

**TOWN OF GEORGETOWN
TOWN COUNCIL MEETING MINUTES**

Meeting Date: Wednesday, June 27, 2012
Location: Town Hall, 39 The Circle, Georgetown, DE
Time: 7:00 P.M. Regular Meeting

PRESENT:

Mike Wyatt, Mayor
Steve M Hartstein, Ward One
Sue H Barlow, Ward Two
Bill West, Ward Three
Linda Dennis, Ward Four

STAFF PRESENT:

Eugene S Dvornick Jr, Town Manager
Angela Townsend, Town Clerk
Stephani J Ballard, Town Solicitor

7:00 P.M. Regular Meeting

1. PLEDGE OF ALLEGIANCE

Mayor Wyatt led the Pledge of Allegiance.

2. INVOCATION

Mayor Wyatt led the invocation.

3. ADOPTION OF AGENDA

Motion by Councilperson Dennis, seconded by Councilperson Hartstein, to adopt the agenda as presented. **APPROVED (unanimous).**

4. APPROVAL OF THE JUNE 13, 2012 TOWN COUNCIL MINUTES

“Page 4, Councilperson Dennis’s comment should read “plant” not “plan”.

Motion by Councilperson Dennis, seconded by Councilperson Barlow, to approve the minutes as amended. **APPROVED (unanimous).**

5. CASE #2010-04 AMENDMENT – KGB PROPERTIES/16 MILE BREWING CO.

An application by Brett McCrea with 16 Mile Brewing Co., on behalf of KGB Properties, for an amendment to the conditional use approval granted by Town Council on August 24, 2011. The property is located at 413 South Bedford Street, identified as Sussex County Tax District 135 Map 20.00 Parcels 50.00 zoned Neighborhood Business (UB2).

Town Manager had received correspondence from Senator Joe Booth and Brian Pettyjohn in favor of the proposed amendment.

Comments read into the record by Councilperson Dennis.

“There is no doubt that this operation is impressive and the investment to date is significant (\$1million and counting). With that being said, I would like the following noted as part of the official record of tonight’s discussion, as many of these items are not in the record or contained in any current correspondence from the applicant. Therefore, please let the record reflect the following:

The information that I found necessary in order to make an informed and fair assessment of the request before Council tonight was obtained by reading the official file, speaking to Town Staff, reading the articles in the press (most notably the 6/26/12 edition of The Daily Times), speaking to some property owners along South Bedford Street in Ward 4 which I represent and participating in a guided

tour of the facility on 6/26/12 with Councilwoman Barlow. Although we did not see the various aspects of the brewing process, we were talked through the process and shown the various pieces of equipment needed to produce the beer from beginning to end. The tour was conducted by owner, Mr. McCrea, and Mr. Claus Hagleman, Marketing Director for 16 Mile. The information was not gleaned from a "Business Plan" that would describe the owner's vision as was requested of the applicant and which he agreed to provide at the 6/13/12 Council meeting. What is abundantly clear and cannot be argued is that the business has been extremely successful and as some people have expressed, they believe that it has put Georgetown on the map in a positive way. The brewing and retail operations have been successful to the point where expansion of the brewing operation is imminent. Specifically, with the delivery of additional equipment slated for August 2012, Mr McCrea stated that output will increase from the current 15 barrel brew house producing about 2,500 barrels per year to a 30 barrel brew house producing about 4,200 barrels per year – increasing production by almost two thirds. Furthermore, as stated by Mr. McCrea and Mr. Hagleman the long term plan for the business, possibly within the next 5-7 years, an additional expansion to 30,000 barrels per year. This expansion could be expected to require enhancements to the existing physical plant, construction of an additional building or buildings, and enhancements to the property such as parking, additional landscaping, disposal areas, lighting etc. The application for a microbrewery was approved in 2008 in its existing zoning district of UB2. To my understanding, the property was not rezoned at that time since it did not match any of the existing zoning districts described in the Town Code. Therefore, the application of conditional use restrictions was added to the existing zoning designation. In other words, a permitted accommodation was made to assist Mr. McCrea, to achieve his desired goal of opening a microbrewery on the site. Believing that it would be good for the Town, the Council embraced the concept and allowed it to happen. As is always the case, hindsight is perfect vision, and the operations as they are today, and as they will be starting in Sept 2012, coupled with expressed desire to expand beyond microbrewing in 5-7 years, call into question the original assumptions about the site and how it is currently zoned. The reason I find this history relevant to the items before Council this evening is that we cannot continue to kick the beer keg down the road. We must take into careful consideration what the applicant has stated as his immediate expansion requirements and to act proactively to create a permanent solution that addresses the inherent deficiencies in the current zoning districts. Actions are needed that are fair to the applicant, that do not detract from the quality of life of the residents of the Town, that are applied equally to all similar applications that might follow and that uphold the duties of the Town Council."

