

**TOWN OF ELSMERE
COUNCIL MEETING MINUTES
FEBRUARY 11, 2021
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: Town Clerk, Diana Reed read an opening statement.

PUBLIC COMMENT:

Mr. Edward Zielinski, 1334 Maple Ave, stated that the Public Works Department has been doing a fantastic job since Chuck Balback took over. In addition, he would like Councilman McKewen to apologize to the Public Works Department as the potholes he reported at the January council meeting had actually been corrected prior to the meeting.

APPROVAL OF MINUTES:

Revised minutes of the December 10, 2020 Council Meeting.

ACTION: A motion was made by Mayor Thompson to approve the revised minutes of the December 10, 2020 Council Meeting. The motion was seconded by Councilwoman Personti.

Councilman Hurst stated that he will be voting no because he believes that the minutes were poorly written and biased.

VOTE: 6-1 Motion carried

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

Minutes of the January 14, 2021 Council Meeting.

ACTION: A motion was made by Councilwoman Personti to approve the minutes of the January 14, 2021 Council Meeting with no corrections. The motion was seconded by Councilwoman Skipski.

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

OLD BUSINESS:

Consideration for Third and Final reading, as well as, Public Hearing of Ordinance 656, An ordinance adopting the revised version of the Town of Elsmere's 2020 Comprehensive Plan Update.

ACTION: A motion was made by Councilwoman Jensen to approve Ordinance 656 for Third and Final Reading, as well as, Public Hearing. The motion was seconded by Mayor Thompson.

Town Manager John Giles stated that he received a request from Councilwoman Jensen to be added as a sponsor to this ordinance.

Mr. Vincent Shavico, 11 Vilone Road, stated that he was unable to locate a copy of the proposed plan on the website. In addition, the meeting minutes are not posted.

Town Manager John Giles stated that it was on the website, however, if it has been removed it was an oversight. He will have the staff look into tomorrow. Regarding the meeting minutes, the minutes are only posted after they are approved by Council.

Mr. Edward Zielinski, 1334 Maple Ave, asked why the December meeting minutes were being revised.

Mayor Thompson stated that they felt that the meeting minutes were incomplete and did not include all solutions that were proposed or issues that were discussed.

Councilman Hurst asked if we could post the live footage of the meeting or the recordings. He further requested a digital copy of the meetings for the past few months.

Town Clerk Diana Reed stated that they have not discussed the cost of posting the live video of meetings in quite some time, but she has not looked into this consideration since the meetings have been held virtually.

Mayor Thompson stated that the Council did discuss this issue a while back and he believes that Council voted against it.

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

NEW BUSINESS:

Introduction for First and Second Reading of Ordinance 657, An Ordinance establishing a procedure and rules for the 2021 Biennial Municipal Election.

Town Manager John Giles gave a brief overview of the Ordinance and explained that there had been three changes since the original ordinance was posted with the agenda:

1. Pg 2, #5 – The elimination of candidates from the 3rd District. Councilman Kacperski withdrew his candidacy on February 4th and therefore, only 1 candidate exists for the office of 3rd District Council and they have been deemed to have been elected.
2. Pg 3 – The addition of numbers 15 and 16 regarding the State of Emergency and changes to Absentee voting and social distancing based on this emergency.
3. Fiscal Impact – The fiscal impact has changed greatly with the addition of number 15(b) and the new fiscal impact is listed.

Councilwoman Personti asked if the mailing of absentee ballot applications was mandatory.

Town Manager John Giles stated that it is encouraged but not required.

Councilwoman Personti stated that due to the significant cost of mailing the applications, she would like to see that section of the ordinance removed.

ACTION: A motion was made by Councilwoman Personti made a motion to approve Ordinance 657 with the removal of section 15(b) mailing of absentee ballot applications. The motion was seconded by Mayor Thompson.

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

Introduction for First and Second Reading of Ordinance 658, An Ordinance repealing Ordinance 654 which placed a moratorium on increases in impervious coverage.

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

ACTION: A motion was made by Councilwoman Jensen to approve Ordinance 658 for First and Second reading. The motion was seconded by Councilwoman Personti.

Councilman Hurst stated that he believes that this ordinance never should have come up but that he is grateful that it is being repealed.

