



**Townsend Council Meeting Minutes
December 2, 2020 @ 7:00 pm
VIA CONFERENCE CALL**

Per the Governor's request, all scheduled meetings will be held via electronic means. 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.

Those wishing to attend may dial 1(301)715-8592. When directed, provide following meeting ID 82764217575# and then the following password 361631# to enter the meeting.

If you choose to access the meeting online Join the online meeting:

<https://us02web.zoom.us/j/82764217575?pwd=aHI4RDhTZ0xiME1HV0Z0cHRxSHZ3QT09>

I. **Call to Order:** The meeting was called to order at 7:00 p.m. by Mayor Thomas McDonald.

II. **Opening Ceremonies**

A. *Roll Call:*

The following Council and Staff were present with electronic access available for guests: Mayor T. McDonald, Councilman P. Miller, Councilman S. Lobdell, Councilman E. Dugan, Councilman J. Mertz, Town Manager A. Mangeri, Town Clerk A. Tantillo, Financial Officer J. Helms, Town Attorney F. Townsend, Town Engineer E. Van-Otoo, and Lt. Lloyd, DSP.

B. *Pledge of Allegiance:* Skipped for Electronic Meeting

C. *Recognition of Visitors:* Present guests were New Castle County Councilman David Carter, Sheryl Rojas, Lorraine and Rich Gorman, Rob Leight, Mark Lashey, Matt Volk, and Jessa and Travis.

D. *Announcements:*

- a. Councilman Carter announced a county contract with a hotel to house homeless residents for the winter, as Code Purple is not able to happen due to COVID.
- b. Councilman Mertz announced the Townsend Holiday Boosters are sponsoring a Holiday Drive Through Event called the Holiday Masquerade on Tuesday 12/8/2020 from 5-7 pm in the schools back parking lot. The Townsend Fire Hall will be sending over a fire engine, to get everyone fired up, Santa will be there and there will be a paraded route. If anyone has any decorations for them to borrow, please let them know.

III. **Additions and Deletions to published Agenda:** None

IV. **Approval of Minutes**

Approval/ Rejection of the November 18, 2020 Town Council Workshop Meeting. *CM Dugan motioned for the approval of the minutes as presented, CM Miller seconded the motion. (Vote: Dugan- Yea, Mertz- Yea, Miller- Yea)*

V. **Mayor's Report**

1. Reconstitution of a Police Department

- a. Mayor McDonald discussed actively researching the enactment of a Townsend Police Department. He would like to receive detailed information about the costs to initiate a police service, payroll costs, equipment and related expenses, insurance and liability costs, and additional details related to implementation.

- b. Council and Town Manager Mangeri discussed the idea of hiring a Police Chief and reconstituting the Police powers in the Town Charter. Mayor McDonald requested a plan for reinstating the Police Department, hiring a Police Chief, and associated costs.
 - c. Additionally, Mayor McDonald discussed the need for a Town storage building/ maintenance yard and the best location for the Police Chief and Police Department to work.
 - d. Council directed Town Manager Mangeri to build a proposal on the scope and costs of reconstituting a police force, over the next few months, with a deadline to present progress on this report by May 2021. TM Mangeri will coordinate with the Public Safety Chair, Patrick Miller over the next few months to provide status updates.
2. Possible additional Council responsibilities
- a. Mayor McDonald requested Council's input on his previous request for Council to consider adding an additional responsibility of attending HOA meetings.
 - b. CM Mertz shared that TM Mangeri already interacts with the Town HOA's and it may be good for him to continue that relationship. Mayor McDonald shared that he thinks it would be a good idea to just listen to the HOA meetings, to hear what they have to say.
 - c. NCC Councilman Carter shared how he interacts with HOA's in his jurisdiction and said he would be willing to share information about this.
 - d. TA Townsend confirmed that HOA members have the right to hold meetings, post agendas and have the right to be heard. The right to allow those outside of the unit to be included in the meeting, does not extend to those without a connection to the unit, but they can be invited to, and also prohibited from attending the meetings
 - e. Mayor McDonald requested Council drop the idea to appoint HOA liaisons from Council.
 - f. TM Mangeri said that in compromise of this idea, he will continue to reach out to the representatives from the HOA's in Town and will check in on them, perhaps on a quarterly basis. If items arise, TM Mangeri will direct them to the appropriate Town Council Committee.
 - g. CM Mertz shared that as the Co- Chair of the Community Relations Committee, one of the items the HOA may be helpful with include community events. CM Mertz will contact TM Mangeri to determine how HOA's could be helpful in running Town events.

