

**MINUTES OF MEETING  
DAGSBORO TOWN COUNCIL  
Bethel Center – 28311 Clayton Street  
Monday, August 24, 2009**

The meeting was called to order by Mayor Wayne Baker at 7 p.m. Those council members present were: Vice Mayor Adams, Councilwoman Flowers, Councilmen Hearn and Truitt. Also in attendance were: Stacey Long, Town Clerk; Rob Witsil, Town Attorney; Kyle Gulbranson, Town Planner; and other persons listed on the sign in sheet.

Mayor Baker stated the first item on the Agenda this evening is the presentation of building permits issued. He asked Stacey to present this information. Stacey reported that the only building permit issued was a tenant fit out for the Better Living Porch and Patios at Clayton Crossing. They have received their Certificate of Occupancy as well.

**Planning and Zoning Report.** Mayor Baker reported that the August meeting was cancelled due to lack of quorum.

**New Business:**

The first item under New Business is the Dagsboro Fire Department's request to be exempt from Town code restrictions and fees for the construction of the new fire department on Railroad Avenue. Mayor Baker asked Attorney Witsil to read their request into the record: A copy of the request is attached.

Mayor Baker said Mr. Cox is present this evening. He asked if Mr. Cox had anything he wished to add other than what has already been listed in your letter. Mr. Cox said that he did not have anything specifically, but part of the reason for their establishing the liaison committee that the Fire Department did (which Al and I are a representative of) was to give the Town input on budget and to establish a relationship knowing that this project was hopefully going to move forward as it has. Basically, it is just to let you know that our word is good and we are a part of the community and are not an outside entity coming and asking for a favor.

Attorney Witsil spoke up and asked the Mayor while Mr. Cox is here....please forgive my reading and then asking questions. Attorney Witsil said the letter implies that DVFD is seeking exemption from all of the applications of the zoning code in reference to 275-7....are you looking for exceptions from set back requirements, height requirements ...that sort of thing? Mr. Cox stated that basically we want clarification because the way it is read in simplicity if you take the commercial section of zoning (which is what that property is zoned for) and you were to go through each line item with a commercial zoning requirements; basically it says that a commercial facility would be responsible to... 275-7 basically says that we are not responsible for it. We understand the Town's goals are and we fully intend (being

the chairman on the project) to provide guidance to the engineering firm and do our best to stay within the guideline, and to build a structure that is functional and presentable on the scale of what this building is going to be. Attorney Witsil questioned if anyone knew at this stage whether variances need to be sought or exemptions are required for set backs. Mr. Cox said there should not be any according to the size of the property. Attorney Witsil said quite frankly to him “exemption from the zoning code” as far as purpose is easier for my clients to look at than “exemptions from necessary set back requirements”. He would be a little uncomfortable telling his clients that the code just doesn’t apply and to construe 275-7 to the fire department’s full advantage if the fire department were seeking zero set back variance. In other words, not having any set backs and exceeding the height requirements. Mr. Cox said they own basically 5 acres. We have an abundance of area. From his understanding with a project of this size most of the code that the Town has mirrors the County codes anyway....there will be very little conflict in the two codes. Is he correct on what he has seen? Kyle Gulbranson said he felt the zoning was quite a bit different from the County zoning. Attorney Witsil stated that there is not too much similarity there between County and Town. Certainly if you are in a commercial district and your purpose is fire department or fire protection that is something that my clients are most likely going to overlook....when it comes to and forgive me as I have read over this on the cheap for the Town. The height requirement is 35’. Attorney Witsil asked Mr. Cox if that was going to be a problem. Mr. Cox stated that from what we have calculated, I do not expect it to be. The only thing the engineering firm has alluded to and they would like to make it look like a fire house ...some possibility of the old hose tower...a piece of it to give it a little bit of structure....that may come to an exemption, but it is not something we are fully focused on as we now what the codes are and the Town’s expectations. We don’t want this to be something that stands out in Dagsboro and presents the community in the wrong light. It is going to be almost dead center of the Town. We want it to represent the community and the fire department as well. Kyle asked if they had selected their engineering firm yet. Mr. Cox stated they had selected the firm and would like to know what they are up against as to design guidelines. Kyle asked if the fire company could submit a plan and if there was some aspect of the code that you could not meet and you needed a variance, would the Town be more comfortable waiving the fee for the variance rather than just giving you carte blanc as to designing what you want. Basically Mr. Cox is asking for discussion, compromise, etc. so that he can take information back to the engineering firm as to what we need to plan for as far as them coming to Town meetings, P & Z meetings. Attorney Witsil he could tell you now that the intent ...the uses within the commercial district are going to be available to the firemen. You will not have to comply with the strict commercial district requirements and if you do...if there is some interpretation or people think you do, I think it would be easier to change your zoning classification. Attorney Witsil did not see going through the code that there are prohibitive clauses, terms or requirements for you. The most prohibitive are the set backs. Mr. Cox said they wanted to know if they had to go through the formal site plan review .... If we need to know what fees the Town is going to expect the fire company to pay. Basically,

