

**TOWN OF ELSMERE
COUNCIL MEETING MINUTES
DECEMBER 9, 2021
6:30 p.m.**

CALL TO ORDER: Councilwoman Jensen called the meeting to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE:

MOMENT OF SILENCE:

ROLL CALL:

MAYOR	ERIC SCOTT THOMPSON	ABSENT
1 ST DISTRICT	MARIANNE SKIPSKI	ABSENT
2 ND DISTRICT	SALLY JENSEN	PRESENT
3 RD DISTRICT	MARY STEPPI	PRESENT
4 TH DISTRICT	CHARLES MCKEWEN	PRESENT
5 TH DISTRICT	JOANN I. PERSONTI	PRESENT
6 TH DISTRICT	DAWN DIBIASO	PRESENT
Town Solicitor, James McMackin – Present		
Town Manager, John Giles – Present		
Chief of Police, Laura Giles – Present		

PUBLIC COMMENT:

None.

APPROVAL OF MINUTES:

Minutes of the October 28, 2021, Special Council Meeting.

ACTION: A motion was made by Councilwoman DiBiaso to approve the minutes of the October 28, 2021, Special Council Meeting. The motion was seconded by Councilwoman Personti.

VOTE: 5-0 with 2 Absent Motion carried

Minutes of the November 4, 2021, Council Meeting.

ACTION: A motion was made by Councilwoman DiBiaso to approve the minutes of the November 4, 2021, Council Meeting. The motion was seconded by Councilwoman Jensen.

VOTE: 5-0 with 2 Absent Motion carried

Town Manager John Giles stated that this evening's meeting is chaired tonight by Councilwoman Jensen in Mayor Thompson's and President Pro Temp Skipski's absences and Councilwoman DiBiaso is acting Secretary in place of Councilwoman Jensen.

AUDIT PRESENTATION:

Presentation of the audit results for the fiscal year ending June 30, 2021, by Whisman Giordano & Associates, LLC.

Mr. Vince Barbone and Mr. Nick Baccino from Whisman Giordano & Associates gave a lengthy presentation of the audit report for fiscal year ending June 30, 2021. Members of the Mayor and Council listened and had their questions answered regarding the audit presented.

Town Manager John Giles asked what amount based on the surplus would go toward the contingency fund.

Mr. Baccino stated that based on the results of this audit there is no requirement even though the General Fund did have a surplus because the Town has set aside a certain amount of funds for Long-Term Planning which is well in excess of this current years surplus.

ACTION: A motion was made by Councilwoman Personti to accept the audit report presented by Whisman Giordano & Associates for the fiscal year ending June 30, 2021. The motion was seconded by Councilman McKewen.

VOTE: 5-0 with 2 Absent All-in-favor Motion carried

OLD BUSINESS:

Update and possible action authorizing expenses under the Federal American Rescue Plan Act "ARPA".

Consideration of awarding a contract in response to RFP 21-04 Stormwater Study & Evaluation.

Town Manager John Giles stated that the Town received three bids for the Stormwater Study. He recommends awarding the contract to KCI because they currently work with the Town with or Stormwater illicit discharges and our NPDES permit, it was the most detailed and can combine their work with the work that has already been done and the scope of the bid is for the entire Town rather than just focusing on the 13 locations that are listed in the bid and would eliminate most of the ground work that would need to be done.

ACTION: A motion was made by Councilwoman DiBiaso to approve and award the bid to KCI in the amount of \$70,454.65. The motion was seconded by Councilwoman Personti.

VOTE: 5-0 with 2 Absent Motion carried

Consideration of awarding a contract in response to the RFP 21-06 EPD HVAC System Replacement.

Town Manager John Giles stated that the Town received one bid from Seiberlich Trane in the amount of \$328,990.00. He recommended that council approves this bid as they are the same company that completed the HVAC work in Town Hall.

ACTION: A motion was made by Councilwoman Personti to approve and award the bid to Seiberlich Trane in the amount \$328,990.00. The motion was seconded by Councilwoman Jensen.

VOTE: 5-0 with 2 Absent Motion carried

Consideration of funding a monthly Food Bank distribution for the 2022 Calendar Year.

Town Manager John Giles stated that the Town received a bid from the Food Bank of Delaware, to have a distribution one time a month for the next 12 months in the amount of \$15,600.00 that will allot for 100 homes in need.

