

**TOWN OF ELSMERE
COUNCIL MEETING MINUTES
MARCH 9, 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 ST DISTRICT	JOHN JAREMCHUK, JR.	PRESENT
2 ND DISTRICT	TED PFIRRMANN	PRESENT
3 RD DISTRICT	ROBERT KACPERSKI	PRESENT
4 TH DISTRICT	EDWARD ZIELINSKI	PRESENT
5 TH DISTRICT	JOANN I. PERSONTI	PRESENT
6 TH DISTRICT	BRIAN HURST	PRESENT

Town Solicitor, Edward McNally – Present

Town Manager, John Giles – Present

Chief of Police, Laura Giles – Present

PUBLIC COMMENT:

None

APPROVAL OF MINUTES:

Minutes of the February 9, 2017 Council Meeting

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

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

OLD BUSINESS:

Review of the documents provided by Seiberlich Trane concerning the replacement of the HVAC system at Town Hall.

Town Manager John Giles presented the revised proposal in the amount of \$686,560.00. He stated that this amount does not include the potential \$33,000.00 rebate from a DNREC Grant. Alternate #1 is the LED Lighting Upgrade in the amount of \$34,700.00 (which does not include the \$4,000.00 potential rebate from a DNREC Grant). Alternate #2 is to Add Local Control to Existing Unit Heaters in the amount of \$9,500.00.

Councilman Hurst asked which contractors would be used for the project.

Mr. Jim Strusowski of Seiberlich Trane stated that while bidding the contract they have spoken with a number of contractors as well as reaching out to a few contractors specifically requested by the Town. M. Davis declined to bid; they stated that the project was too small for them. They reached out to two representatives at Sobieski Services (Jerry Etzel and Dave Ward) and did not receive any response to bid the project. They are currently working with Flow Mechanical to potentially complete the install. Since Flow Mechanical is a certified Trane installer, the units would come with a 10 year warranty. Neither Sobieski nor M. Davis is certified to install Trane systems and there would be no warranty with the system if they were selected. In addition, Shelly & Sons will be the electrical contractor, and Breslin Concrete is who was selected for the concrete pad that the systems will be placed on.

Councilman Zielinski asked how the cost went from \$1,000,000 down to \$686,000.

Mr. Strusowski stated that when the project was first bid, it was proposed to obtain financing through the State of Delaware SEU (Sustainable Energy Utility). SEU financing requires the contract to use Prevailing Wages. In addition, the first proposal included a hot water boiler that would supplement the proposed system if needed. After the January 2017 meeting, it was decided that the Town would look at financing outside the SEU (which eliminates the need for Prevailing Wages), as well as, to move forward without the hot water boiler system. Those decisions partnered with a more extensive building review resulted in a significant savings to the proposal amount.

Town Manager John Giles stated that he did request from Seiberlich Trane a general estimate of what it would cost to replace the heating only (not an entire HVAC system). The estimate came back with a cost of \$435,000.00.

Mr. Strusowski stated that he would like to be very clear in stating that the \$435,000.00 estimate could increase if/when construction began because of unknown Asbestos removal. They were able to estimate some of the removal, however, the age of the building and the system, would suggest that there is likely some unseen asbestos around the piping in the walls. This proposal would be to replace the boiler system as existing with a hot water boiler only and is not an energy efficient system.

Mayor Burg asked if the \$686,000.00 proposal had any potential additional costs.

Mr. Strusowski stated that the \$686,560.00 proposed VRF system is an all-in cost with little to no unknowns.

Mayor Burg asked how long before the system would be installed.

Mr. Strusowski stated that the system would take about 10-12 weeks to be delivered before installation could begin; however, there is a lot of work to be completed prior to installation such as engineered drawings, electrical, concrete and plumbing.

Councilman Jaremchuk asked for clarification on the details of Alternative #2.

Mr. Strusowski stated that Alternative #2 would add local control settings for the large electric heaters which are installed around the building. This is a completely optional

addition and you would only use those heaters in extreme circumstances. Without this addition, you would still have the option to turn them on with the switches which are already installed.

Councilman Jaremchuk asked Town Manager John Giles if he believed Alternative #2 was preferred.

Town Manager John Giles stated that he does not think we need to include Alternative #2. He then asked what the proposed payment schedule would look like.

Mr. Strusowski stated that a project such as this would typically be billed in three or four sections as the project progresses; Mobilization, Engineering, Equipment release & Installation.

