



Town of Townsend Code Review Committee Meeting
September 13, 2022 @ 10:00 am
VIA Conference Call & Town Hall
141 Main St, Townsend, DE 19734

10:00 am Code Review Committee Meeting

I. **Call to Order:** Meeting called to order at 10:00 am by Mayor S. Lobdell

II. **Opening Ceremonies**

a. **Roll Call:** Mayor S. Lobdell, Councilman J. Mertz, Town Manager A. Tantillo, Town Clerk M. Rivera

b. **Pledge of Allegiance:** All present recited the Pledge of Allegiance

c. **Recognition of Visitors:** Town Solicitor C. Griffiths

d. **Announcements:** No Announcements

III. **Citizens Comments & Participation:** No Comments from citizens

IV. **Adoption of Agenda.** All agreed – adopted.

V. **Discussion regarding the Town of Townsend Charter and the Townsend Municipal Code.**

a. **Discussion of the process, actions, and initial concerns needed for the change of Town Charter and Ordinance.**

1. TM Tantillo confirmed recommended changes need to be brought to Council for vote. Council will then need to bring to State for final approval.
2. TS Griffiths advised a passed resolution through Council is needed regarding the Town's Ordinances. He suggested a redline version of the Charter be brought with a clean version to a State Representative. TS Griffiths advised that there should be a Council Member present during bill review with State; in case any questions arise, they may be addressed right away. TS Griffiths explained that the Senate will pass or deny. Additionally explaining that if changes are not controversial, they should be approved.
3. CM Mertz recommends a town hearing be held so public has the opportunity to be made aware of the proposed changes.
4. Mayor Lobdell explained he was advised by previous Town Managers that now is a good time to start the review and submission process. All other Committee members in agreement.
5. CM Mertz questioned what the duties of the Mayor are and the quorum rules. CM Mertz recommended Mayor should count towards quorum. TS Griffiths stated if the Town follows a commissioner system, the Mayor loses voting ability and is the tiebreaker. Mayor Lobdell questioned if he is counted

Town Meetings will return to both an in person and a virtual format.

Those wishing to attend virtually may dial **1(301)715-8592**. When directed, provide following meeting ID **827- 6421-7575#** and then the following password **361631#** to enter the meeting. If you choose to access the meeting online click the following link: <https://us02web.zoom.us/j/82764217575?pwd=aHI4RDhTZ0xiME1HV0ZOcHRxSHZ3QT09>

Residents will be able to view documents posted to the meeting tab on the Town website at www.townsend.delaware.gov or by joining the meeting via computer.



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towards quorum because he is the tiebreaker. TS Griffiths confirmed he is not because he is not considered a voting member therefore not violating FOIA but needs to complete further research. TS Griffiths advised he needs to investigate this matter prior to recommending further actions needed. He explained that there is potential for the Mayor to be a voting member because he is a tiebreaker

6. Mayor Lobdell proposed the theory to TS Griffiths stating, if there are only two members of Council present than the vote must be unanimous if the Mayor is considered part of the quorum. TS Griffiths confirmed. Mayor Lobdell explained in this theory it would be a three to zero vote.
7. CM Mertz asked if in a case of a three-person quorum and the Mayor is not present does the Interim Mayor lose their vote. He also asked if the Mayor is not present and there is a four person quorum can there be a tie. TS confirmed that the Interim Mayor does not loose their vote and the tied vote will fail if the Mayor is absent.
8. All agreed Charter will be the focus for next meeting. All further agreed a completion of Charter and Code change requests should be brought to senate before their agenda is even created. Mayor Lobdell emphasized the importance of this as there will be four new Council Members.

b. Discussion on Charter items that require research.