VI. Reports

A. State Police:

1. Lt. Lloyd shared that there were 27 total responses in the Town of Townsend in the month of November. This included a shoplifting at Walgreens, a fraud, one misdemeanor drug possession on a traffic stop, three domestic disputes, 17 non-reportable incidents which did not include criminal charges, and three property damage crashes along Route 71.
2. There were 76 traffic citations given in and around Townsend.
3. Councilman Dugan shared that he lives near west Main Street and during the nighttime, there are often very loud vehicles which go through Town as if it were a racetrack. He requested additional patrols in the evening hours. Lt. Lloyd said that he will provide this information to the Patrol Troops and Special Duty Troops to pay more attention to. Lt. Lloyd also requested individuals call in to report when these instances occur, so that Police can address this in the moment.

4. CM Miller requested the Town choose certain areas and times of day extra duty Police Officers patrol Town. TM Mangeri and Lt. Lloyd shared that the Town has been doing this and Council and the Public Safety Committee can make these requests to TM Mangeri. TM Mangeri also shared with Council that there has been some difficulty securing the extra duty Patrol Officers recently, for unknown reasons.
5. Lt. Lloyd shared that there has been some assistance provided for the President Elect, which has limited resources, but has not impacted the Patrol Troop resources at Troop 9. Lt. Lloyd shared that staffing is low at Troop 9, due to injuries, transfers, and other staffing requirements.

B. Town Attorney Fred Townsend III:

1. TA Townsend explained that when looking at the Code, relating to HOA's, unit members or community members have the right to notice a meeting and agendas and the right to be heard, but there is no evidence that these rights extend to anyone other than the members of the community. Those without the connection as a member of a group can likely be prohibited from attending a meeting.
2. TA Townsend also shared that TVII has reached out through its HOA for the purpose of obtaining approvals for signage. One of the complications with this, is that the common areas have yet to be transferred to the Town or HOA, and the HOA does not own or govern the common areas until the developer passes the rights on to either the HOA or the Town. TA Townsend indicated to TVII's HOA attorney that if they can receive written confirmation from MS Development to consent to the location of signs, they can apply for sign permits, through the Town. TA Townsend shared that MS Development is likely willing to allow this application to take place. TA Townsend wanted to make Council aware of this.
3. TA Townsend shared the other aspect of this, is the Town's desire to meet with MS Development. To date, TA Townsend had not had any response from MS Development for the purpose of scheduling a meeting to discuss outstanding items. Council and TA Townsend will continue this discussion during the Executive Session.

C. Town Engineer Edwin Van-Otoo:

1. A Discussion on the status of Close Out Projects, including Townsend Village 1 – Phases 3A & 3B, Townsend Village 2 – Phases 2A, 2B, 3C, 4D & 4E, and Lifehouse Church
 - a. TE Van-Otoo shared that regarding TVI Phase 3A and 3B, he has received additional documentation from the developer on items within these phases. TE Van-Otoo will review these items to ensure all materials are provided and will prepare dedications for these items.
 - b. The request for Townsend Village 2 – Phases 2A, 2B, 3C, 4D & 4E, has been generated by TE Van-Otoo and this is still in the works.
 - c. TE Van-Otoo held a discussion on the closeout of Lifehouse Church
 1. TE Van-Otoo shared that there have been ongoing discussions regarding Lifehouse Church and the Maintenance Guarantee for the project. Per the Town Code, the Maintenance Guarantee can be up to 15% of the site improvements. Additionally, the project "As-Builts" are forthcoming

