

**MINUTES
COMMISSIONERS OF BRIDGEVILLE
SEPTEMBER 12, 2011 – 6:00 P.M.**

I. CALL TO ORDER

The meeting was called to order by President Pat Correll at 6:00 P.M. Present: Commissioners Paul Kovack, Steve McCarron, Jay Mervine, Lawrence Tassone, Town Manager Merritt Burke IV and Town Solicitor Dennis Schrader.

II. EXECUTIVE SESSION – SITE ACQUISITION

Commissioner Tassone made a motion to go into Executive Session to discuss site acquisition. Commissioner Mervine seconded the motion. Motion carried. The regular session recessed at 6:02 P.M.

III. RECONVENE REGULAR SESSION

Commissioner Kovack made a motion to re-convene the regular session. Commissioner McCarron seconded the motion. Motion carried. The Commission re-convened the regular session at 7:00 P.M. President Correll advised the Commission discussed site acquisition and no votes were taken.

The regular meeting began with the Flag Salute and the Lord's Prayer.

IV. QUORUM PRESENT

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

V. APPROVAL OF AGENDA

President Pro Temp Mervine requested a motion to approve the Agenda for tonight's meeting with the removal of Old Business B, as the Tulls have withdrawn their application. Commissioner Tassone made a motion to approve the Agenda with the above-mentioned agenda topic removed. Commissioner Kovack seconded the motion. Motion carried. The vote was four in favor and one recusal by President Correll.

VI. APPROVAL OF MINUTES

Commissioner McCarron made a motion to approve the August 8, 2011 Commission Meeting Minutes and Executive Session Minutes as presented. Commissioner Mervine seconded the motion. Motion carried.

VII. CORRESPONDENCE

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

VIII. APPROVAL OF FINANCIAL STATEMENTS AND BILLS PAYABLE

Finance Director Savage directed the Commission to the Balance Sheet for the period ending August 31st. The General Fund totaled \$288,910, which is a \$57,000 increase over last month. All accounts totaled \$896,092, which is an \$85,000 increase over last month. Accounts Receivable stands at \$582,000, which is a \$115,000 decrease from July, due to tax payments. Finance Director Savage directed the Commission to the Well #6 loan on page 2; the principal balance of \$53,647 is on the Accounts Payable tonight to pay off and is in the budget to do so. On the Budget Report, the Town is two months into the new budget year and totals should be 16%. The income (minus property tax payments) stands at 15%, or \$499,026. Expenses also stand at 15%, or \$387,974. Concerning Accounts Payable, the Town has received bills (including Well #6) of \$133,153. Non-departmental bills include the RBC project in the amount of \$35,000; the energy grant is the balance of \$15,000. We will receive those funds back through loans for the project. Expected expenses include the usual health insurance, payroll and utility bills, along with 3rd quarter debt service. Total Accounts Payable is \$289,753. Commissioner Kovack made a motion to pay the bills as presented. Commissioner Tassone seconded the motion. Motion carried.

IX. DEPARTMENT HEAD REPORTS

Police Chief Longo reported the Police Department received \$4,496 from a SALLE grant. Another grant of \$3,779 is expected later this month. Fiscal year-to-date (two months) the department has received \$48,275 in grant monies. Chief Longo expressed his appreciation to all those who participated and volunteered for the National Night Out event. The department also joined with the Fire Company, Woodbridge JROTC, Culinary Arts students from the Caroline County Career and Technology Center and others to serve the Tour de Force 9/11 Memorial Bicycle Riders – 380 police officers/firefighters riding in memory of those killed on 9/11. All volunteers worked well together to make both events very successful and memorable. Commissioner Tassone commented that Chief Longo's wife is to be commended for her hard work and her culinary students' contribution to the two events; he stated "she made us look good!" Commissioner McCarron added that he believed both events were fantastic. Several leaders among the riders shared that Bridgeville was the best stop in their 10 years of participation in the ride. Commissioner Kovack commented the riders don't necessarily get good food at the way stations, sometimes a bologna sandwich. As President of the Fire Company, Commissioner McCarron stated he was very happy to see both events at the Bridgeville Fire House. Police Chief Longo has sent thank you's to all the organizations for their donations. The Police Department also participated in 9/11 Ceremonies in Denton and at Heritage Shores.

