

MINUTES OF THE MEETING
SMYRNA TOWN COUNCIL
July 5, 2011

The meeting was called to order by Mayor Patricia A. Stombaugh at 7:30 p.m. Council members present were Regina I. Brown, Valerie M. White, Joanne Masten, Robert Riddagh, Jeff Flairty, and Anthony H. DeFeo.

Also present were Town Manager David S. Hugg III, Chief Wilbert R. Bordley, Attorney Barrett Edwards, and Recording Secretary Valerie L. Heritage.

Mayor Stombaugh asked everyone to rise for the Pledge of Allegiance. Mayor Stombaugh asked for everyone to remain standing for a moment of silence.

ADDITIONS/DELETIONS TO PUBLISHED AGENDA

Councilman Riddagh made the motion to accept the agenda as presented. Motion was seconded by Councilwoman Masten and carried unanimously.

MINUTES OF PREVIOUS MEETING

Mayor Stombaugh asked if there were any additions or deletions to the minutes of May 16th and May 23rd, 2011. There were none. Councilman Flairty made the motion to accept the minutes of May 16th and May 23rd, 2011. Motion was seconded by Councilwoman Masten and carried unanimously.

REPORTS

A. Presiding Officer - Mayor Stombaugh thanked the Fourth of July Committee for the wonderful job they did for the Town of Smyrna and Clayton. Councilwoman Masten said thank you. Mayor Stombaugh said she also wanted to recognize an employee tonight, but the resident that sent her the information could not be here tonight, so she will put that on the next agenda so that she can be here.

B. Town Attorney - Mr. Edwards said he did not have anything at this time; the one thing that he will note is that Mr. Jaywork's mother passed away yesterday.

C. Police Chief - Chief Bordley reported that everything went very well during the Fourth of July festivities. He thanked Mr.

Jester and the Public Works Department for their excellent job and help yesterday. Chief Bordley said on June 23rd they held the graduation of the Junior Police Academy Cadets there were about 20 participants, and he wanted to thank everyone from the community - businesses and individuals - that donated a total of \$800.00 to put that on - we really didn't have the money for that and everyone came together and sponsored that and he is really appreciative about that.

D. Town Manager - Mr. Hugg said he emailed his report to Council and had nothing to add.

E. Committees - Councilman DeFeo said the Utility Committee is going to meet next Wednesday, July 13th at 5:00 p.m. He said the Utility Committee visited the City of Dover's Utility Committee meeting last week; they are considering the sale of their electric department and they wanted to hear pros and cons see how they were going to weigh the options. Councilman DeFeo said they are going to keep an eye on what's taking place there.

Mr. Hugg said he and Mayor Stombaugh attended a meeting of the Delaware Health Resources Planning Council on Thursday of this past week. He said the Mayor was invited to come and speak to the Council to demonstrate the Town's support for Bayhealth's emergency room project that they are proposing to build at the Carter Road site.

Councilman Flairty said the Long Range Planning Committee met this evening at 5:30 p.m. He said there were some very spirited and interesting conversations regarding some of the strengths and weaknesses, opportunities and threats that are out there for our town and the growth and the long range vitality of this community. Councilman Flairty said we are looking to focus our energies on some different things and their first item of interest is the opportunity for development north of Duck Creek and looking at how the town can be prepared for that when it does occur. He said they are having a meeting on the 25th for about two or three hours to talk about in general the process for planning a development of that size and how the town interacts with the developers and the other interested parties such as DelDOT and the State Planning groups and how we can work and be prepared to capitalize on that process.

Councilman Riddagh said the Personnel and Public Safety Committees have not met since the last Council meeting so there is nothing new to report. He said the Personnel Committee will

meet on the 12th and the Public Safety Committee will meet on the 14th.

Mayor Stombaugh said the Business Development Committee will meet this Thursday morning at 8:30 a.m. She said a lot of great things are happening for the town even with our economy being where it is we are still moving forward. Mayor Stombaugh said if you go down Carter Road going out towards the highway, on the left hand side you will see that ground has broken and there's apartments - about 800 apartments - going in there; Bayhealth, as Mr. Hugg said there is a 24/7 emergency center planned for next year; across from McDonald's going north on the right hand side you might notice the construction there, so we've done quite a bit of clean-up in town - there's a lot going on.

