

**TOWN OF ELSMERE  
COUNCIL MEETING MINUTES  
NOVEMBER 10, 2022  
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 <sup>ST</sup> DISTRICT	MARIANNE SKIPSKI	PRESENT
2 <sup>ND</sup> DISTRICT	SALLY JENSEN	PRESENT
3 <sup>RD</sup> DISTRICT	MARY STEPPI	PRESENT
4 <sup>TH</sup> DISTRICT	CHARLES MCKEWEN	PRESENT
5 <sup>TH</sup> DISTRICT	JOANN I. PERSONTI	PRESENT
6 <sup>TH</sup> DISTRICT	DAWN DIBIASO	PRESENT

Town Solicitor, James McMackin – Excused  
Chief of Police, Laura Giles – Present  
Finance Director, Steven Martin – Present

**PUBLIC COMMENT:**

Mr. Fred Carlson stated he wanted to discuss Ordinance 666.

Mayor Thompson stated there would be a discussion later in the meeting about the comprehensive plan and rezoning.

An unidentified member of the public asked if there would be an update on the zoning when that is discussed?

Mayor Thompson stated yes there would be Public Comment again at the end of the meeting.

**APPROVAL OF MINUTES:**

Minutes of the October 13, 2022, Council Meeting.

**ACTION:** A motion was made by Councilwoman Skipski to approve the minutes of the October 13, 2022, Council Meeting with no corrections. The motion was seconded by Councilwoman DiBiaso

**VOTE:**            7-0            All-in-Favor            Motion carried

Minutes of the October 20, 2022, Special Council Meeting.

**ACTION:** A motion was made to approve by Councilwoman Jensen or Skipski the minutes of the October 20, 2022, Special Council Meeting with no corrections. The motion was seconded by Councilwoman Personti.

**VOTE:**            7-0                    All-in-Favor                    Motion carried

Minutes of the October 27, 2022, Special Council Meeting.

**ACTION:** A motion was made by Councilwoman DiBiao to approve the minutes of the October 27, 2022, Special Council Meeting with no corrections. The motion was seconded by Councilwoman Jensen.

**VOTE:**            7-0                    All-in-Favor                    Motion carried

Councilwoman Steppi stated that she would like to introduce our new State Representative Ms. Deshanna Neal. She first met Deshanna at the Elsmere Fall Festival and again the community clean-up day at the end of October. She further stated when she first got a mailing for her candidacy, she looked at it and said wow Deshanna is different. After meeting Deshanna, she is different; what makes her different is her integrity, her intelligence, her passion and compassion, her “knock down, get back up, positive attitude,” her resilience and resistance, her thoughtfulness and kindness, and says it best on her webpage, “she’s a mom, a friend, and a fighter.” So, it is my honor, to introduce our newly elected Representative for the 13<sup>th</sup> District of the State of Delaware, Deshanna Neal.

District 13 State Representative, Deshanna Neal, stated that was the nicest introduction and that her kids will never believe it. If anyone recorded that please send that to her so she can show them “She’s cool.” She thanked Councilwoman Steppi because she was very honest with her and that is usually the first perception many people have and that’s her in the morning when she looks her herself before makeup. She wants to thank the Council for having her at the meeting, but she wanted to thank the residents. She didn’t get to this position without the community. She was raised in the 80s where everybody knew her. She’s always been transparent. She thinks the people of District 13 saw that. She hopes to do everyone proud.

**OLD BUSINESS:**

Consideration for Third and Final Reading, as well as Public Hearing of

Ordinance 667:

**ACTION:** A motion was made by Councilwoman Personti to approve Ordinance 667 for Third and Final Reading, as well as Public Hearing. The motion was seconded by Councilwoman DiBiao.

Councilwoman Personti stated just for anyone that was here last month, this is a housekeeping Ordinance. There was some confusion a few months back because one part of the code was updated while this part of the code wasn't and some work vehicles that were permitted to be parked on residential streets had received citations. Hopefully, this ordinance will cross reference the code so that it doesn't happen again.

Mayor Thompson asked if there was any other discussion from Council and Public.

