

**TOWN OF GEORGETOWN
TOWN COUNCIL MEETING MINUTES**

Meeting Date: Wednesday, July 28, 2010
Location: Town Hall, 39 The Circle, Georgetown, DE
Time: 7:00 P.M. Regular Hearing

PRESENT:

Brian Pettyjohn, Mayor
Sue H Barlow, Ward Two
Bob Ricker, Ward Three
Annie Besche-Martin, Ward Four

STAFF PRESENT:

Eugene S Dvornick Jr, Town Manager
Keith Hudson, Sup Wastewater Facility

ABSENT:

Charlie Koskey, Ward One

7:00 P.M. REGULAR MEETING

1. PLEDGE OF ALLEGIANCE

Mayor Pettyjohn led the Pledge of Allegiance.

2. INVOCATION

Councilman Besche-Martin led the Invocation.

3. ADOPTION OF AGENDA

Motion by Councilman Ricker, seconded by Councilman Besche-Martin, to adopt the agenda as presented. **APPROVED (unanimous).**

4. APPROVAL OF JULY 14, 2010 TOWN COUNCIL MINUTES

Motion by Councilman Barlow, seconded by Councilman Ricker, to approve the minutes as presented. **APPROVED (unanimous).**

5. CONDITIONAL USE APPLICATION – FRED & ROSA HENNING – CASE #2009-06

An application by Fred and Rosa Henning for a conditional use to allow a single family home located at 10 East Adams Street to be used as an office for the Letter Carriers Union. The properties are identified as Sussex County Tax District 135 Map 20.05 Parcels 68.00 & 67.00 and are currently zoned Urban Residential (UR1).

No comments or correspondence has been received since the July 14th Public Hearing.

Motion by Councilman Ricker, seconded by Councilman Barlow, to approve the continuation of the Conditional Use – Case#2009-06 outlined in Exhibit A without any further reporting requirements. **APPROVED (unanimous).**

“Exhibit A is incorporated as part of the minutes.”

6. CHESAPEAKE UTILITIES FRANCHISE AGREEMENT AMENDMENT

This item is for additional discussion of the Chesapeake Utilities Franchise Agreement Amendment.

Town Manager: The amendment was originally presented at the June 23, 2010 Council Meeting which at that time the Council was lacking any of the historic documentation. After review by the Town staff the history is as follows: 2005-

Original draft no fee specified, March 2006-inserted Chapter 190 Excavation and permit fee of 10% of the direct and indirect cost or estimated cost as set forth in the application, March 2006-10% permit fee shall not exceed \$200, April 2006-reduced the 10% to 5% and eliminated the \$200 cap, June 2006-permit fee of 5% of the direct and indirect cost or estimated cost as set forth in the application. Applies only to opening and excavation of improved surfaces. Chesapeake request June 2010-introduce a permit fee change, the 5% shall not exceed \$250, and payment of a \$75 Utility Review fee. This request was denied by Council due to potential revenue loss and safety questions. An "Improved Surface" is defined as any type of pavement that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel. Based on the definition it's difficult to determine a permit fee amount, making a fixed fee better. In some instances due to not crossing an improved surface the fee would be zero. Anything Chesapeake Utilities disrupts they have to repair to Town standards. The proposal for consideration tonight is that the Town of Georgetown adopts a permit fee change: Flat Rate of \$250 per building permit application, payment of a \$75 Utility Review Fee, and Chesapeake Utilities makes allowances for service line "Tap Off" and stub-out as gas mains pass Town facilities (pump stations, other municipal buildings). Safety Concerns: Chesapeake will provide copies of its Emergency Plan to the Town, Manager, Fire Chief, and Chief of Police as well as any other Town officials who may request it, Chesapeake will review its Emergency Plan annually, not to exceed 15 months, and revisions will be distributed to the Town Manager, Fire Chief, and Chief of Police, as soon as the revised plan can be reasonable printed and distributed.- Chesapeake will provide public information to its customers, the appropriate governmental organizations, and persons engaged in excavation related activities to recognize a gas emergency. The Company will provide information to the public in reporting gas odors, leaks, and other emergencies to the proper Division's emergency number. - Periodic training sessions will be conducted with all Fire Companies in a Division's service territory. These training sessions will coordinate response, resources, and responsibilities between all parties involved.

