

MINUTES OF MEETING
DAGSBORO TOWN COUNCIL
BETHEL CENTER 38107 CLAYTON STREET
MONDAY, JUNE 27, 2011

The meeting was called to order at 7:00 p.m. by Mayor Adams. Those in attendance were Vice Mayor Truitt, Councilwoman Flowers, Councilman DeHaven; Stacey Long, Town Administrator; Attorney Rob Witsil; Town Planner Kyle Gulbronson, and other interested persons listed on the Sign In Sheet.

The first item on the Agenda is the Adoption of proposed FY 2012 Water Budget.

Stacey has just passed out another new Proposed FY 2012 Water Budget. This is just the top page. The summary shows that the most recent rate of \$40 as a minimum bill, \$3.00 per thousand gallons limit per month. Average bill, based on 5,000 gallons is \$46 and the average yearly bill being \$552. With our current rates and our expenses, debt service...it is showing a deficit of \$50,404. Delaware Rural Water has been working with her on developing the budget, because over the course of the past year we had that meter installed between Dagsboro and Millsboro (the newer one, that some of us feel is not registering properly) on its way back to Millsboro and for approximately two years we were getting an estimated bill from Millsboro which averaged around \$6,000 a month. Once that new meter was installed this past August (a little less than a year) those fees have practically doubled. We are getting \$11,000 to \$12,000 bills a month. Vice Mayor Truitt mentioned that we were better off getting an estimated bill. Once they put that meter in --- replaced it for which we paid for \$8,700. They put another 12" meter in (this was not from Italy), it is still registering the flow of water the same exact way. We went from having a 2 million gallon a month estimated bill to 4 million gallon actual read. Before we go into the different scenarios maybe we could go through the costs (the expense part of the budget). (Stacey had asked assistance from Delaware Rural Water since this was the first year we had taken over billing, a little meter installation and that type of thing). She had wanted to try to

take some of the salaries and pay through water...that could not happen this year as you see we are in a deficit. Our insurance for the water tower and the small building by the tower, we do have training which comes out of this budget (figures from last year) based on \$100 from last year, subscriptions, professional services, legal services, office supplies, inspection fees, new water services and general government overhead (this is the \$5,650 - we will go over that later). The distribution operation system and maintenance...we could not budget anything for storage tank maintenance, for the purchased water that was based on actual figures from last year, \$88,176; utilities, electric, phone is just the electric for the meter between Dagsboro and Millsboro and the building under the water tower; system equipment actually needs to be lowered; fuel for meter reading, contracted services which is with Artesian...it is \$800 a month and we go over a little, because they do utility mark outs when Ms. Utility is called, Artesian is sent to mark out water lines; if we need a meter installed or something like that and our maintenance is not available, we have to get Artesian to do it; that also includes our Lead and Copper samples and the total distribution system totals \$115,577. Page 2 goes into our debt service and reserve, Stacey said the Delaware Rural Water representative said they like to see 10% and obviously we could not swing that...we went down to 5% which is the \$6,998; debt service principal \$55,531 that is based on our principal payments for 3 loans and the interest \$50,515. This gives us a total of \$113,044. The bottom figure is our total annual system cost \$252,999, and as you can see it is projected out over four years. The next page is our revenues. That is based on four new homes, hook up, connection fees, \$1,935 which is get it in and pay it out...it is a pass through cost; fees for special services and our user fees at \$205,428; interest is \$272; penalties and late fees \$10; and the transfer from prior years which is our ending fund balance from this year being \$40,000; meter fees \$3,000; miscellaneous \$160 which gives a total revenue of \$262,805. There is a surplus of \$9,806. The next page shows the number of connections that we have ... Single family, utility, commercial, agriculture accounts - the total amount of water that went through the meter \$35,637,700 and it shows at the bottom how much we actually sold ... \$17,169,650. This shows that we have approximately 52% of unaccounted for water that we are

paying for. Vice Mayor Truitt asked if there were any known losses---on Water Usage Loss Worksheet - we accounted for approximately 50,000 in donated and flushing which includes flushing, town park town hall, fire department, and they say about 15% is just unaccountable. Vice Mayor Truitt asked.....Does hydrant flushing only take a few thousand gallons...Stacey said that depended on how long the flushing takes. She said the different bill calculations is how the minimum bill usage and their usage...different residential and commercial rates (depending on the users we have on the system). A few of these pages did change as we added in the different scenarios. It shows what we billed from last year through May of 2011 and what our readings were....we went over those figures. If Council wants to look at month to month and look at the figures we are looking at here. The new meter at the Millsboro-Dagsboro connection was installed in late August/early September. As you can see in September we were billed for 4.3 million gallons, but we only billed out for 1.7; October 3.6 million gallons and we billed for 1.3; November 3.7 million we were billed for and we only billed out for 1.4 and it just goes on. At the bottom it shows month by month what the difference is. Councilwoman Flowers said that somebody has to stop the madness....somebody...Councilman Truitt stated that since the new meter has been in it has been more than double. The summary sheet on Page 1, you have Scenario 1, Scenario 2 and Scenario 3. Council may want to consider increasing the Water Rates. We currently are selling our overage water at \$3.00 per thousand and that is exactly what Millsboro is billing us for. We are paying what we are selling it for. When this first came in place we were buying it for \$2.50 per thousand gallons and we were selling it for \$3.00. One year during Millsboro's budget presentation, they voted to increase their rates to \$3.00 per thousand gallons. From that point forward we have been selling it for exactly what we are paying for it. You can see the different scenarios presented...If we keep the minimum bill at \$40 and increased the dollar per thousand gallons to \$5.00 and reduced the minimum gallon allowance to 2,000 that would make the average monthly bill, based on a 5,000 gallon usage to \$55 per month and an average yearly bill at \$660. That will still give us a \$521 deficit. Scenario 2. Increase the minimum bill to \$42.50 increase the rates from \$3.00 to \$5.00 per thousand

gallons, keep the minimum usage at 2,000 that will make the bill for the average 5,000 gallon bill to \$57.50 per month or \$690 a year. That will give us a \$9,001 deficit. Scenario 3. Increase the minimum bill by \$5.00 to \$45.00 and increase the rate to \$4.50 per thousand gallons with a 2,000 minimum gallon allowance for an average monthly bill based on 5,000 gallons at \$58.50 and an average yearly bill at \$702. This will give us a \$1,684 deficit. What Delaware Rural Water recommends is Scenario 2 or Scenario 3. They do not like to recommend rates that are still going to give a deficit; however, we are working toward hopefully rectifying a major problem. Vice Mayor Truitt said keep in mind that these loss figures are based on the current loss of water. If we were paying for what we were billing for all of these figures would go into the positive, even the current. Again, we cannot look at it that way until the problem is resolved and then we will know. Councilwoman Flowers stated that she is in favor of Scenario 1. She feels that Scenario 2 and 3 is going to be too much of an increase and it is not right for the residents to have to pay for water that we are not getting. We need to take some action and do something and not just talk about it. She does not feel 2 or 3 is reasonable. Mayor Adams stated that we have the cost for part needed and we are going to move forward with that. Councilman DeHaven asked if USDA is comfortable with the Town trying to recoup all of this miscellaneous reading from the taxpayers. He wondered what the people in the town would think about us trying to recoup losses for water we are not able to account for. Stacey mentioned that she understood what you are saying; however, she wanted to make it clear that we have to do something we cannot sell it for what we are paying for it. That is a definite major decision that the Council needs to make. We are just putting a band aid on an infected sore and we need to fix the problem. Everyone felt that even if we get the loss under the control. Councilwoman Flowers said you are lowering the minimum...for her a normal bill is \$40...it is going to go up to \$50 to \$55 possibly. \$15 is a lot of money. Stacey said that is based on an average 5,000 gallon monthly bill. If you usually use the minimum under Scenario 1, you would be paying \$45 a month if you used 3,000. Councilman DeHaven asked if there was a scenario that would allow us to keep the minimum bill the same, keep the 3,000 gallons per month the same, but

look at the actual cost of the water from Millsboro and try to recoup some of the loss, that would be an easy way to explain that we are giving away water at cost...you cannot afford to do that. Stacey responded that on the Old Budget in your packet, Scenario 3 would address that. That is increasing it to \$5.00 per thousand gallons. Vice Mayor Truitt explained that we would need \$8.00 so that we would get close to breaking even. Councilman DeHaven agreed that it is starting to edge that way. Vice Mayor Truitt said if we kept it at 3,000 and \$40 per month, we would have to charge over \$8.00 per thousand. Kyle mentioned that he knows that no one likes to pay a lot for water (he cringes every time he gets his water bill); however, your water rate is still one of the lowest in Sussex County. Even at \$5.00 it is still the lowest in the County. Councilwoman Flowers asked how many people are affected and what are we doing about delinquent in paying their water bills. Is there a lot of money outstanding? Stacey responded that the figures are all based on a 97% collection rate. There are not a lot of outstanding water bills (approximately 5% and that is based on the 97% collection rate). If Council decided to increase the rate, it would probably begin next month. Stacey reported that a resolution had to be drafted and it would have to be on the Agenda. We should entertain a resolution to do (your course of action). Vice Mayor Truitt made a motion that we make a resolution to change the water rates on next month's Agenda, seconded by Mayor Adams and unanimously passed. Stacey asked if there were no further questions, the water budget needs to be adopted. She said that she would like to reduce the system equipment to \$5,000 instead of \$13,681. This is on Costs (Page 2) under distribution and maintenance of system...#16 system equipment. When she gave Delaware Rural Water the figures the figure was from last year, but that is high because that is when we purchased the laptop. It should be \$5,000. Vice Mayor Truitt said we should make it \$6,000. Stacey said then she would like it to be stated as \$6,000 and the operation and maintenance would decrease to \$132,274...the bottom line of operation and maintenance. Councilwoman Flowers made the motion to adopt the Water Budget with the stated changes, seconded by Councilman DeHaven and unanimously approved.