Ms. Doreen McNatt, 323 Osbourne Road, Rosemont, reminded council about her previous comments requesting a method for exemptions for people like her husband whose work vehicle has been parked on the street for years since he is on call 24/7.

Mayor Thompson stated there would be further conversation about this situation on what to do moving forward in the future, but those changes are not incorporated into this ordinance.

Councilwoman Personti stated that she believes at the last council meeting she requested that the Town Solicitor to put something together for certain exceptions. The town solicitor is not present at this meeting, and she didn't receive additional information for discussion, but will follow-up moving forward.

Ms. McNatt stated her husband has had the same vehicle for five years and all of a sudden it is an issue.

Mayor Thompson states that this issue came up now because phone calls were coming in from people and parking is an issue everywhere. It will be a challenge to try and find a way to address parking uniformly in the entire town.

Mayor Thompson called for a vote.

**VOTE:**            7-0                    All-in-favor                    Motion Carried

#### **NEW BUSINESS:**

Presentation, Review and discussion of the draft Engineering Report for the Town of Elsmere Stormwater Study prepared by KCI Technologies.

Ryan Burdette from KCI Technologies introduced himself as a stormwater engineer assigned to complete the Stormwater Evaluation for the Town of Elsmere. He has been working with Diana and Steve on evaluating the flooding and stormwater situation in Elsmere. The goal of the study is to identify and help prioritize what projects would potentially help some of these flooding issues that are occurring in low-lying areas of the Town. He prepared a study by observing the entire Town, walking every single street and block, in wet weather conditions in order to see

where there is ponding, draining issues, lack of stormwater inlets to capture the water, lack of capacity, meaning volume that can go through pipes that are there. In some cases, he has seen in other municipalities, the issue was the volume of water that was coming through the town. In Elsmere, he has found that a lot of the issues stem from poor pavement surfaces. The study show that pavement reconstruction can help this issue in a number of areas. He's identified where all the problems are located in this study and projects that he feels would be the efficient way to solve the problems.

Mayor Thompson asked if you had to prioritize these five projects identified in the report, how would you do that?

Mr. Burdett stated that the reason they divided up the recommendations the way that they did was by identifying what areas are hydraulically connected, which means, like flow paths where the rainwater goes. The worst situation was located in the Vilone Village area. That community is experiencing some major issues between Olga Road and Richard Avenue where there is some undersized culverts and drains which are above the roadway. There's a lot of narrative regarding each project in the engineering report. The costs estimates provided are based on the state highway pricing index.

Mayor Thompson asked for confirmation that in other words, stormwater drains are stored above the level of the road in some cases.

Mr. Burdett stated yes. It's a lot of sagging pavements. As streets start to age, there are stormwater issues that start to develop that can turn into a major issue.

Mayor Thompson asked if recommendations that are being made in this report, are they addressing the issues to today's standards or are they looking ahead ten years where the expectation is "x" how do we deal with this.

Mr. Burdett stated that was a very good question. There is a lot of conversation about resiliency, which means planning for the future, because they design things based on specific types of storms, and seeing them firsthand, flashflood conditions, those may override any design standard because they are way more intense and dangerous. In this case, at this level, they have not dialed into that level of detail as far as the designs goes.

Councilwoman Steppi asked when you talk about pavement reconstruction, are you talking about the curbs?



Mr. Burdett stated it's not just the roads itself, its sagging curbs and gutter pans, there are some examples where the inlets are propped up because they are cased in concrete and the asphalt around them is ponding.

Councilwoman DiBiaso asked if this includes sidewalks as well?

Mr. Burdett stated the sidewalks didn't seem too bad but are not addressed in this plan.

Councilwoman DiBiaso stated that she noticed in the Vilone Village area where a lot of the sidewalks on Alvil road on the right side of the street is retaining and not flowing down the street properly. When we have heavy rain, she notices that the sidewalks on Alvil road are full of water. She didn't know if that had anything to do with the issue.

Mr. Burdett stated that it is ageing infrastructure.

Councilman McKewen commented about the alley behind Sycamore Avenue where the drainage was done two years ago, some of the house down near Tamarack Ave are still getting water in their basements and same thing with J Street, in the rear of Bungalow Ave.

