

**TOWN OF ELSMERE
COUNCIL MEETING MINUTES
December 10, 2020
Virtual Meeting
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 | SALLY JENSEN | 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 | | |

OPENING STATEMENT: Melissa Faedtke read an opening statement.

PUBLIC COMMENT: None

APPROVAL OF MINUTES:

Minutes of the November 12, 2020 Council Meeting.

ACTION: A motion was made by Councilman Hurst to approve the minutes of the November 12, 2020 Council Meeting with no corrections. The motion was seconded by Councilwoman Personti.

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

1st District – Yes, 2nd District – Yes, 3rd District – Yes, 4th District – Yes, 5th District – Yes, 6th District – Yes, Mayor – Yes

OLD BUSINESS:

Discussion concerning the response to the questions and or comments received as part of the 2020 Comprehensive Plan to the PLUS.

Town Manager John Giles stated that the Comprehensive Plan was sent to Council for review and was approved by the Planning Commission with the amendments that were made, and it is before council to decide whether it is accepted or not.

Mayor Thompson asked if there were any questions regarding what has been submitted.

Councilwoman Personti asked a question to Commissioner Lindell if the issues that were brought up by the Planning Commission addressed?

Commissioner Lindell stated that all issues were addressed and answered.

ACTION: A motion was made by Mayor Thompson to approve the Comprehensive Plan as amended to be presented to the State of Delaware. The motion was seconded by Councilwoman Jensen.

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

1st District – Yes, 2nd District – Yes, 3rd District – Yes, 4th District – Yes, 5th District – Yes, 6th District – Yes, Mayor – Yes

Sean O'Neill with the University of Delaware stated that this is approving the States comments and that there will be one more step for final approval by Ordinance.

Senator Mantzavinos entered into the meeting at this time. He stated he wanted to introduce himself and he looks forward to working with the Town of Elsmere.

Consideration of Third and Final reading as well as Public Hearing of Ordinance Number 653.

An Ordinance eliminating the need for an applicant who has a petition pending before the Board of Adjustment to first have their petition reviewed by the Planning Commission.

Town Manager John Giles stated that this is pretty straight forward Ordinance, and it would speed the process for residents requesting petitions.

ACTION: A motion was made by Mayor Thompson to approve Ordinance 653. The motion was seconded by Councilwoman Skipski.

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

1st District – Yes, 2nd District – Yes, 3rd District – Yes, 4th District – Yes, 5th District – Yes, 6th District – Yes, Mayor – Yes

Consideration for Third and Final Reading as well as a public hearing of Ordinance Number 654.

An Ordinance establishing a moratorium on the review or hearing of an application to the Planning Commission or Board of Adjustment which in any manner increases impervious lot coverage.

Town Manager John Giles states that this is a pretty straight forward Ordinance, although it may not be popular. He also asked to be excused for a few moments while this Ordinance is being discussed.

ACTION: A motion was made by Councilwoman Jensen to approve Ordinance 654 establishing a moratorium on the review or hearing of an application to the Planning Commission or Board of Adjustment which in any manner increases impervious lot coverage. The motion was seconded by Mayor Thompson.

Councilwoman Jensen stated that at the last Planning Commission Meeting the members voted unanimously in support of this ordinance. This ordinance has nothing to do with lot coverage it has to do with stormwater run-off.

Mayor Thompson had a brief discussion regarding this ordinance and the Comprehensive Plan and different departments from the state reviewing our Comprehensive Plan. One of the items pointed out was that the Comprehensive Plan must contain stormwater management under the MS4. He also believes that no one wants to impede the right on residents to improve their property. Our storm water is taken to the Christina River, what DelDOT has done is based on impervious surface in different areas, it amounted to over a 10-year period the Town was over the allotted amount which amounted approximately \$680,000.00 contributing to the clean of the Christina River which comes out to about \$68,000.00 per year. The Town is required to implement different procedures to help maintain and control storm water runoff. There are items that the Town is currently doing to help with this however, these are items that are already factored into the assessment of our contributions.

Town Manager John Giles returned to the meeting.

Mayor Thompson asked if the chart is available to share of the breakdown of the amounts that other municipalities would be responsible for to contribute toward the clean-up of the Christina River.

