



Let it be remembered that the Mayor and Board of Commissioners of the Town of Rising Sun, held a Town meeting on the 3rd floor of the Town Hall on Tuesday evening January 25, 2011 at 7:00 PM. For the record the meeting place and time were duly posted as required.

<u>MEMBERS IN ATTENDANCE</u>: Mayor Sandra Didra, Commissioner Clinton E. Bowers, Commissioner Chris Callahan, Commissioner Thomas S. Mumey and Commissioner Augie Pierson.

MEMBERS ABSENT: None

STAFF/CONSULTANTS PRESENT: Calvin Bonenberger Town Administrator

GUESTS: See Attached List

<u>MEETING OPENING</u> – The meeting was called to order at 7:00 PM by Mayor Sandra Didra followed by a pledge of allegiance and a moment of silence.

<u>APPROVAL OF MEETING MINUTES</u> – The Mayor asked for any corrections to the minutes for the December 14, 2010 Town Meeting. A motion was made by Commissioner Pierson and seconded by Commissioner Mumey to approve the Town minutes of December 14, 2010. Motion carried unanimously.

PRESENTATIONS, ORDINANCES AND RESOLUTIONS - None Pending

MAYOR'S REPORT — No Report

FINANCES – Mr. Bonenberger reminded the board that at the back of the financial report contains a check registry of all the checks issued for the past month. He provided a summary and breakdown of all department funds. Mr. Bonenberger also provided an overview of how the reports are laid out and walked the board through various sections of the document. He stated that the Town has recorded about \$202,205.00 less in the general funds, due to grants and other specific contributions on projects that have not yet started and therefore no monies have been received. He further noted that no monies have been spent on those grant projects either. He stated that on expenditures we had expected to spend \$902,317.00 to date but had actually spent only \$661,977.00 which is roughly \$240,340 less than what we had projected to spend during the six month period. Mr. Bonenberger stated that the Town is operating in the black. Mr. Bonenberger stated that the elected body is doing a good job of managing the finances. Mr. Bonenberger reported that he has asked Ms. Wagner of Wagner and



Associates to format the financials so they can be uploaded on the Towns website so residents can see them.

<u>SEWER AND WATER REPORT</u> — Commissioner Mumey reported on the MDE consent order update. He stated that the plans and application for a new WWIP were sent to MDE in mid November and we received a copy of a review letter that was sent to our engineering firm. He stated that the comments were minor and are being addressed in writing from our engineering firm. The revisions requested have been made and the revised plan will be sent back to MDE next week.

Commissioner Mumey reported on the County Master Sewer and Water Plan. He stated that all of our work is completed and the County has turned their recommendation over to MDE and we are waiting for final approval from MDE.

Commissioner Mumey reported on the USDA quarterly report meeting. He stated that the Town Administrator met with USDA as part of the quarterly reporting requirements, under the financing guidelines.

Commissioner Mumey reported the Town has repaired the water main break on West Main St, in front of Harrington Body Shop.

Commissioner Mumey reported on the Davenport and Associates Chester water evaluation. He stated that the Town is facing non compliance on the water side and we have been addressing this issue. He stated that a lot of work still needs to be done as we move forward and stated that we have been using Davenport and Associates for our financial analysis of the projected project cost. He stated that unfortunately this project has evolved into a much larger project that has been affected by lawsuits, legal issues the economy etc. Commissioner Mumey stated that after discussing this with the rest of the sewer and water team, we are recommending that we continue our relationship with Davenport under an amended agreement. This agreement would include the payment of \$45,000 for work that was done previously and continued work on the water project at a cost not to exceed \$50,000 and additional cost of \$30,000 to secure future financing if needed to pay for the project. Commissioner Mumey motioned to approve the amended agreement with Davenport and Associates to continue their financial work on the short and long term water needs of the Town, to include future financing if needed, at a cost not to exceed \$125,000.

After lengthy discussion on the amount of money for the Davenport and Associates contract, Mayor Didra asked for a vote to approve the Davenport contract, not to exceed \$125,000. Commissioner Bowers motioned to table the Davenport contract, until we find out more information. He stated that



the numbers don't add up. He stated that he felt the Town was misappropriating tax payer funds. The Mayor asked for a second to the motion but none was offered.