Adoption of proposed FY 2012 General Budget:

Stacey presented the Fiscal Year 2012 General Budget. The income is the first half and the expenses are the second. Chief Toomey helped me work on this for the Police Department on the expense side. As far as income is considered a transfer from the Public Service Impact account of \$33,910 which is to cover Phase II of our Park Improvements (our portion). Transfer from the Municipal Street Aid of \$8,000 to help offset Police Department expenses; \$25,000 from Transfer Tax to help offset Police Department expenses; sub-division fee of \$1,000; site plan review \$1,000; annexation \$1,000; change of use \$500; building permit \$13,000. (I based it off of 2011 figures - she did not want to increase it because we are not sure how quickly developments are going to come on board), so she left it in the ball park of what we brought in this past year; sign permits/plot certification fee \$750; business licenses \$11,000; interest at \$2,500; franchise fees at \$13,500; misc. copies/misc. \$1,100; public service impact fee \$9,000 (this is in the same ball park as our current year, that is also based on new construction; the grants Parks and Rec. \$33,910 (their portion), State Pension (that will increase as we have a new officer that will go to \$14,000; criminal justice council police dept. grant \$5,000; SALLE and EDDE \$6,400 bike and foot patrol; County grant of \$22,500; police fines (The Chief helped me with this as well - and we bumped that up as we have the 3rd officer on this year) \$45,000 VAC; Court of Common Pleas being \$4,500; Police Reports \$400; Property Tax \$162,000; Gross Rental Receipt \$31,000; Transfer Tax (again this is based on sale of property and could not be increased as it depends on new construction) \$25,000. This gives us a total of income of \$514,270. On the expense side there are 3 sections of salaries - Administrative is \$69,195 with a 4% cost of living raise that has been included into that figure; Police \$127,195 with a 4% cost of living raise included in that figure; Maintenance Dept. Salaries at \$14,820 with a \$1.00 per hour pay raise (and that is added in - this is an "as needed" position and is based on 20 hrs. of work per week); payroll taxes of all three is \$15,600; overtime for police is a wash from the SALLE & EDDE grant of \$6,400; administrative insurance \$8,600; pension expense \$17,500 - this has also increased for the 3rd officer; town improvement

\$2,000; advertising \$1,000; membership dues and subscription \$1,500; commercial insurance \$18,000; meeting expenses \$250; grass cutting \$14,500; maintenance and supplies \$3,500; office supplies at \$3,200; transfer fees \$500; trash collection \$180; computer maintenance \$250; document management fees \$1,140 (this is for scanning monthly fee and annual fee is included as well); postage \$1,200; rent - port a potties plus rent for Bethel Center paid to hold meetings \$2,000; repairs at \$500; taxes \$500; utilities - heating, electric, phone, sewer \$11,000; miscellaneous expense of \$250; equipment at \$500; park improvements (this is a wash from the grant) \$67,820 (which is allotted for Phase II); supplies and maintenance of \$5,000. Go down to the Police Department - Health Insurance \$25,000; dues at \$150; gasoline we have increased with the third car on the road \$11,500; maintenance at \$2,500; supplies \$1,000; equipment \$5,000 (that will be a wash from the criminal justice grant); computers and cell phones at \$2,400. Professional fees - accounting \$14,000; assessment services (this is our tax assessment fee year) \$6,500; Planning Fees and Building Inspection \$37,000; and education and training is \$500. This gives a total expense of \$512,150. This leaves a surplus of \$2,120. Stacey asked if there were any questions. Vice Mayor Truitt asked about the grass cutting. It is still done by Department of Corrections and has it increased. Stacey reported that it had. It went up by an additional \$100 a month. We have added a few places - U.S. 113 on the highway cutting and a small lot on Canal Street. Councilman DeHaven asked the rationale on the 4% raise increase. What was the basis for that? At one point when town employees do receive a pay raise, it would be at budget adoption. That has been in the past...currently over the past couple of years it has been done at different increments, one person here, one there - instead of doing it as such I put it in as an across the board increase. Councilman DeHaven said his follow-up question is...Where did you come up with this 4% value? Is that based on the previous year's expenditures or is it based on a CPI index or what rationale is that increase based on? Stacey did a spreadsheet of 1%, 2%, 3%, 4%, 5% and listed all of this out as to what the total cost of what these were and 4% was the middle number that kept the budget in a surplus. We obviously could go lower. Chief Toomey interjected that they discussed and showed him the spreadsheet. His rationale in

selecting 4% - was that the State said the Cost of Living had gone up 2% and this year is 3% - a total of 5% in two years none of us has not had a raise in two years which would have been 5%. 4% still falls below that so he felt we should go for 4%. Councilwoman Flowers asked if we adopt this budget, does that mean the raise is included. Chief Toomey said it was included. Councilwoman Flowers stated she would have to recuse herself. Councilman DeHaven said that is one way of looking at the cost of living increase. The other side of the cost of living increase is that those individuals on a fixed income, such as social security, have had zero raises in two years. The cost of living has not gone beyond the 2.15%. Chief Toomey based his opinion on looking at the spreadsheet and he was in favor of the 4%. Councilman DeHaven said that going further, we earlier had talked about the deficit in the water budget and we are going to increase our rates to the rate payers in the town and then at the same time put on the table say that we are giving a 4% raise to our employees. Councilman DeHaven said he is wondering how it is going to be accepted by the taxpayers of this town. There are always unintended consequences and he feels we are opening a real can of worms here. He is just one voice crying in the woods here. Stacey stated that we do have to look at the water department being its own entity aside from the general budget. No income or expenses are utilized from our general budget. We don't take anything out of our general budget of the water department. The water department is technically supposed to be making its own money. Kyle mentioned that Frankford uses a percentage of their water funds towards salaries. He said since you are actively involved in the billing. Stacey had wanted to do that, but until we actually saw the figures, and we are running in a deficit, and we can't do that. Councilwoman Flowers stated that she is not opposed to raises, she loves to get raises herself, but it hasn't been that long since there has been a raise or has time flown. Chief Toomey said he is unsure of anyone else, but it has been two years since the police have received a raise. Stacey said that administrative staff received a raise when our Town Clerk was hired. The clerk has not received a raise since she was hired. Chief Toomey said they had not received a raise and he came in when Wayne Baker was Mayor and presented a scenario that he was the lowest paid Chief in the State of Delaware. It has been two years for the

police department. Now he is the second lowest paid police chief in the State of Delaware. Councilman DeHaven stated that 4% cost of living raise when you factor in recent benefit costs is actually 5.2% in total. 4% cost of salary and 1.2% in benefit costs. It is a total of 5.2% increase to the budget. Stacey reported that those figures are inclusive of that. Mayor asked if there were any other comments or questions on the General Budget? Councilman DeHaven asked if it is imperative that we make a decision on the raise portion of this as it seems to be the major hurdle. Can we move ahead with the revised existing budget minus the 4% and approve that and bring the raise issue back at a later date after more work and study on that issue comes clear. Councilman DeHaven made a motion that the General Budget be adopted with the exception of the 4% raise and reduction in the benefits costs where they are located in the current budget and look at the cost of living raise after more study, at the July meeting, seconded by Vice Mayor Truitt and approved. Councilwoman Flowers recused herself from the vote. Councilman DeHaven said he could help with the research. We may still come back with the same figure, however.

Mayor Adams said the next item was the Planning and Zoning Report: Mayor Adams reported that Mr. Mills was not in attendance and therefore the meeting was over in six minutes. There is nothing to report from P & Z tonight.

