

**TOWN OF ELSMERE  
COUNCIL MEETING MINUTES  
SEPTEMBER 13, 2018  
TOWN HALL  
6:30 p.m.**

**CALL TO ORDER:** Councilman Hurst called the meeting to order at 6:30 p.m.

**PLEDGE OF ALLEGIANCE:**

**MOMENT OF SILENCE:**

**ROLL CALL:**

MAYOR	ERIC SCOTT THOMPSON	PRESENT
1 <sup>ST</sup> DISTRICT	MARIANNE SKIPSKI	PRESENT
2 <sup>ND</sup> DISTRICT	TED PFIRRMANN	PRESENT
3 <sup>RD</sup> DISTRICT	ROBERT KACPERSKI	PRESENT
4 <sup>TH</sup> DISTRICT	CHARLES MCKEWEN	PRESENT
5 <sup>TH</sup> DISTRICT	JOANN I. PERSONTI	PRESENT
6 <sup>TH</sup> DISTRICT	BRIAN HURST	PRESENT

Town Solicitor, Edward McNally – Present

Town Manager, John Giles – Present

Chief of Police, Laura Giles – Present

**PUBLIC COMMENT:**

Town Solicitor Edward McNally introduced Mr. Jim McMakin who is a partner at Morris James. As the Council is aware, he intends to retire effective December 31, 2018. It is his recommendation that the Mayor and Council appoint Mr. McMakin as the Town Solicitor upon his retirement. Mr. McMakin has experience handling various boards, as well as, personnel issues. He intends to have Mr. McMakin attend all meetings which the Town Solicitor Attends for the next several months so that the Council can get acquainted, as well as, Mr. McMakin can learn about the Town prior to any potential appointment.

**APPROVAL OF MINUTES:**

Minutes of the August 9, 2018 Council Meeting.

**ACTION:** A motion was made by Councilman Hurst to approve the minutes of the August 9, 2018 Council Meeting with no corrections. The motion was seconded by Councilwoman Skipski.

Councilwoman Personiti asked if the changes she had emailed about had been made.

Town Manager John Giles stated that they had.

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

## **OLD BUSINESS:**

### Discussion regarding the roadway repairs that should be made during the next road program.

While Town Manager John Giles explained that he has forwarded estimates for the street replacements which were submitted by the members of council, there were multiple conversations occurring at once and the tape became unable to be transcribed.

Town Manager John Giles stated that he was very surprised by the estimates provided for Junction Street and the fact that the estimate came in at \$75,000.00 for one portion or \$130,000.00 for the entire length. Once the Council agrees on locations the Town can place the project out to bid, however, he feels it may be in the Town's best interest to wait until the first of the year to bid the projects because then we can be the first projects started in the spring while contractors are still looking for their projects for the year.

Councilman Pfirrmann stated that he had submitted locations for the last street program which were not selected and that he does not see those locations listed.

Town Manager John Giles stated that he still has a copy of those estimates, however, what he forwarded for this meeting were just new locations which had been submitted.

Councilman Pfirrmann stated that he would like to see those two locations added back into the locations being considered for this round of improvements.

Councilman Kacperski stated that he does not feel his district is in desperate need of streets, he only has some curb work that is necessary. If those locations are forwarded, could the estimates for just the curbing be included for consideration.

Town Manager John Giles stated that he would add Councilman Pfirrmann's locations into the projects for consideration and if Councilman Kacperski forwards his curb locations, he would have the engineers estimate that work as well. In addition, he would like Council to consider not placing the project out to bid until early 2019.

Councilman Hurst asked if waiting that long to place the project for bid would get the Town in a bind to have the work completed by June 30<sup>th</sup>.

Town Manager John Giles stated that he could place a condition in the bid requirements that all work be completed no later than June 1 to ensure that does not become an issue.

### Consideration of re-appointing the members of the Elsmere Land Bank, as well as, the future of the Land Bank itself.

Town Manager John Giles stated that the committee's appointments expire on October 11, 2018 which is the date of their next meeting. The Council discussed that they wanted to review the Land Bank in one year, therefore, he felt that the appointments and review should occur during September to ensure no lapse in appointments.

Mayor Thompson asked Mr. McNally for a confirmation on a statement made during the Land Bank meeting (which is prior to the Council Meeting). Mr. McNally indicated that the Land Bank could essentially go into a state of dormancy until a receivership is appointed or necessary, since all motions to file receivership are filed and approved by the Council.