The Police Department will host an Infant/Child Safety Car Seat Check at the Bridgeville Fire Company on September 23rd. On October 29th the Fire Company and Police Department are partnering in another Prescription Drug Take Back event from 10 A.M. to 2 P.M.

The Bridgeville Police Department received artwork from the children at the Lifeway Church of God with special thanks for the protection services they provide to our Town.

Chief Longo asked for permission to work with schools, businesses and churches in Town to place a "Buckle Up" seatbelt stencil in various locations. Town Manager Burke advised 75-80% of citizens in western Sussex buckle-up and it is important to raise the percentage any way possible. He added that

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approximately 115 people die on Delaware roads each year and 50% are unbelted. This stencil tool receives a lot of attention, as it is placed directly on the pavement, for instance, at parking lot exits. It has great potential to save lives. He suggested placing the stencils in strategic locations where young people frequent, as they are the least likely to buckle-up. Commissioner Tassone suggested the high school parking lot would be an ideal location for the stencil. Commission President Correll directed Chief Longo to be careful not to place the stencil on any state-owned roads without permission. She is also concerned that it not be placed anywhere that could distract drivers. It was determined that Chief Longo will conduct research and bring a list to the Commissioners of proposed locations for the stencil to be painted, with property owner permission.

Commissioner Tassone questioned the status of un-authorized trucks coming through Town. Chief Longo advised the trucks currently coming through Town have authorization to do so.

Commissioner Tassone also questioned the status of false alarms. Chief Longo advised Heritage Shores has stepped up to the plate resulting in a reduction of alarms. There has only been one alarm there this month. There are concerns about handling alarm violations without involving the court system, as it is a minor issue and would clog the courts.

Commissioner Mervine questioned the bike and foot patrols. There are issues with the bike patrols, but foot patrols continue. Officers are also patrolling in the middle and high school, due to changes in school security. The first few days of the school year there were speeders and thefts; the Police Department wants a continuing presence in the schools. Chief Longo advised the school has not resolved the absence of officers in the schools; it is now the Town Police Department's responsibility. Commissioner Kovack asked about grants. Chief Longo replied they are still looking and applying for grants for SRO's.

Town Manager Burke thanked the Commission for giving flexibility during Hurricane Irene and for being available for direction throughout the event. He thanked Police Chief Longo and the Fire Company for doing a fantastic job preparing for the hurricane. They will meet to evaluate their response and discuss emergency response planning for the future. Chief Longo believes there was excellent communication during the event and the Town responded effectively. Commissioner Kovack advised all the Department Heads deserve commendation. The Street Department cleaned storm drains; Wastewater Superintendent Collins was on site all evening and these are just two examples among many of our Public Works Department's vigilance during the storm.

Town Manager Burke reported Street Superintendent Passwaters, along with all members of the Public Works Department, has been covering the Water Department responsibilities for the past 15 months; they are all picking up the slack. The streets have been recently swept, as well as other important duties. He thanked all the members of the Public Works Department for their hard work. The Town continues to search for a new Water Superintendent,

Code Enforcement Officer Jerry Butler continues to enforce Town codes, including grass, brush, weeds and rental inspections. Building permits have increased. Code Enforcement Officer Butler advised they have started rental inspections for 2012, with the intention of completing the 2012 inspections by December 31, 2011. Each year property owners will renew their license during the same month. Mr. Butler is also working on contractor licensing and a noise ordinance. The ordinances are currently being reviewed by Code Enforcement Officer Butler and Finance Director Savage. They will then be sent to

President Correll, who will make sure Solicitor Schrader has an opportunity to review each ordinance. Commissioner Kovack expressed concern about the involvement of the Commissioners in the writing process; he understands from the Town code that the Commissioners must write the ordinances. Currently, Mr. Butler advised the staff writes up their ideas and passes them along to Mr. Schrader and the Commission. Solicitor Schrader advised each Town decides its own method; sometimes staff generates ordinances and other times Commissioners do. He believes it is helpful for ordinances to cross his desk before they are introduced. Commission President Correll stated that ordinances may be written by Town staff, but they must go through the Commission President and then be sent to Solicitor Schrader. Finally, all five Commissioners will review the ordinances and they may be sent back to the Solicitor for revision, if warranted. Commissioner Kovack wants to make sure the Commissioners have a chance to review ordinances and that ordinances are enforced uniformly. President Correll personally believes the Town staff is working with the codes on a daily basis and they are the most likely to know when a new ordinance needs to be initiated. If they do not know, they shouldn't be in their positions. Town Manager Burke added that whoever writes them, we will make revisions that will improve the document.