New Business: We have a letter of correspondence sent by Carl and Jeanette Spinelli - 28336 Clayton St. (Red Barn Building): To the Town Council - Carl, Jeanette and Anthony Spinelli, owners of the property at 28336 Clayton Street, Dagsboro. For the past five years we have been running an antique, second hand store. Due to health and the economy we have not been able to operate the business in a proper manner. We have decided to retire. We have been approached by a gentlemen that is interested in renting our building for auctions. When we went to City Hall we were told that we could not run an auction as there was not an amendment for an auction in Dagsboro. When we purchased the property there were auctions. People are still coming in and asking if there are auctions. It seems that people are still interested. It seems it would be beneficial to the Town of Dagsboro, if we could once again have an auction here. The gentleman who wants to rent our building has run

auctions for many years and is a licensed auctioneer. Those people are well known in Delaware. We would appreciate it very much if you would consider our application for a new amendment for an auction at 28336 Clayton Street. Thank you for your prompt attention. The Spinelli's Do any of you remember the auction. Several of the Council members did. Vice Mayor Truitt stated that the auction was held inside. He was concerned that there would not be any public address system outside. Kyle asked if they sold antiques in there or was it just an occasional thing. It was sporadic. They announced or posted sale dates. Councilwoman Flowers felt they had to have enough things to auction before they advertised and held one. Mayor Adams said our concern is that the auction would be inside not outside. Kyle mentioned that our code does not have any provisions for a special event. Attorney Witsil stated that it fell under Section 9 of the Town Center - Town Code...it speaks of the general purpose of a Town Center is to meet the needs of a mixed use commercial area, preserve the mixed uses of the town and encourage new construction to be compatible with setbacks and existing structures, strengthen the local economy and further the community's general welfare by continuing a uniformity in the exterior of all structures. Encourage the continuation and small establishment of small businesses, professions and skilled craft occupation in conjunction of occupational usage.

Attorney Witsil stated that Council does not recognize it as a non-conforming use and the second would be we are not considering changing the code...so they would not be able to do it. Attorney Witsil said for traffic studies, etc. they would have to know it is an allowed business to be sure they are compliant with the code. Councilman DeHaven said that makes the business decision on their part...whether they wish to expend the funds to come back and move forward with it as an option. Council has not held them up, they have always had the option to come back and apply for another use. Attorney said that would be before they could politically approach Council. Vice Mayor Truitt stated that if there is a ground swell of support we will consider it. Attorney Witsil felt there should be a motion to authorize Stacey to write back to the Spinelli's to state that it is not a legitimate non conforming use as it has been

abandoned for over a period of over twelve months and that we do not consider it a permitted use pursuant to Chapter 275-21.

Councilwoman Flowers made a motion that Council takes the advice of Attorney Witsil's proposed motion as stated above, seconded by Councilman DeHaven, and unanimously approved.

Hazard Inspection Committee Report: Report and Recommendation for the property located at 33102 Main Street. Mayor Adams asked Stacey or someone on the Hazard Inspection Committee's report to report. At this time Councilman DeHaven recused himself from any discussion or vote on this issue. Kyle stated that Council has a memo from URS attached to the minutes from the Hazard Inspection Committee Meeting. Kyle reported that George, Building Inspector from URS, indicated in his memo that as you know there was not any access to the building. They viewed the building from the sidewalk. From that view of the exterior there are a number of building code violations regarding that property to the exterior of the building. From the photos you can most likely tell that there is water entering the building and the people who took the photos said that mold was a big issue inside. It is definitely not a water tight structure. Discussion took place regarding the structure. Stacey Long reported that URS's response basically said the inspection of the property did not provide sufficient evidence to determine that the property is a serious hazard to life and property; however, the property is in violation of several sections of the International Property Maintenance Code adopted by the Town of Dagsboro, and it lists the violations...the protective treatment, all exterior surfaces shall be maintained in good condition, Kyle interjected that there are visible cracks in the foundation were also visible from the outside of the building, structural, foundation walls, exterior walls, roof and drainage. Chief Toomey said the outbuilding is rotting and is about to collapse, he does consider this a health and hazard issue. This is in back in the barn. Councilwoman Flowers felt this building had been discussed and the building should be demolished, since it is near the park. She did not see it in the minutes, but felt the Council had said they wanted it demolished. Kyle and Councilwoman Flowers had said they wanted that one demolished. Vice Mayor Truitt stated that the strategy was that no permits or business license be issued until the violations have been

corrected. Kyle noticed that around 6 or 7 p.m. last week someone was in the garage doing work on something. He did not stop, but there was something actively going on. Stacey reported that the committee met, walked down and members realized that there were numerous violations and then she read the recommendations which she will add what Councilwoman Flowers recommended. Only building permits that should be issued for this property are building permits that will rectify the violations addressed in the letter from URS. The building official should not issue any permits for any tenant fit outs until the building is in compliance with 2009 International Property Maintenance Code. They also recommend that no business licenses be issued until the violations are rectified and she will add that the building in the rear of the property be demolished. Attorney Witsil stated that there needed to be a finding that the building in the rear (for one reason or another) is a serious hazard to life and property. The committee needs to make that determination. Can they do that without setting foot on the property? Attorney Witsil asked Kyle if George had made a determination on the building. Kyle said he did not feel George was referring to the barn when he drafted those notes - basically, they are on the old garage building. Attorney Witsil said he feels there needs to be a finding and he would like that to be backed up by some....Chief Toomey asked Attorney Witsil and Kyle if this could be forwarded to George as he was there after the inspection and concurred with the assessment, and he must have overlooked it. If George could make that finding and the Hazard Committee were to support that factor, based upon his recommendation to you...like he has given a recommendation on this and your finding after observing it, is that it is hazardous to life and property. Then the Committee can proceed on the next step. Attorney Witsil stated you are just missing the specifics on the rear building (barn). It is pretty obvious as to what you have viewed from the distance. Mayor Adams asked Attorney Witsil if she is correct in assuming that what you wish George to do is to make a better assessment ... In doing what? By approaching that building? She said that that the owner will not let anyone on his property. Attorney Witsil stated then the code authorizes us to go two ways. We can have the problem with the code as it exists is the fire hazard inspection committee provisions are rather archaic in the

code. They don't provide for specific inspection authority in the ordinance. That is why he was reluctant to say you can just walk on with the assistance of the police. The International Maintenance Code, however, does give the Code Enforcement Official, the specific authority to enter into to investigate. There are two ways to do this: the Hazard Inspection Committee can make the determination on what they have seen, and what the camera is able to depict through photographs.....what George is able to provide from his distance inspection as close to it as possible (you can go on someone else's property, if they will allow you) to observe this dilapidated building. He has had the brief opportunity in the past hour to review the International Property Maintenance Code to just authorize Stacey or George to be the Code Enforcement Official, which he did not think we have done in regard to the property maintenance code...have we, he did not see the minutes from that meeting. A Code Official is able to take over from the Hazard Committee's responsibilities. You have the authority in this document. He apologized and stated that this is the first opportunity to review it, because he did not have copies of it before. The Hazard Inspection Committee could send their recommendation and say we further recommend that the Code Official enforce this. He would recommend that we eventually change the code to abandon the fire/hazard inspection committee and just have a brief reference that the International Property Maintenance code is the maintenance code for the Town of Dagsboro and the provisions of it, as amended, shall be enforced by the Code Enforcement Official. It is simple as that. Mayor Adams said then ...Let's do it. Attorney Witsil felt the Council should get rid of.... the other part of this is that the Chief will love this. He may want to ignore it. Article I of Unsafe Buildings authorizes the Police Department or the Chief of Police or the Board of Health to inspect. The Chief of Police may, at his direction, rectify any unsanitary conditions that he deems unsanitary. It is archaic. Attorney Witsil stated that he can fix it next month; however, for now he feels the Hazard Inspection Committee can make a recommendation to the Code Enforcement Officer pursuant to the International Property Maintenance Code to further investigate and take enforcement action. Attorney Witsil felt the Committee should meet again. Vice Mayor Truitt stated to draft the recommendations. Attorney Witsil asked the Committee to include

the rear structure as well. Would that include George being present with them at the meeting. Attorney Witsil stated that George could revise his letter. Discussion took place between Vice Mayor Truitt and Councilwoman Flowers as to when they were off and when they were working, etc. Mayor Adams had a question concerning the building in the back....If he (the owner of the property) says it is an historic structure and he wants to keep one wall(that was how he approached the Mayor a couple of years ago) can we just say that the wall has to go. Attorney Witsil said he just started reading this matter this evening as you were talking about the budget. 102.6 of the International Building Maintenance Code discusses historic buildings - the provision of this code shall not be mandatory for existing buildings or structures designated as historic buildings, when such buildings are judged by the Code Official to be safe and in the public interest of the health, safety and welfare. He did not feel it applies to this structure. Stacey said the owner says he has evidence that it is historic. Kyle said even though it may be an historic structure, the owner would have to make sure it is in a safe condition and make necessary repairs to it. Vice Mayor Truitt said that if the owner claims it is historic, he would have to get some sort of official documentation from the State saying it is. Mayor Adams stated the owner wanted to keep one wall, this was years ago so that he could claim it as historic. It was questioned if it would be able to stand up with the other walls removed. He advised Stacey that she is the building officialshe asked if that is the Code Enforcement Official as well. Attorney Witsil said that the Code Official shall be appointed by authority of the jurisdiction (which means the Town Council). Attorney Witsil stated that he does not know the history of how the appointment was made or when it was made, perhaps next month we can elaborate on this. Stacey stated that she was appointed the Building Official in May of last year. Attorney Witsil asked if she was formally appointed the Code Official for the International Property Maintenance Code provision. Chief Toomey asked is there not an oath required for this as well. Councilwoman Flowers then asked if they needed to meet tomorrow evening or not. Attorney Witsil stated no, but you can make the recommendation. We just have to make sure we have the Code Official. Stacey said it can't be done tomorrow night as it needs to be posted 7 days in advance of the meeting.

