

COUNCIL OF TRAPPE  
TRAPPE TOWN HALL  
February 1, 2017

**Public Hearing – 6:45 pm**

President Fegel opened the public hearing for Ordinance 1-2017 at 6:45 pm. President Fegel read Ordinance 1-2017 – An Ordinance of the Town of Trappe to amend Section 14 of the Trappe Town Code titled “Water and Sewer”, Table 1 titled “Fees and Charges” to increase the basic monthly water service fee to \$15.00 per month and the basic monthly sewer service fee to \$50.00 per month; to amend Section 14.8 of the Trappe Town Code to authorize the Council to establish water and sewer rates for properties located out of the town in an amount not to exceed twice the amount charged to users located within the Town; and to amend Section 14.19 of the Town Code to clarify responsibility for maintenance and repairs of water and sewer lines located on private property. President Fegel opened for public comment. Attorney Booth stated that since the information meeting on January 19, 2017 language was added to amend Section F and the changes are underlined. Attorney Booth stated that Mr. Bud Reid brought to her attention that back in 2000 an agreement was done between the Council and Mr. Reid and this proposed Ordinance would not change what is in the written agreement. The written agreement is in a letter form dated November 22, 2000 and states that the Town will replace the existing sewer lines that the Town had previously approved. Mr. Reid stated that his understanding was that it was a financial issue for the Town and they couldn’t live up to the agreement at that time but that when work was going to be done to his street that the Town would honor the agreement. Until the point and time that the Town could honor the agreement the Town would maintain the sewer beyond his property line and so far the Town has done so. Attorney Booth stated that it didn’t make financial sense for the Council to fix this sewer line until the road is dug up for a larger project. Mr. Reid asked if the Council considered raising the usage rates at the same time as the base rates. Mrs. Ferguson stated that she understood that when the meters were put in there was a base rate and a usage rate. Mrs. Ferguson said that the base rate was adjusted a few years ago and the usage rates were increased and doesn’t understand why that isn’t being done again. Ms. Ann Frock stated that she was concerned about the amount of the budget that is going to debt service and feels that the Town shouldn’t have so much debt. Mr. Kirby Sabin stated that the debt that is incurred is because of the comptroller’s overpayment to the Town from what he understands and if that is the situation then is the increase to pay back the overage. Mr. Walter Chase asked how much money was to be generated by this increase and if this is a permanent fix or just a band-aid. Ms. Frock asked if the Council would be discussing the Lakeside development. Mrs. Ferguson asked if the Council finally quit counting on the development. President Fegel stated that the Council would not be discussing Lakeside tonight and that they are not counting on the development anymore. Mrs. Ella Morton asked how far out of Town is White Marsh Elementary and would this increase affect their bill. With no further public comment the public hearing was closed at 6:55 pm.

**Council of Trappe Meeting:** President Fegel called the regular meeting to order at 7:00 pm. Council members Rose Potter, Tonya Pritchett, RD Diefenderfer and Don English were present. Other attendees for the Town: Attorney Booth, Planner Shull, Chief Ball, Superintendent Callahan and Administrator/Clerk Braband. A sign in sheet is attached reflecting public attendance.

**Amendments to the Agenda:** Commissioner English made a motion to approve the agenda as submitted. Commissioner Potter seconded the motion. All approved.

**Presentation of Minutes:** Commissioner Potter made a motion to approve the January 4, 2017 Council minutes as presented. Commissioner English seconded the motion. All approved.

Commissioner Pritchett asked to amend the January 19, 2017 special finance meeting minutes to reflect that she was not in attendance because she was sick and she sent her regrets. Commissioner English made a motion to approve the January 19, 2017 special finance meeting minutes as amended. Commissioner Diefenderfer seconded the motion. All approved.

**Clerk's Report:** Administrator/Clerk Braband presented the Clerk's report that is filed in the records. Administrator/Clerk Braband updated the Council on the progress of the Town's various projects as follows:

1. Pumping Station repairs and upgrades – The PER (preliminary engineering report) has been submitted to USDA and we are awaiting their comments.
2. Well 6 – The PER has been submitted to USDA and we are awaiting their comments.
3. Water line replacement down a portion of Main Street – The funding application has been submitted to MDE.
4. Treatment plant ENR upgrade – The grant agreement with MDE is being presented tonight for the Council's signature.
5. Rt. 565 sidewalk – SHA is holding a public utility meeting and update on Feb. 8<sup>th</sup> on site and will have finalized plans and cost available shortly afterwards.
6. USDA Loan refinance – I met with Charles Day from DHCD (Dept. of Housing & Community Development) and I am in the process of submitting a loan refinance application to refinance the 2 large USDA loans through the Local Government Infrastructure Financing program. This refinance has a projected savings of \$138,000 for the Town over the life of these loans.