the fire company has no money. It is all the community's money that we have held onto and saved to have a project of this caliber. That is where you get into some of the concerns that the engineering firm has and that we have as a committee. 275 says they are exempt and the commercial section says that you must have a site plan review and says you have to have some other things. 275-7 it says we are exempt from 275 as a whole. Attorney Witsil said that a strict interpretation of 275-7 is that you have to be a governmental agency ...it talks about semi-public offices or buildings and that leaves room for interpretation. Attorney Witsil stated in his opinion it is to the fire department's advantage to have an approved site plan. Without that approved site plan, financing might be an issue; determination of what is permitted or not permitted is finalized in the site plan. The issue may be whether or not my clients waive the fees for the site plan review....but he felt if they asked legal counsel for the DVFD, they would want a final site plan review to memorialize the approval. Mr. Cox said that if they go through the County, the County requires a site plan review as well. Is that correct? Kyle stated that if it goes through the Town of Dagsboro, the County will not require a site plan. Mr. Cox said they have not gone through a legal process...they have not sat down and had a lawyer look at the code and compare them. Kyle stated the County would do a code review for construction compliance, but they will not inspect as it is a public building. Attorney Witsil said that he felt Council would have a site plan review stage of this. This would be advantageous to the fire department. Councilman Hearn said if we are dealing with the fire department as a corporation....how can this be a governmental body. Attorney Witsil said that the provisions of this chapter (meaning the zoning code) shall not apply to the installation, construction or erection of governmental building. Councilman Hearn asked what about a Church. Attorney Witsil said Churches are not listed in this. Councilman Hearn found the reading to be ambiguous from his understanding of the term governmental body. I don't know that I know all the definitions of a governmental body, I probably don't, but I am confused by that section. I wonder if there is some way we could clarify that section. Attorney Witsil said it is not too late to consider clarification of it. Mayor Baker said in reading that section, it is his impression that it is simply for land use where as a piece of property that was zoned differently than what the Town would approved to be necessary than because it was zoned AR-1 then we could make it commercial for the fire department, but he did not feel it was the intent that it be excluded from all the codes and all the fees and inspections that would be necessary to that building. My first interpretation was just that...it was simply for the land use itself. Attorney Witsil said that obviously difficult language is governmental buildings serving the public and then the specific reference to fire stations. As he said in the beginning of this exercise, I recognize that the fire station as it is proposed will not be a strictly a governmental building ... it will be a private corporation, providing public service through its fire fighting functions. A real strict interpretation of this provision is that there is no exemption. I think even the most talented of judges would end up scratching their head over this language. It is his job to avoid your head scratching and ultimately the judge's head scratching. Attorney Witsil stated that his comment, "I think it would be in your best interest to eventually have an approved site plan". Otherwise you can't record anything unless