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

Consideration of a request for a Council Tribute for Mr. Leon Backer.

Councilwoman Personti read the tribute aloud for the record:

Council Tribute

**HONORING MR. LEON BACKER FOR HIS SERVICE
TO THE TOWN OF ELSMERE**

WHEREAS, on Tuesday January 19, 2021, the Mayor and Council learned of the untimely passing of Mr. Leon M. Backer, 72, of Elsmere, who passed away peacefully on Monday, January 18, 2021, after a brief illness; and

WHEREAS, Mr. Backer has served the residents of the Town of Elsmere for many years; and

WHEREAS, Mr. Backer served the residents as a Commissioner and Chairman of the Town of Elsmere's Planning Commission, as well as, a Director of the Elsmere Land Bank; and

WHEREAS, Mr. Backer was instrumental in both his leadership and his pride for the significant role he played in the re-development of the Town's Veterans Park, which we believe is one of his greatest accomplishments, we know he was very proud of this accomplishment as well; and

WHEREAS, Mr. Backer gave so much of himself while guiding the Town and serving not only the residents of the 5th District, but all residents of the Town; and

WHEREAS, The Mayor and Council wish to publicly acknowledge the dedication and service that Mr. Backer provided to the Town of Elsmere and its residents, as well as, the sacrifices that his family made while allowing him to give so much of himself to the service of others.

NOW, THEREFORE, the Mayor and Council hereby join together to pay tribute to former Chairman of the Planning Commission, Mr. Leon Backer. The Mayor and Council also wish to acknowledge Mr. Backer's commitment to doing the right thing for the Residents of the Town of Elsmere, while serving on the Town's Planning Commission.

HONORED BY THE MAYOR AND COUNCIL OF THE TOWN OF ELSMERE, THIS 11th DAY OF FEBRUARY 2021.

ACTION: A motion was made by Councilwoman Personti to approve the Council Tribute for Mr. Leon Backer. The motion was seconded by Councilman Hurst.

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

Consideration of a request to permanently withdraw Ordinance 651 from consideration which received First and Second Reading on August 13, 2020.

Town Manager John Giles stated this ordinance received a First and Second Reading on August 13, 2020 and was intended to receive a Third and Final Reading as well as Public Hearing after the Draft Comprehensive Plan Update was received back from the PLUS Hearing, unfortunately, Ordinance 656 was proposed and has also received First and Second Reading. Therefore, Ordinance 651 is no longer needed, and he would like to have it withdrawn permanently as a housekeeping matter.

ACTION: A motion was made by Mayor Thompson to permanently withdraw Ordinance 651 from consideration. The motion was seconded by Councilwoman Jensen.

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

Consideration of a request by the Chief of Police to enroll her into the State of Delaware "County and Municipal (Police & Firefighters) Pension Plan".

Town Solicitor James McMackin stated that while this item is on the agenda for consideration, it is more of a notification. It has been determined that the Chief of Police is eligible for enrollment and should have been enrolled upon the Town's entry into the Plan in July 2011. Therefore, she will be enrolled in the plan as soon as possible and no action is needed by Council.

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 47 violations during the month of January. 30 were corrected with a warning, 14 received fines and 3 remained pending at the end of the month.
- b. Issued 4 repeat public nuisance violations and fines.
- c. Requested that the Public Works Department complete 1 abatement as a result of a violation which was issued.
- d. Performed 13 Pre-Rental Inspections.
- e. Processed 16 permits, 11 business licenses (2 In-Town, 9 Out-of-Town) and 4 rental permits.
- f. Tagged 16 abandoned vehicles for tow and all were removed without being towed.

Mayor Thompson asked if we know where we are with our licensing this year as compared to last year.

Town Manager John Giles stated that we do have that information, but he does not have it with him for this meeting but that we are right on track with last year and very close to being fully collected.

Finance

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

- a. The department received \$13,821.00 in transfer taxes for the month. Total received year-to-date is \$181,843.88.
- b. The department transferred all Long-Term Planning Funds to a separate bank account at PNC which prevents the comingling of funds with the General Fund and ensured better tracking of these funds.