Commissioner Mervine questioned contract bids for street work on N. Cannon St. Town Manager Burke advised the project to stabilize the sidewalk will cost approximately \$7,500; however, it may be more cost effective to initiate a larger project of rebuilding the road, rather than doing a small fix of stabilizing the sidewalk and having a washout again during the next large storm.

Commissioner Mervine also asked about a problem on Railroad Ave. in the area of T.G. Adams and the McDowell buses. Street Superintendent Passwaters was going to approach the Department of Transportation about improvements in that area, possibly a load of fillings would improve the edge of the road. Code Enforcement Officer Butler will take his tractor to the area and try to fill in the hole that has developed. He will also follow-up with Street Superintendent Passwaters.

Commissioner Tassone questioned the number of fire hydrants in Heritage Shores. No one in attendance had the exact number.

Town Manager Burke advised Greenwood's wastewater flow was 24% of the total flow last month. It usually averages in the 30+% range and is likely due to the drought. Town Manager Burke intends to continue discussions with Greenwood and draft a new wastewater agreement with them.

X. TOWN MANAGER'S REPORT

Town Manager Burke advised the 5th Annual Bridgeville Charity Golf Tournament takes place on October 14th. Town staff has been working diligently on the preliminaries. We are pursuing additional golfers to make the tournament successful. The tournament benefits local charities.

The Town newsletter will be out before the Apple Scrapple Festival on October 14th and 15th. This is the 20th annual festival.

Applications for the Water Superintendent position have been solicited and the application period has come to a close. Town management is reviewing applications and resumes and should be moving forward to hire a new superintendent within 60 days.

Waste Management is the current Town waste provider and will continue until November 1st, when a new contract will commence. The Town has received several bids for the new contract and will bring the bids before the Commission at their October 10th meeting.

The Town's Community Yard Sale is scheduled for Saturday, September 24th, beginning at 7:00 A.M. Residents are encouraged to participate. Please call Town Hall for further information.

Town Clean-Up Day is scheduled for Saturday, October 1st. As in the past, our garbage contractor will pick up household trash, furniture and scrap metal. Another truck will pick-up yard waste. Limbs must be cut in 4 ft. lengths and bundled.

Finance Director Savage advised when the newly designed website is complete, it will be found at www.bridgeville.de.gov. The site is approximately 80% developed. They are still working on the navigation of the site and need to make some decisions concerning the content. He anticipates the new website to be operational by the end of October. Town Manager Burke advised the website will be very similar to the Elsmere, Delaware website. The state is offering support to construct Town websites. A social media component to the website is also being considered.

The lighting replacement project funded by the federal government is almost complete. High efficiency lighting has been installed at Town Hall, the Wastewater Treatment Plant and the Police Station. The Town expects to save \$5,000 per year with these new fixtures.

The Bridgeville Professional Center continues construction on Antique Alley. The utility work should begin shortly and will be completed before the Apple Scrapple Festival.

We are still anticipating a street improvement project on N. Main St. between Town Hall and Weller's Utility Trailers. If the project is not completed before the Apple Scrapple Festival, they will cease work during the festival.

The Commission President and Town Manager attended a Sussex County Association of Towns (SCAT) steering committee meeting and a monthly dinner meeting. President Correll advised SCAT is encouraging all Sussex Towns to be involved and to be seen in Dover by our legislators. SCAT will be working with the Department of Transportation (DelDOT) concerning street funding for the Towns. There is currently consideration of a plan to receive our funding directly through DelDOT and not through our legislators. Town Manager Burke advised SCAT is a good organization; Kent and New Castle counties do not have a lobbying group pressing for state funds for the county.

