

**Townsend Council Meeting Minutes
December 19, 2018**

7:00 pm - Council Meeting

- I.** Call to Order: 7:00 pm
- II.** Opening Ceremonies
 - a. Roll Call: Mayor Rudy Sutton, CW Lorraine Gorman, CM Steve High, CM Ed Dugan, CM Rob Leight, TA Fred Townsend, TE Edwin Van-Otoo
 - b. Pledge of Allegiance: Pledge was said.
 - c. Recognition of Visitors: 6
 - d. Announcements:
 - Office closed 12/24 & 12/25/18 for Christmas
 - Office closed 1/1/19 for New Year's Day
 - Happy Holidays to all!
- III.** Additions/Deletions to Published Agenda:
 - a. CW Gorman asked to delete 7c, the discussion/possible vote to waive the 120% performance bond under land use pending some additional figures.
 - b. CW Gorman motioned, CM Dugan seconded with unanimous vote to accept the agenda with the above deletion.
- IV.** Council Minutes
 - a. Approval of 12/5/18 Council minutes
 - Minutes were not added to Council folders, so they would not approve them. This will be added to the next agenda.
- V.** Mayors Report
 - a. Discussion/possible vote to be liaison between TFC and Senator Ennis
 - Mayor Sutton explained the Fire Company is looking for financial support to purchase several ATV's. In order for them to get these funds from Senator Ennis, it must go through the Town; this is the way it has always been. Senator Ennis, or any legislator cannot contribute any of his funds directly to the fire company. We have all the details and we would strictly be the liaison between Senator Ennis and the Fire Company. Senator Ennis will write the check to the Town, we will deposit it and write a check to the fire hall.
 - CM Dugan motioned, CW Gorman seconded the motion.
 - In the following discussion, CM High asked what prohibits Senator Ennis from contributing the funds directly to the fire department.
 - Mayor Sutton said he was told it is a state regulation.
 - CM High asked if there is a precedent for doing this? Just looking at this and hearing this, to me it sounds like money laundering. The Town gets nothing, and the equipment will be owned by the fire department. Basically, we are the middle man for the money to go through. If we were paying for this item, we would have voted to spend the money, but this doesn't come through Council, none of it has anything to do with the Town. Have they posted the regulation or the statute from the state that prohibits Ennis from doing this; why can't he deal with him directly.
 - Mayor Sutton said if you need those answers, we can have Senator Ennis provide them for us.
 - CM High said awesome, let's look at the numbers.
 - Mayor Sutton added that when Cathy is back from vacation, she can pull up the other items this has been done with.
 - CM Dugan withdrew the motion until Council receives further information.
 - TA Townsend clarified there is a motion and second to act as liaison for the fire department, motion has been withdrawn. You might want to explain why this has been done and Mayor Sutton said it has already been explained.
 - b. Discussion/possible vote to approve Verizon Franchise Agreement

- Mayor Sutton asked if Council has had a chance to review the Verizon contract.
 - CW Gorman said yes, she emailed Verizon and they said they would be happy to sit down to re-negotiate the contract to be better before we agree to it.
 - A resident asked if this is for the neighborhoods or just the Town Hall.
 - CW Gorman said it is for the entire Town. She added the current franchise agreement doesn't expire until May 10, 2021 but Verizon sent this letter to see if we want to renew as part of the process. The fees they pay the Town are for the cables they have in Town.
 - A resident asked if Verizon is exclusive with our contract or can Comcast come to Town.
 - CW Gorman said Verizon is not exclusive but often a contractor doesn't find it lucrative to come into a Town. Comcast has never asked to come into Town. We currently only have Verizon and Atlantic Broadband in Town.
 - Mayor Sutton stated this will be added to another agenda for a vote once we have more information.
- c. Discussion/possible vote for waiver of sign ordinance
- Mayor Sutton said there is some verbiage in the sign ordinance that refers to the amount of square footage permitted for a sign on the side of a building. Our inspector has said our sign ordinance is out dated and it has caused some issues with some of the business' in Town to enable them to advertise the way they wish/need to advertise. Dave showed me Harrington's new sign ordinance which would also fit our Town nicely. I would like to re-write our ordinance and then would ask Council to vote to have the PC look at the ordinance. They would have to look at it first and offer recommendations to Council because it is part of our zoning codes.
 - CM High asked if this new recommendation in the ordinance would only refer to the size of signs or LED or what?
 - Mayor said it will be changed in reference to the square footage of signs permitted. Once I'm done with it, I will send it to Council for review prior to the vote to send to the PC.

