

**TOWN OF ELSMERE
COUNCIL MEETING MINUTES
JULY 9, 2020
TOWN HALL
6:30 p.m.**

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

OPENING STATEMENT: Mayor Eric Thompson read an opening statement.

PLEDGE OF ALLEGIANCE:

MOMENT OF SILENCE:

ROLL CALL:

MAYOR	ERIC SCOTT THOMPSON	PRESENT
1 ST DISTRICT	MARIANNE SKIPSKI	PRESENT
2 ND DISTRICT	SALLY JENSEN	PRESENT
3 RD DISTRICT	ROBERT KACPERSKI	PRESENT
4 TH DISTRICT	CHARLES MCKEWEN	ABSENT
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

OPENING STATEMENT: Town Clerk Diana Reed made an opening statement regarding the structure of the meeting.

PUBLIC COMMENT:

Edward Zielinski, 1334 Maple Ave, stated that he noticed the meeting minutes for the last three meetings are missing from the Town's website.

Mayor Eric Thompson stated that the issue would be looked into and corrected if necessary.

Julie Anderson, 244 Filbert Ave, stated that she would like to point out that meeting minutes are not easily accessible. In addition, she had difficulty understanding that this meeting would be held virtually. She would like to advocate to the Council to continue the virtual meetings and appropriately notify residents of their availability. Also, she recently contacted Town Hall and received the most wonderful service from Scott from the Code Enforcement Department and it related to the transition from Waste Management. She would like to commend those employees for such exemplary service. Finally, she would like to express concerns regarding the telephone box outside the Dunkin Donuts on Linden Avenue and its dangerous condition.

APPROVAL OF MINUTES:

Minutes of the June 11, 2020 Council Meeting.

ACTION: A motion was made by Councilman Hurst to approve the minutes of the June 11, 2020 Council Meeting with no corrections. The motion was seconded by Councilwoman Personti.

VOTE: 6-0 with 1 Absent All-in-Favor Motion carried

OLD BUSINESS: None

NEW BUSINESS:

They Mayor would like to discuss Section 225-8 of the Code regarding fences and whether modifications are needed in light of public sentiment in support of the erection of a privacy fence on a corner lot in Vilone Village. As well as other sections of 225-8 that may need to be modified.

Mayor Thompson gave a brief overview of this topic and stated that the purpose of this item is to discuss whether Council would like to amend the current code or should the code be modified.

Councilman Hurst stated that he believes that the interest was more specific to a single property and not toward the code in general.

Councilwoman Personti stated that she was at a loss to learn that in 2007 the need for a permit to install a fence was removed from the Code. Even though we adopt these international building codes we have the ability to amend them to meet our specific needs. She believes that the Council should look into this issue and have a discussion regarding whether something needs to change.

Mayor Thompson stated that he has a concern that if we start modifying these safety type regulations by variance or ordinance, where does the liability shift?

Town Solicitor McMackin stated that we do have some immunities, but it is a liability. In the event of an accident or tort, but when too much discretion is afforded the Board of Adjustment or Planning Commission and decisions are made where similarly situated people are treated differently then we are clearly exposing ourselves. The exceptions should not swallow the rule because that is when the liability increases.

Councilwoman Jensen stated that in the case of the current petition is a bit of a unique situation because the sight lines are not an issue in this case. Her opinion would be not to change the ordinance and leave the relief for those with unique circumstances or hardships.

Jerry Lindell, Chairman of the Planning Commission stated that to his knowledge the current petition regarding fences is the first application in at least 8 years and does not believe there is a pressing need to change the code based on lack of requests for relief.

The Town Manager will discuss with the Mayor and Council the different pension plans currently provided and the need to make changes to some of those plans.

Town Manager John Giles asked to withdraw this item from the agenda. He stated that he does not yet have all of the information to discuss this item fully.

Introduction of First and Second Reading of Ordinance 650.