Councilman Ricker: Nothing was addressed with vehicle collisions with above ground stations and piping.

Darrell Wilson, Chesapeake Utilities: Regarding the safety questions there are 2 safety managers on call 24/7 Chesapeake also has a hotline, with the Safety Director's tenure of 15 yrs, no collisions have been reported. However, all the facilities are fenced and locked; installations next to major highways are equipped with crash barriers that are in place. Regular safety training is done in our employment and in the communities.

Councilman Ricker: Who inspects those installations next to major highways?

Darrell Wilson: Internal inspections are required by Chesapeake along with the Public Service Commission inspections.

Councilman Ricker: The safety measures that are put into place are they mandated by anyone?

Darrell Wilson: They are governed and mandated by the National Fire Protection Association.

Councilman Ricker: Has the State adopted the NFPA code that specifically addresses natural gas? I need that information. My concern is this; there are 2

installations one in Millsboro that incurred intrusion into the fence by an automobile and the one in Georgetown behind SCI has come very close to being involved in a vehicle collision. I would strongly encourage Chesapeake to take measures that will keep vehicles from hitting the installations with perhaps bollards and/or concrete posts as required by the propane companies.

Darrell Wilson: I appreciate this information on these two locations and will certainly get back to you with the information you requested.

Motion by Councilman Barlow, seconded by Councilman Besche-Martin, to adopt the proposed changes to the Franchise Agreement. **APPROVED 3-1**
Yea: Barlow, Besche-Martin, Pettyjohn Nay: Ricker

7. GEORGETOWN PUBLIC LIBRARY

A. UTILITY WAIVER REQUEST

Paul Enterline, President of the Library has contacted the Town requesting a waiver of water & sewer utility billings for their new location of 123 West Pine Street. Council was presented with an overview of the 12 most recent quarters from their current location of 10 West Pine St: Average usage 6,805 gallons/quarter equal to approx. 1 EDU. Billings waived: Water & Sewer-\$1,359.62, trash-\$612.00, total-\$1,981.52. New location: Increase in square footage at 16,107sq ft, Increase in plumbing fixtures: estimated as 27 fixtures, Potential flow-no actual data-occupancy just beginning. Considerations: Majority of other municipalities charge non-profits for water & sewer services-general exception is the Fire Company/Ambulance, some charge availability only-no usage charge, Rate Increase contemplated for October 2010-necessary to meet debt obligations, Want to insure the consistency across non-profits.

Motion by Councilman Ricker, seconded by Councilman Barlow, to deny the Utility Waiver request. **APPROVED (unanimous)**.

B. G.R.E.A.T. FUND REQUEST

The GREAT Fund (Georgetown Recreation, Education & Arts Trust Funding Program) was established in 2007 at Mayor Wyatt's request. It is a source of funding is to provide financial support to various organizations. Paul Enterline, President of the Library and Elaine Fike, Director has contacted the Town requesting a draw. No draws have been made since its adoption. The current balance is \$37,594.53. The Library has submitted a breakdown of the draw requesting \$7,280.00 which falls under the Education & Arts field.

Should the Mayor and Council approve the request a letter will be sent asking for documentation of the spending. Councilman Ricker objected to funds being spent on a Wii game for the library.

Motion by Councilman Ricker, seconded by Councilman Barlow, to grant the request with the exceptions of the items of the Teen Area (gaming cart, TV, Wii game system, 4 Wii controllers, 3 Wii games) and the items in the Children's Area (46" flat screen television, wall mount accessories, DVD player). **APPROVED (unanimous)**.

8. VILLAGE OF CINDERBERRY – TELCOMMUNICATION ISSUES

Council was presented with an overview to the status of the phone and television service at the Village of Cinderberry.

Mayor Pettyjohn: I have received correspondence and information as to interruption of service with Cavalier Telephone LLC and the use of Channel 4 in threatening the discontinuation of service. The biggest concern is the loss of telephone service for the entire community, this is a 55+ community and not being able to access emergency/911 services for health and safety issues is a grave concern for me. Which is why I am bringing this before the Council and the public's attention letting them know there is a serious problem with the communication situation out there?