Town Solicitor McNally stated that is correct.

Councilwoman Personti asked if the Land Bank is in a state of dormancy, who would make the determination that a property is eligible for receivership and how would the information be collected and presented to Council. Who would be responsible?

Town Manager John Giles stated that at this evenings meeting, they adjourned until the call of the Chairman, meaning that the committee would only meet when there are items which need to be discussed. The would not meet during months where no properties are being pursued.

Chairman Jaremchuk stated that he certainly does not intend to meet if there is no business to discuss, however, if Council does not re-appoint members, then there will be no Land Bank to call when receiverships are necessary. Even if the committee does not meet monthly, appointments or re-appointments are still necessary.

Mayor Thompson stated that so long as the timelines of the Court of Chancery provide sufficient time for the committee to convene, and the chairman agrees that they should only meet when there are valid properties to discuss, then he sees no issues with re-appointing the members of the Land Bank.

Councilwoman Personti stated that she would agree. The members of the Land Bank do a significant amount of work researching the properties and determining which properties are best for the Town to pursue. She would hate to see the Mayor and Council get bogged down with those types of discussions when there is the opportunity to have another committee do so and bring their recommendations and research to Council.

Mr. McNally stated that most Delaware Corporations have a term of 1 year.

Councilman Kacperski asked if the Land Bank has the authority to apply for grants or loans without the approval of Council.

Mr. McNally stated that while they do have the authority and power to do so, he does believe that they should at least notify the Town of their intentions.

**ACTION:** A motion was made by Councilman Hurst to re-appoint all members of the Elsmere Land Bank for a 1-year term to expire on October 10, 2019. The motion was seconded by Councilman McKewen.

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

**NEW BUSINESS:**

Update from the Representative of the Elsmere Land Bank concerning recent activities and issues the Land Bank is working on.

Chairman John Jaremchuk stated that the Land Bank has currently filed for receivership on two properties, 203 Bungalow Avenue and 505 Junction Street. We have received assurance from an attorney representing one of the properties that they will be renovating the property to bring it up to code and potentially selling the property, which is the goal of the program. The other property is scheduled for sheriff sale on October 8<sup>th</sup>, so the committee intends to wait until the outcome of the sheriff sale to move forward. As far as funding loaned to the Land Bank by the Council, he would like to point out that since the Land Bank recommended the Council contract with Community Champions, that program has brought it \$87,600.00, which would not be there had the Town not had that relationship with Community Champions at the urging of the Land Bank members.

Introduction for First and Second Reading of Ordinance 639.

Town Manager John Giles gave a brief overview of the ordinance and explained that the Town's ordinance has a few sections which contradict State Law governing elections, this ordinance is simply housekeeping to bring those sections into compliance with State Law.

**ACTION:** A motion was made by Councilman McKewen to approve Ordinance 639 for First and Second Reading. The motion was seconded by Councilwoman Personti.

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

Town Manager John Giles asked if any members of Council wish to sponsor this ordinance.

Councilman McKewen stated that he would sponsor the ordinance.

Introduction for First and Second Reading of Ordinance 640.

Town Manager John Giles gave a brief overview stating that the Town's Solid Waste Code has not been updated since the Town was collecting the garbage. Now that the services are contracted out, there are a few sections that need to be updated to current practices and collection regulations.

Councilwoman Personti expressed concern with the removal of exact times in which the containers can be placed out for collection as well as returned to the property following collection. She stated that she is concerned that the vagueness will make it more difficult for the Town to enforce. In addition, she expressed concern in removing a resident's ability to utilize plastic bags for their garbage.

Administrative Assistant Diana Reed explained that the ordinance is not intended to prohibit the use of bags, it is intended to eliminate a bag as a "Container". This would

mean that a resident cannot simply place a bag at the curb, they must place the bag in a solid waste container to be collected.

Town Manager John Giles stated that he does intend to meet with Councilwoman Personti prior to Third and Final Reading to discuss her concerns with the times to see what options are available.

Councilwoman Skipski asked Town Manager John Giles if the issues in Silverbrook Gardens are addressed as part of this ordinance.

Town Manager John Giles stated that he has not received a response from Waste Management yet. They may be added prior to third and final and may be necessary under a separate chapter.

**ACTION:** A motion was made by Councilwoman Personti to approve Ordinance 640 for First and Second reading. The motion was seconded by Councilman McKewen.

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

Introduction for First and Second Reading of Ordinance 641.

