

COUNCIL OF TRAPPE
VIA ZOOM DUE TO COVID-19
DECEMBER 2, 2020

Council of Trappe Meeting: President Newnam called the meeting to order at 7:00 pm. Council members Norm Fegel, Tonya Pritchett, RD Diefenderfer and Walter Chase were present.

Agenda: Commissioner Fegel made a motion to approve the December 2, 2020 agenda. Commissioner Diefenderfer seconded the motion. All approved.

Minutes: Commissioner Fegel stated that the November 4, 2020 minutes incorrectly stated that the Planning Commission did not meet in September and it should have been October. Commissioner Diefenderfer made a motion to approve the November 4, 2020 Council minutes as amended. Commissioner Fegel seconded the motion. All approved.

Clerk's Report – Administrator Braband stated that the Clerk's report, the General Fund and the Enterprise Fund budgets are in the Council's binders and filed with the records. Roy Geiser from TGM Group presented the Financial Report and Audit Communications for fiscal year ending June 30, 2020. Mr. Geiser thanked the Council and staff for being so well prepared and ready when the auditors were in the office in August. Mr. Geiser highlighted the following items:

Financial Report –

Page 11 – Statement of Net Position – this focuses on the Town as a whole and shows that the Town has a net position of \$1,605,401 at the end of June 30, 2020.

Page 12 - Statement of Activities – At the bottom of the page is the change in net position and it shows a positive of \$72,744.

Page 13 – Balance Sheet – Governmental Fund – The Town has an unassigned fund balance of \$547,018.

Page 15 – Change in Fund Balance – Governmental Fund – The Town had a net change in fund balance of \$145,468.

Page 18 - Statement of Revenues, Expenses and Change in Fund in Net Position for Business-type Activities – The Town had an operating income of \$53,656 which is a reflection of the drastic increases over the last few years that the Council have made in the water bills. These increases have helped level out the Enterprise Fund. The Town had \$89,566 in interest expenses which caused the Enterprise Fund to lose \$31,527 this fiscal year.

Page 27 – Capital Assets – The Town has \$768,554 in capital net assets in the Governmental Fund.

Page 28 – Capital Assets – The Town had \$2,888,842 in capital net assets in the Enterprise Fund.

Page 29 – Long Term Liabilities – Enterprise Fund – The Town started the year at \$2,961,959 and ended the year at \$2,974,965. The additional debt was taken on to improve the water/sewer system.

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Audit Communications –

Page 9 - Segregation of Duties – Again this year the Town has a material weakness due to segregation of duties. This is typical for a Town our size and it is not cost effective to hire at least 3 additional people to have this comment removed.

Page 11 – Comments and Recommendations – The chart on this page shows the Town’s financial health from 2014 to current. 2014 – 2017 there was a decrease in net position of the Town as a whole. Significant changes were made in 2017 and continued into 2020 by increasing the water/sewer rates and this helped to level out the Town’s net position and has helped stabilize the Town’s financial health.

Page 12 – Net Investments in Capital Assets – The Town is covering the day to day operational costs but the debt is still high and costs the Town about \$90,000 a year in just interest. Mr. Geiser stated that it is important for the Council to continue looking at the water/sewer fees and continuing to raise them to help pay down the Town’s debt. The Town’s debt on the water/sewer system is greater than the carrying value of the system. The system is continually being depreciated and the debt is not aggressively being paid down which results in a carrying value of negative \$75,023. This amount has been getting worse every year and will most likely be worse next year. The Town’s debt per capita is approximately \$2,800.

Administrator Braband thanked Roy and his staff for making the audit as simple as possible again this year.

Public Works Report - President Newnam stated that the report is in the Council’s binders and filed with the records.

Planning & Zoning – Commissioner Fegel stated that the Planning Commission did not meet in November.

Communications – Commissioner Pritchett stated that some of the street lights on Murray’s Lane are out. Administrator Braband asked Commissioner Pritchett to send her addresses of the where the lights are located and she can report them to Delmarva Power to be fixed.

Attorney Updates – None

Executive Session – President Newnam stated that an executive session was held on November 4, 2020 to obtain legal advice.