Mr. Burdett commented about the water in residents' basements stating we have pavement reconstructions as part of the solution. This is a long-term solution, and it is not going to be solved in one project.

Mayor Thompson stated that Mr. Burdett is identifying the issues and what is causing them, as well as what can be done to remedy them because it is only going to get worse.

Mr. Burdett stated that anywhere that had Town owned property nearby they looked into putting a retention basin to reduce the runoff that's going into the stormwater system.

Councilwoman Jensen asked if Mr. Burdett saw anything near the dog park that is a major issue?

Mr. Burdett stated that he did identify structures that were recommended to be replaced just based on its structural condition.

Mayor Thompson stated council can now get to the conversation on what to do for this issue moving forward and thanked Mr. Burdett for his work.

Consideration of awarding a contract in response to RFP 22-03 Parking Lot Improvement Project.

Finance Director Steve Martin stated that in September we issued an RFP to reconstruct the parking lot to the police department. We received two bids back, one from Steven Excavation and one from Paoli Services. Upon reviewing the bids, we discovered that there was one part that was omitted from the bid specifications. We contacted both companies and asked them to resubmit their bids to include the missing portion of the project. In the end, only Paoli Services submitted a revised bid, in the amount of \$40,435.00.

Mayor Thompson asked what it was before without the omitted part?

Finance Director Steven Martin stated that the original bid was \$33,370.00.

Mayor Thompson asked if everything stayed the same in the bid except adding the omitted work, which brought the total to \$40,435.00.

Finance Director Steven Martin stated that was correct.

Mayor Thompson asked if the funding for this project is from the bond bill?

Finance Director Steven Martin stated yes, it is part of the bond bill request from July 2022.

Mayor Thompson asked if this project includes the fence portion as well.

Finance Director Steven Martin stated no, the fence project is separate.

Mayor Thompson asked if the fence project was still out for bid?

Chief Laura Giles stated no, the bid deadline expired, and the Town received no bids. Therefore, they contacted Paoli Services and First State Fence to request bids. They have received one bid already, however, it is a guy that just does fences, he doesn't do the electric which would have to be installed separately. They are trying to get a company who can do it all together.

Mayor Thompson asked if it was still covered by the bond bill?

Chief Giles confirmed yes, it is.

**ACTION:** A motion was made by Mayor Thompson to award the contract for RFP 22-03 Parking Lot Improvement Project to Paoli Services in the amount of \$40,435.00. The motion was seconded by Councilwoman Skipski.

**VOTE:**                      7-0                      All-in-Favor                      Motion Carried

Consideration of approving the 2023 Holiday Schedule.

**ACTION:** A motion was made by Councilwoman Personti to approve the 2023 Holiday Schedule. The motion was seconded by Councilman McKewen.

Councilwoman Jensen/Skipiski had a question if the personal days were new?

Councilwoman DiBiaso stated the personal days are the same from previous years.

Town Clerk Diana Reed stated the only difference for 2023 is there are less holidays because it is not an election year.

**VOTE:**                      7-0                      All-in-Favor                      Motion Carried

Discussion regarding the Planning Commission recommendation on how to proceed with the potential rezoning of properties to mixed use and correspondence from the University of Delaware on this matter.

Councilwoman Personti stated that she saw that the chairman of the Planning Commission is present tonight. She asked Chairman Jaremchuk if he would come up and detail what the Planning Commission voted on, so all of Council who wasn't present for planning can have an explanation and ask questions.

Chairman Jaremchuk stated he believes Council was given a copy of the recommendation from the Planning Commission, asked if they had any questions that he can answer them.

Mayor Thompson stated this question may have to go to the solicitor, but can you just amend the Comprehensive Plan, or does it have to go through the whole formal review process again?

Chairman Jaremchuk stated that if you look at Title 22 of the Delaware Code there is a section which says that you may amend your comprehensive plan at any time. All that needs to be done is to send the approved amendments to anyone that has a copy of the comprehensive plan, and the amendments must be done by either Ordinance Resolution.

Councilwoman Personti stated that what it comes down to is that the verbiage of the plan needs to change so that the change applies to the Kirkwood Highway corridor only and does not extend into the residential properties. She was never under the impression that residential properties were going to be swept up into this new change. The Kirkwood Highway corridor was always the community commercial district.

