



Town of Wyoming  
Council Meeting  
Wyoming Town Annex  
January 9, 2012  
7:30 P.M.

REGULAR TOWN COUNCIL MEETING

CALL TO ORDER: Mayor Rife called the Meeting to order at 7:30 p.m.

PLEDGE: Mayor Rife

MOMENT OF SILENCE: Mayor Rife

Council attending: Mayor Dale Rife, Secretary Jacqueline Stokes, Treasurer Georgette Williams, Councilwoman Tracy Greenwood

Council absent: Vice Mayor Terry Witt

*Ms. Williams made a motion to excuse Mr. Witt for his absence as he is in the hospital. Ms. Stokes seconded the motion. All in favor; none opposed.*

Staff attending: Town Clerk Pamela Haddick, Police Chief Martin Willey

Audience attending: Erika Reigle, Richard & Joyce Stockslager, Lisa Fulcher, Carol & Gene McFann, Mike Marasco, Fred Jester

ADOPTION OF AGENDA

- Mayor Rife stated that the following items need to be removed from the Agenda:
  - sewer & water report – there will be no one to give a report and no appointment of board member at this time
  - new business – 1<sup>st</sup> reading of ordinances
  - executive session and possible vote of executive session issues
  - correct calendar of events – P & Z meeting cancelled

*Ms. Stokes made a motion to adopt the agenda as corrected. Ms. Williams seconded the motion. All in favor; none opposed.*

ADOPTION OF PREVIOUS MEETING MINUTES

120511 Special Meeting  
120511 Public Hearing  
120511 Council Meeting  
120511 Executive Session

*Ms. Greenwood motioned to accept all four sets of minutes seconded by Ms. Stokes. All in favor; none opposed.*

## TREASURER'S REPORT

- Ms. Williams presented the financial reports. All is going well with the Town's finances. *Ms. Stokes made a motion seconded by Ms. Greenwood to accept the Treasurer's Financial Reports for December. All in favor; none opposed.*
- Ms. Williams stated that copies of the audit were presented to council some time ago and she would ask for their acceptance at this time. *Ms. Greenwood made a motion to accept the audit as presented. Ms. Stokes seconded the motion. All in favor; none opposed.*

## POLICE REPORT – CHIEF MARTIN WILLEY

- Chief Willey gave the police report for December. The written report is part of the packet.

## FIRE COMPANY REPORT

- Mr. Fred Jester reported that in December the fire company had 179 ambulance calls and 43 fire calls. The totals for 2011 were 2,237 ambulance calls and 590 fire calls.
- Mr. Jester also presented the Council with copies of the Delaware Volunteer Fire Service 2009 Annual Report which is the most recent report available. According to this report it would raise property tax for each property by \$8.36 per \$1,000 of Assessed Value if we had to go from a Volunteer Fire and Ambulance Service to a paid one. This is a significant amount of money and each household should consider this when the annual fund drive comes around.

## PLANNING & ZONING

- None

## BUILDING INSPECTOR REPORT/ CODE VIOLATION REPORT

- The open building permit report is in the packets.
- Ms. Haddick reported that we are in the process of getting a price from the CWSWA to abate the public nuisances and we will be finding someone else to get a second price from. She has also been in touch with our attorney, Barrett Edwards, to be sure we have done everything required to proceed. He feels we have. A copy of the old Miller settlement has also been sent to him to look at.

## C/W SEWER & WATER REPORT

- None – Mr. Quinn unavailable.
- Ms. Williams reported that the Attorney General's office has sent a brief to the judge on January 6, 2012. We are now waiting to hear from him.

## PARK/STREET REPORT

- In Mr. Witt's absence, Mayor Rife reported that the Remus Lane Project is complete.

## OLD BUSINESS

- Move to the end of the meeting.

