

Townsend Workshop Minutes

April 30, 2014

Workshop: 7:00 pm

I. Call to Order: 7:00 pm

II. Opening Ceremonies

- a. Roll Call: Mayor Jermaine Hatton, CM John Ness, CM Joel Esler, CW Lorraine Gorman, CM Rudy Sutton, TA Fred Townsend, TE Owen Hyne, TM Dawson Green, TC Cathy Beaver
- b. Recognition of Visitors: 12 visitors
- c. Pledge of Allegiance: The pledge was said.
- d. Announcements:
 - o Zoning Committee meeting Monday, May 5, 2014 @ 6:00 pm @ Town Hall. This meeting is tentative on getting report from PLUS Committee.
 - o Town hall closed Monday, May 26, 2014 for Memorial Day

III. Additions/Deletions to Published Agenda

- a. CM Sutton asked to delete 8b, Town signage.
- b. CM Sutton asked to add Streetscape change order #4 under public works.
- c. *CM Ness motioned, CW Gorman seconded, vote unanimous to approve the agenda with the above addition and deletion.*

IV. Capital Development Partners, LLC

- a. Discussion and possible vote on site plan
 - o TE Hyne said Capital Development Partners has presented a land development application/site plan for a Dollar General to be built at the corner of Main Street and Route 71. RVB has approved the plan and recommends the Town approve the plan.
 - o CM Ness said there was a question about the entrance and egress.
 - o TE Hyne said they applied for and were granted variances. DelDot is requiring they give additional right of way along Main Street so they were granted a variance from meeting the 5' setback for parking. They also were granted variances for only having one loading dock rather than two and for a 35' turning radius for the semi-trucks. These approvals are listed on the plan.
 - o CW Gorman asked if the building is stucco, it looks like it in the picture.
 - o Frank Cason from Capital Development Partners stated the building has a combination of stucco and brick.
 - o *CM Ness motioned, CM Esler seconded with unanimous vote to approve the site plan.*
- b. Request for Waiver of Performance Guarantee
 - o Mayor Hatton explained Capital Development Partners has also requested a waiver from the performance guarantee on the actual site plan work for the parcel at Main and 71.
 - o TE Hyne said the site improvements the developer is proposing are pretty basic, parking lot, driveways and some stormwater management facilities. Based on the estimated value of the construction improvements, the Town's ordinance requires them to post a performance guarantee for the value of the work. The estimate is based on what the Town would have to pay to have a contractor do the project. The performance guarantee is 120% of the estimate and there is also an inspection escrow of 5% required. The developer is requesting a waiver from the development guarantee; they already have a lot invested in this project and a very tight time table to finish it. This isn't a project that will lag on for years. The performance guarantee is there to ensure things are done properly, if something is done improperly the Town has a security that they will be done properly.
 - o Frank Cason from Capital Development Partners stated they had already purchased the site before they found out about the required performance bond from the Town. He said they are the preferred developer for Dollar General, have built over 100 stores in the last several years in 10 states, primarily in the south. Bonds are fairly new to us, not required in the south. DelDot requires a \$100,000 bond. Bonds are hard

to get and very expensive. It is a time consuming, arduous process. We have a strict time frame with Dollar General to adhere to; they are supposed to be open the first week of August. We could technically be done building and the store open before we get approval for a bond. When we develop a property it will last 15-20 years, we have a good long standing relationship with Dollar General and want to keep it that way. We are here for the long run; already have \$600,000 in the project.

○ CM Ness wanted to ensure the Town didn't drop the ball in communicating any of this information to Capital Development or the engineers. It sounds like you just heard about our bonding yet you knew about the DelDot bonding. Would like to know this for future reference.

○ TE Hyne said a performance security is a common requirement for the value of site improvement. They are asking for a waiver and there is a lot of evidence to suggest they will be a good partner and get the work done properly in a timely fashion. The Town will be inspecting the work as it is being done and the developer is required to post a 50% maintenance bond for 2 years once the project is complete. It's not like the Town won't be protected.

○ CW Gorman asked how the Town is protected until we get the maintenance bond, in case something happens.

○ TE Hyne said they won't be issued a CO until they satisfy all our requirements.

○ CM Sutton asked if the inspection escrow has been paid and Mayor Hatton stated he just received it tonight.

○ CM Esler said we have done this in the past for much larger pieces of property, don't mind waiving the bond, have already done the site work. If this is something we are going to continually look at as not being a common thing – 120% - we should look into adjusting the 120% or remove it from the Unified Development Code of Townsend.