it is approved by the Town. Mr. Cox reiterated that what the DVFD is asking is for a summary as to what the fire company is obligated to in light of the 275-7 existence and the way the rest of the codes are written. Attorney Witsil said a site plan will be required. He stated that if you can meet set back requirements in the code, it will not be an issue. If you meet the height requirement with perhaps a minor exception, he did not feel that was an issue. Certainly the language applicable to commercial type facilities will not be applicable to the fire department. Mr. Cox stated that one of the other things they had a concern about is in the design standards that the Town put into effect, basically everything in there is in reference to a retail type structure. There is nothing that outlined any type of large commercial facility at all. It refers to store fronts and retail type facilities. Mayor Baker said the P & Z probably has a lot of lead way there and if it were a reasonable building and presented to them that there would not be an issue with it or it would be a minor issue. Kyle said he thought the fire company had a conceptual rendering of the plans some time ago (which the Del Tech students have done and are being modified). The dining hall was originally on the south end of the building and is now proposed to be on the north end of the building closer to Clayton Street. Attorney Witsil said Mr. Cox might want to write this site down 275-40 b-3 provides that the Town Council may establish additional requirements for preliminary site plans and the Town Council may waive a particular requirement, if in its opinion, the inclusion of that requirement is not essential to a proper decision on the project. I think that is your built in variance without having to go to the Board of Adjustment. Mr. Cox asked if basically you want us to design what we need with the respect to the Town and come back to the Town and present it. Attorney Witsil said he would not promise anything....it is subject to Town Council's decision. Mr. Cox asked if they should just present what they know is correct and bring it to Planning and Zoning. Mayor Baker said yes...you should follow the code as closely as you can and if you see something that needs an exception and there is no way around it then ... plead your case for your exception and see how it goes. The Town certainly wants to work with the Fire Department in any way they can to make sure you have a good project. Mr. Cox stated that he was surprised at Kyle's statement that the County would not be doing any inspections and he asked how that worked. The Town will have to do the inspections and that is part of the fees that the fire department will have to pay because there will be grading inspections, storm water inspections...a lot of inspections that Kyle will be doing that some of them would have been done previously by the County. Kyle said that when Ocean View built their new police building, that was a public building, County did no inspections whatsoever on that building. They waive inspections on government buildings. Why? Kyle thinks it is a mistake, but it is just their policy. There is just as likely to be an issue as to construction there as there would be in a home, especially in a building where you are going to have the public congregating, you would think you would want to .....schools are the same way. Mr. Cox said that bothers him in some way....it is no wonder they have to replace floors and roofs within the first three years. Mr. Cox also asked for planning purposes does the fire department need to look at the full fee schedule for submission of applications or is it going to be (once we get to the construction phase of the project) and when we bring back

construction documents for review, will we discuss fees at that point? Mayor Baker stated that he did not know yet what the fees would be. Kyle would have to give us a list of fees based on the inspections that he does. We have to pay URS to do those inspections. Kyle interjected that when the fire department gets a little further on design and you know the approximate square footage and everything will be, if you shoot him those numbers, he will be able to give some preliminary estimates of our fees. Mayor Baker said that at this point, he did not feel there would be too much difference as presently our fees are not much more than what our costs are. That is the way it was set up in the beginning, and we want to work with the fire department in any way we can. Mr. Cox asked if they needed to worry about the escrow account for legal fees and such. Will there be a building permit fee? Mayor Baker stated that there will be reviews fees, because when the fire company sends that in Kyle for URS will check for code compliance and things that go with it. He felt that the fire department should plan on an escrow fee being set up. Kyle said one thing that might save money, is that the county may not charge a building permit fee. Mr. Cox said that they are not charging building permit fee, sewer connection fee, or a majority of the fees. It will be a considerable savings there Kyle stated. Mayor Baker asked how many EDU's you are asking from the County for sewer. Mr. Cox said they had not got that far yet. Banquet facility is approximately the size of Millsboro's and there is a visitor locker room, a single member's bathroom (unisex member's bathroom) and another in the administrative area of semi-public restrooms. He was not sure as to what that equates. This is what they are currently looking at. Kyle stated that one of the firms bidding on your project has already called and gotten fixture count and everything, so they can factor in that information. GMB is the one they awarded the contract to. Mayor Baker asked if the Council had any questions.....any comments. We would just have to wait and see what happens. Mayor Baker thanked Mr. Cox.

