

**Minutes of Meeting
Dagsboro Town Council
Police Dept. – 33134 Main Street
Monday, September 26, 2011**

The meeting of the Dagsboro Town Council was called to order at 7 p.m. on Monday, September 26, 2011. The following were in attendance: Mayor Adams, Vice Mayor Truitt, Councilman DeHaven, Stacey Long, Town Administrator, Attorney Witsil, Town's Attorney, Kyle Gulbranson, Town Planner, and persons listed on the sign in sheet.

New Business:

1. Consideration of request from Bireley/Hearn group regarding the extension of the water connection deadline. We had that piece of correspondence last month. Mayor Adams asked if any member of the Council needed to be brought up to date on that again. It is still the same. She mentioned it is in Council's packet. She asked if there were any questions and if not would Council like to make a motion on this item. Councilman DeHaven asked if Attorney Witsil is comfortable in allowing this. Attorney Witsil asked Stacey how many occasions have we extended things. Stacey reported we extended this for six months from the original date. We have exempted the warehouse on Hazard Street. We have extended the house in front of Chapel Crossing (owned by Chapel Crossing). There are three left which are not hooked up to the water --- one in foreclosure, the Bank feels this is not their responsibility – it is in limbo at this time, until we decide to proceed forward; the second one has just been sold to a new homeowner – the new homeowner has just been given the information - they will be contacted this week. They were given the information upon purchase and they have not made any attempts to move forward in connecting to the system; however, all fees are paid. She will begin the Town's proceedings on that by trying to contact them again; the S & J Restaurant where a letter has been sent to the owner last week. It was basically stating that according to the code this property is required under the ordinance to connect to the water system. We notified them that if he would like to submit a letter requesting an extension or exemption until anything further moves forward on that...whether it be demolished, if it becomes a business again or inhabitable. The homeowner has called back and wanted to talk to her and they have not gotten to talk to each other yet. Attorney Witsil said in this case (Bireley/Hearn) they are looking to demolish the house. He stated he is never comfortable disregarding the statute entirely, but if you want to use the variance procedure, it is okay.
Councilman DeHaven asked if they had pulled a demolition permit yet? Mayor Adams thinks the reason that has not happened is that they are cleaning the house out. The permit is valid for one year. Stacey said possibly this could be made a condition of the extension, that they pull the permit and begin the procedure, and they will have until this time next year until the permit runs out. Attorney Witsil said we should give them until December 31, 2011. Vice Mayor Truitt made the motion to extend the water connection deadline until December 31, 2011, seconded by Councilman DeHaven and unanimously approved.

2. Resolution adopting an All Hazard Mitigation Plan for the Town of Dagsboro, Delaware.
Mayor Adams asked Attorney Witsil if he would like to explain this; however, she felt it was self-explanatory. Stacey said everyone has received the Hazard Mitigation Plan updates –we had adopted the original plan (2000) and the County has recently revised it. Kyle stated that you either have to adopt the County's plan or create one of your own. He did not feel the Council would want to do that.

There are a couple of contact issues and she has contacted the County giving updated information. She stated that this was submitted to them during the hurricane. It may have just been put on the wayside Councilman DeHaven said that he is comfortable with the County's plan and we did not need to reinvent the wheel. He was surprised to see that we did not have a Flood Mitigation Plan and would like to see Council work on that in the future. We are one of the few that does not have it. Kyle noted that we do have a Flood Mitigation Plan per se, but your Flood Plain Management ordinance does have precautions that excludes building in certain areas. You have one in spirit (Kyle stated) but it does not have the technical name to it, you could re-name it. Chief Toomey reported that when the Governor presented the State of Emergency during the Hurricane, we were excluded from that....Pepper Creek and Vines Creek only came up so far and it only came up Vines Creek to the bridge. It was reported that we got approximately 8 inches, but it was so dry that it soaked right in. We were not included in the flood zone for the evacuation order. A motion was made by Councilman DeHaven to adopt the resolution as drawn by the County, seconded by Vice Mayor Truitt and unanimously approved. Stacey asked Council to please sign the paper she handed out.

3. Set Dagsboro Trick or Treating date and time. Stacey reported information of some of the surrounding towns as to when they would be holding Trick or Treat. Frankford – Saturday, Oct. 26 from 4 to 6, Millsboro – Monday, October 31 from 6 to 8, and Selbyville – Monday, October 31 from 6 to 8. A motion was made by Vice Mayor Truitt to hold Dagsboro's Trick or Treat date on Monday, October 31 from 5 until 7 P.M.
4. Consideration of purchasing a pavilion for Town Park through Division of Parks and Rec. grant. Mayor Adams asked Kyle if he would describe the pavilion for the Town Park and asked Stacey to chime in also. Stacey gave some background information. Some of you will recall on March 28, 2011, Council was informed that the Town had been awarded \$33,910 from the State of Delaware, Division of Parks and Rec. for Phase 2 of the Town Park, which means the Town will have to match that amount. The total would be \$67, 820. The money requested was for installation of a picnic pavilion, benches, pathway, bike rack, and other improvements. Brian Lewis, of West Recreation gave us 5 quotes for different picnic pavilions in sizes and materials. Council has a copy of these in their packets and once a pavilion has been chosen, it will take approximately 8 weeks from the order date to receive it. It will take about 4 to 5 days for installation on site. The quotes include the concrete pad and the company stated if we desire electricity in the pavilion, they will run some conduit and electrical sockets and lighting fixtures in the top or sides. If we decide to electrify it... all that will be needed is for an electrician to hook it up. Kyle asked if that was included in the bid quotes.....Stacey reported that was extra and she wasn't sure if we wanted to go that route in getting the bids. Kyle then reported that they had selected five types of pavilions and got quotes for all of them. Four are pre-fabricated metal and are vinyl coated. The last one on the list is a manufactured wood product. When you go through the bids you will see there are quotes for 20' x 30' pavilion and a 20' x 36' pavilion. It does not seem to make that much difference. One of the things you need to discuss is the need for the extra six feet of area is worth the cost. The cost of the pavilions is substantial when you include the installation and the concrete pad. Mayor Adams asked what the size of the one in Cupola Park is....Kyle thought it might be 20' x 36' and Frankford's is about 20' x 36' as well. Kyle felt the 20' x 36' would fit the location better. Councilman DeHaven asked what is his recommendation for construction materials. He would go with all metal and vinyl. They got a quote on the pre-fabricated wood because they felt it would be cheaper, but it turned out not to be that much cheaper. Stacey said the most non-maintenance one would be the metal and vinyl pavilion. Chief Toomey mentioned the electricity and that he would vote against it

