which had to be released, a 4-5 hour effort. They found another hole in one pipe and are in the process of fixing it. They feel the next test will pass. The Department of Natural Resources and Environmental Control (DNREC) must monitor a test and give approval in order for our spray irrigation permit to be completed. There is also a small punch list to be finished. Town Manager Walls is working with the Tatman family to make sure a crop will be planted on the field in the fall. She advised that with all the repairs and replacements that have been necessary in the force main, the project will run over budget. The overrun is not as great as it could have been. A preliminary estimate provided by our engineers, Davis, Bowen & Friedel, would indicate the project is \$60-70,000 over budget. An earlier projection was as high as \$500,000, based on the uncertain condition of the force main. The Town is inquiring whether additional loan money would be available from USDA.

IX. OLD BUSINESS

A. Library Agreement

President Conaway advised the written agreement between the Library and the Town is fairly straightforward. There is a change to be made to the agreement in Section II. It currently reads, "The Town will also make available funds in the amount of \$29,412.32 for construction costs." This involves monies from each settlement at Heritage Shores and will include monies from commercial venues as well. This amount is not a constant, but an every-increasing amount as more properties are settled. The agreement is amended to read, "The Town will also make available funds that are provided from settlements that occur in annexed properties for construction costs." The Town currently has \$30,000 in this fund for the Library. Item #17, Indemnification, in the Agreement was mutually amended by Library Solicitor Tarburton and Town Solicitor Schrader. The Agreement can be amended and signed tonight, as a quorum of Library Trustees is present and a board member has the authority to initial the change. President Conaway initialed the change and signed for the Commissioners; Mrs. Ruth Gilefski, Secretary of the Library Trustees signed for the Library. Commissioner Skala made a motion to sign the Agreement with the Bridgeville Public Library. Commissioner Correll seconded the motion. Motion carried. Bridgeville Public Library Director, Mrs. Karen Johnson, questioned the new address of the library. Town Manager Walls suggested she call Mrs. Dukes from the County Addressing Department. Mrs. Johnson reported she had dropped off a copy of the time frame from Regional Builders concerning the use of the Town-

appropriated money so that it will be used by the deadline of December 31, 2008. President Conaway directed her to Finance Director Savage and Town Manager Walls for any questions. President Conaway again thanked Senators Adams, Venables and Simpson, along with Representative Ewing for making the state funding possible for the new library. The Groundbreaking Ceremony is scheduled for Wednesday, August 13, 2008.

B. Public Hearing and Second Reading of Ordinance A08-10 regarding Building Permit Fees

President Conaway reported there was a question concerning how properties were being settled at Heritage Shores and a decrease in the monies the Town receives from those settlements. Since the Town cannot address transfer tax, which is levied at the state level, the Town chose to introduce Ordinance A08-10 dealing with building permit fees. The issue at hand is settlements for property only, prior to a house being built on the lot. In these cases, house revenues are lost for the Town. This Ordinance adds to existing building permit fees a 3% fee, based on the cost of construction, or the projected selling price of the residential property, whichever is greater. This fee would be collected if settlements involve only the price of the lot. Two amendments have been made to this Ordinance. One removes the words "annexed land," based on the Town Attorney's opinion. This would now apply to all of Bridgeville. The Heritage Shores developer pointed out that the 3% fee is actually a little more than the Town would receive from transfer tax on a lot with a home built on it. President Conaway advised an updated version of the Ordinance drops the percentage to 2% and he is now proposing that the Town amend the figure to 1-1/2%, which is the actual loss in Town revenues. A letter from Providence of Brookfield Homes indicates they have taken into account the Town's concerns and indicates that a check for \$16,512.49 will be forthcoming to replace what the Town has lost in revenues. President Conaway opened the Public Hearing on Ordinance A08-10 at 7:40 P.M. Ms. Dorothy Harper of Brookfield Homes, the builder at Heritage Shores, commented the timing of paying the extra 1-1/2% might be problematic. The builder has no objection to paying the fee; however, at the time of the building permit issue, the builder does not always know how the purchaser will complete that purchase (changes, upgrades, etc). Also, sometimes a building permit is obtained for a house that isn't sold yet (i.e. spec house). Perhaps the fee could be paid prior to the issuance of an occupancy permit. The timing is an important issue to the builder. When a routine financing contract goes to settlement, a settlement statement will show the Town the price paid for a house. In the case of a construction permanent loan, the buyer closes on the lot and then they construct their house, although there is a contract for the total amount. The contracts can be provided to document the selling price of the house. President Conaway clarified that if a settlement involves only a lot, the 1-1/2% fee will be assessed on the contract cost when the builder comes to get a building permit. Ms. Harper asked the Commission to understand that Brookfield Homes used this financing method as a vehicle to help obtain sales in a difficult market. The intention was not to avoid the transfer tax. The concept is that the buyer signs a contract for the total package, lot and house. Brookfield initiated this program whereby the builder would pay the interest on a buyer's construction loan up to 18 months. These are people with a house to sell who can't afford to buy a new house before they sell their current one. They get a construction loan; they settle on their lot; Brookfield pays the interest on their loan for the construction of their house for up to 18 months, while they work on marketing their current house. Ms. Harper advised the other jurisdictions where they do business are not set up the same as