#### **COMMITTEE AND DEPARTMENT REPORTS**

**Police Report:** Chief Ball read his report that is filed in the records.

**Public Works:** Superintendent Callahan read his report that is filed in the records.

**Planning & Zoning:** Planner Shull stated that the Planning Commission met on January 18<sup>th</sup> and appointed Edgar Harrison as Chairman again and Bobby Quidas as Vice-Chair again. The Planning commission has changed their meeting nights to the 3<sup>rd</sup> Tuesday of the month effective immediately. The Planning Commission worked on legislation that is being presented for introduction tonight regarding livestock animals within the Town limits.

Planner Shull stated that she is dealing with 1 violation for property maintenance. The landlord has failed to provide heat for the rental and a letter is being sent with daily violation fines and requiring the repair.

Planner Shull reported that the economic development committee meets monthly and has recently merged with the tourism division. The next meeting is on February 2<sup>nd</sup> in Easton which is the first of a

series of listening sessions. These sessions are being held in all the towns of Talbot County over the next few month with Trappe's meeting being held on March 2<sup>nd</sup> at 8 am at the fire department. These meetings are for business owners in the communities to come and voice their needs and concerns and how Talbot County can respond to those needs. The outcome of these listening sessions will be used to update the County's Economic Development Strategic Development. Mr. Walter Chase stated that the public is invited to attend these meetings.

President Fegel asked if there was an update on the broadband initiative. Planner Shull stated that the Economic development is still encouraging everyone to write support letters to the County Council asking them to fund the initiative and expansion.

**Parks and Recreation** – As Commissioner of Parks, Commissioner Potter reported that construction on Nace's Park is moving along very well and the contractor is expecting completion soon depending on the weather. An invoice was submitted by Barkers Landing and it has been forwarded to the Community Parks and Playgrounds program for reimbursement by them from the grant that the Town received.

#### **Communications -**

Mr. Bob Rager and Jared Ferber from SHA – Mr. Rager stated that work will begin on Rt. 50 next week to replace a large drainage pipe under the highway near Backtown Road. Mr. Rager stated that traffic will be sent into a bi-directional pattern for the next 4 weeks. This means that all the traffic will be on one side of the highway and it will be single lane only. Mr. Rager stated that the work should be completed by the end of March.

**Attorney Updates** – Attorney Booth stated that a meeting was held with the Comptroller's Office yesterday and that she, Norm and Erin attended the meeting. The meeting was held to give an update on the Comptroller's Office misdirection of 21.4 million dollars of income taxes. The Town of Trappe received \$283,941 that they should not have and the Comptroller's Office is requiring repayment. Attorney Booth stated that the Comptroller's Office detailed the mistake, the steps they have taken to ensure that this never happens again and the upgrade to their computer system. Also stated at the meeting is that Senate Bill 397 has been introduced which proposes to forgive the debt for all the jurisdictions that are being required to pay back the funds they received in error. The Comptroller's Office believes that this Bill will go through but Attorney Booth stated that she will go to the Bill hearing on February 15<sup>th</sup> to testify on Trappe's behalf. Attorney Booth addressed Mr. Sabin's question and stated that this money was never used by the Enterprise fund.

Attorney Booth stated that every year a General budget and an Enterprise budget is prepared which under State law have to be separate. The rates that are set for the water and sewer have to cover the Enterprise expenses; General tax revenue should not be used to subsidize the Enterprise fund. As of June 30, 2016 Trappe had debt in the amount \$1,305,000 for water and \$1,672,000 for sewer for a total of \$2,977,146. This debt was incurred in the late 1990's to cover water improvements, a new water tower and sewer upgrades which were completed around 2000. The sewer infrastructure was put in due to a State mandated consent order by MDE, which meant the Town had no choice. When the upgrade took place there weren't grants available and the Town did what it had to do to satisfy MDE. At the time the upgrade was completed it was one of the most technologically advanced plants on the