Councilman Ricker: Both emergency service groups (Fire & Ambulance) are extremely concerned if they should lose land line capabilities to be able to make contact. Emergency medical alerts are done through the telephone lines.

What has caused the owner of the communication system to take such a strong stance with this issue resulting in the use of Channel 4 threats?

Mayor Pettyjohn: Without Robin James being here I cannot speak for him but I do know that this issue is a result of a Court ordered election brought on by The Friends of the Village of Cinderberry resulting in the formation of the POA and the HOA. Since that time and since that election occurred these issues with Circle J Communications have come to light.

Jim Fuqua, Town Solicitor: Why is the communications company threatening to cut off service?

Linda Dennis, resident of Village of Cinderberry: The history goes back 3 years; it's very complicated and very thing is documented. Mr James is threatening to discontinue service alleging non-payment which is untrue, payment has been made in full through the end of this month. The interruption of service happens frequently, the problems are with the infrastructure, the most recent happened approx. a month ago leaving us without service for approx. 24 hours, which was not the first time. The problem is not with the alleged non-payment it's with the reliability of the infrastructure.

Councilman Ricker: When settlements happened were documents provided to you and the homeowners stating the services being provided and how much were being charged for them.

Linda Dennis: We were told of the cable and internet service being included but were never told of having a required phone service which we have no choice in selecting the provider for, in addition to paying for the infrastructure costs for the fiber optic system that kept failing. There were no documents provided.

Councilman Ricker: If my phone service does not work and my provider will not fix the situation I have recourse to contact the Public Service Commission, has the POA contacted the Public Service Commission?

Glenn Bilger, resident of the Village of Cinderberry: The PSC has been contacted, their realm of responsible is in the unincorporated sections of the state and the responsible falls back to the Town as the local regulatory agency at least for the television service. As for the phones I'm not sure, I haven't received a clear answer. Basically, the community was provided with a phone and internet system, in 2009 we were charged \$49.13 per month per individual household. The developer appointed Board approved the 2010 Budget on

December 11, 2009. Included in the budget was a 7 year contract with Circle J Communications LLC which included phone service, the residents had no choice in the matter and never saw the contract. Since the elections the new Board has seen copies. A lot of the residents leave for 6 months at a time and are forced to pay \$40 a month for phone service they don't use.

Councilman Ricker: When the committee/POA agreed to that they never signed anything or saw anything?

Glen Bilger: You have to remember back in December of 2009 prior to the election that occurred in June 26, 2010, the developer appointed Board consisting of Robin James, his wife Pam James, and 3 developer appointed Board members who made that decision. So the newly elected POA Board as determined by the Court of Chancery ruling can legally revisit our contracts, with the communications contract being one of them.

Jim Fuqua: Who knows what these contracts hold and whether they're binding obligations or done with some kind of potential conflict, they're all legal issues.

Linda Dennis: One thing I want to emphasize is the reliability and quality of the service that is still an issue.

Jim Fuqua: I believe that could potentially be the basis to break those agreements and go with another utility. What I am going to advise the Town to do is to send a letter stating we're very concerned with the communication problem from a public safety point of view along with the Fire and Ambulance Service being equally aware and concerned and would strongly urge the company not to cease any services without full notice.

Glen Bilger: An item in the contract I need to make you aware of is to terminate the contract can only be done by cause if you have a judicial ruling or a competent regulatory agency with 30 days notice. Another thing that's stated in the contract is there is no such payment date, if the POA does not pay that sum there's a 10 grace period after which the system can be turned off. Mr James counts back 10 days from his due date which he claims is August 1, 2010, versus 10 days after due date. The current Board received a certified letter from Mr James has stating that if payment is not received by August 2, 2010 all the systems would be turned off. Reminder was sent by email to the current POA stating if payment was not received that all communications in addition to the Community Center would be turned off. It equals \$12,800 a month or \$153,000 a year. It's a matter of money.

Linda Dennis: Is there anything in the Code or in the plans he submitted that shows where he was initially approved for these services?

Town Manager: That question has been asked before and with research it's inconclusive, that's one thing we've struggled with. It comes down to the easements and common areas, with Mr James claiming they're his property.

Glen Bilger: The common areas have not been passed over to the HOA as of yet.

Jim Fuqua: I understand your frustration, but these are still legal areas and issues.

