

TOWN OF TOWNSEND

July 6, 2011

Council Meeting Minutes

7:30 pm – Council Meeting

I. Call to Order: 7:30 pm

II. Opening Ceremonies

- Roll Call: Mayor Steve High, Councilwomen Sandy Sturgis and Karen Jennings, Councilmen John Ness and Dwain Haines, Attorney Fred Townsend, Engineer Tom Wilkes, Manager Dawson Green, Secretary Cathy Beaver
- Pledge of Allegiance: Pledge was said.
- Recognition of Visitors:
 - 29 visitors
 - High said he is impressed and touched that so many people are here.
 - High asked the residents that if they do speak to please state their name so it can be on the record.
 - High then asked Council to keep all their discussion short and sweet.

III. Additions/Deletions to Published Agenda:

- Sturgis asked to remove water and zoning under committees

IV. Council Minutes – June council minutes (on back table, approved at workshop)

V. Unfinished Business

- Procurement Policy - Approved at the workshop, copies on back table
 - High stated copies of this policy are on the back table.
 - Ness stated for the record that this policy dictates the rules for council and employees to follow when making purchases or getting contracts. In the past we only did due diligence.
 - High added that we wanted guidelines on how we spend your money and do it correctly.
- Adoption of Resolution 11-02 - Financial Policy – Councilwoman Sandy Sturgis
 - Sturgis said this is an adoption for our investments; it is a guideline for council and future council to follow on investing the Town's money. It also gives our investment company the authority to switch funds around in an emergency (weekend or holiday) so we won't lose money.
 - Jennings asked if we need to have a public hearing.
 - Sturgis said it is a resolution; we don't need a public hearing. She asked Fred if this is correct.
 - Fred said it is correct.
 - Sturgis motioned, Ness seconded with unanimous vote to adopt resolution no. 11-02, Financial Policy.
- Streetscape survey of Main Street - Vote – Mayor Steve High
 - High said there are new developments with the streetscape and before he calls for a vote on it he asked Tom to give an overview.
 - Tom said he is essentially asking for a change order for the streetscape project to do some additional survey work. Tom said we kicked the streetscape project off several years ago, met with DelDot and the Town and presented the scope of work.
 - One of the items DelDot had us do in the beginning was a survey of Main Street, but now that we are in the final design stages, DelDot wants us to do a more extensive survey and pick up some additional property markers so we know exactly where the property lines are along Main Street in addition to property lines between the homes.
 - Initially we didn't expect to have to do this, DelDot said they had this information and now they don't so we now have to do an extensive survey to find all property markers.
 - Tom added that this work, along with all the initial work to date are being funded through the DelDot grant, won't cost the Town anything.
 - Sturgis motioned, Ness seconded to contract RVB to do further survey work with a cap of \$9,000.00.

- High stated this is a need to do thing.
- Ness verified the Town would re-coup this money.
- Tom stated it will be paid for by the grant. It is a matching grant but at this time the Town hasn't had to pay out any money.
- Vote: ayes – unanimous.

VI. New Business

- Purchase of new Town Vehicle - Mayor Steve High
 - High said last year \$20,000.00 was budgeted to buy a new vehicle, which we didn't think we would need. With the addition of a manager and maintenance man we now need it so both have access to a vehicle as needed. We purchased a new 2010 Dodge Ram long bed for \$18,500.00 2 weeks ago. Drive out the door and off the lot was \$19,000.00 and some change. Just wanted to let everyone know the vehicle was purchased. We now have split operation capabilities with the individuals in Town.

