

MINUTES
TOWN COUNCIL MEETING
BETHEL CENTER - 28307 CLAYTON STREET
MONDAY, MAY 23, 2011

The meeting of the Dagsboro Town Council was called to order by Mayor Patti Adams at 7 P.M. on Monday, May 23, 2011. The following members were present: Vice Mayor Truitt, Councilwoman Flowers, and Councilman DeHaven. Also in attendance were Stacey Long, Town Administrator, Rob Witsil, Town Attorney, and other interested parties listed on the sign in sheet.

The first item on tonight's agenda is the Court of Appeals for Fiscal Year 2012 Tax Assessments. Mayor Adams introduced Mr. Curt Riley, Town Tax Assessor, to help answer any questions Council or interested parties might have concerning their tax assessment. Rob Witsil asked if there is anyone present who has an appeal to go before the Council this evening. There being none...Attorney Witsil stated that since it is early in the evening, that the Court of Appeals be kept open for at least another one half hour and re-convene on that specific topic.

At this time Mayor Adams turned the Public Hearing over to Attorney Witsil for the Public Hearing and Possible Vote on the following:

Attorney Witsil stated that now is the time and place for a Public Hearing on a resolution approving the annexation into the Town of Dagsboro of 9.42 acres of land identified as Sussex County Tax Parcel 2-33-11.00-212.00 being the lands of State of Delaware/Delaware National Guard. Located at Armory Road and County Road 382, Dagsboro Hundred, Sussex County, Delaware. The procedure for this resolution/public hearing and for all of the public hearings this evening will be that he will read the ordinance and answer any questions that Council may have; thereafter, the applicant or the town administrator or himself will inform the council of the nature of the hearing. Thereafter, the applicant will have the opportunity to speak in favor of the application. The applicant carries the burden of

proof; thereafter anyone who is in favor of the application will have the opportunity to speak, followed by anyone who is in opposition. We ask you please to turn off your cellular devices or any device that makes noise. We will begin by asking...is there anyone here who is representing the applicant. Attorney Witsil asked him to come forward and asked him to introduce himself and turned the microphone over to him. My name is Ring Lardner. I am a civil engineer with Davis, Bowen and Friedel, 23 N. Walnut Street, Milford, De. 19966. He stated he is here this evening on behalf of the Delaware Army National Guard's request for annexation. On November 3, 2010, the National Guard submitted their request for annexation. That request was submitted in accordance with the Town code and charter. The parcel mentioned is residential according to the town's comprehensive plan. The plan of services has been approved according to the State Office of Planning. The applicant has requested a residential zoning district with a public building exception per 275-7 of the town code, so that the use would be a permanent use within the town. The Armory has been a member of the community for many years and wishes to become an official member of the community within municipal boundaries. This will also allow the Armory to move forward with our capital improvement plan to connect to a public water system and abandoning the well now currently serving the facility. The application has been reviewed by the annexation committee and the P & Z Commission and received a favorable recommendation from both groups. The annexation report does contain 2 conditions of the annexation. The first condition which is the annexation agreement be recorded with the Town. I don't believe that an agreement would be required for this project, although Attorney Witsil may have a different opinion. The second condition is that sidewalks need to be installed to the property....the applicant does not have an issue with the sidewalk, their concern is with the timing of the sidewalk. Concerning that there is no sidewalk within 3,000 feet of the project as it stands today. I understand that from talking with Kyle there are some projects coming in the future that would have several in that area. The Guard said they would be willing to make that connection once sidewalks started being installed and there are always public funds to become available as they are stewards of public money to insure that the benefit goes

with the cost. We look forward to becoming part of the town. Thank you for your time and consideration. If you have any questions, I will be glad to answer them. Attorney Witsil stated that there is contiguity to the Town boundaries that will continue. Stacey reported that everything required for the annexation regarding the Armory property is in place and completed. All required notifications have been completed, such as notification of the property owners within 100 feet for them if they want to speak and all required State and County Agencies as well as all service providers. No negative comments have been received and Sussex County has no objection to the annexation. The required plan of services has been submitted to the Office of State Planning and has been approved by the Office. The last step is the public hearing scheduled for tonight and the re-zoning of the property to residential as consistent with the town's comprehensive plan. The P & Z did request that if and when the National Guard improves the property as proposed that at the time a building permit is requested that the installation of a sidewalk along Route 20 be part of the proposed improvements. If this annexation is approved, we need to notify the Office of State Planning and Sussex County that annexation is complete so that their records and maps can be updated accordingly. Attorney Witsil asked if there was anyone else that cared to speak in favor of the application. There being none, is there anyone opposed. Attorney Witsil informed Mayor Adams that there is no one opposed. However, he had one question for Stacey and the engineer...we have recommendations that the sidewalk be installed at the time of the acquisition of the building permit...Stacey replied yes, if the National Guard improves the property as they have proposed to do. The applicant is requesting that sidewalks be installed whenever the contiguous property is improved for sidewalks. He said that is one issue for Council to think about. He is not concerned about the annexation agreement because of the nature of the application. Obviously next would be an application for the amendment of the zoning and obviously they go hand in hand. Mr. Lardner asked if the water connection the improvement that would trigger the sidewalk connection. Attorney Witsil stated the recommendation from the P & Z would supersede the requested condition. Are there any other questions from the Council? Mayor Adams stated that she

did...back to the sidewalks. Would it be when the development goes there? Mrs. Eckerd also said that if Vines Creek Village starts the sidewalk and the Armory is not ready to do it, because they do not have the improvements. Mr. Lardner told Council that there are no improvements. Attorney Witsil said he felt it needed to be combined into the conjunctive...the sidewalks must be installed whenever in the future a building permit is acquired or contiguous property is improved with sidewalks, whichever occurs first. Mayor Adams said is the Armory saying that they are willing to put sidewalks in once the new development puts sidewalks in. It was stated by Mr. Lardner that as long as public funds are available... it is all depending on federal funding or state funding. There are no projects for that site. It is one of those where they have to go to the federal or state government to justify that line item for capital improvement to be installed. That is a definite significant cost to install a sidewalk. Mrs. Eckerd asked if they could go that route to provide public funding and secure it. It was stated if you appropriate one year it must be spent within the next twelve months. We are looking at probably 2013 budget. Assuming Vines Creek Village goes through. It could be out another 2 or 3 years. We want to make sure we have public funding from federal and state. It is partially federally funded and state funded. The reason for the request for sidewalk is children walking to school. Mr. Lardner said they wanted to be good stewards and support the community in having sidewalks for students walking to the high school. Mayor Adams asked if we are now doing the resolution. Attorney Witsil said the resolution will contain the October 19, 2010 application letter, the legal description of the property together with the survey, Mr. Gulbranson's Sept. 22, 2010 memorandum regarding the zoning status, copy of the deed of the parcel and #3 - 2010 letter from Davis, Bowen and Friedel with the formal application correspondence from and to the Sussex County P & Z Department from URS, the receipt of correspondence from the Dagsboro Volunteer Fire Department, letters to the Town Police Department from URS, the letter May 4, 2011 from the Town of Millsboro regarding water service, all of URS's correspondence - plats, maps and charts which are contained with the package and a copy of the municipal annexation plan of the services. Attorney Witsil stated that if Council has any questions, and if not

Mayor Adams may ask for a motion. Mayor Adams asked if anyone had any questions. At this time Councilman DeHaven recused himself from this vote as he stated that he is a veteran and definitely has a biased opinion. Vice Mayor Truitt made a motion to accept the resolution as presented, seconded by Councilwoman Flowers, and unanimously approved by the 3 members voting. Attorney Witsil stated in doing so they adopt the reasons and rationale which I have stated in the whereas clauses of the ordinance. Council members stated, Yes. Attorney Witsil stated it is appropriate and in compliance with the comprehensive plan. Mayor Adams thanked Mr. Lardner for coming and making his presentation. Attorney Witsil asked him to please stay around as they will be working on the ordinance next.