Attorney Witsil stated that if Stacey has not been appointed the Code Official, that needs to be researched, it should definitely be on the Agenda for next month. Vice Mayor Truitt asked if they could meet and give their recommendation anyway. Attorney Witsil advised that they could. Vice Mayor Truitt made the motion to officially appoint Stacey the Code Enforcement Official, seconded by Councilwoman Flowers, and unanimously approved. Just to verify --- the Hazard Committee is going to meet to recommend that the rear structure is a serious hazard to life and property. Attorney Witsil said that Stacey has the authority to investigate the outside of the property. If he says no, the next step is that Stacey tells Attorney Witsil that, he will go to the Court and get a Court order to access the property. Attorney Witsil told Stacey that the property owner has to be notified that she is going to inspect and then he can take whatever step he is going to take. Vice Mayor Truitt said that the letter could be drafted to Attorney Witsil stating that they have made their recommendations. If entry is refused the Code Official shall have recourse to the remedies provided by law to secure entrance. Mayor Adams asked if, in the future, the Town has another property or two, and the Hazard Inspection Committee wanted to investigate them, would they go through the same process. Attorney Witsil stated that he would recommend that they abandon the Hazard Inspection Committee and let the Code Official take care of the matter. Attorney Witsil recommended that Council authorize him to change the Code. A motion was made by Vice Mayor Truitt to draft a resolution to schedule a Public Hearing for next month and prepare an ordinance concerning changes in the Hazard Committee and have it adopted to change the Town Code, seconded by Councilwoman Flowers, and unanimously approved. Attorney Witsil stated it is an ordinance and a Public Hearing is not necessary, it will just be an ordinance concerning the Hazard Inspection Committee changes. He will prepare the ordinance and it will be on the Agenda for next month for Council's determination.

Item #3. An ordinance to amend Chapter 275-55 to provide for the charging of certification fees for survey/plat certification. Council has a copy of the ordinance. We discussed this at the last month's Council meeting. Attorney Witsil stated it would be an ordinance to amend Chapter 275-55

of the Municipal Code of the Town of Dagsboro to provide for the charging of certification fees for survey/plat certification. This would be an amendment that simply states the caption of the Section 55 that the application fees, certification fees for a survey or a plat inspection and review fees and performance guarantee. Those other things are already in that section. You would add to that section 275-55 Section c - certification of survey or plat such amount as shall be established by resolution of the Town Council, which you will be discussing next. Vice Mayor Truitt made a motion to accept the amendment of Chapter 275-55, seconded by Councilman DeHaven and unanimously approved.

#4. Resolution of the Town Council to establish a fee for certification of surveys and plats. At the last meeting you had asked that Stacey contact URS to see if they would give us a flat fee of \$125 for the review of this. Stacey checked with Kyle, who said it might be less than that. Kyle felt the best way to do this as fair as possible for the Town...we could cap it at \$125. If it comes in any less than \$125, URS will not charge you the additional amount. Whatever is less, is what the town would be billed for. It would not be more than \$125 regardless of what is involved. Councilman DeHaven asked if this would become an addendum to your existing contract on your fee schedule? Kyle stated that what he would do when we get one of these is when the time is entered it will be capped for \$125. Councilman DeHaven made a motion to accept the revised fee for certification of surveys and plats, seconded by Vice Mayor Truitt and unanimously approved.

#5. Discussion on possibly requiring inspections for rental properties and associated fees. Attorney Witsil stated that he might be jumping the gun on this and perhaps Kyle may be able to help on this. Attorney Witsil stated he had not discussed this with Kyle, but feels the property maintenance code would, as long as the Town requires, all rentals complete, comply with the property maintenance code, he is not sure there is any reason to have any other type of inspection or building code for rental properties, unless Council feels the property maintenance code is not inclusive enough. It was Kyle's feeling that it is

inclusive enough for rental properties, but that the reasoning is municipalities go through rental inspection process is that is the mechanism...in being able to say this is a rental property and we need to be able to come in and inspect it to be sure it meets the property maintenance code and building code. Without that, someone could be renting an apartment and the Town has no way of knowing it. Attorney Witsil asked if we have a rental license.....so anyone who applies for a rental license would necessarily have an inspection. Kyle stated that typically what most Town's do -- is that when a property owner applies for a license there is an inspection that goes along with that and you renew it after a year. Georgetown, after there is a change in tenant, Kyle is not sure how (possibly the property owner has to notify the Town if a new tenant moves in) it seems that there need to be triggers as to when the inspection takes place. Attorney Witsil stated he had never (where he has rented property in Georgetown or Rehoboth) had an inspection where he has rented property...either when he applied for a rental license or when a new tenant comes in. Kyle stated URS does the rental inspections in Georgetown and that is the policy they are following. Every time a rental license is renewed...every year? Stacey reported that Rehoboth's was in there (anyone who became a recent owner of rental property). Kyle reported Georgetown is a special case because you know the situation. He and George had a conversation a few days ago and asked if they thought Dagsboro would be a big problem. Councilwoman Flowers felt recent pictures would give proof that an inspection is needed. Stacey said we could always start out every year and then relax. Obviously, they get it maintained to where it needs to be (where they are maintained properly). By then there would be a new building code. If not, after the first few inspections, they got by....Kyle said in Georgetown if the owners are aware that they are coming to inspect, they go in and do some work to bring it up to code. Attorney Witsil asked if there are any penalties. Kyle responded that the Town of Georgetown is heavy and does not have any teeth to it. He would not recommend Georgetown's as it is difficult to enforce. It is 20 pages of nothing. Attorney Witsil said it is very cumbersome. He seems to be in agreement with Kyle that the property maintenance codes instead of a special rental provision is sufficient. It triggers when the rental license is acquired or annually or with each new tenant,

whatever you think is appropriate. Councilwoman Flowers said she can't imagine when you do know there is a new tenant. Kyle agreed that the best way to do is when you do a business rental license annually. Stacey reported that if we put in the code that with the business rental license an inspection is required. Attorney Witsil said he would have to defer to Kyle that the International Maintenance Code is sufficient enforcement instrument for rental properties. Mayor Adams asked if Stacey or URS would do that. Stacey stated it would be URS, since it would include structural inspections. As the Building Official Stacey said she would defer to URS's expertise. Attorney Witsil said he felt he should draft an ordinance from what the Council needs. Kyle stated that he charges Georgetown \$150 for annual inspection fee for rental properties. Councilman DeHaven asked if that was for per unit. Kyle answered per structure. If you did Crestwood Gardens, Chief Toomey asked, you would charge \$150 for that entire complex. Kyle stated no in an apartment building like that it would be per unit. Kyle said it would be per unit/apartment. \$75 is the present rental fee and URS charge is \$150. Attorney Witsil said that it would be \$225 for an apartment rental unit. Stacey said the owner would then have to pay the 3% gross income rental tax. Councilman DeHaven felt we were creating hurdles that we may not want to create. Mayor Adams asked if we are looking at Chapel Crossing, Cea Dag. Kyle said yes ... Are there any single family home that is being rented. Chief Toomey asked how it would affect say...Clay Hall's house where he rents rooms? Kyle said it would be \$150 to do an inspection for that house. It is above the structure. They are not a living unit...they are just a room above a structure, Kyle stated. Attorney Witsil mentioned we could start out with a draft of \$200 per structure - that would be in addition to the business rental license (\$75). They are paying \$75 rental license, 3% gross rental, and this would be \$200 more a year for the inspection fee. Mayor Adams asked what the Town of Selbyville does. Councilwoman Flowers said she is sure it will be passed on to the renter...their rent would go up. It was determined that would be an approximate 8% cost. Kyle said it is not that much considering the people are living in a safe environment. Councilwoman Flowers stated it is Council's responsibility to ensure the safety of our residents so that is what we need to do. Mayor Adams said that is what we need to do

as they will not let people on their property...we have found that out. Councilwoman Flowers made a motion for Attorney to draft an ordinance for rental inspection to be done annually upon renewal rental license, seconded by Councilman DeHaven and unanimously approved. Kyle asked if our rental licenses are due for renewal at the beginning of the fiscal year. Attorney Witsil asked when Council would like the inspections. Mayor Adams said when they have to come in and renew their license. What constitutes a year, Vice Mayor Truitt asked. Stacey replied January 1st to December 31st. We do not pro rate...if someone applies for a license now, it would be valid until December 31, 2011.