VI. Reports

- a. Town Attorney Fred Townsend III:
- Talked to Mr. Sapperstein; like a lot of developers it is common to want to end projects that have concerns. He would like to be done with this development. He may want to negotiate something financially, not sure I would recommend this, but we can negotiate. Any position we take that leaves him on the hook for long periods of time makes him back off, which doesn't really matter. We don't want to settle for less than he owes the Town. I believe this will have to be discussed in executive session later on.
 - Mr. McDonald said it would cost the Town more than the contractor to finish all the jobs he didn't finish.
 - TA Townsend said we will discuss each individual item.
- b. Town Engineer Ed Van-Otoo:
- Spoke with CW Gorman earlier this week about my work on the water and sewer. It is more difficult for any contractor to research issues once something is in the ground and that is why the contractor's price is so high.
 - CM High thanked TE Van-Otoo.

VII. Committee Reports

- a. Finance: Chair – Mayor Rudy Sutton
- We will add the 2nd quarter finance reports for Council to our January meeting.
 - Our Finance Clerk will be going out for an upcoming surgery. Any help in the office by Council will be appreciated.
 - A resident asked if there has been any progress on collections.
 - Mayor Sutton said yes, there are 6-7 residents that have been paying on their past due bills, it is going well.
- b. Public Works: Chair – CM Ed Dugan
- Nothing to report.
 - A resident asked if the traffic light falls under this committee. He said the rumor mill said this would be discussed.

- Mayor Sutton verified the resident is asking about the streetlight on Rt. 71 at the entrance of TVII East. This will be discussed under the land use committee.
- c. Land Use & Development: Chair – CW Lorraine Gorman
- Discussion/possible vote to waive initial 120% performance bond for Phase 3E in Townsend Village – deleted from agenda
 - Discussion/possible vote to approve Lifehouse Church preliminary project plans
 - I. Jim Curran engineer from Karins Associates and Steve Faulkner of Lifehouse Church are present to speak on the project.
 - II. Mr. Curran said this is a 10 acre site in front of TVII. We plan on building a 53,650 square foot church with 545 parking spaces. There is water and sewer on the site and no wetlands on this parcel. There will be 2 church services on Sunday mornings, a day care for approximately 100 children during the week and youth group meetings on Tuesday nights with approximately 100 children (high school age).
 - III. Traffic – We are using the peak traffic reports from the study that was done for the “Shoppes of Townsend”. The study was based on retail shops, banks, a day care, restaurant, you name it. Our peak is Sunday mornings. We met with DelDot 2 years ago when this was first proposed, and they didn’t feel there was a need for another traffic study. I know there is a lot of desire to have a traffic light here; people cut through the development to bypass traffic, especially when school is letting out. Recently, Kevin Hensley contacted us and DelDot and requested to former traffic study and they are actively looking at this for us and the state to see if it warrants a traffic signal. It is out of our control. The previous owner and the Church have signed a signal agreement, but it is solely in DelDot hands.
 - IV. Mayor Sutton said he doesn’t think this answers anyone’s questions. The dialogue has been going back and forth between Council, engineers and Jim about the signal. It is a direct impact on my community, that is where I live. It is very difficult turning left on a 50 mph road and very unsafe. Our engineer has been working hard on getting all the details to present our case to the state, as Jim said, their minds are set, and we have to have the criteria proving we need a signal there. Two weeks ago, there was an accident there. Council would like to the church built in Town, but we aren’t turning a deaf ear to what the Town needs for the safety of the citizens. The church isn’t either, they want to do what is right for the Town, they are great neighbors.
 - V. A resident clarified that Town and Church are being proactive and checking everything, just waiting to hear something.
 - VI. Mayor Sutton said yes, we all email continually.
 - VII. Another resident said part of the problem is the entrance to the development is one way in and one way out, going to be a nightmare for those of us that live in the development to get in and out with the additional church day care traffic.
 - VIII. Mr. McDonald said the population has grown 400% since the traffic study being used. Is DelDot going to do another traffic study or are they going to amend the original study.
 - IX. Mayor Sutton said TE Van-Otoo has looked into this.
 - X. TE Van-Otoo said Mayor addressed the traffic concerns very well. When the development was built, the wide left hand turn worked well but with building in the front, it will no longer work and DelDot is aware of this. DelDot has to sign off on a letter of no objection stating they approve the intersection; these are all preliminary plans and we are putting the cart before the horse. Will be a while before building starts and we are all working with DelDot to get a light at the entrance. We aren’t doing the church justice.
 - XI. A resident said she has been there 8 years and there are a lot more houses now and the additional traffic with the church is a concern for the residents.
 - XII. TE Van-Otoo said the church anticipated these issues and started working on before coming to the Town with plans. Everything is pre-set for a traffic light and we are pushing forward to see it is done.

