TOWN OF ELSMERE
COUNCIL MEETING MINUTES
MARCH 9, 2023
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
1ST DISTRICT	MARIANNE SKIPSKI	PRESENT
2ND DISTRICT	SALLY JENSEN	PRESENT
3RD DISTRICT	MARY STEPPI	PRESENT
4TH DISTRICT	CHARLES MCKEWEN	PRESENT
5TH DISTRICT	JOANN I. PERSONTI	PRESENT
6TH DISTRICT	DAWN DIBIASO	PRESENT

Town Solicitor, James McMackin – Present
Chief of Police, Laura Giles – Present
Acting Town Manager, Steven Martin – Present

PUBLIC COMMENT: None

APPROVAL OF MINUTES:

Minutes of the February 9, 2023, Council Meeting

ACTION: A motion was made by Councilwoman DiBiaso to approve the minutes of the February 9, 2023, with no corrections. The motion was seconded by Councilman McKewen.

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

OLD BUSINESS: None

NEW BUSINESS:

Presentation by Senator Mantzavinos recognizing Sgt. Smith for 20 years of service with the Elsmere Bureau of Police.

Chief Laura Giles stated that Senator Mantzavinos got tied up at legislative hall and would not be able to make the meeting.

Consideration of approving a $44,999.00 expense from the Long-Term Planning Capital Building Allocation Prior Year Carryover line item for upgrades to the fire alarm system at Town Hall.

Acting Town Manager Steven Martin explained that the fire alarm system is in very bad condition and that this proposal is to upgrade the remaining portions of the system to meet current codes and keep the building safe.

Councilwoman Steppi asked how soon they would be completing the project.

Acting Town Manager Steven Martin stated that we do not have a full timeline, but expect the project to begin within a month.

Town Clerk Diana Reed stated this is a large project that includes rewiring the entire building, making it a lengthy project, however, the longest waiting periods will be ordering the equipment and obtaining fire marshal approval.

ACTION: A motion was made by Councilwoman Personti to approve the expense of $44,999.00 from Long-Term Planning Capital Building Allocation Prior Year Carryover for the purpose of upgrading the fire alarm system at Town Hall. The motion was seconded by Councilwoman Skipski.

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

Consideration of approving a 3-year extension of the Trash, Recycle and Yard Waste Collection contract with Republic Services.

Acting Town Manager Steven Martin stated that we met with Republic Services and discussed two possible renewal options. Option 1 is a three-year contract with a 15% increase on year 1, and 3.5% increases on both year two and year three. Option 2 is a three-year contract with a 12% increase on year 1 and 5% on both year two and year 3. The current contract is $693,064. The new contract options would equate to the following:

	Option 1	**Option 2**
Year 1	$797,000	$767,000
Year 2	$824,000	$815,000
Year 3	$853,000	$855,000

He further stated that we felt that Option 2 would serve the town best because it includes the lower increase up front and builds to approximately the same amount over the term of the contract and would be easier to budget for the smaller up-front jump. The contractor did say that if the contract does go out to bid, they would not be able to honor these increases, they would be forced to come in at a higher renewal rate.

Mayor Thompson stated that during these meetings with Republic Services there were a couple of "take-a-ways". If we get rid of trash service, each homeowner would be responsible to pay

more for trash service than the rates the Town is getting under this contract. In addition, most municipalities do not offer trash collection to the apartment complex's and view those as commercial properties which are forced to obtain their own trash service.

Councilwoman Jensen asked about removing the dumpsters at Vilone Park and how that would affect the contract renewal.

Acting Town Manager Steven Martin and Town Clerk Diana Reed both stated that during the discussions with Republic Services, it was discussed to remove those dumpsters in the upcoming contract, but that they would not result in a savings because they are a "no cost" location under the current contract.

There was a brief discussion about whether the Town should offer trash service to the apartment complexes.

Mayor Thompson asked Dominic Fulginiti of Republic Services what portion of the total contract cost is for servicing the Apartment complex.

Mr. Fulginiti stated that it would account for approximately 5 to 10% of the total contract costs.