The next item is an ordinance to amend the zoning map of the Town of Dagsboro to R-Residential from Sussex County zoning AR for certain 9.42 acre parcel of land identified as Sussex County Tax Parcel 2-33-11.00-212.00 being the lands of State of Delaware/Delaware National Guard located at Armory Road and County Road 382, Dagsboro Hundred, Sussex County, DE. Attorney Witsil told Council this is the ordinance by which you change the zoning from Sussex County AR (Agricultural Residential) to R Residential to (our designation). It is stated in the whereas clauses that this is in compliance with the Town's Comprehensive Development plan and with the proposed future annexation area in said plan, that the P & Z has made its recommendations of approval of this zoning. The rezoning complies with the Town's rules and regulations of the Town's zoning code and promotes the health, safety and welfare of the present and future inhabitants of the Town of Dagsboro. Having introduced this....does the Council have any questions? There were no questions from Council. Attorney Witsil stated that we will take the comments of the applicant which they made in regard to the resolution and incorporate those into the record. Is there anyone else present which would like to speak in favor of this application? No response. Attorney Witsil then asked if there was anyone opposed to the application. There being none, Mayor Adams asked for a motion to accept the ordinance. Councilwoman Flowers made the motion to accept the ordinance as presented, Vice-Mayor Truitt seconded the motion, and upon vote it was passed.

Mayor Adams once again thanked Mr. Lardner for coming.

Stacey Long, Town Administrator, asked Councilman DeHaven if he wished to have himself recused from this vote on the resolution as well. Councilman DeHaven responded Yes.

Vice Mayor Truitt just wanted to mention that he has to go to work tonight and will have to leave at 9:50 p.m.

Mayor Adams stated that under the public hearing concerning the private activity bond for the Dagsboro Volunteer Fire Department and/or amendment to Town Charter Section 33 to provide for private activity bond issues will not be needed as she understands they are seeking the activity bond from the County so that will eliminate this item from tonight's agenda.

The next public hearing is an ordinance to amend Chapter 275, Section 275-55 of the municipal code to provide for the charging of application fees for site plan applications, change of use applications change of zone applications and Board of Adjustments and to provide for the establishment of the developer/owner escrow accounts to be maintained by the town for advance payments for site plan, change of use, change of zone, and Board of Adjustments professional review expenditures. Attorney Witsil said this is Council's enabling ordinance which provides you the authority to impose these charges on applications. The next item you will address is a resolution which sets those fees - the reason for this is that the resolution is easier to change than the ordinance (you don't have to change the code every time we change a fee). This is simply to authorize the Town to impose these charges. As we have heard in past meetings expenses have been incurred that exceeded the fees you have charged for applications in the past. We also have very little present authority to charge those review fees by your professionals. This establishes your authority to charge those fees to those people applying for applications that require a review of your town's professional services. Attorney Witsil felt that could be a statement on the record for the reason in favor of the property application. He is sure Stacey can provide more details on the financial rationale for it. We will hear from anyone else who is in favor

of the application. Stacey agreed with Attorney Witsil. He asked if there was anyone else who cared to speak in favor of the application. There was no response. Is there anyone who is opposed. Attorney Witsil said since there being no further comments.... Mayor Adams asked for a motion to accept the ordinance Section 275-55 Vice Mayor Truitt made a motion to accept the ordinance, Councilwoman Flowers seconded the motion, and it was unanimously passed.

Attorney Witsil asked Council for consideration and vote (should you decide to do that tonight) on the setting of application fees for site plan applications, change of use applications, change of zone applications and Board of Adjustment applications and to set the amount for developer/owner escrow accounts to be maintained by the town for advance payments for site plans, change of use, change of zone, Board of Adjustment professional review expenditures. Attorney Witsil asked Stacey...the amounts which I have or you have inserted into the proposed resolution are the present fees or the proposed fees that the Town Council has previously discussed. Stacey said these are the fees which were discussed at the April meeting. Currently, there is two parts to that....some are already in place. Change of zone is already in place...it is currently \$250 and is proposed to stay the same; site plan application is currently \$500, and is proposed to stay the same; board of adjustment application is currently \$2,500 and is proposed to stay the same; the additional one is the change of use application of \$500 and the professional review fees are all new to those applications except the site plan review which is in already in place \$2,500 for legal, \$2,500 for professional/engineering review; change of use escrow for professional review would be \$2,500, the legal review would be \$500, the change of zone - would be \$2,500 professional review \$500 legal review and the board of adjustment is \$2,500 for the engineering review and \$2,500 for the legal review. Presently (a) is in place, (b), (c), and (d) would be new. Attorney Witsil finds that in reviewing this there appears to be a tremendous discrepancy between the fee charged for a change of zone application (which is usually a relatively complex process) and the application fee for the Board of Adjustment application (which can be complicated, but is often a small variance application) that could be for a foot

or two set back violation, it could be for something that is relatively minor. There appears to be a tremendous disparity between those two numbers. Again, in (d) if he is adding correctly, in order to apply for a Board of Adjustment Application, it is \$7,500, which I think is almost prohibitive. If the application fee for a Change of Zone is \$250, he would recommend the same fee for the Board of Adjustment application. He felt that he would have to be at the Board of Adjustment proceedings so there would be some professional costs associated with that, but he is not sure it would be \$2,500. Vice Mayor Truitt mentioned however, that in an escrow whatever is not used, may be returned. Attorney Witsil said that is correct but the people have to put it up to begin with. Frankly, he would be hard pressed to come up with \$7,500 for a small application fee. Stacey said she believed that may have just been overlooked when it was discussed last month. We were adding the professional review fees as well, prior to there were no escrow monies to be submitted with Board of Adjustment. That is why the fee was large at the time. Originally, \$2,500. Stacey agreed with Attorney Witsil saying that if they are going to be charging for the review through their escrow account, she feels the application fee is excessive. Attorney Witsil suggested it appears the changes on #3 "change of zoning" application fee is extremely low. Newspaper advertising alone and a cursory review from Stacey is going to cost the Town more than \$250. It would seem to him that if we are intent on charging the Board of Adjustment application fee of \$2,500, that would be the charge for the change of zone. Attorney Witsil mentioned that County is still \$250 for a Board of Adjustment application, or change 3 and 4 to \$500 plus reviews, or Mayor Adams said we could do 3 to \$500 and put 4 to \$250. We hardly ever have a Board of Adjustment. Stacey stated that when an application does come in front of Council, there are the same steps and costs. Vice Mayor Truitt asked if we should cut the escrows in half or what. Would that be more reasonable? Attorney Witsil mentioned that Kyle would have to look at itit is not as extensive of a procedure as a change of zone. The change of zone, you will have to go before P & Z as well. Mayor Adams did not think the letter (c) change of zoning and professional review - \$2,500 and \$500 does not seem out of line to her. Councilman DeHaven felt that in section (b) he did not have a problem with the