- XIII.** CW Gorman asked if all the growth in Middletown has been taken into consideration – we get a lot of additional traffic from there.
- XIV.** TE Van-Otoo said yes, so far as he knows, DelDot is considering all of this.
- XV.** Mayor Sutton stated the Town wants a light there for the safety of Town residents and the church congregation. We will continue to communicate with DelDot.
- XVI.** Mr. Haines said many churches use state troopers to direct traffic when church lets out.
- XVII.** Mr. Faulkner let everyone know the main concern of the church is the safety of everyone and they want a light. He added the church is willing to pay a large portion of the expense of installing a light, but we are all at the mercy of DelDot. We have also assured Mayor Sutton that with or without a light, if we need to hire state troopers to direct traffic on Sunday's, we will.
- XVIII.** Mr. Haines asked why Jeff Speigelman hasn't been involved in helping with this.
- XIX.** Mr. Curran said Rep Hensley contacted us to help; Mr. Faulkner added he is a member of Lifehouse Church.
- XX.** CM High asked when they anticipate breaking ground for the church if everything goes well.
- XXI.** Mr. Faulkner said the building we currently meet in is being torn down in June 2020 so ideally, we would like to have the church built then.
- XXII.** Mayor Sutton said CM Leight will be recusing himself from the following vote as he is a member of Lifehouse Church.
- XXIII.** CW Gorman motioned, CM High seconded to approve the preliminary plans for Lifehouse Church.
- XXIV.** Discussion: Ms. Albert asked if there has been a public hearing on this subject or is this considered a public hearing.
- XXV.** Mayor Sutton said this is not a public hearing, wasn't advertised as anything but a Council meeting.
- XXVI.** Ms. Albert asked why there isn't going to be a public hearing.
- XXVII.** TA Townsend stated this is all code compliant and doesn't require a public hearing. Council decided they wanted a public hearing at the Planning Commission level.
- XXVIII.** Ms. Albert said we didn't have a public hearing at our last meeting.
- XXIX.** Mayor Sutton verified the plan was discussed at the last PC meeting and was told yes.
- XXX.** Ms. Albert asked if the PC was authorized to have a public hearing last week, which they didn't because they were told that the PC didn't need to have a public hearing, Council would hold a public hearing. When I didn't see a public hearing advertised prior to your meeting, I called and was told Council didn't have to have a public hearing. At this point, no public hearing has been held, this should not be happening.
- XXXI.** TA Townsend said he doesn't believe a public hearing is required for a site plan approval. Not sure what you were told.
- XXXII.** Ms. Albert said it is in Chapter 22. Even if we aren't required to hold a public hearing, the public has a right to know what is happening, for transparency. We recommended at our October meeting that a public hearing be held – transparency for everybody! That is what is important. The PC is by no means against any of these projects, we want to help Council be transparent, protect Council and the Town and make sure residents are aware of everything so Council isn't slapped in the face down the road by residents who had no clue something was being built.
- XXXIII.** Mr. McDonald said he has been appointed to the PC, he can't access old records and found records of old BOA meetings for the church property and the woods property but can't find any old minutes on the website for any of these meetings.
- XXXIV.** Mayor Sutton stated Lifehouse Church first presented plans to Council around 2 years ago. Cathy is on vacation but Ivonne can print you the minutes from that meeting. There was no annexation as the church property has always been part of incorporated Townsend. The sight has been commercial from the beginning; since the community was advertised when houses started being built. I've been on Council

6 years and all that happened prior to my time on council. You would have to look at minutes from years ago.

