

**TOWN OF GEORGETOWN
TOWN COUNCIL MEETING MINUTES**

Meeting Date: Wednesday, March 14, 2012
Location: Town Hall, 39 The Circle, Georgetown, DE
Time: 7:00 P.M. Regular Meeting

PRESENT:

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

STAFF PRESENT:

Eugene S Dvornick Jr, Town Manager
Angela Townsend, Town Clerk
Jim Fuqua, Town Solicitor

ABSENT:

Steve M Hartstein, Ward One

7:00 P.M. REGULAR MEETING

1. PLEDGE OF ALLEGIANCE

Mayor Pettyjohn led the Pledge of Allegiance.

2. INVOCATION

Mayor Pettyjohn led the invocation.

3. ADOPTION OF AGENDA

Item #8 Blueprint Community Update and Item #10B Bill Topping – Chief of Police was deleted.

Motion by Councilman Ricker, seconded by Councilman Barlow, to adopt the agenda as amended. **APPROVED (unanimous).**

4. APPROVAL OF FEBRUARY 22, 2012 TOWN COUNCIL MINUTES

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

5. CONDITIONAL USE APPLICATION - CASE #2010-22 - BERNARD MICHEL

On July 24, 2007 the Town approved a Category II Site Plan review for an addition to the existing single family unit to allow two (2) units. It was later discovered the addition was built with two (2) units totaling three (3) residential units. The Town requested that the third unit be blocked off until a conditional use was addressed.

Public Hearing was held on February 22, 2012 holding the record open for 14 days. No comments have been received. The Planning Commission held a meeting on January 18, 2012 and the application was denied.

Mayor Pettyjohn: If denial is approved, how can the Town guarantee that the 3rd unit will not be used and does the Town have the authority to order the applicant to demolish the 3rd unit that was built without approvals?

Town Solicitor: There are some facts that I'm not aware of and I would like them verified before I can say exactly what we can do. I don't know what the original

plans that were approved showed. I believe it was a 6 bedroom unit. I don't know if what was built was approved and then converted into 2 units or whether things were built beyond what the original site plans were.

Councilman Ricker: In 2007 Council approved the site plan, when did he get his certificate of occupancy or did he ever get his certificate of occupancy?

Town Manager: To answer the first question, on July 24, 2007 the Town approved a Category II Site Plan to allow the property owner a permit to remodel the existing residential units. A portion of this building on the rear containing the second unit was replaced. The property is zoned UB2 which allows limited commercial uses. Chapter 230-82 J allows living units in connection to any permitted uses as long as there is 2400sq ft of lot area for each use. The lot is 6960 sf. At that point in time the recommendation of the site drawing of this application is a survey dated May 10, 2007. The approved Category II site plan dated July 24, 2007 was drawn by Kercher Engineering. It was recommended that the review comments be addressed by revising the approved Category II plan and to resubmit the plans. The Notice of Violation recognizes that 3 units were actually built.

Town Solicitor: If one of the units was a large unit and was built per the permit, nothing would have to be removed it could just be used as one unit. Any barriers or separations or access points making it 3 units would have to be ordered to be removed or modified. If things were built beyond the permit it could require physical removal of the unit. It's my understanding from reading the correspondence that the second unit was a 6 bedroom unit, it couldn't be divided and used as a 2 three bedroom unit. To answer your question, yes, whatever is decided can be enforced and if necessary could involve court action seeking an injunction or something of that nature.

Councilman Barlow: This Letter of Violation and Enforcement dated September 26, 2008 clearly states the violations and "the plan must be followed as approved. The following list of items must be corrected to comply with the approved site plan". The two sets of exterior stairs need to be removed, the parking area needs to be changed, and the second residential apartment unit in this building must be removed. So, Mr Michel has for 4 years just ignored a Notice of Violation and now he wants us to give him Conditional Use for something that he has been doing for 3½ or 4 years.

Councilman Ricker: According to the record, they have never gotten a certificate of occupancy. And once again this is another instance attempting to use a Conditional Use for what it's not really intended for. So I would like to make a motion.

Motion by Councilman Ricker, seconded by Councilman Barlow, to accept the Planning Commission recommendation to deny the Conditional Use Application – Case #2010-22 and have Code Enforcement find out exactly what is built and what was supposed to be built in 2007 in addition to not having a Certificate of Occupancy to even occupy what was done.

