

**TOWN OF ELSMERE  
COUNCIL MEETING MINUTES  
APRIL 13, 2017  
TOWN HALL  
6:30 p.m.**

**CALL TO ORDER:** Mayor Steven Burg called the meeting to order at 6:30 p.m.

**PLEDGE OF ALLEGIANCE:**

**MOMENT OF SILENCE:**

**ROLL CALL:**

MAYOR	STEVEN BURG	PRESENT
1 <sup>ST</sup> DISTRICT	JOHN JAREMCHUK, JR.	PRESENT
2 <sup>ND</sup> DISTRICT	TED PFIRRMANN	PRESENT
3 <sup>RD</sup> DISTRICT	ROBERT KACPERSKI	PRESENT
4 <sup>TH</sup> DISTRICT	EDWARD ZIELINSKI	PRESENT
5 <sup>TH</sup> DISTRICT	JOANN I. PERSONTI	PRESENT
6 <sup>TH</sup> DISTRICT	BRIAN HURST	PRESENT

Town Solicitor, Edward McNally – Absent

Town Manager, John Giles – Present

Chief of Police, Laura Giles – Present

**PUBLIC COMMENT:**

Mr. Charles Lindell, 3 Jefferson Ave, stated that on behalf of the members of the Planning Commission, he would like to thank the members of the Mayor and Council for their continued support.

Mrs. Sharon Burg, 108 Northern Ave, stated that there are some maintenance issues at the dog park. There are missing poles, loose gates, not enough mulch in locations, etc. She asked if there was anyone who is maintaining the park.

Town Manager John Giles stated that there are public works employees who report that they have checked that park daily. He will however speak with the employees and visit the park himself. The equipment with the missing pole is in the process of being removed, and a fence company has been contacted to repair the fence issues.

**APPROVAL OF MINUTES:**

Minutes of the March 9, 2017 Council Meeting

**ACTION:** A motion was made by Councilwoman Personti to approve the minutes of the March 9, 2017 Council Meeting with no corrections. The motion was seconded by Councilman Jaremchuk.

**VOTE:**           7-0                   All-in-favor                   Motion carried

**OLD BUSINESS:**

Introduction for First and Second Reading of Ordinance 627.

**ACTION:** A motion was made by Councilwoman Personti to remove Ordinance 627 from the table and consider it for first and second reading. The motion was seconded by Councilman Jaremchuk.

**VOTE:**           7-0                   All-in-favor                   Motion carried

**ACTION:** A motion was made by Mayor Burg to approve Ordinance 627 for first and second reading. The motion was seconded by Councilman Pfirrmann.

**VOTE:**           7-0                   All-in-favor                   Motion carried

Review of the documents provided by Seiberlich Trane concerning the project payment schedule for the replacement of the HVAC System at Town Hall.

Town Manager John Giles presented the timeline for the project. He stated that his hesitation moving forward is that the bank loan has not yet been approved and once this contract is signed, the project moves forward, regardless of funding.

Mayor Burg asked why the funding is not yet in place.

Town Manager John Giles stated that because the project was tentatively approved last month, we were to come back this month with the proposed funding plan for the Council, which appears as the next item on the agenda.

**ACTION:** A motion was made by Mayor Burg to approve the contract with Seiberlich Trane and to apply for a bank loan in the amount of \$354,000.00. The motion was seconded by Councilman Jaremchuk.

**VOTE:**           6-1                   Motion carried

1<sup>st</sup> District – Yes, 2<sup>nd</sup> District – Yes, 3<sup>rd</sup> District – Yes, 4<sup>th</sup> District – No,  
5<sup>th</sup> District – Yes, 6<sup>th</sup> District – Yes, Mayor – Yes

Consideration of awarding a contract for RFP 17-01, for the replacement of the windows at the police department.

Town Manager John Giles stated that they have confirmed that the prices last month were accurate and it is cheaper to get the functioning windows vs. single piece windows.

Mayor Burg asked the name of the contractor.

Town Manager John Giles stated that it is Allen Construction in the amount of \$31,055.00.

Councilman Pfirrmann asked if we had researched the company any.

Finance Director Joseph Schulcz stated that he has, and they are a distributor of All Side which is a national brand of windows.