XXXV. Mayor Sutton asked TA Townsend to clarify if a public hearing is required.

XXXVI. TA Townsend said it isn't legally necessary because the zoning is commercial and isn't going to be changed.

XXXVII. CW Gorman said it is an option if the PC thinks we need to have a public hearing.

XXXVIII. TA Townsend stated the PC can't decide there has to be a public hearing.

XXXIX. CW Gorman clarified that if the PC feels a public hearing would be beneficial, if so, can they schedule one prior to their meetings or recommend Council hold one.

XL. TA Townsend said they don't have the authority to have public hearings without Council approval, but they can recommend Council hold a public hearing on different issues. The planning commission needs to gather information to make a recommendation to Council, that is their job. If they don't have enough information, they wouldn't be able to make a recommendation. Once they make a recommendation, the PC is done with that issue.

XLI. There was a long discussion on what the purpose of the PC is.

XLII. Mayor Sutton stated the church has always been very open and at many meetings and has always kept up the property. Nothing has been hidden from the public. If there was a change in zoning or land use for the church to be built, we would have to hold a public hearing. Mayor Sutton added he is comfortable not holding a public hearing, however it isn't required even though the PC recommends it.

XLIII. CW Gorman stated since we didn't get the recommendation letter from the PC, she'd like to know if there is something that should prevent us from voting on this in the PC recommendation letter.

XLIV. Mr. Reyes said there isn't anything else, we just ensured everything met with the codes but are still concerned about the traffic increase.

XLV. CM High asked Mr. Faulkner from Lifehouse Church if there are any plans to build annexes on the building and was told no. He heard something about a senior home.

XLVI. Mr. Faulkner said an interested buyer in the other property would consider building a senior living home.

XLVII. CM Dugan stated he believes the entrance needs a light and asked if Karin Blvd will be widened or left as is. If each side of Karin's back to the circle were 2 lanes, it would possibly help to alleviate problems.

XLVIII. Mr. Curran said the plans show 2 lanes on both sides with designated turn lanes.

XLIX. CW Gorman said she just received the recommendation letter on her email. The PC recommends we move forward but request an up to date traffic study and that public hearings be held for the project for transparency.

L. CW Gorman motioned to approve the Lifehouse Church plans, CM Leight recused himself from motioning or voting. Mayor Sutton called for a second on the motion and there was none.

LI. Mayor Sutton said there is a motion and no second which kills the motion. This item will be added to the next agenda.

LII. CW Gorman asked CM Dugan and CM High if they didn't second the motion because they feel we need a public hearing. She added we need to know as that has to be scheduled differently.

LIII. CM Dugan said we don't necessarily have to have a public hearing, but we need to inform the public better and Council would have a month to review the plan and talk to residents.

LIV. CM High said only Mayor Sutton and CW Gorman were present at the meeting on the church in 2010 and this is brand new information for me and I'm not comfortable voting on it. I know nothing about it.

LV. CW Gorman said she just needs know if Council wants a public hearing or to just add it to the next agenda for discussion and possible vote.

- LVI.** CM High said he will phrase it as he sees it, lack of information. I agree with the concept but none of it has been discussed in my presence other than tonight and word of mouth; need more information.
- LVII.** Mayor Sutton asked CM High to ensure he pick the plans up from the office after the meeting to review.
- LVIII.** TA Townsend suggested Council table the motion rather than have none.
- LIX.** CW Gorman motioned, CM Dugan seconded to table the motion to approve the Lifehouse plans. Vote unanimous with CM Leight recusing himself.
- LX.** Mayor Sutton asked Council if they want a public hearing scheduled.
- LXI.** CM High asked if it is possible to do it prior to the next meeting?
- LXII.** CW Gorman stated we must have 15 day posted notice for a hearing. Mayor Sutton and TA Townsend confirmed this. Therefore; the meeting couldn't be held until 1/23/19 if you wish to have the public hearing prior to the meeting.
- LXIII.** CM High asked what the expectations of that meeting will be. What is the purpose, when he walks away from that meeting, will the deliverables be presented?
- LXIV.** CW Gorman said CM High has a copy of the plans in the office. All of Council got a copy of the plans over a month ago.
- LXV.** CM High said we have never had a meeting on this.
- LXVI.** Mayor Sutton said he hasn't had a meeting; the plans were delivered, and Cathy sent emails to all of us to pick them up. We need to decide if we are going to schedule a public hearing and if so, we can discuss/vote in the Council meeting that follows. In the meantime, there are plans for everyone to study.
- LXVII.** Mr. Faulkner clarified this will all happen in one night and was told yes.