There was a consensus that the Town would need more information and consideration before making a decision regarding the apartments and that they would like to consider renewing the contract under this proposal, but during the new contract period, they would like to discuss and evaluate the options regarding apartments and to contact the apartment complex owners.

ACTION: A motion was made by Mayor Thompson to approve a 3-year extension of the Trash, Recycle and Yard Waste Collection contract with Republic Services under renewal option 2 with a 12% increase on Year 1 and 5% increases on both Year 2 and 3. The motion was seconded by Councilwoman Skipski.

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

Consideration of selling/scrapping several outdated pieces of equipment within the Public Works Department.

Acting Town Manager Steven Martin stated that there are several pieces of old and non-functioning pieces of equipment that we plan to either scrap or sell at municipal auction. In addition, the town pays insurance on this equipment while it is sitting idle.

Mayor Thompson stated that he does not feel that the Council must approve this request but must simply be made aware of the sale.

Acting Town Manager Steven Martin stated that he would notify the Council of the results of the sales when completed.

There were no additional questions.

Consideration of approving a number of line-item transfers:

Mayor Thompson asked if any of the transfers could be grouped together.

Town Clerk Diana Reed stated that items a through c could be grouped, all are for trees in Town Parks previously discussed with Council and are already completed.

a. $3,150.00 from line item 01-05-40-1000-0000 to 01-05-47-3252-0006.

b. $3,400.00 from line item 01-05-40-1000-0000 to 01-05-47-3252-0012.

c. $2,200.00 from line item 01-05-40-1000-0000 to 01-05-47-3252-0015.

ACTION: A motion was made by Councilwoman Personti to approve the line-item transfers outlined in subletters a, b and c. The motion was seconded by Councilman McKewen.

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

Town Clerk Diana Reed stated that items d and e could be grouped, both are for additional trees in Town Parks.

d. $950.00 from line item 01-05-10-1025-0000 to 01-05-47-3252-0011.

e. $2,550.00 from line item 01-05-10-1025-0000 to 01-05-47-3252-0015.

ACTION: A motion was made by Councilwoman Personti to approve the line-item transfers outlined in subletters d and e. The motion was seconded by Councilwoman Jensen.

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

Town Clerk Diana Reed stated that items f, g and h could be grouped, all are for replacement signs in Town Parks and at Town Hall. Joseph Walling Park, Maple Avenue Park & the Jaremchuk Public Safety Building Sign.

f. $845.00 from line item 01-05-40-1000-0000 to 01-05-47-3252-0015.

g. $845.00 from line item 01-05-40-1000-0000 to 01-05-47-3252-0013.

h. $1,120.00 from line item 01-05-40-1000-0000 to 01-05-10-2290-0001.

ACTION: A motion was made by Councilwoman Personti to approve the line-item transfers outlined in subletters f, g and h. The motion was seconded by Councilwoman Jensen.

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

Discussion regarding the budget, financial position of the Town, potential for tax increases and status of a 5-year departmental fiscal project.

Mayor Thompson stated that he requested that this item be placed on the agenda for discussion so that the Town can begin looking further into the future when making some of these budgetary decisions. He has asked the staff to come up with lists of known expenses over the next several years and to present a three-to-five-year projection during the budget approval process. Things like streets,

stormwater, capital projects, building upgrades, revenues, partnerships, etc. The Town needs significant work on the streets and we need to look at more than one year at a time.

Councilwoman Personti asked if we are still prohibited from using ARPA Funds to complete street repairs.

Acting Town Manager Steven Martin stated that based on the way that the Town is currently reporting its ARPA usage, the only street repairs that are acceptable are those associated with restoration of roadways after stormwater projects have been completed. This way the Town is eliminating the risks of having to repay these funds during future federal audits.

Councilwoman Steppi asked about the spending deadline and needing to make decisions on where to spend this money very quickly.

Acting Town Manager Steven Martin stated that to be fully transparent, we do have a legal opinion that states that we can claim the money as "lost revenue" and spend it on any projects we want, however, he is concerned about future audits and making sure we are as careful as possible to keep liability down.