Linda Dennis: I understand and respect that but I still believe there are certain areas where the Town can still be helpful to us. One thing I would like you to consider is to copy the letter to Cavalier Telephone, which I don't fully believe they understand these issues. I have personally contacted Cavalier with concerns

and issues which they have not responded to. Cavalier needs to know of these concerns being they are the provider not Circle J Communications LLC.

Jim Fuqua: We can certainly express our concern about the public safety with Cavalier.

Councilman Ricker: Who pays Cavalier? The residents or Circle J?

Glen Bilger: Circle J

Councilman Ricker: Does Circle J have a business license?

Town Manager: No, we do not require a business license for Verizon or Comcast either.

Councilman Ricker: Verizon and Comcast are providers, Circle J is not a provider, and he's reselling a service. Cavalier does not need a license.

Motion by Councilman Ricker, seconded by Councilman Barlow, to send a letter to Circle J Communications LLC and Cavalier Telephone expressing our concerns with the reliability of service, service interruptions and a strongly worded statement regarding the public safety issues. **APPROVED (unanimous)**.

Council Barlow: Many residents have medical alerts and ADT alarms which function through the phone lines that need to be considered also.

Councilman Ricker: I would also urge the HOA contact the Fire Department and the Ambulance Service explaining to them the situation as well, and soliciting them (Fire & Ambulance) to send a letter as well expressing their concerns as well.

Linda Dennis: On behalf of the residents of the Village I would like to express my gratitude and appreciation to the Mayor & Council and Gene for everything you've done these past months and anything you can continue to do to help us with this situation.

9. DEPARTMENTAL REPORTS
A. GENE DVORNICK – TOWN MANAGER

Fire – 123 West Market Street

On Wednesday, July 21 the final joint fire cause determination and structural inspection took place. All interested parties have been afforded the opportunity to review the scene. Restoration estimates are being prepared and will be presented to Mayor and Council once they are submitted. Additionally, at the request of the tenant, the Town is getting estimates for the installation of central air conditioning (installation to be coordinated during restoration). The cost incurred will be additive to the existing lease and recovered during the lease term. We continue to work towards getting the structure repaired and the tenant back in as quickly as possible.

Municipal Street Aid

A few items with respect to Municipal Street Aid:

- We received official notification from DelDOT that our allocation for FY 2011 MSA is \$110,672 (we budgeted \$50,000);

- As requested at the July 14 Council Meeting, a letter to Secretary Wicks was sent requesting appointment of the Mayor and Town Manager to the MSA Committee; and
- Councilman Ricker had requested information on the cost the Town of Georgetown pays incurs for street lights on State maintained roadways. A quick analysis shows that we pay \$6,000 - \$6,500 per month (\$72,000 - \$78,000 per year) for lighting on North and South Bedford and East and West Market.

Budget versus Actual (Jun 10) – Two Months (16% of the Year)

<u>Revenue</u>	<u>Budget</u>	<u>Actual</u>	<u>Variance</u>	<u>%</u>
General Fund	\$2,550,960	\$1,526,040	\$1,024,920	60%
Water Fund	\$1,247,000	\$10,224	\$1,236,776	1%
Sewer Fund	\$1,635,000	\$6,609	\$1,628,391	0%
Total	\$5,432,960	\$1,542,873	\$3,890,087	28%

Expenditures

General Fund	\$3,233,843	\$411,036	\$2,822,807	13%
Water Fund	\$784,587	\$157,313	\$627,274	20%
Sewer Fund	\$1,414,530	\$277,252	\$1,137,278	20%
Total	\$5,432,960	\$845,602	\$4,587,358	16%

The monthly report has been distributed for your review.

Other Key items (versus the same time period last year):

- Real Estate Transfer Tax Revenue, **Down 88.75%**
 - YTD FY 2008 \$81,247
 - YTD FY 2009 \$20,465
 - YTD FY 2010 \$43,730
 - YTD FY 2011 \$4,918
- Building Permit Revenue, **Down 38.35%**

East Market Street Improvement Project

The Bid Opening for the East Market Street Improvement Project (Layton Avenue to King Street) took place on Tuesday, July 13, 2010. The Town has been advised that the official announcement of the contract award is scheduled for next Wednesday, August 4th. It was indicated that the bids were lower than the Engineering estimate. Once the bid is awarded, our exact match contribution requirement (14% of bid amount) will be known.