application fee, but the engineering specifically, he would suggest that there be levels of complexity relating to certain dollar amounts. For example, the \$2,500 blanket charge may be very restricted to a small business person who wishes to rent a location in town and basically all they have to do is determine that if they can get an entrance permit on Route 26 for example or if they have enough parking or if they submit a preliminary site plan and the Town can look at it, but for them to come up with \$2,500 may discourage them from locating in the Town of Dagsboro. Is there some way that there could have levels of complexity related to certain dollar amounts for the engineering? Attorney Witsil informed Councilman DeHaven that Council almost does in that it is a replenished fund so the real question is if the threshold is too high. At any point during the process it becomes complex and those funds are depleted, Stacey says ante up. The trouble is that she has had problems collecting from those people in the process of their application. He tends to agree that a couple of these numbers are pretty large for a site plan....\$5,000 for the professional services plus \$500. That is \$5,500 for a site plan (and it might just be a minor site plan) review. It is hard to write a schedule for what is simple and what is complex. Perhaps the thresholds deserve more attention and review and reducing some of them. Vice Mayor Truitt mentioned that the only way to assess that is to go by experience as to how different projects cost in the past. You don't want to get in a situation where the Town ends up paying as we have had previously...yet we don't want to discourage them. Attorney Witsil stated that we don't have to do this tonight. Attorney Witsil asked about examples from other towns, was that at the last meeting. We could say number of units between \$1,000 a \$15,000....a commercial site plan review \$1,500 and maybe give 3 examples for each. He is short on experience as he was not at last month's meeting. Vice Mayor Truitt said due to the phrase "to be replenished" or whatever we set - it has to be replenished anyway. Vice Mayor Truitt said so if we make it \$1,500 and it runs \$2,000. Attorney Witsil said he would have Stacey comment as to the difficulty as to collection. It was questioned if they could sign a contract. Vice Mayor Truitt stated that the application is the contract. Is it stated in the application that if it exceeds a certain amount, there is very little now for authority. Vice Mayor

Truitt asked, would this not be inserted in future applications on the condition of replenishing. Yes, Attorney Witsil, said it could be inserted in there. He tended to agree that some of these are set too high (particularly the Board of Adjustment is prohibitive).

Vice Mayor Truitt mentioned that since there have been no more concerns about the tax assessment hearing. Mayor Adams asked if anyone had any comments regarding their tax assessment. Councilman DeHaven made a motion to close the Court of Appeals at 7:38 p.m., seconded by Councilwoman Flowers, and unanimously approved. Mayor Adams thanked Mr. Riley for being present to answer any questions.

Stacey said we could possibly do the Board of Adjustment for \$500 and the professional fees...change them both to \$1,000. The application will say to be replenished upon depletion. Mayor Adams asked if we say "replenished upon depletion" there is no ceiling to that correct. Attorney Witsil said that is correct. Mayor Adams is in favor of letting them come in, but she does not think it fair for us to have to bear the burden. If they do not pay, Vice Mayor Truitt stated, then the project will not be approved. Attorney Witsil said you could insert into this resolution "failure to replenish professional service funds upon notice will cause the application to be discontinued". We can then lower it, so that it is more feasible. Vice Mayor Truitt asked if this covers all major and minor developments. Stacey reported yes, that is what the site plan review account is. Mayor Adams asked if we were going to do (a) (b) (c) and (d) that way. Vice Mayor Truitt said to keep (a) at \$2,500...site plan is generally going to be a major project. Stacey asked if they wanted to keep (a) the same and cut the rest of them in half. # (a) Attorney Witsil reported that for a major site plan (particularly for condominiums) it is going to take a fair amount of his time. Whereas (b) change of use - keep it at \$1,250 and \$500, Board of Adjustment \$1,250. Change of zone - \$500 and then cut the professional review to \$1,250 leave that at \$2,500. All application fees will be \$500. We will add the failure to replenish the escrow will cause application to be discontinued. Mayor Adams asked if Council agreed with these figures. Councilwoman Flowers mentioned that on the last

minutes Page 24 the prices were given for sub-divisions. A motion was made by Vice Mayor Truitt to accept the resolution for the site plan applications, as amended with the prices given tonight and the condition of "failure to replenish", seconded by Councilman DeHaven and unanimously approved. Stacey will prepare a clean copy and get Attorney Witsil's language and give Council a copy for next month's meeting.

Planning & Zoning Report and Possible Town Council Consideration of the following:

2. Acceptance of commissioners terms of office. Mrs. Eckerd reported that at the last P & Z meeting this matter was tabled, once, again due to the fact that there were no enough people in attendance to vote in a new chairman, vice chairman, secretary, etc.

1. Review and acceptance of P & Z's Rules and Regulation. We read the Rules and Regulations out loud and voted on that in favor and Mrs. Eckerd is prepared to sign the document that is in front of Council. Attorney Witsil had a question - Article 5-h, which states that there should not be more than 3 items of new business on the Agenda at any time. He stated that he knew the P & Z wanted to have some sort of rule to protect themselves from getting overloaded, but if there are a couple of simple matters on New Business, does that back the system up a little if you could entertain them all. The Agenda is always established at the Chairperson's discretion. We had big projects in front of us. There needs to be a way to distinguish between big projects and for example, signage - which does not take as much time. Attorney Witsil mentioned that if there were 3 signage projects before you and it took 5 minutes each...you would be able to complete these. You would not be limited by the 3 rules. Attorney Witsil felt it could be said that the new business Agenda shall be determined at the discretion of the Chairperson. Mrs. Eckerd agreed with that. Mayor Adams stated that she did not want Mrs. Eckerd to ever feel that she has got to work something in, because that is what happened. She did not want Mrs. Eckerd to feel that there is so much pressure on

the P & Z to get everything done. Councilwoman Flowers said she knew that when there are so many people calling to be on the Agenda it is just overwhelming. Attorney Witsil said what about --- the New Business Agenda shall be established by the Chairperson, who may limit New Business Agenda to Not More Than 3 Major Applications. Mrs. Eckerd felt that would help to differentiate Old Business from New Business. They are still not changing time framing as to when items have to be in. There may not be more than 3 major applications on the Agenda under New Business at any time. Insert Major Applications for Items. The time constraints are still intact. A motion was made by Vice Mayor Truitt to approve the rules of P & Z with the stated changes, seconded by Councilwoman Flowers and unanimously approved.

The next item on the Agenda was the P & Z terms of office. We voted to accept the terms as written. Marji Eckerd to 2016, John Hansken to 2015, Patrick Miller to 2014, Gayle Chandler to 2013 and Loretta Zsido to 2012. These were voted and approved. Upon motion by Councilman DeHaven to accept the terms of offices, seconded by Councilwoman Flowers, and unanimously approved.

Mr. Mills did not have his information completed in a timely manner, so again we did not have a chance to review his site plan. Next came the T's Corner Project, 33039 Main Street, by Tim Elder. Mr. Elder came before P & Z in 2009 which you might recall. At that time we approved with the condition that DelDOT would need to have an entrance granted to them and the lighting detail would have to be on the site plan. Mrs. Eckerd said P & Z approved for recommendation the DelDOT entrances and the lighting plan on the given site plan. Attorney Witsil said to have the Town Administrator confirm that all of the Town's ordinances are in compliance with the application and the licensing request. Stacey said Mr. Elder has not obtained a license yet. He has provided the required number of parking spaces, the lighting issue has been resolved, placement of DelDOT with the street light, his entrance, he has also stated he will have a light on his building. He has been advised that at the P & Z Commission's meeting that it was recommended for