I am going to at this point hold my further comments until we get into the discussion of the particulars that are before the Council and I do have others. I felt that it was important to make my statements since I had to go to some lengths to get the information I needed in order to make an informed decision.

Brett McCrea: The 30 barrel brew house is something in the future, it is not of imminent quality, the thing that is of imminent quality is we have additional tanks coming soon, so let the record reflect that accurately. In terms of providing

written things to the Town, I do not remember nor do I recollect me agreeing to doing that. I do remember and recollect opening up the brewery to the Town Council members to come and explain that process to them. That's all I really have.

Councilperson Dennis: I would just like to respond then that the minutes do in fact reflect your agreement with the decision.

Brett McCrea: So noted, but I am not the person that controls the minutes and I was not asked to comment on those minutes. Those comments were restricted to the Town Council.

Mayor Wyatt: There are four conditional uses that you applied for, and I think what we'll do is vote on them one at a time, along with a roll call of the vote.

1. The hours of production shall be limited from 5AM to 9PM, Monday through Saturday, with maintenance only on Sundays.

Hartstein	Yea
Barlow	Yea
West	Yea
Dennis	Yea
Wyatt	Yea

APPROVED (unanimous).

2. Remove Item #5 "Number of employees shall not exceed fifteen."

Hartstein	Yea
Barlow	Yea
West	Yea

Councilperson Dennis: I want to know if this is needed at this time, in terms to the equipment coming in now? In other words if we did not agreed on the fifteen at this point would you still be able to produce up to your 4,200 barrels.

Brett McCrea: More than likely.

Councilperson Dennis: More than likely, so it's not critical at this time, correct?

Brett McCrea: Correct.

Dennis	Nay
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Councilperson Dennis: Based on the applicant's indication that it's not critical at this time, I vote nay.

Wyatt	Yea
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APPROVED 4-1

3. Public Tours, with onsite consumption, and retail sales may be conducted within the hours of 10AM to 10PM, Monday through Sunday, and until 1AM for private functions.

Hartstein	Yea
Barlow	Yea
West	Yea

Councilperson Dennis: I have a question I would like addressed to Ms. Ballard (Town Solicitor) and it is this: Since the primary use approved on the site was approved as a microbrewery allowing for public tours and retail sales does the addition of offering the space for private functions (not clear if this is available 7 days per week) and extending the operating hours for these events from 7am, until 1am as stated in Item #10 constitutes a secondary use that would require either a

variance or some other action by this Council in order to approve the request since it wasn't in the original application?

Town Solicitor: I'm not sure I understand your question.

Councilperson Dennis: When the applicant first came before Council in 2008 it was strictly as a microbrewery, and everything there after referred only to it as a microbrewery. Now some things were added as you can see before us. Public tours were added, on-site consumption, retail sales, and the times were changed. And the thing that wasn't there before was private functions now it goes until 1AM in the morning. So my question is, is this a secondary use? Is there an issue with approving it the way it's requested?

Town Solicitor: I think that would fall under the onsite consumption.

Councilperson Dennis: Thank you.

Dennis Yea

Wyatt Yea

APPROVED (unanimous).

4. Item #11 remove "noxious or offensive" and replace with "harmful" odors.

Hartstein Nay

Barlow Nay

West Nay

Dennis Nay

Wyatt Nay

APPROVED (unanimous).

Town Solicitor: For the record Item #2 was changed and the applicant did agreed to the changes, "All uses and conditions shall be in compliance with the Delaware Alcohol Beverage Control Commission and with all existing laws and regulations including, but not limited to, the Fire Marshal, Departments of Public Health, Transportation and Environmental Control if necessary.

Hartstein Yea

Barlow Yea

West Yea

Dennis Yea

Wyatt Yea

APPROVED (unanimous).

Councilperson Dennis: The outstanding compliance with the Certificate of Occupancy with the completed landscaping along the existing building as shown on the approved site plan (dated August 31, 2011) Landscaping shall be completed by July 12, 2012, I'm not sure if that has been done.