Councilman Pfirrmann stated that in previous meetings it was questioned why put this much money into such an old building. He has completed some research regarding new pre-fabricated structures that would include the necessary square footage and infrastructure needed and the costs would be. For \$180.00 p/sq. ft. with Town Hall having 18,562 sq. feet, it would cost \$3,341,160.00. On the higher end of Pre-fabricated structures, it could cost \$220.00 p/sq. ft. with a total cost of \$4,083,640.00. In addition, a custom constructed building would average \$382.15 p/sq. ft. which would total \$7,093,457.00. Based on that research, he feels that the proposed \$686,560.00 is the better option and is much lower than we originally anticipated.

Councilman Zielinski stated that he is not sure what companies the Councilman Pfirrmann looked at but he found prices much lower.

Councilman Pfirrmann stated that he did an internet search and selected several random companies (regionally) and took the high price and low price from each company and averaged them out. He further explained that he did find some slightly lower prices around \$110.00 p/sq. ft., however, they were for modular homes that were residential and would not fit the Town's needs.

Councilman Zielinski stated that he looked at two different options which ranged from \$47.00 p/sq. ft. to \$54.00 p/sq. ft....

Councilman Jaremchuk asked Councilman Zielinski what type of structures and companies he looked at.

Councilman Zielinski stated that he looked at pre-fabricated metal buildings.

Councilman Pfirrmann stated that he did find pre-fabricated metal buildings, but they were big empty shells like an airport hangar and that he felt that would not work for our Town Hall.

Councilman Zielinski stated that he looked at metal cased buildings where we could then partition the interiors into offices.

Councilman Jaremchuk stated that it would be an additional cost for that construction.

Councilman Zielinski stated that it would be about \$20.00 p/sq. ft. for the additional construction.

Mr. Eric Thompson, 1213 Spruce Avenue, asked if the Library was on the same heating system as the Town.

Town Manager John Giles stated that the Library and the Police Department would not be included as part of this project and have their own heating systems.

Town Manager John Giles stated that if it is the Council's intention to move forward with the proposal from Seiberlich Trane (which he hopes it is), he would ask that you make it clear that you are moving forward with Seiberlich Trane as the contractor, but that the official vote to replace the system would come at the April 13, 2017 Council Meeting where the plan on how to finance the system would be prepared.

Mayor Burg asked if the Council could also get a breakdown on what the heating cost has been the last 4 years.

Town Manager John Giles stated that we could prepare those numbers, however, you must remember that the last two years (which we have not had the heating system) were two of the mildest winters that we have had in years.

ACTION: A motion was made by Councilman Jaremchuk to move forward exclusively with Seiberlich Trane, including add alternate #1 and for the Town Manager to propose a plan on how the system would be paid for at the April 13, 2017 Council Meeting. The motion was seconded by Councilman Pfirrmann.

Councilman Hurst stated that his only concern is having one option.

Town Manager John Giles stated that this project went out under a public bid in the News Journal.

Councilman Jaremchuk stated you can't get any fairer than public bid and that we can't force companies to submit bids.

VOTE: 6-1 Motion carried

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

Third and Final reading as well as Public Hearing of Ordinance 622.

Town Manager John Giles gave a brief overview of Ordinance 622.

ACTION: A motion was made by Councilwoman Personti to approve Ordinance 622 for Third and Final Reading. The motion was seconded by Councilman Jaremchuk.

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

Town Manager John Giles stated that we do need Council's assistance in finding residents to work the election. In District 1, we still need 5 names, 3 would actually work the election. In District 2, we still need 3 names, 1 would actually work the election. In District 4 we need 6 names, 4 would actually work the election. He stated that while he has received Ms. Peggy Zugie to work, however, she has not returned 4 separate voicemails to confirm working.

Councilman Zielinski stated that he would get in touch with Ms. Zugie and have her contact Town Hall.

Third and Final reading as well as Public Hearing of Ordinance 623.

ACTION: A motion was made by Councilman Jaremchuk to approve Ordinance 623 for Third and Final Reading. The motion was seconded by Mayor Burg.

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

Third and Final reading as well as Public Hearing of Ordinance 624.

Councilman Jaremchuk gave a brief overview of Ordinance 624.

ACTION: A motion was made by Councilman Jaremchuk to approve Ordinance 624 for Third and Final Reading. The motion was seconded by Mayor Burg.

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

Third and Final reading as well as Public Hearing of Ordinance 625.

ACTION: A motion was made by Councilman Jaremchuk to approve Ordinance 625 for Third and Final Reading. The motion was seconded by Councilman Hurst.

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

Third and Final reading as well as Public Hearing of Ordinance 626.

Town Manager John Giles stated that this should now be known as Ordinance 626 Revised and was revised by Mr. McNally. The revised copy showing the changes are at your seats for review.