**Item 2 on the Agenda under New Business:**

**Consideration of deleting the HR – High Density Residential Zoning District from Town Code.** For all intents and purposes the Mayor stated that he did not like the high density residential district code in the Town of Dagsboro. I feel if they want to build it somewhere other than the Town of Dagsboro, I am happy for the County to do that. I think we have been fighting the wrong horse. I feel what we need to do is to look at the HR district and maybe delete it. I am not in favor of dumping several hundred units in the middle of town in a small area. I think we would have a hard time controlling it. He will continue after we get some comments from the persons in attendance. Councilwoman Flowers is opposed to the high density and she knows a lot of residents are too, and would be in favor of deleting the HR. Councilman Hearn asked what happens to those projects which are already approved. If the project is approved, then it is approved. It would have no effect on it. This would only affect future projects or those that sunsetted that are in a high density district and lost their land rights. Kyle stated that the only project that the Town has that may sunset is General's Green. They only have preliminary planning approval and they are going to be out soon if nothing happens there. Kyle's concern would be two developments that are currently under construction that if the zoning category

would go away, you would be creating non-conforming uses and structures. He did not know if that zoning category went away, whether you could actually build a new structure if it wasn't compliant. The only developments that you have currently under construction are the Woodland's and Chapel Crossing....the Highland's is in a state of flux presently. You have an approved site plan, but they are before you again with a revised plan. Your comprehensive plan doesn't state by name the high density residential districts. That is one good thing in your favor .... It is not referenced by name in the comprehensive plan. You make reference to the fact that there are some areas of Town that are more appropriate for higher density development, but you do not specifically identify where they are. Kyle said he has never seen that happen before where zoning has been changed while development was under construction. This would be a legal question. Attorney Witsil said all structures in the development would become non-compliant and your provisions concerning non-conforming uses apply to those structures. Mayor Baker said the Highland's is one which would be HR-Residential. We do have two others....the residential planned communities that are at 10 units per acre. Vice Mayor Adams stated, but if that sunsets....Mayor Baker said even if they don't, they are at 3.72 units per acre as opposed to the or 9.13 units per acre in what we now have in HR-Residential. Vice Mayor Adams said she is 100% behind you, but I wondered if it could not be stricken completely, could you lower the number....the density. Mayor Baker said there is a medium density in Sussex County. I don't know that we are required to stick with any density level at all. Mayor Baker feels we can set our own density level in the Town of Dagsboro. A residential density presently is 15,000 square feet.... 2.9 units per acre. A cluster overlay is simply having 10,000 square foot lots only to have more open space, but the actual density requirement is the same as residential. As far as the Mayor is concerned this is not a problem, and they give the Town of Dagsboro what they are looking for as the type of units we are looking for. He thinks the residential planned communities in a high density residential are the two which need to be looked at. Kyle mentioned that those are the only two districts which allow anything other than single family homes. Attorney Witsil said there are several ways in which you may address this issue. He would think it would be a rather dramatic step to just eliminate HR high density residential zoning in its entirety. You may keep the premise of high density residential zoning which provides for town houses or two family detached or apartment condominiums or cluster development and reduce the units per acre to something you think is more manageable or desirable. Now it is 10....that was probably derived by trying to being similar to other municipalities or the County because they saw projects that were palatable. If this is not palatable to you, then you consider 9, 8, 7, 6, 5.....there probably is good reason to have higher density and I don't mean high density...I mean higher density classifications than just simply residential. It provides for more economical, more reasonable priced housing, and with proper planning it can conserve open spaces. You could reduce the number of units per acre (without destroying the concept of HR—which might be the easiest thing to do). We don't have an MR - medium density classification. The County has AR - Agriculture Residential, they have MR - medium density residential (which usually gets land suitable for up to 4 units per acre). Kyle said Millsboro has