Commissioner Callahan stated that although he did not agree with the contract he would vote to approve.

Commissioner Mumey stated that before the Mayor calls for a vote he would like a clarification of the word misappropriation used by Commissioner Bowers. He stated that misappropriation indicates that something has been done illegal; he stated that there is no one on this board guilty of misappropriating anything. He stated that the members on this board did what was necessary to keep this project moving forward. Commissioner Mumey asked the Mayor to call for a vote. The vote carried 3-1 in favor of approval, with Commissioner Bowers voting opposed.

Mr. Bonenberger reported on the water meter project update. He stated that he wanted to explain a couple of issues that the Town has. He presented the board with blanked out utility bills, stating that depending on when the meter was replaced the usage can vary from 90 days to possibly 180 days, due to the Town not being able to bill for old and new meter readings together during the last billing quarter. He stated that he is recommending that the residents affected by this reading would be given a credit only because there was a rate increase this quarter and part of their reading dates back to last quarter under the old rate.

Mr. Bonenberger also reported that only 39 locations were left for a meter replacement. He reported on the problems concerning the meter reading inside the residence and the remote reading outside, stating that the outside remotes were reading gallons of water used at larger increments than the inside meters. He stated that it does not necessarily mean that they are not coinciding together it just means that they are not in sequence. He stated that in theory they are supposed to be the same, resulting in the same total gallons of usage and in reality, most of the outside remote readings are consistent with the readings off the inside meters. However, there are some residents that were charged a higher utility bill due to the fact that the remote read was higher than the interior read. Although the difference is very minimal, he suggested that the board might want to give a credit to residents affected by the higher remote read. He cautioned that the Town bills in 1000 gallon increments and that many of the discrepancies between the remote read and the interior reads are less than 1000 gallons, therefore the credit will not be very large. Mr. Bonenberger also brought to the attention of the Board that some residents are contesting what their actual water meter reading was. Mr. Bonenberger reminded the board that all of the meters were tested for accuracy. He stated that many of the meters failed the testing for low flow which essentially means that many of residential meters did not pick up the flow of a toilet or the running of a dishwasher. Another benefit to the testing was a 3rd person looking at the readings from the old meters independent of the recorded



readings by the contractor who removed the meters. He stated that the readings recorded by the contractor upon removal were consistent with the readings recorded by the testing agent. Therefore, the Town had 3 separate reference points to compare if a resident had concerns about the usage recorded on their old meter. In recapping the discussion, Mr. Bonenberger recommended that a credit be given to the residents who were charged for usage prior to September 20^{th} using the new rate and he also suggested a credit for residents who were charged for usage based upon the exterior remotes, and the remote reads were higher than the interior reads. Commissioner Mumey motioned a vote to credit the resident seconded by Commissioner Callahan, vote was unanimous.

Mr. Bonenberger also reported on the accuracy of the new water meters, He stated that the new meters are reading much more accurately and stated that consultants in the past have reported that the Town has experienced a 30% water loss due partly to old malfunctioning meters that have now been replaced.

Mayor Didra asked Mr. Bonenberger when all the meters have been replaced, will everyone have the exact reading, Mr. Bonenberger replied yes.

Mr. Bonenberger reported on complaints about high utility bills, He stated that after testing the meters and determining the inside and remote reads are correct, and the usage is true, he is recommending that the testing contractor certify and to send pictures of the reads. Mr. Bonenberger reported that the residents that have complained about high bills have swimming pools and the greenest grasses in Town. He reported that the high usage was in June, July and August.

Commissioner Callahan stated that the residents can be given a print out of the usage.

Ms. Joanne Osborne questioned her water bill and after discussion, Mayor Didra asked Mr. Bonenberger to review the bill.

<u>STREETS AND SIDEWALKS REPORT</u> – No Report

<u>PUBLIC SAFETY</u> — Commissioner Pierson stated that a copy of the year end crime statistics is available at Town Hall. He stated that crime year end of 2008, we responded to 2,151 calls, for 2009 we responded to 2,982 calls and for 2010 we responded to 5,102 calls. He stated that our police dept. is getting busier.