Mayor Stombaugh said the Finance Committee will follow the Personnel Committee meeting on the 12th.

Councilwoman Masten said the Tree Commission will meet on July 20th. Mayor Stombaugh said she is going to bring this up since we are talking about the Tree Commission - there's a tree on Main Street near Lefty's - it's going into the foundations of the houses there and the sidewalk is all rippled and she hears every day that people are falling so we need to take a look at that.

RECOGNITION OF VISITORS

Visitors present were Daryl Jester, Dana F. Wattay, Sue R. Urian, Sally Lee, Lee Gillis, Arlette Gillis, Daniel S. Bloxom, James E. Veit Sr., Jonette Oldham, Bill Oldham, James Harkins, Jim Dykes, Ann Henning, Gerald Henning, Mary Turner, Ruth Williams, Larry Koehler, Marcella McKelvey, Harry Thompson, Cheryl Thornton, Larry Thornton, Maria Newill, Conrad Hebert, Jen Merrill, Robert Merrill, John Phillos, Charles V. Williams, Robert Marr, Jennifer Dailey, and Beverly Hirt.

Mayor Stombaugh said this portion of the meeting is open to visitors. She said we ask you to step to the microphone, and give your name and address because it is recorded; you have three minutes to address Council. Mayor Stombaugh said Council may not have an answer for your questions tonight; we may need to refer it to a staff member or to a committee. She asked if anyone would like to address Council. No one came forward.

Mayor Stombaugh said seeing no one step forward we will close this portion of the meeting and return to the regular Council meeting.

OLD BUSINESS

A. THIRD READING: Ord. No. 003-11, An Ordinance to Enact a New Chapter 47 "Outdoor Smoking Regulations" to the Town Code of the Town Smyrna - Mr. Hugg explained that the only change to this ordinance is that we have added the \$25.00 and \$50.00 penalties; it is ready for the third and final reading.

Councilman Riddagh made the motion to make this the third and final reading of Ord. No. 003-11, an ordinance to enact a new Chapter 47 "Outdoor Smoking Regulations" to the Town Code of the Town of Smyrna. Motion was seconded by Councilwoman White and carried unanimously.

NEW BUSINESS

A. Council Position re: Need for New Library - Councilman Flairty said he asked for this to be on the agenda because he received a number of calls and emails expressing a concern that Smyrna is a house divided with regard to this issue, and he wanted to - he thinks it is important to reinforce at this point that the Town's commitment to building a new library or improving library services in the town and finding a way to build a new library, and he thinks at this point with the bond bill putting \$150,000.00 - the State putting \$150,000.00 towards that and the likelihood of that number increasing in the next few years it's important that we portray ourselves as being supportive and consistent. He said at this point he wanted to ask that a member of the Guild to get up and give us a current status of where they are and what has occurred so that we can get an idea there, and then if a member of the Commission would like to get up and speak about what they have done towards that goal, and then we can move on to items (B) and (C) tonight.

Jennifer Merrill, 115 North Main Street, Smyrna, came forward to speak. Mrs. Merrill thanked Council for letting her address them tonight and hearing what the Guild has been up to. She said she is the President of the Smyrna Public Library Guild; their organization was founded in 2008 in response to: 1) a request from the Town of Smyrna's Library Long Range Planning Committee, and 2) in support of the State's effort to improve library services throughout Delaware. Mrs. Merrill explained that since 2008 the Smyrna Public Library Guild has established