Eastern Shore. Lots of changes have happened in the last 16 years and the plant needs to be upgraded again. The State wants all treatment plants to go to an ENR (Enhanced Nutrient Removal) plant which is the highest treatment level that a Town can have. Out of all the Towns that Attorney Booth represents Trappe is the only town that hasn't either already upgraded or is in the process of doing so. If Trappe decided to do nothing it would not be a surprise if in a few years the Town was under a State mandate again to upgrade. Attorney Booth stated that the Town hasn't been collecting enough money to cover its expenses for at least the last 8 years. The Council doesn't like to raise rates and they tried everything they could not have to raise the rates; this meant using general fund revenue to subsidize the enterprise fund. The General fund revenues are now suffering as well. The Enterprise fund has been operating at a loss of about \$200,000 a year. Attorney Booth stated that recently Erin and Scott Getchell from GMB completed a water rate audit which meant looking to see if there were places in Town that water meters might be aging and not reading correctly, making sure that all allocations are correct and making sure that everyone is paying their fair share. In doing this audit they worked to come up with rates that would cover the gap that the Town has each year and make the Enterprise fund stand alone which would comply with State law. The recommendation is to have the base rate cover the basic expenses of the water and sewer system which are the expenses that the Town has to pay whether one drop of water is used or not. Every user should pay the basic cost to have the system in place. There are charges that are based on consumption and that will cover the difference. Attorney Booth stated that Erin mentioned in her report that the Town is trying to refinance some of the USDA debt that the Town incurred during the upgrades 16 years ago. The loans are 40 year loans and the interest rate is higher than it is now with the program the Town is trying to refinance through. Attorney Booth stated that Mr. Chase asked if this is a permanent fix or just a band-aid and the answer is that this increase will get the Town to a breakeven point and rates will need to be raised in the future. Other towns have built into their rates an annual increase of at least 7% and she suggests that Trappe look into doing something similar. Attorney Booth stated that the existing treatment plant was never expanded to accommodate development; it was sized for the Town. The plant is 200,000 gallons a day and has the ability to be expanded to 400,000 gallons a day but that hasn't happened. The debt that the Town currently has was incurred to provide water and sewer to the current residents of Trappe, not for any future development. At the April 5<sup>th</sup> Council meeting there will be a good faith compliance review with the developers of Lakeside Development. This is required under the Development Rights and Responsibilities Agreement (DRRA) that is still in effect and requires that the obligations in the DRRA be reviewed every 2 years. The developer has purchased the land and continues to fund our police department and the planning department so the development is not dead. However, the Town should not rely on the development any longer to help with the debt. Attorney Booth addressed Mrs. Morton's question and stated that White Marsh Elementary School was annexed into town in 2004 and water and sewer service is already provided so this increase will affect them just like other residents.

Attorney Booth stated that she and the Town's Engineers went to MDE in December to see if there is any grant money available for Trappe to upgrade the treatment plant to an ENR plant. MDE has agreed to give Trappe a grant to complete a preliminary engineering study and the feasibility of upgrading the plant to an ENR plant. This grant is for 100% of the cost. Attorney Booth stated that Trappe has to first go to a BNR plant before being able to go to an ENR plant and the grant funding for that upgrade is currently only 75%. There is a pending bill in legislation that would allow the bay restoration funds to be

used to pay for the BNR upgrade 100%. If Trappe had an ENR plant then allocations could be sold to a developer which is currently \$12,470.00 per allocation.

Attorney Booth presented a grant agreement between MDE and the Town of Trappe to complete a feasibility study to analyze upgrading the existing treatment plant to an ENR plant at no cost to the Town. Commissioner Pritchett made a motion to sign the agreement. Commissioner English seconded the motion.

VOTE:

Potter: Y      Fegel: Y      Pritchett: Y      Diefenderfer: Y      English: Y

All approved, motion carried.

Attorney Booth presented a letter that was prepared for Senator Eckhardt and Delegate Adams asking for their support in the passing of Senate Bill 343 and House Bill 384 which will allow bay restoration funds to be used to cover 100% of a BNR and ENR upgrade. Commissioner Pritchett made a motion to have President Fegel sign the letter. Commissioner Potter seconded the motion.

VOTE:

Potter: Y      Fegel: Y      Pritchett: Y      Diefenderfer: Y      English: Y

All approved, motion carried.

