

MINUTES

COMMISSIONERS OF BRIDGEVILLE NOVEMBER 7, 2005 – 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, Margaret Sipple, William Jefferson, Earl Greason and Town Manager Bonnie Walls. The meeting started with the flag salute and Lord's Prayer.

II. SPECIAL RECOGNITION

President Conaway congratulated Finance Director Jesse Savage and his wife Wendy on the birth of their son, Talan Michael.

III. QUORUM PRESENT

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

IV. APPROVAL OF MINUTES

Minutes of the regular Commission meeting held on October 3, 2005, were presented for approval. Commissioner Correll made a motion to approve the minutes. Commissioner Sipple seconded the motion. Motion carried.

V. INTRODUCTIONS

President Conaway introduced special guests present for the Commission meeting. John Murray of Miles & Stockbridge represents the Heritage Shores developer; Steve Wheeler represents Lennar Homes/U.S. Home, where he is director of land operations; Linda Raab is the Town consultant from the University of Delaware who has designed our Land Use and Development Code; and Mr. Robert Robinson of Wilson, Halbrook and Bayard is the Town Solicitor.

VI. CORRESPONDENCE

Town Manager Walls advised an invitation was received from the Sussex County Council to join them for "Caroling on the Circle" on Monday, December 5th, at 6:30 P.M. in front of the Sussex County Courthouse in Georgetown. Participants are asked to bring a non-perishable item for the Food Drive.

A donation request was received from the Nanticoke Rotary Club to support Rotary houses #1 and #2 on Market Street in Seaford. The donation would be in the form of purchasing an ad in their Annual Report ad book. President Conaway advised we have not taken out ads such as this in the past. No action taken due to the fact donation monies for FY-2006 were allocated during the annual budget review process.

The November/December 2005 Read Aloud Delaware newsletter is available for review.

A Thank You note was received from the Boys and Girls Club of Delaware for the Commission's \$100.00 donation to their recent Bowl-a-thon. This contribution will provide funding for programs during the year.

A donation request was received from the Sussex Community Swim Team, which makes its home in Milford, but encompasses all Sussex County youth. President Conaway advised the Commission maintains a policy of considering these requests during the yearly budget review. Donation monies have been allocated for FY-2006.

A donation request was received from Habitat for Humanity. This will be treated as previous requests.

Town Manager Walls read a letter received from the Morning Star Publications thanking the Commission for sponsoring the 2005-2006 Newspapers in Education program. The Commission is helping place over 1,000 newspapers in Sussex County schools weekly.

VII. REQUEST FOR RPC AMENDMENT/WATER TOWER SITE RELOCATION

President Conaway advised Item #9 C on the agenda (A Resolution to Approve Development, Subdivision and Infrastructure Plans for the Second Phase of Development of the Bridgeville South RPC District), would be tabled until the December meeting and Item #9 D (Request for RPC Amendment/Water Tower Site Relocation), moved forward due to an out of town guest. He turned the meeting over to John Murray, representing Heritage Shores. The developer is requesting a relocation of the new water tower. The original location chosen was on the Wilson Farm property. Concerns arose as the land is under an agricultural preservation easement and it was decided to relocate the tower. The proposed water tower is approximately 30 feet in diameter and 110 feet in height; it holds 400,000 gallons of water. Mr. Murray understands that the tower will tie into the Town's water network and provide an adequate water supply for the entire town in the future and may accommodate additional development to the south. He identified, on a displayed map, the new proposed location of the tower adjacent to Wilson Farm Road and asked the Commissioners for a general sense of approval.

The developer will continue with the planning and preparation and then return for final approval. Commissioner Jefferson made a motion stating the Commission supports the new site location of the water tower with the understanding that the developer will return with a resolution for final approval. Commissioner Greason seconded the motion. Motion carried with the following votes being recorded.