○ CW Gorman said she believes the issue is the timeliness of getting the bond.

○ CM Esler stated it is both, getting a bond at all and it is a long, arduous process.

○ CW Gorman said it is commonplace in most municipalities.

○ CM Esler said it differs state to state. In the south it is not common to have bonds.

○ Mr. Cason agreed. Very rare in the south. We have built a number of stores in Maryland and this is our 12th store in Delaware and the first time we ran into this bond issue. Bonds are common for streets and roadways, giving back to the state and generally much smaller. This is our site and we will do it right.

○ Mayor Hatton agreed that we need to address this at a later date.

○ TE Hyne stated he is comfortable with waiving the fee in this situation.

○ *CM Esler motioned, CM Ness seconded with unanimous vote to waive the 120% bond for Capital Development Partners.*

V. Diamond State Motors

a. Discussion and possible vote on business proposal for 6001 Summit Bridge Road

○ Mayor Hatton said Council received a letter in March from Brian Hayes in reference to restructuring his business.

○ Mr. Hayes stated they would like to have auto auctions and if the community sees fit in the future, add auctioning consignment items. We recently had a liquidation auction. These plans are for very structured events.

○ Mayor Hatton said the letter asked Council permission to hold auctions on site. He told Mr. Hayes he will have to purchase an auction business license.

○ Mr. Hayes stated they have a license from the state of Delaware, they also need one from motor vehicle, and it is called an auction dealer's license. It's fairly easy to obtain, already have a dealership to hold the auctions. We need written permission from the Town to hold the auctions as part of the licensing process with DMV. We also need permission from DelDot which we are working on and shouldn't be an issue.

○ TM Green asked why they need written permission from the Town for an entrance.

○ Anthony Williams, a partner of Mr. Hayes said it is part of the licensing process from DelDot for the DMV. If the business is located within Town limits we have to have written permission from the Town, if it was outside Town limits we would have to have it from the county.

○ Mayor Hatton asked if the permission granted in essence says we will allow you to have an auction in Town limits. The entrance into the business belongs to the state. The initial auction you did was a liquidation auction and it was a zoo. What provisions have you made for parking going forward?

○ Jim Borga, another partner of Mr. Hayes handed out notes on what they have done to accommodate the parking.

○ Mr. Hayes added the liquidation auction was a one of kind auction. It took 13 years to amass all the items that were auctioned. That was a large part of the draw and it was a nice day. That auction couldn't be duplicated if we tried. We want to sell mainly vehicles.

○ Mayor Hatton stated the initial concern from neighboring business is people were parking in their parking lots. How will you control that going forward? Are you going to develop any more of the land you own?

○ Mr. Hayes is having his property re-surveyed. He has talked to Mr. Naples about the parking and the carport. As it stands it will likely accommodate 300-400 cars if he throws down gravel. There are 5 usable acres in the back but don't expect to have 1000 people show up every week. He added he has been doing auctions like this for the last 13 years.

○ Mr. Williams said they only expect 80 – 100 people a week, which is a high estimate.

○ Ed Gallagher, manager of Walgreen's said he talked to his neighbors. The last auction was a shock for the owners but a nightmare for the Town. His customers had nowhere to park. He has no objection to them doing this with the plans they have come up with and showed him.

○ Rich Desai, manager of Smith's Liquors said one of the partners stopped in last week, apologized for the previous mess and said it won't happen again. He showed him the plans for controlling the parking in the future and said there will be a policeman at all future events to control parking. As long as this is done, he stated he has no problem with the plans.

○ Mayor Hatton feels the last auction was a learning experience.

○ Mr. Hayes said his auctioneer has done auctions all over the state for years and the highest attendance at any of them was 350. Brian said it was his goal to make this a huge auction and did a lot of marketing for it but never expected 750+ people to show up.

○ CM Ness stated he was surprised no one got hit that day. He added that in the letter it says you want to have the auctions monthly, bi-weekly or weekly. It sounds like you now want to have one weekly.

○ Mr. Hayes said they would like to have weekly auctions but may not be ready for one this week. It will likely start out bi-weekly to enable us to get everything done.

○ CW Gorman asked Mr. Hayes if he still plans on putting up the privacy fence.

○ Mr. Hayes said he would like to, wants to be nice to the neighbors and for security.

○ CM Esler said his concern was traffic control but you stated you will have police there so have no problem with it.

○ Mayor Hatton said if Mr. Hayes puts the site plan into place to alleviate the parking problem and has the police present on site; it takes care of his issues.

○ CM Sutton stated all his concerns have been answered.