**ACTION:** A motion was made by Mayor Burg to award RFP 17-01 to Allen Construction in the amount of \$31,055.00. The motion was seconded by Councilman Hurst.

Councilman Jaremchuk asked how the project would be funded.

Town Manager John Giles stated that he has included this as part of the funding for the heating system which is addressed in a separate agenda topic which was skipped, but that this project could be funded out of the general fund if necessary.

Councilman Zielinski stated that he would rather discuss where the funding would come from before voting.

Town Manager John Giles stated that there are a number of things that play into this, such as the heating system, this project and the decision regarding the garbage contract. He stated that he could go over the plan now, however, the plan assumes that the Council will go with a certain vendor for the garbage contract which has not yet been voted on. There are 4 agenda items which directly contribute to the funding plan.

**VOTE:**           6-1           Motion carried

1<sup>st</sup> District – Yes, 2<sup>nd</sup> District – Yes, 3<sup>rd</sup> District – Yes, 4<sup>th</sup> District – No,  
5<sup>th</sup> District – Yes, 6<sup>th</sup> District – Yes, Mayor – Yes

**NEW BUSINESS:**

Appointment of Election officers and workers for the April 29, 2017 Biennial Election.

Town Manager John Giles asked that the Mayor and Council appoint the following individuals as election workers.

District 1  
Mr. Adrian Spence  
Ms. Shelby Records

District 2  
Ms. Janet Mombro  
Ms. Susan Matthews

District 4  
Ms. Peggy Zuggie  
Mr. Charles McKewen

Inspector  
Ms. Diane Kasowski

Judges

Ms. Beth Kloetzer

Mr. Edgar Jones

**ACTION:** A motion was made by Councilman Jaremchuk to appoint the proposed election workers. The motion was seconded by Councilwoman Personti.

**VOTE:** 7-0 All-in-favor Motion carried

Consideration of awarding a contract in response to RFP 17-02.

Town Manager John Giles presented the responses to RFP 17-02. He stated that we received 4 bids; however, only three were received by the deadline. O'Fig Sanitation was submitted after the deadline and we did not open that bid.

Councilman Zielinski asked when the bids were opened and who opened them.

Town Manager John Giles stated that the bids were opened at 2:30pm on April 3, 2017 by the Town Manager and Finance Director in the Council Chambers with bidders present.

Councilman Zielinski asked why they were not opened in front of the committee.

Town Manager John Giles asked what committee.

Councilman Zielinski referred to the Charter §705, where bids shall be opened by Council or by a duly authorized committee of Council.

Town Manager John Giles stated that it has been a number of years, but at one point, the Town Manager and Finance Director were named to be that committee. In addition, the Town personally notified a number of businesses of the RFP including Mr. Naughton at O'Fig Sanitation.

1. Trash Tech, LLC - \$575,122.56 for Year 1
2. Evergreen Waste Services - \$584,070.00 for Year 1
3. Waste Management - \$469,332.00 for Year 1

Town Manager John Giles continued stating that the Finance Department then reviewed each proposal to check whether they addressed all aspects of the RFP. After reviewing, Waste Management has responded to all but one request and was the low bidder. Each other company had more items that were not addressed, as well as, had a higher bid.

Councilman Jaremchuk asked for confirmation that Town Manager John Giles stated that the Town had given Mr. Naughton a phone call when the RFP became available.

Town Manager John Giles confirmed that the Finance Director made that phone call.

Councilman Jaremchuk asked if any other companies were given personal contacts.

Town Manager John Giles stated that there were a number of businesses that received personal contacts. The Town posted the RFP in the News Journal as required by Charter as well as posted on the Town's Website and Facebook. After that, the businesses were notified. He stated that a list of those contractors was in the Council Packet.

Finance Director Joseph Schulcz read the list of contractors for the record.

1. Evergreen Waste Services
2. Republic Services
3. Waste Management
4. Waste Masters
5. Waste Industries
6. ASI Comprehensive
7. Trash Tech
8. Gold Medal Services
9. O'Fig Sanitation

Mayor Burg asked about the Walk out Service portion of the contract. He stated that Evergreen was the only company to offer a bid, does that mean that the other companies won't do it.

Town Manager John Giles stated that the service was part of the contract, they were to either address a price for that service or it would be included as part of their contract as a whole. If they did not list the extra charge or list it as an exception in the appropriate locations of the bid, it is included.