VII. Reports of the Officers

- State Police: Lt. LaMarche
 - Ness said Lt. LaMarche couldn't make the meeting and apologizes.
 - Several weeks ago there was a BB gun incident in Town involving minors, the police responded and investigated the incident.
 - Ness asked residents to please review the laws concerning ownership of guns. He stated he believes anyone under the age of 16 must have adult supervision.
 - It is summer time, please slow down and watch for children.
 - If you see or hear anything, contact the state police.
 - Mr. McWilliams, TVII, asked about the speed signs on Wiggins Mill Road that were previously discussed.
 - Green answered the signs were installed by DelDot saying speed limit strictly enforced. The problem is these signs have to be near the speed limit signs and there aren't any speed limits signs anywhere by the development on Wiggins Mill Road. There is one when you turn on Railroad Avenue and one by the one lane bridge. Green said he will talk to DelDot about this.
 - Ness added that we will continue to move the speed trailer around to the different problem areas.
 - Ness said he is also working with the police to ensure the patrols are moving around and not parked somewhere.
- State Representative: Quinn Johnson – not present.
- Townsend Fire Department: Keith Shoemaker/Jeff Dawson
 - Keith said he has no report for the fire hall.
 - Spring fling was a huge success. Tickets for next year are being printed now.
 - Having a gun raffle in December, tickets are \$20.00 and Haines has them for sale now.

VIII. Reports

- Fred Townsend III, Attorney:
 - Update on Lupo property at 626 Commerce Street, next step to the sheriff sale is the confirmation of the sale which we should receive on July 27th, will then be appropriate to have the property deeded to the Town.
 - Council needs to think of alternatives of disposing of the property. Fred said he will have suggestions and more formal recommendations to discuss at the workshop.
 - We could have the property appraised, or simply ask bidders to bid on the property with the minimum amount enough to satisfy the Town. This would be minimal cost and the fastest way to get rid of the property. We could then enter into a contract with the winning bidder and hopefully the clean-up process could begin within 30 days.
 - High asked if Council should set a committee up so there are only 1 or 2 people to work with him on what the Town should do.
 - Sturgis said the committee wouldn't be able to make any decisions and would still have to report to council. Would be better to have Fred make recommendations and Council decide which route to take.

- Fred said if the house is put on the market it would be a good idea to have a committee, but we aren't there yet and may not go in that direction.
- Tom Wilkes, Engineer:
 - Tom thanked Council for approving the change order for the streetscape. Waiting on DelDot again for approval.
 - Tom brought up the Townsend Village II activities and gave some background.
 - The developer/owner has requested some cost estimates from various parties, the landscaper for trees etc. and the site developer for road repairs and cost estimates.
 - Both estimates are being worked on to give to the owner so he can take to the bank to try and get funding. Not a lot of progress, this has been going on for a long time, but the Town only has so much authority to force the owner to make these improvements. It is up to him to get the funding and get these things done.
 - The owner came to the Town last year to ask if the Town would be agreeable to taking over the roads in question after the roads are paved. The Town stated they would be willing to do that, but the Town can't do anything until the developer/owner does the repairs per the contract, then the Town can take over the roads.
 - TVII resident Lorraine Gorman asked if there was a deadline for the owner to get these repairs done.
 - Tom said per the record plan there is no deadline, but according to the homeowners' association documents, once 90% of the homes are completed the development will be turned over to the Town.
 - Mrs. Gorman said she understands all of that, she wants to know if the owner was given a deadline to finish the landscaping and repair the roads, this has been dragging on and could go on for years.
 - Tom said the Town is pleading the case to fix the pot holes and fix the sidewalks and mow the open spaces. We are also enforcing the ordinances for the long grass and making them mow it. It is a combination of the Town pleading and the residents going to the management corporation and trying to get them to do something as well, but you are right, has been a long time in coming.
 - Mrs. Gorman stated we shouldn't have to plead with the developer to do what has to be done per the contract that was signed. Seems like the Town has nothing to hold over them, we can't enforce the bond, even the fines for not cutting the grass isn't working, what do they care if we fine them.
 - Tom said he understands the grass cutting has increased. The Town unfortunately doesn't have a lot of authority. It is in the developers' best interest to build homes and finish the developments for the betterment of everybody, but we can't force the developer to sell homes.
 - Mrs. Gorman said we can't force them to sell homes but could force them to clean things up and make the environment safe.
 - Tom stated the Town is trying to do that with the help of our attorney as well as the Mayor and Council members have enlisted the help of Quinn Johnson.
 - TVII resident Sheryl Rojas said they had a meeting with Tom Cahill of the Homeowner's Association last week and he more or less told us it is the Town's fault the work isn't being done and the grass is over knee high. We are stuck in the middle here; it's terrible, are we supposed to mow these bad areas ourselves.
 - Tom stated it is strictly the developers' responsibility and the email I read from Scott Lobdell said Cahill blamed the Town for everything and that isn't the case. The owner came to us last year and asked if they paved the roads and completed the landscaping, would the Town take it over and we said yes. They haven't done what has to be done yet.
 - Sheryl asked if there is any more pressure the Town can apply, they are about to lose one entrance to the development because of a huge pot hole.
 - Tom said the entrance off Route 71 is going to be fixed by DelDot.
 - Sheryl asked about the entrance off Wiggins Mill Road.
 - Tom said it is under plan to repair, you won't lose the entrance.
 - Resident Ron Slaughter stated what he is hearing is the Town has no current ordinances to address these issues, the homeowner's are in the middle, we have no influence over the