Councilwoman Steppi stated that we should consider potentially just allocating the funds on catch basin and roadway repairs around the basins to get the funding allocated and not risk losing the money because it wasn't spent by the funding deadline.

Mayor Thompson stated that he feels that the problems could be well beyond simply replacing the basins, the piping could lack capacity or be damaged under the roadway as well.

Councilwoman Jensen asked what the ARPA deadlines are.

Town Clerk Diana Reed stated that the funds must be fully spent by December 31, 2024, however, if the project is associated with stormwater, the funds can be allocated by December 31, 2024, with project completion by December 31, 2026.

Councilwoman Jensen asked what the remaining balance available in ARPA funds was.

Acting Town Manager Steven Martin stated that it is approximately 1.4 million.

Town Clerk Diana Reed stated that she did receive a call from DNREC today with a tentative approval of the planning grant that the Town applied for. The Town would receive $50,000.00 toward the engineering of the Vilone Village, Vilone Park and Dogwood Hollow projects and the Town would be required to match those funds and potentially spend significantly more to finish the engineering.

<u>Consideration of authorizing the Mayor and Secretary to sign the annual tributes given to members of the Elsmere Fire Company. The names and contents of the tributes are confidential to allow anonymity of the awards until they are presented.</u>

Town Clerk Diana Reed stated that she was contacted by Fire Company President Ken Dunn about issuing the annual tributes for their member banquet. These tributes are issued to members of the year, as well as service and achievement awards. They are issued confidentially, and she has not yet

been given the names. If approved, they will be presented at a company meeting in either April or May.

ACTION: A motion was made by Mayor Thompson to authorize the Mayor and Secretary to sign the annual tributes given to members of the Elsmere Fire Company. The motion was seconded by Councilwoman Jensen.

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

DEPARTMENTAL REPORTS:

Administration

Town Clerk Diana Reed gave a brief overview of the Administration Report.

- For the Stormwater study, was discussed earlier, we anticipate receiving an award letter for the grant we applied for and will bring additional information to Council in April. We are also looking at other potential funding for projects moving forward and will keep the Council informed of other options.
- The elevator project is taking longer than expected. They are making progress, but they are not showing up when they say they will be.

  Acting Town Manager Steven Martin stated that he believes she is leaving our job partially complete to go to other jobs. They told us last week that the elevator would be finished and inspected this week, now we are still waiting with no updates. The only portion remaining is the lighting and the inspection. He will be having a conversation with them about our displeasure and that we feel they are in breach of their contract.
- The new directional signs were installed here at Town Hall and in the median. We have discussed painting the signposts in the median white when the weather warms up.
- The park renovations – Global Playgrounds have finished installing all of the playground structures and will be back the week of April 10th to finish all installation projects. We anticipate that portion to take approximately 10 days to complete. We do have two issues that we are working through, the first is that the tunnel on one of the structures at Vilone Park was delivered in the wrong size, a new piece has been ordered and temporary panels have been installed to keep anyone from falling until the new tunnel is installed. The bigger issue is at Joseph Walling Park, where our new ADA accessible structure has a 12-inch drop at the end of the ramp. Global states that the ramp work required to make it level is not included within their project scope, we clearly disagree. We are working with them on this issue and will get Mr. McMackin involved if necessary to ensure that it is remedied.

  Councilwomen Jensen, Steppi and DiBiaso asked to be included in any future emails with the contractor.

  Councilwoman Jensen asked about scheduling a ribbon cutting or dedication of the new parks.

Mayor Thompson stated that he was thinking of scheduling something for Vilone Park on the day of the Easter Egg Hunt since we will have a crowd.

Councilwoman Jensen asked if they would be completed by then.

Town Clerk Diana Reed stated that the work will not, however, there is a chance that the structures and the rubber would be completed in time, but we will not know definitively until we get a date for the final rubber installation.

There was a consensus to leave that date as extremely tentative on status updates.

- 2021 Street Program – We emailed Dominick Paoli regarding the status of this project and received a response that he would get back with us within a week with a tentative start date.

Code Enforcement

Code Enforcement Officer Scott Allen gave a brief overview of the Code Enforcement Report.