Town Manager Burke advised Finance Director Savage has submitted \$14,000 in storm related expenses to Sussex County, which will be sent to the Federal Emergency Management Agency (FEMA).

XI. CITIZEN'S PRIVILEGE

Mr. Frank Mills of 64 Emily's Pintail Drive asked for an update concerning redistricting after the 2010 Census. President Correll advised the Town has finally received the census figures. They should have some answers on redistricting by November. Everyone will be informed when the process takes place. He also voiced concerns about Waste Management as our current waste hauler after M-T Trash

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sold out. He is tired to being treated as a second-class citizen by a large corporation. He was very dis-pleased with their indifference when he contacted them. We aren't their largest contract, but we deserve better service. They have changed their schedule and he has been double-billed for things already paid for. It needs to stop. President Correll has called Waste Management about the problems. She agreed they need to be polite to customers on the telephone and she will address the problem with them.

Mr. Mills also asked if Bridgeville is without a shelter in circumstances such as Hurricane Irene. Town Manager Burke advised the American Red Cross and the county decide where to set up shelters. He met with the County Administrator and Operations Director recently they intend to work with the county to possibly create a shelter in our area. According to Commissioner McCarron and President Correll, no Town should take on that responsibility on its own; it will remain in the hands of the Red Cross. President Correll recalled an event in the past when Woodbridge provided a shelter for a flood in Seaford. One individual could not return home immediately and the staff had to stay two additional days. (They cannot leave a shelter until the Red Cross releases them.) Commissioner McCarron reported concern was expressed that there had not been a shelter on our side of the county. Another concern was that they opened shelters at 5:00 P.M. and put a driving ban into effect for 6:00 P.M. He admitted Delaware has not had any serious natural disasters in a long time and now we have had blizzards and the hurricane. These have been a real wake-up call; the hurricane has made the county realize they need to improve their system. It was reiterated that the Town does not have control over shelter designation.

Mr. Mills advised the new Bridgeville sign at Street's Produce Market on northbound Route 13 cannot be seen, due to the market parking equipment in front of it. Commissioner Tassone asked if the Town has looked into a new, larger sign with more capacity at the Town Hall or possibly an electronic sign? It was explained that there is a precedent for electronic signs (Walgreens and the Bridgeville Library), but electronic signs are currently not allowed, Town Manager Burke advised they have talked about electronic signs at Town Hall; however, the discussion has not gained traction. An electronic sign could save staff time. President Correll asked the Commissioners to put their suggestions on paper and return them to Town Manager Burke.

President Correll reported she, Chief Longo, Commissioner Kovack and Commissioner Tassone attended the Employer Support of the Guard and Reserve (ESGR) banquet last Thursday night where Bridgeville received two awards. Bridgeville works with employees who are in the guard or reserve and allows them to fulfill their commitments without penalty. President Correll handed out pins and certificates from the event to the Commissioners. She advised the Kent County Levy Court won the main award that evening. Police Chief Longo stated the Town of Bridgeville deserves recognition as they support the ESGR on his behalf as a National Guardsman. Town Manager Burke added the Town accommodates Chief Longo's schedule with the Guard.

President Correll displayed the latest copy of the American Bus Association magazine. The Apple Scrapple Festival was included as one of the Top 100 Events. They have sent an award to be presented to the Apple Scrapple committee. There is also a press release to be sent to the media.

XII. OLD BUSINESS

A. Public Hearing and Possible Voting on Ordinance A11-2, An Ordinance to Amend the Zoning District Designation for the Lands of Baldwin Family Farms, LLC and Hayground D, Inc. from R-1/RPC to R-1/AIOZ

Solicitor Schrader distributed copies of the ordinance for review and stated the property is being considered for a change of zone from R-1/RPC to R-1/AIOZ; it was originally annexed into Town limits for other purposes. He advised the application was heard by the Planning and Zoning Commission on August 16th. A Public Hearing was held and the public was given the opportunity to speak for or against the application. A recommendation was made to attach a condition to the approval of this property. The original condition stated that no large farm animals would be permitted on the property. Solicitor Schrader has re-written it in a more sophisticated fashion. The condition does not include horses, as they may be used for recreational purposes. (Copy attached to the original minutes.) Mr. Baldwin was in attendance and approved the re-written condition. The Public Hearing was opened at 8:00 P.M. There was no one in attendance to speak for or against the application. The Public Hearing was closed at 8:01 P.M. Commissioner Tassone made a motion to adopt Ordinance A11-2, an Ordinance to amend the zoning district designation for the lands of Baldwin Family Farms, LLC and Hayground D, Inc. from R-1/RPC to R-1/AIOZ. Commissioner Kovack seconded the motion. Motion carried.