2. Regarding the Maintenance Guarantee, Matt Volk from GGA Construction was present to represent Lifehouse Church. TE Van-Otoo shared that he has been in contact with him over the past few weeks to determine the amount of Maintenance Guarantee needed based upon all of the site improvements. Per Lifehouse Church, they believe the numbers of the Maintenance Guarantee are high. TE Van-Otoo requested Mr. Volk gather all of the site improvements for the easements, rights of way, the landscaping, and the stormwater basin, for his recommendation of what to include in the Maintenance Guarantee. TE Van-Otoo also expressed to Mr. Volk that Town Council is the one to make any modifications or adjustments to the Town Code, as these numbers are only his recommendation. Additionally, TM Mangeri has been privy to the conversations between TE Van-Otoo and the representatives from Lifehouse Church.
3. TE Van-Otoo shared that Lifehouse Church would like a reduction in the Maintenance Guarantee. Overall, the Maintenance Guarantee for all site improvements at the 15% rate equals to about \$228,000, including everything on the site. Lifehouse Church is arguing that this is a commercial property and some of the items are not absolutely necessary. Therefore, TE Van-Otoo recommended to only include items within the right of way, easement, landscaping, and stormwater basin. With only including these items, the overall cost is \$277,000, with the 15% Maintenance Guarantee equaling \$41,645.25.
4. TM Mangeri shared that he understood the concern of Lifehouse Church's and the intent of the Code is to not leave the Town with a liability after the fact. TM Mangeri asked Lifehouse Church to coordinate with the TE Van-Otoo to determine what they feel would be an appropriate guarantee. TM Mangeri feels TE Van-Otoo's estimate is reasonable in protecting and preserving the Town's liability or concern for the next two years. The main concerns are the Stormwater Management System, the parking lot integrity, and landscaping. He then asked Council to weigh in and share their opinion.
5. TA Townsend confirmed that he supports TE Van-Otoo and TM Mangeri's interpretation of the Code and that Council can waive or reduce the requirements.
6. Town Manager McDonald requested Council's opinion on the possibility of reducing the Maintenance Guarantee and asked for any input from Lifehouse Church.
7. Mr. Matthew Volk, of GGA Construction, the General Contractor representing Lifehouse Church gave a presentation on how much they would like Lifehouse Church's Maintenance Guarantee to be. He provided history on the project timeline of construction of Lifehouse Church and fees associated with the project, and additional requirements to complete the project. He shared that Lifehouse Church understands that the Maintenance Guarantee is in the Town Code but did not realize that it would apply to their project.

8. Mr. Volk requested to TE Van-Otoo that any work in the right of way, along Karins Boulevard, be included in the 15% guarantee. He also requested that all items strictly on private property would not be included in the 15% guarantee. Items strictly and 100% on private property were requested to not be included. Mr. Volk did not want landscaping on private property to be included in the Maintenance Guarantee, nor the Stormwater Management system, due to it being 100% on private property and it does not tie into the utilities of the Town or any other jurisdiction. Additionally, this was reviewed and will continue to be reviewed by the New Castle County Conservation District.
9. Lifehouse Church and Mr. Volk propose a 15% Maintenance Guarantee in the amount of \$19,799.25, which they feel would be more than adequate to cover any items that would be of concern of the Town. They shared that they are more than willing to provide a Maintenance Guarantee to ensure coverage for the Town and be fair. Mr. Volk respectfully requested that Town Council consider lowering the amount required for the Maintenance Guarantee.
10. CM Miller asked for a list of items to be included in Lifehouse Church's request to determine the lowered Maintenance Guarantee amount and requested input from Lifehouse Church representative Mr. Leight or Mr. Lashey.
11. Marc Lashey, the Lead Pastor of Lifehouse Church and Mr. Leight provided insight onto how they feel Lifehouse Church impacts the community and requested the Town Council to consider decreasing the amount of the Maintenance Guarantee.
12. CM Miller proposed that Mr. Volk and other representatives connect with TE Van-Otoo on the numbers they are using to request to lower the Maintenance Guarantee.
13. CM Mertz asked if this Maintenance Guarantee would be provided as a bond or escrow. FO Helms confirmed that this is an escrow, which will be held for Lifehouse Church for two years, until the end of the Maintenance Guarantee, and if unused, the funds will go back to Lifehouse Church.
14. CM Mertz also requested clarification on how the \$19,799.25 was determined. Mr. Volk shared that it was determined based on the items they would like to be included of which the 15% would be determined, which totaled \$131,995.00. The escrow of 15% of that, Lifehouse Church and GGA Construction determined the Maintenance Guarantee amount of \$19,799.25. Mr. Van-Otoo felt additional items should be included in the Maintenance Guarantee to include items in the right of way and easement, and the stormwater basins, which totaled to \$277,000 with the 15% Maintenance Guarantee equaling \$41,645.25. The 15% is per the Town Code Maintenance Guarantee.
15. CM Mertz made a motion to a compromise, to include all items recommended by TE Van-Otoo, in the Maintenance Guarantee totaling to \$277,000 but reduce the total percentage of the cost of the items, to a percentage that equals the proposed value of Mr. Volk is requesting, as this would fit with the Town Code requirement of up to 15% and would also allow more items to be covered under the Maintenance Guarantee. CM Miller seconded the motion.