because (1) sound systems can be hooked up at that point, if you put lights out there, we are talking night parties, kids going out there, switching on the lights and deciding to spend the night and that type of thing. Stacey submitted it might be a good idea to have a few receptacles put in but so that no one could use them without the Town's permission. According to the Rules and Regulations that were adopted last month we set a fee for people who wished to use electricity, it would be more. Kyle said lighting can be good and it can be bad—if it is dark people may not hang out there or they may hang out there. If there is lighting, Vice Mayor Truitt mentioned, you can see if people are hanging out there. Floyd felt it encourages people to stay longer if it is a normal situation. Kyle mentioned a motion detector light and Floyd agreed with the idea. Mayor Adams asked if there was a way to have electricity and so that we would have to turn it on. Stacey said it would be in a lock box and the Town would have a key to open it. Anyone can't just go down there and flip a switch and turn the electricity on. It was suggested that the receptacles be in the locked box and in that way it could not be vandalized. Chief Toomey stated that the motion detector lights should by-pass the lock box and would be more appropriate. In that way when their event was over, they could just shut off the electricity. Councilman DeHaven suggested that they deal with the electrical issue separately so as not to mix apples and oranges for the bid. Stacey mentioned that it would be cheaper if the company did the work. Vice Mayor Truitt said the company should be made aware of the way we wish the electrical system to be addressed according to our specifications. Once they have our specifications, they need to submit a quote on the cost of doing it to our specifications. They felt the 20' x 30' would be appropriate with the electrical information.....they asked Stacey to check with the company to give a quote with and without the electrification. Stacey asked if the green roof and tan posts (which is the color scheme of the Park) is okay. Kyle said we did some cost estimates with the trail and the pathway up to the pavilion and depending on what is decided upon here are some rough estimate quotes: fine crushed stone \$4,500; paved pathway (thick bituminous concrete) about \$8,000; and if you wish to continue with pavers like what is around the playground it would be approximately \$38,000. The other thing we are waiting on is to see if we have been approved for a wetland grant (esthetically pleasing wetland in the lower corner, where there is already a drainage problem). The water lays there and does not go through the drainage like it is supposed to. If it comes through, we will be able to build part of this trail with those monies. We are waiting to see what happens and the decision should have been made at their September meeting and their August meeting was canceled due to the hurricane; therefore, they are a month behind with everything. You may have some additional funds to do some of this work. Chief Toomey asked if they had looked at the application they use for the cross walks? Kyle stated it is a possibility that would work....it is asphalt and the brick application is a type of plastic. The surface is heated and it is melted into it. That seems to work if you are doing straight lines, but the pathways are curved and it could look awful if it wasn't done. The angle needs to be just right. With the trail system we are proposing a loop up the hill to the pavilion and having a multi-use access down to the street and the sub-division in case the town needed to get a vehicle up to the pavilion. It could be a pathway and a vehicular access road. The pathways are six feet wide. The vehicular access would be eight feet wide. Kyle stated the prices are sort of up in the air....not knowing what Council would like and whether or not we get the wetland grant. You should see revised numbers as time goes on. Next month there will be pictures and revised quotes including electric and things you talked about tonight. Mayor Adams asked if the stone option would be loose stones....Kyle stated it would be compacted crushed stone. It might become a maintenance problem with grass cutting and keeping the edges intact. He just threw out a range of prices so you would know what you are dealing with. Depending on the pavilion you selected and the size...you can always put the stone base down and pave over it later....if you can't afford it all at one time, and that would be an option too. Stacey reiterated what she would be asking

West Recreation for: a 20' x 30' pavilion all metal/plastic coated, green and tan color scheme. Vice Mayor Truitt said to let them know we would like a lighting circuit and a separate utility circuit with a lock box on the utility circuit. Kyle said they could bring the chart with colors (the color would not affect the price). Stacey mentioned getting color renderings for what has been discussed. Vice Mayor Truitt stated that the only thing with the color white is that it shows up nicks and marks, etc. She will bring the book. If the decision is made we can communicate the colors by e mail. Mayor Adams wanted Stacey to put this on the Agenda for October.

5. An ordinance to amend Chapter 270, Section 270-6 of the Municipal Code of the Town of Dagsboro entitled "BOCA Plumbing Code Adopted" by deleting the section in its entirety and by adopting in lieu thereof requirements for the acquisition of a plumbing permit for all plumbing installation.