Commissioner Jefferson – Yes
Commissioner Sipple – Yes
Commissioner Correll – Yes
Commissioner Greason – Yes
President Conaway – Abstain

VIII. APPROVAL OF FINANCIAL STATEMENTS AND BILLS PAYABLE

Finance Director Savage presented the Balance Sheet, which shows \$125,000 in the General Fund. This amount is higher than usual due to anticipated bills for the police cruisers and the Street Department truck. Municipal Street Aid monies have arrived in the amount of \$44,804.00. The allocation was reduced this year. President Conaway commented the Street Funds have been reduced every year since this Commission has served the Town. Finance Director Savage advised the Discover Bank CD is being renewed today; during the past three months it has earned \$2,500.00. The new rate will be 3.84 and it will come due in February 2006. The EMS fund stands at \$45,190.00 and the Library fund is currently \$10,200.00. These monies are the result of Heritage Shores building permits, 102 of which have been issued to-date. The Money Market account currently stands at \$264,000.00, which is basically cash on hand. Accounts Payable reflect normal monthly bills. The major portion of the Davis, Bowen & Friedel bills will be reimbursed to us by U.S. Home or by our hydro grants through the state. Commissioner Correll made a motion to pay the bills as presented and accept the Financial Reports. Commissioner Sipple seconded the motion. Motion carried.

IX. DEPARTMENT HEAD REPORTS

While reviewing the Code Enforcement Constable's report, President Conaway asked Town Solicitor Robinson to update the status of legal proceedings concerning 102 N. Main Street and 104 N. Main Street. Mr. Robinson advised both actions are filed in the courts and awaiting court action. 102 N. Main Street is filed pursuant to the Dangerous Building Ordinance. 104 N. Main Street is filed as a munition action (tax sale). Although they have taken two different routes, both properties should lead to the same conclusion. The munition action was chosen as the direction for 104 N. Main Street because of the age of the dangerous building committee report. There were additional liens filed against the property, which will boost the price of the property if the Town decides to purchase it. There are notice period provisions, which slow down the process, but both properties are on track as far as what can be accomplished.

Mr. Robinson brought the Commission up to date on the building at 38 Church Street. At the court's request, Mr. Robinson allowed the owners two extra months to bring the house into compliance. Their deadline is next Wednesday, November 16th. Apparently there are complicated title issues involved. Until the title is straightened out, construction loans are difficult or even impossible to obtain. Mr. Robinson suggested to the owners that it would be cheaper to do the manual labor of demolishing the house themselves; however, they have not done that either. After the deadline has passed he can request another hearing, at which time the court will grant the motion to proceed with demolition.

Mr. Robinson suggested there are other ways to deal with dangerous buildings, other more specific ordinances that could be written to address the issues the Town deals with regularly. There are other ways to get a building boarded up, etc., than bringing it to court. He would like input from the Commissioners regarding the powers they would like to have and the types of buildings and issues that the Town needs to address. Right now the approach has been "all or nothing," and there are other ways to deal with the problems. For example, a building without sewer and water service could be boarded up and trespassers arrested. This would be an interim step and would certainly get the attention of the owners, pressing them to take action. This would typically fall under administrative authority of the Town and would not have to be brought to court. Currently the Dangerous Building Ordinance provides a series of Town procedures which must be followed and that is taken to the Court of Chancery and they confirm that we filed a report, which is a good thing to do. It gives the Town protection, an independent eye looking at the actions and confirming that we are following our ordinances. There may be times when quicker action would be possible with an ordinance that allows the Town building official to condemn a property, not actually tear it down, but show that it is off-limits to people. If the owners do nothing, then the Town could move on to the next step. President Conaway asked if under this procedure the property at 102 N. Main Street could have been closed. Mr. Robinson responded affirmatively. Mr. Robinson expressed interest in knowing the specific concerns the Town has regarding properties with no water and properties that still have water but are in a dilapidated condition. He asked for the determining factors in moving against a property. What are the recurring problems town-wide that need to be addressed? Mr. Robinson commented an interim step might be desirable due to the value or historical significance of a property. The Commissioners are in favor of finding ways to expedite action on the problem properties and requested Mr. Robinson to present suggestions to the Commission. According to Mr. Robinson, the common thread with the properties here and other places is title problems. When people stop paying bills, when the grass becomes overgrown for several months, these are red flags and it is best to act as soon as possible. In many cases the owner passes away and the estate is eventually put in the hands of distant or out-of-state relatives. Clearing title is a difficult process. President Conaway commented another common thread is absentee ownership. Commissioner Jefferson asked if it would be advantageous for Mr. Robinson to accompany the Dangerous Building Committee on their inspections. They can only report on the exterior, but it is a strong indication of the inside condition as well. Commissioner Greason suggested the reports themselves might be enough