Town Manager: The applicant had 90 days from April 12, 2012 to complete the landscaping. I will send Jeff Ward out tomorrow.

Mayor Wyatt: That was for the trees out front?

Councilperson Dennis: Yes, I think, it says landscaping, I just want it clarified.

Mayor Wyatt: I have seen the trees, the trees are there.

Councilperson Dennis: Does that constitute your compliance Brett? Is that what you're saying?

Brett McCrea: Yes.

Councilperson Dennis: I have one more thing, I would like to suggest that the approval of the amendments that we have just gone through are contingent upon the applicant's compliance with a production limitation that will not exceed 4,200 brew barrels per year or until the Council makes a determination as to the appropriateness of a change to the zoning district that more accurately reflects the stated operation of this business, whichever comes first.

Mayor Wyatt: I'm not sure we can do vote on that.

Councilperson Dennis: I would like a point of clarification.

Town Solicitor: It would be an amendment to the amended request that you have in front of you. I think Council would have to notice that for another meeting.

Councilperson Dennis: My reason is that no where do we ever talk about production limitations, and that has been part of the concern in that right now the brewery is expecting to have equipment delivered to increase the capacity that has not been brought to our attention in any formal process. I first noticed it an article in the newspaper, and had the opportunity to talk to the applicant on the tour about it. So he's already stated he can't see himself going beyond the 4,200 in the near distant future. So I'm thinking that the 4,200 limit would be in place long enough for us to be able to figure out the issues around the zoning questions.

Town Solicitor: Well, not having the entire history in front of me, can I ask the Town Manager if the current Conditional Use has a cap on production?

Town Manager: We do not.

Town Solicitor: Then that would be something new for the Council to propose to vote on.

Councilperson Hartstein: I was wondering why we would even care? The more the better?

Brett McCrea: Honestly, if you put a cap on the business, that restricts what I can do and the amount of money I can really invest, and that wasn't the original deal that I had with the Town.

Councilperson Dennis: The original understanding you had with the Town not deal, it was an understanding, not a deal.

Mayor Wyatt: I would have a problem agreeing with that as well, for the simple fact we are restricting his business on how far he can go. As long as he stays in the guidelines and maintains the proper business I don't see how we can tell him how busy he can be.

Councilperson Dennis: I don't want this to come off that I'm telling him what to do, what I'm trying to get at is an opportunity. He has stated to me at least on my tour that this 4,200 capacity will be in place for several years, he doesn't see himself exceeding it. I'm just trying to get to the point that if we agree, and if he agrees that that's a reasonable capacity for the distant future that we can sit here and have the opportunity to address the real issue.

Brett McCrea: These are the fundamental concerns that I have with speaking as to what is going to happen with the business, that it can be used in such a way to rein in what we're doing. And that is where I have some concerns about what is happening at this point in time, is that something I want to consent to? No, it is not.

Town Solicitor: If I may, it seems to me that the problem is with the current classification, it doesn't envision a production type of business. It's more for *(not audible)* professional *(not audible)* and you could put further conditions

including if Council agrees, what you proposed. But, perhaps the better thing to do would be let Mayor and Council or a subset consider the whole zoning issue.

Councilperson Dennis: I totally agree with that, and that's why I said whatever comes first. The limit or the change in the zoning, which gives everyone some assurances that there wouldn't be an incremental increase that we wouldn't be prepared to deal with. That was my concern, and I thought that was a fair approach, apparently I'm in the minority.

Mayor Wyatt: With the Council's approval I would like to recommend that the Town Manager and the Town Solicitor meet and report back to us in 3 months if there is a way to look in this rezoning. I think that would alleviate a lot of questions and concerns.

Town Solicitor: Since the issue of capping 4,200 barrels was not placed on the agenda I would recommend placing it on the next agenda to be discussed at that time.

Councilperson Dennis: I regret that since the Council does not agree with or consider it unreasonable with that approach (cap on 4,200 barrels) I wish to reluctantly withdraw my comment.

Motion by Councilperson Barlow, seconded by Councilperson Hartstein to direct the Town Manager and Town Solicitor to look into the possible rezoning of this property and get back to us in 3 months. **APPROVED (unanimous)**.

6. BID AWARD – PETTYJOHN WOODS SPRAY IRRIGATION PROJECT

Proposals for Pettyjohn Woods Spray Irrigation Project. Bids received from Daisy Construction, David A Bramble, A.P.Croll, Hopkins Construction and Kuhn Construction. All bids were reviewed by Davis, Bowen & Friedel, and recommended awarding the bid to David A Bramble. The amount of funds from the USDA for this project is \$1,361,900.00.