Attorney Witsil stated our Code referenced the BOCA Code, now we are simply adding to a portion of the International Building Code and our Code (County standard) just to reference....the work must be done within the State of Delaware Plumbing regulations and must be inspected by the State of Delaware by the Planning Inspector and must be in compliance with Chapter 270, section 270-6. Vice Mayor asked if it included repairs. Kyle said he felt the amendment which was discussed last week exempted repairs from the building permits (minor plumbing such as replacing a faucet, etc., not the extension of pipes). Stacey mentioned that 270 of our Code now references the BOCA Plumbing Code where it needs to reference International Property Maintenance Code. The BOCA Plumbing Code does not exist anymore. The permitting part is in an entirely different section. If a plumbing inspector is required what is the cost on that? Councilman DeHaven said it would be a \$100 permit fee, whether it is a licensed plumber or a homeowner it is a \$100 fee. They perform the inspection and they charge for re-inspections if you fail. We are permitted to access that database as we are a government function. We do not need to go to the property, if they say they have a permit and it matches the database, and they say they had a real inspection and certified and it shows up in the database we are good to go. This also applies to electrical work. He had called and confirmed that between meetings. We have two means of access....(1) FOIA request as it is public information and (2) since we are a government entity we can access that database information. On a monthly basis....you can't just call up and ask if someone has a permit and get it any time. As a government entity you can have it set on a monthly basis and have them send it or e mailed from the database. Stacey asked which government entity should this information be received from.....public health and electrical inspectors' offices. They are both County offices in Georgetown. Each month we could get information on who has pulled permits, and correspondingly when the inspection has been completed. That will show up on the database and who did the inspection. We do not have to duplicate efforts that way. Mayor Adams asked if there were any other questions or concerns. Councilman DeHaven moved that we accept the provisions from Chapter 270 as written, seconded by Vice Mayor Truitt, and unanimously approved.

6. Consideration of accepting HVAC, lighting, and insulation bids for town Hall and police department through Energy Grant awarded to the Town of Dagsboro.

Stacey reported that the Town of Dagsboro was awarded \$25,000 through an Energy Grant where the energy audit was conducted earlier this year. It was paid through the State of Delaware. A firm came in and did an energy audit and it was recommended through this audit (if anyone has any interest, they are welcome to read the report and she can send it by e mail). It was recommended in this audit that we add additional insulation, both in Town Hall and Police Department....below the crawl space and ceiling in Town Hall. Central Heating and Air, because now we have hot water, baseboard heating in there and to do away with that and put central heating as well where the duct work is already completed. It was also recommended that we have more efficient lighting. Solar panels (having been

in contact with the gentlemen from the State we have such a small area where solar panels can go...he suggested we move forward with the other recommendations and any money left can proceed with the solar panels. Vice Mayor Truitt asked Stacey if she said the old water based system would be removed....correct? Stacey said we have met with a couple of different people trying to get some bids. It was asked by one of the contractors if we wish to keep it or have it removed and Stacey asked about getting it removed. Vice Mayor Truitt said heat pumps are good, but if it gets bitter cold they don't go far enough to keep the temperature. Councilman DeHaven said there are new HVAC systems called hybrid systems that have a central processor that will work with your current heating system when it goes below a certain temperature....so that it would cut into the current system and kick it out. Vice Mayor Truitt said that should be part of the heat pump bid and that way you could still utilize your current asset. Would any member of the Council be interested in speaking with any of the persons with whom they have been in contact. Stacey was asked to get a price quote on a hybrid control system for the heat pump to work with our original system. More discussion took place by the Council members. Stacey said they are doing some work in other towns on this energy grant. There are certain requirements/guidelines that must be followed because it is grant money. Blevins Insulations and Delmarva insulation and we have contacted two electrical companies and have not heard back from them. Stacey stated she had contacted Attorney Witsil and since none of these contractors will be paid over \$10,000, this does not have to go out to competitive bidding. She believes the bids we have now are sufficient. We are, however, not comparing apples to apples. Our energy audit basically said any HVAC system and it gave different recommendations as far as thirteen seer, fifteen seer. One contractor said the fifteen seer is overkill and he quoted us on thirteen. Chief Toomey said he thought thirteen seer was standard. Kyle said it is a small building. They are not bidding the same thing....I would like to go back and give them ample opportunity to quote us all 15 or all 13. Kyle suggested we use 15 as if we do 13, it would run more frequently. Stacey said she did not feel she had enough information for Council tonight and she wanted to wait until next month and come back with more equal bids.....we have until September 2012. Vice Mayor Truitt asked what kind of bids have you received. She also wants to contact the Energy Office about additional work, since we have \$25,000 to spend and we are well under that figure. She will try again to get up with some of the people and get more information to bring to the next Council meeting. We have to make monthly reports to the Energy Office regarding the work in progress as completed.