There was a brief discussion among Council, Town Manager John Giles, and Chief Laura Giles regarding the distribution of items and verifying these items are distributed to Elsmere Residents.

ACTION: A motion was made by Councilwoman Jensen to approve the Town partner with the Food Bank of Delaware for a mobile pantry in the amount of \$15,600.00. The motion was seconded by Councilwoman Steppi.

VOTE: 5-0 with 2 Absent Motion carried

Update from Councilwoman Jensen, Steppi & DiBiaso concerning proposed upgrades to the Town's parklands and playgrounds.

Councilwoman Jensen stated that she would like to summarize on a few items regarding the parklands and playgrounds however there is a document that lists more in detail that will be given to Administrative Assistant Melissa Faedtke. She discussed the following items from the document.

- Possibility of the rubberized material being installed beneath all playground equipment & swings.
- Handicap accessible equipment – playground swings in 1-2 of the parks.
- Bringing the Dog Park back to the way it was when it was first initiated.

Councilwoman DiBiaso stated that they would like to move forward with an RFP and if there was anyone with any ideas or changes to inform the Town Manager ASAP so he can proceed with the RFP.

Councilman McKewen stated he had a question regarding Brian Martin Park and that he has seen recently quite a few kids playing soccer in the fenced in area. Does the Town have any plans to take that fenced in area away?

VOTE: 5-0 with 2 Absent

Motion carried

Discussion concerning the Code Enforcement and Police Issues on Forrest Avenue.

Councilwoman Personti stated that she forwarded an email to everyone on Council from a resident that it was brought to her attention regarding hearing gun fire on this street. She asked Chief Giles that when she looks at the reports that are filed and the list of offenses would that specific offense be listed as a weapon offense?

Chief Laura Giles stated that it should be, however it all depends on how the Sergeant enters it into the system.

Councilwoman Personti asked, if someone calls in a report of hearing gun fire and the officer doesn't find anything, does that get listed as a weapon offense?

Chief Laura Giles stated that no it does not if they do not find anything.

Councilwoman Personti asked if there is something listed on the report of a weapons offense it means that a weapon was founded to be discharged?

Chief Laura Giles stated that is all depends on how the officer interprets the situation while entering the data, as well as the fact that other situations can involve weapons offenses, not just hearing gunfire.

Councilwoman Personti stated that she received two letters from residents that she would like to read into the record.

Kim Dancik – 105 ½ Forrest Ave - *“As an almost 20-year resident of Elsmere, I am hoping that we will not remain in the state we're in right now. On Forrest Avenue, there are drug deals 2-3 times a day, sexual favors for monetary payment, loud cars & ATV's revving up and down the street at all hours and finally an increasing incidents of gun shots. Any one of these can cause discontent among the peaceful residents, but Forrest Avenue residents are dealing with ALL of them. I am unable to attend this meeting, unfortunately, but I am hoping this letter does not fall on unwelcome ears. We need increasing police presence at night, we need increasing arrests, we need to feel safe again. As a side note, Avenue A, the alley by the apartments is deplorable and in serious need of repaving. Please don't hesitate to call me if you need anything that we can do to help.”*

Councilwoman Personti stated that she has a stack of complaints that she has been dealing with and that the residents have been dealing with. She stated that she would like to read the second letter that was received into the record.

Kaeyla Binck – 106 Forrest Ave – *“I, Kaeyla Binck am a resident of 106 Forrest Avenue as well as my husband Daniel Binck. We have lived at this property since 2010 with the same ongoing issues and no resolutions. We have three children ages 8 through 1 and another on the way. Unfortunately, our home is not “home” where we feel safe or allow our children to do what normal children should be able to do. When my kids look out the window, they witness numerous drug dealings/activity multiple times a day and at night, they always question why the people that reside at this offending residence look like “zombies”, so they call them, or like they are sleeping. At their ages this is something I wouldn't wish upon anyone's children having to witness. They*