itself as a charitable organization and is operated completely through volunteer service; to date they have raise over \$60,000.00 and have worked with the state to meet the requirements of capital funding from Delaware. She said with the passing of the FY2012 Bond Bill last week they now have access to \$150,000.00 being held and managed by the State's Division of Libraries. Mrs. Merrill reviewed some of the group's fundraising activities and what they have been doing the last few years. She said in order for them to be included in Delaware's Library Capital Construction Budget the library needed a name - their Board of Directors selected 'Duck Creek Regional Library' to reflect the heritage of our area, to have a name with some character, and to clearly define the intent of the funds within the State Bond Bill. Mrs. Merrill said they are at another critical point - in September their organization will again will make a presentation to the Delaware Council on Libraries at their annual construction funding meeting; following their meeting last year the Council on Libraries requested evidence that the Town of Smyrna supported the Guild and their effort, and after convening the workshop in October the Town's letter of support served as that evidence. She read the letter of endorsement from November 2010. Mrs. Merrill said this September, having received our initial \$150,000.00, we intend again to submit a larger capital request to finish property acquisition, begin building plans, site preparation, and hopefully construction. She said the Council on Libraries has requested through the State Librarian that we show the beginnings of a plan for library operation. Mrs. Merrill said her questions tonight on behalf of the Guild and the hardworking volunteers are: 1) does the Council stand by the statement of support as stated in the letter, 2) do you, the Council, want the new library in Smyrna, and 3) are you, the Council, willing to work with us to begin to outline how this library will operate. She thanked Council for listening.

Mayor Stombaugh said at the time when the letter was written our understanding was the Smyrna Library Guild that used to be the Friends of the Library - we did not know that this was a group that was intending on going out independently and forming an independent organization, a non-profit organization; we thought that your were going to be working with the group that was with the library and that you were going to be working on behalf of the Town of Smyrna. She said we made if very clear when we wrote that letter that we are not in the position to do any financial support; we agree whole heartedly that it would be wonderful to have a larger library. Mayor Stombaugh said as an independent organization - she had called for a summit when all

this stuff started coming out and when we found out that there was a lot of confusion and that there was a lot of things that weren't the way that we were being told on one side, and finding out something differently so she wanted to have a summit so everyone could sit down and talk about this. She said Mr. Hugg offered to get a facilitator so that we could sit down and have an organized meeting, but the facilitator will cost \$2,400.00; after the Finance Committee meeting last month and finding out the position that the town is in because of the lack of sales of houses - we were expecting \$600,000.00 this year from transfer taxes, it will be less than half of that that we will have in.

Councilman DeFeo asked Councilman Flairty if he was looking for a vote. Councilman Flairty said yes he is; he is looking for a resolution, a motion from the Council that they continue to stand by the wording of the previous letter that they support the Guild's roll in building a new library. Councilwoman White asked if that was his motion. Councilman Flairty said yes it is. Motion was seconded by Councilman DeFeo. Mayor Stombaugh said if you are asking for the same letter... Councilman Flairty said the motion's intent is to make sure that outside of this Council Chamber the community at large, the Smyrna community, the Smyrna committees, the Smyrna commissions, the Department of Libraries, the State, the Counties - that they all understand that the Town is behind the effort of the Guild to help build a new library, and they will support them in any way they can, we have made it clear and he does not have an issue with us continuing to be clear that we cannot financially support the capital program of building a new library.

Councilwoman Masten said she is not sure that the issue is whether or not the Council supports the Guild and the efforts that they are putting forth to get the library built - she thinks that the concern is if we are building a newer, bigger, better library a) can it be staffed with the current staff that we have - probably not, it's going to need more staff, so the issue is who's going to be able to afford to pay the salaries, the benefits and everything else that goes with that when we're not in a position now to pay the \$2,400.00 to a facilitator. She said can the Town of Smyrna fund that library in terms of books that are needed, the staffing, and benefits - that's where she is really worried about.

Councilman Flairty said one of the people in the audience is John Phillos from the Department of Libraries - he asked for Mr. Phillos to come forward and comment on how the State sees that operational process to be done.

John Phillos, Delaware Division of Libraries, came forward to speak. Mr. Phillos explained the many different ways that libraries are run in Delaware. He said the State also provides funding for libraries. Mr. Phillos gave a couple of examples of how a new library could be governed. Discussion ensued about needs assessments that were done; Mr. Phillos stated that he is available to facilitate/advise.