- Discussion/possible vote to have Planning Commission review annexation request for Townsend Acres, Rt. 71
 - I.** CW Gorman said this is a resurrection of plans done many years ago of a single family home development on Rt. 71; adjacent to Smith's Liquors.
 - II.** Council would like to recommend the PC review the annexation request. There was an approved sub-division plan approved by the county years ago. Lots were all sub-divided into 49 separate parcels. This is being submitted as one annexation.
 - III.** CW Gorman recommended this be brought before the planning commission for review.
 - IV.** Mayor Sutton added NCC approved this plan in the 70's.
 - V.** Ms. Albert said with Council having the PC review this annexation; if PC follows through the way they have done with previous projects, PC will have introduction with land owner and engineer; will have public hearing for introduction and questions. With due process, PC will then present a recommendation to Council who can have another public hearing prior to their meeting to vote.
 - VI.** TA Townsend apologized, when he spoke earlier about a public hearing he was referring to a site plan. This is different, it is a request for property annexation into Town limits.
 - VII.** Ms. Albert asked if there are any encumbrances on this property and was told there are wetlands in the middle of the property.
 - VIII.** She asked about financial encumbrances like taxes and was told no by Mr. Petkevis (property owner).
 - IX.** Mr. Reyes verified there are no liens on the property.
 - X.** TA Townsend also verified Council doesn't need to vote to have the PC review the annexation, they only need to recommend having the PC review.
 - XI.** CW Gorman recommended having the PC review the annexation request of Townsend Acres.

d. Veterans Committee: Chair – CM Steve High – nothing to report.

e. Public Safety: Chair – CM Steve High

- Ground saturated from all the rain with another 3-4 inches expected tomorrow. If there is a storm grate near your house, please clean debris off the top of it to help us not get flooded.

f. Community Events: Chair – CM Rob Leight

- The 2nd annual “Let your Lights Shine”, the Christmas decorating contest is being done now. The homes that submitted a request to be part of the contest are being judged tomorrow and the winners will be announced on Monday or Tuesday.
- g. Parks & Recreation: Chair – CW Lorraine Gorman
 - The tree lighting/Christmas caroling on 12/9/18 was a great success.
 - Middletown Transcript was there, Ben Mace took some great pictures.
 - AHS Honor Society helped with the event.
 - Choir let the singing.
 - Nothing planned for the immediate future.

VIII. Citizens Comments & Participation:

- a. Mr. Haines asked if the Town light could be changed on off school hours. Sat through 5 lights today. Needs to have a longer cycle. Can’t get out of Town.
- b. Mayor Sutton stated he will call DelDot.
- c. Resident, president of the TVII HOA is here with several residents and we are very concerned about getting a traffic light out of the development where the church will be and whether there will be a new traffic study done. Also, my wife suggested we get a mirror installed to help people turn off Railroad Avenue onto Main Street.
- d. CW Gorman stated all of this was discussed earlier in the meeting when the HOA was upstairs having your meeting. Lifehouse, Council, everyone is in favor of a streetlight; DelDot has to make the final decision.
- e. Mr. McDonald said in Newark and Dover they put signal controls on the lights, should mention that to DelDot for the Town light.

IX. Motion to Recess for Executive Session: CW Gorman motioned, Dugan seconded with unanimous vote. (Cathy was not at the meeting and doesn’t have a time for this motion).

X. Motion to Convene Executive Session:

- a. In accordance to 29 Del. C. §10004 (b) (4) the Town Council will be meeting in executive session to discuss personnel matters.

XI. Motion to close Executive Session & Re-Convene Council Meeting

XII. Adjournment:
