

## **COUNCIL MINUTES**

**JANUARY 3, 2011**

The regular meeting of Mayor and Council was held on the above date with Council members Reynolds, Faulkner, McGhee, Pierce, Burgess and Dixon present with Mayor Branner presiding. Town Manager Morris Deputy and Town Solicitor Scott Chambers were also in attendance.

**1. Minutes Approval:** Moved by Ms. Burgess and seconded by Mr. McGhee to approve the minutes as presented. Motion Carried Unanimously.

**2. Treasurer's Report:** Moved by Mr. Pierce and seconded by Ms. Burgess to approve the Treasurer's Report as presented. Motion Carried Unanimously.

**3. Bills Payable:** Moved by Mr. Reynolds and seconded by Ms. Burgess to approve the Bills Payable and pay as funds become available. Motion Carried Unanimously.

**4. Police Report:** Chief Tobin and Pat Mullin

The MPD responded to 893 calls for service for the month of December.

- 279 incidents were documented with a report.
- 51 incidents required arrest action; 95 criminal charges were placed.
- Calls for service per zone: Zone 1 – 226; Zone 2 – 352; Zone 3 – 141 and Zone 4 – 122.
- 50 accidents reported: property damage – 37; property damage/hit & run – 6; personal injury – 7.
- The new hands-free cell phone law went into effect; \$50 minimum fine for first offense. The MPD has hands-free devices in the patrol cars although police, fire and ambulance are exempt from the law.
- Calls for service steadily increased from 2006 until 2009; the decrease for calls in 2010 is attributed to the enforcement action in Town.

Moved by Mr. McGhee and seconded by Mr. Faulkner to accept the Police Report as presented by Chief Tobin. Motion Carried Unanimously.

## **5. PUBLIC HEARINGS**

**5-A. Kohl Prop South LLC – Final Record Major Subdivision/Land Development Plan for 19+/- acres of land, located along the southerly side of Patriot Drive in the Westown Business Park, for the development of a 326,000 square foot office/manufacturing facility for the formation, filling and distribution of battery systems in a Manufacturing/Industrial area. Tax parcels 23-041.00-031, 23-041.00-032, 23-042.00-008, 23-042.00-009 and 23-042.00-010.**

Rick Woodin, representing Kohl Prop South LLC, stated final plan approval is being sought for the Record Re-Subdivision Plan for the Westown Business Park and the proposed development on Lot 17.

### **Re-Subdivision Plan**

- Lot 17 will become a single parcel 29 +/- acres comprised of Lots 17 thru 21.
- The Subdivision Plan shifts Patriot Drive approximately 100 feet closer to Rt. 301 to accommodate the proposed facility.
- Access points remain the same: Patriot Drive to Levels Road; an internal street near the Hedgelawn House with a right-in/right-out, and a signalized intersection at Merrimac Avenue at the Walmart intersection. A connection will also be made to Classic Drive in the Auto Mall.
- The Subdivision Plan was previously reviewed and approved by the Town and the Town's Engineer.

**Land Development Plan** – Lot 17 is located to the rear of the business park adjoining the Town's utility corridor. A landscape berm is proposed between the Westown Residential development and the south side of the utility corridor. A landscape berm is also proposed behind the facility. The building will be set back about 175 feet from the Goddard School which will allow for a 75' landscape berm, fire access and maintenance road around the building. The truck parking is placed in the front of the facility to allow the user to have a separate security gate. Landscaping will be provided between Patriot Drive and the parking setback. The water main will loop around the building with fire hydrants on Patriot Drive and the perimeter of the building. The Fire Marshal is finalizing his review of the plan. The entrances are located toward the east end of the property. The facility will drain to the stormwater pond and an infiltration system will be constructed to handle roof top runoff for recharge.

Mayor Branner noted that the plan shows the additional emergency access as requested by the Fire Chief at last month's meeting.