developer and builders, the developer doesn't care. Our interest is in protecting our investment and Council should understand that. In order to have an intelligent, productive conversation someone on Council should enforce a process to get ordinances we need to live in decent neighborhoods. It is a problem when new families move in and come to Council with their complaints and hear the same thing those of us who have lived here for years have been hearing. The constructive and intelligent thing to do is to tell us there is no ordinance and this is an ongoing problem that isn't going away. Council should see if there is some legal avenue they can pursue and use to influence and force the developer to do what they said they were going to do as part of the selling feature when we were considering buying property.

- High said what Mr. Slaughter is saying makes absolute sense. That process is already in effect and Fred will talk more about the bond issue. Basically the developer put money down to build, and if there is a safety/health issue they aren't in compliance with, we give them x amount of warnings and once that happens, we take x amount of money out of the bank account and fix the problem.
- Mr. Slaughter added that the Town is refusing to fix the problem.
- Fred stated litigation isn't a quick process and has the prospect of not solving problems if the developer doesn't have the funds to fix the problems.
- Mr. Slaughter said it is the threat of litigation that starts the process rolling, but if the Town isn't going to use any tools and this is a problem that has been going on for years, it seems litigation is an option that should be seriously considered. He also wanted to make it clear that currently there is no homeowner's association to represent us.
- Fred stated litigation is very much under consideration and if there are no results in the near future we will be deep into litigation; however, it won't solve the problems if the developer doesn't have the funds to complete the projects. You can get a judgment against someone who doesn't have any funds and never get a penny out of it even though you have done everything you can possibly do.
- Mr. Slaughter asked which developer we are talking about, new one coming in or old one.
- Tom explained there is only one developer, and there are home builders. The developer we are having trouble with is MS Development. They are the one we are trying to get to fix the problems.
- Mr. Slaughter said as homeowners they are looking for an official process from Town Council to follow. The developer had to have something to be permitted to come into Town. The homeowner shouldn't have to bear the burdens of maintaining what the developer isn't doing, it is a shared relationship, not just "pass the buck" back and forth, yet you come down on us for not following the rules. There is absolutely no power that any one person or group here has to affect any kind of change, that's the value of coming to Council, to your expertise and ask you to use it on our behalf.
- Resident Ms. Gwen Lane said she has been here for 3 years, keep getting the same promises and are told "in the near future". We can't wait anymore for the near future, we need something done now. We are asking the Town to do something, a judgment, whatever, we want something done. We don't want to have to come back next week and ask what did you do, we want something done now.
- Resident George Hemmert asked if there was any way we could embarrass the developer by using the Transcript.
- Jen (Transcript) said she writes about it every month.
- Mr. Hemmert said to organize a protest and get the paper involved, he added that is the only way it will work.
- Jennings asked Fred where we stand with the bond, how much money is in it, how long has it been and how soon can we get rolling on getting the money and fixing the problems ourselves.
- Fred explained that the developer has a tremendous financial interest in selling the remaining lots. Their motivation is to market the land they are selling and in today's market that incentive has been turned upside down. There is a bond, it probably doesn't have sufficient value..
- A resident asked how much the bond is.
- Fred said he doesn't know how much money it will take to complete the project.
- Many residents hollered "how much is the bond"?