Town Solicitor Edward McNally stated that none of the revisions are significant and are predominantly grammatical.

ACTION: A motion was made by Councilman Jaremchuk to approve Ordinance 626 Revised for Third and Final Reading. The motion was seconded by Councilwoman Personti.

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

NEW BUSINESS:

Consideration of Resolution 17-01.

ACTION: A motion was made by Councilman Zielinski to approve Resolution 17-01. The motion was seconded by Mayor Burg.

Mayor Burg stated that he seconded the motion for the purpose of discussion.

Councilwoman Personti asked if the Town has bandwidth that can handle this request.

Town Manager John Giles stated that the staff has looked into this and that it is fairly easy and our system can handle the request.

Councilwoman Personti asked what type of notice would be needed to the public to know that their comments are being broadcasted like this.

Town Solicitor Edward McNally stated that he does not believe that any notice is required because it is a public meeting; however, it may be good practice to make an announcement at the beginning of each meeting.

Town Manager John Giles asked if any members of Council have ever listened to the audio recordings of the meetings. He stated that there are a large number of times where people are talking over each other, or side comments are picked up by the system.

Councilman Zielinski stated that these things are already on the recordings.

Councilman Pfirrmann asked if the current recordings are available to the public.

Town Manager John Giles stated that these items are currently available but must be requested under FOIA. However, he does worry that what is said can be downloaded from the internet and manipulated.

Councilman Zielinski stated that there are other municipalities who post their recordings online.

Town Manager John Giles stated that is correct, however, they also have entire departments who handle those things. The legal requirement for minutes is that the minutes show what topics were discussed, and what votes were taken. In addition, once a set of minutes have been approved, legally we are no longer required to keep the recordings, however, Councilwoman Personti has in the past made a motion to keep the recordings for a period of two years.

Mayor Burg stated that not every person has a computer and would have access to these. In addition, they are already available upon request under FOIA at Town Hall.

Councilman Zielinski stated that they would then have to go through red tape to get the copies.

Town Manager John Giles stated that FOIA is no longer red tape. We follow the State laws regarding FOIA and he is not aware of anyone who has ever complained that they were denied a request under FOIA. The staff responds as quickly as possible and not all requests have a cost associated with them. The fee structures have changed as well.

Councilwoman Personti asked how many people have come up in the last year to review recordings or have we received a lot of requests.

Town Manager John Giles stated that to his knowledge, prior to candidates in the upcoming election filing for office, we have received no requests for recordings.

Councilman Pfirrmann asked that since other municipalities have entire departments who work on things like this, how this would affect the staff here, since we have such minimal staffing already.

Town Manager John Giles stated that he can't say that it would have a significantly negative impact on employees, in some cases it could be 15 minutes of their time, in others longer. However, it is yet another thing that they aren't doing now and gets added to their current work load.

Councilwoman Personti stated that while Newark posts the minutes, they are constantly riddled with problems where the recording freezes online. She is not aware of a demand for these recordings to be posted online.

VOTE: 1-6 Motion Defeated

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

Introduction for First and Second Reading of Ordinance 627.

Councilwoman Personti stated that she would like to object to this item being placed on a supplemental agenda because it does not meet the legal requirements advised to qualify for a supplemental agenda. Those are items that are emergency situations that cannot wait until the next regular meeting.

Town Manager John Giles stated that he placed the item on the supplemental in potential error. The sponsor will not be a member of Council in two months and thought that may be a reason to include it.

Town Solicitor Edward McNally stated that while the item does not pose a significant emergency because this is only the first and second reading, he does not believe that there would be a detrimental effect allowing the item to be heard.

Councilwoman Personti stated that while she understands that it is only first and second reading, it does set a precedent to break protocol. She asked Mayor Burg if he would be amenable to tabling the ordinance and allowing her to become a co-sponsor at the next meeting. She stated that she thinks that the idea behind the ordinance is a very good thing

for the senior citizens and disabled residents of our town and is in support of the ordinance; however, she also feels that protocol should be followed.

In addition, Councilman Hurst and Councilman Pfirrmann also requested to be added as co-sponsors.

Town Manager John Giles stated that he would amend the ordinance to say sponsored by “The Mayor and Council”.

ACTION: A motion was made by Councilwoman Personti to Table Ordinance 627 until the April 13, 2017 Council Meeting. The motion was seconded by Councilman Jaremchuk.

Councilman Pfirrmann asked that if even though the Mayor would no longer be on Council, would he remain a co-sponsor in May.

Town Manager John Giles stated that he would remain a sponsor regardless.