ACTION: A motion was made by Councilman Hurst to Table Ordinance 650 until the August meeting to allow additional time to review the ordinance.

The motion did not receive a second and therefore the motion failed.

ACTION: A motion was made by Councilwoman Personti to approve Ordinance 650 for First and Second reading. The motion was seconded by Councilwoman Jensen.

Councilman Hurst stated that he would like to make it known that the Ordinance was not received by council until around 11am the day before the meeting and that he has concerns regarding some of the wording around the issue of multiple drug overdoses. He believes that drug overdoses are a protected class and are we overstepping our bounds.

Councilwoman Personti stated that she would like to make it known that the Chief did work on drafting this ordinance with the Town Solicitor. The important thing to note is that over the years there has always been significant confusion regarding issues of properties which were a nuisance for Code Enforcement and properties which were a nuisance for Police. This revision brings those requirements into line. The police would need a specific number of occurrences within 30 days, whereas the Code Enforcement Department needs a specific number of occurrences within 1 year. She does however, respect Councilman Hurst's concerns regarding receiving this ordinance late and that First and Second Readings are usually introduction anyway and the full debate usually comes at Third and Final Reading.

Councilman Hurst stated that he is concerned about section 164-5 where the fine went from \$250.00 to \$2,000.00 without backup documentation.

Chief Laura Giles stated that the \$2,000.00 fine is repeat nuisances and that while it says that backup documentation is not required, they always keep those records and attach the records to the invoice file as backup. This ordinance just gives the Police Department the teeth to go after someone who is using significant police resources repeatedly with no resolve and compounded with drugs or alcohol. These fines will cause those residents to think twice before continuing with these habits.

VOTE: 4-2 with 1 absent Motion carried

1st District – Yes, 2nd District – Yes, 3rd District – No, 4th District – Absent,
5th District – Yes, 6th District – No, Mayor – Yes

DEPARTMENTAL REPORTS:

Code Enforcement

Town Manager John Giles presented the following items from the written report and asked if there were any questions:

- a. The department issued 29 citations. 12 were corrected with the initial warning, 13 received fines and 4 remained pending at the end of the month.
- b. 5 properties were deemed public nuisances and received fines.
- c. There are 6 properties registered as vacant.
- d. The department requested that the Public Works Department abate 1 property.
- e. Code Enforcement Officer Scott Allen attended ADA Training.

Mayor Thompson asked how the work-load in the department was going with only 1 officer during the summer.

Town Manager John Giles stated that it is a daily complaint/concern by the officer. He has scheduled an interview with the only applicant who applied for the vacant position and it appears that he will likely hire someone who is not certified who will handle violations only which will free up time for Scott to complete other tasks which require the certifications.

Councilman Kacperski asked what the average daily complaint load is.

Town Manager John Giles stated that he is not sure of the daily complaints, but there have been 240 violations issued this year so far which is roughly 30 a month, but these are only violations which are based on founded complaints and does not encompass the other tasks within the department like review of the Planning Commission and Board of Adjustment Applications, preparation of the agendas, review and issuance of permits, etc. which a certified officer must complete.

Finance

Town Manager John Giles reported the following items from the written report and asked if there were any questions:

- a. The department received \$14,320.50 in Transfer Tax for the month of June.
- b. We have implemented a Stale Date for checks. We determined that our checks did not have this protection which meant if someone found a missing check 2 years later, they could cash it. We have changed this policy and our new Stale Date is now 6 months.

- c. They have discussed with the Auditors the upcoming audit and what will be needed.
- d. They provided the quarterly expenditures to the Pension Committee for review.
- e. They are going to be training Sgt. Smith on the quicken software that was purchased for the Needy Family Fund.

Public Safety

Chief Laura Giles stated that she was hoping to have the fine figures ready to review today, however, with the holiday and the end of the fiscal year for the State, the figures were not available. However, based on what the officers wrote, the Voluntary Assessments for the month of June should be around \$29,800.00. There was \$1,600.00 received in Towing Fees. We have been awarded a Byrne Grant for \$21,000.00 for COVID-19 expenses and will be requesting the Mayor's signature on the grant documents to receive the funds.