Chairman Jaremchuk stated that she was better than him to find verbiage in the Comprehensive Plan that says anything about making certain properties Mixed Use. The question for the solicitor should be, since the plan itself has the force of law

under Title 22, does that mean that the map on page 23 is currently the law in the Town of Elsmere?

Councilwoman Jensen asked isn't that the map that's called the future land use map?

Chairman Jaremchuk confirmed that is the map he is referring to.

Councilwoman Jensen stated that's not a zoning map.

Chairman Jaremchuk stated that he believes that once the plan was approved that map was officially enacted. But it can be changed.

Councilwoman Jensen asked if there could be a separate map for zoning. We could do anything to this future land use map and address the zoning map separate.

Chairman Jaremchuk said that Ordinance 666 took that map and tried to make it law.

Councilwoman Jensen said that was okay, is Ordinance 666 tabled?

Councilwoman Personti said that's the issue, because if its tabled it can come back.

Councilwoman Steppi stated that she was on the Planning Commission and helped with the Comprehensive Plan, we used our personal emails and public meetings, and we would have homework with feedback back and forth to our personal emails, she isn't going to go back to her personal emails to look and see if there was a reason for the change which was made over two years ago.

Chairman Jaremchuk questioned if there was discussion, why that never came before the public?

Councilwoman Steppi stated there was feedback.

Chairman stated we discussed new road, there were meetings where that was discussed.

Councilwoman Steppi stated that she's said this many times, but during the Comprehensive Plan, COVID hit and we had a lot of virtual meetings, COVID changed the landscape of the economy, businesses were shuttered, schools were shut down, there was talk and discussion in these meetings, developers coming in for all of these building possible construction plans and there was a discussion of what do we want new road in the area to look like- there's also businesses on new road, there's also grandfathered in zoning, it is not all residential.

Chairman Jaremchuk stated refresh my recollection, Corpus Christi school, isn't that zoned residential? Once a church is no longer a church, it reverts to its legal zoning which is residential.

Mayor Thompson stated he'd like to go back to the beginning, there are a lot of people on Council, and a lot of people on the Planning Commission that put a lot of time into this plan, not everybody, some people said they didn't want anything to do with the Comprehensive Plan. The mixed use came about from years of discussion, not solely his idea, this was passed by the Planning Commission, as well as Town Council. The idea was to figure out something to do on Kirkwood Highway because one of the that detracts businesses from coming to Elsmere is there is nowhere to park. It was just an idea but the only way you are going to be able to do that would do anything to attract businesses that on Kirkwood Highway, which is our main corridor, nothing about this was meant to change that, you just need a certain amount of land to make redevelopment happen and if you are going to have parking behind it, then it's going to stretch beyond Kirkwood Highway.

Chairman Jaremchuk asked if he could comment personally on this. When it is called mix used, I don't see any difference, it is the same type of businesses and residential properties which are already allowed. What is the big deal?

Mayor Thompson stated that it is just a terminology.

Councilwoman Personti stated this ordinance was put in ordinance form. It is a tabled ordinance, and it can come back up, a decision needs to be made. In 2020, there were virtual meetings, but now when the idea of this proposed future land use map became a real zoning ordinance, those that were here for the Planning Commission saw a packed room with significant public feedback.

Councilwoman Steppi stated as far as the ordinance, we listened to the public feedback, we can all agree that's not the way to go. The public spoke out at the recent Planning Commission meeting and as she stated going back and forth with Council, we must listen to feedback now, but to go back and change the Comprehensive Plan, there's nothing broken in the process of developing it and approving it. She approved it while she was on the Planning Commission and on Council. To explain what happened years ago, she doesn't agree how everyone voted on a budget three years ago. She agrees to listen to public feedback and adapt something for the future on to what will keep our Town going in a positive way. If you don't like the ordinance as written, propose specific changes or vote against it.

Chief Laura Giles stated this all started over an email sent by Councilwoman Steppi about having an ordinance presented because it had to be done by a certain date or we the Town was failing. The restriction states the Town must enact the changes to

zoning in the Comprehensive Plan within 18 months after the Plan is adopted. so if that was not true, and it didn't need an Ordinance, the current zoning map is still ok.