approval for Retail Sales and if any food service is conducted he will have to go through the Department of Health and receive a permit from them (the Town needs to be provided a copy). Mr. Elder has been advised of the sign regulations. He needs a sign permit prior to any sign placement. That must meet the specification regulations of the sign section of the code. He has also been advised that any structural renovations will require a building permit. DelDOT has approved his entrance and the required DelDOT entrance has been installed. Attorney Witsil asked if the site plan has been approved by P & Z...Mrs. Eckerd stated yes it has been approved. The only thing the P & Z was concerned about was the signage, because of the placement of the sign. Mr. Elder is present and will explain the placement of the sign. The sign is not on the site plan. Attorney Witsil told Mr. Elder that he has the floor and the only thing at issue now is the placement of any signage. Attorney Witsil asked Mr. Elder if he had any recommendation to the Council as to what you propose for the sign so that it can become a condition of whatever they do. Mr. Elder displayed a sign that he is using now at his other location. Stacey has given Council a copy of the proposed sign. Mr. Elder stated that they had discussed at the P & Z (his first choice was on the roof; however, due to windows, etc., he pointed out where it would be placed). Additionally, he said DelDOT owns about 3 feet - which is where the road previously had been. The sign would have to be approved by Stacey and in compliance with the code or you will need to go to the Board of Adjustment. Now we are prepared to act on your site plan. If you don't know exactly what you want for a sign, that is just the next step with Stacey. This will not impede your business license. You will need to submit a sign permit application. Stacey will compare what you are proposing with the code and tell you if it is permissible or not. This is just for site plan approval so that you can get your business license. Mr. Elder asked if he could use that one sign and did not have to go to the Board of Adjustments for that. He stated that his plan for the sign is 24 sq. ft. (which is the maximum) and you may only have one wall sign. Attorney Witsil told Council that we would like to know if you would approve the site plan which has been recommended to you by P & Z. Mayor Adams asked if there were any questions. Vice Mayor Truitt made a motion to approve the site plan of T's

Corner, seconded by Councilman DeHaven, and unanimously approved. Mayor Adams told Mr. Elder to be sure to get with Stacey on the sign and for him to have a good evening.

Mrs. Eckerd stated that was the end of the report for the Planning and Zoning.

Mayor Adams stated that she would be jumping around on the Agenda.

New Business: Please go to #5. Consideration of correspondence regarding property located at 33102 Main Street. This references the Marconi property. Councilman DeHaven asked to be recused from this discussion as there is a conflict of interest. Have Council members read the hand written letter? Stacey gave everyone a back up of what is going on. There are two individuals who have rented this building. They leased it, signed a contract (copy of which is included). After signing their lease agreement, they discovered several issues, they were advised that they couldn't just obtain their business license the following day as the owner told them. Apparently he stated to them they could get their business license and everything is good to go. That was not the case. They have submitted to the Council of different areas of inside and outside of the building where they feel there is a hazardous condition on this property and according to the section in our code 83-7 the hazard inspection committee shall investigate information received by the Town Council that any building within the Town limits is a serious hazard to life and property. They are notifying the Council that this fits within that definition and she told them to submit this information to the Council so that we may have the hazard committee inspect. Some of the conditions are outside; however, the photos are the first we have seen on the inside of this...these are things they did not know existed. Councilwoman Flowers, Al Townsend and Norwood Truitt are the members on our Hazard Committee. Attorney Witsil stated that here is the relevant section 83-8a. Whenever the Town Council receives any information that a building located within the corporate limits is a serious hazard to life and property, the Town Council shall direct the Hazard Inspection Committee to investigate and determine whether the building is a serious

hazard to life and property. That is the issue before you. Attorney Witsil stated that is what is before you with the understanding that you are not an automatic BBB and you have to consider this a legitimate complaint. If so, you can determine from the photos and information received. It is then passed on to the hazard inspection committee who can have Stacey come with them. In her capacity as the Building Official demand an inspection. Councilwoman Flowers asked if they do have to do an inspection. Attorney Witsil answered Yes. He stated to Council that their job tonight is to make a motion and vote on forwarding it to the Hazard Inspection Committee. Mayor Adams said it is confusing because 2/3 of the Committee are on the Council. Councilwoman Flowers asked how they would get into that building. Stacey has the authority to demand an inspection. We have the code section which will provide some guidelines. Vice Mayor Truitt made a motion to forward the Marconi property issue to the Hazard Inspection Committee for further investigation, seconded by Councilwoman Flowers, and unanimously approved by all council members with the exception of Councilman DeHaven who had asked to be recused. Councilwoman Flowers said if the inspection determines there needs to be something done...do we have something in writing that something can be done? Attorney Witsil stated that under 83-8 and thru 83-13 there are provisions in the code, a Public Hearing has to be conductedit is pretty spelled out. Councilwoman said so we have to come up with a suitable date for all 4 of us? Chief Toomey said 5 of you, the owner as well. Attorney Witsil said you may need the assistance of the police. If Chief Toomey goes in there under the guise of protecting an inspection and he sees something that is illegal and he is not invited in as a police officer, there may be questions. The Attorney General has always stated that it is preferred that Police Officers do not do code enforcement because of the inspection process. Once you put on the inspection hat and walk into the property to inspect if something is there, he has to revert back to the police officer to take action and it becomes a conflict of interest. He should not be there legally as a police officer. Under Section 83-3 the Town Council of Dagsboro may make their own inspection upon information obtained from the Board of Health or the police force and then if such person/persons refuse or neglect to correct the situation the Chief of Police

may command and forthwith to remove or abate such a nuisance or sanitary condition...so you have authority under the code 83-8 to become involved and Attorney Witsil will not discuss the process or procedures at this meeting. I believe that concludes this matter.

Old Business:

The Mayor realizes she is skipping around. We will proceed to #1. Final Discussion and vote on the Resolution to amend subdivision application fees and to establish developer/owner escrow accounts to be maintained by the Town for advance payments for subdivision and partitioning professional review expenditures. Stacey reported that we already have the language in our code. This is for major/minor subdivision projects...Application fee for Major Subdivision...\$500, Minor is \$250; partitioning \$250 and the fee for combining lots is \$250. If you read #5, it talks about replenishing the account. You will see the major sub-division engineering professional review escrow payment to be replenished on depletion of the \$2,500. Major sub-division legal professional review escrow payment to be replenished on depletion of the \$2,500. Minor sub-division engineering professional review escrow payment \$500 and Legal professional review for minor sub-division escrow payment \$500. Under (c) partitioning engineering profession review \$500; legal professional review \$500. Mayor Adams asked if there were any questions/discussion or thoughts. Vice Mayor Truitt felt Council should add failure to replenish the escrow account upon notice will cause the application to be discontinued. Councilman DeHaven made the motion to approve the resolution to amend sub-division application fees with additional language stated by Vice Mayor Truitt, seconded by Councilwoman Flowers, and unanimously approved.

#2. Under Old Business is the consideration of February 4th correspondence letter received by the Dagsboro Volunteer Fire Department regarding waiver of Public Service Impact Fees for the New Building. This impact fee is actually called the Capital Improvement impact fee as stated in the code. This is something we discussed at last month's meeting and nothing was decided. Mrs. Eckerd asked if Council could ask if we could look at other

towns and see what they allow. We checked with Frankford (Stacey mentioned we checked with several other towns); we have to compare small towns ... We cannot compete with larger towns like Bethany Beach. Mayor Adams stated that Frankford requires more than we require. We have come a long way. We have given around \$50,000 through our waivers. We are down to last request. Mrs. Eckerd asked ...Was there a request of Frankford Fire Department of the same magnitude? Mayor Adams responded "quite a bit" and they make them pay far more than we are asking. She would like to receive a motion to do something. Vice Mayor Truitt made a motion to deny the waiver for the Capital Improvement Impact Fee, seconded by Councilwoman Flowers. The request to deny the Capital Improvement Impact Fee was voted Aye by Mayor Adams, Vice Mayor Truitt voted Aye, Councilwoman Flowers voted Aye, and Councilman DeHaven abstained from voting. Attorney Witsil stated the request was denied, for the record there were three (3) aye votes and one abstention.