Delaware. In these states, the Town would be compensated on the entire amount, house and lot. She added, if the Commission wanted to make sure there wasn't a loophole, they might want to include wording that denotes the building permit fee be based on the "final ratified sales contract," as special options and add-ons might be included later in the construction process. President Conaway advised a house is not eligible for transfer tax; therefore, transfer tax is not assessed on the construction of the house if the lot was settled by itself. He added, if there are any problems or questions in the future, Brookfield Homes should call Finance Director Savage directly. The Town wants Heritage Shores and the builder to be successful. President Conaway commented the Commission will be happy to help sell houses at Heritage Shores, as it benefits all of us. The Town will work with the builder concerning the timing for the extra assessment on the building permit. There is an additional Ordinance being considered later in this meeting that also deals with this issue. President Conaway advised Ordinance A08-10 can be amended at this table because the title is not reflected in the wording change (taking out "in annexed properties") and because the Commission is reducing the rate from 3% to 1-1/2% instead of raising it. Commissioner Skala asked if the Town would receive the exact same amount based on the 1-1/2% fee as it would if it were a normal lot/house settlement. President Conaway advised we receive 1/10 of 1% more (approximately \$16) with this Ordinance because the county does not have to collect the money for us. Commissioner Skala made a motion to close the Public Hearing. Commissioner Jefferson seconded the motion. Motion carried. The Public Hearing was closed at 7:55 P.M. Commissioner Jefferson made a motion to adopt Ordinance A08-10 with the removal of the words "annexed land" and a change to 1-1/2% fee rate. Commissioner Correll seconded the motion. Motion carried.

X. NEW BUSINESS

A. Introduction and First Reading of Ordinance A08-11 to Amend Bridgeville Code Chapter, 210, Taxation, Subchapter II, Real Property Transfer Tax, Relating to Definitions by Adding the Term "Construction Contract"

President Conaway advised this Ordinance would change Town Code by adding the definition of the term "Construction Contract." This basically defines what a construction contract is. It defines the word deed to "include any contract or other agreement or undertaking for the construction of all or a part of any building all or a portion of which contract, agreement or undertaking (or any amendment to the foregoing) is entered into, or labor or materials are supplied, either prior to the date of the transfer of land on which the building is to be constructed or from the date of the transfer of the land, on which the building is to be constructed or from the date of the transfer to the grantee." President Conaway continued to read the Ordinance in its entirety. (attached) President Conaway believes this Ordinance shuts the door to the potential of the Town not receiving all of the monies they should at the sale of a lot. Commissioner Correll made a motion to introduce Ordinance A08-11 for a first reading. Commissioner Jefferson seconded the motion. Motion carried.

B. Jump Out Squads

President Conaway advised he has been examining Jump Out squads in Wilmington and Elsmere. A Police Department will put together a squad of 15-20 police officers and go into a high

crime area and can deal with larger crime issues all at once, because of the numbers of officers they bring. They enforce warrant issues, search for weapons and deal with a variety of issues. Bridgeville is not large enough to do this; however, President Conaway believes we should consider this for the future. This method has been criticized, but not challenged.

C. Public Hearing regarding Planning & Zoning Commission Recommendation – Pet Poultry Products Zoning Change

This agenda item will be placed at the end of the meeting to allow a representative from Pet Poultry, Mr. Ellwood Hunsberger, to appear.

D. Change September Meeting Date to September 22, 2008

President Conaway will be away on the regular September meeting date of Monday, September 8th; Town Manager Walls will be away on the following Monday, September 15th. The Commissioners agreed to change the September meeting to Tuesday, September 16th at 7:00 P.M.

XI. SPECIAL REPORTS

A. Office of Highway Safety Grant

Police Chief Parsons reported he was contacted by the Office of Highway Safety concerning an \$800 grant for DUI patrols and impaired driving special patrols for Labor Day. Commissioner Jefferson made a motion to accept the Highway Safety Grant. Commissioner Correll seconded the motion. Motion carried.

B. Annexation Referendum Public Hearing

President Conaway reminded the Commissioners of the Public Hearing on Thursday, August 14th regarding the Annexation Referendum scheduled for Saturday, August 16th. There are three commercial properties to be considered for annexation. The old Bridgeville Motel, 1.7 acres with Barbara M. Sylvia as owner, has no current plans to change and has signed a letter of understanding that when and if there is a change of use, they will sign a developer's improvement and services agreement. The second property is 46.52 acres located adjacent to the existing shopping center, the Corey property. Town Square Bridgeville, LLC proposes to build a shopping center with big box stores and pads out front. This property has submitted a developer's agreement stating that they will need 187 EDU's, which the Town has the capacity for. This development will pay \$2,500 for water and \$7,500 for sewer as impact fees. They will pay \$500 to the Town for each new business which locates there, earmarked for the new Library, and another \$500 earmarked for the Fire Company. They will also pay ¼ of 1% on each building permit for emergency enhancement funding. Currently there is a Certificate of Public Convenience and Necessity in place whereby Tidewater Utilities will provide water to this site. The policy established by the Bridgeville Commission is that a developer must take water and sewer in order to be annexed. The developer understands this. If they cannot be released from Tidewater, they will pay a monthly fee based on what the sewer rate should be. Highway One, L.P. is the third property being considered