7. Consideration of accepting landscape plantings bid for Katie Helm Park and Main Street through Dept. of Forestry Grant. Stacey informed the Council that the Town has applied for an Urban and Community Forestry Grant for \$3,000 for tree planting. I have been notified today over the phone that we have officially been awarded the grant funds for \$3,000. The focus is going to be Main Street and Katie Helm Town Park. On Main Street we are going to have the removal and replacement of the ten cherry trees which were planted through Streetscape that are either dead or in poor shape. They are to be replaced with crape myrtles. In Katie Helm Park there are six Eastern Red Cedar Trees that have died which we planted through an Urban Forestry Grant a couple of years ago. They will be removed and replaced with the same type. The grant funding must be equally matched either with Town funds, non federal contributions, or in-kind volunteer services. The 3rd Vice President from the Lord Baltimore Lions Club has contacted the Town and they would like to volunteer 100 man hours for tree planting for this project. Stacey said she was invited and attended their monthly meeting last Wednesday evening. She did not have much to give them at the time as they were just notified today that we would be receiving the money. They will meet again and she has been in contact with the President and we will be able to move forward with that. There is also going to be Town Staff hours that we can apply toward our

match, there will be police traffic control for removal of the cherry trees. The Lions Club were talking about working through the week. If that is the case Stacey, Bob and the police will all be on Town Hours. She and Bob will be doing supervision of the project. There will be minimal cash expenditures, mainly for mulch and other planting materials. If we decide to move forward we will just need to sign a contract agreement with the forestry department. Vice Mayor Truitt asked if the grant would cover our expenses. Stacey reported it would. Kyle said the way they wrote the grant is that there would be about \$3,000 cash from the State to buy materials (trees and things) and the rest will be volunteer. Either staff time or volunteer time. I did factor in \$250 cash from the Town for mulch. That would probably be the largest expenditure the Town would have to come up with. We received three quotes: RSC from Millsboro, Roots Landscaping from Selbyville and Lord's Landscaping. Roots came in at the lowest unit cost per plant. He and Stacey went through these today and they were all over the place for costs. For example, Roots cost per crape myrtle tree was \$50; RSC was \$109; and Lord's was \$190...there is a big range there. Vice Mayor Truitt wondered if someone was missing something. Kyle went online today and looked at wholesale prices for these plants and they are around \$90 per plant. The per unit cost bid ... Roots was the best. Stacey got in touch with Roots today even though it was after hours as she wanted to get this narrowed down. The specs called for a 4 to 6' tree. Mayor Adams wanted to know if we specified color....Kyle replied "dark red". She also asked how many trees are being replaced. Kyle said they are all coming out. 10 crape myrtles and 6 of the Eastern Red Cedars. The State Forester met with Kyle and he said they were all either dead or sick. He stated DeIDOT gets a discount on the trees.....they are purchased in bulk and the plans for the next Streetscape has the same type of tree. Stacey discussed it with Kyle and they are going to work it out so that the crape myrtles will be throughout. The State Forester said the cherries are disease prone and he doesn't know why DeIDOT insists on them. Kyle mentioned that the best time for planting trees is October. The State Forester mentioned the crape myrtle. He said they do well in this area. Their approximate height is fifteen feet. They flower from spring through fall. So there will be color. Roots was the lowest bid....they have a six month guarantee on their plants, RCS has a one year guarantee, Lord's has 18 months.. They wrote the grant so that they got a quote for just purchasing the materials or purchasing the materials plus installing the materials. Roots was still the cheaper. Stacey has not been able to speak with Lord's; however, with RSC the warranties are not valid if other people do the planting. Most places do not guarantee it if they don't plant it. Stacey reported that at the meeting with the Lions, they are interested only in planting; therefore, are we going to utilize the landscaping company to remove the existing trees that are going to be replaced, or our maintenance person will be doing it. Kyle mentioned that it is a pretty intensive job....removal and hauling them out and recommended that we use the landscapers. If the landscapers plant the trees the warranty is valid. If the volunteers plant the warranty is void. Stacey informed the Council that if we do not use the Lions Club, we are going to have to match the \$3,000 grant. If Kyle mentioned that the crape myrtles will be planted in the same spot where the dead cherry trees are being removed. It will require minor digging. Kyle stated that to keep the Town from putting out cash we need to use the volunteers for something. The best thing would be for physically planting the trees if that is what they are interested in doing. Kyle recommended that with the grant monies....buy the plants, pay for the contractors to remove the cherry trees, get them out of town, haul them to the dump and then have the volunteers prepare the hole and plant the trees. Vice Mayor said and then don't worry about the warranty. That way the Town would not have to put out any cash at all, except for the mulch. Kyle gave the Council the amounts submitted. The Forestry would rather us to continue planting giving us 16 trees and gator bags. 10 Crape myrtles \$1090 , 10 gator bags \$290, 6 Eastern Red Cedars at \$1074 and removal of trees at \$850 @ \$85 per tree You are looking at \$3,304....Vice Mayor Truitt said then we are roughly \$300

over. With the mulch it would be about \$500 cost to the Town. Roots planted the Eastern Cedars and 6 out of 46 died. They planted the first Christmas Tree there and it died. It was a Norway Spruce. Vice Mayor Truitt asked if the price includes those cedars as well. Kyle stated the Roots quote of \$50 just scares him. Mayor Adams was afraid they were going to be small. Stacey said the issue of going back and forth is that we need to start planting in two weeks. Kyle agreed that planting needs to be done in October. Mayor Adams asked Attorney Witsil his opinion on how this can be done so this can be done since time is of the essence. Vice Mayor Truitt said he did not feel we had enough information to choose a bidder tonight. Attorney Witsil stated that Council could authorize Stacey to make the decision. This is not a requisite formal bid and there were 3 bids. Attorney Witsil advised that they could authorize the Mayor and Stacey to decide. Stacey said Kyle from the Forestry Department will hand deliver a contract next week if this is approved tonight. Stacey could go over the bids with him and find out what his suggestions are. Councilman DeHaven said since it is not a lot of money and he is comfortable with Attorney Witsil's proposal. A motion was made by Vice Mayor Truitt to delegate the authority for the tree planting contract to the Mayor, Kyle and Stacey to make a decision, seconded by Councilman DeHaven and unanimously approved.