○ TA Townsend asked Mr. Hayes if it is possible he is being asked for a letter from the Town because this is viewed as some kind of change in use as far as the entrance is concerned.

○ Mr. Hayes said no, this is a standard request of a dealer. There are about 30 things you have to comply with to be a motor vehicle dealer and 2 additional requirements to be an auction dealer, this being one of them.

○ TA Townsend verified Mr. Hayes is a licensed, certified dealer and was told yes. He asked Mr. Hayes if he believes auctioning cars is a change of his use.

○ Mr. Hayes said no, he believes it is just another means of selling automobiles.

○ Mr. Williams added this is another piece they have to have on their license to legally hold auctions.

○ TA Townsend asked Mr. Hayes if he is representing that this is not a change of use but a requirement for certification from DelDot. He added that he does not believe it is a change of use; it is dealing in the sale of vehicles with a different methodology.

○ CM Esler asked if Mr. Hayes will continue to sell vehicles during the week and was told yes.

○ Mr. Hayes said he found out several weeks ago that in the 60's they held livestock auctions on this property. It belonged to the Warrington's.

○ TM Green said he has noticed there are already signs up advertising car auctions every Saturday. He asked Mr. Hayes if he is proposing to have an auction every Saturday.

○ Mr. Hayes said he would like to have an auction every Saturday after a month and half.

○ CM Sutton asked the hours of operation.

○ Mr. Hayes said normal hours of operation will stay in affect, Monday – Friday, 10:00 am – 7:00 pm and Saturday we will get there a little earlier to set up for the auctions which will commence around 10:30 am and end at noon.

○ Mayor Hatton asked if these auctions will be modeled after Wilson's downstate and was told no. He asked how the cars will be staged and run through. Where will the crowd stand to see the cars?

○ Mr. Hayes said they hope the carport will be multi-function, a detail area, a registration area and the actual auction lane. It is 30 x 40. We hope to get some bleachers and a podium under there. It will look like it needs too and people will take us seriously. The cars will be parked around the parameter and pulled out. We do not have intentions of using the Summit Bridge Road entrance; it is too congested right now. We would like to use that area for the auction vehicle parking, the ones being auctioned off. It is also easier giving directions to patrons to come in from Pine Tree Corner Road.

○ Mayor Hatton verified we don't need to grant permission to hold auctions; we need to issue a zoning compliance letter for Mr. Hayes and TA Townsend said yes. He added it is an administrative function.

○ TE Hyne said the gravel parking area is very large and asked if this is an existing parking area.

○ Mr. Hayes stated it is a cleared area he has never done anything with. He said at one time he let a local farmer plant grass there for his cows. It is the perfect area for parking.

○ Mayor Hatton asked if it was wet.

○ Mr. Hayes said it is a little wet, that is why it needs gravel.

○ TE Hyne asked if there is lighting back there? It is dark before 7:00 pm in the winter.

○ Mr. Hayes said there are no plans to have auctions other than Saturday mornings right now so there would be no need for anyone to park back there after dark. If we have to have lights we could lease them from Delmarva Power.

○ TM Green verified the proposed parking area right now is grass and was told yes. He asked if Mr. Hayes knows how putting gravel down will affect the impervious area of the lot.

○ TE Hyne agreed, even a gravel surface is considered impervious surface. He said he would have to look at stormwater management control on the downstream side of this. There are some wetlands there so it may not even be possible, but it may be something as simple as a filter strip like a grass area that water running off would hit before leaving the property. Just having a big gravel parking area has some extra consideration.

○ Mr. Hayes said he talked with Dave Naples and he felt it was a non-issue if we use large enough stone or crushed concrete. That portion of the property is only about 1 ½ acres, 2 acres maximum of the 6 acres back there. Mr. Hayes stated he doesn't believe they will be even close to 40% impervious.

○ CM Ness stated Mr. Hayes has addressed the issues the surrounding business owner's had, as long as Mr. Hayes can address the parking and safety aspect he has no problem with this.

○ Jaime from Jamie's Repair stated he is all for this, likes the action.

- Mr. Hayes added they talked to all the residential neighbors and no one expressed concern over this.
- Mayor Hatton told Mr. Hayes he will have to get an auctioneer license, a fence permit and meet with TE Hyne about the impervious surface.
 - TM Green asked how often Council is going to permit auctions to be held.
 - CM Ness stated we can't determine that.
 - CM Esler verified Mr. Hayes stated the auctions will not be limited to only vehicles.
 - Mr. Hayes said if the residents would like to have something auctioned off, he would like to have the diversity.
- TA Townsend stated Council is comfortable providing a zoning compliance letter based on automobile, motorcycle, truck or bus sales, service, storage and repairs. If Mr. Hayes wishes to change the category to something else we have to find a place it fits, it may be permitted or it may not. We are not in a position tonight to grant anything other than the auto sales.