it. The County's high density residential classification in which Attorney Witsil felt the max is 12. We are a little less than the County's maximum allowance per acre. You could eliminate HR and come up with a new MR classification. His job is to let Council know what is doable, but what is the most economical in terms of changing the code and having Public Hearings and that sort of thing. The easiest thing he felt would be to lessen the number of units permissible per acre. Kyle mentioned that would eliminate the possibility of having whole communities with every structure being non-conforming. If there were a situation where a building would burn down, it could not be re-built as it was. Possibly lessening the density might be the way to go. That would be Kyle's fear of eliminating the district in total. Attorney Witsil said it would be non-conforming, but we have provisions of continuation of non-conforming uses. Unless there was a catastrophic loss in that community. The structure would most likely not be non-conforming. It is always tricky when you reduce density because which units are now non-conforming. Even today with a fire, with buildings being built in Town, with automatic sprinklers, the fire would probably be out before the fire got to the point where it would be totally demolished. Attorney Witsil said assuming we get the fire department...and Kyle mentioned and the new building built. Mayor Baker is not as much concerned about non-conforming somewhere in the future as I am....I would rather reclassify what makes it high density, instead of changing everything as you talked about. He did not want to end up again saying that we have (his number is 4) that is ¼ acre per lot is to me a high density use. He does not want to end up there again allowing 10 units to an acre, but yet they would be above height restrictions and still look like condominiums as opposed to duplexes or..... I guess we would have to reduce the number of dwellings in high density residential if we kept the code intact. Attorney Witsil said then you would reduce the number of units per building. Permissible to 4 units per building or some number that mathematically would work and drop it down to....3.9 units. Attorney Witsil said Council can't do anything about it tonight. Mayor Baker just wanted to get some thoughts on it. He called on Councilman Truitt who said he felt the least complicated way would be to lower the density rather than creating a whole new zoning category or even doing away with this one. Probably the easiest way to go would be to reduce the maximum limit. We would still have to deal with non-conforming structures after we passed it. Mr. Baker questioned, "Why". He explained if anything built or approved on a final stage before we pass it is in....they would not be non-conforming. If they were conforming at the time it passed ....they would be grandfathered in. Anything after that would not be. The only question becomes if a developer has a vested right in that property for 10 units per acre and he sunsets, he now has the right to come back. His legal question to Rob is did the Town take any of his legal property. Attorney Witsil said there are other questions that need to be addressed as well. He is not prepared to address that at this minute. Attorney Witsil felt the more difficult question is – rather than number – is where do you draw the grandfathering? Do you draw it at the application for a sub-division or rezoning stage? Do you draw it at who has received preliminary site plan approval? Do you draw it at final site plan approval? Or if you do it at only those who have received building permits? The only thing which would affect the Town of Dagsboro today....everybody that has a