#3. Status on Connections to the Water System and discussion on drafting an amendment to Chapter 270 to incorporate exemptions from connecting to the water system. Stacey reported that we had discussed this quite a few months ago and everyone had decided maybe we should list some different exemptions and add to the code so that it is as self explanatory as possible; for example, one property is not connected to the Sussex County Sewer (therefore would you consider that as exempted from the Town's Water System); another one - property on Hazard Street that the Town exempted because there is no interior plumbing; a couple of reasons for not connecting is no one is living in it - it is used as a storage, but there is interior plumbing. We gave this one an extension, not an exemption. That would be a consideration if you wanted to or not. Vice Mayor Truitt stated in that case he liked the idea of "extension". That way it pushes the property owner to do something. Either tear it down or put the water in. We are only dealing presently with six more properties that need to be connected. The rest are homes that are being lived in. From this point forward are you going to build a home that you are using for storage....Mrs. Eckerd asked if it could be in the code saying these properties would be individually voted on as an extension, exemption, etc. It was stated by Council that they wanted to be consistent in not

having any bias, etc. Attorney Witsil reported that in the packet we have a sampling of ordinances which he has collected. He likes the Bethany code. Our code presently and almost all of the other codes say the property need to be connected, both Lewes and Bethany have the wisdom to say wherever the land is abutting the town water main all plumbing facilities on such land need to be connected. (Not the land, but the plumbing facilities) - that takes care of our problems on some of these. Attorney Witsil feel that both Lewes and Bethany have anticipated this....when compared to Millsboro and Bridgeville they say the property owner needs to connect to the water line. Attorney Witsil stated that he likes #2 and #4. The question which he feels Stacey has brought up...what if they have disconnected from the County Sewer, but they still need water, presumably. Attorney Witsil asked if they wanted to grant an exemption that would encourage people to.... Mayor Adams said if he doesn't have sewer and we force him to connect to water, where is the water to go? But he has plumbing facilities. Mayor Adams stated that he was connected to the County Sewer and the County came and capped him off, so now he has a building with plumbing and no sewer. Attorney Witsil said he could write in an appeal to the Town Council. Vice Mayor Truitt stated that some cases are going to be handled on an individual basis. Mayor Adams and Chief Toomey stated that it is a closed building. Attorney Witsil asked if that was the only case we have where there are plumbing facilities, but you don't think it needs to be connected. He asked Council to authorize him to use the Bethany or Lewes Code and write in that exemption may be sought before the Town Council. It was suggested by Councilwoman Flowers that we use the Bethany example. Attorney Witsil stated the information would be ready by the end of the week. Mayor Adams said Stacey had given the update of six non-connections. Out of those 6 - 2 of them are on the County list for grant money (they are waiting for bids and then it will be done), one has no intention of connecting (Hudson and Iron Branch) they do not feel they should connect; it is under contract now Mrs. Eckerd reported another is under foreclosure and it is also under contract.

#4. Discussion on Chapter 75-1 (A) and (B) of the Dagsboro Code. Stacey said she had put information in Council's packet

on 75-1 A and B, which was provided by Kyle. What constitutes a building permit.....electrical work, plumbing work or...Attorney Witsil said that would definitely be a case for an inspection. He feels it goes beyond what ---the recommended wording just covers electrical, gas or plumbing systems. Let's read it out loud.. Stacey said the current wording on 75-1 A. It shall be unlawful for any person, partnership, business or corporation to undertake or cause to be undertaken the construction and reconstruction, enlargement, alteration or relocation of any building or structure unless an approved building permit has been obtained from a municipal building permit officer. Stacey said B states a building permit shall not be required for repairs to existing buildings or structures provided that no structural changes or modifications are involved. Attorney Witsil stated that as we had talked about in prior meetings, structural changes are significant changes. There are structures that are to the integrity of the building. The problem he has with the broadness of that, it might be very generous to the public. You might want to be hands off. It limits the town's opportunity to inspect. The majority of you may agree with that theory, but it is difficult for Stacey to be authorized to do an inspection for a building permit under this provision. It was Attorney Witsil's recommendation before that you look to see how you can become more definitive as to when a building permit is necessary. He can envision many things that should be inspected and should be the subject of a building inspection. Things which we have talked about and been concerned about with residential and commercial structures that we might not have the authority to do. Particularly electrical, plumbing and that sort of thing. Kyle's recommended language addresses those utilities...electrical, gas, mechanical, plumbing system. Let's look at his first couple of phrases to see if his language includes significant building changes...construction changes - It shall be unlawful for any person, partnership, business or corporation to undertake or cause to enlarge, alter, repair, move, demolish or change the occupancy of the building or structure. Look at the word "repair", it shall be unlawful for anyone to cause or repair or to cause such work to be done without a building permit. This language could be very inclusive, it could be anything. Stacey mentioned that (b) would take care of that. Attorney Witsil stated that (b) is the

problem... (b) takes it all away. Stacey said not in the recommended wording from Kyle. "work exempt from the permit" that is where the "nail in the wall" would be exempt from. Attorney Witsil said he just received this last week, he thinks that the definitive list is great. Is anyone ready to go through the list tonight...is this something you want to focus on...or do you want to digest it. Are people comfortable with it. Mr. DeHaven stated that we have come a long way since 2009 when we first addressed this issue. This is the first definitive change that he has noticed that he is pleased with, initially. He has one reservation to relate...there was discussion earlier of a property with a problem. There is an existing inventory of actual violations of town code (existing now) that have not been resolved. What he is concerned with is that if we do not work on the existing inventory of potential violations or actual violations and we go and create an inventory of additional violators without working down the real serious problems first, what have we gained? He asked what about some additional properties (he will not list the addresses or anything - he will just give street names). Two on Main Street - one refers to a building problem, another refers to structural changes to exterior walls which can be seen from Main Street, just by driving by. Attempting to put windows in that did not fit, etc. There are two on Swamp Road - partial siding work and a leaning building. There are two on Clayton Street at least that have multiple outbuildings that exceed the 900 total square feet. There is one on Stone Lane where the outbuilding is beyond the set back requirement. That has still not be resolved. There is one on Waples Street for untitled vehicles. That problem is being worked on. He is working with the owner to reduce the number of vehicles that are sitting on the property. He has reduced about 10 to 12 vehicles. That is still an open issue. These other issues are issues that have been brought before the Council numerous times. Not this present Council, but previous Councils, to this point there has been no definitive addressing of those issues. They are still open, unresolved issues. They are serious in nature. A lot of that relates to what we are looking at here and some of them go beyond that. Councilman DeHaven is concerned with this "body of work" that the Town has not fully addressed, in whatever fashion may be appropriate and we are going to create a new inventory of

potential violators. Councilman DeHaven has a question for the Chief... What ramifications exist for this Joe Homeowner if we have a situation where a person does not get a building permit. Can the Town charge them with some sort of violation and if so would it be criminal. Attorney Witsil and Chief Toomey said we have enforcement provisions. They included injunction, a requirement to repair, plus criminal sanctions per day. Attorney Witsil stated to Councilman DeHaven this building permit where legislation we are trying to define what the threshold is for a the building permit. It does not affect the violations, we are not expanding the violation pool. We are just saying when you do repair this is the threshold which is there for when you don't have to get a building permit than when you do. Have we agreed on that Councilman DeHaven asked. Attorney Witsil replied Yes. We are not expanding the violation pool in this piece of legislation. Councilman DeHaven then stated that to the extent possible, he would like to comment on that. The potential exists for that to happen if a person makes a repair and subsequent to that repair there was no attempt to get a permit, then that person does have the potential to become a violation. Attorney Witsil said Yes, anybody does. Councilman DeHaven said so you have the potential to create an additional pool. Attorney Witsil told Mayor Adams that it is his feeling that this is pretty complex. He has some suggestions ready from his cursory review. He apologizes that he has not parsed it thoroughly yet, but it seems to be comprehensive. The key language is repairs (on page 3) to focus attention on a specific area. In the middle of the page it states repairs, application or notice to the building official is not required for ordinary repairs to structures (replacement of lamps or approval of portable electrical equipment to approved permanently installed receptacles). Attorney Witsil did not know what ordinary repairs means. He felt that needed to be looked at and his suggestion to help with the next sentence is where it says such repairs....(if you just write in such "exempted ordinary" repairs) which refers to the sentence before it. Such "exempted ordinary" repairs shall not include the cutting away of any wall...if you cut away a wall, you do have to get a building permit. Partition or portion thereof, you have to get a building permit, removal of any structural beam or load bearing support. Attorney Witsil stated that Kyle is needed as he is