16. TE Van-Otoo made a recommendation, based on Mr. Volks presentation, to allow for an inclusion of the amount of the landscaping to provide the screening between the Church and the residents. Mr. Volk estimates that this portion of the landscaping is between \$5,000 and \$8,000. Mayor McDonald requested if it would be acceptable to Lifehouse Church to increase the \$19,799.25 request by \$5,000 to include the cost of this landscaping. Mr. Lashey said that this would be acceptable.
 17. *CM Mertz amended his motion to allow for the Maintenance Guarantee to include all items recommended by TE Van-Otoo and place the percentage at the cost of \$19,799.25 plus the \$5,000, totaling to \$24,799.25. CM Miller seconded the motion. (Vote: Dugan-yea, Mertz- yea, Miller- yea)*
 18. Motion passed to reduce the Maintenance Guarantee for Lifehouse Church to \$24,799.25, with the final number being confirmed by TE Van-Otoo for \$24,799.25.
 19. Mr. Lashey thanked Council for working with Lifehouse Church on this issue.
2. A discussion on the new construction at The Woods at Hidden Creek

TE Van-Otoo shared that this project was intended to start on November 16th, but they will be starting on the second week in December, according to conversations with Developer, Rob Allen.
 3. A discussion and update on a possible traffic signal at the Route 71 & Karins Boulevard intersection.
 - a. TE Van-Otoo shared that he had discussions with DeIDOT regarding a possible traffic signal. DeIDOT shared that no additional meetings with the Town are currently necessary. TE Van-Otoo shared with DeIDOT that due to COVID, traffic counts would be invalid due to traffic being reduced. DeIDOT shared with TE Van-Otoo that this issue is on their radar and that this intersection is on their list of intersections throughout the state to take a further look into. TE Van-Otoo shared that Council would like to keep this issue on the forefront of DeIDOT and DeIDOT was amicable to this recommendation.
 - b. DeIDOT also mentioned that if there is any reduction in traffic up to 20%, on Route 71, and 50% on the side streets, these would trigger a new traffic count, for future investigation into these areas.
 4. A discussion on MS Development and the missing pavement at the Route 71 & Karins Boulevard Intersection

Regarding the pavement that is missing at the Route 71 & Karins intersection, TE Van-Otoo shared that DeIDOT and CM Lobdell are looking into the bond that may have expired at the intersection. If there was any oversight regarding this area, DeIDOT would be responsible for maintaining that intersection, in terms of pavement. More information on this will be forthcoming, depending on what is discovered. Additional discussion on this issue was held for additional discussion during Executive Session, as this conversation relates to potential litigation.

5. A discussion and update on the awarded contract for the Tennis & Pickleball Court Project
 - a. This project has been awarded to Gessler Construction and Council has decided to hold the start of this project to the spring. The contract documents are being formulated by TE Van-Otoo and will be sent to the Town. Once this is complete, TE Van-Otoo will connect with Gessler Construction to determine a date to begin the project, as the award for the project funds expire in June 2021.
 - b. TM Mangeri shared that the Town has been in touch with the County to request confirmation that county funds are still available. The state is aware of the Town's delay in re-bidding the project and they had no conflict with extending these funds. TE Van-Otoo requested a confirmation of the extension to be held for him to confirm.
6. A discussion about the Cannery Lane Stormwater Basin
 - a. TE Van-Otoo and TM Mangeri worked together to determine the owner of this Basin and are working with the New Castle County Conservation District to get an update on the status of the pond. The property owner will also conduct engineering work to get the true assessment of the condition and capacity of the pond. Once all information is compiled, TE Van-Otoo will determine how to proceed. As this Stormwater Basin is worked on, this will improve the overall appearance of Cannery Lane to clean up overgrown vegetation, etc.
7. A discussion about the landscape installation at the Wiggins Mill Frontage Road.
 - a. TE Van-Otto shared that there have been discussions with the HOA. Wiggins Mill Frontage Road is partly maintained by the HOA, as this has already been dedicated to the Town.
 - b. CM Mertz wanted confirmation that Wiggins Mill Frontage Rd is owned and dedicated to the Town and maintained by the maintenance corporation.
 - c. The issue was that the maintenance corporation was not authorized to install any vegetation on the median between Wiggins Mill Frontage Road and Wiggins Mill Road. The maintenance corporation approached TM Mangeri to install landscaping and TM Mangeri requested a proposal. The Maintenance Corporation took that as an authorization to proceed and install the landscaping. The landscaping is not of a height that is a concern at this point, but it requires the Town to review the sight lines for the areas exiting the Frontage Road onto Wiggins Mill Road.
 - d. CM Mertz asked for the future, does DelDOT have a say in this, or does the Town ensure the sight line is clear? TE Van-Otoo shared that it is twofold, so the area owned by the Town, the vegetation needs to be maintained at an appropriate height. There is nothing currently written that says the HOA will maintain this, it is going on good faith.
 - e. Once the vegetation was brought to TM Mangeri's attention, he sent a cease-and-desist email and asked for maintenance agreement on this area.