Councilwoman Personti commented that there have been a lot of Supplemental Agenda’s lately.

Councilman Jaremchuk agreed and asked if there could be a review of the agenda’s which have been issued over the past year.

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

DEPARTMENTAL REPORTS:

Code Enforcement

Town Manager John Giles presented the written report. The final enhanced enforcement inspection among the apartment complexes is scheduled for mid-March. This would mean that all 4 apartment complexes would have had an inspection of all common areas in the past year.

Councilman Kacperski asked for an update on the fire which occurred at the Gardens at Little Mill complex.

Town Manager John Giles stated that the building has been deemed “Unfit for Human Habitation”. The complex has been given permission to secure the building, and is developing a plan on how to move forward with potential repairs. In addition, there have been a number of FOIA Requests received regarding this complex and taxes owed, zoning information, etc.... These are normally requests we see when a property is about to be sold; however, we have not been told by the management that they are selling the complex.

Finance

Town Manager John Giles presented the written report. We will work on the funding for the heating system for the next meeting. There has been an enhanced effort to do cross training within that department to cover if someone were to be out of the office.

Councilman Kacperski asked to look into 153 Birch Avenue which appears on the Sheriff Sale List. The name on the list shows the previous owner, however, two or three months ago it was supposedly sold at Sheriff Sale.

Town Manager John Giles stated that he would look into it.

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

1. Municipal Street Aid Fund– 3 Checks were issued. Check numbers 1881, 1882 and 1883. These checks totaled \$6,124.46.

There were no objections in authorizing these payments.

Town Manager John Giles stated that an RFP was issued for the windows in the Police Department. Those bids have been received and Finance Director Joe Schulcz is handing out a recap of the results.

Mayor Burg asked if there is a reason that these cannot be sent to the Council prior to the meeting.

Town Manager John Giles stated that in this particular case, the deadline for submission was today at 2:00pm, they were not opened until 3:30pm, and then they had to be reviewed. Proposal Number 1 for each bid includes 46 full replacements of non-openable windows. Proposal Number 2 for each bid includes 41 full replacements of non-openable windows, and 5 double-hung windows which can be opened.

Bid #1 – Allen Construction
Proposal #1 - \$31,280.00
Proposal #2 - \$31,055.00

Bid #2 – Renewal by Anderson
Proposal #1 - \$76,825.00
Proposal #2 - \$77,872.00

Town Manager John Giles stated that he intends to forward this information to the Council Committee on Large Purchases and ask for a recommendation to Council.

Mayor Burg stated that the committee recommended that the project go out for RFP, the Council voted to issue to the RFP and he does not think that it needs to go back to the committee. He stated that the Council should be able to vote on this today.

Town Manager John Giles stated that he is not prepared to make a recommendation, the bids have not been reviewed in depth and the referrals have not been checked.

Councilwoman Personti stated that she would prefer to wait until the information has been reviewed as well.

Mayor Burg stated that maybe the information should not have been presented yet if it wasn't ready for a decision.

Councilwoman Personti asked if we look at the BBB ratings on businesses prior to awarding RFP's.

Town Manager John Giles stated that we currently do not; however, maybe it is something we should consider.

Public Safety

Chief Laura Giles presented the written report. She added the following items:

1. The Delmarva Power project is moving onto New Road soon which wraps up the Kirkwood Hwy portion.
2. The 2011 Crown Vic with transmission problems has been sold for \$2,400.00 at auction.
3. The 2005 Crown Vic (which was received from NCC) has been sold for \$750.00 at auction.
4. Linda Sommermann's mother passed away, the funeral is tomorrow and the information has been email to Council.
5. Elsmere has been deemed the Safest Town/City in the State of Delaware.

Public Works

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

1. They are preparing for potential snow tomorrow and next Tuesday, not sure how these storms will play out.
2. They have been spending a lot of time on potholes.

Councilman Hurst asked if there was an update regarding the damage to the baseball field at Vilone Park.

Town Manager John Giles stated that there are no suspects. We have received a bid for the fence repairs, which totals \$3,824.00. This estimate will be signed and returned. There has not yet been an estimate to repair the water bib, we are currently evaluating if it can be removed and not replacement.

Town Manager John Giles stated that he continues to get prices to replace the Street Sweeper. He stated that he may issue an RFP for Street Sweeper replacement to see what kind of bids come back, before he can make any recommendations.

Councilwoman Personti asked for an update regarding the Waste Management Meeting for a modified clean-up day.

