

Town of Newport  
Regular Meeting of the Mayor and Commissioners  
November 17, 2022

Pledge of Allegiance.

Mayor MacDonald called the meeting to order at 7:00 pm and announced that the meeting was in compliance with the Delaware Open Meetings Act.

Attendance: Mayor Michele MacDonald, Vice Mayor Spencer, Commissioner Stephanie Banks, Commissioner Michael Capriglione, Town Manager Wendy King, Police Chief Mark Wohner and Solicitor N. Christopher Griffiths. Commissioner John Joswick announced he was under the weather and left the meeting.

Minutes of the October 22, 2022, meeting were approved via motion by Vice Mayor Spencer and seconded by Commissioner Capriglione. All ayes.

Town Manager's Report – The Delaware Kids Fund Operation Warm will take place Friday, November 18, as it was postponed on November 11. Chief Wohner has provided his data on mandatory retirement for police officers and will present during his comments. Solicitor Griffiths provided two different resolutions depending upon the decision of council. The general fund balance is high because the Community Reinvestment grant was automatically deposited as well as a deposit to cover review of the site plan from Harvey Hanna. Those funds, in addition to task force funds, will be placed into separate accounts. These additional funds create a false sense of cash position and while short term investing would be nice to gain interest, the next significant cash deposits will not occur until March when business licenses are due. A transfer to the capital account will occur prior to the end of the year. We are still waiting for the \$30,000 from the bond bill for security improvements and lighting at the boat ramp. The FY2023 general operating budget will be presented. A new business license ordinance was included in the commissioner packets for review. The fee schedule was updated and the marked-up version showing the changes will be given to the commissioners for review. DelDOT held a workshop at Minquas Fire House to present a year-long project running down Route 4 from Limestone Road to Augustine Street. Commissioner Capriglione suggested utilizing US Treasury Direct for short-term investments paying 3.72% interest for 30 days and 3-month terms are paying 4.10%. Vice Mayor Spencer noted an error on the budget where it was not showing total income. Commissioner Capriglione asked about the garbage can deployment because a delivery of cans was being delivered to Waste Management. Town Manager King was informed that inventory was low. She will follow up with the representative from Waste Management.

Police Chief's Report – Monthly department statistics for October, 2022. He informed council about the DelDOT project. The project begins at Limestone Road and ends at Augustine Street. Lanes will be reduced in size by a foot and bike lanes will be implemented. The median in the middle will be taken out and there will be a turn lane. Commissioner Banks asked about bus drop-off and pick-up and there no longer being a divided highway. Chief Wohner said that the opposite side does not have to stop on a 4-lane roadway. There is a planned bike lane on the west side of Newport. He mentioned the flooding at Walnut and Market. The bump-outs are not ADA compliant so they will be redone. Commissioner Banks asked about the catalytic converter thief – one was caught.

Alderman's Report - \$25,466 in fines collected in October.

Maintenance Reports were presented. Vice Mayor Spencer asked who was doing code enforcement because he did not see a report on code enforcement. There is a report included but he did not see it.

Solicitor's Report – Ben Foreman is working on the revamped business license ordinance. Solicitor Griffiths worked on the mandatory retirement resolutions, miscellaneous work for the police department and is working on the auditor's request. His firm is working on some presentations for other towns and if any of them could be pertinent to Newport, he will pass along to the town manager. Commissioner Banks asked if Chief Wohner was still going to be hiring a certified officer. The mandatory retirement age will be discussed in New Business.

Commissioners – No questions or concerns.

Mayor – No questions or concerns.

Public Comment – None.