- Fred said he thinks the bond is around \$79,000.00.
- One resident stated that isn't even a third of what her house is worth.
- Mr. Slaughter said the Town is talking about the bond but don't have the common sense to get to it and to get the landscaping and streets done, this amount won't come anywhere near what is needed. What the residents want to hear is, here is what the bond is here for, and it's there as a security. There is an intelligent way to do this, and that is what the residents want to hear.
- Another resident stated she comes to meetings off and on. Two months ago in the meeting it was announced the bond was lost but then found. Council is still telling us the same things they have been telling us for months, always the same conversation and nothing is being done. Everyone wants to pass the buck. This is our investment and it isn't appealing for anyone to even want to build here, need lights, streets fixed, landscaping done and huge mounds of dirt moved, if it was just graded and mowed it would look better.
- High told the residents they all make great points, if he owned the property he would make it appealing to be able to sell property and fill the development up with happy people. Happy people means money in your pocket. High asked the residents to flood all of Council with emails identifying the problems. Once they get all the information a cost benefit analysis can be done and Council can go to the developer to start doing something and start to fulfill some of the things that were promised to all the residents when they bought the property. High then reminded the residents that the agreement they went into was like the one he signed with Handler Corporation in TVI. The problem we all have is the Town doesn't own the developments and unless it is a health, safety and welfare issue for the residents, there is nothing the Town can do. The Town doesn't even own the streets and can't even come in and plow them.
- Mr. Slaughter said it has turned into a safety and health issue.
- High said to please email and identify all the problems so the Town can do a cost analysis.
- Mrs. Lane said the Town bought a big new truck and hired a Town manager, he can drive around and see what the problems are, and he can look at the entrances and see problems. We all went to the maintenance corporation and they know the problems, we have been telling you the problems and where they are, that's all you need to start, and once you start and we start, maybe we will get somewhere.
- High said to help us help you, flood us with emails.
- Mr. Slaughter said he agrees in large part with what High is saying, but if he is going to articulate a problem, he is also going to articulate suggestions to fix the problems. With our new Town Manager, we have an expert who is an engineer and go back and do an intelligent assessment himself.
- High said Green has been doing this.
- Mr. Slaughter said that is good, yet if the people aren't told, they don't know he is working on it. The responsibility is on Council now, not the homeowners, if Council wants to be constructive, the manager is being paid from residents' taxes and they want results, want their money's worth.
- Mr. Hemmert asked if the developer can be fined.
- High said he doesn't have an answer on that.
- Ness said Council isn't trying to pass the buck. People have to realize the Town has limited means on what we can do. We can pass ordinances but we have to use them wisely. We have been enforcing the grass ordinance and billing and fining, which for residents is an easy enough process, but for developers with a large piece of land, it isn't the same, if we are using Town resources because the developer isn't able or willing to abide by the ordinances, how will they pay fines and the Town if they have no finances. How likely will we be to re-coup those costs.
- Mr. Slaughter stated the developer may or may not pay but that is a Council issue/problem, not the residents issue or fault. The Town has ordinances not being enforced, it has turned into a health and safety issue and you have a committee for that, have holes, poor drainage, vermin and varmints, kids aren't safe, all we hear are all the reasons you can't do anything because the developer doesn't have any money. Be creative, come up with something new. The fact is, I still have to pay my taxes which the Town uses. Haven't heard from anyone what they are trying to do. We residents are only asking the Town to show the effort to fix these issues and

show us you tried. Haven't heard from anyone that there are other ordinances you are enforcing. Who does the ordinance go to, the County, the State. He said he writes policies and rules for the federal government so he understands these things. As an official body, the Town hasn't told us anything they have done, or that you have tried multiple things and come up with a brick wall.