Town Manager John Giles stated that the meeting went well, we will be scheduling a modified clean-up day where dumpsters will be put out around Town and residents can bring their items to the dumpsters. You will be required to provide proof that you are a resident of Elsmere and you will be required to place the items in the dumpsters.

Mayor Burg stated that this event was removed from the budget and has no funding allocated.

Councilwoman Personti asked what the estimated cost of this event would be.

Town Manager John Giles stated that he does not have an estimate cost. The large part of the cost is the fees charged by the dump, which is solely based upon tons. We have previously received assistance from Senator Blevins and Representative Mitchell. The dump fees have in previous years been close to \$9,000.00.

Councilwoman Personti asked if we could approach Senator Delcollo and Representative Mitchell about funding assistance.

ACTION: A motion was made by Councilman Jaremchuk to approve a modified cleanup day. The motion was seconded by Councilman Hurst.

VOTE: 6-1 All-in-favor Motion carried

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

Councilwoman Personti asked what the date would be.

Town Manager John Giles stated that he is not sure what the exact date was, but he can send an email out with the date.

Town Manager

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

1. His knee surgery which was scheduled for March 14th has been delayed and he will notify when the surgery has been rescheduled.
2. The RFP for the Trash Removal Service will be issued next week and will be required to be returned very quickly. The decision will need to be made as soon as possible so that any potential switchover can be properly coordinated. The current contract expires on June 30, 2017. If the contract has not been awarded by the May Council meeting a special meeting will need to be scheduled. In addition, this will likely be a minimum 3 year contract.

ITEMS SUBMITTED BY THE MAYOR AND COUNCIL:

District 1 – None

District 2 – Councilman Pfirrmann stated that he has two issues to discuss.

1. He does the cleanup along Kirkwood Hwy as part of the adopt-a-highway program. Recently, he has been thinking about taking that concept into his district and he intends to walk the 2nd District once a month and pick up debris that may be lying around.
2. He asked Councilman Zielinski when he published his campaign flyers.

Councilman Zielinski stated that it was late January.

Councilman Pfirrmann stated that someone gave him a copy of the flyer and he has some issues with the fact that there are a number of things in the flyer that are entirely false about Council. First, is the legislation regarding term limits, in which it states it was rejected by all members of Council. That item was deemed to be illegal and in violation of the Town's charter by the Town's solicitor prior to these materials being published.

Councilman Zielinski stated that it is Mr. McNally's opinion on the issue that it is against the charter. That is his opinion and he is not a judge. He also stated that he has spoken with an attorney who thinks that it is legal.

Councilman Pfirrmann stated that his second issue is the statement that the Council authorized the Town to borrow up to 20 million dollars which is 80% of the Town's assets. 20 million dollars is 7.35% of the Town's assets, not 80%.

Councilman Zielinski stated that it was discussed in a meeting that 20 million dollars was 80%.

Councilman Pfirrmann stated that his third issue is the statement that you were the only member of Council to oppose the purchase of a 1 million dollar heating system. It was discussed when the bid was received that the 1 million dollars would be inaccurate and that it would cost closer to \$750,000.00. Further, at tonight's meeting it was determined to cost even less than that.

Councilman Zielinski stated that the initial cost was 1 million dollars.

Councilman Pfirrmann stated that his final issue is the multiple references to the Council putting the Town's valuable parks in danger. He can name several references (such as September 8, 2016) where on the record; you were the one to suggest selling the Town's parklands. You are accusing Council of putting the parks in jeopardy, yet you are one stating to sell the parks. You have falsely attacked council in your campaign materials and as a member of Council; and I have a problem with that, and will not be accused of doing something that did not occur.

District 3 – None

District 4 – None

District 5 – Councilwoman Personti stated that the 5th District Residents meeting will be Wednesday, March 29, 2017 at 7:00pm at Town Hall. Even though it is billed as the 5th District Resident’s meeting, everyone is welcome.

District 6 – Councilman Hurst asked to have the Public Works Department look at Vilone Road between Marvillo Ave & Richard Ave. There are a number of pot holes in that area.

Councilwoman Personti stated that Poplar Avenue just before Kirkwood Hwy, there is an area that is beginning to sink.

Mayor – None

Town Manager John Giles stated that the 2016 Annual Departmental Reports is on your desks for review, please let me know if you have any questions.

PUBLIC COMMENT:

Sally Jensen, 504 Baltimore Avenue, stated that on behalf of the Elsmere Garden Society she would like to thank the Mayor and Council for their continued support of the garden.

ADJOURNMENT:

ACTION: A motion was made by Councilman Jaremchuk 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.

STEVEN E. BURG
MAYOR

JOANN I. PERSONTI
SECRETARY