Councilperson Hartstein asked for a comparison of the other bids that were received.

Town Manager: David A Bramble: \$1,212,786.85, Kuhn Construction: \$1,224,441.50, Hopkins Construction: \$1,299,281.18, Daisy Construction: \$1,421,420.65, and AP Croll: \$1,473,253.50.

Motion by Councilperson Hartstein, seconded by Councilperson Barlow, to award the bid to David A Bramble in the amount of \$1,212,786.85. **APPROVED (unanimous)**.

7. 2ND READING & ADOPTION OF ORDINANCES

A. ORDINANCE #2012-7 DEMOLITION

The purpose of this ordinance is to define the steps that a property owner must complete in order to be granted approval to demolish any structure within the Town of Georgetown. Many structures exist that contribute to the historical past and heritage of Georgetown. All sizes and styles of historic buildings are important to the overall historic fabric of our community. The removal of any structure whether historic or not should be taken into careful consideration prior to demolition. Taking into consideration the comments made during the June 13th Council meeting, the following changes have been made after discussion with the

Planning Administrator. It was decided to take the specifics of the application out of the Ordinance and have the Ordinance specify that there is an application required for demolition and that application is to be reviewed by the Town Manager and in certain instances where it's not a contributing structure, there need not be a review by the Planning Commission. Also, Councilperson Dennis had a concern with insuring that anything that was hazardous on the structure to be demolished should be confirmed. It states on the application that the applicant is responsible for notifying DNREC, at least 10 days in advance of any demolition work taking place. DNREC, under the direction of the US Environmental protection Agency (EPA), requires an inspection of all materials being demolished for the purpose of identifying any hazardous materials.

Councilperson Dennis: Does that in fact mean that the applicant is required to notify the Town that he or she has complied with that? How do we know? Where's the loop?

Town Manager: When you complete your visit with DNREC they give you a piece of paper. You have an inspector come out, if they don't find anything there is a report back to DNREC and they sign off. If they find something then you have to use a certified by DNREC contractor that comes out for the removal and remediation and then DNREC comes back.

Councilperson Dennis: Then how does the Town know?

Town Manager: They have a piece of paper by DNREC stating that the work has taken place.

Mayor Wyatt: Is there a charge by DNREC?

Town Manager: Only what the inspection company charges or what the company that removes it charges.

Mayor Wyatt: So if someone wants to tear down a rundown shed in their back yard it's going to cost them extra money?

Town Manager: I don't think when the inspector comes out unless they find something like asbestos shingles, there shouldn't be any additional cost.

Mayor Wyatt: I mean they are going to have to pay an inspector to come out.

Town Manager: That's true, but that's true with any type of building whether it's a commercial building or just a shed.

Mayor Wyatt: I just don't think if someone wants to improve their property by tearing down an old shed we shouldn't impose more costs.

Town Manager: I think for a shed it's going to be defined as an accessory building, but if you want to table this to do more research we can.

Town Solicitor: Perhaps I can review the code and suggest some language to limit the definition of structures here and elsewhere.

Motion by Councilperson Barlow, seconded by Councilperson Dennis, to table Ordinance #2012-7 Demolition. **APPROVED (unanimous).**

Town Clerk asked that Council go back to Item # 5 at this time. Each of the applicant's proposed changes were voted on one at a time, but Exhibit A - Amendment as a whole was not adopted.

Town Solicitor: If I can add "As amended these be the approved changes."

Town Clerk: Yes, thank you.

Motion by Councilperson Barlow, seconded by Councilperson Dennis, to adopt Exhibit A as amended. APPROVED (unanimous).

Town Solicitor: Can I suggest that the Council get a copy of the final version at the next meeting to make sure everything looks like what they voted on.

Councilperson Dennis: I would also like it (Exhibit A) to be dated.

8. DEPARTMENTAL REPORTS

A. GENE DVORNICK – TOWN MANAGER

New Bank Account

The Town currently has funds totaling \$390,270.40 in the Annexation Account, at County Bank. This exceeds the FDIC insurance limit of \$250,000.00 by \$140,270.40) and County Bank does not pledge collateral to cover the excess. Accordingly, the Finance Staff and I investigated alternatives and suggest the Town open an Annexation Account with Fulton Bank, which will pledge collateral as needed.