information for the solicitor and Mr. Robinson suggested there are ways to enhance the reports so that a full picture is exhibited. Additionally, detailed pictures are very helpful. Mr. Robinson suggested a letter from the solicitor early in the process might help homeowners address the issues as well.

Returning to Departmental Reports, President Conaway reported this is the 85th month our Wastewater Treatment Plant has not had an NPDES violation. The recent Environmental Protection Agency testing came back with positive results.

The Police Department has written \$73,500.00 worth of tickets; however the Town has only received \$26,294.00, which is the ongoing problem with tickets.

Street Superintendent Passwaters has advised the Town will have one more street sweeper demonstration after which a decision will be made on an equipment purchase.

X. CITIZEN'S PRIVILEGE

Commissioner Sipple introduced new residents at Heritage Shores, Anthony and Andrea Flanagan, who came to observe our Town government in action.

There were no requests or concerns from the citizens of Bridgeville.

XI. TOWN MANAGER'S REPORT

Town Manager Walls reported as of November 4th, the Sussex County Association of Towns (SCAT) has received \$53,500.00 in donations from 14 municipalities for Hurricane Katrina "Adopt a Town" relief effort. The money will be presented to the town of Waveland, Mississippi, population 7,120. The damage to the residences and Town government was extensive. Contact has been made with Waveland and they are very appreciative of the donation.

Town Manager Walls reported attending, with Commissioners, the dedication ceremony of the Adams-Ewing Public Safety Complex, Delaware State Police Troop 5 on October 17th.

The Woodbridge High School AFF class assisted the Town in planting trees on Walnut and Laws Streets. The trees were made available through a \$1,500.00 grant from the U.S. Forestry Program. The Town appreciates the students' assistance.

Town Manager Walls attended the 8th Annual Woodbridge School District Advisory Committee Meeting on October 24th. She is a member of the Superintendent's Advisory Council which addresses the district's plan of work as it relates to academic instruction, construction, school climate, affordable housing and legislative issues.

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Woodbridge High School senior, Mr. Machelle Williams, is completing an internship with the Town's Public Works Department. After graduating next spring Machelle is planning to attend college to pursue a degree in architectural engineering.

Town Manager Walls advised the Commissioners of Bridgeville will host the SCAT monthly dinner/meeting at the fire hall on April 5, 2006.

Town Manager Walls advised graduation exercises for police academy cadet John Truluck will be held on December 16th at the U.S.A. Museum in Wilmington.

Town Manager Walls congratulated Water Superintendent Doug Jones on his passing score of 96 percent on the Approved Sampler/Tester Training Examination as required by the Office of Drinking Water.

Town Manager Walls reported the birth of a son to Finance Director Jesse Savage and his wife, Wendy. Talan Michael weighed in at 6 pounds 14 ounces, 19½ inches, on October 19th.

President Conaway reported his attendance at a program hosted by Senator Carper on Saturday, November 5th at Mt. Calvary United Methodist Church. The program centered on affordable housing, with state, federal and private agencies discussing home buying. President Conaway was pleased to see the First State Community Action Committee anxious to talk to people one-on-one concerning home buying. Nationwide there are efforts to provide affordable housing; President Conaway is eager to see moderately priced housing become a priority.