Mr. Mark Miller, 1 Leech Ave, stated it seems like the objections that he has heard to the Ordinance 666 all relate to the residential properties. Of the 240 properties in the ordinance, there are a whole bunch that aren't zoned residential. He heard at least one person speak at the hearing before the Planning Commission who liked the idea. What he is suggesting as a way forward is for all the residential properties on that list, make it an "opt-in" option so that they wouldn't be automatically converted into mixed use.

Representative Deshanna Neal stated she had a few questions because she thought she heard that meetings that were held in 2020 were held online, do you record your virtual meetings? If they are recorded, can they be accessed now? If they are assessable now, for those who have not seen them they could go back to hear the discussions now to see what was said, wasn't said, misconstrued in context, because she thinks when you don't have enough information, the unknown leads to fear and fear leads people to not want to move forward.

Town Clerk Diana Reed stated that written minutes are on our website and recordings must be requested by FOIA because our website doesn't have the capabilities to add that size of a file.

Councilwoman Jensen asked how do we take the Ordinance 666 off the table?

Mayor Thompson stated to take it off the table and needs to be requested to be put on the next agenda.

Amy Lane, 2 Poplar Ave, she stated that she panics because she lives right on Poplar Ave, she already can't get out of her driveway half the time. Between Town Hall and the school, it makes it difficult just to get out of our house. The thought of adding more businesses or even the possibility, is a bit scary because of the congestion we already have. She feels like if the Town is worried about the community, we should probably fill the businesses that are already empty. We should work on some kind of mail system, because a lot of people don't get their mail half the time.

Fred Carlson, 104 Western Ave, stated he's been here a few years too and he has seen change. The idea of mixed use sounds good on one side, but the thing is where you've had residents and houses on both sides and then something else comes in there and it changes the neighborhood. We seemed to be doing alright in Elsmere.

Maybe Elsmere needs to build up, with 10-12 story buildings, where the first four floors are parking. There are businesses around that are like that.

Consideration of a request from Staff to approve an additional expense of \$975.00 from Long- Term Planning Infrastructure Maintenance for additional costs associated with replacing the directional signs in the Median and at Town Hall.

Town Clerk Diana Reed stated that this was in response to the request last month to go back and to Ad-Craft and see if they would reinstate our contract and still proceed with replacing the signs in the median and at Town Hall. They have agreed to do so, however, given the length from when the Town originally signed the contract in March 2022, costs have increased and there is a total increase of \$975.00 for both signs. Therefore, we are asking for an additional \$975.00.

Mayor Thompson asked what the total would be?

Town Clerk Diana Reed stated that it would be between \$7,000.00 and \$8,000.00.

**ACTION:** A motion was made by Mayor Thompson to approve an additional expense of \$975.00 from Long-Term Planning Infrastructure Maintenance for the replacement of the highway median and town hall signs. The motion was seconded by Councilwoman DiBiaso.

**VOTE:**                      7-0                      All-in-Favor                      Motion Carried

## **DEPARTMENTAL REPORTS:**

### Administration

Town Clerk Diana Reed gave the following report:

- There are several vacancies on boards and committees. We did get some interest in serving on the Planning Commission from the Fall festival. We have two seats available and five interested residents.
- Fall festival was a huge success and we also had the Halloween Spooktacular, which we haven't had in a couple years, which was also a success. We wish more people would have stayed for the movie portion of the evening, but the trick or treating was very well attended.
- The stormwater study, we had that presentation earlier this evening.
- The elevator replacement is going to start in the next week or so, we are waiting for a final start date from the company.
- The median signs we just discussed.
- The park renovations- Delaware Lawn and Landscaping finished the dog park today and have to go back and re-do a portion. They installed landscape mulch instead of playground mulch per the contract. Landscape mulch breaks down very differently, so they are going back to take out the mulch they put in incorrectly. For the playgrounds, Maple Avenue is getting the colored rubber installed and that should be

done in the next couple of days.