Chief Peterson reported that arrests for criminal offenses were up and the crime rate in Rising Sundropped nearly 27 percent last year. He stated that we're arresting the people.



<u>PARKS AND RECREATION</u> – Mr. Bowers reported on the Log Cabin project. He stated that he, Mr. Bonenberger, Commissioner Mumey and Mr. Ron Thomas met with Mr. Carter and Mr. Wilkes from Wilkes Cabins on January 11, 2011 to discuss their proposal for a price on a new cabin. He also stated that we are still waiting for other companies quotes to come in. Commissioner Bowers also stated that he will be meeting with the boy scouts at the end of February to discuss the tear down of the log cabin.

Commissioner Bowers reported on the Park Grant, he stated that he will meet with DNR on February 3rd in Annapolis to discuss the park grant.

TOWN ADMINISTRATOR - No Report

<u>PLANNING AND ZONING BOARD</u> – Mr. Bonenberger reported that the planning and zoning board will schedule a workshop to set some targets on ordinance changes.

Mr. Bonenberger reported on the Martins shopping center vacancies; he stated that an auto parts store is interested in purchasing all three pads next to the Martins store.

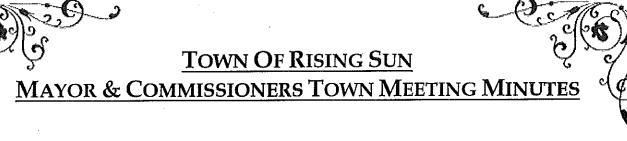
Commissioner Callahan commented that there was no water available for that area, due to the current water and sewer moratorium. In response to this statement –

Mr. Bonenberger clarified that the usage from the old Martins Supermarket plus usage from the Creeger's Hardware Store and usage from slip lining combined and packaged together in an agreement to allow Martins to use up to 12,000 gpd. He stated that the new Martins, is only using 5,500 gpd. Mr. Bonenberger stated that the shopping center has about 6,500 excess gpd that they can apply to any of the other pads sites. Mr. Bonenberger stated that an agreement before his time between the Town, Martins and the developer excluded Martins from the water moratorium.

BOARD OF ZONING APPEALS - No Report

<u>CODE ENFORCEMENT</u> – No Report

<u>HISTORICAL PRESERVATION COMMISSION</u> — Ms. Ehrhart reported that the Historical Preservation Commission won a \$75.00 prize at the Cecil County Christmas Parade in December she also reported that the commission had a successful 2010. Ms. Ehrhart reported that the schedule for events this year has not yet been completed. Ms Ehrhart thanked Mr. Bob Fisher and Ms. Lisa for their donations to the museum.



Mayor Didra reported that she has received two recommendations for appointments to serve on the Historical Committee and they are Mr. Jim Gibney and Ms. Diane Ehrhart. Commissioner Mumey made a motion to appoint Mr. Gibney and Ms. Ehrhart seconded by Commissioner Callahan, the vote was unanimous for approval.

<u>OLD BUSINESS</u> – Mayor Didra reported that the Town still has a vacancy for the Planning and Zoning Board.

Commissioner Callahan asked if we could advertise for the position.

Mayor Didra asked Mr. Bonenberger to advertise for the Planning and Zoning position on the Armstrong Ad channel and in the newspaper.

Mayor Didra asked Mr. Bonenberger for an update on the J. Emery letter about the Town taking over the streets and sidewalks, at Bryan's Grace. Mr. Bonenberger answered that there is unresolved legal issues that have been turned over to the Town's attorney.

Mayor Didra asked Mr. Bonenberger about the Mackie property at Sunrise Estate. Mr. Bonenberger answered that the Town has responded on numerous occasions. He stated that the only thing left to do is plant grass seed in the spring.

Mayor Didra reported that the property owned by Brenda Maynard is ready to be completed and the fence repaired.

Mayor Didra asked about an update about the speed cameras.

Commissioner Pierson responded that we are required by state law to enact an ordinance prior to using any speed cameras, and that we are working with the Town attorney to create the Ordinance.

Commissioner Mumey asked if we were getting additional quotes from other companies for the speed cameras.