New Business – Mandatory Retirement Age. Chief Wohner reminded council of his intention to modify the mandatory retirement language as it pertains to the police department. He prepared a sheet to describe his thoughts on the matter which included how other agencies in New Castle County handle retirement. There are four other agencies aside from Newport that have a mandatory retirement age – some by statute and some by contract. He believes that if a certified officer is obtained, that person may come from the lower part of the list. The department is short-staffed because no one wants to be a police officer. The last academy class held by the state police showed 200 applicants where it used to be 1200 applicants. Beginning in December, Newport will be down to four officers, including Chief Wohner) and if one of those four were to reach our mandatory retirement age of 60, the town manager would have no leeway to allow that person to stay beyond that period. Changing the age would also allow the town manager to bring a certified officer on who may be in need of meeting a pension benchmark. There are two options – abolishing a mandatory retirement age or making it 63. The purpose of having a mandatory retirement age is to ensure the department is able to function within the scope of work. Commissioner Capriglione appreciated Chief Wohner's position on being short-staffed but asked if psychological and physical fitness evaluations would become mandatory. Chief Wohner advised that per state accreditation, standards and full screenings would need to be performed and met. Vice Mayor Spencer said that when this was established in 2007, we had an aging group and there was question about whether those were going to be grandfathered and it was never enforced. The department we have now is younger. He questioned if we even needed to have a mandatory retirement age. Someone who is 60 now is not what being 60 was 15 years ago. By granting the town manager the ability to extend someone, do we open ourselves up to others saying that it was done for someone else, so it should be done for them, too. What is the definition of "short staffed" going to be? If there is no written policy, someone will challenge it. Solicitor Griffiths said the way the resolution is written gives the town manager discretion. Vice Mayor Spencer asked how you tell someone who is 63 that it is time for you to go and when this initial document was created, there were persons nearing late 50s, but we do not have that situation now. Commissioner Capriglione wanted to be sure he understood what was being asked – that retirement age is 60, but the town manager has the discretion to extend to a maximum age of 63. He believes that we could be opening ourselves up to litigation if someone was not allowed to extend beyond 60. Vice Mayor Spencer is all for it but just wants to be sure things are buttoned up. Solicitor Griffiths is comfortable with the language and once approved, internal policies can be updated. Chief Wohner said that it can be written that requires all officers obtain a physical each year as to not be discriminatory. Vice Mayor Spencer made a motion to accept Resolution 2022-003. Commissioner Banks seconded. All ayes.

Town Manager King advised that she obtained a quote from Tusi Electric to wire the streetscape lights for LED and LED parking lot lights at the municipal building. She will get the two additional quotes, but wanted to advise of plan to switch to LED. Current bulbs are going out constantly and there are a few poles with both lights out. The bulbs are hard to get and hard to change because we do not have a bucket truck. Mr. Tusi did put an LED bulb in on Market Street/Augustine for comparison.

FY2023 General Operating Budget. Balanced budget presented with no tax increase. The difference between 2022 and the proposed 2023 budget is \$16,820. The difference included the fact that the towing contract between the town and B&F Towing expired years ago and they were not interested in maintaining that agreement. The lost revenue for that contract was approximately \$17,000. Litigation settlement of \$22,000 and a 3% wage increase for the employees also contributed to the increase. A second premium payment to the employees from ARPA can also be considered. The changes made to both the income and expenses were outlined and explained. The proposed total budget would be \$1,538,020. Commissioner Capriglione asked about B&F Towing and could they not continue to contract for exclusive towing in the town. What vehicles were not picked up could be kept for scrap metal and parts. Chief Wohner said that monies received could only be what it costs us to tow the vehicle. We could not go higher than that without it being considered a fee. Vice Mayor Spencer asked why B&F would not feel it was in their best interest. Chief Wohner said they advised him that the city of Wilmington got out of the game because Wilmington's council advised them it was improper. It was all about appearance, also. We also don't want to appear we are towing cars just for the money. That did occur in Wilmington and they are in federal court about that. Vice Mayor Spencer commented about the decrease in liability insurance and worker's compensation staying around the same. The town received a \$14,000 rebate due to fund performance this year. Commissioner Capriglione asked about the decrease in overtime for maintenance due to weather conditions. It is predicted to be a milder winter. Vice Mayor Spencer made a motion to accept the first reading of the 2023 General Operating budget. Commissioner Capriglione seconded. All ayes.

Commissioner Capriglione wanted to know if we were acting on the business license ordinance tonight. It is for next month, but it is to be reviewed because there is a lot of content showing what was changed and the fee schedule being updated. The new ordinance better defines enforcement approaching people who are not compliant. The fine was changed to \$75 to keep cases in JP Court as opposed to Court of Common Pleas.

Vice Mayor Spencer made a motion to adjourn; Mayor MacDonald seconded. All ayes.

Meeting adjourned at 7:54 pm.