XIII. NEW BUSINESS

A. Site Acquisition

Town Manager Burke reported the Commissioners will discuss purchase of the Jeremiah and Barbara O'Leary office property adjacent to the Town Hall at 103 S. Main St. The property is 27,103 sq. ft. with 15,000 sq. ft. of office space. The zoning on the property is R-1 (single-family residential district) with a legally-conforming conditional use as a commercial office. President Correll asked if the Commissioners had any questions concerning the purchase of this property. There being no questions, Commissioner Mervine made a motion to move forward with the site acquisition of the O'Leary property and execute the contract drafted by Solicitor Schrader. Commissioner Kovack seconded the motion. Motion carried.

B. Ag Study for Spray Disposal – Dr. Jim Glancey, University of Delaware

Commissioner McCarron introduced Dr. Jim Glancey from the University of Delaware to present a proposal of partnering with farmers concerning our treated wastewater. Currently, the Town is heavily invested in spray irrigation at the Batman farm. Future options would include purchasing additional land or possibly Dr. Glancey's suggestion.

Dr. Glancey advised he is a professor at the university, but also does engineering work around the state. Several years ago he conducted a feasibility study for Middletown which resulted in area farmers using the Town's wastewater to spray their crops. In 2009 the state legislature passed a law stating that farmers had the right to receive wastewater to irrigate crops. This legislation allows the farmers to take control of the amount and timing of the spray. Middletown became a pilot program to see how this could work and they are currently two years into the project. Middletown upgraded their treatment facility to

meet requirements and installed approximately five miles of pipe to the farms. The remaining pipe was the farmers' responsibility, as well as buying/maintaining/operating their own irrigation systems. It is called "as needed irrigation;" the farmer controls the valve (i.e. the quantity/depth of water taken). "Unlimited public access water" is used on golf courses; it comes in contact with people, but is treated to the extent that it does not make them sick. At this point, Bridgeville's wastewater is not treated to that extent and is not usable (i.e. cleanliness and level of disinfection), but this is a consideration for the future. The Middletown project continues to expand with more irrigation systems being added. It is a good system. The regulatory requirements include: 1) The Department of Natural Resources and Environmental Control (DNREC) would need to amend the Town's wastewater permit to allow the distribution of wastewater to farmers, which Bridgeville cannot do at this time. After upgrading our water, we would be able to amend our permit. DNREC only permits up to the edge of the farmer's field. At that point regulations move to 2) The Department of Agriculture, which would make the growers amend their nutrient management planning to reflect nutrient contributions from spraywater. In Middletown, the farmers are saving \$4.07 per inch of spraywater applied. They have no pumping charges because the Town is pumping the water to them. Additionally, for every inch that is sprayed, Middletown farmers are receiving \$8.73 of nutrients in the spraywater. The farmers receive the water for free and reap the benefits of reduced expenses in pumping and fertilizer costs. Georgetown is involved in a program where the Town decides when the farms receive the wastewater and the Town pays the farmers to receive the water. Mr. Glancey researched crop irrigation demand vs. spray water nutrient levels. The level of nutrient demand is the amount of nutrient-rich spraywater that can be sprayed. Dr. Glancey determined that the farmers could irrigate their crops completely by accepting Town wastewater and not be applying too many nutrients. There would be complete balance, except when it comes to corn, which would need additional fertilizer. With this system, Bridgeville would move from being considered a contributor to poor water quality to being one who cleans up the water. A management plan must be determined so that the farmer's water needs (dry and wet years) balance the water the Town needs to store and distribute to the growers and to its spray irrigation fields. The land size that could be irrigated must be determined. The growers would typically not be connected to a well; the Town would be the sole supplier of water. In Middletown there are at least three farms that are totally dependent on the Town. Based on Mr. Glancey's calculations, Bridgeville would need between 98 and 244 acres of farm crops to spray on. This is a conservative estimate. A second set of calculations determined the Town could spray a maximum of 144 acres of farmland. It would be approximately two small fields or one large field.