preliminary site plan approval is under the number of units we are talking about anyway. Discussion took place concerning the Estuary (having 17 units)...but Mayor Baker stated the density on the Estuary is 3.4. Minimum lot size is 10,000 square feet Councilman Hearn stated. If you figure 4 units per acre that is 11,000 square feet. Mayor Baker said it is only on high density. The Estuary is not high density. That should not create a problem. The only thing impacted would be high density and the only developments we have are approved and up and running or have final approval. The only thing before us is the Highlands. Everything else is approved ... General's Green is a residential planned community. Kyle mentioned that it is high density/rpc. He has a preliminary site plan approval...this development would not be affected. Vice Mayor Adams mentioned "unless he sunsets, correct". Mayor Baker said he is aware of that. They all have been notified of that. Attorney Witsil read the non-conforming provisions so they could understand: 275-34 and hopefully this should answer your questions about what happens if you do change the code and structures become non-conforming. [ the lawful use of land, buildings or structures existing at the date at the adoption of this chapter may continue although such use does not conform to the regulations specified for this chapter for the zone in which such land, buildings or structures are located, except as otherwise provided in the section – no existing structures or buildings devoted to a use not permitted by this chapter and district shall enlarge, extended, constructed, reconstructed, substituted, relocated, erected, converted to another use or structurally altered except in conformity with the regulations of this chapter for the district in which the buildings or structures are located]. Attorney Witsil said we would have to clean this up because if there were a fire you could not rebuild it. You might have to put in a specific provision of non-conforming uses for the HR District. In the brief time period that existed, those structures that were approved are subject to site plan approval, have received a building permit and are constructed or grandfathered and may be reconstructed in the event that some sort of catastrophe occurs. Attorney Witsil said he has to look at that. Attorney Witsil mentioned people who had made purchases in the belief that they could invest construct and sell...he is sure you would hear from those people. The question is ultimately is whether they have vested rights to the regulations as are presently stated in the code and whether or not with due process and public notice refer hearings and let those people know that you intend to change the code. Mayor Baker did not know of any property in Town that would fall under those guidelines. If so they would have had to apply for a higher density or a different development than what they already have. Kyle just recalled that the Church of God has one small piece of property that has high density ....approximately seven acres; however, they have never submitted plans. Mayor Baker said that is highway commercial. There is one portion in the back where they had wanted to build a senior community. Mayor Baker remarked that was the only other drawback which he saw. That may have to be addressed at some point...if someone wanted to put in a nursing home, hospital or senior care center. These are all probably good, viable projects because Sussex County is getting a lot older. I do not think the Town would be opposed to them; however, that density restriction needs to be looked at for those types of buildings. Attorney Witsil said if that is their concern, a new

classification could be created...Health Care Institutions, Nursing Home.....Kyle mentioned that Georgetown has a 55 and older zoning code....which was for Cinderberry. Mayor Baker was thinking health care, not just 55 and older. What is the feeling of the Council...is there any interest to look forward with this...on the high density residential...Councilman Truitt, Councilwoman Flowers and Vice Mayor Adams said yes they were in favor of looking into this. Councilman Truitt asked what would be the next step. It was on the Agenda for discussion, but not a public hearing. Council members were in agreement to set a public hearing. Attorney Witsil said it needs to go to P & Z first, according to the code for their recommendation. It is a regulation to make a change in the code. Attorney Witsil suggested the Council direct Kyle and him to prepare a proposal and submit that to the Planning Commission for their review. Mayor Baker said he feels Attorney Witsil is correct and thinks it needs to be done. Mayor Baker stated he did not want to end up back having to do it two or three times....even if it takes three or four months to get it drafted, needs to go to P & Z and needs to be brought to a Public Hearing. Councilman Truitt asked when Attorney Witsil draws up a draft, will it be presented at a meeting or put in our package in advance of the meeting. Mayor Baker said the first thing that will be done is that the draft goes to the P & Z. Attorney Witsil said Kyle and he would draw up a draft, you take a look at it and refer it to the P & Z; the P & Z has their meeting on it and then their input and you would schedule your Public Hearing on it. Kyle asked if the first step you are looking for would just be for a reduction in density is that correct? Mayor Baker said if we are going to do it, why not do it all at once. Attorney Witsil said we would have to check other portions of the code. We don't want to change the code and be sure the development, sub-division guidelines or other conditions of the code do not conflict. Attorney Witsil said he could not have a good draft for you in one month....he would appreciate a little more time. Attorney Witsil said he would bring the draft right to Council to have it introduced and referred to the P & Z. Stacey asked if she was correct in assuming that next month's meeting would be too soon. Attorney Witsil would like to get a draft out this week (with Kyle's help)....it is not that complex; he just wants to cover all the bases.