- The department issued 45 violations during the month, of those 14 were corrected without fines being issued, 18 received fines and 13 remained pending at the end of the month.
- Issued 2 public nuisance fines, 1 of which was subsequent offenses.
- Requested 1 abatement to be completed during the month.
- Completed 16 pre-rental inspections.
- Processed 14 permit applications.
- Issued 0 new in-town business licenses.
- Issued 9 out-of-town business licenses.
- Issued 1 new rental license.
- Tagged 10 vehicles for tow, 7 were removed without needing to be towed, 3 were towed by First State Towing.

Councilwoman Steppi thanked Code Enforcement, Acting Town Manager Steven Martin and Town Clerk Diana Reed for addressing a repeated trash issue at 930 Kirkwood Hwy. We hope that the issue is resolved in the future. In addition, she asked if the Council could receive an email after each Planning Commission and Board of Adjustment meeting with a recap of the meeting and the status of each petition. Sometimes, the council members are unable to attend the meetings, and this would keep the council better informed for their residents.

Councilwoman Jensen also expressed her thanks and stated that the trash at this location was placed out for collection during the appropriate times this week.

Code Enforcement Officer Scott Allen stated that the property owner came in the next day and paid all of his fines. In addition, during the process of this complaint, the property owner inadvertently admitted to having 3 additional rental properties within the Town that were not licensed and he has since submitted all of the paperwork required for those properties as well.

Finance

Finance Director Steven Martin gave a brief overview of the Finance Department Report.

- Property Taxes received year-to-date is $2,361,735.17.
- Transfer Taxes received for the month of February 2023 was $21,555.93 for a year-to-date revenue of $220,697.42.
- Processed yearly 1099's a mailed to recipients.
- Prepared the Department of Labor payroll tax audit for self-insured plans. We may receive an additional bill for this since it is self-insured, but we hope that it will not be significant.
- Met with four commercial realtors regarding the marketing of the former Senior Center space at Town Hall. Patterson-Woods would list the property at $7.00 per square foot which would yield $46,000.00 annually. Deaton-McHue would list the property at $12.00 per square foot which would yield $78,000.00 annually. Medori Realty would list it at $14.00 per square foot, which would yield $92,000.00 annually. However, we have also recently been approached by Troop 6 regarding leasing the former "game room" space for a period of two years while their new troop is being built. In addition, they would be willing to come in a lot sooner and would be willing to complete some renovations themselves. We would still be able to lease the kitchen side of the space separately.

  Chief Laura Giles stated that Troop 6 is being reconstructed, they will be knocking down the existing troop building, the former Jail space on the corner and the former Court 10 building for the construction of a new Troop 6 building. They were originally just looking to use our facility for the computers, but when they saw the space that we had, they decided it may be worth looking into creating a temporary troop office. They will be meeting with the IT department and contractors to see what would be needed to make it possible. Without this facility, they would need to go all the way to Troop 2 in Bear when office space is needed. In addition, they were happy to hear about the new secured fencing that will be installed, that contract was signed earlier today.

  Councilwoman Jensen asked if there would be enough parking for them in the new secured area.

  Chief Laura Giles stated that they would need to park in the Library parking lot, because our vehicles will be enclosed first. But they would be able to bring their vehicles in to bring any prisoners into the building.

  Councilwoman Jensen asked if they would be bringing in more prisoners than we do.

  Chief Laura Giles stated that it would be short term for processing only.

Councilwoman Jensen asked for confirmation that they would do the renovations.

Chief Laura Giles stated that it would be some renovations and a lot of technology that would help our department down the road.

Councilwoman Steppi stated that this sounds like a good revenue stream and asked about the improvements that have already been discussed for the space.

Acting Town Manager Steven Martin stated that we would still be looking at renovating the kitchen portion of the space, as well as potentially adding a bathroom on the game room level. We would still do the ceiling tiles and potentially new doors in that game room space. In addition, the windows would still be replaced as part of the "Community Reinvestment Funds" we received for windows throughout the entire building.

Councilwoman Jensen asked what type of renovations are being discussed for the kitchen space.