## NEW BUSINESS

- Mayor Rife announced that the following three residents have volunteered to be on the Board of Elections at the election on February 25<sup>th</sup>:
  - Richard Stockslager
  - Jaci Stokes
  - Lisa Fulcher

*Ms. Williams made a motion to appoint all three volunteers to the Board of Elections. Ms. Greenwood seconded the motion. All in favor; none opposed.*

- The next three residents have volunteered to work the polls for the February 25<sup>th</sup> election:
  - Louise Fair
  - Erika Reigle
  - Shirley Arnold

*Ms. Stokes made a motion seconded by Ms. Williams to appoint the three volunteers to work the polls at the election. All in favor; none opposed.*

#### CORRESPONDENCE

- All correspondence is on file at Town Hall if anyone is interested in seeing it.

#### CALENDAR OF EVENTS

- A. Town Council Meeting – 2/6/12, 7:30 pm, Annex
- B. Planning & Zoning – 1/10/12, 7:30 pm, Annex - CANCELLED
- C. CWSWA – 1/10/12, 7:00 pm, CWSWA office

#### PUBLIC COMMENTS

- Richard Stockslager mentioned that the pole on the corner of Grant and Railroad Avenues has been knocked down again. The Town is aware of it but Lew has been on vacation and then out sick. He will take care of it at his earliest convenience. The Chief is going to check with Del Dot to see if we can put something up there that would be less likely to be knocked down.

#### OLD BUSINESS

- Mayor Rife read the second reading of the synopsis from each of the following ordinances that had first readings last month. These ordinances are as follows:
  - Repeal of Ordinance No. 15-07 “The Town of Wyoming Realty Transfer Tax Ordinance.” *Ms. Williams made a motion seconded by Ms. Stokes to repeal this ordinance. All in favor; none opposed.*
  - Ordinance #21-11 “The Town of Wyoming Realty Transfer Tax Ordinance.” *Ms. Stokes made a motion seconded by Ms. Williams to adopt this ordinance. All in favor; none opposed.*

*Ms. Stokes made a motion seconded by Ms. Greenwood to adjourn the meeting. All in favor; none opposed.*

The meeting adjourned at 7:52 p.m.

Respectfully Submitted,  
Pamela Haddick, Town Clerk

Sponsor: Mayor Dale Rife  
First Reading: 12/5/11  
Second Reading: 1/9/12

**AN ORDINANCE TO REPEAL ORDINANCE NO. 15-07 "THE TOWN OF WYOMING REALTY TRANSFER TAX ORDINANCE", INCLUDING ANY AND ALL AMENDMENTS TO AND PREVIOUS VERSIONS OF THIS ORDINANCE**

**BE IT HEREBY ENACTED** by the Town Council of the Town of Wyoming, a majority thereof concurring in council duly met, that Ordinance No. 15-07 "The Town of Wyoming Realty Transfer Tax Ordinance", including any and all amendments to and previous versions of this ordinance be, and hereby are, repealed in their entirety.

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**Synopsis**

This ordinance repeals Ordinance No. 15-07 "The Town of Wyoming Realty Transfer Tax Ordinance", including any and all amendments to and previous versions of this ordinance.

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This shall certify that this is a true and correct copy of the ordinance duly adopted by the Town Council of the Town of Wyoming at a duly-noticed and convened meeting at which a quorum was present on January 9, 2012.

So Certifies:

Attest: Pamela B. Haddick Mayor Dale Rife  
Town Clerk Mayor

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This shall certify that a copy of this Ordinance was posted at the Town Hall on 1/10, 2012.

So Certifies:

1/10/12  
Date Pamela B. Haddick

Sponsor: Mayor Dale Rife  
First Reading: 12/5/11  
Second Reading: 1/9/12

## ORDINANCE #21-11

### THE TOWN OF WYOMING REALTY TRANSFER TAX ORDINANCE

**BE IT HEREBY ENACTED** by the Town Council of the Town of Wyoming, a majority thereof concurring in council duly met, that Ordinance #21-11 "The Town of Wyoming Realty Transfer Tax Ordinance" be and hereby is enacted, as follows to wit:

**Section 1. Definitions.** For the purpose of this Ordinance, the following words and phrases shall have the meanings respectively ascribed to them by this section:

*Town Clerk:* The Town Clerk of the Town of Wyoming.