*Moved by Mr. Pierce and seconded by Mr. Reynolds to approve the Kohl Prop South LLC Final Record Major Subdivision/Land Development Plan for 29+/- acres on Patriot Drive in the Westown Business Park. Motion Carried Unanimously.*

**5-B. Parcel C-1, Levels Business Park Final Record Major Land Development Plan approval for proposed car wash on 2.65 +/- acres in a C-3 district on the southeasterly corner of the intersection of United Drive and U.S. 301 on a portion of Parcel C. Tax parcel 23-065.00-003.**

Rick Woodin, representing VCII Ventures, said the Preliminary Plan was approved in November. The car wash is proposed on Parcel C-1, 2.65 acres. The entrance to the facility is located off United Drive to an access road that will eventually serve as the entrance to the remaining portion of Parcel C. The building will be constructed with split-faced block and metal roof. Vacuums, self-service bays and detail bays will be available. Stormwater will drain toward Rt. 301 to a storm water pond just beyond Levels Road. An on-site infiltration system is also proposed. Construction is expected to begin in February.

*Moved by Mr. Reynolds and seconded by Mr. Dixon to approve the Final Record Major Land Development Plan for Parcel C-1, Levels Business Park for a proposed car wash on 2.65 acres. Planning and Zoning previously recommended approval. Motion Carried Unanimously.*

**5-C. Delaware State Housing Authority request to provide natural gas service to Holly Square Apartments**

Vince Fiorelli from Chesapeake Utilities said they were contacted by the Delaware State Housing Authority to supply Holly Square with natural gas. The complex consists of low income and elderly residents – it would save them a significant amount of money for utility expenses. Emily Lantern, from the Delaware State Housing Authority, commented that they are also upgrading all 24 units with high efficiency hot water heaters, new furnaces and new stoves for the tenants.

Mr. Reynolds asked if Chesapeake Gas was proposing to go across the residents' lawns on Shallcross Place because of the flags (markers) already placed on their lawns. The Town received several calls regarding the flags and no one knew why they were there.

Mayor Branner asked how they propose to get the gas lines from Cass Street to Broad Street. Mr. Fiorelli said in the street – he did not know exactly where the line would be placed but said it's typically in the right of way. Mayor Branner indicated there is no right of way on that street.

Mayor Branner said Delaware State Housing Authority and Chesapeake Gas would have to obtain easements from the residents – sidewalks are also private property. Easements for the gas line in the street would be obtained through Mayor and Council; however, running the lines in the street would not be cost-effective because the Town would require a complete overlay. The Town and Chesapeake had a similar conversation when a request was made to serve Silver Lake Elementary – the Town was adamant that they did not want a patch and repair cut in the street.

Mr. Faulkner commented that the request really can't be considered until an installation plan is available.

After general discussion it was agreed the request would be tabled and continued until next month.

A new motion was made to table the request.

(Moved by Ms. Burgess and seconded by Mr. Pierce to grant approval to the Delaware State Housing Authority to provide natural gas to Holly Square Apartments.)

*Moved by Mr. Faulkner and seconded by Ms. Burgess to table the Public Hearing for the Delaware State Housing Authority to provide natural gas service to Holly Square Apartments until the February Council meeting. Motion Carried Unanimously.*

**5-D. Ratify a contract with Austin & Bednash Construction Company for the Lakeside Pump Station Interceptor project**

Morris Deputy explained the contract is for the upgrade of the gravity main through the open space west of Lakeside to handle the development on the east side of Town and the contract with Odessa. The base bid was \$664,690, with a not to exceed contingency of \$285,310 for dewatering, bypass pumping and well pointing for a total bid of \$950,000.

Mayor Branner mentioned that the upgrade is part of the Capital Projects in the budget.

Chuck Dixon asked if any other bids were received. Mr. Deputy said the unit prices from the previously bid multi-year contract with Austin & Bednash were used. The 2010 rates were extended another year until the new contract is re-bid this spring. The Town bid this project within the guidelines of its purchasing policy. The bid was within 1-1/2% of the engineer's estimate.