ORDER OF BUSINESS BEFORE THE COUNCIL

Ordinance 1-2020 - An Ordinance of the Town of Trappe approving and adopting certain revisions to the PUD Plan and Design Guidelines for the Lakeside Planning Neighborhood Zoning District was read by President Newnam. Attorney Ryan stated that in June 2019 Trappe East Business Holdings Trust submitted a petition to revise the PUD Plan of the Lakeside PN District and the Lakeside Design Guidelines to the Town. The revised PUD plan includes reconfiguration of the road network to provide additional traffic calming, integration of a greater diversity of residential unit types and an increase of apartment building height, the enlargement and relocation of the public community park on the lake, the enlargement of the public beach area on the lake, the elimination of the designated age restricted housing, repositioning and reduction of the village center and relocation of the waste water treatment

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plant from the most Northern parcel to a Northeastern parcel. In addition it was also requested that the plan be approved for the whole development instead of limiting to Phase 1A – 1C as it was originally approved in the early 200s. At the June 5, 2019 meeting the Council reviewed the amendments to the PUD Plan and found them generally consistent with the Comprehensive Plan and the PN Zoning District standards and referred the PUD Plan and Design Guidelines to the Planning Commission for review and recommendation. The Planning Commission reviewed the PUD Plan and the Design Guidelines at their meetings from June 2019 – January 2020. In January the Planning Commission recommended and found the PUD Plan and Design Guidelines consistent with the Zoning Ordinance and the Comprehensive Plan and adopted Findings of Fact which were sent to the Council providing the recommendation. The Town Council advertised the amendments and notice of a public hearing in the Star Democrat on February 20, 2020, February 27, 2020, March 15, 2020, March 22, 2020 and because of COVID it was advertised again on October 21, 2020 and October 28, 2020. A public hearing was held on November 4, 2020 and at that time the Council decided to keep the public hearing open for written comment until November 25, 2020. As of November 25th the public hearing is now closed. During that timeframe the Town received 3 letters but then received a letter from Cheryl Lewis after the deadline. The Council has received all the written comments, included Ms. Lewis' and they have the right to accept Ms. Lewis' letter even though it was untimely if they would like to do so. After discussion, Commissioner Fegel made a motion to accept Cheryl Lewis' letter that was received after the deadline. Commissioner Pritchett seconded the motion. All approved.

Attorney Ryan stated that the Council have received copies of all the written comments and have had time to review them, have had about a year to review the PUD Plan, the Design Guidelines, the Planning Commission's Findings of Fact, the Town Zoning Ordinance and the Developer's Right and Responsibilities Agreement (DRRA) and the Council can make their Findings of Fact if they are ready to do so. President Newnam stated that he had a few comments/questions that he would like to discuss. One of the concerns is the impact on White Marsh Elementary School and the Town received a letter from the County in the early 2000s addressing that concern when the development was thought to not have a huge impact on the schools. However, since that time the County did an impact fee study specifically for residential developments and as part of that impact fee study they implemented an impact fee for all residential developments specifically to go to the public schools. The impact fee per single family detached dwelling is \$3,518 and \$2,465 for every other residential dwelling. The developer will be required to pay that fee to the County to offset any impacts they would have to the school. Another concern is the Town's direct access off Backtown Road into the property that is owned by the Developer and to be used for spray irrigation. Attorney Ryan stated that there are 2 spray sites, one on the South corridor of Fox Hall Farm which will be accessed off of Piney Hill Road and the second is on the North Corridor which will be accessed off of Backtown Road. The third concern is regarding the future possibility of discharging the wastewater treatment plant directly into the Miles Creek and if there was an agreement for that. Attorney Ryan stated the current DRRA provides that the developer will construct their own wastewater treatment plant and that the discharge will be by spray irrigation. If there is a problem with the spray irrigation site or the mechanism of it, the DRRA requires the developer to move the spray irrigation site. If the developer was to ever try to get away from spray irrigation, they would be required to amended the DRRA, amend the County's Water and Sewer Comprehensive Plan which lists the development being served by its own