- c. There was another fraud attempt on our bank account during January in the amount of \$19,500.00 which was prevented by our security features. This brings the total of attempted fraud transactions to \$39,430.00 this fiscal year. However, we received notice today of another attempt in the amount of \$750,000.00. We have frozen this account and will be moving all the funds to another account while we investigate and open a new account for these particular funds as a precaution. While we have seen a number of attempts, they have not received any funds from our accounts.

Finance Director Steve Martin stated that there were a few other small attempts made today as well from various parts of the country and it has become obvious that the account number for this one account has been compromised. Therefore, they have made the decision to move the account to a new account at a different bank to ensure there are no further issues.

- d. Transferred the Long-Term Planning Original Pension Contribution from this fiscal year's budget to the Pension Plan.
- e. The department sent out 70 delinquent tax notices, which have resulted in 22 responses so far.

Public Safety

Chief Giles stated the reports were presented to Mayor and Council for review and has nothing to add to the written report. There were no questions from Council.

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 14 potholes during the month. The 8 potholes which were brought up by Councilman McKewen during the last Council meeting had actually been completed prior to the meeting.
- b. The street sweeper was run in Districts 1 and 5.

Councilwoman Jensen thanked Public Works for their quick response to the pothole issue at Filbert Ave and F Street when she called. She has received a number of complaints and while it is waiting for a permanent repair, she is thankful that they were able to make some temporary patches in the meantime.

Councilman Hurst asked for an update regarding the dumping issue under the Rt. 2 Viaduct.

Town Manager John Giles stated that there has been a meeting with the Police Department who is working on a plan to hopefully reduce the dumping, but they do not want to go into much additional detail at this time.

Town Manager

Town Manager John Giles presented his written report and added that there was an accident at Spruce Avenue and Poplar Avenue where an employee hit a resident's vehicle when turning with a plow, the mandatory drug and alcohol screenings were completed. We will not be submitting this to the insurance company because the damage was less than the deductible and the Town will pay out of pocket. He asked for any questions and received none.

EXECUTIVE SESSION:

Councilman Hurst asked if the public would need to wait until after the executive session.

Town Solicitor James McMackin stated that Council should amend the agenda to reorder this item to after public comment and to adjourn and not return to public session.

ACTION: A motion was made by Councilwoman Jensen to reorder the agenda to allow public comment prior to the executive session and to place the executive session with adjournment and not to return to public session after. The motion was seconded by Councilman Hurst.

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

STATEMENTS BY THE MAYOR AND COUNCIL:

Councilwoman Personti asked that the Council discuss the possibility of reopening playgrounds at their March meeting and asked that the topic be added to the agenda.

Councilman Hurst stated that he would agree to adding this item.

Councilwoman Jensen stated she would like to include the dog park in this discussion.

Town Solicitor McMackin stated that if Council desires to vote on this issue tonight, he believes that this issue can meet the requirements under FOIA as an emergency discussion.

Councilwoman Personti stated that she did not believe that it was such an emergency that it cannot wait until the March agenda.

PUBLIC COMMENT:

Mr. Bob Britt, 144 Olga Road – Stated that there is an issue with the storm drains near his home and they do not appear to be draining properly and he would like the Public Works Department to look at the issue.

Town Manager John Giles stated that the drains in that location collect water from a large area, he would have Public Works check them and he will reach out to Mr. Britt to discuss the issue.

Mr. Britt stated that he would send the videos he has to the Town Manager to review.

Ms. Ann Gawel, 30 Richard Ave – Stated that she has seen an increase in vehicles speeding down Richard Ave as well as other areas and would like to see the Police Department address the issue if possible.

Mr. Jerry Lindell, 3 Jefferson Ave – Stated that he would just like to thank the Council for their tribute to Mr. Leon Backer, he believes it was well deserved.

Mr. Vincent Shavico, 11 Vilone Road – Thanked Diana Reed for the FOIA request that she fulfilled and that he received a lot of information and found very useful. He also stated that a lot of the water issue is running down-stream from the new Wegmans site, and that the Town should consider adding a containment pond in Vilone Village to address the draining issue described by Mr. Britt.

EXECUTIVE SESSION AND ADJOURNMENT:

Pursuant to 29 Del. C. Section 10004(b)(4) the Mayor and Council will enter into executive session for a strategy session with the Town Solicitor concerning a potential litigation.

ACTION: A motion was made by Mayor Thompson to adjourn into executive session and not to return to public session. 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