*Document:* Any deed, instrument, or writing whereby any real estate within the corporate limits of the Town of Wyoming, or any interest therein, shall be quitclaimed, granted, bargained, sold, or otherwise conveyed to the grantee, but shall not include the exceptions set forth in 30 Del. C. §5401 (1), which exceptions are hereby adopted and incorporated herein by this reference. The provisions of 30 Del. C. §§5401 (4), (5), (6), (7), and (8) are also hereby adopted and incorporated herein by this reference.

*Transaction:* The making, executing, delivering, accepting, or presenting for recording of a document.

*Value:* In the case of any document granting, bargaining, selling, or otherwise conveying any real estate or interest or leasehold interest therein, the amount of the actual consideration thereof, including liens or other encumbrances thereon and ground rents, or a commensurate part of the liens or other encumbrances and ground rents which encumber the interest in real estate and any other interest in real estate conveyed; provided, that in the case of a transfer for an amount less than the highest appraised full value of said property for local real property tax purposes, "value" shall mean the highest such appraised value unless the parties or one of them can demonstrate that fair market value is less than the highest appraised value, in which case "value" shall mean fair market value, or actual consideration, whichever is greater. A demonstration that the transaction was at arm's length between unrelated parties shall be sufficient to demonstrate that the transaction was at fair market value.

### **Section 2. Levy of tax; exemptions.**

(a) Every person who makes, executes, issues, or delivers any document, or in whose behalf any document is made, executed, issued, or delivered, shall pay therefor and in respect thereof, or for and in respect to the vellum, parchment, or paper upon which such document is written or printed, a tax at the rate of one and one-half percent (1.5%) of the value of the property

represented by such document, which tax shall be payable at the time of the making, execution, issuance, or delivery of such document; said tax is to be apportioned equally between grantor and grantee unless otherwise provided for by agreement of the parties.

(b) Where a person acquires title to any lands, tenements, or hereditaments as a nominee or as a straw party for the real grantee or purchaser, the transfer of such title by such nominee or straw party to the real grantee or purchaser shall be exempt from this tax.

(c) Where a person acquires title to any lands, tenements, or hereditaments for the purpose of holding same as a nominee or as a straw party for the grantor, such transfer of title to the nominee or straw party shall be exempt from this tax.

**Section 3. Payment of tax generally; documentary stamps generally.**

(a) The payment of the tax imposed by this Ordinance shall be evidenced by the use of a mechanical, electronic device indicating the amount of tax imposed.

(b) The evidence of payment and the collection of the tax shall be collected by the Kent County Recorder of Deeds at the time of recordation of the document.

(c) The Town of Wyoming will provide to the Kent County Recorder of Deeds the mechanical or electronic device to indicate the amount of tax imposed if required by the Kent County Recorder of Deed.

(d) The Kent County Recorder of Deeds may charge a reasonable fee for the collection of the tax imposed and shall forward the tax to the Town of Wyoming.

(e) The tax imposed by this Ordinance shall be fully paid and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate, or costs of the sale, and of the writ upon which the sale is made, and the sheriff or other officer conducting such sale shall pay the tax herein imposed out of the first moneys paid to him in connection therewith, unless previously paid by any party; provided, however, that any tax imposed by the state shall have priority over the tax imposed under this Ordinance. The value for determining the tax shall be the highest of the following:

- (1) The bid price;
- (2) The amount of the mortgage not in excess of the fair value of the real estate;
- (3) The estimated full value;
- (4) The full and complete value as defined in Section 1 of this Ordinance.

**Section 4. Liability for payment of tax as between parties.** As between the parties to any transaction which is subject to the real estate transfer tax imposed by this Ordinance, in the absence of an agreement to the contrary, the burden for paying such tax shall be on the grantor.

**Section 5. Recordation of Documents.**

(a) No document shall be recorded in the Office of the Recorder of Deeds in and for Kent County unless one or more documentary stamps shall have been affixed thereto as provided in this Ordinance.

(b) The affixation of stamps to a document upon which a tax is imposed by this ordinance when lodged with or presented to the Recorder of Deeds and Town Clerk shall be an affirmation on the part of the transferor that the true, full, and complete value of the transaction is fully reflected in the amount of the stamps affixed thereto.