#6. Discussion regarding utilizing the gazebo/future pavilion and associated permits and fees or contracts for special events.

Stacey received a call from someone wanting to get married in the Gazebo. However, we had nothing in place regarding charges any rules or regulations, etc. We are probably going to get asked this more and more all of the time, Mayor Adams stated. Stacey has put together a packet and you will see Park Pavilion use in other towns - Frankford (a first come, first served) but they are working on other arrangements. There needs to be a way of being sure the parties renting are cleaning up after their event. Vice Mayor Truitt said one town requires a deposit for clean up. Kyle mentioned that when something is reserved the State Parks around here have a placard that says RESERVED on it. This is a federally funded park and except for the Reserved Time Frame, you cannot keep people out...it has to be open to the public. According to federal guidelines, it must be a reasonable charge. The park cannot be closed, but a pavilion may be specially reserved with payment and approved paperwork. The Town of Blades has a listing on a permit or application that you have use of the Pavilion or Gazebo; however, the park is still open to the public so that the people are aware of it. Kyle said we could say the Pavilion has a capacity for 40 people. A picnic is not considered a special event --- the reservation would be for a small birthday party or a reunion. If someone makes the appropriate reservation through the town, then it will be enforced that they have use of Pavilion/Gazebo. Mayor Adams said if anyone asked we do not allow Moon Bounce or any of those trampolines. Stacey said she can get together a fee schedule, ,

rules and regulations of reserving. Mayor Adams said Fenwick Island requires a \$100 refundable fee if everything is in order. Kyle said his wife is in the wedding business and she requires a deposit for clean up, but most people find it is cheaper to lose their deposit than to clean up. It was mentioned that even though \$100 sounds high, if we have to hire someone to clean the park, \$100 goes fast. If the inmates were late, you cannot let stuff blow around, Chief Toomey said. Stacey gave the Council some ideas concerning fees -the Gazebo and surrounding area would be one price and the Pavilion would be another price. Considerable discussion took place as to this. Stacey will get some things together and bring to Council at next month's meeting. Mayor Adams mentioned if people were asking for a DJ, music etc. There are homes within close proximity. That could fall under noise ordinance. Chief Toomey said State Law says that if you can discern the noise from 50 feet away, then it is not acceptable. Mayor Adams asked Stacey to get these matters prepared for the next Council meeting.

Old Business:

#1. Review and discuss drafted Rules of Procedure for the Dagsboro Town Council. Mayor Adams said we may not be able to complete this (look at it, take notes, etc) and we may want to look at it at the next meeting. Councilman DeHaven made an opening comment and asked Attorney Witsil if he put this list together...it is a very comprehensive list and, he feels it gives us a good basis. Vice Mayor Truitt stated so far we appear to be doing what is listed and asked if anyone has anything to add to it. Attorney Witsil said he has a correction on his own notes...he is a little uncomfortable with that the Executive Session should be on the Agenda and be properly noticed. Mayor Adams said she agreed with Attorney Witsil, but if you have noticed in Milton they would rush to go into executive session to get out of the fray. She hopes that we were never in a position like that. Mayor Adams asked about the code of dress. 17.3 on the last page. It is there to be able to address it if we ever have a problem in the future. Attire that may distract from the proceedings shall not be permitted. Just take it out as we have never had to use it, but as sure as we take it out

someone will come in a bikini. Everything felt it should be left in. Sentence #1 addresses that Attorney Witsil felt. Mayor Adams said if they walked in with something Vulgar printed on the shirt. 17.2 strike the first two sentences. Councilman DeHaven would like to define (c) on page 9 relative to public comment. That is something similar to all public comments are to be taken before any Council deliberations on the subject being heard by the Council. He would personally like to hear public comments before Council deliberates on any motion. It allows the comments, but it cuts them off. Attorney Witsil stated the only other place we address that is Rules for Public Hearing. Vice Mayor Truitt asked if during deliberations should public comments not be allowed? Councilman DeHaven said he felt their comments should be allowed and give them a reasonable time, but Council has to make their deliberations and move on. Mayor Adams said it should be made note that they cannot come up and join the Council in deliberation. Kyle stated Council should have uninterrupted time. Attorney Witsil stated he would strike the last sentence of Section c, and strike the second phase of the first sentence beginning with "a town employee or sub-contractor during the course of their official duty" and the following for the first sentence "public comment is not intended for the means for a member of the public to appeal a decision made by the Town Council" and insert this second sentence "all public comment shall be made prior to the Council's decision on the matter". Attorney Witsil asked if that addressed Councilman DeHaven's concern. Councilman DeHaven stated that sounded reasonable to him. Attorney Witsil said he would hate to provoke you but he was always so uncomfortable with the time limit; however, it does not need to be enforced...Section 17.6 does invoke the 3 minute limitation or as determined by the Mayor or presiding officer. Is Council comfortable with that? Vice Mayor stated if someone wanted to exceed 3 minutes and the Mayor was comfortable with it, the Mayor has the right to make the determination based on what he has read. Councilwoman Flowers felt that most of the time, it can be stated in 3 minutes. As long as it is at the discretion of the Mayor, it can be extended if appropriate, Vice Mayor Truitt said. Attorney Witsil told Mayor Adams he would make those changes unless there are any others. One edit comment was noted on 4-1 by Councilman DeHaven - toward the end of that

sentence, members of the Council at least one regular business day prior to the scheduled meeting. Agenda for the regular scheduled meeting shall be held for members of the Council at least one business day prior to the scheduled meeting (it normally is)...we would not want to see it on a Sunday. Councilman DeHaven made a motion that Council adopt the Rules as Revised, seconded by Vice Mayor Truitt, and unanimously approved.

#2 Old Business:

An ordinance to amend Chapter 270, Sections 270-3 (A) and 270-16(A) of the municipal code to further define the type for improvement properties that must be connected to the municipal water system and to provide for monthly water service billings for such properties.

Attorney Witsil stated that this ordinance is a work in progress. We have talked about several different methods of requiring hook-ups and finally he said Council directed him to have the threshold be any structure that is improved with plumbing facilities and which is served by the public water system. That is what he has prepared for your consideration. Attorney Witsil asked if Council wanted a specific provision for exemption if the property was disconnected from the sewer system. He was not sure if that was Council's consensus. Mayor Adams asked how Council felt about it. Vice Mayor Truitt said he felt the minimum requirement would be if it was disconnected from the sewer it would be disconnected from the water system. Councilman DeHaven asked if there are any properties which are disconnected from the sewer in town. It was brought to light from the S & J Restaurant property. He had the county come down and disconnect from the sewer. It was ascertained that this property was the only one in that situation. Attorney Witsil stated that no other jurisdictions have that provision. Attorney Witsil said that Dagsboro has no control over the sewer system and that is it. County can say...O.K. disconnect from the sewer system and we would have no control over that. Councilwoman Flowers stated that a person could say they are not connected to the sewer system and we could not verify that they are not. Stacey said the Town could verify it. We have to