*Moved by Mr. Reynolds and seconded by Mr. McGhee to approve a contract with Austin & Bednash Construction Company for the Lakeside Pump Station Interceptor project for approximately \$950,000 as recommended by the Town Manager. Motion Carried four to one. Chuck Dixon voted Nay; Jason Faulkner abstained from voting.*

**5-E. Ratify a contract with Layne Christensen for upgrades to the Lake Street Water Treatment Plant**

Morris Deputy reported that the \$475,000 bid is for a design/build project for upgrades to the water treatment plant. The filter media needs to be replaced and several improvements are needed to provide additional capacity. Layne was chosen because of their expertise and they have worked in our plants for several years. Expected completion date is May.

Bob Gouge questioned the guidelines for bidding. Mr. Deputy stated that contracts over \$50,000 are required to be bid if federal or state money is received. Because it's a timing issue and the town is buying water, it was deemed prudent to award the contract to Layne. Layne was consulted for issues we've been having with the plant. The conclusion was reached in December that the plant needed to be replaced and time was of the essence. If the project was bid out, we would be well into higher water usage months before replacement would begin.

Mayor Branner commented that due to the critical situation and to save time and money it was decided to go with Layne because of their familiarity and experience with the plant.

*Moved by Ms. Burgess and seconded by Mr. McGhee to approve the contract with Layne Christensen for \$475,000 to upgrade the Lake Street Water Treatment Plant. Motion Carried Unanimously.*

**5-F. Ratify an agreement for construction of a new production well at Lake Street Water Treatment Plant**

Morris Deputy explained that a new production well is needed to replace the failing Well 8 at the Lake Street Water Plant. Bids were received from A.G. Schultes, Layne Christensen and Uni-Tech Drilling. Uni-Tech Drilling was the low bidder of \$308,900. Based on bid analysis with the engineers, it is recommended that the bid award go to Uni-Tech Drilling. Fifty percent of the funding will come from Office of Drinking Water.

*Moved by Mr. Faulkner and seconded by Mr. Reynolds to ratify an agreement with Uni-Tech Drilling in the amount of \$308,900 for the construction of a new production well at the Lake Street Water Treatment Plant as recommended by Town Manager Morris Deputy. Motion Carried Unanimously.*

**F-G. Ratify An Interconnection and Mutual Operating Agreement with Delmarva Power**

Morris Deputy said Delmarva Power requested this agreement. DEMEC (Delaware Municipal Electric Co-Op) and the Town's Electrical Consultant have reviewed the agreement and recommend its approval. Basically, if power is lost on the east side of Town it can be supplied from the west side – it creates a loop process.

*Moved by Mr. Faulkner and seconded by Mr. Pierce to approve the Interconnection and Mutual Operating Agreement with Delmarva Power as recommended by the Town Manager. Motion Carried Unanimously.*

**F-H. Resolution to adopt a Post Issuance Compliance and Records Retention Policy for General Obligation Build America Bonds**

Lou Vitola stated this policy will allow the Town to more easily and thoroughly document compliance with tracking the investment proceeds of the Build America Bonds. It's a process recommended by the IRS and Bond Counsel.

*Moved by Mr. Pierce and seconded by Mr. McGhee to pass a Resolution to adopt a Post Issuance Compliance and Records Retention Policy for General Obligation Build America Bonds. Motion Carried Unanimously.*

**6. UNFINISHED BUSINESS – None**

**7. NEW BUSINESS**

- Jim Young, the Salvation Army's Kettle Drive representative, expressed his thanks to Mayor and Council and town employees for their continued support. MOT area donations increased by approximately \$1,000 this year. New Castle County's donations overall were down. A total of approximately \$21,000 was collected.

*Moved by Mr. Reynolds and seconded by Mr. Faulkner to go into Executive Session to discuss legal and personnel matters.  
Motion Carried Unanimously.*