Town Manager John Giles gave a brief overview of the ordinance stating it was requested by Councilman Pfirrmann following several complaints in his district regarding dumpsters which were being placed on private property and did not require permits to be issued.

Mayor Thompson asked if it was necessary to pass an ordinance strictly for dumpsters or is there another section that is broader that could be used to address these types of issues.

Town Manager John Giles stated that he met with the Code Enforcement Department and they were unable to locate any other sections of the codes which would allow the Town to control these issues.

Councilman Pfirrmann also gave a brief overview of the complaints he received which led to his request to create such an ordinance.

Mayor Thompson stated that companies use the dumpsters as leverage to receive payment. They tend to leave the dumpster until the bill is paid. He is concerned that this ordinance would deter companies to rent dumpsters to residents with the concern that they will be fined if the resident doesn't pay the bill and the company doesn't collect the dumpster.

Town Manager John Giles stated that while he understands the concern, the Town should not be their collection agency, the company will only be fined when they refuse to move the dumpster upon receiving a notice to remove.

**ACTION:** A motion was made by Councilman Hurst to approve Ordinance 641 for First and Second reading. The motion was seconded by Councilman Pfirrmann.

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

## **DEPARTMENTAL REPORTS:**

### Code Enforcement

Town Manager John Giles presented the written report and added the following information:

1. The department issued 53 citations during the month of August. 23 were corrected with just the initial warning, but 29 were issued fines and 1 remains pending.
2. There were 6 properties which were deemed nuisance properties during the month and were issued repeat public nuisance fines.
3. The department ordered 2 abatements during the month.
4. The department issued violations to the mortgage companies who have failed to comply with property registrations within the Community Champions registration program. In all, 10 violations were issued to 10 different mortgage companies.
5. There is a large tree at 251 Filbert Avenue which has had a large branch fall. Melissa cited the property on 9/7/2018 for the tree in poor condition. There was no action taken by the property owner to remediate the violation. Melissa performed a follow-up inspection on 9/11/2018 and issued an invoice. As of today, 9/13/2018, the tree is still there in the same dangerous condition as it was the day Public Works went out on 9/6/2018. The abatement date is today so Melissa called Steve with Tree Inc. to receive a quote for the Town to abate the tree. He anticipates it will be a very costly abatement which will likely go onto the property owners' taxes as a special tax lien.

Mayor Thompson asked if there were any questions for Code Enforcement.

Councilwoman Skipski asked if there was anyone monitoring the silica and dust during the demolition of the Season Pizza.

Town Manager John Giles stated that BIU has been monitoring the project, he was told that there was a hose onsite during the demolition and that there have been a number of interesting things during the demolition such as Delmarva reporting that they did not have a demolition permit through Delmarva yet the Delmarva Tech was onsite during the demolition to monitor.

## Finance

Town Manager John Giles presented the written report and added the following information:

1. The department received \$13,085.25 in transfer taxes for the month of July.
2. Property tax bills were mailed on July 13, 2018, and the department received \$292,085.73 in payments during the month of August.
3. We received the \$100,000.00 reimbursement for the street program.
4. We received the final energy credits for the installation of the new lighting and HVAC Systems totaling \$24,662.00. Of that total, \$7,982.00 was for the lighting project and \$16,680.00 for the heating system.

## Public Safety

Chief Laura Giles presented the written report and added the following information:

1. The vehicle she intended to sell in a private sale ended up being sold at auction because the buyer fell on hard times and was unable to pay for the vehicle. At auction, we received \$1,635.00 which was higher than what we expected from the private sale.
2. The department is in desperate need of a new vehicle. 35-5 which is the charger is officially out of service. This new vehicle was discussed as part of the budget and she intended to discuss it again in December but unfortunately, it did not last that long. The replacement cost of a new vehicle is \$39,605.00. Right now, the department is getting by because they are an officer down. They are in a hiring process for an academy and if we ordered a new vehicle now, it would take at least 12 weeks before delivery and then must be fitted with all the equipment after that.

Councilman Hurst asked how long the estimate would be good for.

Chief Laura Giles stated that it would only be good until the end of the year because the vehicle being purchased is a 2018.

Councilman Kacperski asked when the academy would begin for a new officer.

Chief Laura Giles stated that she believes it will begin December 4<sup>th</sup>.

Councilman Hurst asked if this would put the Town in a predicament where we would need two vehicles next year.

Chief Laura Giles stated that delaying would absolutely mean that she would need to request two vehicles in the next capital budget.