Wastewater Disposal Expansion

In keeping with our Notice of Conciliation with DNREC, the Town continues to work to expand our disposal capacity for treated wastewater. We had been working to secure an additional 35 acres of wooded land from Baxter Farms (Prettyman Woods); however, due to some sticking points relating to contract renegotiation, this effort has been put on hold.

Work to complete the Design Development Report (DDR) on the Pettyjohn Woods continues.

On Friday, July 16, Wastewater Superintendent Hudson and I attended an announcement in Middletown, DE sharing the success they had had combining the State, municipality, private utility providers and local farmers to dispose of the treated effluent. (See hand out of News Journal article).

Delinquent Property Tax Accounts

Sussex County published its top 100 Past Due Property Tax Records on July 20, 2010. A review of the Town of Georgetown Past Due Property Tax Records, with a balance greater than \$500.00, shows 61 individuals or business owing a total of \$150,727.52 in property taxes.

I'd like Council authorization to publish our outstanding property tax records as of September 15, 2010; after a post card is mailed to each delinquent property tax owner of record indicating the Town will be publishing this information.

Motion by Councilman Ricker, seconded by Councilman Barlow, to send a post card to each delinquent property tax owner of record indicating the Town will be publishing this information followed by the publishing of the names on September 15, 2010. **APPROVED (unanimous).**

Motion by Councilman Ricker, seconded by Councilman Barlow, to notify the owner as indicated as #3 on list, proceed with the lien already in place and proceed on with the sale of the property.

Jim Fuqua: I would recommend that the Council select property owners most delinquent in their taxes and start foreclosure proceedings with that group.

Motion by Councilman Ricker to amend the motion, seconded by Councilman Barlow, to have the Town Manager find the ones in the arrears the longest and move forward with the foreclosing on those properties with tax liens and the necessary proceedings. **APPROVED (unanimous).**

Miscellaneous

- Town Council Meeting Cancellations:
 - Wednesday, August 25, 2010
 - Wednesday, October 13, 2010
- Employee Service Anniversaries:
 - Bill Bradley Public Works 25 years
 - Kenny Wilson Waste Water 14 years
 - Tom Klein Planning 6 years
 - Jeff Ward Public Works 4 years
 - Linda Zelo Police 1 year

B. KEITH HUDSON – SUPERINTENDENT OF WASTEWATER RECLAMATION FACILITY

Lagoon Depths Lg >2.0' Sm >2.0'

Precipitation – April to July 2010 - 7.18"

April to July 2009 – 20.34" Difference of 13.16"

South Bedford St Upgrade

Zober Construction set the value vault today along with check valves & flow meter installation. Removed the old generator, fuel tank and spill containment off site. In addition to removing the old concrete and black top.

County Seat Apartments

Start-up was Wednesday, July 21, 2010 representatives from Flight Pumps and Mission Controls (alarms & telemetry)

DTCC Pump Station Tie-In

Values from the force main to the new regional force main have been installed by Aztech Contracting, Inc.

Pontoon Boat/Pocomoke City WWTP

Our department borrowed a pontoon boat from June 22 to July 14, 2010 to replace: A.) Replace an air diffuser in the bio-lac lagoon.

B.) Measure sludge depths in sludge lagoon #1 & 2

Update from Last Council Meeting May 26, 2010

Electrician checked-out Automatic Transfer Switch (ATS) to generator at DTCC – recalibrate potentiometers back to specifications.

Thursday, May 27, 2010 the electrician reset the frequency to the ATS on the generator, must be within $\pm 10\%$ for the ATS to transfer voltage. After several test runs the ATS operates fine.

10. PUBLIC COMMENT

No Public Comment.

11. ADJOURNMENT

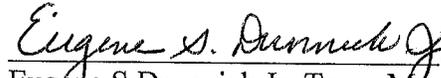
Motion by Councilman Ricker, seconded by Councilman Barlow, to adjourn at 8:17p.m. **APPROVED** (unanimous).

APPROVED:



Charlie Koskey, Secretary

ATTEST:



Eugene S Dvornick Jr, Town Manager

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