**Correspondence:**

Stacey Long, Town Clerk, said that a few years ago when Clay Hall was the Building Inspector and Code Enforcement Officer, there was a permit approved Permit #633 for Alva Pantall...this letter requests an extension on that permit and it is a minimum of 4 or 5 years old. They had built a home in Prince George's Acres on King George III Street and received 4 of the 5 inspections. Inspections for fitting, foundation, framing, insulation and energy (inspected back in 2006) and they never applied for a final inspection, they were waiting for sewer to be put in the development and PGA just received sewer for their back lots just recently. They are now ready to move forward and finalize that house and get a Certificate of Occupancy. They are asking for a 3 month extension on their building permit. They have paid their \$3,000 for impact fee for connection to our water system. Elvin Schrock, the Town's Plumber, is going there one day this week to install a meter pit and connection. They want an extension instead of going back through the

permitting process just for a few items. Mayor Baker asked Kyle.... how long it would take to do a final inspection? Kyle reported approximately ½ to ¾ of an hour. The Mayor did not want to do anything illegal. Attorney Witsil said pursuant to 75-7 of the code, he feels what Stacey is requesting from Council, is not a decision of Council, but to authorize her since she is the code enforcement officer. The code says work on the proposed construction shall begin within 6 months after the date of issuance of a building permit.....where the permit shall expire unless an extension of time is granted in writing by the building permit officer. Attorney Witsil felt Stacey is just asking for your concurrence. Mayor Baker mentioned that the fee structure was a lot different then. Do you have any idea what we collected on a building permit for them? Stacey reported \$391. We have done four inspections. There was not a received date on it ---- Clay Hall was Building Inspector for a year (approximately 3 years ago before this Council took office). There has been a 3 year time span when the building permit was not active. Mayor Baker made a suggestion for the Council that rather than going through the permitting process, we draft a letter stating that because the permit has been expired for over 3 years, the town will require a new inspection and a final inspection ....if they are willing to cover those fees, we will eliminate the reapplication and that fee would be URS's fee and make it a more detailed inspection. The house has been sitting without heat or anything for three years. Discussion took place among the Council member as to what conditions might prevail.

#### **Presentation of the Treasurer's Report:**

Mayor Baker made note of the fact that tax bills have gone out and money is being received.....even though it looks as though we have a lot of money, let's still be frugal. Stacey reported there is a budget analysis to date (July 1 to today). Please let Stacey know if you have any questions. It is hard to get all of that information on one page. A report of each account was given and incorporated into these minutes. Upon motion of Councilman Truitt, seconded by Councilwoman Flowers and unanimously approved the Treasurer's report as presented.

#### **Approval of Minutes:**

Councilwoman Flowers made a motion to accept the Minutes of the June 22, 2009 Council Meeting, seconded by Councilman Hearn and unanimously approved.

Approval of Minutes of July 27, 2009. Councilman Hearn made a motion to accept the Minutes of the July 27, 2009 Council Meeting, seconded by Councilman Truitt and unanimously approved.

#### **Standing Committee Reports:**

##### **Police Department Report:**

Police Department Report was made by Councilman Hearn, Police Commissioner. Commissioner Hearn stated that everyone had a copy of the Police Report in front

of them and he read the following: Miles driven - 3,348; Total Traffic Arrests – 193; Total Traffic Warnings – 39; Total criminal arrests – 10; Total local ordinances – 11; Business License Checks – 5; Total Hours – 362; Patrol Hours - 244 <sup>3</sup>/<sub>4</sub>; Investigative Hours – 60 <sup>1</sup>/<sub>4</sub> - Administrative – 57; Business Place Checks – 463; 45 Complaints handled.