(c) Every document when lodged with or presented to the Recorder of Deeds and Town Clerk shall set forth therein and as a part of such document the true, full, and complete value thereof, or shall be accompanied by an affidavit executed by a responsible person connected with the transaction showing such connection and setting forth the true, full, and complete value thereof or the reason, if any, why such document is not subject to tax under this Ordinance.

**Section 6. Functions of the Town Clerk.** In addition to the other duties of the Town Clerk, the Town Clerk shall have the following responsibilities:

(a) The Town Clerk shall prepare and furnish adhesive stamps of such denominations and in such quantities as may be necessary for the payment of the tax imposed by this Ordinance and shall make provisions for the sale of such stamps in such places as may be deemed necessary.

(b) The Town Clerk may by regulation provide for the evidence of the payment of the tax to be shown on the document by means other than the affixing or documentary stamps.

(c) The Town Clerk is charged with the enforcement of this Ordinance and is authorized and empowered to prescribe, adopt, promulgate, and enforce regulations relating to:

- (1) The method to be used in affixing or cancelling of stamps in substitution for or in addition to the method and means provided in this Ordinance;
- (2) The denomination and sale of stamps;
- (3) Any other matter or thing pertaining to the administration and enforcement of this Ordinance.

**Section 7. Prohibited Acts Enumerated.** No person shall:

(a) Make, execute, issue, and deliver, or accept, or cause to be made, executed, issued, delivered, or accepted, any document without the full amount of tax due thereon under the provision of this Ordinance being duly paid;

(b) Make use of any documentary stamp to denote payment of any tax imposed by this Ordinance without cancelling such stamp as provided by this Ordinance;

(c) Fail, neglect, or refuse to comply with, or otherwise violate, the regulations prescribed, adopted, and promulgated under the provisions of this Ordinance;

- (d) Fraudulently cut, tear, or remove from a document any documentary stamp;
- (e) Fraudulently affix to any document upon which a tax is imposed by this Ordinance any documentary stamp which has been cut, torn, or removed from any other document upon which a tax is imposed by this Ordinance or any documentary stamp of insufficient value, or any forged or counterfeited stamp, or any impression of any forged or counterfeited stamp, die, plate, or other article;
- (f) Willfully remove or alter the cancellation marks of any documentary stamp, or restore any such documentary stamp, with intent to use or to cause the same to be used after it has already been used, or knowingly buy, sell, offer for sale, or give away any such altered or restored stamp to any person for use, or knowingly use the same;
- (g) Knowingly have in his possession any altered or restored documentary stamp which has been removed from any document upon which tax is imposed by this Ordinance, and the possession of such stamp shall be prima facie evidence of an intent to violate this clause;
- (h) Knowingly or willfully prepare, keep, sell, offer for sale, or have in his possession any forged or counterfeited documentary stamps; or
- (i) Accept for recording in the office of any recorder of deeds any document upon which the realty transfer tax is imposed by this Ordinance without the proper documentary stamp or other evidence of payment of the tax affixed thereto as required by this Ordinance as indicated in such document or accompanying affidavit.

**Section 8. Penalty For Violations.** Any person guilty of conduct prohibited in Section 7 shall upon conviction be punished by imposition of a fine of not more than One Hundred Dollars (\$100.00).

**Section 9. Use of Funds.** In accordance with the provisions of 22 Del. C. §1601(c), any funds realized by the Town of Wyoming pursuant to this Ordinance shall be segregated from the Town's general fund, and said funds, together with all interest thereon, shall be expended solely for the capital and operating costs of public safety services, economic development programs, public works services, capital projects and improvements, infrastructure projects and improvements, and debt reduction.

**Section 10. Effective Date.** This Ordinance shall become effective immediately upon its enactment into law.

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### Synopsis

This ordinance sets forth the tax rate on the transfer of real property in the Town of Wyoming as one and one-half percent (1.5%). This ordinance outlines the procedures for payment of the transfer tax and the recording of documents, along with outlining who is responsible for paying the tax. The duties of the Town Clerk are specified, and acts specifically