Chief Peterson answered that he has three quotes.

NEW BUSINESS - No Report

<u>CITIZEN'S INPUT</u> – Mayor Didra introduced Ms. Osborne who stated concerns about fines paid to MDE for consent order violations and wanted to know if the Town is in non-compliance with any other agencies and might be paying fines as well.



Mr. Bonenberger explained to Ms. Osborne that the Town is paying no other fines to other agencies due to non-compliance. He further explained that under the Town's current consent agreement with MDE we are liable for all violations from the day we sign the agreement until the day we are no longer in non compliance. Mr. Bonenberger stated that hypothetically, we are accruing fines right now, because our lagoon is in non compliance. He further stated that as per the Consent decree, the Town had to pay roughly \$18,000 in fines dating back to 2007 for non-compliance under the previous voluntary consent decree. In addition the town recently paid roughly \$3,800 in fines back in September due to non-compliance under the current consent decree. Ms Osborne asked if anymore fines were pending and Mr. Bonenberger reminded everyone that although MDE has only issued one set of non-compliance fines to this point, they have the option to back charge non compliance fines, going back to the start of the current consent decree. After lengthy discussion on the Wastewater Treatment upgrade issues Ms. Osborne thanked Mr. Bonenberger for clarity.

Mayor Didra introduced Mr. Fisher who after a brief outline of how he was going to present his information. Mr. Fisher started at the tail end of his presentation and opened by stating that we request immediately that you suspend actions on the present sewer system, to build the sewer plant until you hold a meeting with the Cecil County Commissioners to determine whether they can provide a more cost effective way to treat the Town of Rising Sun's wastewater sewage. Mr. Fisher stated that he was told by Mr. Al Wein, the Cecil County Administrator, that a meeting can be arranged within 2 weeks after he receives a request from Rising Sun. Mr. Fisher further stated that if this meeting results in a more cost effective solution, we request that Rising Sun submit a request to Maryland Department of the Environment for an amendment to the present consent order. Mr. Fisher stated that he has spoken to Ms. Kearney, Deputy Director for MDE, who told Mr. Fisher that MDE would consider a request, if the Town Officials submit it. Mr. Fisher elaborated on an evaluation that he had prepared in response to the Davenport Study that was presented to the Town on October 12, 2010. He did not have the presentation available at this time but summarized to say that the proposed rates would increase for residents by 622% from what they were in 2009, by 2020.

Mr. Fisher continued to state that a meeting was previously held with the Cecil County Commissioners consisting of Mr. Lockhart president of Cecil County Commissioners, Mr. Flannigan Director of Public Works, Mayor Cox, and Commissioner Majewski, of Rising Sun. At this meeting, the County presented two alternatives for the Town of Rising Sun. The first was the Town would be a bulk customer, the other the County would take over, operate, maintain and own Rising Sun's Sewer and water system. He further stated that this alternative would be no cost to the Town of Rising Sun. Mr. Fisher stated at the present time, the sewer rate for the county was \$7.03 per thousand gallons. He stated that he was disappointed in that Rising Sun customers currently have a 4000 gallon minimum, but the County has a 10,000 gallon minimum. That pushes the breakeven point out further



out in time. He theorized that if the County would allow the Town to use a 4000 gallon minimum rate which would mean that the County rate would be cheaper for the Town by October of this year.

Mr. Fisher questioned the 700 potential new users that Mr. Bonenberger was quoting for the future. Mr. Fisher stated that the actual number was over 900 new users and that was a conservative number. He stated that the Town currently has 1300 customers and using the planning figure of 250 gallons per day per household, if you add the 700 proposed new users to the 1300 that is a total of 2000 units and that is 500,000 gallons per day. If you reach 500,000 gallons per day, then you will be forced to go with the County. He further stated that if you chose that option, and if you proceed with your present course, then when you get this build out that you are all talking about, you are going to exceed your 500,000 and you will have to go to the County and you will have to pay for the sewer line to go from the lagoon to route 222 in Perryville. He stated that another route you could go is down 274 to Bayview and hook to the County there. He stated that he did not believe the board had not adequately addressed all the alternatives available to them. He advised the board that "we" were holding a meeting to adequately inform all of the residents on what is going on with relationship with the sewer system and water system and other issues going on with the Town. At this time Mr. Fisher Mayor Didra asked for the proper spelling of the introduced his attorney, Mr. Bruce Hemphill. attorney's name.