Councilwoman Brown said someone from the Guild came forward and spoke; would someone from the Commission like to come forward to speak? Alice Hohman, member of the Library Advisory Commission came forward to speak. Mrs. Hohman said the one thing that she would like to see the library stay in the Town of Smyrna because if patients from the Home and Hospital come up to use it - there is a senior citizen bus that comes up and brings people to borrow books from the library - she does not want to see it leave from the Town of Smyrna. She said she also has a little bit of a problem with the name being changed to Duck Creek; we graduated from Duck Creek to Smyrna quite a few years ago and she does not see anything wrong with the name of Smyrna, if you want to change it to Smyrna Regional Library that would be okay. Mrs. Hohman said as far as the Mayor saying we should all get together - she has been on this commission several months and she feels like a rank beginner; she has no idea what the Guild is doing because nobody tells her; she doesn't know what the Town of Smyrna feels like because they don't tell her; her group gets together to decide what they can do - we don't raise the money, she is proud of the Guild that they can raise the money; we don't do that, we're just fighting to keep the library open, enlarge it if we can, and keep it in the Town of Smyrna. Mrs. Hohman said one suggestion that was made - she does not know if this will work or not - the police also need a new police station, maybe we could build one big building and have the police in one end, have the library in the other; there will be security for the library people.

Dana Wattay, 812 Fayette Road, Smyrna, came forward to speak. Mr. Wattay said he is part of the Library Guild, and he is hearing a lot of confusion tonight. He said we did put together a meeting that was held at Asbury Church before the letter was written and they put together what is called a PowerPoint Deck - went back to find all the history. Mr. Wattay said their goal was to bring everyone together; if it can be kept in town, they will keep it in town.

Maria Newill, 56 West Commerce Street, Smyrna, came forward to speak. Ms. Newill said she is a member of the Guild, but not

active in the Guild; she is very active in the Downtown Renaissance Association. She said she thinks it is extremely close-minded to think that the only purpose of a library is just a library and books and buildings. Ms. Newill said having a new library would help - if people were coming to the library they might shop in the stores while they are here; we need to make this a welcome community to this library so they come here, they bring foot traffic, they bring the other people to move to our community and they keep this a viable town.

Motion carried with Councilwomen Brown, White, and Masten, and Councilmen Riddagh, Flairty, and DeFeo voting for, and Mayor Stombaugh abstaining.

B. Library Facilitation Proposal - Mr. Hugg explained that the Mayor had asked when this came up a few months ago if he had any suggestions. He reviewed a proposal that was in Council's packets.

Councilman Flairty made the motion to ask John Phillos to facilitate a meeting between the Guild, the Council, the Commission, and interested parties. Motion was seconded by Councilwoman Brown and carried unanimously.

C. Council Direction and Guidance for Smyrna Public Library Advisory Commission - Councilman Flairty made the motion to table item 9(c) until the meeting is held. Motion was seconded by Councilwoman Masten. Councilwoman Brown read the agreement that says what the Commission is supposed to do into the record.

Larry Thornton, 134 West Commerce Street, Smyrna, came forward to speak. Mr. Thornton said he is a member of the Guild, and he is a little confused about some things - is it a Board or a Commission or is it a Committee that appeared in November of 2010? Councilwoman Brown said in her document it is a Board, but Council called it a Commission - she does not know the difference.

Mayor Stombaugh amended the motion to postpone the discussion to another meeting after the summit. The amendment to the motion was seconded by Councilwoman Brown and carried unanimously.

The amended motion carried unanimously.

D. FIRST READING: Ord. No. 004-11, An Ordinance Amending the Homeowner's Association Requirements Found in the Subdivision

and Land Development Ordinance - Mr. Hugg explained this is basically a housekeeping amendment. Councilman DeFeo made the motion to accept this as the first reading of Ord. No. 004-11, an Ordinance to amend the Homeowner's Association requirements found in the Subdivision and Land Development Ordinance. Motion was seconded by Councilwoman Brown and carried unanimously.