Motion by Councilperson Barlow, seconded by Councilperson West, to grant authorization to open an Annexation Account with Fulton Bank. APPROVED (unanimous).

Planning – Town Hall Renovations & 37 The Circle

The Town has received a proposal from Davis, Bowen & Friedel, Inc. (DBF) for Preliminary Architectural & Engineering Services (including schematic design, architectural design, presentations, construction phase and environmental investigation services) for the renovations of 39 The Circle and 37 The Circle. The estimated cost is \$20,400.00, which will be part of our match towards the Community Facilities Funding Program through the USDA. This will also provide the basis for determining the information and total cost towards a future referendum for the project.

Motion by Councilperson Hartstein, seconded by Councilperson Barlow, to grant authorization to the Town Manager to sign the DBF proposal at an amount not to exceed \$20,400.00. APPROVED (unanimous).

FY 2012 Community Development Block Grant (CDBG)

The Town has received notification from the Delaware State Housing Authority (DSHA), funding for the Margaret Street Infrastructure Improvement (Phase I) has been granted the amount of \$139,790.00. We have been trying to receive funding for this project for many years and are grateful to the DSHA for their efforts on our behalf in securing this vital funding.

Delinquent Property Tax Accounts

As of June 26, 2012 the Town had 698 properties (out of 2,634; or 26.5%) are delinquent in paying their property taxes, with the oldest dating back to 2003. Currently the total due is \$247,102.65, broken down as \$176,221.19 (principal) and \$70,881.46 (penalty and interest). In reviewing the accounts with the Finance Department, we like to propose an amnesty program whereby a property owner who is delinquent and pays the principal amount due on/before Friday, August 31,

2012, the penalty and interest shall be waived. Notices of Past Due are will be mailed next week – we would include the amnesty as part of the notice.

Motion by Councilperson Dennis, seconded by Councilperson Barlow, to authorize a Property Tax Amnesty Program for delinquent property taxes if paid in full by August 31, 2012. **APPROVED (unanimous).**

Legislative Items

1. The Legislature has proposed and incorporated into the Bond Bill an additional \$1,000,000 in funding for Municipal Street Aid. For Georgetown this equates to approximately \$27,000 on funding.
2. The Communication Lobby has expressed concern of the term Communications in our Reincorporation Bill. Accordingly, an amendment is being drafted for introduction in the House and once voted upon, will be sent back to the Senate for a vote.

There are a few pieces of legislation we have been actively engaged with and offering comment on:

<u>Bill</u>	<u>Description</u>	<u>Position</u>	<u>Status</u>	
SS 1 for SB 167	Legality of Ordinance, Code, Regulation or Map Relating to Zoning	Oppose		In Committee
HB 261	Termination of Utility Sale or Service	Support	Passed House	Defeated Senate
HB 278	Tax Refund Intercept for Collection of Property Taxes	Support	Passed House	In Committee
HB 337	Police Officers' and Firefighters' Employment Relations Act	Oppose	Out of Committee	
HB 366	Police Chief Due Process	Support	Passed House	In Committee
HB 376	Medical Insurance for Retired County and Municipal Police	Neutral	Tabled In Committee	

Miscellaneous

- May 31st Budget versus Actual Report was distributed.
- Water Leaks:
 - Number 10: 4 & 6 East Laurel – Repaired Service Line
- Reminder: Town Offices will be closed on Wednesday, July 4, 2012 in observance of Independence Day
- Request: Cancellation of the August 8, 2012 Regular Town Council Meeting

Motion by Councilman Barlow, seconded by Hartstein to cancel the August 8, 2012 Town Council meeting. **APPROVED (unanimous).**

- Employee Service Recognition

- Bobby Fletcher Public Works 18 Years
- Daniel Donaway Water Department 8 Years
- Chris Story Police Department 5 Years

9. **PUBLIC COMMENT**

Correspondence from Kay Willey, thanking the Town for their generous donation of time during the services for her husband Bob Willey.

10. **ADJOURNMENT**

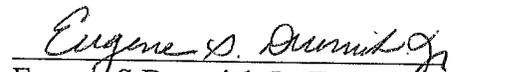
Motion by Councilperson Barlow, seconded by Councilperson West, to adjourn at 7:45p.m. **APPROVED (unanimous).**

APPROVED:



Steve Hartstein, Secretary

ATTEST:



Eugene S Dvornick Jr, Town Manager