Old Business:

1. A resolution to set water rates and charges. Last month Council decided we were going to possibly set a workshop to discuss the water rates Mayor Adams recalls that during the discussion Councilman DeHaven suggested and we agreed that we wanted to have something where the public can come and hear the reasoning. A notice was put on the Water Bill and she will do it again. Mayor Adams feels a meeting (Public Hearing/Workshop) where people are invited needs to be held. Councilwoman Flowers (last month's meeting) was in favor of holding off increasing the water costs. It was tabled until this evening's meeting. Councilman DeHaven stated his reasoning for suggesting a Workshop was that he did not want to spring this on the townspeople without giving them a chance to respond, if they so wish. He realizes the other side of the argument is that they may not show. Vice Mayor Truitt said he knows it would be some expense, but could we send a letter out in addition to the little blurb on the water bill...the Town Council is considering increasing water rates due to recent increase in costs and we would like to have your input on this at a meeting on a meeting date decided upon. He would rather do it as a workshop and not as a meeting because it could be several hours. Stacey reported that they are really close with the Millsboro situation and having a possible outcome; or do we have to say that is a totally separate issue. Vice Mayor Truitt said we are up to \$3.00 per thousand now and that is just break even cost. Stacey said there are two separate issues but they have been combined at meetings. Vice Mayor Truitt said he agreed with Jean Holloway from the Rural Water, even if we had no situation we were going to have to raise them a little. Councilman DeHaven said a good starting point would be Mrs. Holloway stating that to break even it would have to cost \$4.00. That would get us off the \$3.00 figure. Stacey mentioned once again that we were never notified by Millsboro of the increase. It, however, was notified in their paper of choice under their legal section. As such a bulk user, it would have been nice to be notified. It was \$2.50 one month and then it went to \$3.00 the next month. It should have been addressed earlier, but with all the confusion we did not know if we were losing, not losing as Artesian was not supplying us with the proper information. Stacey said she feels that now we have such good solid figures. She feels that something can be set up now for a Workshop --- need to set date and times and see if the Bethel Center would be available. Councilman DeHaven suggested making it a narrow window of the hours so Council will not be

there all night. Mayor Adams asked if Council wanted to get into October or November. Stacey said give us a week to get a letter together and get it out and everyone could receive it. They would probably need a two week window. Vice Mayor Truitt suggested having the actual Workshop the first of November. Stacey suggested shooting for Tuesday, November 1st from 4 to 7. She also reported that she would like to make sure Jean from Delaware Rural Water was able to attend. If it is an Open House, Mayor Adams reported it would be repeated to 2 or 3 as they came and went. She felt we needed to set an hour..... 7 to 8 was suggested. It will be an informational presentation. November 1, Tuesday from 7 to 8. Have the presentation over and then have questions and answers. Kyle suggested from 7 to 7:30 for the presentation and 7:30 to 8 for the question and answer period. The Mayor asked Stacey to take care of this. Stacey stated she will make sure the Bethel Center is available, Delaware Rural Water will be represented, and she asked if Attorney Witsil and Kyle, should be in attendance, Council agreed they should be there. Mayor Adams asked Council if November 1 was not available at Bethel Center.....did they wish to go to November 3. Vice Mayor Truitt wanted to be sure that nothing was scheduled during the October Meeting for Water. Vice Mayor Truitt made a motion to table the resolution to set water rates and charges until the November Council Meeting, seconded by Councilman DeHaven, and unanimously approved.

2. Review and possible consideration of water meter project and engineering review.

Kyle brought the Council up to date on the meeting between Millsboro's Mayor, Public Works Director, Stacey, Mayor Adams, Vice Mayor Truitt, Kyle, Ed Strauss (URS' water engineer) and Jean Holloway and Sherry Turner. Kyle stated that at the last meeting with Millsboro. We were told to rule out any possibilities of any illegal tap, illegal irrigation systems, faulty individual meters. We have done all of that and we presented our case to Millsboro. We told them that there was no possible source of major water loss in the Town and all indications pointed to the fact that the interconnection meter is not operating the way it should and was not a good meter for that application to begin with. They were a little apprehensive at first, but then Kenny Niblett (Public Works Director) stated that he believes the meter is not functioning the way it should, and it is not registering low flow in either direction. After discussion of some different options it was suggested that we install a "test check valve" in the line that would prevent water from flowing back to Millsboro for a period of 60 to 90 days. In that period do the monthly meter readings and see if the numbers are consistent with Dagsboro's monthly consumption numbers. If the numbers are in alignment in that test period, then that is validation that the meter is not functioning properly. In that case we will reconvene and discuss what the options would be for rectifying the situation. Kyle stated that he did get the sense that Millsboro ...if they find out that indeed the meter isn't functioning properly that they would be willing to help in the solution, whatever that may be.....a new meter scenario. It was his thought that toward the end of the meeting that they came to the conclusion that this needs to be done and it needs to be rectified. I think the outcome of this meeting was good. URS is putting a check valve meter plan together and get it to the Town and get it installed as quickly as we can. This should tell us what the problem is. Vice Mayor Truitt stated that we still have to get permits for whoever's land we use to put the pit in. Kyle stated that the check valve pit is going to be relatively small. There is a possibility that we might be able to install it in DeIDOT right-of-way without having to get an additional easement Stacey asked if that was the case did we plan to want to build a pit large enough so that if we decide to move forward with the long term project it would suffice for the future. Kyle stated we could do it "quick and dirty" in a