Ms. Ann Frock asked if the running of an ENR plant costs the same as running the plant as it is now. Attorney Booth stated that it does cost more but that there is grant funding available which will give you \$30,000 a year for operations. The engineers will look at operation costs when they do their proposal as well. Mrs. Ferguson asked if the Town is looking into solar. Attorney Booth stated that Trappe doesn't have the space for the solar panels right now. President Fegel stated that they have talked to 3 solar companies and they have all told us that Trappe is too small and don't meet the minimum requirements.

**Executive session** – An executive session was held on January 4, 2017 to obtain legal advice.

#### **ORDER OF BUSINESS BEFORE THE COUNCIL**

**Ordinance 1-2017** - An Ordinance of the Town of Trappe to amend Section 14 of the Trappe Town Code titled "Water and Sewer", Table 1 titled "Fees and Charges" to increase the basic monthly water service fee to \$15.00 per month and the basic monthly sewer service fee to \$50.00 per month; to amend Section 14.8 of the Trappe Town Code to authorize the Council to establish water and sewer rates for properties located out of the town in an amount not to exceed twice the amount charged to users located within the Town; and to amend Section 14.19 of the Town Code to clarify responsibility for maintenance and repairs of water and sewer lines located on private property was read by President Fegel. President Fegel stated that the Council doesn't really have a choice in this matter, bills have to be paid and the Enterprise fund needs to stand alone. Mrs. Roxanne Chase asked how much additional revenue the Town would bring in with this increase. President Fegel stated that this increase would increase the Town's revenue by approximately \$200,000. Commissioner English made a motion to approve Ordinance 1-2017. Commissioner Potter seconded the motion.

VOTE:

Potter: Y      Fegel: Y      Pritchett: Y      Diefenderfer: Y      English: Y

All approved, motion carried.

Attorney Booth stated for the record that Mr. Reid has submitted a copy of the agreement that is in effect regarding his property and that this Ordinance will not affect his agreement.

**Ordinance 2-2017** – An Ordinance of the Town of Trappe to amend Section 7.10 of the Trappe Zoning Ordinance to permit the raising or keeping of livestock in the Agricultural (“A”) district for personal use and consumption only, and not for commercial sale, and to amend Section 8.10 to clarify that the agricultural uses permitted in the Industrial (“M”) district relate to raising and processing crops was read by President Fegel. Attorney Booth stated that several months ago the Council adopted a moratorium on poultry houses for large commercial processes because the Town’s Zoning Ordinance was silent on the issue. The Planning Commission reviewed this and along with Attorney Booth drafted an Ordinance that would address the larger commercial livestock operations. There is not a lot of Industrial zoned property in Town and the Town’s comp plan along with the Zoning Ordinance promotes that Industrial zoned properties be used for clean, smart, sustainable Agricultural uses. Most of the guidelines that are already adopted along the Eastern Shore are within County guidelines because most of the time it is not appropriate for town living. This Ordinance will revise the Agricultural district and to clarify the uses and guidelines. The Industrial district would also be revised to allow crop production but not to be used for large scale livestock operations. The only language that is changing is what is highlighted or has a strike through it. Planner Shull stated that the Planning Commission did give this unanimous approval. Commissioner Diefenderfer asked if a feasibility study was done to see how much water a poultry house uses a day. Approximately 4,000 gallons a day is used and we are not taking advantage of that. Planner Shull stated that someone contacted the Town regarding the Fox Hall property and whether or not commercial poultry houses could be put up and what the regulations were. The Town didn’t have any regulations so it was brought to the Council and the Council put a moratorium on it so they could decide what regulations if any should be in place. Planner Shull stated that she told the gentleman that this is probably not the best location for that business and it should be in an Agricultural area. There are only 2 places in the Agricultural district and they are not very large and most likely would not sustain poultry houses from an economic standpoint. This Ordinance is broader than just chickens; it is talking about livestock in general. Commissioner Diefenderfer stated that the Town is basically saying that no farming is allowed in Town. Commissioner Diefenderfer stated that the Town is in financial crisis and needs to welcome any business that is being presented. Planner Shull stated that the point the Planning Commission is trying to make is that housing should occur in Town and that large scale farming should be in the County. Commissioner English made a motion to introduce Ordinance 2-2017. Commissioner Pritchett seconded the motion.

VOTE:

Potter: Y      Fegel: Y      Pritchett: Y      Diefenderfer: N      English: Y

Motion carried 4-1. A public hearing will be held on March 1, 2017 at 6:45 pm.