Town Manager John Giles stated that the what the Mayor has stated is true that if we don't comply, we will have to pay the \$68,000.00 over a ten-year span. There was a study that was completed in 2013, which in 13 years the Town has certainly not reduced any impervious coverage, the town has increased in impervious coverage. The spreadsheet lists each municipality and what the costs are for each one. The concern that he has is that we don't know the actual numbers that the Town is at which is why this moratorium is being implemented to get a handle on the actual figures. He stated that fines will be implemented by FEMA starting this year and over the next few years for those that do not comply with the permit. He also stated that this ordinance does not state that you can not build on your property if you use the proper drainage or material to control water run-off.

Mayor Thompson reiterated the fact that this ordinance is not a ban it is to slow down the Town can get in front of this issue and the sooner the Town is able to figure how where it stands in the process the quicker the Town is able to do so the quicker residents will be able to build or make improvements on their property. He asked Town Manager John Giles if this is something that will be done quickly?

Town Manager stated that yes, he stated that no one knows for sure what quickly is when dealing with FEMA, it could be five years, however the Town has already had

inspections completed at the Public Works Yard and passed the inspection due to the fact we were able to show them how the proper procedures that are being followed that are necessary to comply with the permit.

Councilman Hurst asked Town Manager John Giles if he knew what the credit was for the streets sweeping. He believes that the Town is shutting things down and there are no answers, and that the Town didn't do their part to find out where it stands such as calling New Castle County and keep track of all the lot coverage that was approved so the Town would know where it stood, he also stated it had 5 years and nothing has been done.

Town Manager John Giles stated that he does not believe as a Town that we've done nothing. There are 3 binders of information on things that the Town has done. He stated that there have not been fines due to the measure that the Town has taken to comply.

Councilman Hurst stated that the main thing that this is about is pollution and the only thing the Town is focusing on is the surface areas. The Town is built on clay and the Town should look into getting the sewers repaired. The South side of town always has issues and is unaware if they are being repaired. He is aware that the Town was looking into the street sweeping credits but not body is asking the question of where the Town stands.

Town Manager stated that we know where the town is at and has received credits from DEMA from performing street sweeping. He stated that there are more things the Town could do to receive more credits, but it comes down to where would the money come from to do those things. He also stated that it's the same thing with the Town being ADA Compliant and it falls on dead ears due to the fact no one is enforcing that issue, however the day is going to come when the Town will be fined due to non-compliance.

Councilman Hurst asked what if the Town was reabsorbed back into New Castle County rather and got rid of the Town of Elsmere. Then we would be under the New Castle County ordinances and this would not be an issue.

Town Manager John Giles stated that he's not sure how that work, but it would be New Castle County's issue. He also stated that it would add 3 percent to their problem however they do have more land.

Mayor Thompson asked Councilman Hurst if he was advocating for the dissolution of the Town of Elsmere?

Councilman Hurst stated that he would like to know if it's a possibility since he has had a lot of residents reach out to him that are very upset regarding this matter and would rather not be a part of this Town and pay one tax to New Castle County. He would like to know if this is a process that can be done, how it can be done and what would be the benefits.

Mayor Thompson stated to Councilman Hurst, that rather than see what the Town can do to comply with this issue you are taking a leap to abandon Elsmere and go back into New Castle County and cease to exist as the Town of Elsmere.

At this time Councilman Hurst and Mayor Thompson had a brief disagreement.

Town Manager John Giles interrupts Mayor Thompson and Councilman Hurst stating this is a public meeting.

Councilman Hurst states that yes this is a public meeting and that everyone is trying to railroad the residents of this Town and disagrees with the statements made by Mayor Thompson.

The discussion got more aggressively to the point of not being able to transcribe and the Town Attorney intervenes and states this is not the topic of discussion and the discussion comes to an end.

Councilwoman Jensen follows up with Councilman Hurst asking what his question initially was.

Councilman Hurst stated that she should pay attention during the meeting.

Councilwoman Jensen stated that his attitude towards her is most unbecoming of an elected official and expects to be treated with the same respect he expects to be treated.

Councilman Hurst stated that he is treating her with respect. That by him calling her Mrs. Jensen is not disrespectful. He believes its very respectful.

Councilwoman Personti stated that she would like to thank the Town Manager for the abundance of information that was provided just before the meeting, however she was unable to read it all prior to the meeting. She stated that she is still unclear on what the Co-Permittees doing and what our responsibility is to one another. She asked if the City of Wilmington basing their building permits only on basis of NPDES.