Criminal incidents have seen a marked increase this month. Sgt. Litten investigated a fugitive situation which resulted in arrest on an adult on 3 local fugitive warrants. Sgt. Litten also arrested a subject on connection with Bodie's burglary and has warrants on file. Chief Toomey arrested juvenile for shoplifting at Bodie's and apprehended a fugitive for DSP. The department is currently investigating a robbery which occurred at the Clayton Theatre. At this time, Councilwoman Flowers just wanted to say that she is just so thrilled with the Police Department. She thinks they are doing a great job, she loves that they see them out there. They are so visible.

#### Hazard Inspection Committee:

Mayor Baker wanted to stop at this time (he did not think this Committee even existed any longer); however, he came across a situation recently ...and this question would be for Attorney Witsil. It was in another local town, where the code enforcement officer goes out and does things by virtue of that is his title and he does what he can do. Even if they have a rental property in town, that person has a right to enter that property, do an inspection, you have to make mandatory repairs, even down to painting a building, putting a light bulb in, and anything along those lines. He guesses he wants to mention that we have had issues with several buildings in town over the years and have not been able to get the teeth or put teeth in motion to make it work. In as much as Mayor Baker would like to be legally correct....if other towns can do it, we have to find a way to be able to do it also. Mayor Baker asked Attorney Witsil if he forwarded some information concerning this matter, would he be able to compare the two and see what we have to do. Attorney Witsil said yes, sir. Mayor Baker felt that he did not feel it was necessary every time they wanted to do something, send a letter....wait 10 days....we have attractive nuisances, windows broken out, things which might invite children or vagrants to migrate toward that property. He feels there should be a way to move in a timelier manner to take care of these things. Attorney Witsil said in his opinion that the code is rather antiquated on these matters and the provisions may need to be changed. The Mayor would like to start moving in that direction, because if we had a rental inspection agreement, some of the concerns which have come up about utilization of some of the buildings in town could probably be done away with, if that type of inspection was possible. It would also alleviate the problem of some of the rental buildings in town being rented which are not safe. We will forward it to Attorney Witsil for his review.

**Town Property/Town Improvements:**

As we are all aware, the Town is getting a new clock, provided by NRG and we will have the dedication in September. We would like the Council members to be able to be to the dedication. Please give your input to Stacey. There are a lot of people who will be involved in the dedication of it. Presently the wiring is in the ground, the hole is partially dug, and Bob should have it completed tomorrow and concrete poured by Thursday or Friday. If all things go well, it is something we need and something the Beautification Committee has worked toward and we would like everyone to be there.

**Prince George's Chapel Cemetery:**

Mayor Baker asked if Vice Mayor Adams had anything to report on Prince George's Chapel Cemetery. Vice Mayor Adams said she needed to ride out there as there may be some boards down from the fences. Mayor Baker said there were none down a week or so ago. He usually just stops and puts them back up. Councilman Hearn said that is the easiest thing to do. She also mentioned that she would need to defer to Councilman Hearn concerning the Gypsy Moths in the trees. He said since it has been dry previous years the branches some people have reported dead growth, but he is not an arborist, but feels they may be dying because of drought. He did not see any indication of leaves stripped and did not feel they were Gypsy Moths. Vice Mayor Adams asked what about pieces of trees falling. She informed Mayor Baker that any trimming, etc. would need State Approval. Councilman Hearn mentioned the tree in front of Linda and Calvin Ward's house and said the tree is being choked out by vines. Someone will contact the State to remedy the situation.

Mayor Baker asked if there was any thing else Council wished to discuss. Councilman Hearn made a motion to adjourn, seconded by Vice Mayor Adams and unanimously approved. The meeting was adjourned at 8:20 P.M.

Respectfully submitted,

Rae Long  
Administrative Assistant

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.