for annexation. The property is 89.98 acres with commercial plans. They understand that they must be current on all obligations and must present a developer's agreement to be considered for annexation on Saturday. The three properties will make presentations on Thursday night and the annexation vote will take place at Town Hall on Saturday, August 16th from 10:00 A.M. to 2:00 P.M.

X. ADDITIONAL NEW BUSINESS

E. Board of Adjustment Appointment

Town Manager Walls requested that the Commission re-appoint Mr. Charles Kelly to a one-year term on the Board of Adjustment. Commissioner Jefferson made a motion to re-appoint Mr. Charles Kelly to a one-year term on the Board of Adjustment. Commissioner Greason seconded the motion. Motion carried. President Conaway reported this Board has not met this year, due to the fact that the Planning and Zoning Commission deals with some of the issues that the Board of Adjustment dealt with in the past.

Town Manager Walls reminded the Commission of the September 11th Town Meeting at the Bridgeville Fire Hall, 7:00 P.M. A Town Meeting was held a year ago and it was so well received that it was decided to continue the meetings. DelDOT has been invited to share an update on the Rt. 13/404 intersection realignment. Developers who have recently been annexed into Town will share updates, i.e. Allen & Rocks, F.E.D. Investments, Highway One, the Lindenmere development, the Tulls and Mr. Hunsberger. Town engineers Davis, Bowen & Friedel will update Town projects and the Library Board of Trustees will be invited to give an update on the new library. Apple Scrapple, Christmas in Bridgeville and Punkin Chunkin will also be invited to participate. Refreshments will be served.

C. Return to: Public Hearing regarding Planning & Zoning Commission Recommendation – Pet Poultry Products Zoning Change

President Conaway reported the Commission does not have any concerns about the request from Pet Poultry; however, they are concerned that the procedures that are just beginning to be developed be followed completely. The Planning and Zoning Commission is a new addition to the Town government and the Commission must carefully follow the appropriate rules governing this new body.

President Conaway opened the Public Hearing at 8:23 P.M. concerning a change of zoning request by Pet Poultry, Inc. of 1.387 acres from RPC to Commercial. The Commission has received a recommendation from the Planning and Zoning Commission to approve this change of zoning request. Mr. Ellwood Hunsberger advised the parcel of land in question is adjacent to the Pet Poultry facility on the edge of Town. For years there has been a safety issue with tractor trailers maneuvering on Federalsburg Road; it has been a hazardous situation. Right now there are three lease holders in the old Pet Poultry facility in question. The land will be used as a turn-around for tractor trailers to ease the safety issue on Federalsburg Road. A survey was included by Miller-Lewis showing the 1.387 acres and a footprint of the existing building. The usage is shown on the

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illustration as well. The Commissioners would be approving a truck turn-around. President Conaway asked for questions from the Commissioners. Commissioner Jefferson commended Pet Poultry for trying to alleviate a dangerous safety hazard on Federalsburg Road. Mr. Hunsberger advised the company has been using Mr. Baldwin's land to turn trucks around, but it is appropriate to make it a permanent solution by purchasing the land from Mr. Baldwin and having it re-zoned. Hearing no additional questions, President Conaway asked if there was anyone in attendance who wished to speak in favor of the application. There being no one, he asked if there was anyone in attendance who wished to speak against the application. There being no one, President Conaway closed the Public Hearing at 8:29 P.M. He advised there are actually two requests before the Commission. The first request is from Mr. Daniel Baldwin, owner of the present property, to remove 1.387 acres from the RPC known as Lindenmere. Commissioner Jefferson made a motion to accept the Planning and Zoning Commission's recommendation to approve Mr. Daniel Baldwin's request to remove 1.387 acres from the RPC known as Lindenmere. Commissioner Skala seconded the motion. Motion carried. President Conaway advised change of zone cannot be conditioned and it is permanent. The vote to change this acreage to C-1 cannot be restricted; the Commission cannot impose any restrictions on the land. Any C-1 usage allowed in the Town's Zoning Ordinance would be permissible at this location. Commissioner Jefferson made a motion accept the Planning and Zoning Commission's recommendation to approve Pet Poultry's request to change the 1.387 acres from RPC to Commercial. Commissioner Greason seconded the motion. Motion carried.

XII. ADJOURNMENT

Commissioner Skala made a motion to adjourn the meeting. Commissioner Jefferson seconded the motion. Motion carried. The meeting was adjourned at 8:31 P.M.

Respectfully submitted,

Patricia M. Correll
Patricia M. Correll, Commission Secretary

Peggy A. Smith
Peggy A. Smith, Transcriptionist