Acting Town Manager Steven Martin stated that the stove, Ansul system and gas lines all need upgrades to make the space usable. However, other repairs would be evaluated based on the tenant.

Councilwoman Jensen asked if we would be advertising kitchen space available, otherwise these renovations could be a waste of money.

Acting Town Manager Steven Martin stated that one of the proposals from the realtors would be to not complete any upgrades until the tenants have been selected, that way all renovations would be applicable to the new tenant and would guarantee we are going to have a tenant who needs the amenities. In addition, you can pass part of the fit-out costs to the tenant.

Councilwoman Jensen thanked Acting Town Manager Steven Martin for the information.

- Spoke with PNC Bank about money market sweep accounts to see if it might be worth opening some money market sweep accounts that will gain the Town 4 to 4.19% interest.
- Spoke with Verizon regarding the annual franchise fees due, we are expecting approximately $53,000. It is anticipated that those funds will be received by April.
- Submitted two quarterly grant reports to the Department of Justice for the Police Department.
- Began processing the Senior Discount Applications.
- Met with Republic Services.

- Attended weekly senior staff meetings discussing Town issues.
- Received an application from Empower Retirement regarding Department of Labor CARES Act Amendment. The amendment revolves primarily around distribution and loans, he is working with empower to determine if the Town needs this since we do not allow loans from our plans.
- Closed the State Holding Account at M & T Bank due to multiple fraud attempts, and we have moved this account to PNC.
- We have been discussing funding opportunities and partnerships with M & T Bank moving forward. They have expressed interest in potentially sponsoring and funding the annual holiday parade. However, the discussion has surrounded the fact that the funding would go through the Town and would not go directly to the Fire Company, since we made the request.

Public Safety:

Chief Laura Giles gave a brief overview of public safety.

- She has been approached by an officer notifying her of a tentative offer by the Delaware State Police, but that he has deferred his hire date until fall due to the fact that his wife is due with their third child. That officer will be leaving late summer/early fall.
- We signed a contract for the proposed fencing work which we hope will begin in 3-4 weeks.
- On March 6th she submitted a grant to the Attorney General's office for $70,000.00 to continue the Mental Health Clinician Program, they confirmed receipt but she has not heard any status updates on the application.
- Lastly, she would like to discuss the email she submitted to Council the Friday after the last council meeting discussing the fact that Mr. Steve Martin was given the title of Acting Town Manager but Council did not make any motions regarding acting pay for that. She stated that Council failed to give him that compensation.

  Mayor Thompson stated that it was up to Mr. Martin to discuss that issue with Council.

  Chief Laura Giles stated that she does not feel that it is, she feels that it is the Council's responsibility to address the oversight.

  Councilwoman Jensen stated that this is a personnel matter and asked if it was appropriate to discuss the issue in public session.

  Chief Laura Giles stated that she asked the Town Solicitor and was told it was a topic for public session.

Town Solicitor James McMackin stated he would need to pull the email conversation to confirm.

Chief Laura Giles stated that she believes it was overlooked and not discussed, she emailed council the next day and received no responses. She believes it is a failure by the council to not address the situation.

Councilwoman Jensen stated that it was not a failure and that the Chief does not know what the council's intentions are.

Chief Laura Giles stated that she was in the executive session and it was not discussed, and it's a failure when she brings it to Council and it is still not acted upon.

Councilwoman Jensen stated that she does not appreciate that the Chief is in a public session stating that Council is a failure.

Chief Laura Giles stated that she did not say that "you" were a failure, she stated that council's actions to not address the situation is a failure.

Mayor Thompson stated that there are many ways to do this and it is personal to Mr. Martin and to Council, and for all they know conversations have occurred.

Chief Laura Giles stated that she has spoken with him too and it is simply the right thing to do.

Mayor Thompson stated that he feels that this conversation is putting people in the spotlight who may not wish to have a public discussion and it is up to Mr. Martin to have a conversation with the council.

Councilwoman Jensen thanked the Chief for bringing it to the Council's attention for the second time.

Public Works:

Public Works Supervisor Anthony Gaines gave a brief overview of Public Works.