small pit in DeIDOT right of way (notifying DeIDOT it is an emergency situation – it is temporary (90 days maximum) and hopefully they will sign off on it and let us install it right away. The other option is plan for the full blown meter scenario...that will require an easement from a private property owner and Kyle did not feel we needed to wait that long. Vice Mayor Truitt said if we are trying for a relatively low cost, we should try for the DeIDOT right of way easement location. Mayor Adams said we really need to get it rectified Kyle mentioned that it had been a real issue to get Millsboro to even agree to the check valve. We presented the idea of the temporary one just to test the system. Stacey said they want the water to be able to go back in an emergency situation. Kyle said Millsboro was having water issues in Millsboro today. The water was brown and they did an incredible amount of flushing water lines in Millsboro and he felt we could watch the level of our tank while this was going on. It will be interesting to see what the water bill is next month. Stacey reported that between July 23 and August 23 it ran a 3.6 million gallon difference. We were billed for 5 million gallons. This amount has been the most since we took over the billing. More water usage occurs in the summer. Kyle said it will be interesting to see what happens when the check valve gets installed. Mayor Adams stated it was a bit of relief when they finally agreed. Kyle even hinted about them sharing in the cost for a solution. Mayor Adams felt Millsboro just talked about moving forward not talking about the past and all the monies we have paid. She said that when URS gets the information together, Stacey felt we needed to meet with Millsboro. She stated that two Council members could meet. Councilman DeHaven said this was the most positive statements I have heard on this whole situation to date. We now have a window of opportunity that we can see where we are going....the window is narrow but that is positive. Kyle felt convincing Millsboro that there was a problem was the turning point....when Kenny finally said the meter was not working the way it should. Stacey mentioned that it had been a long time coming....it has been very stressful. Vice Mayor Truitt felt the chart was very helpful in convincing Millsboro. Councilman DeHaven mentioned that when getting prices, to see about getting a motor actuated check valve – that would be compatible with the SCATA system. That would be another objection that would overcome for them. If it was motor actuated they could open and close it for emergency situations. Stacey reported that once 90 days is up we are going to know whether we are going to move forward with the larger project (which we have already looked at). Vice Mayor Truitt said that is better than doing the larger project first and having the huge up-front costs. If this proved to be the problem maybe they would permit us to keep it in until we got something up and running. Kyle stated we need to have another meeting with Millsboro and get their blessing on what Dagsboro is proposing and then get the bids out. Councilman DeHaven said that will finally put a stake in the snake that has been wiggling around. Kyle said the best case scenario is Stacey's consumption report is 2 million gallons and the meter report is 2 million gallons and it will all be consistent.

3. An ordinance to amend Chapter 83 of the Municipal Code entitled "Buildings, Unsafe" by deleting the chapter in its entirety and by adopting in lieu thereof the provisions of the 2009 International Property Maintenance Code and all amendments thereto as the applicable Property Maintenance Code for the Town of Dagsboro. Attorney Witsil asked Mayor Adams to stop at that point. Stacey said she just got this ...this evening. It was discussed at the last meeting. She gave Council an ordinance to strike Chapter 83 in its entirety. Attorney Witsil said there will be a notation in Chapter 83 referencing Chapter 210 of the 2009 of the International Property Maintenance Code. Mayor Adams asked if it is agreeable to Council. Councilman DeHaven made the motion to adopt the change in the ordinance putting Chapter 83 in reserve and making reference to Chapter 210 for

the Property Maintenance Code for the Town of Dagsboro, seconded by Vice Mayor Truitt and unanimously passed.

4. Discussion on possibly requiring inspections for rental properties and associated fees. Attorney Witsil stated that Council had requested him to come forward with some

proposals based upon the conversations and his review of the Town's rental inspection fee provisions. It seemed like a consensus that there should be a pre inspection, that the property be inspected every year (it was discussed about one or two years) during the term of the lease before December 31st of each year if you are going to have it yearly. It was discussed about a \$175 inspection fee....some other towns charged \$150, he said he proposed from what he had heard, \$115. Violations will be the same as a violation of the International Building Code...first offense not in excess of \$250, second offense not in excess of \$500 and a civil violation. The ordinance he would draft for Council would make reference to the International Property Maintenance Code as the basis for inspections and there could also be an inspection upon a complaint or good cause shown to the building official. Those are his suggestions and he would like to hear from Council to see what they would like and he will prepare an ordinance for the next Council meeting. Council asked what some of the other towns set....Attorney Witsil informed them that Elsmere was \$200 per unit, if more than 2 units \$150 per unit; Blades has incorporated into their regular license \$100 a month; Milford was \$100; Newark has annual inspection incorporated into license fee of \$300 for 1 to 8 units with no additional fee for inspection; Salisbury's is built into their license fee and the license fee if \$200. Mayor Adams asked if we had Frankford, Selbyville or Millsboro. Attorney Witsil said Georgetown's Inspection fee is \$175. Kyle did not feel that Frankford has these fees. Mayor Adams said that she felt Selbyville did as she has a friend with a rental. Kyle said he had spoken with the town manager and they do require an inspection, but he did not recall what the fee was. The Mayor thought Selbyville's might be \$75. Kyle had told Council their fee would probably be \$75 for an inspection (about an hour). Attorney Witsil informed the Council that this fee would be on top of the rental license (which is \$75) plus \$115 for inspection plus 3% on rental income. Councilman DeHaven asked if there would be a Public Hearing on this as it is a new fee and so the Public will get a chance to hear it. Discussion took place and Kyle said it should not take more than two hours for inspection fee unless there were large issues. Attorney Witsil reiterated so there would be the rental fee of \$75, plus \$75 for the inspection fee plus the 3% each year. What does the license fee cover, Vice Mayor Truitt asked. It is just the same as all other licenses --- resident merchant, outside contractors....there is very little cost to the Town that comes out of the license fee he asked. Stacey reported that is also included in the Income Line in the Budget which if you deceased that license that would decrease the amount of income. Kyle stated that if they went to a site and there were multiple violations or (where someone is supposed to be there at a certain time and no one is there). There is not access to the house. It should be written in..... almost like a missed appointment. Kyle said also if there are violations that cannot be approved and we have to go back to make sure they have been corrected. Attorney Witsil will go over what has been stated and bring back to Council a draft at the next meeting.