wastewater treatment plant and spray irrigation as the manner of discharge. The developer would also be required to obtain a permit from MDE which at that time the Town would most likely be the owner of the plant and the Town would have to be the applicant. If the Town was not the owner of the plant at that time, the Town would still have to be a joint applicant. All of these steps would have to be gone through and approved to be able to change to direct discharge to Miles Creek. President Newnam stated that he wanted to confirm that the 54 foot height of the apartment building was in the original plan and remains in the plan now. Attorney Ryan stated she pulled the November 16, 2005 Lakeside Planned Neighborhood Design Guidelines and in the document it states that in the Central Residential Area (which is the same area that the apartment complex is proposed) the building height shall be limited to 54 feet and no more than 4 stories. President Newnam stated that the proposed treatment plant was moved because the accessibility was better off of Piney Hill Road. Attorney Ryan stated that when this project first started treatment processes were different which required a treatment plant to be much larger. Now with new technology the treatment plant will be much smaller so it can fit on a smaller parcel and where it was originally located would require a road and bridge to be built which the Town would have to maintain. Mr. Rauch stated that the treatment plant was moved because new technology allows the plant to be built in phases as needed which will have a smaller footprint, it is now less visible to any adjacent properties and eliminates the need for an elaborate stream crossing that would be difficult to build and maintain. President Newnam stated that this PUD Plan approval is different then the DRRRA and the DRRRA will be discussed at a later time. Attorney Ryan stated that the DRRRA that the Town entered into with the developer is the binding and enforceable agreement between the Town and the developer and the Council needs to be sure that the PUD Plan and Design Guidelines are consistent with that DRRRA. Attorney Ryan stated that going forward if anything is required to be amended it would be addressed by amending the current DRRRA but PUD Plan and Design Guidelines that are being discussed tonight are consistent with the existing DRRRA.

Attorney Ryan stated that if the Council is ready to move forward then there are specific findings that they are required to make and the first step is to conduct a site visit on the property. All Council members stated that they have made a site visit. Attorney Ryan stated that prior to approving a floating zone map amendment, Section 8.42 of the Zoning Ordinance requires the Council to make findings on the following categories. Attorney Ryan read the categories and the Council responded as follows:

- 1) Anticipated population change;
 - Population should not vary much from when PUD Plans were initially approved in 2005
- 2) Availability of public facilities to serve the property;
 - This was addressed in the DRRRA – the developer is providing appropriate infrastructure to connect to the Town’s water system and will be providing their own wastewater treatment facility to serve the property. While connecting the first phase of Phase 1 to the Town’s existing plant has been discussed, the Town will not connect unless and until an allocation agreement is reached and the DRRRA is amended to reflect the connection and payment of applicable connection fees.

3) Present and future transportation patterns;

- Traffic primarily local and will remain local but will increase
- The development will add two lights (one at Piney Hill and Rt 50 and one at the entrance) which should improve traffic
- The Planning Commission spent a lot of time reviewing the PUD Plan and the major and minor collectors to be sure that the major collector was divided in a way to promote flow. The Boulevard was reconfigured to be routed through the development.

4) Compatibility with existing and proposed development in the area;

- Property is adjacent to several different existing uses – residential, highway commercial, agricultural which are compatible and there will be sufficient buffers. The Planning Commission specifically required the developer to add additional buffers around the spray irrigation and along the back of LaTrappe Heights to shield that development.
- The Planning Commission required the buffers to be increased so there is less impact to the development's adjacent properties.

5) Relationship of the proposed amendment to the Comprehensive Plan.

- Designated PN in the Comprehensive Plan
- Development accommodates range of housing types and styles while ensuring architectural harmony throughout which is consistent
- Peter Johnston, Town Planner, commented that the design was respectful of the historic architectural character of Trappe, Talbot County and the Eastern Shore generally and that that the architectural regulations encourage the use of style that's precedent for building design including both residential and commercial structures which is consistent.

The Town Council must also find that the amendment is:

1) Consistent with the Comprehensive Plan;

- Designated PN in Comprehensive Plan
- Comprehensive Plan requires that the development be a mixed-use development including some commercial use that is tied to the scale of the proposed community. This plan reflects that. It requires significant amounts of open space and more than half of that open space is in recreational use.
- Encourages a range of housing types and construction styles while ensuring architectural harmony throughout the Design Guidelines.
- Lakeside is part of the Town's growth area
- The Comprehensive Plan encourages connector roads and a hierarchy of streets and a grid system that will allow alternate routes. The PUD Plan complies with the transportation provisions of the Comprehensive Plan
- The Comprehensive Plan requires the development to be served by a standalone wastewater treatment system, although it contemplates the ability of the development

to connect a portion of the initial phase to the Town's plant, subject to an allocation agreement and an amendment to the DRRA. The property will be served by Town water, which the Town has sufficient capacity for.