- The new Town Hall security door we are hoping to have a date for delivery soon.
- The Jefferson Avenue contract, as you know from the Special Council meeting that it was extended. We are waiting for the final contract amendment documents for signature.
- Follow up from last month, with the trees, we issued violations to the trees that were on private property, we are waiting on estimates for the trees that were on town property. We do have one issue that we didn't realize last month with the tree that is at Rosemont Drive and Taylor Road, the tree is on private property but the problem is that town maintains the area and has a picnic table and a trash can on the property, but legally its owned by about 5 residents, so who is responsible for the tree?
- Representative Mitchell was able to get the street program contract updated to include repaving the Rosemont Drive and Taylor Road intersection where the new fire truck has issues clearing the intersection. We received an additional \$150,000.00 on our street program funding to get that taken care of.
- For the upcoming Holiday parade, for Council Members who will be in the parade, is there any who wants to order candy canes to give out or even for the staff to give out? She just wants to plan ahead.

There was a consensus among council not to order candy canes.

Councilwoman Jensen asked if we are getting a band stand for the parade?

Town Clerk Diana Reed stated yes, she had the application drawn up and was reaching out to the new County Councilman. Previously, unknown to the Town, Councilman Woods was supposed to waive that fee, but the Town has historically been paying a fee out of our budget. She reached out to Councilman Toole today and has not gotten a response. The fee is \$800.00.

Councilman Jensen stated they can waive it.

Mayor Thompson asked if there were any other questions and received none.

### Code

Code Enforcement Officer Scott Allen gave the following report:

- The department issued 37 citations during the month of October, 23 of those were corrected without fines being issued, 0 received fines and 9 remained pending at the end of the month.
- Issued 2 public nuisance fines, 1 of which was for a subsequent offense.
- Requested the Public Works Department complete 2 abatements.
- Completed 5 Pre-Rental Inspections.
- Processed 19 Permit Applications.
- Issued 3 in-town and 7 out-of-town business licenses.



- Issues 6 new rental licenses.
- Tagged 4 vehicles for tow, all were removed without being towed.

Mayor Thompson asked if there were any questions and received none.

#### Finance

Finance Director Steven Martin gave the following report:

- For the month of October, Finance has received \$2,400,000 in property tax and has an unpaid balance of \$40,000.00.
- Transfer taxes received for October 2022 was \$28,900.
- The Auditors are still working at the Town Hall, there are two new auditors, and they will be finished by next week and have a presentation for Council in January.
- Workman's Comp we are working through our workers compensation audit at this time but are having an issue when it comes to contractors that work in the Town of Elsmere. Anyone that works for the Town of Elsmere must obtain a business license through the Town.
- We met with M& T bank to discuss about the community and how they can assist us with Town events. We received positive feedback.
- Received the contract from the Food Bank for another year and have dates in place for 2023.
- Prepared and submitted a grant budget for EPD.

Mayor Thompson asked if there were any questions and received none.

#### Public Safety

Chief Laura Giles gave a brief overview of the written report.

Patrol officers' computers will be receiving upgrades in the amount \$6,300.00 and will be using the federal funds received from participating in the Task Force to fund the upgrades.

Took possession of a new 2023 F150 from using the federal funds received from participating in the Task Force. In addition, we used the funds for the additional equipment for the truck which has been purchased.

The department has hired a new recruit who will be starting Monday and he will be going through the Academy. We have a 5-year agreement signed training agreement, which will cover the costs if he drops out of the academy.

Mayor Thompson asked if there were any questions and received none.

#### Public Works

Public Works Supervisor Anthony Gaines gave the following report:

- The only area of interest is that they have been cleaning up the Town. The street

sweeper will be out constantly. The nuisance area, which is Richard (Dick) Moore Park, they are open to guidance on how to go about keeping it cleaned up, besides cutting down trees. Their goal is to make the gazebo more exposed by cutting the shrubs down a bit around it so you can see into the gazebo if someone is in there.

Mayor Thompson asked if there were any questions and received none.

**PUBLIC COMMENT:** None

**STATEMENTS BY THE MAYOR AND COUNCIL:** None

**ADJOURNMENT:**

**ACTION:** A motion was made by Mayor Thompson to adjourn. A motion was seconded by Councilwoman Jensen.

**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



SALLY JENSEN  
SECRETARY