1. Mayor Lobdell advised eligibility for Mayor should be revised to state that the candidate must have served one year as a Council Member. CM Mertz suggested the public elect the Mayor. CM Mertz stated that he is not for Council Members to receive salary increases but that he has heard of such instances. CM Mertz also suggested Council Members be chosen from each district of Townsend.
2. TS Griffiths confirmed payment for Council in each Town varies depending on the number of meetings. CM Mertz clarified that he would like to refer to comparative Towns for Council pay amounts. TS Griffiths advised that he is not aware of any comparable Towns that offer payment. TS Griffiths instead gave examples of how comparable Towns offer scholarships to Council members that would benefit their roles and the Town.
3. Mayor Lobdell asked if Town Engineers should be re-appointed for example every two years and if this needs to be in the charter. TS Griffiths recommended to keep this out of Charter so that the Town can move swiftly to change the Code Officials in an event of an emergency. Suggested this can be a general policy. CM Mertz asked if this should be an ordinance or resolution. TM Tantillo stated this should be a policy. TS Griffiths agreed, recommending the policy could set stipulations for a review to be done yearly. TS Griffiths explained this would be considered a personnel matter.
4. Section 7.8:
 - a. Mayor Lobdell recommends the police section to be updated or expanded. CM Mertz confirmed there is a Police Manual.



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Mayor Lobdell wants to review this. TS Griffiths recommends the police section should state responsibilities such as Chief reports to Town Manager. TM Tantillo stated she will evaluate these items. TS Griffiths recommends any matters relating to personnel or roles should be differed to TM Tantillo.

5. Section 7.3.1:

- a. TM Tantillo suggests Town Manager should have the authority to hire rather than going through a resolution process. TS Griffiths confirmed he has not seen a resolution hiring process and advised the process is typically kept private. TS Griffiths additionally advised that this may get more people into the door. Mayor Lobdell confirmed there is a two-step process involving Council's official approval for the Town Manager to negotiate with the possible candidate and then Council approval through resolution to hire. TS Griffiths advised that typically Town Manager does all the hiring processes as long as the salary is covered in the budget. Mayor Lobdell asked if this would apply to engineers and attorneys. TS Griffiths advised that the Mayor can bring candidate recommendations to the Town Manager for those positions. Once agreed upon, the Mayor and Town Manager will bring their recommendations to Council for approval. TS Griffiths clarified that in doing so the Mayor would have appointing authority for those positions.

6. Section 4.1 and 7.1.1:

- a. CM Mertz indicated that these two sections disagree with one another. CM Mertz explained Chief of Police and Town Solicitor report to Council unless voted to report to Town Manager. CM Mertz asked if the Town Solicitor is supposed to report to Council not Town Manager. TS Griffiths clarified Town Manager is responsible for the Town Solicitor's budget and ensures what work the Town Solicitor does. TS Griffiths advised Council should report to Town Manager, so the Town Manager is able to decide what they are able to do and what needs to be assigned to the Town Solicitor. TM Tantillo confirmed the contract with the Town Solicitor was set up so that she is the point of contact and the one who handles day to day activities. Mayor Lobdell requested TM Tantillo to research personnel policies.

7. Article 8:

- a. Mayor Lobdell wanted clarification on assessment of tax and senior tax discounts TM Tantillo explained 8.4.3 states there are discounts for these and a resident has asked if there is a veteran discount. TM Tantillo advised Council would need to enact an



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ordinance for tax assistance. Mayor Lobdell explained how up until the recent redistribution of tax, seniors were not paying any tax and now have to pay taxes, as the former was not done in accordance with the Town Charter. Mayor Lobdell clarified he is aware of this relief but wanted to find out if there was anything in place that can further assist seniors. TM Tantillo confirmed there is not anything in place and would like to look further into discounts for veterans and disabled people. TS Griffiths has seen discounts have been granted in other Towns and stated this would ultimately be up to Council to make the decision. Mayor Lobdell wants to look into how the Town would need to absorb the tax. TM Tantillo will look at county assessment and asked Councilman Mertz for recommendations. CM Mertz stated he has heard of extreme cases in which tax has been waived. Mayor Lobdell stated in agreement that he has seen cases in which a resident would bring a presentation for Council to approve. CM Mertz advised this should require something to be stated or specified for council. CM Mertz additionally advised extreme cases would need to be defined and outlined. TM Tantillo advised the Town should be careful with sharing personal information of residents. TM Tantillo further clarified this could create bias and residents being targeted if personal information was shared. Mayor Lobdell advised the resident should provide reasons as to why they do not want to disclose information. Mayor Lobdell explained he has seen cases in which there is a private review with the Council prior to the case is brought forward by Resolution. CM Mertz clarified that these private meeting are still subject to FOIA. TM Tantillo expressed the concern for confidentiality of the resident remains due to the submission of the Resolution being public. Mayor Lobdell wanted clarification on where in the Charter it shows how much tax should be raised. CM Mertz confirmed it is in the ordinances. Mayor Lobdell asked if the Charter also states where it allows for the Town to collect payments overdue. CM Mertz clarified this would be found in 8.5. TS Griffiths confirmed there is capacity to add to the section. TS Griffiths confirmed he will begin to work on research for this section. Mayor Lobdell raised concern on compliance issues in which multiple notices and fines are sent. Mayor Lobdell questioned how this could be enforced even more. CM Mertz advised the Town could place the house on a sheriff's sale. TS Griffiths confirmed court enforcement would allow for the Town to pay themselves after sale ends. TS



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Griffiths advised setting a process as such would help to avoid residents feeling as though they are picked on. TS Griffiths advised creating a list be made for the Town to go through. TS Griffiths confirmed attorneys are able to help with enforcement.

8. Annexation: CM Mertz stated the wording with the first sentence sounds like resident are able to vote through Council in order to annex in.

9. Section 7.8.1:

a. CM Mertz noted there is a typo where there is an "r" in place of a "one".

c. CM Mertz presented the following items he noted for review in the Town's Ordinances.

1. Chapter 6:

a. Car wash issue.

2. CM Mertz asked if housing a tourist would apply to anyone who has an air b & b. TM Tantillo requested CM Mertz to elaborate. CM Mertz asked if a tourist license would be needed for the air b & b in Townsend Village Two on East and West Founds. TM Tantillo requested for any type of information like this to be brought to her attention.

3. Chapter 10:

a. CM Mertz explained during declaration of emergency street parking on even side is not permitted so snowplows are able to pass through. CM Mertz recommends there should be a remedy for the odd number side whereas no parking should be permitted to allow snowplows to pass through.

4. Chapter 12

a. CM Mertz asked if residents performing business at home are required to have a key box entry. TM Tantillo confirmed no business is permitted on residential property as defined by ordinance.

b. TM Tantillo advised dumpsters are not allowed. TM Tantillo has noted possible issues may arise when residents have permits for dumpsters. TM Tantillo recommends updating permit language to include specific requirements such as keeping the dumpster off street. TM Tantillo also advised there may be a need for a permit specifically for dumpsters.

5. Chapter 14:

a. CM Mertz noted this is a farm animal restriction. CM Mertz suggested the Town may look into allowing farm animals with specific limitations. CM Mertz noted most HOA (Homeowners Association) declarations cover this and advised the maintenance corporations can deal with setting their limitations.



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- b. CM Mertz asked if dogs are registered with the Town and if there are records kept. TM confirmed this has not been practiced. CM Mertz gave the example in which he has heard a regulation where dogs were part of utilities and must be registered or utilities were not allowed. CM Mertz asked if the Town should start to register dogs and cats. TM Tantillo advised this would require further discussion and stated Chapter 14.10 definition of feral cats would need to be updated. CM Mertz wanted further clarification on 14.16.30. CM Mertz asked if pet urination is included in this section. TS Griffiths confirmed it is. Mayor Lobdell inquired if this section will have an involved enforcement issue. CM Mertz clarified that the section sounds like pets are allowed to relieve themselves so long as long as the owner cleans it up. CM Mertz recommends that this section should include cats.
6. Chapter 16:
 - a. CM Mertz noted the verbiage states “President of Council” is highly used in this section and throughout the code. CM Mertz recommends replacing this terminology with Mayor and or Town Manager. Parking is an additional issue needed to address.
7. Mailing procedure adopted by Council whereas the Town can collect their own mail. Mayor Lobdell advised that this may go hand in hand with Police Department tickets whereas Townsend Police Department can collect their tickets.
8. The Code Review Committee agreed Chapter 16 will need further research and review for revisions. Mayor Lobdell advised some sections may not be valid.
9. Chapter 18.28.1.20:
 - a. CM Mertz wanted clarification on phrase “or Council member of the Town of Townsend” CM Mertz asked if this means Council Member. TM Tantillo advised she does not believe Council Members should be a part of this section. CM Mertz advised he believes this is a protection for Council Members, whereas it states Council Members are not responsible for. TS Griffiths agreed.
 - b. CM Mertz asked if inground pools are required to have internal fencing along with yard fence stating 18.20 is unclear. CM Mertz noted 18.20.30 E does not specify pool or yard. TM Tantillo advised section removal because this is part of the Delaware Building code that is already adopted per ordinance. CM Mertz noted that he has seen two fences, in Middletown. CM Mertz explained that one fence surrounds the pool and