Town Manager John Giles and Councilwoman Personti had a brief discussion regarding the stages of the process of NPDES in terms of compliance.

Councilwoman Personti stated that she would also like to know as well as she believes is what Councilman Hurst was asking, what is the balance of everything we are doing and how much of that is going to counteract the impervious surface increases? She believes that we have not been fined so far that we are doing well as a Town.

Town Manager John Giles states that he understands what she is saying however the items that we are currently doing are only allow to be claimed once every year, it can't be claimed as something new to meet our goal to reduce the three percent of where they want the Town to be.

PUBLIC COMMENT:

John Jaremchuk, 300 Southern Road – stated that he serves as a Commissioner on the Planning Commission and he is in favor of this ordinance. This is all about the pollution of our water ways and if you are in favor of a clean environment but are against this ordinance you are working against what is trying to be done. This isn't about what the Mayor and Council want, however it is about what the Federal and State are mandating.

The official stated that Elsmere was below the legal standards regarding pervious coverage and were going to impose a fine of \$68,000 annually. The town administration came up with a way to mitigate to avoid having to pay these fines. Since then, there have been many projects approved by the Town's Planning Commission and Board of Adjustment and as a result the situation was made worse. If we were to be audited, the Town would incur a fine much higher than the original \$68,000.00. As a member of the Planning Commission, I need to know where the Town stands at this point to make intelligently informed decisions for the future. I do not believe this moratorium will take an entire year. The Town needs to know where it stands to mitigate the problem. Without action by the Town, residents will be paying higher taxes to pay the fines that will be incurred. I believe Mayor and Council should support this ordinance.

Rob Anderson, 107 Northern Ave – stated that as a citizen of the town he understands that something needs to be done however he is not in favor of a year long moratorium. He feels that a three-to-six-month term would serve better and that if more time is needed that an extension should be requested. This would allow for more transparency, accountability, and pressure to ensure something is done. He also stated that based on documentation received through the Town of undue hardship and personal medical reason shall not be considered legal grounds of hardship. Ultimately, he feels that a year is to long for this moratorium.

Jon Bennion, 2 Marvilo Ave. – stated that he had a question for Town Manager Giles regarding a study that was done five years ago.

Town Manager Giles stated that the study of the water was done in 2007.

Mr. Bennion stated that that study was done 13 years ago, the Town was fine then, and the numbers were below.

Town Manager Giles replied no that the town was above at that time as well and were asked to reduce then.

Mr. Bennion asked how many driveways have been applied for and built since that study? He stated that he believes it was 13, and asked is that number correct?

Town Manager stated that he does not have the 13 years of information but has a list that he would have to count and would get back to him.

There was a brief discussion between Town Manager and Mr. Bennion regarding how a study should be done.

Kelly Wilkerson, 23 Olga Road – stated that there are a few points that she would like to point out. First, Elsmere has always flooded due to the demographics and sounds like most of this is due to the water shed and chart being based off 2007 and Dogwood Hollow is a neighborhood that was built in 2005. Since then, the water run-off has been unbelievable. She stated that she doesn't see how rain barrels are going solve the problem. She also stated that she has only seen the streetsweeper once a month on Olga Road. She would like to know what the schedule is for the street sweeping. She also stated that Town Manager Giles states that the ordinance doesn't stop the building it just

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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 19 violations during the month of November. 9 were corrected with a warning, 10 received fines and 0 remained pending at the end of the month.
- b. Issued 2 repeat public nuisance violations and fines. Of those 2, 1 was a second offense repeat public nuisance.
- c. Requested that the Public Works Department complete 5 abatements as a result of violations which were issued.
- d. Permit fees, the Town issued \$995.25 of that BIU billed \$900.00, total Town revenue for November was \$95.25.

Councilman Hurst asked what the abatement cost and wouldn't those cost to towards the Code Department.

Town Manager Giles stated that it goes to the General Fund and that Finance hasn't been able to find a way to separate those costs. He confirmed with Finance Director Steve Martin.

Finance Director Martin stated that is correct.

Councilman Hurst asked if Council could find out how much revenue is received.

Finance Director stated that they can pull a report of that information and send it to Council.