Correspondence:

Attorney Witsil stated that he has received two complaint letters as has the Town. These are from Mr. Howlett and Mr. Mills regarding their refusal to pay inspection and review fees (engineering fees) for their proposals and projects. We only recently approved the ordinance which puts people on notice of these charges. It is clear to Attorney Witsil that both of these attorneys are going to make a big issue of things..... Sergovic & Carmean and Griffin & Hackett. Attorney Witsil's opinion is that in terms of collection on these is relatively weak. Unfortunately, the bill for Mr. Howlett exceeds \$4,000 over a 14 month period and he is sure the Mills/Dagsboro Town Center LLC project is also relatively significant. Is there any wish by Council to try to negotiate these outstanding fees rather than try to collect them. Vice Mayor Truitt asked if these fees are in excess of whatever escrow fees they have. Stacey notified him that they were Minor Sub-division (and they do not require escrows). She also stated minor are \$250 and major subdivisions are \$500 this happened before we passed the ordinance to add additional costs. Going back and looking through our records to see how much these sub-divisions costs out of Town coffers. It is very large....Howlett property was \$4,000 and Mills property is continuously accruing. Mr. Howlett is not moving forward. Mr. Mills is still going to URS for review. Are they allowed to change plans any time they want and submit the bill, Vice Mayor Truitt questioned. Attorney Witsil stated that if they started all over again now they probably would be covered under the new ordinance. We had nothing to collect from before. He is not sure if these people were ever put on notice that they would ever be receiving a bill. Mr. Howlett is adamant about the fact that had he been noticed within 30 days from when he started the process if he was billed monthly, he would have been aware of it. Attorney Witsil stated he did not have much to stand on. Mayor Adams said the Mills property is still active. Attorney Witsil said the Mills' application commenced before we adopted the ordinances. Mayor Adams said it makes her angry because Mr. Mills just keeps changing plans, changing ideas and he has been doing it for years. Kyle said it is not complicated if he just did what he was told and do the right thing it would have been approved a year and a half ago. Kyle stated they have given a check list to him of things that he has do and he still refuses to do them. He said until he deals with the County and gets these issues resolved, he can't come back to the Town. Stacey reported after he deals with the County he will have to come back to the Town and URS has to review it once again. Council authorized Attorney Witsil to negotiate payment of these sub-divisions with Howlett & Mills.

Habitat for Humanity – Variance

Attorney Witsil stated that Sussex County Habitat for Humanity's lawyer contacted him regarding a property they own on Armory Road. Many years ago the owner combined two lots that he owned and now the SCHH wants the lot divided back into two lots so they can build another house on it. However, if they apply for a subdivision, it would not be approved since the two lots would not meet the minimum lot size requirements. Attorney Witsil told them that they would have to apply for a variance with the Board of Adjustment. Stacey stated she has sent their lawyer the process and application for applying to the BOA. Once they submit the application, she will contact the BOA members to begin the process.

There was no more correspondence.

Presentation of Treasurer's Report:

Stacey presented the Treasurer's Report. Council has received a copy of the Report, and a copy will be placed in the Minute Book. Stacey noted that presently the Municipal Street Aid lighting has to be paid out of the General

Checking Account. We are keeping a running total so that when the check for Municipal Street Aid is received the General Checking fund can be reimbursed. It runs about \$900 to \$1,000 a month. It is just the account that is new, not the money. Stacey asked if there were any questions. There were none. Vice Mayor Truitt made a motion to approve the Treasurer's Report, seconded by Councilman DeHaven, and unanimously approved.

Approval of Minutes: August 22, 2011.

Councilman DeHaven mentioned there were some errors made when referencing the Mayor. Also, it stated meter option on Page 9....should be check valve option. These corrections will be made and the corrected copy will be inserted into the Minute Book. Vice Mayor Truitt made a motion to approve the minutes of August 22, 2011 (with corrections), seconded by Councilman DeHaven, and unanimously approved.

Presentation of Code Enforcement Report & Building Permits Issued:

Stacey gave the following report:

One permit issued for siding repair/replacement on Swamp Road.

A Certificate of Occupancy was issued to a new house at 410 Queen Ann Street, Prince George's Acres and one for Unit 12 Chapel Crossing.

No Certificates of Compliance.

No Certificate of Completion.

Code Violations have been completed; however, letters are in the process of being generated and mailed.

We did send out one letter to the owner of the property on Swamp Road for Trash/Rubbish, Garbage.