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another for the yard. Mayor Lobdell noted alarms are required on fence. TM Tantillo advised this is part of the building code. TM Tantillo recommends this should be decided per building code and if needed the Town could add additional language to the building code section. Mayor Lobdell noted some yards in Townsend may not big enough to have two fences in order to accommodate this code. TS Griffiths agreed. Mayor Lobdell advised there is a need to change language to match other sections. CM Mertz agreed that this would be helpful.

10. Chapter 20:

- a. CM Mertz raised concern in regard to the last sentence of the paragraph. Mayor Lobdell stated fire pits are common. TM Tantillo wanted clarification on CM Mertz concern. CM Mertz clarified that this section is stating fire pits are illegal. Mayor Lobdell advised the ending verbiage on burning materials should be kept. CM Mertz advised this section should state burn barrels are not allowed.

11. Chapter 20.04.020:

- a. CM Mertz noted this will need revision, explaining that this gives residents code enforcement authority.

12. Chapter 20.08.10:

- a. CM Mertz asked for definition of bush. TM Tantillo defined it as vegetation. CM Mertz stated per this code bushes are technically not allowed to grow higher than 10 inches. TM Tantillo advised the Town should evaluate. CM Mertz suggested this section should be defined clearer. Mayor Lobdell asked if this should be expanded to include enforcement. TM Tantillo clarified the Town does enforce and care for overgrown vegetation.

13. CM Mertz advised with progression of inflation over time penalties should be scaled appropriately. TS Griffiths advised code should state person must pay per fee schedule. TS Griffiths explained that in doing so the Town can update the fee schedule quickly without having to go through ordinance process. Mayor Lobdell asked if this would apply to any sections. TS Griffiths agreed advising it will be listed cleaner and is easier to review.

14. Chapter 20.08.60 and 70:

- a. CM Mertz advised this section needs to be re-written. CM Mertz noted conflicting noise restrictions. CM Mertz suggested making one noise restriction section instead of separate sections. CM Mertz advised Police should be equipped with decibel readers in order to assist with enforcement. TM Tantillo confirmed Town Police are equipped.



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15. TM Tantillo noted during the last review of the Unified Development Code, in 2020, the light pollution section was taken out and asked if this should be added.

d. Discussion on plan of action.

1. CM Mertz stated this must be proposed here and brought to Council for approval. TM Tantillo suggested bringing multiple ordinances for review. Mayor Lobdell suggested moving through each section, then bring forward to Council for approval. CM Mertz stated the Code Review Committee will review section 20. Mayor Lobdell suggested charter should be looked at first. TM Tantillo stated she will be researching and addressing topics to be presented at the next meeting. TS Griffiths advised typically when this is done sections are brought and items may need to be repealed. TS Griffiths suggested black/red line language for Council and Public to see changes. Mayor Lobdell advised meetings should be set for every month or two. TS Griffiths confirmed he will research for reference on the Charter. CM Mertz and Mayor wanted clarification on what types of commercial vehicles on residential properties are allowed.

VI. Meeting adjourned at 11:26 am.