Mayor Burg asked the cost of this year's trash contract.

Finance Director Joseph Schulcz stated that the current contract is in the amount of \$570,639.52.

Councilman Jaremchuk asked if the contract was three years.

Town Manager John Giles confirmed that it is a three year contract with several possible extensions.

**ACTION:** A motion was made by Councilman Jaremchuk to authorize the Town Manager to execute a contract with Waste Management for three years, with the amount being as follows: 2017 - \$469,332.00, 2018 - \$481,125.60, 2019 – 493,189.92. The motion was seconded by Councilwoman Personti.

Mr. Kevin Naughton, 1210 Sycamore Avenue, stated that he owns O'Fig Sanitation and that the trash business is gold. His business costs have gone down by 1/3 because of rebates offered for recycling, which is why Waste Management was able to cut the costs of their contract by so much. This could be the revenue generator that the Town has been looking for, his proposal would be for the Town to purchase trucks and collect the trash and recycling through its own employees, he would give up his business for a year to run the program. In addition, he was at the University of Delaware discussing this plan with them and the potential to issue a lawsuit against the Town regarding this contract. He

would like the Town to consider not making a decision regarding this issue and the allow Mr. Naughton to complete a feasibility study for the Town to take over this contract.

Councilman Jaremchuk asked Mr. Naughton how much time he would need to submit a proposal.

Mr. Naughton stated that he would need about 2 weeks. He has some of the numbers already. He stated that he was not late submitting his bid on purpose; he had a misunderstanding with Mr. Schulcz. He thought the bids were due at the end of the day, which for him in his business is 3:30pm. He stated that his bid doesn't even have a price on it; it is the information regarding this study.

Councilman Jaremchuk asked for confirmation that Mr. Naughton's study would show the costs for the Town to go back to collecting the garbage instead of outsourcing this contract.

Mr. Naughton stated that was correct, it would bring the contract back to where it belongs, in the public works department. He stated that part of the issue is Waste Management. He has followed the trucks as they are putting items in the wrong collection containers, and have people working too many hours and treating their employees terribly. He would just like the opportunity to present the numbers to Council.

Councilman Jaremchuk stated that he would like to see more information on this.

Mr. Naughton stated that he could get the numbers within 10 days of this meeting.

Councilman Jaremchuk stated that he would like Mr. Naughton to gather the information and schedule a meeting with Town Manager John Giles, to which he would like to also attend.

Councilman Zielinski stated that he too would like to be included in that meeting.

Mr. Naughton stated that he would like anyone who is interested attend the meeting.

Councilman Jaremchuk asked Town Manager John Giles asked if the RFP included a deadline for a decision made by Council.

Town Manager John Giles stated that the Mayor and Council does have the discretion in when to award a contract, however, the current contract does expire June 30, 2017.

**ACTION:** Councilman Jaremchuk withdrew his motion.

Councilman Zielinski stated that he thinks that it is commendable what Mr. Naughton is doing, trying to save the Town money and create jobs in the community.

Councilwoman Personti stated that she is concerned with Mr. Naughton's litigious nature to take his suggestion seriously.

Mayor Burg stated that the Council should make a decision on this as soon as possible.

**ACTION:** A motion was made by Councilman Zielinski to table this RFP until we find out more information from Mr. Naughton.

Town Manager John Giles stated that the motion to table has a disastrous effect. June 30<sup>th</sup> our existing garbage contract is up, if Mr. Naughton takes more time than that, who will collect garbage on July 1?

**ACTION:** A motion was made by Mayor Burg to schedule a Special Council Meeting on Wednesday, April 26, 2017 at 6:30pm to finalize RFP 17-02. The motion was seconded by Councilman Zielinski.

Mr. Naughton stated that he would have the information to Town Manager John Giles by Monday, April 24, 2017. He then stated he would have it to him sooner than that.

Councilman Hurst asked if this would be a meeting that if the information is not favorable or we don't receive it, we will move forward with Waste Management.

Mayor Burg stated that is his intention.

**VOTE:** 7-0 All-in-favor Motion carried

Mayor Burg stated that the meeting would be April 26, 2017 and that the paperwork for Mr. Naughton's bid should be given to Town Manager John Giles by Monday, April 24, 2017 to distribute to Council.