President Conaway reported SCAT has cancelled their December monthly dinner/meeting due to the holidays. The SCAT Steering Committee will have their regular monthly meeting on December 9th.

XII. OLD BUSINESS

Walnut and Laws Street Intersection

President Conaway inquired about a safety issue at the intersection of Walnut and Laws Streets due to a van parking too close to the intersection. This situation was originally presented at the October 3, 2005 Commission Meeting. Town Manager Walls reported Chief Parsons and his officers have been checking that location regularly and the van has not been seen. The Police Department will continue to monitor the site.

Public Hearing and Second Reading Adopting the Land Use and Development Code Land Use Plan for the Town of Bridgeville – Ordinance #A05-9.

President Conaway opened the scheduled Public Hearing and second reading of the Land Use and Development Code at 7:44 p.m. A copy of this Ordinance was placed at the Bridgeville Public Library and made available at Town Hall. It was also available by link on the Office of State Planning Coordination's website. The Public Hearing was advertised. A Zoning Map backs up the ordinance. President Conaway gave background on the new zoning map. In the past there were many land uses begun in the Town for good purposes that were never re-zoned for those purposes. The new map does not stop any of those existing uses or the selling of those properties to a similar use, it only moves the commercial zoning within residential areas to the areas it should be located. President Conaway explained that adopting a new, updated zoning map was a requirement of the certification of our land use plan. Bridgeville was one of the few towns with a zoning ordinance years ago. President Conaway introduced Linda Raab, who was instrumental in designing the document and the zoning map, asking for her comments. Linda is a consultant planner with the University of Delaware's Institute for Public Administration, working with many municipalities in our area. The Institute has a partnership with the Office of State Planning Coordination which reviews, makes suggestions and certifies comprehensive plans. Bridgeville adopted a comprehensive plan in 2002. One of the recommendations for that plan was to update the zoning map. This new plan allows changes to be easily made to the map and the ordinance. Home-based businesses no longer need to be zoned commercial. This new approach to zoning allows various uses to co-exist. The Market Street area has been named the Town Center Zone; the intense commercial zoning has been placed on the outskirts of Town with access to Route 13; and the manufacturing zoning tends to skirt the railroad tracks, which is appropriate. The new code makes changes in adoption procedures, i.e. taking out inconsistencies in advertising and review periods. The goal of the new code is to be user-friendly for the municipality. Ms. Raab commented the Land Use and Development Code combines the zoning ordinance and subdivision regulations, which is a new trend in planning and zoning. President Conaway questioned Mr. Robinson as to any legal concerns he might have. Mr. Robinson replied that any concerns have already been addressed. President Conaway reiterated the highlights of the new code.

1. Includes a new Zoning Map.
2. Incorporates explicit and up-to-date definitions, including a family.
3. Limits unrelated persons in a single household to three; therefore keeping the number of household occupants to a reasonable level.
4. Creates subdivision regulations.
5. Creates a Planning and Zoning Commission to make recommendations to the Town Commission.

6. Expands the Board of Adjustments to five members.
7. Details administrative procedures for Development Plan Review.
8. Includes all current Town Ordinances.
9. Includes a section on Sensitive Areas.
10. Adds a section on wetlands, including Best Management Practices.
11. Includes a comprehensive section on Signs.
12. Includes a section on Recreation, Open Space, Screening, and Shade.

Mr. Conaway commented the original Planning Commission was set up in 2000; the certified Land Use Plan was completed in 2002 and was the first certified Land Use Plan in Delaware. In 2006 a new plan and certification will be submitted. Annexation requests have been received and the Town wants to update the plan and have the growth areas clear, so it can present the public with a new plan and the annexation requests. President Conaway reiterated Ms. Raab's previous comment that the advantage of this new plan is that it can easily be changed. Ms. Raab thanked Solicitor Schrader and the Town Commission for the opportunity to work on the project. President Conaway opened the floor to the Commissioners and the public for comments and questions. Hearing none, he asked the Commissioners for their decision. Commissioner Correll made a motion to adopt Ordinance #A05-9, Land Use and Development Code Land Use Plan. Commissioner Sipple seconded the motion. Motion carried. Public Hearing closed at 8:03 p.m.