2) Consistent with the stated purposes and intent of the particular floating zone sought to be established;

- PN intended to permit master planned mixed-use development. Development includes single-family lots, two-family dwellings, townhouses, and apartments.
- PUD Plan complies with PN density standards of less than 60% or 444.34 acres - the minimum required number of dwelling units in the proposed PN district is 2,222, the maximum number of dwelling units permitted is 2,962 & the PUD includes 2,501 units.
- PUD Plan complies with the PN District's development standards as outlined in the Zoning Ordinance. The bulk regulations for the Lakeside PN District, including setbacks, lot sizes and coverage, building height and yard requirements, are established by the Lakeside Design Guidelines. These Guidelines will ensure the development of the Lakeside PN District in a manner consistent with the Comprehensive Plan, and the purposes and intent of the PN District, while permitting design flexibility.

3) In compliance with the requirements of the Zoning Ordinance;

- Consistent with the PN floating zone and PN design guidelines
- The Town Planner reviewed the PUD Plan for consistency with the PN Design Guidelines and found it consistent.
- PN is intended to permit master planned, mixed use development in areas designated appropriate by the Comprehensive Plan, which Lakeside is.

President Newnam thanked the current Council and the past Council for all their work and review on this project. Commissioner Fegel stated that the Town has the final say on what is developed at Lakeside, the Town will review all amendments and changes before they are made. Attorney Ryan stated that the developer still has to go through subdivision and site plan review so the Town and the Planning Commission have the opportunity to make any changes that they see fit at that time as well. Attorney Ryan stated that the Design Guidelines set the bulk regulations for the Lakeside Development, including the setbacks, lot sizes, coverage, building height and yard requirements. This will ensure that the development is developed to be consistent with the Town's Comprehensive Plan and the purpose and intent of the PN District while permitting some design flexibility. Commissioner Pritchett stated that having reviewed the Application, the Zoning Ordinance, the Comprehensive Plan, the Lakeside Design Guidelines, and the DRRA, does a Commissioner wish to make a motion that the Council approve the application and revised Design Guidelines finding that they are consistent with the Comprehensive Plan and Zoning Ordinance. Commissioner Chase made a motion to approve the application and revised Design Guidelines finding that they are consistent with the Comprehensive Plan and Zoning Ordinance. Commissioner Diefenderfer seconded the motion. Woody Lambert interjected and asked if the Council was required to address any of the comments that were brought up at the last Town meeting. Attorney

Ryan stated that the Council received all the comments and reviewed them. President Newnam stated that the spray irrigation has nothing to do with the PUD Plan or Ordinance that the Council is considering tonight. Mr. Lambert stated that he was concerned about the plant being moved closer to his property and the health and safety of his family. Attorney Ryan stated that if the Council has concerns about the plant location, the consistency with the Comprehensive Plan or the Zoning Ordinance then those need to be addressed at this time. If the Council does not have those concerns perhaps the Town Engineer can meet with Mr. Lambert to address his concerns. The Council agreed that the Town Engineer would be the best resource to work with Mr. Lambert regarding his concerns and bring any concerns back to the Town.

VOTE:

Newnam – Y Fegel – Y Pritchett – Y Diefenderfer – Y Chase – Y
Motion approved.

Commissioner Pritchett made a motion to have Attorney Ryan draft Findings of Fact that are consistent with the findings that the Council made on the record. Commissioner Diefenderfer seconded the motion. All approved.

Ordinance 5-2020 - Attorney Ryan stated that this Ordinance is a bond Ordinance for the Well project but MDE is still reviewing this so it is not ready for introduction tonight. This Ordinance will be tabled to the January 6, 2021 meeting.

Resolution 7-2020 – A Resolution of the Town of Trappe authorizing the renewal of a Line of Credit Promissory Note with Shore United Bank in the principal amount of \$100,000.00, of which the sum of \$27,844.78 has been drawn and borrowed for various Town expenses pursuant to prior Legislative acts of the Council of Trappe was read by President Newnam. Attorney Ryan stated that this Line of Credit has a maturity date of December 30, 2020 and Shore United Bank has offered to renew the Line of Credit with a new maturity date of December 31, 2021. The current interest rate 3.7% and the new interest rate will be 3.0%. Commissioner Fegel made a motion to adopt Resolution 7-2020. Commissioner Chase seconded the motion.