- High said he will take everything under advisement and get back to him with some answers.
- Green added that he is out in the community daily. He said the Mayor asked all residents to please email their complaints. Green asked that the residents please prioritize the complaints for him, he is coming into this in the 11th hour and there are multiple issues and the residents all have different priorities on what should be fixed first. Please send your emails to me and I'll take care of them from there.
- A resident said this has been going on for years, things are worse than ever and the residents are tired of it.
- High said Council understands the concerns.
- A resident asked what responsibility the Town has for burned out homes. A person could fall into the basement.
- It was established there are two burned homes in TVII; one on Feret Street owned by Anderson Homes has the basement dug and nothing else. Grass and weeds so high now you don't know it is there and anyone could be walking and fall right into the hole. The other one is on W. Founds Street, still owned by a resident. Green will talk to Anderson Homes and make them do something with the home they own. The Town put caution tape and no trespassing signs on the property on Founds right after it burned down. The tape and signs were torn down. The Town will notify the owner it needs to be taken care of. If no response the Town will step in and tape it off again.
- Sturgis added that a fence was supposed to be put around the home on W. Founds Street.
- Residents all said nothing has ever been done with either of the homes.
- High said Green will work on it tomorrow and Fred will check into the dangerous building ordinance.
- Resident Larry Rocke asked why the Town doesn't hold building permits until the issues are taken care of in the developments. He said the Town needs to get with it and take care of all these issues.
- Sturgis said the builders apply for the building permits. They have nothing to do with what the developer is or isn't doing, the builder buys the lot from the developer and the builder builds homes.
- Mr. Hemmert stated Mr. Rocke made a good point. If the builder can't get permits because the developer isn't doing his job, the developer won't be able to sell lots and it may force him into fixing the roads, etc. He added MS Development shouldn't be permitted to pull permits.
- Fred said you don't have to pull a permit to sell land and to penalize the builder because of what the developer is doing isn't fair.
- Tom added that the developer won't finish the roads until the majority of the construction is done because the trucks just tear the roads up.
- Mr. Slaughter said the Town needs to take the "hard line" approach. Pressure the builder who will pressure the developer. The Town should use their combined power to make people do what has to be done. The reality is the Town needs to "give a damn".
- High said the bottom line is "We give a damn". At times it is extremely difficult but we will continue working to resolve the issues on the residents' behalf. May take us a while but we will figure it out. I have only been doing this for a little while but know we will get there. Any concerns call Green, or call me or show up on my doorstep. If wasn't for you, I wouldn't be here, none of us would be here. We all have a vested interest in these issues as we are all residents and pay the same taxes you do.
- Resident Mrs. Mack told High she drove through his neighborhood today, it is very nice. Our neighborhood looks terrible, it isn't fair. She said she has been coming to these meetings for 4 years and is still hearing all the same stuff, and nothing is being done – still.
- High said when he got back from Iraq in 2008 he called Handler (his builder) every day. There were large pot holes on his street that he filled with sand and stone every day until they finally

top coated my road once it was finished. I understand exactly where you are, been there, can't promise you brand new blacktop, but will get holes fixed. We will try to at least make it safe and drivable for all the residents.