Commissioner Callahan asked Mr. Fisher when he refers to we, who are we?

Mr. Fisher answered that we, is Joanne and I.

Commissioner Mumey asked Mr. Fisher if he was a resident of Rising Sun. Mr. Fisher replied that he owns property in Rising Sun, his son is a resident and his daughter owns 5 rental units in Rising Sun. Mr. Mumey stated that "you were an administrator in this Town were you not"? Mr. Fisher replied yes from 1983 till 1985. Mr. Mumey questioned Mr Fisher on his involvement with the Summer Hill Development. Mr. Fisher stated that the project was in the development stages and had not been built at all. Commissioner Mumey stated that he is a resident of Summer Hill and has paper work that states the development was started in 1980. Mr. Fisher replied that Lenard Lockhart and Lowell McCoy met with Mayor Catherine Lane. Commissioner Mumey replied that the development never should have been developed. Mr. Fisher replied that he did not know or remember the code in those days. Commissioner Mumey replied that the sewer problem was present back then. Mr. Fisher replied that this was not true. Commissioner Mumey cited an recent article by the Herald in which they reported that 20 years ago the Town turned down a proposal to build a new sewer plant because they thought it would cost too much money. Commissioner Mumey reiterated a statement that Mr. Fisher made in that the Town would be forced to go with the County. Mr. Fisher stated that when you exceed the 500,000 gallons you would have to seek other alternatives. Commissioner Mumey

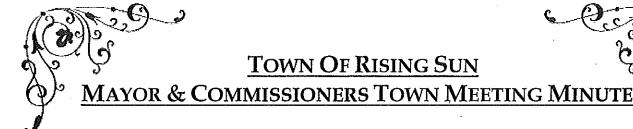


replied that we will not exceed 500,000 gallons. Mr. Fisher replied that you will if you build out all the properties that you have on the books. Commissioner Mumey replied that we have had several consultants review this and have determined that we will not exceed what our limits are. There was a discussion on the use of residential use versus commercial use. Commissioner Mumey stated that we have paid a lot of money to consultants to study this and we have been given advice on how to proceed. Commissioner Mumey stated that Mr. Fisher made a statement that we had not met with the County on this problem. Commissioner Mumey emphasized that we did meet with the County. He further stated that one of the County Commissioners told us that you do not want to go with the County because they haven't even started the planning. We cannot wait while we are under this consent order while we wait for the County to start with the planning for that sewer plant. He further stated that we have all spent too much time, as it has been, we are under a consent order and you have all heard how much we are paying in fines. We have got to move forward. We are too far down the road to put a stop to the building of this sewer plant. It's impossible. Mr. Fisher then asked if Commissioner Mumey go with him to attend a meeting with Ms Kearney. Commissioner Mumey replied that he has attended plenty of meetings with Ms Kearney in attendance. Commissioner Pierson stated that if Ms Kearney made those statements, they were in total opposite of what she sat there at the end of June and told not only us, but our lawyer, the financial consultants, and the lawyers for the lawsuit against us. Mr. Fisher replied that he did not care what Ms Kearney said to us or anyone else, he knows what she said to him. Commissioner Pierson tried to emphasize his point that of all the people involved Ms Kearney is the person that said this is what you need to do. He further emphasized that they were very clear in what we had to do. Commissioner Mumey suggested that Mr. Fisher get MDE to put the statement in writing. Commissioner Pierson emphasized that this would be a total change in what they have been telling us up to this point. He further stated that there are two other developers that will sue the Town depending upon the outcome of this lawsuit with Frapple. Mr. Fisher stated that this was beside the point. Commissioner Pierson stated that this is not beside the point. The Town and the individuals are being sued for \$90 million dollars. Mr. Fisher asked if the Town would cooperate with him, of which Commissioner Mumey replied that he would not vote to stop the process going forward. Mr. Fisher replied that there are alternate means of which Commissioner Mumey replied that I guess you will have to take those alternate means and you will have to face the consequences for them. Commissioner Pierson then stated that if Mr. Fisher could get Virginia Kearney to write a letter to the Mayor and Commissioners that she will amend the consent order so that we can revisit the consent order. Mr. Fisher asked if he got her to agree would the board accompany him to meet with her to request an amendment. Commissioner Mumey said to get her to send a letter to us stating that she will do it. Commissioner Mumey stated that if they got a letter they would consult our lawyers. Commissioner Pierson stated that the board has done everything it can to be upfront and out in the public about this. Mr. Fisher stated that it took a lot of digging on his part to find out what he has found out. Commissioner