○ CM Ness motioned, CW Gorman seconded with unanimous vote to have the Town provide a zoning compliance letter for Mr. Hayes approving the auction business.

VI. Council Minutes

- a. Approval of March 19, 2014 Workshop minutes
- b. Approval of April 2, 2014 Council minutes
- c. *CM Ness motioned, CW Gorman seconded with unanimous vote to approve the above minutes.*

VII. Reports

- a. Fred Townsend III, Town Attorney

○ TA Townsend stated he thinks we are on the right road in respect to preparation of the agendas. There is only so much that can be done on the administrative side. The trick is not only preparing the agenda but having the discipline to stick to it. Council has to understand it isn't a good idea to add something to be voted on the night of the meeting unless it is an emergency. Council needs to think ahead. The people need to be notified prior to meeting night.

- CM Ness asked for verification on what can be added the night of the meeting.
- TA Townsend stated there can be observations under the committees that are not on the agenda but when it comes to entering into agreements or making policy decisions, they need to be added to the agenda prior to the meeting. There will be gray areas. There are times when the public will be interested in an agenda item and it should be posted as soon as possible. Agenda's must be posted 7 days in advance but it can be amended and should include an explanation. Unless there is an emergency, the agenda cannot be amended within 6 hours of the meeting.

○ After additional discussion, it was decided to remove the titles of unfinished business and new business from the agendas. The workshop will be called a mid-month council meeting. Technically it isn't a workshop, it is a business meeting. TA Townsend said he will provide suggested rules for proceedings.

- b. Owen Hyne, Town Engineer

○ TVI Phase 3a site work is continuing. They are working around the basin.
○ TVII Phase 2b along Esch Street - they have completed most of the site work for this phase and are preparing to do the base course paving. We have prepared a letter on what the escrow release will be.

○ Park electrical – are in the process of getting the contracts back and will then forward them to the Town for execution. Construction is about 2 months out.

○ Mayor Hatton asked Owen to let the contractor know that we have a parade and fair at the end of September so they need to work fast.

○ TE Hyne said once they get all their parts in the construction won't take that long to do.
○ Mr. Haines said it may have been changed at a meeting he missed but many people in Town were under the impression we were going to get brick walkways, not paved with a little bit of brick. That is all they talked about in the beginning.

o Mayor Hatton and CM Esler stated the plans submitted prior to them being on Council were concrete with glass aggregate in it.

o TE Hyne said it is a cost issue. Someone in the past may have liked that better but brick sidewalks are very expensive.

o CM Ness said it's the initial cost and the maintenance. You can see the problems Middletown has had.

o Mr. Haines asked why they are bumping the curb out on both sides by the post office. He has brought this up before. People go to the post office daily and you won't be able to park two cars there now.

o TE Hyne said it is true you lose some parking when you build bump outs but people aren't allowed to park that close to a corner anyway and may get damage to their car. You aren't allowed to park where there is yellow curb. There is some lost parking but parking in that type of area is frowned upon anyway.

o Mr. Haines asked if a bump out is going in front of LaMatesina.

o TE Hyne said a small bump out is going there. It isn't much bigger than the sidewalk that goes out there now.

o Mr. Haines said he is worried about this because the bump outs will make it much harder to turn onto Main Street. You can't see now.

o TE Hyne stated it will help that; it will keep the corners clear of vehicles. That is one of the benefits of bump outs.

o Mr. Haines asked if there are going to be bump outs at all the corners in Phase 2 and 3.

o TE Hyne said once we go east on Main Street the ride is wider and would be good for bump outs. West of Commerce the road is too narrow to support them.

c. Dawson Green, Town Manager

o Artesian Water lowered the cost of the meter at the park, got the first bill today.

o Mr. Faries addressed all the concerns at 316 Gray Street and Dave Naples sent a letter of compliance yesterday.

o CM Ness asked about fixing the pot holes in TVI and TVII.

o TM Green said the one on Edgar has been patched. Townsend Properties is talking about doing the same thing as we did in TVII. It will look better and help them sell homes.

o Mayor Hatton said we will have to put a punch list together on items that need addressed.

VIII. Committee Reports

a. Finance: Chair – Mayor Jermaine Hatton

o 2013-2014 budget updates

1. Budget is looking great due to some of the increased revenue from the property transfer of Capital Development Partners.

2. TM Green said the Town currently has franchise agreements with Verizon and Atlantic Broadband but nothing with Chesapeake Utilities. He asked if anyone knew why.

3. Mayor Hatton said we can follow up on this and discuss it later. We have to figure out how the actual franchise agreements were established and what we need to do to establish one with them. We should also consider having one with Artesian. They make money off the Town and we get nothing.

o Budget meeting – May 14, 2014 – This shouldn't be a late meeting provided everyone gets me their budget numbers. I will get everything to Council the week prior to the meeting. The meeting starts at 7:00 pm.

1. Have requested budget information from Council for the next FY and 2 years out.

This is an audit issue and once developments are turned over to us, we not only will take on the streets but will get the electric bill for the street lights. We pay \$1,000.00 per month for the lights in Townsend Station. The other two developments are much larger than TS. Had TM Green call energy and climate to see if any grants are available that we can get to offset some of the costs.

2. CM Esler asked if the street lights have regular bulbs or LED bulbs.

3. TE Hyne said Delmarva isn't set up with a tariff for LED lights yet. The street lights in the developments are high pressure sodium which creates the yellow glow.

4. TM Green asked TE Hyne if the Cobra head lights are coming down with the streetscape.

5. TE Hyne said he has to follow up with Delmarva on that.

6. TA Townsend said Kent County has tax districts set up for street lights that are passed onto the residents.

7. It was suggested the homeowner associations could help with the light bills.

8. CM Esler said Townsend Station wrote their association rules that states the Town has to take over the lights, TVI and TVII is written that we have the option. The Town doesn't have to take over the street lights. The homeowner's association could do that. It is our choice.

9. CW Gorman asked if the lights in TVII are Delmarva poles. It was explained Delmarva owns all the lights, the Town chose the style to go in the developments but Delmarva maintains them if something happens.

b. Public Works: Chair - CM Rudy Sutton

- Discussion/possible approval of Streetscape re-paving and decorative crosswalks
- Streetscape Change Order #4

1. TE Hyne stated DelDot hasn't committed to anything firmly but they have been preparing cost estimates for paving the streetscape area. Originally they had promised to re-pave Main Street from TVI to Rt. 71 but since the Town is considering doing Phase 2 and Phase 3 they think it will be better to re-pave the street as each phase gets done. They are going to attempt to change order this within this contract and will have to extend the contract. Paving doesn't take that long, probably an extra month. We asked them if they would consider bringing some additional funds in to put in decorative crosswalks. Right now there will not be decorative crosswalks going across the side streets and across Main Street there will be piano key crosswalks. Don't have a definite answer yet. I would think this is something the Town would be very interested in.

2. Mayor Hatton said he spoke with Jeff Nzegoda from DelDot and he strongly advised us against doing the decorative crosswalks across Main Street. It would be a maintenance nightmare for us and DelDot will not touch them. It will all be Town responsibility. We would have to initially take the money from Municipal Street Aid to pay for it, and there are issues going on with MSA. With our projected budget, we cannot do this. The piano keys are already paid for.

3. TM Green said if the piano keys are damaged, DelDot will fix them.

4. TE Hyne said the decorative crosswalks are inlaid; it is actually cut into the pavement and stands up pretty well.

5. Mayor Hatton said it would take one harsh winter and we can't put the Town in the position of having to pay to fix it. It would look great but our budget won't support it.

6. CM Esler said people will be in complaining that all of Main Street isn't being paved.

7. Mayor Hatton said that isn't our call, it is all on DelDot.

8. Mr. Haines asked for a projection date on Phase 2 and 3.

9. Mayor Hatton said DelDot won't commit to anything right now but we are talking about it.

10. CM Sutton stated we have nothing on this right now. He asked Owen to keep in touch with Council on any updates.

11. CM Sutton motioned, CM Ness seconded with unanimous vote to not move forward with anything regarding decorative crosswalks and stay with the piano keys

- Streetscape Change Order #4

1. Grassbuster's encountered a concrete base under the blacktop road which partly has to be removed. A curbing machine is more efficient and quicker to use in this situation, the machine can be re-configured and will be less expensive in this case; curbs will stay where they are and in the bump out area some of the concrete will have to be removed. We also eliminated 3 conduit crossings under Main Street with the help of Delmarva.

2. TM Green stated the change will cost approximately \$5,900.00 and come out of the contingency money; it won't cost the Town anything.

3. TE Hyne stated DelDot has already approved this change order.

4. *CM Sutton motioned, CM Ness seconded with unanimous vote to approve change order #4.*

5. Mr. Haines asked if Delmarva, Atlantic BB or Verizon ran their lines underground during the streetscape.

6. Mayor Hatton said no, none of them showed up. If they come in later and want to do it they will have to put it all back the way it was. It would have been cheaper for them to do it now.

7. Mr. Haines said water is standing in the roadway at Commerce and Lattomus, it looks like the cap is broken and needs replaced.

8. CM Sutton said he will check into it.

c. Land Use & Development: Chair – Mayor Jermaine Hatton

o PLUS Committee update – On April 23rd we had a meeting with the PLUS committee to update our comprehensive plan to include 6 parcels on Dexter Corner Road. After all the roadblocks New Castle County put up, they didn't show up for the meeting. They still have the opportunity to provide comments, they are allotted 20 days to do this and we are waiting. Spoke to Herb Inden last week and he said we will get some comments but should be able to address them and move forward with updating the comp plan.

o There is a land use committee meeting scheduled for May 5th but if we don't get the comments back before then the meeting will be canceled.

d. Community Relations: Chair – CM Joel Esler, Co-Chair – CW Lorraine Gorman

o CM Esler said things have been fairly positive. Crime activity was discussed which I forwarded to CM Ness.

e. Public Safety: Chair – CM John Ness

o There was some vandalism, damage and theft in the early morning of April 26th. CM Ness said he called the police and urged the residents to call the police which none have done. I have some video from one resident but residents need to call the police. Need to lock your cars and don't leave valuables in your vehicle. This happened around 2:00 am, the video shows a car dropping 2 people off who were going up driveways and checking to see if vehicles were unlocked. If unlocked they rifled through the car and stole things.

o CM Ness asked if the graffiti at the park was reported to the police. If not, it should be.

f. Charter & Ordinance: Chair - CM Joel Esler

o Charter Revision review/possible vote on changes – CM Joel Esler

o CM Esler said all have a copy of the charter. Hope to put it to rest tonight and vote on changes. He added that CW Gorman has some items she wants to discuss that neither he nor Doug Tuttle caught.

o CW Gorman went through all the typos and discrepancies she found.

1. Article 3, Composition of Government: The last sentence under 3.1 says "The Mayor and each Town Council person shall serve a term for a period of two years". It is contingent of what we decide to do with the Mayor but conceivably it should be changed to read "each Town Council person".

2. Under 4.4, File of Ordinances: It says there are 2 copies for Town Hall and one for each official of Town. Is this necessary, all are online.

3. CM Esler said it is written like this because of the Code of Ordinance book.

4. Section 4.6.2: remove the s on the word "states".

5. After discussion it was determined this is correct, gives the Mayor authority to negotiate with multiple states.

6. Section 5.6, Absentee Voting: the charter references Title 15, Chapter 22 of the Delaware Code, this chapter doesn't exist. It is Chapter 55.

7. Right above this under voter qualifications, in Ordinance 23 it says if you have missed the last 3 elections you are ineligible to vote. CW Gorman asked if this also needs to be in the charter.

8.CM Esler said our intention is to put these things in the charter so we can modify the ordinances.

9. CM Hatton explained it is governed by the ordinance, the charter is broad, and the ordinance drills it down.

10. Section 5.2, it says “in the event of a tie vote the Town Clerk shall determine the winning candidate by lot”. Ordinance 23 says a new election will be held within 30 days.

11. CM Esler said this means we have an ordinance that conflicts with the charter.

12. TA Townsend said it means we have an ordinance that isn’t enforceable.

13. CM Esler said the ordinance (23) needs to be fixed.

14. TA Townsend commended CW Gorman, great catch, really sharp! She is also right about chapter 55, which is the absentee chapter.

o CW Gorman said in section 5.2 in the last sentence, change the word “election” to “elected”.

o Section 7.3.2.4 – Town Manager: It was agreed to remove the sentence which states “the dismissal of the Town Manager shall not be for review from any court or agency”. In the discussion it was established that this section of the charter came from the Delaware City charter, Townsend has never had a manager before. It is questionable if this statement is even legal.

o Section 7.3.2a – In the middle it states the Town Manager will be the sole judge of the competence or incompetence of any such person so appointed or hired by him or her. It also says the employee can go before the appeal board but CW Gorman said she feels the employees work for all of them.

o TA Townsend said this is a common provision. This is designed to protect employees from political prejudice.

o CM Esler stated this is also what we hired a Town Manager for, he reports to us, the employees report to him.

o Section 7.3.4g – change the word “city” to “town”.