Public Works

Town Manager John Giles presented the following information from the written report and asked if there were any questions:

- a. The department patched 58 potholes during the month.
- b. The street sweeper was run in District 6.
- c. The annual clean up at Fairgrounds Park is ongoing.
- d. The department completed 1 abatement at the request of the Code Enforcement Department.
- e. The basketball court at Junction Street Park was resealed.
- f. The dumping at Vilone Park has slowed considerably with locking the park at night. However, dumping under the Rt. 2 bridge has increased.

Councilman Hurst asked why the dumpsters at Vilone Park were moved to the back of the park.

Town Manager John Giles stated that after discussion with the garbage company, it was apparently done at the request of an elected official, however, they will be moved back on the next service day.

Mayor Thompson stated that it was his fault, however, it was not a request to move the dumpsters. When the driver pulled in to service the dumpsters, he asked the driver if there would be an issue servicing the dumpsters if the Town had them moved to the back corner of the lot. The driver then took that question as a request to move. His intention was to discuss the possibility of moving the

dumpsters with the Town Manager and Council but they dumpsters were moved based on his question.

Councilman Kacperski asked if there was an update from the engineers on the sinkhole at 107-109 Linden Avenue.

Town Manager John Giles stated that he has not looked into it.

Councilman Kacperski stated that the sinkhole is getting worse and there is now another section just before this that is now sinking as well.

Councilman Hurst asked about the new gate at Junction Street Park and whether there are intentions to lock the park?

Town Manager John Giles stated that the gate was installed in response to some complaints received regarding kids in the park after dark.

Town Manager

Town Manager John Giles presented the following information from the written report and asked if there were any questions:

- a. He is going to prepare to apply to New Castle County for advanced approval for some of the COVID-19 funding for two sanitizing machines for the Town. The first will be large enough to sanitize the offices and meeting rooms at Town Hall and the second will be a smaller unit designed to sanitize vehicles, like our Public Works, Code Enforcement and Police Vehicles. In addition, he will be applying for Plexi-Glass barriers in the various offices at Town Hall, as well as, refunds for supplies already purchased like masks and gloves.
- b. Beginning Monday, July 13th the Staff will return to their normal schedules Monday-Friday 8:00am to 4:00pm and all will be working from the office and no longer from home. Town Hall will remain closed to the public, but the employees will all be back in the office.

ITEMS SUBMITTED BY THE MAYOR AND COUNCIL:

Mayor Thompson stated that next week the Department of Education should be announcing its intentions for schools this upcoming fall. In addition, COVID-19 is still very real in Delaware and continues to affect us. We should all continue to stay vigilant, wear masks and distance. The Blood Bank of Delmarva is in desperate need of blood donations and if you are able, please do so.

Town Manager John Giles stated that the Council will receive the final draft of the Comprehensive Plan on July 20th for consideration at the August and September Council Meetings. Please let us know if you have any comments as soon as possible.

Councilman Kacperski asked if the Charter change for annexation has been considered.

Town Manager John Giles stated that the Comprehensive Plan now addresses the possibility of annexation which allows us to change our charter or apply for annexation should we wish.

Councilman Kacperski would like our charter to mirror the annexation process used by the Town of Milton where the referendum is only necessary if the residents object to annexation and have a petition with a certain number of signatures.

Town Manager John Giles stated that he would need to review the charter again and work with the Solicitor regarding possible changes.

PUBLIC COMMENT:

Edward Zielinski, 1334 Maple Avenue, stated that he would like to commend Councilman Hurst on his motion to table Ordinance 650 based on lack of notice for the Council and the Public on this ordinance.

ADJOURNMENT:

ACTION: A motion was made by Councilman Hurst 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.



ERIC THOMPSON
MAYOR



BRIAN HURST
SECRETARY