Finance

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

- a. The department received \$2,325,987.27 in property taxes as of November 30, 2020.
- b. Special Taxes received \$20,399.00 which is where those abatements fall into.
- c. Franchise Taxes received \$16,820.86.
- d. Police Fines \$ 96,373.31

- e. Transfer taxes received for November were \$45,019.88. Total YTD \$136,306.88.

Councilman Hurst asked what the cost of the TV channel.

Town Manager Giles stated there is no cost, the airtime is free, and we purchased all the equipment. The initial cost the town some money however there were grants involved and the cable companies donating money for the startup of the channel.

Town Manager Giles stated there was another attempted theft that the bank caught in the amount of \$10,000.00

Finance Director Martin stated that this was intercepted by the bank and a product of our fraud protection that the Town has on the account.

Town Manager Giles stated that Nick Baccino with Whisman, Giordano & Associates was present at the meeting this evening to discuss the Audit Report.

Mr. Baccino stated that normally the audit is presented at the December council meeting however there were a few scheduling issues due to personal/family medical issues that didn't allow for the audit to be completed by that time. He stated that they were in contact with Town Manager Giles and Finance Director Martin and the Audit should be ready to be presented by the January meeting. He stated that he appreciates the extension that was given.

Public Safety

Chief Giles stated the reports were presented to Mayor and Council for review. She stated that the VAC fines that were not available prior to report being sent out and those fines were \$12,413.02 this month. Year-to-Date revenue is \$108,786.33. The department has been working on getting accredited by the state this month. The accreditation review was on November 30, 2020, there were a few issues that were corrected, the next meeting is in January where they will vote and were told to approve Elsmere Police Department as an accredited stated agency. She would like to extend her thanks to her Lieutenant Gregg Shelton who headed this for the department, Mayor and Council and Lexi Pole for bring the policies and procedures up to date. She stated that she is waiting to see if the Department is approved for a grant to allow for a keypad to be placed for officers to enter the building.

There was a brief discussion between Chief Giles and Council regarding the seizure money that is received by the Elsmere Police Department.

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 16 potholes during the month.

- b. The street sweeper was run in all districts in the Town.
- c. During the month of November, the department started fogging and sanitizing Town Hall with the fogging equipment.
- d. Completed 3 abatements at the request of the Code Enforcement Department.
- e. Restroom wall was repaired on the 2nd floor.
- f. Department built the evidence cage in the Elsmere Police Department.
- g. Elevator was repaired.

Town Manager

Town Manager John Giles presented his report as well as discussed, the committee that he serves on by Delaware League of Local Governments that deals with County Taxes are in the process of passing legislation and it turns out that residents of the Town will see a reduction in what they pay to the County due to the services that are provided by the Town such as the police department, whereas other municipalities who do not have as many services as the Town of Elsmere will pay more as they depend on the County more than the Town.

There was a brief discussion between Town Manager Giles and Council regarding this matter.

Town Manager Giles stated that he sent a memo to the members of council regarding his vacation carryover and that he has not asked for approval to carry over more than the allowable hours, however he will be off starting December 11, 2020 until January 4, 2021. If there are any hours between now and then end of December that he is required to work, he will be asking for those hours to be carried over.

He also discussed moving \$320,713.00 from M & T Bank to PNC. PNC offers a better rate and see how Town can benefit from another relationship with a different bank other than M & T Bank.

He also stated that the Town employees have separated within Town Hall for social distancing measures due to the pandemic. He also asked if Mayor and Council were okay with the dates that were sent out for the viewing and judging of the Best Decorated House.

There were no objections by Mayor and Council.

STATEMENTS BY THE MAYOR AND COUNCIL:

Councilwoman Personti – Stated that she would like to wish everyone a Merry Christmas and a Happy New Year.

PUBLIC COMMENT:

John Pasquale, 13 Alfred Ave – stated that he has contacted Republic Services on November 19, 2020 to order another trash and recycle can and hasn't received them as of today. He stated that he called, and Republic Services stated it would take 10 days for delivery however it is well past the 10 Days.

Town Manager Giles referred to Administrative Assistant Melissa Faedtke to look into the issue with Republic Services.

Mr. Pasquale stated that he wanted to thank all the council members who voted against Ordinance 654.

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

1st District – Yes, 2nd District – Yes, 3rd District – Yes, 4th District – Yes, 5th District – Yes, 6th District – Yes, Mayor – Yes

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