o CW Gorman stated in this section it also says the Manager will execute contracts, agreements, etc. on behalf of the Town. The Mayor’s job description says the same thing.

o CM Esler said the key part of the sentence is “when authorized”. No one on Council or the manager can make an independent decision; they have to seek authorization from the body.

o TE Hyne asked if when the contract for the park comes in and Council has approved it, does TM Green sign it or does the Mayor.

o CM Esler said under this charter we can authorize the manager to sign the contract but we aren’t under this charter yet.

o TM Green said he has always given everything to the committee chairs to sign off on so they are aware and the Mayor signs contracts, etc.

o Mayor Hatton said he likes the way this practice works.

o CM Esler stated this has removed any ambiguity in the charter. When Mayor Hatton and I came on board we found 5 contracts that were signed without authorization, which is a problem, so we needed to fix that.

o Section 7.6.2 – Financial Officer – CW Gorman said she thinks this is contradictory; it says “under the supervision of Council” and under a) says the financial officer will “supervise disbursement of Town monies”. I thought Council supervised this.

o CM Esler said he agrees.

o Mayor Hatton said if we were to grow and not adopt a new charter; it actually gives the financial officer the authority to disperse money through a subordinate. At that point they are taking direction from us and a supervisor. It will keep us from having to do another charter update.

o It was agreed to leave this section.

o TM Green said in section 7.3.4a it states the Town Manager has the power to hire employees but under the Town Manager job description it says Council has the power to that. I don’t believe it gives me the authority to hire, in the job description it says interview, not hire.

- Mayor Hatton said based on the job description the Town Manager interviews prospective employees and based on his/her recommendation, council hires them.
- TM Green said yes, but based upon the position, Council should interview them also.
- CM Ness stated he doesn't see where they conflict. The way it is written the manager can hire anyone and if Council doesn't agree with it they won't be hired or will be dismissed.
- Mayor Hatton said we have talked about hiring a part time summer person. He said he doesn't believe Council needs to interview for this position.
- TM Green said he feels someone from Council should sit in on the interviews.
- Mayor Hatton said this sets parameters and we can dial it back as we see fit. The charter gives us the ability to do "X" in general. We can't get into the nuances with this, it is the charter and very general.
- CM Esler pointed out the typos Mr. Tuttle and he found. All agreed with them.

1. CM Esler asked all to look at section 4.6, Powers of the Mayor. We expanded the section considerably. The old charter has Powers of the Mayor in 2 sections and they conflict, we consolidated everything. We also added that anything the Mayor does has to be authorized by the Council.

2. Section 4.6.3 - CM Esler stated it says the Mayor shall have no vote except in the case of a tie. Mr. Tuttle recommended the Mayor have full voice and vote in the meetings. He votes to break a tie which is the most important vote we have. This would also enable the people to see where the Mayor stands on issues.

3. After a lengthy discussion, TA Townsend stated in section 4.1.3 it says: "All votes will be by voice and the vote of each member shall be entered into the record. No ordinance shall be adopted or amended unless it has an affirmative vote of the majority of Council". A majority means of the elected officials. You have to have 3 votes in favor for any vote to pass. This will eliminate the Mayor from voting all the time.

4. CM Esler said he feels it would be a benefit; it lets people know where the Mayor stands on issues. It is contingent on whether or not the populace has the ability to elect the Mayor directly. If you are electing your Mayor, you would want to know where he stands on issues.

5. Mayor Hatton said he feels it is a moot point and no need to change it.

6. Council agreed not to add this to the charter, the Mayor will only vote to break a tie.

7. CM Esler moved on to the election of the Mayor, Section 5.1. Currently, Council nominates and elects the Mayor for a one year term.

8. CM Esler said based upon feedback from previous Councils, many, many residents and how he personally feels, he believes the Mayor should be elected by popular vote. If Council agrees to add this to the charter, the verbiage we will use is on the side. The people would elect the Mayor and it will be a two (2) year term.

9. Mayor Hatton said we have all read through this section and we have had previous discussion on it and think we should vote on this now.

10. CM Esler motioned to accept the changes as written for the Mayor to be elected by popular vote rather than keep the current verbiage. CM Ness seconded the motion.

11. Discussion: CM Ness said everyone knows his view on this; at this point it doesn't make any sense to do this. We didn't have an election this year and often get just enough people to run for open Council seats. Until these become paid positions, just don't think having a separate election for the Mayor is a good thing.