are fearful to play out front of their own home, they are scared of the neighbors and the traffic they bring to their home. Along with the amount of vehicles that drag race up and down Forrest Ave and speeders at all times during the day and night. The amount of "problems" from this offending residence has only gotten worse over time, our last incident was witnessing a friend of one of the residents at this address was non responsive laying in the middle of the road with no sign of this individual willing to call 911 to get his friend any help. I truly believe if my husband wasn't just coming home from work to witness this individual would have left his friend to die alone. The paramedics gave him Narcan, and the gentleman walked right back to this offending residence I am sure to purchase more drugs. I wonder when enough is enough and when Elsmere is going to step up to make this Town feel safe again. All hours of the night we have new neighbors who ride their ATV's 1,2,3 AM all hours of the night flying down Forrest Ave with not a care in the world, waking my children up every time this is done. I completely understand the officers of Elsmere have other duties they need to complete and can not always just focus on the issues on Forrest Ave. There are a few officers that I will randomly see driving our streets, but the majority of the time when I have to call 911 and ask for a return call back, I get a returned call with a response that seems to be an issue that we are calling about the same issues. When I have family or friend get together at my home it seems to always be an issue with this offending residence with always having the police at their home, or numerous drug deals right in front of our faces. Its so bad that it is completely embarrassing to have anyone come to our home anymore because we are ashamed of where we live. There is another house on Forrest that is a prostitution house. I have seen all types of male trafficking in and out of this residence and have witnessed the female that lives there come to the door numerous times completely unclothed. The gun shots that were fired off four nights in a row in the same location with no police patrol or activity was the icing on the cake for me to know that nobody wants safety in this area. Sadly, I have given up any and all hope for Elsmere. The Town events which would be fun to attend for my children, I refuse to attend to support this community. I think it is an absolute disgrace to the working families that pay their bills on time, take care of their properties and homes to live in a Town who doesn't value any of this and caters to the "trash". Which I apologize, but there is no other way to put it. I am eager to find a forever home out of this Town, but for my fellow neighbors I hope that these issues are resolved, for my family this has been a ten-year fight. I've never seen residents be able to get away with so much in my life, a home that has been placed up for sheriff's sale numerous times and the addicts are able to get out of losing their house every single time. And are able to lie about how they are going to make a change and turn things around, to when law enforcement leaves, they are doing their same deals before you are at the end of the road. They make your enforcement look like Mickey Mouse Clubhouse, and that's a shame. Please, before someone gets truly hurt, reaches their breaking point, or worse before some innocent life is taken because of the neglect of correcting any of these issues make our street safe again."

Councilwoman Personti stated that the other issue that she as been addressing is a Code issue of an unlawful automotive business at another location on Forrest Ave. It's been reported that they have been parking their vehicles at the apartments. She asked if the Town could involve the apartment complex which is private property to have these vehicles towed?

Town Manage John Giles stated that he would have Code reach out to the apartment complex to see if they would be willing to work with the Town to have these vehicles towed.

Councilwoman Personti stated it's the area behind the Cypress Ave buildings. She also stated that Code Enforcement does go out to this property and the residents seem to bring

the property back into compliance and then turn right around and do the same things again to violate the Code.

Town Manager John Giles stated this is occurring not only on Forrest Ave but throughout the entire Town. Repeat Public Nuisances are increasing. He understands the concerns and that he was informed by Town Clerk Diana Reed that Code Enforcement has been made aware of the issues but proving that there is a business being run at this location is difficult as the resident states he is an auto enthusiast and repairs cars. In addition, vehicles have been towed from the apartment complex by the complex.

Councilwoman Personti stated that she recalls this property being in violation in the past and it has been reported multiple times. She stated she has the pictures of the flatbed vehicles at this location.

Town Manager John Giles asked if Councilwoman Personti forwarded the pictures that she has to the Code office? He stated that the Code Office stated they have no pictures of any flatbed trucks at this location.

Councilwoman Personti stated that she does have them and will send them to the Code Office.

Town Manager John Giles stated that would help.

Councilwoman Personti stated that while the Town has had success with the moving these types of issues from criminal matters to civil matters is there anything that prevents the Town from filing criminal charges against with this property?

Town Manager John Giles stated that he believes that a violate of the Town Code could be considered a criminal offense if it's charged in a magistrate court.

Councilwoman Personti stated that she understands why the Town changed these Code issues to Civil matters because we have a better chance of collecting what is owed to the Town as it converts to a Tax lien.

Town Manager John Giles stated that the best way to handle the locations like this is repeatedly issue citations and take the properties to sheriff sale.

Councilwoman Personti stated that in this case, this individual property has not fully complied and continues to repeat the violations. Perhaps if something does change such as making it a criminal offense, then the next time there is a complaint like this maybe that might get the property owners attention.