Councilman Jaremchuk asked Town Manager John Giles to notify him when the paperwork is received.

Eric Thompson, 1213 Spruce Avenue, asked if the people who properly complied with the RFP have to be informed that a decision was not made and that a second meeting would be held.

Town Manager John Giles stated that they would need to be notified. They have asked to be updated already, and expected an answer after tonight's meeting.

Councilman Jaremchuk stated that they can be notified that an absolute final decision will be made on Wednesday, April 26, 2017.

Consideration of a request by the Corpus Christi Church to hold their Church Carnival.

Mayor Burg presented the application.

**ACTION:** A motion was made by Councilman Jaremchuk to approve the request by Corpus Christi Church including the waiver of the permit fees and the Town's portion of the Police fees. The motion was seconded by Councilman Hurst.

**VOTE:** 6-0 with 1 abstained Motion carried

1<sup>st</sup> District – Yes, 2<sup>nd</sup> District – Yes, 3<sup>rd</sup> District – Yes, 4<sup>th</sup> District – Yes,  
5<sup>th</sup> District – Yes, 6<sup>th</sup> District – Yes, Mayor – Abstained

Mayor Burg stated that he was abstaining since he is the applicant on behalf of the  
Corpus Christi Church.

Update concerning the status of the Special Council Committee on Larger Purchases.

Mayor Burg stated that the issues appear to have now been resolved; therefore, the need  
for this committee no longer exists.

**ACTION:** A motion was made by Mayor Burg to dissolve the Special Council  
Committee on Larger Purchases. The motion was seconded by Councilman Zielinski.

**VOTE:** 7-0 All-in-favor Motion carried

**DEPARTMENTAL REPORTS:**

Code Enforcement

Town Manager John Giles presented the written report.

Finance

Town Manager John Giles presented the written report.

Public Safety

Chief Laura Giles presented the written report.

Councilman Zielinski stated that he has received a number of complaints along Bungalow  
Avenue regarding speeding between 4pm and 6pm. Tonight he was sitting on the street  
and witnessed at least 5 vehicles speeding down the street. In addition, there are a  
number of vehicles existing J Street the wrong direction. Today he witnessed three  
vehicles commit that violation.

Chief Laura Giles stated that she would send some cars down during those hours.

Town Manager John Giles stated that he needs to go back to the Finance Department for  
Check approvals.

Finance

The following are the checks issued since March 9, 2017 which need approval, as well as,  
the Grants or State Funds used.

1. Municipal Street Aid Fund– 5 Checks were issued. Check numbers 1884,  
through 1888. These checks totaled \$8,174.69.



## Public Works

Town Manager John Giles presented the written report. He added the following items:

1. They spent a lot of time during the month dealing with downed trees and limbs.

Councilman Pfirrmann asked if there was an update regarding the sinkhole he reported in the 800 block of Baltimore Avenue. He noticed that there were markings around it.

Town Manager John Giles stated that the hole is marked out and he is waiting for bid back from Paoli Services for the repair, it is outside the capabilities of our equipment.

Councilman Hurst reported a small sinkhole next to the storm drain at 207 Olga Road.

## Town Manager

Town Manager John Giles stated that there was no report because he had nothing to add because everything that would have been discussed was already on the agenda. He added the following issues:

1. Councilwoman Personti was correct at the last meeting regarding the number of supplemental agendas which have been used recently and that he has made a conscious effort to reduce those.
2. Crown Castle is still convinced that they need a franchise agreement for internet service, therefore, he will be moving forward with Mr. McNally to negotiate that agreement to the point that it is ready to be discussed by Council.
3. Mayor Elect Eric Thompson approached him about the procedures for the swearing in ceremony on May 7, 2017 and that he wants to discuss what if anything the Council may want to do for that meeting.

Eric Thompson, 1213 Spruce Avenue, stated that not being fully familiar with that transitional meeting, he wasn't sure what occurs afterwards. Therefore, he had proposed that instead of using Town resources, he is willing to host anyone interested at his home after the meeting for a pot luck type reception.

Councilwoman Personti thanked him for the offer and expressed interest.

4. Town Manager John Giles asked the Mayor and Council to reconsider Old Business item number 3, regarding their decision to move forward with Seiberlich Trane for the HVAC system at Town Hall. With the contract for garbage not being awarded, as well as, not discussing the funding plan, he does not know where the money will come from.