Mumey replied that he has not heard anything here tonight that he has not heard before. Mr. Fisher stated that he does not understand why the Board does not want to make a better deal. Commissioner Mumey replied that he feels the board has made the best deal that can be made. Commissioner Pierson emphasized to Mr. Fisher hat he is paying this the same way he is. He asked Mr. Fisher if he thought that he liked it anymore. Commissioner Pierson stated that the manure pile had been dumped right here and we have been shoveling like crazy to get out of this mess. He then asked Mr. Fisher that they knew in the mid 90's at the latest that the sewer system could not take any more development. Mr. Fisher replied that he was not involved in the Town in the 1990's. Commissioner Pierson replied "neither was I", but the Town kept building. Mr. Fisher replied that he did not keep building, of which Commissioner Mumey asked if he had protested back then. Mr. Fisher replied that certain recent events had raised his interest in the Town of Rising Sun. He further stated that he was perfectly content to live up in Wilmington (Delaware) Commissioner Mumey asked him to tell the board what those events were. Mr. Fisher replied that he knew what the events were. Commissioner Mumey replied "no I would like to know what the events are that you are talking about". Mr. Fisher replied "well the way the Town has treated the Mayor". Commissioner Mumey replied, "now we are getting down to the real nitty gritty". Mr. Fisher replied that "is not nitty gritty, that is what made me look into what is going on in Rising Sun" and that was a lot more than what I expected. The Town has not been run well if you want to know the truth. Commissioner Mumey replied that he tended to agree, but felt that the Town has been run very well over the past 4 years. Mr. Fisher thanked the board for his time.

No other residents requested to speak before the board.



<u>ADJOURNMENT</u> – With no other business before the board a motion was made by Commissioner Bowers seconded by Commissioner Mumey to adjourn the meeting.

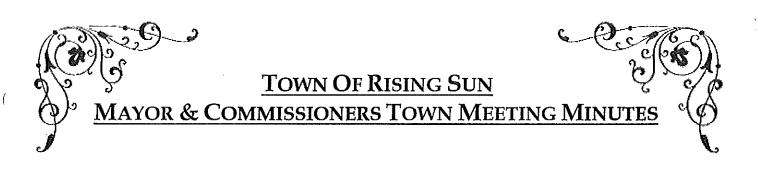
Meeting Adjourned at 9:12 p.m.

Respectfully submitted,

Cal a Bonen

Calvin A Bonenberger Jr., Town Administrator / Acting Town Clerk

Motion to approve the minutes made by Commissioner Bowers, seconded by Commissioner Mumey at the February 8, 2011 Town Meeting Motion Passed 4 to 0



DECLARATION PAGE & VERIFICATION OF AUTHENTICITY

I, Calvin A Bonenberger, Town Administrator and Interim Town Clerk for the Town of Rising Sun, Maryland, do herby certify that the above and foregoing Minutes are a true, perfect and complete copy of the Minutes adopted by the Mayor and Commissioners of the Town of Rising Sun, Maryland, and is identical to the original thereof appearing in the official records of the Town of Rising Sun, Maryland and the same has not, since its adoption, been rescinded or amended in any respect.

IN TESTIMONY WHEREOF, I have hereunto set my hand and have affixed the seal of the Town of Rising Sun as of this 9th day of February 2011.

Respectfully submitted,

Calvin A Bonenberger Jr.,

Town Administrator / Acting Town Clerk

CERTIFICATE & TOWN SEAL

(STATE OF MARYLAND)

(COUNTY OF CECIL)

(TOWN OF RISING SUN)