Motion by Councilman Barlow to enforce the 2008 Notice of Violation and Enforcement giving the applicant 30 days to comply.

Motion by Councilman Ricker, seconded by Councilman Barlow, to amend his original motion to include Councilman Barlow comments. **APPROVED (unanimous)**.

6. NORFOLK SOUTHERN LEASE EXPENSE RECOVERY

The Town had received a request for permission to utilize space for five (5) parking spaces on lands leased from Norfolk Southern (between Thoro-Kleen and the DART Transit Hub) for use by Canvas, Amigos and More, a new business locating at 106 East Laurel (corner with North Railroad).

Parking for Canvas, Amigos and More was approved at the Feb 22, 2012 Council meeting.

Town Manager presented Council with an overview.

Background • Lease Renewed on July 1, 2009 • Prior Lease Entered into October 22, 1973 • Area Leased – 93,800 +/- SF • Extends from Depot Street to East Pine Street

Term • Indefinite • 90 Day Termination Notice

Rate • Initial \$600.00/year • Annual Increase – Based on CPI

Property Use • Predominately Vacant Land • Most Extensive Use • Depot Street to Cooper Alley • Yard Sale/Flea Market (Weekends) • Addressed July 27, 2011 • Ordinance 2001-15 (§ 130-13. D) • Restoration Worship Center • Depot Street and North Railroad Avenue • “Lil Toot” Train Rides • Historic Georgetown Association

Calhoun Store Parking • Request Granted by Council on October 27, 2008 • 10 Spaces

DART Transit Hub • Request Granted by Council on May 13, 2009 • Sub-Lease executed November 10, 2009 • Improvements made bus shelter, benches, bicycle racks, trash cans, lighting, paving, landscaping, fence and signage

Canvas, Amigos and More • Request Granted by Council on February 22, 2012 • 5 spaces

Norfolk Southern Billing

<u>Year</u>	<u>Invoice Amount</u>	<u>Per Square Foot</u>
2006	\$439.76	\$0.0046883
2007	\$451.41	\$0.0048125
2008	\$476.46	\$0.0050795
2009	\$600.00	\$0.0063966
2010	\$605.08	\$0.0064507
2011	\$627.03	\$0.0066848

Parking Area Standards • Defined by Town Code • § 230-151 A • “area no less than 10 feet by 20 feet for vertical or diagonal parking • 200 Square Feet per Parking Space

Square Footage Granted • Calhoun Store: 2,000 SF • Canvas, Amigos and More: 1,000 SF

Billing Expense Recovery

<u>Year</u>	<u>Calhoun Store</u>	<u>Canvas, Amigos and More</u>	<u>Total</u>
2006	\$9.38	\$4.69	\$14.07
2007	\$9.62	\$4.81	\$14.43
2008	\$10.16	\$5.08	\$15.24
2009	\$12.79	\$6.40	\$19.19
2010	\$12.90	\$6.45	\$19.35
2011	\$13.37	\$6.68	\$20.05

This is in response to the comments made at the Public Comment section of the Council meeting on February 22, 2012.

Councilman Barlow: The accounting for this amount of money would cause more work than we would be billing.

Town Manager: We do have the review of the parking requirements with recommendations being presented to the Planning Commission at their next meeting. Essentially to recommend back to Mayor & Council with the ordinance proposed that the Planning staff can recommend up to a 20% reduction in the required number of spaces. After review some of the parking requirements are antiquated, based on smaller cars and users able to demonstrate that they won't need that many parking spaces. They have invested upfront costs as well as paving requirements that may never be needed.

Mayor Pettyjohn: It comes to \$20.00 a year for those spaces.

Councilman Barlow: We either designate parking or they will park there anyway. There is no way of stopping or policing them from parking there.

Councilman Ricker: Are there any other public parking that the Town owns and pays for and people use? We are allowing a private business to use parking that is paid for by taxpayers for no fee at all. The taxpayers are paying \$627.00 a year and these guys cannot provide their own parking therefore they are putting it on the taxpayers of the Town to pay for their parking. I have a problem with that.

Town Manager: To answer your question, I am not aware of any other land that the Town leases.