Councilman Jaremchuk asked how the contract for the garbage plays into the contract for the HVAC System.

Town Manager John Giles stated that because the Waste Management contract was \$100,000.00 less next year, which was how the loan would be paid back. Without awarding that contract, those savings no longer exist.

Councilman Jaremchuk asked for the rest of the plan.

Town Manager John Giles presented the following 5 year repayment plan:

1. The Council would authorize spending \$752,540.00 for the HVAC, Lighting and EPD Windows.
2. The Town would borrow \$391,000.00 in the form of a bank loan.
3. The Town would fund \$361,540.00 from the Contingency Fund and Operating Surplus.

The Town would then repay the bank loan with the following actions:

1. \$101,307.52 from the Year 1 savings of the garbage contract.
  2. \$89,513.50 from the Year 2 savings of the garbage contract.
  3. \$77,449.60 from the Year 3 savings of the garbage contract
- 
- Totaling \$268,270.62

Remaining Balance: \$122,739.38

1. Anticipated DNREC Rebates in the amount of \$37,000.00

Remaining Balance: \$85,729.38

1. Divided by 2 means \$42,864.69 for the final 2 years of the loan.

Because of the savings incurred by awarding the contract to Waste Management, the Town could pay the loan off within 4.3 years.

Councilman Jaremchuk asked if the Council could see this plan in writing.

Town Manager John Giles gave the plan to Administrative Assistant Diana Reed to copy.

Councilman Jaremchuk stated that he is a reasonable man and that his intention is to award a garbage contract in those amounts or in a lesser amount, not an amount which is higher.

Councilman Kacperski asked why it was proposed to only use \$180,770.00 from the contingency fund instead of maybe \$250,000.00, when the current balance of the fund is \$348,865.22.

Town Manager John Giles stated that he thought that keeping half of those funds for any emergency which may arise was the most responsible way to look at it.

Councilwoman Personti stated that she would not support more than 50% from the contingency fund. She stated that she is comfortable with the plan as it is proposed.

Councilman Pfirrmann asked why the Town stopped collecting the garbage in the first place.

Town Manager John Giles stated that the Town Manager at the time convinced the Council that it would be cheaper. While he disagreed at the time, now that we have none of that equipment or personnel, the costs to go back to it are significantly more (personnel, trucks, containers, benefits, insurance, etc.).

Mayor Burg asked why M & T Bank wasn't the lowest bid for loan rates.

Town Manager John Giles stated that they are historically more restrictive, as well as, a higher percentage. The only two times they have been successful were the recent transfer of the pension and when we threatened to move our money and issued an RFP.

#### **ITEMS SUBMITTED BY THE MAYOR AND COUNCIL:**

**District 1** – Councilman Jaremchuk stated that the Land Bank would like to define the relationship between the Mayor, Council and Land Bank and whether the Land Bank is required to meet FOIA. He is awaiting some input from Mr. McNally but that he may be back to discuss this issue again.

**District 2** – None

**District 3** – None

**District 4** – None

**District 5** – Councilwoman Personti asked if there had been any more issues with homeless individuals since the reports last month.

Chief Laura Giles stated that she is not aware of any additional issues.

**District 6** – None

**Mayor** – Mayor Burg asked if the tribute to Russ Fernandez that he was hoping to get a supplemental agenda for could now be placed on the agenda for the Special Council Meeting on April 26, 2017.

Town Manager John Giles stated that it is his understanding that the date of that event may be changing and that the tribute could potentially be issued without the meeting of Council.

Mayor Burg thanked the Town Manager, Chief of Police and members of Council for their support. He stated that this Council will never be together again, but that while there have been some rough times, everything is left at the door and that if he had to do everything again, he would. He wishes nothing but the best for the Town, and wishes luck to the incoming council.

**PUBLIC COMMENT:**

None

**ADJOURNMENT:**

**ACTION:** A motion was made by Councilwoman Personti to adjourn. The motion was seconded by Councilman Jaremchuk.

**VOTE:**           7-0                   All-in favor                   Motion carried

These minutes summarize the agenda and other issues discussed at this Council Meeting. Votes are recorded accurately. The audio recording of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio recording may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

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**ERIC THOMPSON**  
**MAYOR**

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**BRIAN HURST**  
**SECRETARY**