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

Bonnie Buchannon, 107 Forrest Ave – stated that no one knows what the residents go through on that street, it looks like a slum, and nothing is ever done. She has watched drug deal after drug deal go on. There is a prostitute who lives on this street whom she has seen naked more than herself. In addition, she goes outside naked which is unacceptable. The children can't go outside and play between the prostitute and drug

dealing. She stated that the resident that is supposedly drug dealing slowed down because he realized resident cameras were watching him, so he moved to a different location near the bridge. She stated that Elsmere used to be a good community. She feels that if the police were more present, it would stop some of what goes on. She sees all these things going on while she is out working in her yard. She moved back here from North Carolina in 2005, she grew up here and it was a very respectable town and now she feels it's a joke. She doesn't feel that anyone seems to care.

Town Manager John Giles stated that he realizes it's a bad street, however they cannot go on an assumption of what the residents think they see. How do you prove it's a drug deal?

Ms. Buchannon stated that the police have raided the home. They know what's going on.

Chief Laura Giles stated it is correct the police have gone out to the offending property. They have done three search warrants. The police are never going to be able to stop "users". A user is not a drug dealer to the police department. As far as the resident not helping his friend, they cannot do anything to control that or force him to help, how do they know that this resident even had a phone. There are times that the police do not respond to overdoses because the state gives out Narcan. The Elsmere police have responded to this location and have found nothing. When the residents say there is drug dealing going on the police are not finding evidence of these allegations. When she gets videos of residents accusing these residents of drug deals, the video shows a guy and a girl eating a sandwich, there is nothing suspicious about that. She has a folder larger than the one full of code violations Councilwoman Personti has on things that were alleged, and the Officers are not finding anything. Does she feel they have the best people at their house, no, however, these residents have every legal right to have whomever they want in their home. She stated that they have received complaint about speeders and the highest speed they were able to capture was 27-mph in a 20-mph zone, and a ticket was issued. When they receive complaints of an assault and they submit the video, the video cuts out and there is no evidence of the crime they are reporting. There have been people stopped, and arrests have been made, but the police are not going to broadcast this to the residents on that street. She stated that the Attorney General's Office is not going to prosecute someone for marijuana.

Ms. Buchannon stated that it's not just marijuana.

Chief Laura Giles asked how she knows that? She would agree it's probably not just marijuana, but they don't have evidence to prove, they are users.

Councilwoman DiBiaso stated that it's been noted about the drug usage however what about the prostitution.

Chief Laura Giles stated that they have not received any complaints about this issue but may know who they are referencing, and she thinks she may have some mental issues.

Councilwoman Jensen stated that at this time they are going to have to move on with the meeting, but she does empathize with what this resident is going through. This maybe something that the resident could have a one-on-one conversation with Chief Laura Giles

about. She stated that if you see something call it in, if there is no record, then they won't be able to do anything.

Chief Laura Giles stated that the gun shots that were referenced earlier in the meeting, had nothing to do with the address the residents are currently referring to.

Ms. Buchannon stated that she was not saying the address they are referring to had anything to do with the gun shots.

DEPARTMENTAL REPORTS:

Code Enforcement

Town Manager John Giles gave a brief overview of the Code Enforcement Report and asked if there were any questions.

No questions were received.

Finance

Town Manager John Giles gave a brief overview of the Finance Department Report and asked if there were any questions.

Councilwoman Steppi asked a question regarding the line item on the report Contracted Professional Services – Highway Median Maintenance and was budgeted for \$11,000.00 for the Lawns and Moore Contract. She asked if the Town was still paying for these services.

Town Manager John Giles state no, we are not currently paying for this service.

Councilwoman Steppi stated she doesn't recall what month the Town stopped these services.

Town Manager John Giles stated that we stopped their services in October.

Councilwoman Steppi stated the amount expended is more than half of what was budgeted.

Town Manager John Giles stated that the Town asked them for extra services.

Councilwoman Steppi stated that Council didn't approve extra services.

Town Manager John Giles stated that he did not ask for approval.

Councilwoman Steppi questioned the Town paid outside the contract to clean up the medians.

Town Manager John Giles stated that is correct.

Councilwoman Steppi stated she doesn't understand why the Town paid extra for something that the contractor should have already been doing.