request the information. Stacey interjected what happens if Dagsboro Food Rite is connected to the water ...no water is being used, but tomorrow he could lease it and need the water. In the meantime he still has \$60 (large meter charge) and what happens if one of those businesses such as: Savannah Square leaves. It becomes a blank room. Are we going to continue to charge that property owner a minimum bill every month. Vice Mayor Truitt says that is his place. Mayor Adams said she did not see how we can do any other. It is an availability of water. Vice Mayor Truitt said the property is available for rent. Mindz 4 Fashion put their sign up and that was it. They have a meter there and Indoor Construction who applied for a fit out, but never went forward. There is a meter there. They are not being charged for water. Vice Mayor Truitt said this ordinance just deals with properties that either have or don't have plumbing. Stacey reported that this takes care of Craig Banks warehouse...it has no plumbing facilities inside. Attorney Witsil said we started out with all properties (whether improved or not) need to be hooked up. Under this scenario a vacant property would not need to hook up. A warehouse without plumbing facilities would not need to hook up. Mayor Adams wanted clarification and direction on something ---- what are we supposed to do with the drive in restaurant... the S. & J. It has no sewer, but plumbing and kitchen. Stacey asked if Council would be willing to exempt him until he reconnects to the sewer. Someone asked if it was for sale. Mayor Adams felt he was just holding on to it. Attorney Witsil stated the flip side of that is that if a house is in foreclosure or vacant, they still owe us minimum water fees...how is that different from that place. Mayor Adams said the kicker was when he said I am just going to have to disconnect from the sewer. Obviously Attorney Witsil said he did not want to write that in because it would encourage people to disconnect to avoid the water system. If they looked at him and said...where is the water going...if you have no sewer. Vice Mayor Truitt said what if you just keep charging the availability fee. Stacey said he is continuing to be billed...it is a very large fee. He is not getting a \$40 charged it is a \$60 charge because it is commercial (but we don't charge front footage). Attorney Witsil stated that was a decision by the Town Administrator to tell him to file suit. You can continue to charge him...if he does not pay, you can put a lien on the property, but it is always

discretionary, to a certain degree, as to whether you want to enforce the hook up. Mayor Adams asked Attorney Witsil if they could call him and say...Council made a decision you do not have to hookup...but you do have to pay the minimum. We have other enforcement procedures. Vice Mayor Truitt felt Council was being pretty generous in not having to connect...Councilwoman Flowers mentioned that everyone else did. It is \$3,000 that he will not have to pay and Councilwoman Flowers said that others in town did. Because of the sewer thing, we worked on the house as he is living there, Mayor Adams stated. Mayor Adams said we can't force him to hook water with no sewer. Vice Mayor Truitt said ...this way, we are not. Stacey mentioned that with such a fixed income any past amount that is due, she did not feel he would be able to make any payments. Attorney Witsil said that at some point we will have to say it is a lien on the property, if it sells, it sells. Chief Toomey stated the Town could be reimbursed then. Attorney Witsil said if he gets a re-finance. Chief Toomey asked how long does it take to affect a lien against a property. Attorney Witsil stated it is just the filing initially. Vice Mayor Truitt made a motion to approve the ordinance as stated, seconded by Councilman DeHaven, and unanimously approved.

#3. Discussion on Chapter 75-1 (A) and (B) of the Dagsboro Code: Attorney Witsil said...back to the question as to when a building permit is required. Do you wish to think about it another month. Councilman DeHaven stated he is getting closer to liking this, Attorney Witsil has changed the game so to speak, by bringing in the International Property Code and linking it to Sussex County. There are couple of reasons he feels that is a good idea. We have several areas of Town that are directly adjacent to the County: One example that we are all aware of is Stone Lane. We have four homes that are in Town and maybe one or two on the same side of the street that are in the County ...and the opposite side of the street is the County. Those homes in the County are operating under a set of procedures and rules that Attorney Witsil has outlined. Councilman DeHaven feels more comfortable if we would come close to or adopt those same set of procedures and rules for the town people. Then everybody is on the same game plan. The Town then

does not have any special reason to say we are overlooking repairs that may need inspections...we are in agreement that the County has an operating valid procedure that is codified and we use the same code--- the 2009 ICC Code, it makes perfect sense to him that if Council could agree to come close to that or adopt that. He stated he is more comfortable with that scenario now than capriciously taking the ability of the property owners to do repairs away. He has one suggestion - if I could find it. This came from the County Code also, we had a quandary as to how we would define "ordinary repairs". The County has under their Section 62-11 under exemptions - permits will not be required for repairs to structures that will not improve more than 10% of the existing structure. Evidently that is still in the code, or was as of yesterday. That could potentially be an issue we have to look at. Do you want to go that far or overall he is comfortable with Attorney Witsil's. Attorney Witsil stated he needed to correct Councilman DeHaven as he felt Kyle was the author of this. Councilman DeHaven said he stood corrected and thanked Kyle. Attorney Witsil asked if they really wanted to get into percentage formula? He thinks they were concerned about dollar thresholds before ...about people cheating, etc. and who is going to make that judgment? They will tell you to bring money in and then it gets to be a tough factor. Councilman DeHaven pointed it out as it is there. This is Sussex County Code 62-11 and he gave Attorney Witsil a copy. Kyle said they had actually looked at this some time ago as a group. Attorney Witsil stated he was not the County Attorney when this was adopted because he would never have done this as he did not know if the 10% referred to space, money, etc. He could not go along with that one. Chief Toomey stated that his experience is that the County charges a required building fee on fences. He knows people who have been inspected or stopped work because they were installing a fence and on a \$500,000 home unless it is a fence of some magnitude, it is not going to be 10%. Kyle mentioned that every regulation...the IBC differs from that because it says fences not over six feet shall be exempt from permits. He did not agree with this because the reason for issuing a building permit for that you are determining that the fence is being installed in the property location. Stacey mentioned that is a structural thing. It is in the back yard or it is out in the front yard, not in a neighbor's yard, etc. IBC also states that

any accessories structure under 200 sq. ft. should be exempt from a building permit. That is another issue, and he doesn't agree with that, because you could even put the shed in the front yard if you want. Then Stacey would have to go out and say you have to move it. Kyle said we went through this about a year ago...the same list (as he recalled). There a couple of things ...the fences, accessory structures that we didn't agree with and that is the reason we felt they still needed a building permit. This section talks about minor repairs. If someone wants to replace a vanity in their house, they are not required to have a building permit for those things. Councilman DeHaven mentioned that was the reason for wanting copies of these codes, so Council could all have a copy to look at. Kyle stated the things that troubles him about this section... (it is pretty good, the IBC of what things should be exempt), the way Delaware is set up, all plumbing inspections are done by the Office of Drinking Water so it doesn't list plumbing things that a homeowner could do without a permit...like the vanity or replacing a faucet or toilet. He did not feel they should have to get a permit for. That is the only area that is not clear. It is pretty clear about electrical, mechanical and gas, but plumbing is lacking. That might be something where the Town might want to draft something up. Councilman DeHaven stated that plumbing has always been a grey area. There have been more leniencies toward the homeowner to do plumbing repairs except they had to get an inspection from the back end. They had to pull inspection permit so to speak. It seems backward, but that is the way plumbing dealt with it. They allowed you to do the repairs, but they had to sign off on it for the inspection. The Homeowner had to pay for the inspection. Attorney Witsil asked Council if they would like for him to prepare an ordinance based upon these recommendations. Councilman DeHaven made the motion that Attorney Witsil draft an ordinance on Chapter 75-1 (A) and (B) of the Dagsboro Code, seconded by Vice Mayor Truitt and unanimously approved.

#4. Consideration of appointing a Council member to fulfill Mr. Disharoon's vacancy. Mayor Adams knew of a person interested and found out tonight that another person is interested. Stacey suggested that they submit a letter of interest. Councilwoman Flowers asked when would that person be serving until? It was

stated that it would be the end of Mr. Disharoon's term, which would be this December? Attorney Witsil stated that when a vacancy shall occur the position may be filled by a majority vote of the remaining members of the Town Council. Person so chosen to fill the vacancy shall be qualified in the case of newly elected members and shall hold office for the remainder of the unexpired term. A majority vote of the remaining members of the Town Council. Attorney Witsil's advice to Council would be if there are persons interested, they should submit a letter to Council stating their interest and that may be entertained at the next meeting.

Correspondence:

A copy of the Minutes of the Prince George's Chapel Cemetery Committee Meeting on May 15, 2011 is in the packet.

SCAT contacted all the municipalities and asked that a letter be drafted regarding the supplemental municipal street aid funding. We wrote letters to Senator Bunting and Representative Atkins.

Delaware Rural Water gave us a little rate setting story that were put in the packets to read.

We received the Improved Order of Redmen and Degree of Pocahontas Commendation to the Dagsboro Town Hall. The members of the approved order of Redmen in Degree of Pocahontas, the oldest fraternity of truly American origin, chartered by the Congress of the United States, proudly commends you for your patriotism by regularly flying the flag of our Country. In these trying times, your patriotic example lends strength and creates a model for Old Glory and Glorious National Heritage. Presented by the Great Council of Delaware dated June 14, 2011. They absolutely loved the Park when we put the flags up.

Mayor Adams mentioned that the flags the last time they were put up, Bob put some flood lights to cast lights on the flags. You can't make every single flag be lit, but she felt it looked very nice.