The letter was dated September 14th and hand delivered that evening....no one was home. It was put in the door. We have been informed by neighbors that this house has been abandoned. The owner was given 5 days to rectify this issue.....this expired on Friday. There are several piles of rubbish and trash....we have had numerous complaints of odor, maggots, vermin, rodents, etc. Stacey felt the Town is going to have to take care of this matter. The lady who lived there moved up north and shortly thereafter the husband left. Therefore, neighbors do not see anything of them but in the evenings it has been stated that they have seen people crawling in and out of the windows. Vice Mayor Truitt felt that for health and safety issues, we had better have something done about it. Stacey reported the doors are presently unsecured. Vice Mayor Truitt mentioned putting tape over it. Chief Toomey said that they still own the property, and it is probably headed toward foreclosure. The letter concerning the problem was hand delivered (to expedite matters) because of our concern for the health, safety and welfare. Attorney Witsil statedSection 109 of the International Building Code Property Maintenance Stacey reported she had followed all the steps in that section and feels we have the authority to go ahead on our own. The trash had to be removed. We are going to have someone come in, collect and remove the trash. Stacey can't guarantee they have gotten the notice; however, we have issued the notice. It was posted on the front door....Attorney Witsil suggested that a picture be taken of the letter posted on the door. Stacey reported it was an attempted hand delivery, but there was no one there. Mayor Adams felt this was a real problem. The neighbors include a small child and an elderly woman. She did not feel they should be subjected to maggots and smells. The trash is in a big pile by the door. Chief Toomey said if Stacey would give him a copy of the letter, he would tape it on the door. The original copy may not still be there.

Standing Committee Reports:

Police Department:

Chief Toomey has given everyone copies of the Police Department's Report. He is trying to keep up with the statistical reports so that he can see from month to month as far as traffic and criminal complaints. We are approximately 150 complaints from where we were at the same time last year.

As you can see we are nearly 40 criminal arrests above where we were last year and doubled out traffic arrests, collisions are down by less than half. When numbers go down that is a good thing in that particular area. If you look at the actual monthly statistical report, you will notice that Officer Ober had a drug arrest that was the result of a traffic stop. The department also arrested six different subjects that were locally wanted and it cleared those cases for the various courts and the departments they were wanted by. We had one subject who shoplifted from Royal Farms and ran on foot down the 9 foot Road and was apprehended shortly thereafter. Chief Toomey asked if anyone had any questions of him. There are a couple more things he would like to mention. We had a contact at the beginning of this month from NRG. We had worked with their security branch on a couple of issues they were having and in appreciation they offered us a one-time community grant not to exceed \$2,500. They wanted us to use these monies as soon as possible. He told the Mayor about the grant and his proposal was to buy uniforms and stuff they were not able to put in the budget this year. She concurred. We have placed very close to \$2,500 of items that we were purchasing...better to secure the evidence room and keep the computers more secure. We have purchased bars, including the installation. The bars have been manufactured and custom made. Bob will install them....but it will not cost the Town to have them installed, as the figure included his labor for installation. It will secure this building more properly and make it harder for someone to get in. The SALLE/EDDE grants are again available and he stated it is roughly \$3,400 and \$500 respectively for these grants. Since Chief Toomey has been here he has used those grants for bicycle patrol/community patrols/drug patrols and that type of things and he wanted Council's permission to reapply and continue in that same venue. Vice Mayor Truitt asked if this was a typical amount. Chief Toomey said it is and next year it should be slightly higher because there is a third officer. The time frame on which is based did not include him this year. It increased our patrols in the summer when school is out, heavy influx of tourism and traffic through Town when we need to increase our Patrol efforts. Councilman DeHaven made a motion to support the information given by Chief Toomey and move forward with it, seconded by Vice Mayor Truitt, and unanimously approved. Chief Toomey said the next item is "food for thought".....the Homeland Security grants currently have (Delaware has been awarded a pool of money \$100,000...it is restricted to the purchase and training of K-9's and K-9 officers). These dogs have to be not only patrol qualified but have to be exposed as detection dogs. Hypothetically, if we had a bomb threat at one of the school or shopping centers, we would be called to assist in that. This is food for thought....he is not sure how many departments are putting in for that...they estimate they can roughly purchase ten dogs with training...approximately \$10,000 per department. He would like your approval on pursuing this grant. He did not want to waste time and find out the Council is totally against it. This is only for the initial purchase and training of the animal. The K-9 officer is required to have additional training of 2 days a month....They might be able to do that in one day's time. The advantage in his opinion is if we were allowed to have a dog, he would prefer to have a narcotics dog. Vice Mayor Truitt asked if there is a time frame that Chief Toomey needed to know. His response was that he had not been given a deadline. It will probably be first come --- first served. You have to equip the car with certain things....like alarms in case the car shuts off (so the dogs do not overheat), something that kicks the door open by a pager so the dog can get out of the car in a hurry. There are a couple of agencies that have had K-9's in the past and have old equipment and he can pick up that stuff for about \$1,000. It would be an expense to us....insurance is roughly the same as an officer and that would be the town's expense as well. That should

basically be it. There would be vet fees and they vary. A young dog is going to have a lot lower vet fees. It depends on the breed of dog. This depends on what breed of German Shepherd. The dogs would be trained in one area....any additional training (such as narcotics) would require that the Town do it on their own. Councilman DeHaven asked if the Chief could get some figures together for about how much it would be per year. Chief Toomey will try to get figures together and e-mail them to the Council so that you are informed of it before the next Council meeting.

Upon motion by Vice Mayor Truitt, seconded by Councilman DeHaven and unanimously approved the meeting was adjourned at 9:48 p.m.

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 in accordance with the Freedom of Information Act.