Town Manager John Giles stated that this is the reason the contract was terminated and the work that was paid for was done before they were terminated. He stated that he would have finance look into what exactly all charges were for.

There was no further discussion on this matter.

Public Safety

Chief Laura Giles gave a brief overview of the written report and stated that the clinician has started and worked three shifts to date and asked if there were any questions.

Councilwoman Personti asked when the notice for the Needy Family fundraiser go out? It was something she would have liked to have attended.

Chief Laura Giles stated that she was not sure, it was something that was coordinated by the Mayor.

There was no further discussion.

Public Works

Town Manager John Giles gave a brief overview of the Public Works Department Report and asked if there were any questions.

Councilman McKewen asked if the department was still filling potholes.

Town Manager John Giles stated yes.

Councilman McKewen stated that J Street between Maple and Sycamore Ave has several. It's about six inches deep and the whole area is spidered.

Town Manager John Giles stated that if its spidered, it's not going to be able to be repaired unless the whole road is repaved.

Town Manager

Town Manager John Giles stated that there is nothing new from what was in the written report.

Councilwoman Personti asked if there was going to be a Santa other then a drive by from the Elsmere Fire Company during the Tree Lighting Event.

Town Manager John Giles stated that there will not be. There was no response from anyone on Council other than Councilwoman Personti. There will be a Santa at the Elsmere Fire Company on Sunday, December 12, 2021. He deferred to

Administrative Assistant Melissa Faedtke as to what time the Tree Lighting Event would take place.

Administrative Assistant Faedtke gave an update on the timeline of the Tree Lighting Event that would begin at 6:00 PM on Friday, December 10, 2021, the Holiday Parade would begin at 2:00 PM on Sunday, December 12, 2021 and a brief overview of the Town Holiday Party that will be held on December 17, 2021 at the Elsmere Fire House at 6:00 PM.

There was no further discussion.

PUBLIC COMMENT:

Felicia Doyle, 18 Beech Avenue – asked if there was anything that can be done for residents who are having the same issues on Beech Ave with ATV's flying up and down the streets.

Chief Giles stated that she understands their concern, however those residents have just as much rights as anyone else.

Ms. Doyle stated that she understands that everyone has rights but is there anything as a resident they can do.

Chief Laura Giles stated that she just suspended one of the officers for going after an ATV, it's not worth someone losing their career over and chasing a kid down the road where nothing is going to be done. There are policies in place that the officers must follow.

Ms. Doyle stated that we as residents try to look out for each other.

Councilwoman DiBiaso asked if it would be possible to have a meeting with the residents of these locations and the Police Department, so they can ask questions and give suggestions, she doesn't feel that this is going to be resolved at the Council Meeting.

Councilwoman Personti stated that she appreciated the suggestion however that was already done three years ago with a lot of these issues. She understands the suggestion but also wants the residents to be heard and to voice their concerns on public record.

Chief Laura Giles stated that she understands it has to be on Public Record however it also needs to be accurate and that all the alleged complaints have been unfounded. She stated that the police are not going to come between someone's constitutional rights because the residents don't like what the other residents look like.

Councilwoman Personti stated that she understands but also it's more than just that and the duration and no improvement and doesn't feel there is anything else she can do as their Councilperson and tries to keep in communication with the residents and feels she does well.

Chief Laura Giles stated that she agrees and that if she were to live in this Town, she would want Councilwoman Personti as her Councilperson. There are times when the residents don't understand there are things that happen and there is a process that need to be followed.

Councilwoman DiBiaso stated that if the Councilperson and the Police have done everything they can do, then what happens.

Chief Laura Giles stated that there is nothing anyone can do or to stop someone from drug using.

There was a brief discussion between council and the chief regarding drug users and that there is nothing anyone can do to stop people from using.

There was no further discussion regarding this matter.

STATEMENTS BY THE MAYOR AND COUNCIL:

None

EXECUTIVE SESSION AND ADJOURNMENT

Pursuant to 29 Del. C. Section 10004(b)(4) the Mayor and Council will enter into an executive session to discuss pending litigation.

ACTION A motion was made by Councilwoman DiBiaso to adjourn into an executive session to discuss pending litigation and not to return to public session. The motion was seconded by Councilwoman McKewen.

VOTE: 5-0 with 2 Absent

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



SALLY JENSEN
SECRETARY