12. CM Esler said regarding the comment about compensation, it is in section 7.2.3 which is coming up.

13. Vote: CM Esler and CM Sutton – aye. CM Ness and CW Gorman – nay. Tie breaker – Mayor Hatton – nay. The existing language will remain in the charter; the Mayor will continue to be appointed by Council.

14. Section 5.5 – Voter Qualifications – this section has been changed, residents will no longer have to be registered in the Town Hall to enable them to vote in Council elections, we will use the list of

registered voters from New Castle County and any registered voter that lives in the incorporated Town limits will be eligible to vote.

15. CM Ness asked if there was a reason this was added to the charter.

16. CM Esler said it was in the oldest charter he could find from 1979.

17. *CM Esler motioned, CM Ness seconded with a unanimous vote to remove the section of the charter that states residents must be registered at Town hall to vote in Council elections.*

18. Article VI, Section 6 – Code of Ethics: This section was added to the charter and will replace our ordinance.

19. Section 7.2.3 was added. It states Town Council may receive compensation for services to the Town as may be prescribed by ordinance. It just makes it available for the future.

20. Section 7.8 was added to enable Council to sub-contract/appoint a police force. The Chief of Police can report to Council or the Manager, whichever Council decides.

21. CM Esler noted that we removed everything about munition sales and adopted New Castle Counties munition sale policies per TA Townsend's recommendation.

22. Section 8.8.1 – Annual Audit: We added a due date for the annual audit which will be the end of the current calendar year.

23. *CM Esler motioned, CM Ness seconded with unanimous vote to accept the charter with the modifications discussed, will submit the charter to Doug Tuttle for edits and submit to leg hall.*

24. TA Townsend commended Council on their behavior during this discussion. There was one rather controversial issue, someone seconded a motion they weren't in favor of which was commendable, he could have let it die, also saw an advocate for the position which was unsuccessful move right along and accept the will of the group. The whole group (Council) should be commended in how they handled this huge assignment and did it in a very commendable way. You don't see that everywhere you go.

g. Parks & Recreation: Chair – CW Lorraine Gorman

- Update on Electric Installation at the Park – Owen did this earlier.
- 4/13/14 Easter Egg Hunt Report

1. Great turn out, lots of people, huge crowd. Next year we will use the microphone that is here.

- 5/10/14 Community Yard Sale @ the Park
 - 1. Mrs. Mack signed many people up for the community yard sale in the park.
 - 2. Pavilion & multi-purpose cannot be reserved
 - 3. May have an ice cream truck there, if they are there they will give us 20% of the profit.

4. 36 people are signed up to date.

- 9/27/14 Town Fair & Parade
 - 1. Organize Fair committee
 - 2. Volunteers

a. Went to the National Honor Society, Appo HS said to contact him in September and thinks he will be able to supply a ton of people.

b. Mayor Hatton said he met the Pastor of the church that meets at the fire hall, The Mission, and will give CW Gorman his contact information. He is willing to supply volunteers for the fair.

c. We are thinking of opening the multi-purpose field for parking, last year people couldn't find parking and gave up and didn't come. So we need extra volunteers this year for parking.

d. Mayor Hatton suggested we get in contact with the property owners of the lot on Cannery Lane to see if we can use the space for parking. If we could display the old cars, people could walk around and see them all day.

e. TM Green said he will try to see what bank owns the property.

f. CW Gorman will get in touch with Chief Barcus to see if the Jr. Firefighters can help direct traffic/parking.

g. CW Gorman said she wants to ensure we are in better shape than last year. Would like Council to look at a spreadsheet she put together for their input and to see what they would like to oversee the day of the parade.

- h. Mayor Hatton said he will volunteer to be the timekeeper.
 - 3. Update on parade & vendor registrations
 - a. 11 people have registered for the parade.
 - b. 10 vendors have registered for the fair.
 - c. If anyone knows anyone interested in a vendor space or being in the parade, please let me know.
 - 4. Suggestions for Activities/Contests
 - o Suggestions for future Community Events
 - o Mayor Hatton said someone asked him about having a concert in the park. He will forward the information to CW Gorman. It's the Larry Tucker Band and Mike Hines.
- IX. Unfinished Business - none**
- X. New Business**
- a. Vote on Election Cancellation – CW Lorraine Gorman
 - o *CW Gorman motioned, CM Ness seconded with unanimous vote to cancel the election that was to be held Saturday, May 3, 2014.* Only two (2) candidates filed for the two (2) Council positions open.
- XI. Citizens Comments & Participation: none**
- XII. Adjournment:** 10:00 pm, CM Ness motioned, CM Esler seconded with unanimous vote.
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