unsure what he means by ordinary repairs in that first sentence. That is a good first step. He asked that it be placed on the Agenda for next month. Vice Mayor Truitt mentioned that when a final code is established it should be available to anyone applying for a permit so they will know where they stand. A similar one is the "change of use" brochure which the town has.

Mayor Adams wants to be sure that that somehow we should be able to inspect buildings that are to be rented. Stacey is getting things together and saw this Agenda was full and will have samples from other towns. Georgetown's is very detailed. Stacey has planned on this for next month.

The next item will be #1 under New Business. Consideration of extending the contract for the Licensed Operator's Services for operation and maintenance of the Town's Water System with Artesian Water Co. which expires on June 30, 2011. That is what they are doing for us now --- they test...Stacey said they do not bill or collect. Attorney Witsil mentioned to Stacey that on Paragraph #2 line 3, Artesian will provide supervisory services. Does she know what these are...and are you comfortable with that language...because he did not know what it means. It refers to Section 6.203 for the regulations of licensing and registrations of operators. Did anybody say what the circuit rider services are? They are not permanent in the Town, they will visit as they are called. Stacey stated that the owner will be responsible for day to day operation of the system. Attorney Witsil asked if that would mean...if we have a problem, they would come. Stacey reported that presently they provide for three visits a week for sampling for \$700 per month and additional services are the extra \$100 a month for any emergency response services that we ask of them. Attorney Witsil said short of the language that he did not know about, after reviewing it, it appears to be satisfactory to him. Council's question is the prices have not changed. Stacey said they have not changed. Councilman DeHaven asked if Artesian could be requested to extend this contract beyond six (6) months, holding the same price. Stacey said the price we are paying now will hold thru December, 2011. The reason is that when we did away with Artesian doing the billing and collecting we asked them to do it for six (6) months. If they give us the same monthly fee

it would be \$800 per month we would have to redo this contract; however, it does not expire until June 30, 2011. We have time to bring this back next month. Attorney Witsil stated that Council could authorize Stacey to approve the contract subject to the extension for a year locked in at the same price. The Council said if there is a difference in price, we might want to discuss it further. Councilwoman Flowers made the motion to authorize Stacey to contact Artesian and to request an extension for one (1) year on the water services as now provided, for \$800 per month, seconded by Vice Mayor Truitt and unanimously approved.

Item 2 under New Business: Consideration of establishing a Survey Plot Certification Fee. Stacey said that a little over a year now, the County will not record a survey or plat for a parcel that is located within the boundaries of a Town without the approval stamp of the municipality. Those plats need to be reviewed for the accuracy, zoning, bulk standards etc. before the Town can approve them. It is estimated that the review and drafting of a memo to the Town takes about one to one and one-half hours (depending on the issues that are involved). It will generally be less than \$150 per review of the plat and recommend that the Town set the fee for \$150, and in that way our costs are covered. Mrs. Eckerd stated that her firm had just sold the lot next to Jimmy Draper's Garage on Hudson Street. The bank requires a survey, a regular \$349 survey through Simpler Surveyors. Then what is this. Stacey reported that before the survey can be filed with the County, it has to have a Town stamp. The Town has to sign off to say it is in compliance. This has been in effect for a little over a year now Stacey reported. The County will not record anything without Town's approval. It is a combination of properties. Mrs. Eckerd asked if a person would transfer a property with an improvement on it...a house or improvements, some banks require a survey. Attorney Witsil stated this is only if it is recorded. This is the cost of the Town's seal on a plat so that the owner can then have it recorded. It is an additional expense to pay for Kyle's services and the administrative costs to have a review of that

plat...so that we can know that when we seal it and say it is in compliance with our code, that Kyle approves it and we are paying for Kyle's time. Councilman DeHaven has a question to be sure he got it straight, the survey has to be signed off by a licensed engineer already. That engineer certifies that the plat is correct. Why do we need another engineer to certify that a certain engineer already certified it. He understands that the County requires that it be signed off by the Town, but why do we require an engineer to certify that another engineer has certified it. Attorney Witsil said the answer is that Stacey could just stamp it, and there are errors that are made, he has seen them all of the time. Mrs. Eckerd said even when a reputable survey company does it. Attorney Witsil stated that he just caught a huge error. He looked at a survey and saw a two foot error that ran for a distance of 650 feet across the property. That is 1300 square feet of error. Councilman DeHaven said then the recourse is back to the original surveyor, correct. Attorney Witsil stated that the Town has certified it. The issue is that are you willing to have our Town Administrator approve a surveyor's plat without any overview. Councilman DeHaven said that is unreasonable. Do we just trust the engineer submitting the owner's plan to us, we could just have it rubber stamped by Stacey. Councilman DeHaven said we would then have a Catch 22, and we have to approve it. Attorney Witsil responded that if the Town is incurring the expense, it should be passed on to the owner who is forcing us to incur the expense. Councilwoman Flowers asked if the \$150 will cover the amount. Attorney Witsil said he is sure some will be more and others less. He also informed Council and Mrs. Eckerd that the County will sign off for properties in the County, but the Town needs to have a recorded survey. Stacey asked Kyle (depending on who in his office is going to be doing it and that we have their fee covered and if someone is on vacation and we have to go up to someone higher up to review is the \$150 going to cover it). Attorney Witsil said we would have to set \$150 so they know the fee. URS will have to suffer the high/low. Councilman DeHaven stated if it becomes unyielding for them, they will have to come back to the Council at some future date and ask for an adjustment. Vice Mayor Truitt made a motion to consider establishing a survey plot certification fee of One Hundred Fifty Dollars (\$150) and this fee is a flat fee deal to charge

\$150... \$125 for URS and \$25 for administrative fees, seconded by Councilman DeHaven, and unanimously approved.

We will now jump #4. People have approached Mayor Adams and other members of the Town concerning the fact that obviously we do not have a bathroom in the Katie Helm Town Park. She had Stacey look up some prices for keeping a port-a-potty in the park through the summer, possibly through September-October., Stacey reported that she had asked for a cost for getting a port-a-potty from May 27th through September 30th. We received one quote back from Peninsula Oil who actually just started this service. We received a flyer in our invoice and includes one cleaning per week, \$79 a month (which is the highest); Atlantic Pumping, which is a regular portable restroom one per week cleaning \$65 a month, two per week cleaning \$80 a month, based on a 30 day cycle (depending on the number of days in the month the invoice may reflect the difference); the third one is from Clean Delaware (which we presently use for port-a-potties for the Town for the prisoners) and was for \$67 per month for a 4 week period. Mrs. Eckerd asked why we would need a port-a-potty there if there is no pavilion. It was stated that children are at the park all day long. Other parks do not have port-a-potties...Mayor Adams mentioned that Frankford Park has lavatory facilities. Mrs. Eckerd said Frankford's is always locked when her grandchildren are there. In her personal opinion if there were a pavilion...if there is a pavilion and picnic area there, when her daughter rents from Bishopville you can also rent a port-a-potty with it (it is included in the cost). What will happen to a port-a-potty that is not locked? Mayor Adams stated that she has spoken to Bob Flowers, he is going to lock it at night and unlock it every morning. It is going to be permanently mounted, Vice Mayor Truitt reported, so that it cannot be tipped over. Many of the people are coming from other areas and when they eat lunch, the children need to use a bathroom after lunch. It has a weekly cleaning and they are going to be able to keep up on vandalism. Councilman DeHaven asked if all of the proposals are ADA compliant. He felt that is a consideration. Stacey said we only asked for proposals on regular port-a-potties; however, there are ADA compliant ones. Attorney Witsil did not feel it would be 25% more expensive than the regular ones to get the ADA compliant port-a-potties.

