TOWN OF ELSMERE
PLANNING COMMISSION
MEETING MINUTES
February 05, 2019
6:30 P.M.

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

MOMENT OF SILENT PRAYER FOR THOSE WISHING TO DO SO:

ROLL CALL:

CHAIRMAN	CHARLES LINDELL	PRESENT
COMMISSIONER	ROBERT ANDERSON	PRESENT
COMMISSIONER	LEON BACKER	PRESENT
COMMISSIONER	SALLY JENSEN	PRESENT
COMMISSIONER	JOSE MATTHEWS	ABSENT
COMMISSIONER	DEBORAH NORKAVAGE	PRESENT
COMMISSIONER	KRISTA WRISTON	PRESENT

PUBLIC COMMENT:

None

APPROVAL OF MINUTES:

Approval of the minutes from the January 08, 2019 Planning Commission meeting

ACTION: Commissioner Norkavage made a motion to approve the minutes from the January 08, 2019 Planning Commission meeting. The motion was seconded by Commissioner Anderson.

VOTE: 5 in favor, 1 abstained and 1 absent Motion carried

Lindell – Yes, Anderson – Yes, Backer – Abstain, Jensen – Yes, Matthews – Absent, Norkavage – Yes, Wriston – Yes

Commissioner Backer abstained because he was not present for the meeting.

NEW BUSINESS:

Review of Planning Commission meeting procedures

Town Manager John Giles announced that a training will be held on Monday, February 11, 2019 at Elsmere Town Hall for the Board of Adjustment members and that the commissioners were invited to attend.

Mr. Giles stated that there has been a concern expressed by council about commissioners voting on issues that they should not vote on and that the town solicitor has been asked for an opinion about the issue. A lengthy discussion followed between the commissioners, Mr. Giles, and others in attendance.

Mayor Thompson discussed the response that had been received from the town solicitor and stated that one factor is whether you have a financial interest in the matter. The next factor is whether or not your conduct has an appearance of impropriety. Mayor Thompson explained that a litmus test he personally uses is how would he feel if someone else is doing what he is about to do. For example, if you are within the notice area and have a strong opinion, you should think about whether or not to vote on the issue. He further stated that it is about instilling confidence in the public in the job you are doing and that it is what the Public Integrity Commission looks at.

Commission Jensen stated that a complaint could be filed with the Public Integrity Commission against both the commissioner and the town.

Mr. Giles added that he is about three quarters of the way through drafting a policy for the town using the American Planners Code of Conduct as a guide.

A discussion followed about how to recuse yourself, whether a recused commissioner should sit in the audience and whether it would be appropriate for them to state their personal opinions.

Commissioner Anderson stated that, first and foremost, he is a resident of the town and asked whether he shouldn't have spoken out at the recent Board of Adjustment meeting.

Mayor Thompson mentioned that an opinion can be requested from the Public Integrity Commission on the issue.

Commissioner Anderson asked whether he was wrong to speak at the Board meeting concerning the petition for the barbershop that had been heard by the Planning Commission prior to the Board of Adjustment meeting. Mr. Giles stated that, while he would prefer otherwise, the commissioners are still citizens and the job of the commissioners is over once it goes to the Board of Adjustment, and so it is probably okay to speak as a resident at the Board meeting. Mr. Giles further stated that, on the other hand, the Board may give more weight to the opinion of a planning commissioner who

has already heard testimony from the applicant. Commissioner Anderson replied that he doesn't think so, since the Board voted against him.

Mr. Giles stated that Commissioner Jensen is a current ethics commissioner with the New Castle County Ethics Commission and that she brings another perspective to the discussion. Commissioner Jensen stated that she has had to recuse herself from the ethics commission on several occasions because, after working with the county for many years, she knows a lot of the employees who may be involved. Commissioner Jensen further stated that she has actually left the room when such cases are being discussed in executive session.

Commissioner Norkavage stated that you have to know that what you are doing is right because it does not matter how right you are, you can still be sued. Mr. Giles added that it is the nature of the job.

Mayor Thompson stated that since Elsmere is a small town, it can make it difficult.

Chairman Lindell noted that in the 15 years that he has been involved with the Planning Commission that there hasn't been too much backwash from anything and agreed with Mayor Thompson that it is a one square mile town, which presents special issues.

Mr. Giles stated that he is drafting the Code of Ethics for the Planning Commission to review and markup, then the final approval has to be granted by the Mayor and Council, and that he hopes to have a draft to the Commission by February 19.

Mr. Giles also discussed absenteeism from Commission meetings and about what constitutes an excused or unexcused absence.

Mr. Giles stated that he had also received an answer from the town attorney related to whether variances go with the property, that the town attorney's opinion is that variances stay with the property unless what is going there is so dramatically different from what was there before, and that essentially the variance stays with the property unless the change of use is significantly different.

A short discussion followed regarding the code requirement that the variance must be put in use within one year or it expires. Commissioner Jensen requested that a reminder about this rule be included in the meeting documents that are provided to the commissioners. Mr. Giles stated that he would also like the Code Department to include a suggested motion in writing for commissioners to use for each petition that is being considered.

Review of the Comprehensive Plan

Chairman Lindell stated that there will be a Plus review from the state in April 2020 and there is a lot of work to be done between now and then. Chairman Lindell noted that there

will be meetings held in addition to the normal monthly meetings throughout the process. Chairman Lindell also stated that it might be best to give everyone a chapter to go through to become familiar with.

Mr. Giles stated that the mayor would like to put the option for annexation into the plan.

Mr. Giles suggested that the commissioners review the existing comprehensive plan and select the sections to work on that interest them, that they may know something about or particularly care about the subject matter and asked the commissioners to submit their selections by February 26. He explained that the University of Delaware assists with the process, that it is an expensive, long undertaking and that the commissioners may become disappointed with the lack of public participation.

Commissioner Backer noted the attempts that have been made in the past to engage the public with only a few people becoming involved. Commissioner Norkavage suggested holding events around different parts of town to engage individual neighborhoods, rather than ask people to come to town hall.

Mr. Giles stated it is a lengthy process that needs at least a year. Chairman Lindell explained that the comprehensive plan will appear on the meeting agendas for now on. Mr. Giles further explained that the Planning Commission will meet every month now until the plan is done, regardless of whether there is a petition to be heard. He also noted that the new comprehensive plan must be signed by the governor by October 2020. Mr. Giles stated that it is a big project and a major undertaking and urged the commissioners to contact town hall for anything they should need during the process.

OLD BUSINESS:

None

ITEMS SUBMITTED BY CHAIRMAN AND BOARD MEMBERS:

None

PUBLIC COMMENT:

None

ADJOURNMENT:

ACTION: Commissioner Backer made a motion to adjourn the meeting. The motion was seconded by Commissioner Norkavage.

VOTE: 6 in favor and 1 absent Motion carried

Lindell – Yes, Anderson – Yes, Backer – Yes, Jensen – Yes, Matthews – Absent, Norkavage – Yes, Wriston - Yes

At this time, the meeting was adjourned.

These minutes summarize the agenda items and other issues discussed at the February 05, 2019 Planning Commission meeting. Votes are recorded accurately. The audio tape(s) of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio tape(s) may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

CHARLES LINDELL, CHAIRMAN **LEON BACKER, SECRETARY**