**Resolution 1-2017** – A Resolution of the Council of Trappe to amend the Charter for the Town of Trappe

by replacing the term limit provisions set forth in Section 201 was read by President Fegel. Attorney Booth stated that Commissioner Potter asked her to prepare this Resolution which would remove the term limits from the Town Charter. Commissioner Potter stated that the Town Charter states that a candidate can only serve 2 consecutive terms and after completing the 2 consecutive terms a candidate becomes ineligible to run for re-election until a year has passed. Trappe is the only municipality of this size that has term limits. Commissioner Potter stated that having term limits doesn't give a person who is voted in by the people time to fully learn, understand and contribute to the responsibilities of being a Town Commissioner. A candidate needs at least 2 terms in office to fully commit and make decisions that are clear and concise. By the time a Commissioner fully understands what they are responsible for they are not eligible to continue in office because of term limits. Commissioner Potter stated that she feels this is a disservice to the Town. If the Commissioner is not doing a good job and if the people do not want this Commissioner to continue in office then the voters have the option to not vote for that Commissioner. If the Commissioner is doing a good job then they should be allowed to run in the next election allowing the people to make the choice. A term limit clause is not needed because the ultimate decision is still left up to the residents. By allowing term limits to continue this disregards the experience and expertise of that candidate. Removing term limits would allow experience and expertise to remain on the Council. Commissioner Potter stated that term limits are the result of institutional control and it impedes the very important process of comprehension. Term limits also obstruct progressive development for the Town. Time needs to be allowed so that the Commissioner fully understands the responsibilities of the position and term limits restricts this. Commissioner Potter stated that she would like the Town and Council to consider this constraint and see term limits as the obstacle that it prevents. Commissioner Potter stated that her interest in dissolving term limits is not because her term ends in May 2017 but that she firmly believes that term limits are not in the best good for the Town. Commissioner English stated that his problem with removing term limits by Resolution is that it was put in by the residents. Term limits were put on the ballot during an election and the residents voted to put them in place. Commissioner English stated that he feels the Council should not remove the term limits without the residents telling them to do so; if they are going to be removed then it should be done by putting the question on the ballot and allowing the residents to vote. Commissioner Pritchett stated that she agrees with Commissioner English and doesn't believe that it takes 8 years to figure out what you are doing when the President of the United States is only allowed 8 years. There are classes that can be attended to learn the position. President Fegel stated that to know where this came from you have to go back about 25 years when there were 3 Commissioners and they kept getting voted in year after year and things were not being done correctly. A decision was made by a committee that was formed to put the question on the ballot for term limits and to raise the number of Commissioners to 5; both passed. President Fegel said the same issues no longer exist and he feels that term limits should go away and he supports the Resolution. Commissioner Diefenderfer asked when it was last on the ballot and Attorney Booth stated that a Resolution was done in 2010 and that was the year it was on the ballot last. Removing the term limits failed by only a couple of votes when it was last voted on. Attorney Booth stated that it is unique for a Town the size of Trappe to have 5 Commissioners and term limits. Mr. Ferguson stated that this has been on the ballot several times and should be on the ballot again if the Council is considering removing it. Mrs. Nancy Dunn stated that the Town election is very poorly attended and education needs to be done for the residents before it is put

on the ballot. Commissioner English made a motion to put removal of term limits on the ballot for the May 2017 election. Commissioner Diefenderfer seconded the motion.

VOTE:

Potter: N      Fegel: Y      Pritchett: Y      Diefenderfer: Y      English: Y

Motion carried 4-1.

Commissioner English made a motion to recess into executive session at 8:26 pm to discuss a personnel issue. Commissioner Potter seconded the motion and it was unanimously approved.

At the conclusion of the closed session at 8:32 pm, Commissioner English made a motion to reconvene the open meeting which was seconded by Commissioner Potter and it was unanimously approved.

President Fegel stated that the Board of Appeals has an opening for a member and the Council decided to appoint Chris Dungan to fill the position. Commissioner Potter made a motion to appoint Chris Dungan to the Board of Appeals. Commissioner English seconded the motion and it was unanimously approved.

President Fegel stated that the Town still has an alternate position open on the Board of Appeals, the Election Board and the Ethics Commission.

Mrs. Morton thanked Commissioner Potter for the progress on Nace's Park as this is a draw for the Town.

There being no further business to discuss, Commissioner English made a motion at 8:37 pm to conclude the meeting which was seconded by Commissioner Diefenderfer and unanimously approved.

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Erin Braband, Town Administrator/Clerk

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Norm Fegel, Council President