VOTE:

Newnam – Y Fegel – Y Pritchett – Y Diefenderfer – Y Chase – Y
Motion approved.

Resolution 8-2020 – A Resolution of the Town of Trappe authorizing the renewal of a Line of Credit Promissory Note with Shore United Bank in the principal amount of \$200,000.00, of which the sum of \$152,433.99 has been drawn and borrowed for various Town expenses pursuant to prior Legislative acts of the Council of Trappe was read by President Newnam. Attorney Ryan stated that this Line of Credit has a maturity date of December 30, 2020 and Shore United Bank has offered to renew the Line of Credit with a new maturity date of December 31, 2021. The current interest rate 3.7% and the new interest rate will be 3.0%. Commissioner Chase made a motion to adopt Resolution 8-2020. Commissioner Fegel seconded the motion.

VOTE:

Newnam – Y Fegel – Y Pritchett – Y Diefenderfer – Y Chase – Y

Motion approved.

Other Business:

Wes Schuman – Amended and Restated Public Works Agreement – Attorney Ryan stated that the Council approved this agreement at their November Council meeting but Mr. Schuman has requested that the Agreement be between the Town and Red Oak Point Investments. The current owner of the property is West Maple Avenue, LLC which is who the Agreement was originally with. Mr. Schuman intends to purchase the property as Red Oak Point Investments and develop it as such. Attorney Ryan stated to protect the Town because the agreement isn't between the Town and the entity that currently owns the property, language was added to say that at the time of the execution of the amended and restated agreement the developer does not currently own the property, but the developer represents that it is the intended transferee of the property. The developer acknowledges and agrees that no construction at West Maple Subdivision may commence until the property is transferred to the developer. Attorney Ryan states that this protects the Town by saying that the property can't be developed until it is transferred to Red Oak Point Investments because that is who the agreement is with. Commissioner Diefenderfer made a motion to approve the amended and restated public works agreement. Commissioner Fegel seconded the motion.

VOTE:

Newnam – Y Fegel – Y Pritchett – Y Diefenderfer – Y Chase – Y

Motion approved.

Hennissee Lane culvert pipe replacement – President Newnam stated that the entrance to the treatment plant has a metal culvert underneath that has rusted out and is filled with silt which has caused the water to back up and run over the road causing erosion and the black top to fail. A temporary fix was done but the last couple rain storms have caused even more damage. Superintendent Callahan received 2 quotes to have everything fixed for good. The first quote was from Retallack & Sons for \$17,000.00 and would increase the size of the pipe from 16x23 to 24x18 inches. This quote includes 2 mobilizations, one for the pipe installation and a second for the black top repair. The second quote was from RS&J Excavation for \$16,600.00 for a concrete pipe or \$12,400.00 for a metal pipe. The concrete pipe would be 19x30x50 and the metal pipe would be 24x18x50. President Newnam stated that this is an emergency repair because if the road collapses then the treatment plant cannot be accessed. Commissioner Fegel stated that he requested Superintendent Callahan to call Retallack and get a price on a concrete pipe but they have not responded yet. Commissioner Chase made a motion to approve RS&J Excavation quote for the concrete pipe installation. Commissioner Diefenderfer seconded the motion.

VOTE:

Newnam – Y Fegel – Y Pritchett – Y Diefenderfer – Y Chase – Y

Motion approved.

President Newnam will contact the company that has done blacktop work for the Town and ask for a quote to do the blacktop work in the Spring.

Public Questions/Comments –

Cheryl Lewis – Ms. Lewis thanked the Council for reviewing her written comments and discussing them.

An executive session was requested to discuss a personnel matter and to obtain legal advice. Commissioner Fegel made a motion to enter into executive session at 8:14 pm. Commissioner Diefenderfer seconded the motion and it was unanimously approved.

At the conclusion of the closed session at 8:59 pm the open meeting was reconvened.

There being no further business to discuss, Commissioner Diefenderfer made a motion at 8:59 pm to conclude the meeting. Commissioner Chase seconded the motion and it was unanimously approved.

Respectfully submitted,

Erin Braband, Town Administrator/Clerk