Public Hearing and Second Reading Adopting the International Building Code – Ordinance #A05-6.

President Conaway opened the scheduled Public Hearing and second reading adopting the International Building Code at 8:04 p.m. He advised Sussex County is the enforcement agency of the building code for the Town of Bridgeville. The county has adopted the International Building Code. At our attorney's advice, the Town is proposing to adopt the International Building Code as well. President Conaway opened the floor to the Commissioners and the public for comments and questions. Hearing none, he asked the Commissioners for their decision. Commissioner Jefferson made a motion to adopt Ordinance #A05-6 adopting the International Building Code. Commissioner Correll seconded the motion. Motion carried. Public Hearing closed at 8:07 p.m.

Delmar Homes Land Annexation

Last month the Commission considered an agreement between The Department of Natural Resources, Delmar Homes and the Town of Bridgeville which would ultimately result in the annexation of Jimmy's Grille and accompanying land parcels. The agreement included a clause requiring Delmar Homes to apply for annexation of the land parcels into the Town by October 31, 2005. The Town did not receive an annexation request by the deadline; therefore a certified letter was sent to Delmar stating non-compliance and the contract was considered null and void.

Delmar Homes has since sent a letter to the Town requesting an annexation application. Currently the Town does not have application forms for annexation; the Town requires a letter requesting annexation from the petitioner as the beginning point of annexation proceedings. Town Manager Walls has prepared a proposed annexation application for the Commissioners' review. It includes a fee of \$1,500.00 to petitioners. Town Manager Walls advised our fee schedule must be changed by ordinance to charge a fee. President Conaway questioned the Commissioners regarding objections to a \$1,500.00 annexation fee. Commissioner Correll responded that she questioned a flat fee when some properties might include 10 acres and others over 800 acres. Town Manager Walls commented she had intended the fee to be an across-the-board figure, as she felt costs would remain consistent for any acreage amount. President Conaway suggested tabling this discussion until a future date to consider the fee more completely. Regarding the Delmar Homes request, he directed Town Manager Walls to send a letter explaining that there is currently no annexation application and the Town requires a letter requesting annexation as well as a survey and other pertinent information. The Town must require the same procedure for this possible annexation as any other property that has been considered for annexation. President Conaway clarified that Delmar Homes would be allowed to apply; however, they would need to follow our procedures, the first one being to submit a letter requesting annexation.

XIII. NEW BUSINESS

Introduce Ordinance Regarding the Restriction of Adult Sexual Violent Offenders

President Conaway requested the Commissioners consider an ordinance adopted by the Township of Bensalem, Pennsylvania. Solicitor Robinson has drawn up a proposal based on the Bensalem ordinance, which "restricts adult sexual offenders from living within 2,500 feet of a school, child care facility, open space, park, community center, public park or recreational facility." Our Adult Entertainment Ordinance is similar, in that an adult entertainment facility cannot be located within 1,000 feet of a property line and 5,000 feet of a school. President Conaway asked Solicitor Robinson to explain the proposed ordinance he has designed.

Mr. Robinson advised the State of Delaware has a statute in place that prohibits sex offenders from residing or loitering within 500 feet of a school. This does apply to Bridgeville. The state statute requires sex offenders to register with the Town when they move in. Mr. Robinson is not aware of any other municipalities in Delaware with this type of ordinance. This proposed ordinance is tied to the state statute so that if changes are made at the state level, Bridgeville will not need to change its ordinance. This proposal does not include the "open space" as mentioned in the Bensalem ordinance above, as that would be difficult to define. This proposal identifies adult sexual offenders as those 18 years of age and over; it does not include juveniles. If it comes to the attention of the Town that an offender is living in a restricted zone, the Town could serve notice that they are not allowed to live there. The penalty

for violating the ordinance, as proposed, would include Town notification to the offender with 60 days to comply. The 60 days would begin when any agent of the Town personally served the offender the written notice. Jail time, fine, or injunction in civil court are all possible penalties. There are exceptions included for offenders already residing in a restricted area when the ordinance is passed, or for a new childcare facility being licensed in the neighborhood of a sex offender.