- The department has been spending significant time on pot holes and fallen trees.
- We have one individual who is on the last step of their CDL Certification which will allow the street sweeper to be out more.
- Continuing with building renovations, equipment maintenance and painting curbs for the spring weather.

Mayor Thompson asked if CAL would be using the baseball fields this spring.

Public Works Supervisor Anthony Gaines deferred to Town Clerk Diana Reed

Town Clerk Diana Reed stated that she has received an application for park permits from CAL, however, they will be having a shorter season because they will only be doing 12 and up this season. They did not have a large enough interest in the younger kids to field appropriate teams. The season will only be from April 1 to August 31 and appears to only be for Vilone Park this year.

Acting Town Manager Steven Martin stated that he does have another brief report as Acting Town Manager.

- He stated that the Public Works Department has been working on removing and scrapping old duct work and pipes from the former senior center space which has resulted in approximately $225.00 in scrap revenue.
- We had a meeting to discuss the upcoming budget and status of current accounts.
- We prepared a report with photos of the conditions of the streets Public Works feels are the worst in the Town. He is hoping that Council can make a list of the streets in their districts that fall into this report and prioritize them for the staff so that we can try to create a plan on what order to address them in.

  Councilwoman Jensen thanked him for the report and stated that it was very informative.

  Councilwoman Steppi echoed those comments.

  Acting Town Manager Steven Martin stated that he could not take the credit, Tony took all the photos and Diana put the report together.

Town Solicitor James McMackin stated that he would like to apologize, he found the email from the Chief regarding acting pay and wanted to clarify that discussion regarding the compensation of position in general is topic for public discussion, discussion regarding an individual and their competencies is discussion for executive session. Regardless of whether it is public or executive session, the topic would be required to be noticed on the agenda in order to be discussed, in which case, it is not on tonight's agenda.

Chief Laura Giles stated that when she wrote the Council an email a month ago and wrote it again about adding it to the agenda, it's just the right thing to do, it is a precedent. How do you ask someone to take on a position with more responsibilities and not compensate them? She is not saying that it was done on purpose, she initially sent it the day after noting it as something that was simply forgotten and it should be made right, but the Town failed to do the right thing and that she feels that it's a lack of leadership and that it is ridiculous that the Town has to fight about this. If Council is embarrassed then it is because they know it is not the right thing to do.

At this time there were multiple people talking and the meeting was unable to be transcribed.

Councilwoman Jensen stated this topic was outside the Chief of Police's job description or scope of work.

Chief Laura Giles stated it was a human right.

At this time the recording was unable to be transcribed.

PUBLIC COMMENT:

Mr. John Jaremchuk, 300 Southern Road, stated that during his tenure in office went back to a time where the Town did not provide trash collection to the apartment complex's and at some point the owners of the former Elsmere Park Apartments approached the Town pleading that the tenants living in their apartments were no less residents of this Town than someone living in a house and that the Town should provide them with trash collection. At that time, a majority of the Council agreed.

STATEMENTS BY THE MAYOR AND COUNCIL:

Councilman McKewen stated that he would be out of Town the weekend of March 10 – 12th.

Councilwoman Personti stated that she would be out of Town April 1 – 8th and this will be the first year she will miss the easter egg hunt.

EXECUTIVE SESSION & ADJOURNMENT:

Pursuant to 29 Del. C. Section 10004 (b)(9) the Mayor and Council will adjourn into an executive session to discuss a personnel matter and pursuant to 29 Del. C. Section 10004 (b)(4) to discuss pending litigation. The Mayor and Council will not return to public session.

ACTION: A motion was made by Mayor Thompson to enter into an executive session to discuss a personnel matter and pending litigation, not to return to public session. The motion was seconded by Councilwoman Personti.

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

These minutes summarize the agenda and other issues discussed at this Council Meeting. Votes are recorded accurately. The audio recording of this meeting will be available at Town Hall for a period of two years from the date these minutes are approved. The audio recording may be reviewed at Town Hall by appointment and in accordance with the Freedom of Information Act.

ERIC THOMPSON
MAYOR

SALLY JENSEN
SECRETARY