Councilman Barlow: Does the lease with Norfolk Southern include Layton Avenue parking?

Town Manager: The total land area that is leased runs on both sides of the railroad.

Councilman Barlow: The parking on Layton Avenue has been used for Town parking as long as I can remember, but it is also used by the Hispanic grocery store, if I'm not mistaken we gave him permission to use those parking spots when we approved that grocery store.

Councilman Ricker: I just think those business owners should be paying something for the parking. The amount we would be billing (\$6.87) would be a bookkeeping nightmare. The applicant wants the Town to pay for his parking.

Councilman Ricker asked to table this item until the Planning Commission comes back with their comments/recommendation on the proposed ordinance for parking requirements.

7. **1ST PRESENTATION OF FY13 BUDGET PROPOSAL**

This is the first presentation as a part of the Annual budget process. No action is necessary at this time. Council will need to schedule a workshop before the next Council meeting on March 28th. The Budget will be presented again at the March 28, 2012 Town Council Meeting.

8. **BLUEPRINT COMMUNITY UPDATE**

Deleted with adoption of the agenda.

9. **1ST READING OF ORDINANCES**

A. ORDINANCE #2012-4 MORATORIUM ON TRANSITIONAL HOUSING

This ordinance establishes an 8 month moratorium on Transitional Homes. It creates a Task Force to study the issues and make recommendations. Public Hearing took place at the February 22, 2012 Council meeting. No action is necessary at this time. Refer to Planning Commission for Recommendation: March 21, 2012, 2nd Reading & Adoption will be March 28th Council meeting

B. ORDINANCE #2012-5 SICK TIME AND LAYOFF RECALL

After review of the personnel policy, the payout of accrued sick time needed to be changed defining employees hired prior to April 30, 2012 and hired beginning May 1, 2012. The max payout shall be no greater than 2,080 hours of sick time. Layoff recall needed to be further clarified as to employees in good standing or on probation at the time of layoff.

The proposed changes have been reviewed and approved by legal counsel. No action is necessary at this time. 2nd Reading & Adoption will be March 28th Council meeting

10. **DEPARTMENTAL REPORTS**

A. GENE DVORNICK – TOWN MANAGER

2012 Municipal Election

REMINDER: Certificates of Candidacy are available. The seats for Ward 3, Ward 4 and Mayor are up for election. The filing deadline is April 20th at 5:00 pm. The Annual Municipal Election will be held on Saturday, May 12th (if needed). New voter registration deadline is Friday, April 27th 4:30 pm.

Memorial – Chief Harvey Gregg

The Town continues efforts to complete the permanent memorial for Chief Gregg. The monument design has been completed and etching is underway. Anticipated dedication date is Wednesday, April 4, 2012 – time to be determined.

Drinking Water Regulations

The Town has been working with the Office of Drinking Water regarding the revision of Drinking Water Regulations with respect to the lowering of the Maximum Contaminant Level (MCL) for various Volatile Synthetic Organic Chemicals (VOC's). Specifically:

<u>Contaminant</u>	<u>Current MCL</u>	<u>Proposed MCL</u>
Tetrachloroethylene (PCE)	0.005 mg/L	0.001 mg/L
Trichloroethylene (TCE)	0.005 mg/L	0.001 mg/L
Vinyl Chloride (VC)	0.002 mg/L	0.001 mg/L

Compromise has been reached as follows:

- The MCL for these compounds will be lowered to 0.001 mg/L effective January 1, 2013;
- Systems that meet the federal MCL 0.005 mg/L on January 1, 2013 effective date yet ***Do Not Comply*** with the 0.001 mg/L shall have until January 1, 2015 to reach compliance; and
- For Enforcement purposes during the transition period between January 1, 2013 until January 1, 2015 any water system not meeting the MCL of 0.001 mg/L on January 1, 2013, shall continue to be monitored for enforcement purposes at the Federal MCL 0.005 mg/L until January 1, 2015. On January 1, 2015 the state MCL of 0.001 mg/L goes into full effect.

South Railroad Avenue Well & Treatment Facility

The Town has received notification that closing on the loan for the South Railroad Avenue Well and Treatment Facility will take place on Friday, March 23, 2012. This is the \$1,595,590 loan at a zero (0%) percent interest rate and one hundred (100%) principal forgiveness.