Looking at the issue nationwide, Mr. Robinson commented these types of ordinances are being upheld, although they are challenged frequently in the courts. Commissioner Greason questioned whether there was a common thread in the challenges. Mr. Robinson responded it was often the ACLU. There may have been a wave of new ordinances instituted followed by a wave of challenges. The challenges might have decreased after the ordinances were upheld. The Town must consider the possibility of challenges. At the first reading of the ordinance it would be important to create a background for the need of an ordinance like this, including hard data from someone who is professionally involved with the sex offender issue. This would lay a foundation for future challenges. Mr. Robinson suggested looking more closely at the distance aspect of the ordinance. Bensalem uses 2,500 feet and Delaware uses 500 feet. The Town will want to identify the schools and other restricted areas and determine a reasonable distance. Mr. Robinson has not included loitering restrictions in this ordinance, only residence. Loitering seems to come up often in the challenges. He has looked at statutes in other areas and what he has proposed is fairly standard. His research located court cases dealing with these types of ordinances and he backtracked to the ordinances themselves for content. Mr. Robinson clarified the parks written into the current proposal are only those owned or operated by the Town of Bridgeville. It was mentioned that the Children's Sanctuary Park would fit into this category. Commissioner Greason expressed concern about the ball fields owned by the school, yet located separate from the school site. This should be considered as well in the ordinance.

Mr. Robinson commented he does not personally take a position on the advisability of the ordinance. He has worked in the past as a contract attorney in the Public Defender's office representing juvenile defendants. He acknowledged surprise at the types of crimes that put people on the sex offender registry. There are often complicated circumstances that lead to being put on the registry.

Mr. Conaway recommended the Commissioners review the proposed ordinance and place it on December's agenda for further consideration.

Special Report – Dangerous Building Committee

Commissioner Jefferson, Chairman of the Dangerous Building Committee, presented two committee reports that have been filed on Bridgeville properties. The full reports are attached to these minutes.

1. 23A Gum Street owned by Selena Mae and Herbert E. Burris.
2. 24 Church Street owned by Edith Carey Palmer, c/o Mr. Carroll Palmer.

A third property was tabled pending correct identification of property and owner.
A fourth property, which was to be considered by the Committee, burned last week.

Solicitor Robinson asked Commissioner Jefferson if he believed the building at 24 Church Street was a serious hazard to life and property, to which Commissioner Jefferson responded yes. He then asked if the building posed a danger to the Town and community, to which Commissioner Jefferson responded yes. Solicitor Robinson asked Commissioner Jefferson if he believed the building at 23A Gum Street was a serious hazard to life and property, to which Commissioner Jefferson responded yes. He then asked if the building posed a danger to the Town and community, to which Commissioner Jefferson responded yes. Town Manager Walls advised the next step would be to hold a Public Hearing and notify the property owners of their opportunity to respond at the hearing. The Public Hearing will take place at the December 12th Commission meeting.

Caroling the Park

Commissioner Correll reminded the Commissioners of Caroling in the Park on the first Friday night of December, which will be December 2nd. The event is scheduled for 6:30 P.M. at the Historical Society Park. Participants are asked to bring a canned good donation for distribution to needy families in the Town. Santa Claus will make an appearance.

XIV. ADJOURNMENT

Commissioner Sipple made a motion to adjourn the meeting. Commissioner Correll seconded the motion. Meeting was adjourned at 8:43 P.M.
Respectfully submitted by:

Margaret W. Sipple

Margaret W. Sipple, Commission Secretary

Peggy A. Smith

Peggy A. Smith, Transcriptionist