

**TOWN OF ELSMERE
COUNCIL MEETING MINUTES
FEBRUARY 14, 2019
TOWN HALL
6:30 p.m.**

CALL TO ORDER: Mayor Eric Thompson called the meeting to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE:

MOMENT OF SILENCE:

ROLL CALL:

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

Town Solicitor, James McMackin – Present

Town Manager, John Giles – Present

Chief of Police, Laura Giles – Present

PUBLIC COMMENT:

None

APPROVAL OF MINUTES:

Minutes of the January 10, 2019 Council Meeting.

ACTION: A motion was made by Councilman Hurst to approve the minutes of the January 10, 2019 Council Meeting with no corrections. The motion was seconded by Councilman McKewen.

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

OLD BUSINESS:

Consideration for Third and Final Reading of Ordinance 642.

Town Manager John Giles gave a brief overview of the ordinance explaining that there is currently no fee structure adopted for the repair of roadway openings within the Town. The code calls for a fee to be adopted and he is proposing a fee of 2.5% of job cost or \$90 whichever is greater. This fee structure is consistent with other permits issued by the Code Enforcement Department.

ACTION: A motion was made by Councilman Pfirrmann to approve Ordinance 642 for Third and Final Reading. The motion was seconded by Councilman Hurst.

Mayor Thompson asked for any public comment, no public comment was made.

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

Introduction for First and Second Reading of Ordinance 643.

Town Manager John Giles gave a brief overview of this ordinance.

ACTION: A motion was made by Councilwoman Personti to lift Ordinance 643 from the Table for discussion. The motion was seconded by Councilman Pfirrmann.

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

Councilman McKewen stated that he has a concern that this ordinance could make it difficult on the properties on the south side of the Town because the alley ways are considered to be streets and 20 feet from the streets is almost the entire property for some of those homes.

Councilwoman Personti stated that she would be amenable to excluding the alleyways as streets for the purpose of this ordinance.

Town Manager John Giles stated that this is a tough issue to regulate because of the way the Town is constructed. The Zoning code currently states that on a corner lot, any side of the property which faces a street is considered to be the "Front Yard". In addition, the solid waste code already regulates that containers may not be kept in the front yard, they must be removed to a point which is behind the front face of the primary structure.

Councilman Hurst stated that he feels that this ordinance is not necessary. There are already portions of the code that address this issue and that the Code Enforcement Department would need to enforce those sections of the code and use some discretion on particular properties. If the Code already considers the street sides of corner lots as a "Front Yard" and containers cannot be kept in the Front Yard, then this is already regulated.

Councilwoman Personti stated that redundancy is not always a bad thing.

At this time, there was a lengthy discussion debating whether the ordinance was necessary where multiple location examples were discussed.

Councilwoman Personti stated that based on the discussion which occurred, she would like to permanently withdraw Ordinance 643 from consideration.

Consideration for Third and Final Reading of Ordinance 644 Amended.

Town Manager John Giles gave a brief overview of the ordinance stating that it sets the procedure and deadlines for the 2019 Biennial Election. He stated that the only change which has been made to this ordinance since the first and second reading is that the official candidate names have been added to Numbers 16 and 17 now that the filing and withdraw deadlines have passed.

ACTION: A motion was made by Councilman Pfirrmann to approve Ordinance 644 for Third and Final Reading. The motion was seconded by Councilman McKewen.

Mayor Thompson asked for any public comment, no public comment was made.

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

NEW BUSINESS:

Consideration of a request by Ms. Terri Megginson for a special exception/hardship to allow a handicapped parking space in front of her property on Sycamore Avenue.

Ms. Megginson gave a brief overview of her request stating that while she does have a driveway in the rear of her home, the slope of the driveway as well as the steep stairs into the home make the rear entry unable to be used to get her husband to and from the car. In addition, parking in the front of the homes is limited and parking in front of their home is almost never available. She would like the Council to consider allowing a handicapped parking space to be permitted even though a driveway exists.

Chief Laura Giles stated that she would agree that a hardship exists and that the homes in this area of Sycamore Avenue are not designed to be accessible.

Town Solicitor James McMackin stated that while a hardship certainly exists in this situation, the code is not written to allow any hardship exception. Therefore, in order to permit this request, the council would need to amend the code prior to permitting the space to be installed.