Commissioner Tassone questioned the value to the community. Dr. Glancey suggested that the lack of use of diesel engines to pump would mean a smaller carbon footprint and less greenhouse gases. Savings to the Town are not quantified at this time. This has been very successful in Middletown. Middletown spent \$15 million in running pipe and upgrading their treatment facility; they don't have to buy irrigation equipment, all they need to do is turn on the water when asked. Bridgeville would be pumping the water from our lagoon to local farmers, rather than to our spray irrigation fields. It was questioned whether we could send water directly from the plant to farmers; however, it depends on our disinfectant process. In Middletown the final disinfectant takes place at the lagoon, so they must pump their water to farmers from the lagoon. Town Manager Burke advised the Town must research the technical aspects further; currently our water does not meet the standards for irrigating farm fields. President Correll related that Commissioner McCarron first met Dr. Glancey and suggested the Town look into this proposed project. She advised Dr. Glancey is well-respected in the state. The next step will be to discuss the information internally and determine the accuracy of the numbers. Dr. Glancey will

revise his report and re-examine the accuracy of the numbers, as well. He will submit his final report after he hears from Town Manager Burke.

C. Resolution to Approve a Grant Application for a Wastewater Planning Grant

Town Manager Burke advised this DNREC planning grant would perform an evaluation of the Town's effluent sewer line from the WWTP to the discharge location on Redden Rd. The Town's 6,600 linear foot, non-pressurized pipe, which takes treated wastewater to the discharge location, has leaked and will likely continue to spring leaks, which would result in DNREC fines. The design proposal from our engineers for the effluent line is \$13,500. This grant is a 50/50 match; with the Commission's approval, the Town will apply for the grant and, if awarded, the grant will pay for one-half of the design proposal. Completing this design phase will enhance our opportunities to continue receiving grant monies in the future. We want to show DNREC that we take these leaks seriously. A completely new, pressurized line needs to be engineered and installed next to the existing line. The previous engineering was not necessarily faulty when initiated 20-25 years ago; it was probably adequate at that time. President Correll advised we are only approving a grant application at this time; if we are funded, we do not have to move forward with the design proposal. Town Manager Burke advised we would be in a "shovel-ready" condition if we do this work and would be eligible for any state or federal funds to complete the project. Commissioner Tassone made a motion to approve the grant application for a DNREC Wastewater Planning Grant. Commissioner Mervine seconded the motion. Motion passed.

D. Resolution Adopting the Sussex County 2010 All Hazard Mitigation Plan

Town Manager Burke advised adopting this plan is a pre-requisite to receiving federal disaster funding. The county emergency operations plan was adopted in August. This plan is a portion of that larger updated plan and is available on the Sussex County website. The Town must integrate the county and local plans in the near future and it will be brought before the Commissioners for approval. Town Manager Burke will continue to coordinate with Mr. Dave Levy, the Town's Emergency Planning Committee Chairman. Commissioner Tassone made a motion to adopt the Sussex County 2010 All Hazard Mitigation Plan. Commissioner McCarron seconded the motion. Motion carried. Commissioner McCarron advised this emergency plan would answer all the questions mentioned earlier about establishing shelters and procedures for all types of emergencies.

E. Approval of Apple Scrapple Festival Food Vendors

President Correll advised the Commissioners approve the food vendors for the festival each year and give permission to the Town Manager to approve any future vendors that are added to the list. A new food entry this year was mentioned – curried goat! Commissioner Kovack made a motion to approve the Apple Scrapple Festival food vendors and allow the Town Manager to approve any future vendors. Commissioner Mervine seconded the motion. Motion carried.