- Mrs. Mack said it is past time to do the streets, not just fix the pot holes to appease us.
- High stated it isn't a matter of appeasing the residents. There was an agreement entered upon with the developer and until certain conditions are met, they cannot and will not do step 2 or 3 and finish out the roads. With the economy the way it is, and I know everyone is tired of hearing this, homes aren't selling and they aren't able to finish sections of the developments. Again, all the Town can do is ensure the safety and welfare of the residents.
- Resident Mrs. Gorman asked if the public areas that have been posted and mowed will continue to be mowed on a regular basis or will the residents have to continue to call and complain.
- Green said he is keeping an eye on all the areas and calls and sends letters as needed.
- Resident Stephanie Tarkenton asked Green if he knew anymore about the street lights at TVII.
- Green said he is still waiting to hear from Delmarva.
- Resident Lenny McWilliams asked if Beazer is the only builder in TVII now.
- Green said Anderson Homes still has 5 lots to build on in TVII.
- Jennings asked Green to get a prioritized list of safety issues in TVII and address them.
- Green said he is hearing that the residents want everything taken care of.
- Mr. Slaughter said they all just want a well-kept area, they didn't buy an eyesore and don't want to live in an eyesore, it isn't a wish list which is my term because of the atmosphere in the room, have a completed list, and take care of the issues, don't just keep telling us the same thing over and over.
- High said it isn't a wish list it is a milestone list and each milestone needs to be taken care of.
- Resident Mrs. Smith added it has been years, hearing the same thing over and over. The residents are frustrated, want action, pressure, every month Council says they are applying pressure, sometimes I leave feeling good, sometimes I leave feeling low, tonight I am low, do something aggressive, don't move backward. I have called MS Development and Anderson Homes, nothing gets done, we are tired, we want to hear what you have done, not what you are going to do.
- Dawson Green, Town Manager: Nothing more to report.

IX. Committee Reports

- Finance Committee: Chair – Steve High
 - Total Current Assets - \$2,434,171.64
 - Total liabilities & equity - \$3,555,382.26
 - High said he hasn't had time to sit down and go through the nuts and bolts of the finances but at this time they appear to be in good standing.
- Health & Public Welfare Committee: Co-chairs: John Ness & Dwain Haines – nothing to report.
- Energy & Environment Committee: Chair – Karen Jennings
 - Townsend Wildlife Habitat Project – Please contact Jennings if you're interested in establishing a wildlife habitat.
 - Astronomy Night in the Park – Have had some beautiful nights, but every time I have tried to set up a stargazing night in the park it has been cloudy. Will be setting up some nights in conjunction with Astronomy Magazine. It is a fantastic way to get your kids involved in science and astronomy. Will have sign-up sheets at the next meeting.
 - Jennings email address is kjennings@townsend.delaware.gov
- Veteran Affairs Committee: Co-Chairs – Karen Jennings & Dwain Haines
 - Project 19734 Soldier Support – care packages
 - I. Haines said he is waiting on addresses so the Town can send care packages.
 - II. High added the great soldiers from the 1049th transportation company will be departing shortly for Afghanistan.
- Police Committee: Chair – John Ness
 - Rotating the radar trailer around Town to problem areas.
 - Working with police on changing patrol times.
 - Townsend Community Watch –

- Parks & Recreation Committee: Co-chairs - Sandy Sturgis & Steve High
- The fair is 9/17/11. Will start having committee meetings in August.
- At the workshop Council voted to protect our investment in the trees and grass in the park and voted to install an irrigation system. Rather than use artesian water we are waiting on some bids on wells.
- Mr. Hemmert asked if the town will have to do a variance for wells.
- Sturgis explained that whoever gets the bids for the wells will have to get approval from DNREC.
- Hemmert asked if we are getting fertilizer tanks with the wells. Will save a ton of work.
- Sturgis said she will check into it.

X. Announcements: None.

XI. Citizens Comments & Participation

- Mr. Hemmert asked since we now have another Town truck, will the Town start picking up our yard waste like Middletown does. It isn't fair that the State decided the trash company can't pick up yard waste and we pay good taxes.
- Sturgis said it is something Council will re-visit. It is something we discussed in the past and I will bring the other options to Council when we do.

XII. Adjournment: Sturgis motioned, Ness seconded with unanimous vote to take a 10 minute recess and go into executive session on personnel issues.