"Spring into Spring" Festival

The inaugural "Spring into Spring" Festival is being planned for Saturday, April 21, 2012 from 12:00 (Noon) to 9:00 PM. This will be a festival with music, food and craft vendors, and activities for children – more information will be provided as we get closer to the actual date.

FY 2013 Budget Workshop

The Finance staff and I have been working on the FY 2013 Budget – initial presentation was made this evening. We'd like to schedule a workshop with the Mayor and Council – potential dates: Wednesday, March 21; Friday, March 23; or Monday, March 26; to review the details and discuss options to address the deficit.

Mayor and Council scheduled a Budget Workshop for Wednesday, March 21, 2012 at 4:30pm.

Drinking Water Planning Grant

In October 2011 the Town prepared and submitted an Application for a \$25,000 Water Facility Planning Grant through the Office of Drinking Water. We received notice last week all applications are on hold and will be revisited in FY 2013 – the funding request did not make it into the Governor's Recommended Budget – seven (7) municipalities, including Georgetown, were impacted.

USDA Application – Town Hall

The Town is working with the Town Engineer to prepare the necessary application and schedules for funding through the USDA Community Facilities Program (combination grant and loan). This is for both 37 and 39 The Circle.

Service Line Replacement

The Service Line Replacement project is being held up due to issues with Wage Rates; however, it should be ready to go out to bid by the end of next week.

Miscellaneous

- Water Leaks:
 - 2012
 - Number 4: East Market Street (West of Albury Avenue) – replaced 1” service line
 - Number 5: B Alley (Georgetown Presbyterian) Pump Station – repaired 1 ½ service line
- Upcoming Events
 - Delaware League of Local Governments, Thursday, March 22, 6:00 PM – Dover Sheraton

B. BILL TOPPING – CHIEF OF POLICE

Deleted with adoption of the agenda.

11. PUBLIC COMMENT

Correspondence received from Sergovic, Carmean & Weidman, PA dated March 13, 2012 indicating that they wish to withdraw their offer to purchase 123 West Market Street. There has been some expression of interest, the next step is to confer with Jim Fuqua on how best to handle this to stay transparent on whether we need to rebid or not.

Jim Fuqua: We only had one bid on the advertised two properties; we can proceed without additional advertising.

Mayor Pettyjohn: Please confer with the interested parties if they are interested with either the same amount or greater so we can proceed with this.

Linda Dennis, Ward 4: I have some comments I would like for you to take into consideration for inclusion before its submittal to the Planning Commission for review or before it comes back to you on March 28th.

*“Thank you for taking the lead in providing for an established period of time to be devoted to the thoughtful study of the issues surrounding the various congregate living arrangements that exist in Georgetown including group homes for various special needs that minimally include the homeless, persons in drug and/or alcohol recovery, persons with mental or developmental disabilities, ex-offenders **including registered sex offenders**, victims of domestic violence.*

*I would like to suggest that the above **bolded language** be included in the first paragraph and that the following items be added to the second paragraph in Section 2. Of the Draft*

The proposed Moratorium will allow the Housing Task Force to accomplish the following:

- *To definitively determine how many residences exist and to determine when and if the Town has reached a “saturation” point.*

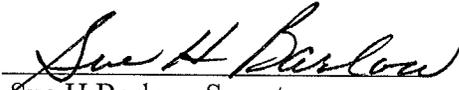
- *To define each type of housing program currently operating within Town limits.*
- *To determine what the continuum of housing options are, from most restrictive to least restrictive and to decide what are the best strategies to insure that Federal and/or state, program, and safety standards are met by the operators/sponsors.*
- *To consider if new Town ordinances are needed to protect the health and safety of Town residents and to insure that the Comprehensive Plan is followed.*

Again, I want to thank the Mayor and Council for providing a forum for input and discussion of the issues”.

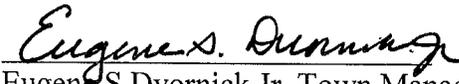
12. ADJOURNMENT

Motion by Councilman Ricker, seconded by Councilman Barlow, to adjourn at 7:40 p.m. **APPROVED** (unanimous).

APPROVED:


Sue H Barlow, Secretary

ATTEST:


Eugene S Dvornick Jr, Town Manager