Stacey mentioned that while we were on correspondence...in front of Council is Elvin Schrock & Sons estimate for installing a concrete vault with two 6" meters and all the installation and materials ... \$28,500. There is a picture showing the road (off

the road hopefully on the DelDOT right of way or on private property with an easement. The second quote is from Rio Supply for the two 6" meters which is \$27,162.50. We had Schrock base the proposal on the two 6" meters vs. the two 8" meters because with the 6" they can get down to 2 gallons per minute. This is to help better account for our flow of water for the 18 million gallons that we can't account for. Attorney Witsil asked if there was advertising for a Public bid. Schrock is the Town's Plumber. He was awarded the bid and is the only one authorized to connect to Dagsboro's water system. That is why. The meter was not bid. Stacey told Attorney Witsil that they met with 3 different meter representatives, but no one gave us a bid, but this company. Councilwoman Flowers asked what company was it that put in the first meter. Stacey said Millsboro contacted them, Millsboro had them install it and gave us the bill. The first one was from Italy. We got charged approximately \$9,000. Basically, all she had here was the proposals. She was not going to proceed further until she got some kind of response from Council, if this is something Council is willing to go forward with, she would look into getting some grant funding thru different sources. We would have to see about easements, etc. if we decided to put this in. If we decide to go on DelDOT right of way it would be DelDOT, or if we decided to go on private property it would need an easement. He is the authorized Town Plumber. Chief Toomey asked why would we need an easement. Could it not go on the fire company's property where we lease it. Stacey said, No. We want this on the south side of the inter connection meter with Millsboro. We want it on the north side of any Dagsboro connections. We have 15 connections before the water enters the tower. Stacey reported that it goes through Millsboro and when you get to the railroad tracks and have McComrick Insurance and those houses, they are served on that line and then it makes its way up Warrington and then to the water tower and from the tower to the rest of Dagsboro. Stacey reported we need to account for the water prior to the tower. It has six leads coming off of it. It was discussed to meter the water coming out of the tower...but that would not help us account for whatever is ahead of it. That is why we are hoping to do it and a good location would be the Bireley/Hearn property. That acreage, but out in the field. Closer to fire tower road. If the Bireley/Hearn property sells

and is sub-divided and we want that meter in front of how many houses can come into that development. As close to the inter-connection meter as possible Kyle reported. Vice Mayor Truitt said the discussion is how acceptable is this price and is everyone comfortable with it, enough to move things along. Councilwoman Flowers said if this will resolve the issue, it is worth it. If it doesn't, that is a concern she stated. We were told the last meter would resolve it and that just made it worse. Mayor Adams said she has lost sleep over it and she has had people say...do something. But if we do something and, God forbid, it is not the problem. We have got to find the missing water. There is no way we have that many illegal connections, Stacey reported, unless it is like six developments. No matter how much we try, Councilwoman Flowers said, is someone going to see that we fail. The USDA and the Office of Drinking Water would love for us to figure this problem out. We have loans with them. We need to be a self sustainable utility. We have to be able to stand on our own two feet. This system was supposed to be designed to be economically viable from day one Vice Mayor Truitt stated. Stacey stated that we have every professional that we have spoken with and they conclude that this is the problem. We have spent several hours in the field with various professionals - meters have been checked to be sure they are all accurate and legally connected and metered. Kyle reported that the inter-connection meter specifications state the meter itself is not a meter for water application, it is an industrial meter for industrial substances and it states on it that it will not detect anything flowing less than 60 gallons per minute. Councilman DeHaven stated he felt this is a positive development. He has looked at the schematic and it will work. The only question he has is do we have any certification on the quality of the meter and the guarantee it will read the loss as stated the 2 GPM or whatever it is. Is the company providing a guarantee? Stacey asked if he had looked at the specifications attached. Councilman DeHaven stated we are in the 98.5 and the 101.5 efficiency. What you are buying is a point in time, after it is installed and certified that this is the rate determined and our actual usage based on these new installed meters, you would then have a basis to go back to Millsboro with a valid data base. It could be presented that over this point in time, we have determined that the actual

rate consumption is (x) while prior to that it was (y) and then we are looking to talk about (z). We can come to an agreement. If we can't come to that point, we are still hanging out there. Let's just take off this snake right now. Stacey asked what are you suggesting...Councilman DeHaven said he was suggesting that we move forward with finding out with what we need to do to installing these. We know we have to get easements, etc. He would like to see written certification. He sees what the spec sheet says, but that is sent out to everybody. He would think our URS engineers would be comfortable with wanting to look at it too. Kyle asked how he could be 101.5% accurate. That is better than a 48% error. Stacey asked Council if it is their consensus to move forward to see what they need to do to get this moving. In the event we would ever need more water, Councilman DeHaven asked, could that one six inch meter supply? Do we have a manual to open by-pass that we could go through that 12" line? Vice Mayor Truitt and Stacey said the flow that is currently available is currently above what we need. We got the amount of gallons that they can pump to us at any given time, the 6" can handle that, but in the event there is an emergency and we have to get water one way or another, the 6" valve and the other 6" valve on the side can be closed so that it goes right back to the 12" line. Kyle mentioned we could always open up our connection with Frankford. Councilman DeHaven mentioned that if Millsboro gets into a problem where they need the water they can pull the check valve out and it go back to full force. Stacey reported that she has been in contact with Kenny from Millsboro and we told him a little about what we are looking to doing. He (speaking for himself) has no problem with that. We have not officially gone to Millsboro with any formal letter (awaiting approval of Council). Stacey would like to do that as well when we get further into the process; however, she does not know when that would be. What she intends to do at this point is get working on as to where this vault is to be located. What kind of money is available to the Town and come back to you in July with more information. Vice Mayor Truitt asked Stacey to investigate everything that has been said tonight. In that way the grant money, approval of the contracts, etc. Councilman DeHaven said one additional problem that you might want to look at is that between the interconnection now where does our water franchise begin. Are

we all along from the south of that interconnection? Is there a certain dividing line between property line between Millsboro and Dagsboro...on the other side of Thoro-Good Road. Please research optimum locations. Stacey said she is doing that. At this point anything on the south side of the meter pit is ours. If a line breaks on that side, it is us. Kyle said when it was placed there, Millsboro stated they did not want to provide service after that point. In that case, Councilman DeHaven stated, you don't want it too far south in case of future annexation and you might want access. Kyle mentioned that several years ago we had people who lived along Dagsboro Road who wanted to annex to Town; however, there was no way to make them contiguous. Chief Toomey mentioned including State of Delaware (DelDOT Maintenance Yard). Stacey said they do not need a motion...she just wanted directive and approval of Council. This will have to come back next month and hopefully we can have a vote by then. Vice Mayor Truitt said to go ahead and do all the investigating you want to do and Councilman DeHaven said and "give you a well done to this point". Kyle mentioned that when we talked to Kenny a few years ago he stated it would probably be about \$100,000. Stacey mentioned that if you look at it \$60,000 and it appears we are being double charged about \$6,000 a month. In ten months it would cover the \$60,000. Attorney Witsil said when you think about the forensic work that has to be done to prove that we are being overcharged, that should be part of the scope of service rendered to see if it has not been reading properly. Councilman DeHaven said or if the valve wasn't correct for the application it was supposedly designed for. Attorney Witsil said that might give us evidence to say to Millsboro...we now have a smoking gun. Kyle stated that Dagsboro did not have an option as to what meter to put in there. They just put it in and said here is the bill. Stacey reported that this was the second one. Kyle stated the first one for design of the water system. Councilman DeHaven said a question that has been rattling around in his brain ever since this issue started...he is going to put it on the table tonight, as he feels we are as close to the resolution of this as we have ever been. He always wondered why Millsboro never got to the point where they said our contract provides that we will provide 95,000 gallons per day maximum to you. Why did they not come to Dagsboro and said ... You are exceeding your maximum. We are

going to go into a surcharge. They had to know something. He wondered why no one raised that question. Stacey said it had been discussed and wondered if they should rattle this cage. Obviously on the meter we are exceeding the 90,000 gallons per day. Kyle mentioned that when he was doing the annexation for the Armory and they had to get the authorization from Millsboro stating there is adequate water supply, they sat on it for a long time. Faye Lingo called him and said when we have done this before you have always drafted the letter for us to sign. I see the letter that you provided, but I have to say I have issues because Dagsboro is very close if not exceeding your allocated amount of water that you purchase from us. She felt the language needed to be tweaked. Kyle asked how they would propose that we tweak this language. He stated he told her that he did not mean to be disrespectful, but what Dagsboro is being billed for and what you think Dagsboro is using ...there is a big discrepancy there. According to our records there is plenty of water left. So between the two of them they came up with a benign statement that said...if in the future there should be more than our allowed water consumption. Stacey interjected 90,000 gallons a day x 30 days in a month is 2.7 million gallons. As you can see on that water budget, we are at 4.6 million a month. If we exceed the 90,000 gallons, we have to buy EDU's if we exceed the 90,000 gallons per day. Vice Mayor Truitt said based on accepted estimates of water usage x the number of customers we are serving what should our water usage be. It comes very close to what were being estimated for. Mayor Adams stated that hopefully we are about to get to the bottom of this. Vice Mayor Truitt said we should be able to estimate a ball park figure. Kyle said if you look at the number of customers that we have and the billed consumption, you are right on target. There is obviously a problem. Councilwoman Flowers asked if Millsboro could refuse to allow us to do this. Stacey stated no, not if it is on our side. She said we have had to go down to the vault several times during the past couple of months. She has notified Kenny and he has met us down and opened the vault and spoken with different people. He is aware that we are investigating different ways to try to solve it. Councilwoman Flowers wondered if they would have access to our vault...Stacey told her not at all. It will all be ours. Councilman DeHaven said Millsboro has to be notified because we

have to put those two 12 x 16's there. Pre-work can be done, but when we get ready to tap, that will be when they have to be notified. Councilwoman Flowers just wanted to be sure they couldn't refuse us. Stacey mentioned that there is nowhere in our agreement with Millsboro where it states that we have to provide back flow to them and she questioned Mr. Niblett on that. The only things she could think of was CPCN, because it was not mandated by Dagsboro and by Millsboro. It had to be mandated by someone higher up. Councilman DeHaven mentioned that is why every town wants to have a contingency plan to cover that if it does occur. If you don't have a contingency plan you can be left high and dry. Treasurer's Report:

Stacey gave the Treasurer's Report. Council members each received a copy in their packet. A copy of the Treasurer's Report is filed in the Minute Book at the Town Office. A motion to accept the Treasurer's Report was made by Vice Mayor Truitt, seconded by Councilwoman Flowers and unanimously approved.

Approval of Minutes of May 23, 2011:

Vice Mayor Truitt asked if there were any questions on the Minutes of May 23, 2011? Any concerns or corrections? Councilman DeHaven made a motion to approve the minutes as read, seconded by Vice Mayor Truitt, and unanimously approved.

Presentation of Code Enforcement Report & Building Permits Issued:

Stacey reported that there were three (3) permits issued during the course of the month: Dagsboro Church of God (new roof); house on Main Street for a 12 x 16 shed; Serendipity Quilt Shop for a 3 x 5 freestanding sign. One Certificate of Occupancy was issued to a house on Swamp Road; Code Violations - one removal of sign that is no longer in business (Spinelli Hardwood Floors); and two (2) letters of correspondence. One to DelDOT concerning Storm Drains needing to be cleaned out. Letter to the Woodlands of Pepper's Creek to clean out their storm drains also.

Mayor Adams reported that the ditch on Warrington Street has been repaired. Councilwoman Flowers has some concerns on that. It does seem very narrow. Children love to throw rocks in our

town and she is wondering how long it is going to stay that way. She is afraid that the children that like to hang out there are going to damage that. We have waited so long to have it fixed, and she is concerned about that. Chief Toomey asked if they were hanging out again this year. Councilwoman Flowers said it is different kids...younger kids like to come down and play in there and throw things. Chief Toomey has not seen that and asked if were in the evening. Councilwoman Flowers said yes, it is usually in the evening. He will address that to the guys. Since it has been redone, they have not been there as often. She wishes it could be roped off or something...she did not know what we could do. Mayor Adams stated her concern said it does not seem as wide. Kyle stated it appears that what they did is to bring the slope in closer and filled it with rock. That is the reason it appears narrower. It is at less of an angle going down...now it is steeper...sort of an optical illusion. Councilwoman Flowers asked"How secure is that rock". Kyle said there is geo-fiber underneath of it. He is sure they put back fill in and covered it. Councilwoman Flowers said so it would be hard for children to pick them up and throw them. It was mentioned by Kyle and Chief Toomey that they are fairly good size rocks. Kyle said the water was eroding and scooping out more dirt and they made it more of a straight face so that the energy was disbursed over to the other side. The drainage pipe was extended probably six feet. That will slow the water down. Councilwoman Flowers hopes it lasts for years and years.

Police Department Report:

All Council members have copies of the monthly statistical Police Report for May 2011: 228 traffic arrests; 58 warnings; 22 criminal arrests; a total of 527 hours; 298 patrol hours; 99 Investigative hours; 130 Administrative Hours (of that 130 it includes the 4 days Chief Toomey was at the Chief's Leadership Seminar (which fulfills his obligation as mandated by the Council for police training for his annual training requirements): We answered 55 complaints and investigated 4 collisions. Officer Ober had another marijuana arrest that was conducted during a traffic stop/traffic stop. The department as a whole made five (5) local fugitive arrests, which cleared numerous court cases, but a couple of other jurisdictions, which had persons who were locally wanted that we apprehended for

them. As Stacey mentioned earlier when he came in tonight and was going through his correspondence, the \$20,000 from the County is in and that will be deposited this week and when he was going through his e mails, the grant which we applied for...they sent a response stating they were concerned about a couple of things...one the Mayor's phone number and his phone number were the same and the Mayor's fax and his number were the same and if it was necessary to correct. They have received it and seemed to be happy with everything else on the grant. Mayor Adams thanked Chief Toomey for his report.

Mayor Adams reported we had heard from Hazard Inspection

Prince George's Chapel Cemetery:

Discussion of expenses, income of the Cemetery Fund and possible consideration of removing some of the funds from a Certificate of Deposit to cover current and future expenses. We have perpetual care out there and as you all know the Town Council is responsible for overseeing that. It was found that the grass cutting, fixing a hole around the cemetery head stone (the owners were no longer able to be contacted). Stacey also reported that there was trimming of the trees, deep root injections, currently the general fund had to pay for that...the cemetery did not have enough funds to cover it. We had it; however, it is in certificate of deposits. One of the CD's are maturing June 24th but we have 10 days to take it out past the date of the maturity. Another one has a maturity date of July 20th so the recommendation is just to take \$10,000 and put into the savings account for the Cemetery and then put the rest back into a Certificate of Deposit. In that way we can have several years worth of funds to cover the perpetual maintenance (which is approximately \$2,400 a season). Stacey knows that we have the fencing coming up. Some additional signs (Rules and Regulations). Our general fund is going to have to bear the cost if we don't get some money transferred into P.G. Chapel Cemetery Account. Councilwoman Flowers asked if the Committee knows we are doing that and if they are fine with it. Mayor Adams stated they make recommendations; however, the Town pays the bills. They are presented the Treasurer's Report at the meeting and they know what funds are there anyway. A motion was made by Vice Mayor Truitt, to take the money from the CD and

transfer it to Savings Account for Prince George's Chapel Cemetery, seconded by Councilwoman Flowers and unanimously approved.

Town Property/Town Improvement:

Consideration of quote for Welcome to Dagsboro signs in the Median on Rt. 113. As you all know, they are faded out on one side. We contacted Ad Art. Ad Art's quote is for \$970 to remove both signs, sand and repaint on both sides and re-letter and reinstall them. They are taking the signs that are still there and flipping them around. They said the sign itself is in great shape. They are flipping the panels around, and we are not having to buy another sign. He is using what is there. This is the color scheme that is used for the Park. The only thing Mayor Adams is worried about is the sign said "Home of Mike Hall - World's Strongest Drug Free Man"...and if we want that we just need to tell Ad Art...it is green and gold - Indian River stuff. Mayor Adams asked Council if they liked it to say the Home of the Indian River Indians or home of John M. Clayton or General John Dagsworthy, named for General John Dagsworthy. Vice Mayor Truitt, Councilwoman Flowers, Councilman DeHaven said it is certainly an improvement over the dark colors of green and red.....After much discussion and several suggestions, Mayor Adams felt the year established and a little holly leaf would look nice. That way no one can say anything about that. Kyle mentioned that Ad Art did the sign at the Park. Vice Mayor Truitt felt the date was sort of a moot point. 1923 was when the Town was reincorporated. It would have been Dagsboro in the late 1800's. Mayor Adams stated that would it be a consensus of the Council that it will be Welcome to in cursive More and more discussion took place. It was decided they would go with the bottom one that was presented. A motion was made by Vice Mayor Truitt to have Ad Art redo the signs on the 113 Median at the price quoted with date and holly leaves, seconded by Councilman DeHaven and unanimously approved.

A motion was made to recess regular session at 10:51 p.m. by Councilman DeHaven, seconded by Councilwoman Flowers, and unanimously approved.

At 10:58 p.m. Councilwoman Flowers made a motion to re-enter regular session, seconded by Vice Mayor Truitt and unanimously approved.

Vice Mayor Truitt made a motion to increase Patrolman Ober's hourly rate, seconded by Councilman DeHaven and unanimously approved.

A motion was made by Councilwoman Flowers at 10:59 p.m. to adjourn the meeting seconded by Vice Mayor Truitt and unanimously approved.

Respectfully submitted,

Rae Long
Administrative Assistant

RL/rml

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.