All members of the Council apologized to Ms. Megginson stating that they agree that a hardship exists, but without a provision within the Code they cannot permit the request. In addition, they requested that the Town Manager and Town Solicitor draft an ordinance to permit this type of request in the future.

Consideration of renewing the Town's current contract with Community Champions who handles the registration of foreclosed properties.

Town Manager John Giles stated that he has had no significant issues with the current contract and would recommend that the Council renew the contract.

ACTION: A motion was made by Councilman Hurst to renew the Community Champions contract to expire on November 17, 2019. The motion was seconded by Councilwoman Personti.

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

Consideration of approving a contract with the University of Delaware for the 2020 update of the Town's Comprehensive Plan.

Town Manager John Giles stated that following the previous Council Meeting he did go back and discuss the proposed contract and the University reduced its quote from \$28,000.00 to \$25,000.00. In addition, he did research whether other agencies were able to complete the tasks for the update and it was determined that an engineering firm would be necessary and that even if a firm was contracted, they would still need to work with

the university for certain portions of the project because the university is the only entity with access to some of the mapping and statistical data necessary.

Councilwoman Personti stated that she is shocked that the cost has increased this dramatically from the \$10,000.00 it cost to draft the plan in 2004.

Town Solicitor James McMackin stated that even though it does not appear that another agency is feasible, because of the cost of the contract, it will need to be placed out to a public bid based on the constraints of the Town Code and the project cost being over \$10,000.00.

Town Manager John Giles stated that while we can place the project out to bid, it will need to be quickly because this is a large project that will take a year to year and a half to complete and is due June 30, 2020.

Discussion of the 2019 Street Improvement Program.

At this time a lengthy discussion occurred regarding which streets to bid for the 2019 Street Improvement Program, the following streets were discussed as possible locations:

- Beech Avenue (Between First and Second Avenues)
- Dumont Road
- Ohio Avenue (200 Block Dead End)
- Junction Street
- Vilone Road (in the area of Harvey Place)

ACTION: A motion was made by Councilman Hurst to select Junction Street as the 2019 Street Improvement Program and to place the program out to public bid. The motion was seconded by Councilman Kacperski.

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

DEPARTMENTAL REPORTS:

Code Enforcement

Town Manager John Giles presented the following information:

1. The department issued 21 violations during the month. 20 were corrected with the initial warning, 1 was issued a fine and 0 remained pending.
2. There was 1 property which was deemed to be a public nuisance during the month.

There were no questions.

Finance

Town Manager John Giles presented the following information:

1. The department received \$40,114.50 in transfer taxes for the month of November.

There were no questions.

Public Safety

Chief Laura Giles stated that she has nothing to report outside of the written report.

Councilman Kacperski asked how the recruit was doing in the academy.

Chief Laura Giles stated that he is doing very well and the tentative graduation date is July 11th.

Public Works

Town Manager John Giles presented the following information:

1. The department patched 63 potholes throughout the Town during the month.
2. Handled 2 snow/ice event and salted during extreme cold temperatures. One of which was a storm which occurred while 3 members of the department were out, leaving only 1 employee to complete all of the salting and plowing. We received no complaints during that storm. We did however have 1 complaint about the fact that DelDOT told a resident that the Town would need to shovel the sidewalk over the Rt 100 Bridge to Rosemont.
3. We received a bid to replace the roofing and fascia boards at the Vilone Park Concession Stand in the amount of \$5,987.00 and comes with a 50-year warranty on the roof. There is sufficient funding in the Park Maintenance budget to fund this project and the contract will be signed.
4. There is still on employee in the department who is out on Workers Comp due to a knee injury. He meets with a surgeon next week and will not have an update on the timeline for his return until then.

Town Manager

Town Manager John Giles asked if there were any questions regarding the written report. He added the following items in addition to his written report:

1. Mr. McMackin has responded to the questions he was asked at the January Council Meeting. A copy of his opinions are at your desks.
2. Training for the Board of Adjustment was conducted by the University of Delaware here at Town Hall on Monday, February 11th. All members of the Board were in attendance as well as several members of the Planning Commission and some elected officials. We are working to schedule a date and subject matter for the training session that will be offered to the members of the Planning Commission.
3. The director of the Senior Center requested a meeting between herself,

one of her directors and me the Town Manager concerning problems within the Senior Center. I met with them on January 22nd in my office, they reported a problem with non-functioning water fountain as well as a concern regarding potential mold within both bathrooms and the game room.