Councilwoman Flowers made a motion to approve the rental of the ADA compliant port-a-potty at the Town Park from May 27 through September 30 from Clean Delaware if the total cost does not exceed \$82 more than the original proposal. Mayor Adams authorized Stacey to try to get the ADA compliant one, if possible. Mrs. Eckerd brought up the problem with parking. Mayor Adams stated that until the Woodlands dedicate the road to the Town, the street may not be used for parking. Chief Toomey said Parking in front of the Park is definitely legal ... but it would be at your own risk. That area is the area of most accidents. Mayor Adams asked if after banking hours can people park in the bank's parking lot. Stacey reported that we have always asked for events. Mayor Adams said she had spoken with a little girl and asked where she lived in Dagsboro and found that she lived in Frankford, but liked to come to this park.

#3. New business: Review and Discuss drafted Rules of Procedure for the Dagsboro Town Council. Mayor Adams will mention that it has been brought to our attention by Councilman DeHaven about rules for the Council. Attorney Witsil looked into this matter and drafted Rules and Procedures for the Council, which we can keep, make notes, add, delete. It is imperative that we do go through his draft and send their thoughts to Stacey so that when we come to next month's meeting, we are ready to act on this matter. Stacey gave Council samples from other towns so that they may see what other towns are doing. Attorney Witsil informed Council that he drafted these from the Sussex County rules for their County Council session, as he deemed appropriate according to what we have generally practiced here. Mayor Adams circled some items she did not feel were necessary for the town's meetings. We can look at the other towns and if you think there is something that needs to be added to ours so that we can have a good discussion and make a decision. A motion was made by Councilman DeHaven to move the item - Review and Discuss drafted Rules of Procedure for the Dagsboro Town Council to next month's agenda, seconded by Vice Mayor Truitt and unanimously approved.

Stacey reported that there have been three (3) items continued until next month's meeting and that will make the Agenda pretty

full. Next month's meeting will be June 27th. Chief Toomey is not sure he will be back to attend the meeting.

Correspondence:

Stacey reported that the Town had received a letter from the Dagsboro Fire Department's Public Accountant's - this is a requirement that they have a CPA give a letter of what their funds were used for. It states that this is to inform you that the impact fee monies received by Dagsboro Volunteer Fire Department, Inc. were used to partially repay the loan to Wilmington Trust. This loan was used to purchase fire fighting vehicles. Please feel free to contact me with any further questions. Sincerely, Dana Scott, CPA.

Stacey reported that she had received copies of the Agreements that were signed by the Dagsboro Volunteer Fire Department, the Town, Town Attorney and Town Engineer, regarding the storm water facility maintenance agreement and landscape agreement, which were part of the final site plan that was approved in March, 2011.

Status update on the Warrington Street project: We spoke with Bob Long on May 18, 2011 and he gave us a contact from the Sussex Conservation District. She was called and DelDOT was sent the paperwork on May 9th. Once we hear back from them and once the proper persons receive it in that office, they will be putting the work order in and Rob Mitchell, Sussex Conservation, and stated that he understands this a very important issue to get done. He realizes the condition this area is in and will place it on his top priority list. We should soon be seeing the work. It was complicated. We needed to have Representative Atkins and Senator Bunting release the funds from their Community enhancement monies. After they were released, DelDOT had to send something to the Conservation district, they signed off on it, sent it back to DelDOT and then DelDOT issues work orders and it is just one thing after another. From what we have been told, once the work order is returned to the Conservation District it is top priority to begin.

Stacey reminded Council that we need to consider appointing a replacement Council member to fill the vacancy.

Treasurer's Report:

Stacey gave the Treasurer's Report and each member of the Council has received a copy. Upon motion made by Councilwoman Flowers, seconded by Vice Mayor Truitt, the Treasurer's Report was unanimously approved.

Minutes of Meeting of April 18, 2011:

Minutes of Meeting of April 18, 2011. Copies had been distributed to each Council member in the packet. Mayor Adams asked if there were any additions, deletions or corrections. Vice Mayor Truitt made a motion to accept the Minutes of April 18, 2011 as presented, seconded by Councilman DeHaven and unanimously approved.

Code Enforcement Report and Building Permits Issued:

Stacey reported the following under Building Permits issued: New House in Prince George's Acres; Roof over Outside Garden Area at Southern States; Fence Replacement at Dagsboro Church of God; 11 x 16 Deck in Prince George's Acres; 12 x 20 Sunroom on Main Street; Installation of Handicap Ramp on Swamp Road. There were zero Certificate of Occupancies. Zero Certificate of Compliance. Zero Certificate of Completion. Under Code Violations there were 7 Grass Cutting Letters sent out. Correspondence - A letter was sent to someone on Clayton Street where there needed to be an emergency tree removal for public safety. The tree was hanging on a wire and a letter was sent requesting reimbursement and they paid.

Mayor Adams asked Chief Toomey to wait. If you will jump down to Town Property/Town Improvement. Consideration of purchasing thirteen (13) additional banners. The new banners were installed and the people putting up the new hardware and Bob Flowers followed and watched the installation and they do look

very sturdy. We took our old flag banners and ordered 20 new ones and we really need 13 but we are making do with what we have. Mayor Adams mentioned the reason for purchasing additional banners is because they would all match. We would not have someone come and take down this year, but when they are put up next year, they would all be the same. If you wait, the company changes the design so we would probably never get a match. Mayor Adams just wanted them to all look the same. Vice Mayor Truitt mentioned that he did not think they would fade that much. They are \$89 each. Councilwoman Flowers made a motion to purchase the thirteen additional banners, seconded by Councilman DeHaven and unanimously approved.

Mayor Adams just wanted Council to think about something right now. This pertains to the two signs which are on the median on Route 113. You can only read on one side of each side as the sun has faded them. We called the sign company who put them up and asked if they could repair them...they could, but there would be a charge. They did the signs free of charge originally. Mayor Adams felt the colors were so dark they faded badly. Attorney Witsil said but Council paid for the signs, didn't they? Mayor Adams said the company did it free. Councilman DeHaven stated that there is a relatively new process where they can make a decal with the information requested. They can then do a new one from time to time to replace it. He said we may want to check into that process. Should we check with this company, see what they charge and get their price. Mayor Adams feels it awful looking that only one sign can be read. Councilman DeHaven mentioned ordering the decal and maybe it is something Bob can install. Stacey was hoping to have a quote by this meeting. If you look at the sign in the Katie Helm Park, Vice Mayor Truitt stated, those colors look good. Mayor Adams stated they are light colors and tend not to fade. She asked about Mike Hall's name being on the sign. Mike Hall does not live here anymore and has no connection with the Town anymore other than he was once the World's Strongest Drug Free Man. Did Council want that back on there? Vice Mayor Truitt stated that he likes Mike and he is a great guy but he does not have much of a connection to the Town. Chief Toomey said if anything...Home of the Indians would be appropriate since the school is here. Councilwoman Flowers asked if the decision on the Mike Hall

thing needs to be made tonight? Mayor Adams said she just wants Council to consider this information and give permission to get some quotes from the company that first did it...asking about decals and even check with Ad Art and see what price they would do it for. Councilwoman Flowers stated that she did not like to see a Welcoming sign when you are exiting the Town. She did not feel Welcome to Dagsboro needed to be on both sides of the sign if they are exiting...it should say Thanks for Visiting Dagsboro. Mayor Adams stated that if you go from Clayton Street and take a right, you are still in Dagsboro past Savannah Square. That is still Dagsboro. Councilwoman Flowers agreed. Mayor Adams said Clayton Crossing is the last place within Town limits.