Councilman Kacperski asked how much is remaining to be paid on the new Street Sweeper.

Town Manager John Giles stated that the street sweeper has been paid in full upon delivery.

Councilman Kacperski asked what debt is left.

Town Manager John Giles stated that the only remaining debt would be the payments allocated for the HVAC System each year.

Town Manager John Giles asked Finance Director Joseph Schulcz for the available balance in the Long-Term Planning Capital Depreciation Line Item to allow for the purchase for the vehicle.

Finance Director Schulcz stated that there is \$27,753.00 in current year allocations plus \$35,291.00 in carryover allocations.

Town Manager John Giles stated that there are enough funds to approve this purchase should the council wish to amend the budget to allow the capital purchase and transfer the funds from the Long-Term Planning Capital Depreciation Accounts.

Chief Laura Giles stated that this is not a vehicle which she would have proposed replacing. The next vehicle was supposed to be a 2006 Tahoe which is the Lieutenants vehicle. This has become a priority based on repairs necessary. Our departments vehicles are lasting an average of 8 years, most departments don't last more than 5.

Councilman Kacperski asked what salary funds are remaining based on the resignation of the officer who left.

Chief Laura Giles stated that it is probably \$20,000.00, however, she intends to use those funds hire a replacement officer (which is a costly expense for uniforms and screenings).

Councilman Kacperski stated that he would like to revisit this discussion next month after the Chief and Finance Director could give solid figures to the funds remaining from the resignation of the officer effective 8/31. He would have no problem using those funds towards the vehicle and have the council make a motion to fund the remaining balance.

Chief Laura Giles stated that if that occurs, she would also bring the figures to hire a replacement officer because she would no longer have the funds to do so if they were allocated to a new vehicle.



**ACTION:** A motion was made by Councilman Hurst to amend the capital budget by \$39,605.00 to allow the purchase of a new Police Vehicle. In addition, the \$39,605.00 should be transferred from the Long-Term Planning Capital Depreciation Line Item to the Capital Budget Line Item. The motion was seconded by Councilwoman Personti.

**VOTE:** 6-1 Motion carried

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

Mayor Thompson asked if they could still see the figures for what is remaining versus what is necessary to hire a replacement officer.

3. The Needy Family Fund Crab Feast is Saturday, September 22<sup>nd</sup> from 6pm to 11pm at the Elsmere Fire Company. Tickets are available. In addition, the department is selling long sleeve shirts, a sample of which is available tonight. Sizes small to x-large are \$25, 2x and 3x are \$30.00.
4. The Town Manager and Chief of Police will be cancelling the weekly meet and greet. It worked well the first few weeks, however, the attendance has dropped to none. They do intend to offer after hours appointments to any resident who requests such a time.

### Public Works

Town Manager John Giles presented the written report and added the following information:

1. The department completed 2 abatements at the request of the Code Enforcement Department.
2. The department removed 1 handicapped parking space and installed 1 handicapped parking space at the request of the Police Department.
3. Municipal Park (Rt 2/Rt100) was cleared of yard waste debris and all trees in the park were trimmed to allow sign up to 8 ft high throughout the park.
4. The department spent a significant amount of time installing a new dome cover to the road salt bin at the maintenance yard. This ensured compliance with out NPDES permit and will reduce the cost spent annually on new tarps.
5. The street sweeper has arrived. Training will begin on Tuesday, September 18<sup>th</sup>.
6. We learned today that one of the employees in the department will be having a medical procedure done and will be out for 3 to 4 weeks beginning Tuesday the 18<sup>th</sup>. Currently, we do not intend to hire any temporary help.

## Town Manager

Town Manager John Giles presented the written report and added the following information:

1. The Town Manager's report discussed the changes he intended to make to the Fee Structure for Permits and Other Services within the Code Enforcement Department. It has come to our attention that the incorrect version of the Resolution granting that authority was referenced and the Town Manager does not have that authority. Therefore, a new resolution modifying those fees will be introduced at the October Council Meeting.
2. He intends to propose a change to the Pension Committee Appointment requirements regarding members of the Elsmere Police Secondary Pension Plan. Because of the current wording, the meeting needed to be cancelled due to lack of quorum. He proposes changing the resolution to read "A member appointed by the Department of Public Safety who is a police officer and who is a participant in the Elsmere Police Secondary Pension Plan". Currently, the committee must vote on the appointment. Had the proposed wording been in place, there would have been a quorum because the new member would have already been appointed by the Department and would not require a vote of the committee.
3. On 8/9/2018 there was an incident where a tractor trailer struck the Elsmere Via Duct Bridge that goes over New Road in the area of the Public Works Shop. Because of this incident, DelDOT performed a review of the signage in the area and found that the signage was deficient. They have provided a recommendation and have agreed to fabricate and install the recommended signs with the understanding that the Town of Elsmere will maintain the signs in the future. He intends to take the position that the bridge and the roadway leading to the bridge are property of DelDOT and therefore all signs regarding the bridge are posted on DelDOT property and should be maintained by DelDOT.
4. He is trying to coordinate a meeting with the contractor for the Rt. 100 Bridge work. It is his understanding that they are once again extending the timeline for the close of the bridge. Doing so has already led to the Fire Department making the decision to cancel the Holiday Parade. The parade committee determined that there were no other locations with the appropriate capacity to store the parade and staging.

Mayor Thompson stated he thought they were supposed to open 1 lane each direction in October.

Town Manager John Giles stated that they have come back and said they now want to work until about 11pm each day, however, they continue to refuse to pay for police in the area, which becomes a concern when working at night. They are trying to take the position that if we do not allow the evening work they will be forced to delay and we won't be able to have a parade. However, even if the Town allowed the construction, they would not be able to meet the deadline for the parade with the extended hours.

Mayor Thompson asked if there was any way to find any other locations for staging.

Town Manager John Giles stated that the Parade Committee made the decision prior to notifying him and that they have already notified all participants of the cancellation, making it difficult to come back from at this point.

Councilwoman Skipski stated that she received a complaint from a resident at 1034 S. Grant Avenue regarding pot holes and high weeds along the fence line to McDonalds.

Town Manager John Giles stated that prior to the meeting Diana had approached him regarding a visit from these residents today. They indicated that they had been put off. He instructed Diana to contact the resident tomorrow to let them know that he has received the information and that he will personally contact them on Monday when he returns to the office regarding their complaint. He also intends to assign public works to address the issues on Monday as well.

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

**District 1** – None

**District 2** – Councilman Pfirrmann stated that he attended a community meeting at the Ferris Campus regarding walk-outs and community notifications. They talked about a lot of the offenders who walk out are generally low risk walk-outs but that they intend to revise their notification process so that the community is better notified of these situations.

He further stated that while he will not be on council at that point, he would like to see Council create some sort of Long-Term Street Maintenance Plan or Program to address the replacement needs of every street, especially the main thoroughfares such as Baltimore Avenue.

**District 3** – None

**District 4** – None

**District 5** – Councilwoman Personti stated that she would like to know the newest occupancy level at Maple Walk Apartments. They appear to be more occupied lately and she was curious how many vacant units there still were.

Town Manager John Giles stated that he does not know the percentage, but they are requesting several inspections which they are passing, and the fire buildings are repaired. The overall number of complaints has dropped off and the code enforcement is involved in mainly rental inspections at the complex at this time. In addition, he notified

Councilwoman Personti that the Welcome to Elsmere replacement sign for Jefferson Avenue has been ordered, we are just waiting for deliver to schedule installation.

**District 6** – None

**Mayor** – Mayor Thompson asked for an update regarding when WILMAPCO will be in to talk with Council.

Town Manager John Giles stated that they will be present at the December Council Meeting with a presentation for the next phase of Transportation Enhancements in Delaware. In addition, he asked about the bicycle path representative and he is waiting for a contact back from her regarding potential dates for a meeting regarding that project.

Councilman Pfirrmann stated that he had been asking WILMAPCO, the Mayor and the Town Manager for that meeting for months.

Town Manager John Giles stated that he thought Councilman Pfirrmann was scheduling that meeting and that he was not to be involved. He contacted WILMAPCO when it was brought to his attention by the Mayor that Councilman Pfirrmann had not heard back. He was under the impression that it was a project being handled by Councilman Pfirrmann and that he was just being copied on the correspondence not that the Councilman was waiting for a response from him as Town Manager for availability. He must have misunderstood and has made the contact at this time.

Mayor Thompson stated that the short of the discussion is that there will be a meeting in December from WILMAPCO.

**PUBLIC COMMENT:**

Steve Burg, 108 Northern Avenue, stated he wanted to personally thank Councilman Pfirrmann for sponsoring Ordinance 641 regarding the dumpsters.

**ADJOURNMENT:**

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

**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**