I had a plumber come out the next day and the fountain was fixed and placed back into service.

A mold remediation company was contracted and performed an inspection on January 28th. During that inspection, they took 9 indoor air quality samples, 2 swab samples and 2 tape samples. 8 of the air quality samples came back with spore counts which were significantly higher than the outside air, which indicates the presence of mold in those 8 locations.

I have met with the contractor who identified the spores that were found and has identified the mold as potentially hazardous to prolonged exposure and in need of removal. A remediation plan was produced by the contractor which estimated the cost to abate the mold and clean the area at \$20,549.44 based on what he can see at this point and does not include reinstalling any drywall or ceiling tiles. Also, this does not include the cost of removing and installing a new shed on the Poplar Avenue side of the building, which appears to be the primary entry point of the water into the building.

I met with the director of the Senior Center today and advised her of the findings and recommendations and also discussed with her any potential hazards to the occupants and she has decided not to close the center until necessary or more information is received indicating there is a significant risk. She was notified that when the remediation process begins, the center will be unable to be occupied for approximately 5 consecutive days.

I also met with Senator Delcollo and asked him to advise if there would be any state assistance available, he has pledged to work to find a way to assist in any way possible. I called Representative Mitchell asking the same question. I have also contacted our Insurance Company to make a claim. We believe we may have limited coverage under our policy for this type of issue. The limitations are currently unclear.

4. I met with Senator Delcollo today to discuss concerns regarding DelDOT, specifically the maintenance costs that they forward to municipalities when projects are completed. There will be more to come on this subject in the future.
5. I will be going out on Tuesday for knee surgery, while full recovery will be several months, I expect to be in the office, at least part time, within 3 weeks of the operation date. Until then, the Chief will handle the day to day operations and will review things with me in the evenings.

6. Our Storm Water Plan for the Public Works Facility has been approved by the State. This has been an ongoing process for just over a year.
7. I received an estimate to alleviate a standing water problem at 108 Jefferson Ave, 1215 Spruce Ave and 1217 Spruce Ave. The estimated cost to correct the problem is \$5,000.00. I intend to place a request on the March 2019 Council Agenda to fund the project from the Long-Term Planning Infrastructure Maintenance Fund.
8. I received notification today of a Detour for a roadwork project on the SR2 & SR141 Interchange. The notification indicates that the project will begin this fall and will last approximately 305 days. A copy of the notification is at your desks for your review.
9. The 2019 Congressional Visit coordinated by the League of Local Governments is scheduled for Wednesday, March 13, 2019. A copy of the schedule is at your desks.
10. We have received the annual notice of the Mosquito Control Program. The council passed a motion several years ago to participate in the program every year. I will be executing the contracts and sending them back.

EXECUTIVE SESSION:

The Mayor and Council will enter into an executive session for the purpose of discussing a breach of contract matter that involves possible litigation, authorized pursuant to Title 29 Chapter 100 §10004(b)(4) of the Delaware Code. The Mayor and Council will return to public session following this executive session and may vote once they reconvene the public session.

ACTION: A motion was made by Councilwoman Personti to enter into an executive session for the purpose of discussing a breach of contract matter that involves possible litigation. The motion was seconded by Councilman Hurst.

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

The Council adjourned to Executive Session at 7:59pm.

The Council returned to Public Session at 8:24pm and made no motions regarding information discussed within the Executive Session.

ITEMS SUBMITTED BY THE MAYOR AND COUNCIL:

District 1 – None

District 2 – None

District 3 – None

District 4 – None

District 5 – None

District 6 – None

Mayor – None

PUBLIC COMMENT:

There was no public comment.

ADJOURNMENT:

ACTION: A motion was made by Councilman Pfirrmann to adjourn. The motion was seconded by Councilwoman Skipski.

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.

ERIC THOMPSON
MAYOR

BRIAN HURST
SECRETARY