F. Proposed Caroling in the Park Event

President Correll advised the Commissioners have received a request from the Mustangs 4-H Club to have a Caroling in the Park event at the Historical Society Park on December 18th from 6:30 – 9:00 PM. The Lifeway Church of God's Praise Team will be leading the music. The Club already has the

permission to use the park. President Correll advised the Town sponsored the event for five years and she only had a small group participating. This is an excellent project for the 4-H Club. Commissioner McCarron made a motion to approve the Caroling in the Park event. Commissioner Kovack seconded the motion. Motion carried.

G. Multi-Family Dwelling Moratorium – Code Enforcement Officer

Code Enforcement Officer Jerry Butler advised at the last Planning and Zoning Commission meeting it was mentioned that the Town had previously placed a moratorium on changing R-1 dwellings to R-2 dwellings. It was stated this moratorium had never been revoked. Mr. Butler and Commissioner Kovack searched the Commission meeting records back to 1995 and could not find any reference to a moratorium. Commissioner Kovack heard that the moratorium was put in place when Mr. Howard Hardesty was on the Commission. Mr. Butler understands that records must only be kept for ten years and he went back further in the records than ten years. He believes any moratorium would have been revoked with the adoption of the Land Use and Development Code in 2006. If there was a moratorium, it was undocumented. He is requesting that the moratorium be abandoned and that we operate in the future from Chapter 234 of the code book. Solicitor Schrader questioned whether there even is a moratorium. He stated since the Planning and Zoning Commission hearing took place, no one has been able to satisfactorily prove that it exists. The law of the land provides that there should have been some circumstance or emergency that would require a moratorium. It should have originated in the Commission as a zoning ordinance and been sent to Planning and Zoning for a recommendation. Mr. Butler is asking the Commission to confirm that there is not a moratorium in effect. Commissioner McCarron made a motion to recognize that written or unwritten, we can find no proof of a moratorium restricting rezoning from R-1 to R-2 in the Bridgeville code and it is our opinion that there is no moratorium. Commissioner Mervine seconded the motion. It is noted that President Correll recused herself from voting. Motion carried.

H. Introduction of Ordinance A11-4, An Ordinance to Grant a Conditional Use for the Lands of Jeffrey and Pamela Tull at 101 Elliott Drive, Bridgeville, Delaware

Code Enforcement Officer Jerry Butler advised that Mr. Tull was misled by the Code Department in his first hearing before the Planning and Zoning Commission as to whether he should apply for a change of zone or a conditional use. At that time, Mr. Butler directed him to request a zoning change, which later turned out to be mis-guided. Mr. Butler had been uncertain whether the conditional use would follow the property if it was sold. Per Solicitor Schrader, the conditional use would move with the property ownership. Mr. Tull withdrew his zoning change application at that time and submitted this R-1 with a conditional use application in its place. Mr. Butler is asking that Mr. Tull's \$500 fee be waived when he goes before Planning and Zoning for the second application. Solicitor Schrader agrees with Mr. Butler that in circumstances such as this, it is customary to waive the \$500 application fee for the second hearing; Mr. Tull bears no responsibility for the error.

Commissioner Kovack introduced Ordinance A11-4, an Ordinance to grant a conditional use for the lands of Jeffrey and Pamela Tull at 101 Elliott Drive, Bridgeville, Delaware. The application is therefore referred to the Planning and Zoning Commission. Commissioner Tassone then made a motion to waive the \$500 fee for Mr. Tull to bring his conditional use application before the Planning and Zoning Commission, stating that these are unique circumstances concerning the mis-direction and it does not set a

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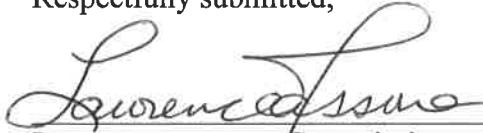
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precedent for the waiving of fees under other circumstances. Commissioner Kovack seconded the motion. Motion carried. It is noted that President Correll recused herself from voting.

XIV. ADJOURNMENT

Commissioner Kovack made a motion to adjourn. Commissioner McCarron seconded the motion. Motion carried. The meeting was adjourned at 8:45 P.M.

Respectfully submitted,



Lawrence Tassone, Commission Secretary



Peggy Smith, Transcriptionist