D. Town Manager Anthony S. Mangeri:

1. Status update on the COVID-19 pandemic and CARES Act Funding.
 - a. TM Mangeri wanted Council to be aware of his report on coronavirus. Right now, in the Town of Townsend zip code, there is a significant rise with approximately eight new cases per day. This number was one to two a month ago and we are now looking at approximately a 14% and up to 20% positivity rate in the past 14 days. This is the percent of people who have taken the test over those who have tested positive. These numbers are significantly high, so the Town continues to maintain vigilance in the Park and at Townhall etc.
 - b. Additionally, the state has closed its playgrounds and asks that people limit their time in the parks. The Town has closed their playground and equipment, and this remains prudent.
 - c. TM Mangeri also announced that there is a public pop-up testing site on Friday, 12/4/2020. The Town has been posting the testing sites and general information. The Town also sent an update to our concern on staying safe and vigilant during the holidays. TC Tantillo confirmed that the COVID testing site will be 10 am- 6pm at the Townsend Fire Hall.
 - d. CM Miller asked if the Town would be required to provide any traffic control during the COVID Testing Pop-Up. TM Mangeri stated that no assistance has been requested at the current time.
 - e. Regarding the CARES Act Funding, TM Mangeri shared that the Town has received its first allocation of funds. The funds are not scheduled to be extended and the Town will be looking in December to determine how best to allocate these funds. If Council has any questions or suggestions, TM Mangeri requests they reach out to him.

VII. Committee Reports

A. Finance: Chair Mayor Thomas McDonald - Co-Chair CM Edgar Dugan

Mayor McDonald reviewed the current budget and actual numbers prepared by FO Helms.

B. Human Resources: Chair CM Patrick Miller

CM Miller requested his involvement in the discussion of looking into hiring a Police Officer or Police Chief.

C. Public Works: Chair CM Edgar Dugan - Co-Chair CM Scott Lobdell

CM Dugan shared that he is working with TM Mangeri to resolve an issue in TVI where the farm preservation next to the Town was disturbed. TM Mangeri has generated a letter to the resident. CM Dugan expressed that he would like the Town to generate a letter to explain that you cannot clear out hedge rows or buffers between properties to protect farmland and serve as a buffer when spraying fertilizer. CM Dugan will follow up with TM Mangeri to send a letter to everyone along the hedge row so they understand what they can and cannot do.

D. Land Use & Development: Chair CM Scott Lobdell - Co-Chair CM Edgar Dugan

- a. Discussion and second reading and vote on Ordinance 2020-006 to Annex and Assign Zoning Classification of the area known as Townsend Acres consisting of tax parcel number 14-01601-043 located at 0 Summit Bridge Road, Townsend, DE 19734, into the Town of Townsend.

- ii. CM Mertz sent a suggested announcement to TM Mangeri for this contest. CM Mertz and CM Lobdell will coordinate to schedule a drive-through of Town to judge the holiday decorations in Town, the week of December 21st. TM Mangeri will continue to coordinate with CM Mertz to work on the language of the announcement.

H. Parks & Recreation: Chair CM Scott Lobdell - Co-Chair CM Patrick Miller

No report

I. National Wildlife Federation Liaison: CM Mertz

No report

VIII. Citizens Comments & Participation

1. Mr. Rich Gorman and Mrs. Lorraine Gorman thanked Council for taking care of the Town and wished everyone a Happy Holiday.
2. Travis and Jessa wanted to echo Mrs. Gorman's sentiments and thank everyone for their hard work and wish everyone a wonderful Holiday Season.

IX. Recess Council Meeting to Convene Executive Session

1. TA Townsend read the reasoning for the Executive Session "In accordance with 29 Del. C. §10004 (B)(4) the Town Council met in executive session strategy session relating to potential litigation with Town Attorney Townsend."
2. *CM Dugan made a motion to move to Executive Session as stated by the Town Attorney, CM Miller seconded the motion. (Vote: Dugan- yea, Lobdell- yea, Mertz, yea, Miller- yea).*
3. Mayor and Council closed the regular Town meeting to convene the Executive session at 8:58 pm.

X. Convene Executive Session: In accordance with 29 Del. C. §10004 (B)(4) the Town Council met in executive session strategy session relating to potential litigation with Town Attorney Townsend.

XI. Close Executive Session & Re-convene Council Meeting

1. Council closed Executive session and re-convened the Town Council meeting at 9:34 pm
2. *CM Mertz made a motion to approve Holiday bonuses for staff. CM Dugan seconded the motion (Vote: Dugan-yea, Lobdell-yea, Mertz-yea, Miller-yea)*

XII. Adjournment

Mayor and Council adjourned the meeting at 9:37 pm.