E. FIRST READING: Ord. No. 005-11, An Ordinance to Create Regulations Governing Tax Assessment Appeals - Mr. Hugg explained that this amendment comes at the request of members of Council and the Board of Assessment that the process that we have been following for assessment appeals is not very efficient; this amendment creates a more efficient process where appointments will be made rather than the Board sitting and waiting for residents to come, if any come at all.

Mr. Edwards said he had two minor changes to the amendment - one is on the first subsection A regarding the notice; he wanted to clarify he was going to insert that the notice has to include the date when the Council is going to hear you and the date when the Assessment Appeals Committee will hear you - then on the second page, under B(1), talking about the composition - he is going to take out the words 'at least' so the Committee will be made up of three members of Council.

Councilman DeFeo made the motion to accept this as the first reading of Ord. No. 005-11, an Ordinance to create regulations governing tax assessment appeals with the corrections stated. Motion was seconded by Councilwoman Brown and carried unanimously.

F. Sidewalk Waiver Request re: 203 North High Street, Urian - Mr. Hugg explained the sidewalk waiver request that Ms. Urian submitted. Councilwoman White made the motion to approve the sidewalk waiver request at 203 North High Street. Motion was seconded by Councilwoman Masten and carried unanimously.

G. Annexation Request - Resolution to Set Legislative Fact Finding Hearing and to Consider Zoning Designation, 18 Myrtle Street, Brian A. and Denise D. Fletcher (September 6, 2011 at 7:15 p.m.) - Mr. Hugg explained that this is step one of the annexation process. Councilwoman White made the motion to approve the resolution to set a legislative fact finding hearing and to consider the zoning designation for 18 Myrtle Street, Brian A. & Denise D. Fletcher for September 6, 2011 at 7:15 p.m. Motion was seconded by Councilman DeFeo and carried unanimously.

H. FIRST READING: Ord. No. 006-11, An Ordinance to Create a Real Property Tax Exemption for Persons 65 Years of Age or Over - Mr. Hugg deferred this discussion to Mr. Edwards. Mr. Edwards explained briefly what this Ordinance does.

Councilman Flairty made the motion to accept this as the first reading of Ord. No. 006-11, to create real property tax exemption for persons 65 years of age or over. Motion was seconded by Councilman Riddagh.

Councilman DeFeo asked about veterans (disability income and if they are senior citizens).

After much discussion Councilmen Flairty and Riddagh withdrew the motion and second.

I. State of Delaware Nuisance Abatement Program - Councilman DeFeo said he asked for this to be added to the agenda. He said Council had received email about some issues that were taking place in town. Councilman DeFeo said he wants the town to take full advantage of this resource.

Chief Bordley said an email from a resident sparked this. He said at this point we do not have enough probable cause to rise to introduce the abatement program - this is not something that the State does lightly; it is enforced in other cities and towns that have legal divisions to handle this.

The resident came forward to speak. She said she is threatened by her neighbor on a daily basis and her family is in danger always and explained the instances that have happened.

Councilman DeFeo asked if there is a reason why when the original arrest was done the property was not seized. Chief Bordley said when they do a raid generally they do not confiscate or introduce the abatement law to take that property. Councilman DeFeo asked why. Chief Bordley said generally that is up to the State.

Councilwoman White suggested Chief Bordley and the resident get together and discuss this further.

EXECUTIVE SESSION

A. Executive Session to Discuss Contract Negotiations - Councilman DeFeo made the motion to go into executive session to discuss contract negotiations. Motion was seconded by

Councilwoman Masten. Council went into executive session at 9:55 p.m. by unanimous vote.

Councilwoman Masten made the motion to come out of executive session. Motion was seconded by Councilman Riddagh. Council came out of executive session at 10:22 p.m. by unanimous vote.

POSSIBLE ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION

There was none.

OTHER COUNCIL BUSINESS

Mayor Stombaugh asked if there was any other Council business. Councilwoman Masten thanked Daryl Jester along with his Public Works crew, and also Chief Bordley's team of officers for the excellent support that they gave the July 4th Committee over the last few days of their activities.

ADJOURNMENT

Mayor Stombaugh adjourned the meeting at 10:23 p.m.

Council Secretary