Police Department Report:

Chief Toomey gave the Police Report. Chief Toomey has given the Council members a copy of the report. We had 161 traffic arrests, 62 warnings, 18 criminal arrests, 5 local ordinances were investigated; a total of 467 hours, 262 patrol, 94 investigative hours, and 109 administrative hours. Of those 109, 30 were school, Sgt. Litten went to a law enforcement class. There were 679 business checks. There was a total of 62 complaints, not counting local ordinance complaints. We investigated four (4) collisions. On April 10th Officer Ober made a drug arrest which resulted from a pursuit he was involved in and the 2 individuals arrested were charged with a total of eight assorted drug offenses, paraphernalia, possession, etc. Sgt. Litten attended the law enforcement response to mental illness (a course that was offered up in Dover) that satisfied his training mandate as established by the Council on police training. At this point, having just finished going to the Chief's conference, our entire department is fully certified as far as their 16 hours so anything beyond that would be enhanced. We have met our minimum requirements. We also had another drug arrest on April 12 resulting in four charges against an individual. As you all know he is currently working on the cops hiring grant. The federal government and everything is computerized now. It is coming together. Chief Toomey said he wanted to touch on something. He thought Councilman DeHaven was getting to the criminality of our codes and he made a note

about this. He has had a concern about this for a while, we had a discussion about this when Wayne Baker was the Mayor concerning the police department going out and making arrests for code violations, i.e.: someone's grass where they totally refused to mow it and it is a foot tall. He mentioned at that time, probably a couple of years ago the only mechanism that the police department has is criminal summons' and by our code all violations in the code are criminal violations, hypothetically a man can be 70 years old, never had a criminal arrest in his life, and if he is sent there to give him a summons for grass too tall, dog running at large, if he arrests him it becomes a criminal offense. It is just like slapping the cuffs to them...if they have never had a violation before, he has to fingerprint them and do the whole nine yards. He has thought about this before and it is something we need to think about...making our entire code with the exception of one violation, making them all civil violations. Civil violations we write the violation on a criminal summons, just as he would with a normal criminal summons; however, it is a civil penalty. He does not have to fingerprint them or any of that. As long as they pay the fine, it is a civil penalty. It does not count as a criminal arrest so to speak. It does go on their record, like a seat belt violation (they say it is a civil violation)...it goes on their permanent record. It hidden, the general public can't get that, but it is there. Councilwoman Flowers likes that idea. She asked Chief Toomey if they would get a warning to correct the issue if it would get to that point. Chief Toomey stated that we could establish something like that...presently we have traffic warning books. We could make up a code violation warnings. Councilwoman Flowers felt some people would be very upset. If they had a warning that if it was not resolved within a designated period of time, they could get family to help them if they were not physically able or whatever. Chief Toomey said if the entire book stated civil violations rather than criminal violations (with the exception of one charge - if they did not comply with the civil violation, we could charge them criminally with failure to comply. Basically, it would be "failure to answer summons". That would be if they just ignored the civil violation. Then they could be charged with "failure to answer summons". This would carry some weight...they could be taken to court and actually prosecute them. Stacey asked for

clarification as to when this came into play...after the code violation letter was sent. Chief Toomey said Stacey would send the initial letter. The next time, he would visit them with a warning. The next time, he would visit them with a criminal summons. He said a procedure would have to be set up. Councilwoman Flowers said that in the past there were letters set to people saying something was a hazard violation and nothing happened. She can't see the sense of us doing this if there are no repercussions to that person. If you prosecute one person, you have to prosecute every person who violates this code. It has to be fair and equal across the board. Councilwoman Flowers agreed. At this time Vice Mayor Truitt said he had to leave the meeting. Councilwoman Flowers asked about #4 the drug arrests. Was that in vehicles or do we have trouble spots starting in town. These are people passing through. Councilwoman Flowers knew that Frankford has had issues in their Park and didn't know if we were going to have the same problem. Chief Toomey is here when most of the people are at the park on normal occasions. The parking lot is never full, except on Saturday when we were all there. Councilwoman Flowers said that most of the time people come and go and it is staggered. Many times, Chief Toomey, said there are local mothers that are walking their children. Chief Toomey asked if anyone had any questions of him at this point. He just wanted to throw it out about the civil violations. He is concerned about it from his own perspective. He did not want to charge someone with a criminal summons for not mowing his grass, especially if he is capable of doing it. Stacey feels we should post the property anyway, instead of sending \$6.00 certified letters every time. The ones that don't live in town would have to receive certified letters...certified letter have gone up again. It has gone on too long. Once that is concrete, Chief Toomey can call DELJIS and they can put that information from our Code in there. Once it is in the computer we can start. It is getting to the point that the certified letters are getting nowhere. He did not want to get too aggressive. New Castle County had that now. Mayor Adams said they will be sending the information to Attorney Witsil and will be looking at that the next meeting.

Mayor Adams gave a brief overview of Prince George's Chapel Cemetery meeting which was on the 15th. There was a good turnout. They want to be sure the cemetery is being maintained by family members/visitors. They are looking at rules and regulation sign, (it is helpful to anyone having someone interred there). Where there is a sign that states decorations must be removed from Christmas by.... (something to give people guidelines). They are going to come back with ideas.

Mayor Adams asked if we had finished with Hazard Inspection Committee. Stacey wanted to ask Councilman DeHaven if he wanted to get together to discuss some of these properties. He said he could discuss some of the properties, but not one in particular due to ongoing litigation he would be unable to discuss that one. You can ask questions, and if he could comment, he would; however, if not he would let her know that he can't. Stacey and Mayor Adams felt they could pretty well picture where he was talking about. Stacey's comment was that we just write letters and that is about as far as it gets. Councilman DeHaven said possibly the answer is doing away with the criminal portion....Stacey agreed as she could write letters all day and she is all for it. She is sure all of us could name six properties off the top of their head and if you check their file, it is letter after letter...you have until this and until that. In two weeks you are not going to do anything anyway. If you do it with one or two and it will get around town that finally we mean business. We might not have to go through 6. Once they realize we begin to enforce it, it might resolve more. Mayor Adams said that Georgetown has a lot of tenants and their code allows them to go in there. Stacey said they have a housing standard code, about 50 pages long. On rentals it was questioned when this would be done....On some of them every time you get your renewal rental license, you go in and inspect...pay \$125 inspection fee and a \$75 rental license fee. Some will have a first initial inspection and when you change occupants,

it requires another inspection due. There are different varieties of these rules.

Councilman DeHaven made a motion to adjourn at 10:06, seconded by Councilwoman Flowers and unanimously approved.

Respectfully submitted,

Rae M. Long
Administrative Assistant

RML/rl

These minutes summarize Agenda items and other issues discussed at this Council Meeting. Votes are recorded accurately. The recording of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The recording may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.