

*Town of Cheswold*  
1856



*State of Delaware*  
1787

**Town of Cheswold**  
**Minutes of the Monthly Town Council Workshop Meeting**  
**Tuesday – April 16, 2013**  
**6:00 p.m.**  
**Cheswold Town Hall**

The following persons were in attendance:

**Mayor Donald Tinari**  
**Vice-Mayor Robert Sine**  
**Secretary/Treasurer & Councilperson Theon Callender**  
**Councilperson Justin Curley**  
**Councilperson Mildred Johnson**  
**Councilperson Sherry Lambertson - (arrived at 6:15 p.m.)**

**Excused: None**

**Town Employees: Chief Christopher Workman**

**# of Cheswold Residents Present = 0**

**#of Visitors = Planning Commissioner Chairperson Dennis Coker**  
**Planning Commissioner Albert Lambertson**

**NOTICE:**

Notice of this meeting has been made in accordance with the Delaware Open Meetings Act, by it being properly posted on April 9, 2013. Copies of the agenda were posted on the Official Bulletin Board outside the Cheswold Town Hall, in the local Post Office, in the Fox Pointe Development and a meeting notice on the Official Web Site for the Town of Cheswold, at [www.cheswold.delaware.gov](http://www.cheswold.delaware.gov); and was filed with the Clerk of the Town of Cheswold. In addition, copies of the agenda were available for pick-up in the Town Hall.

**MEETING:**

The meeting was called to order by Mayor Don Tinari at 6:05 pm and was immediately followed with the Pledge of Allegiance and a Moment of Silence.

**ROLL CALL:**

At the request of the Mayor, Secretary/Treasurer Callender called the roll of the Council members and attendance was confirmed as noted above. A quorum of members was presented to the Mayor and the meeting continued.

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**AGENDA REVIEW:**

The agenda was reviewed by the Council for amendments and revisions, as requested by the Mayor and a motion was made by Councilperson Johnson to accept the agenda as presented. A second to the motion was made by Councilperson Curley and the votes were as follows:

Councilperson Theon Callender – Yes                      Councilperson Justin Curley - Yes  
Councilperson Mildred Johnson –Yes                      Councilperson Sherry Lambertson – Not Present Yet  
Vice-Mayor Robert Sine - Yes

The motion carried with a unanimous vote of those in attendance.

**DISCUSSION ITEMS**

**a. Atlantic Concrete/Zack Excavating – Secretary/Treasurer Theon Callender**

Mrs. Callender informed the Council that Richard Snyder our Code Enforcement Officer was dispatched to Atlantic Concrete site to determine the source of “excessive dust”. It was discovered that Atlantic Concrete was employing crushing concrete through the services of Zack Excavating, who did not have a Business License with the Town. Mr. Snyder obtained a copy of a DNREC permit and informed Zack Excavating that a Business License was required to operate a business in the Town and shut them down.

Mrs. Callender reviewed the Land Use Ordinance and upon discussion with Mr. Dennis Coker, Planning Commission Chairperson determined that crushing concrete is not a permitted use for the M-1 or I-2 zones, in which the properties owned by Atlantic Concrete reside.

In addition, Mrs. Callender had a discussion with DNREC, (Department of Natural Resources and Environmental Control), and determined that a “temporary” permit had been issued to Zack Excavating to operate a Powerscreen XH320 Mobile Crusher and that a “permanent” Jaw Crusher permit was pending. Further discussion determined that DNREC had not contacted the Town, as is expected and is normal procedure for them, before issuing the “temporary” permit. Subsequently DNREC withdrew the “temporary” permit and has not issued the “permanent” permit.

Mr. Skip Jones of Atlantic Concrete and Mr. ? Zackowsky visited Mrs. Callender and attempted to convince her that crushing concrete is an accessory use of the creation of concrete from cement. Mrs. Callender explained that it was her understanding that crushing concrete was not needed to create concrete from cement and that crushing concrete is explicitly prohibited from the M-1 Zone. In addition, no application to operate a business by Zack Excavating had ever been presented to the Town. She suggested that a conditional use request be made to the Planning Commission to obtain permission to crush the concrete. Eventually it was decided that a conditional use request was inappropriate for the situation and that Zack Excavating should have submitted a concept, followed by a preliminary plan request to the Commission.

The end result of the situation was that Atlantic Concrete contacted their attorney, Mr. Mark Dunkle, who in turn forwarded a letter to Mrs. Callender containing a reminder of the previous judicial ruling concerning M-1; a copy of the court order; a copy of the 2007 Zoning Map for the Town ; Article 16 of the Town Comprehensive Plan and a copy of 1977 Zoning Ordinance.

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**DISCUSSION ITEMS "con'td"**

**a. Atlantic Concrete/Zack Excavating "continued" – Secretary/Treasurer Theon Callender**

All of that correspondence was forwarded to our Town Attorney Mr. Fred Townsend and to our Planning Commissioner Chairperson Mr. Dennis Coker. In addition, Mrs. Callender reviewed the situation with others in the State familiar with Zoning Codes and Comprehensive Plans and after discussions with the Town Attorney contacted a Land Use specific attorney to review the situation.

Chairperson Coker provided historical content to the situation and requested the Council to approve the hiring of Mr. Max Walton of Connolly Gallagher LLP to represent the Town for this situation and perhaps as the Planning Commission Attorney for the future.

Mrs. Callender recited Mr. Walton's resume as follows:

- BA – Washington College Political Science 1991 – 1995
- J.D. Law – Widener University School of Law 1995 – 1999
- Law Clerk – Superior Court; State of Delaware 1998 – 2000  
*Law Clerk to the Honorable William T. Quillen*
- Associate – Connolly Bove Lodge & Hutz LLP 2000 – 2006  
*Litigation Associate*
- Partner - Connolly Bove Lodge & Hutz LLP 2006 – 2012
- Founding Partner – Connolly Gallagher LLP 2012 –
  
- **Specialties:**
  - Commercial Litigation
  - Constitutional Law
  - Construction Law
  - **Government Representation**
  - **Land Use Litigation**
  - Insurance Litigation

If the Town is willing, Mr. Walton has agreed to represent the Planning Commission and Town in this situation at a cost of \$325.00 per hour for a maximum, at this time, of 20 hours.

Councilperson Curley made a motion to employ Mr. Walton as the attorney for the Planning Commission in the matter of resolving the M-1 code and the prohibited use of crushing concrete within the M-1 Zoning District. The second to the motion was made by Councilperson Lambertson and the votes on the motion were as follows:

Councilperson Theon Callender – Yes                      Councilperson Justin Curley Yes  
Councilperson Mildred Johnson –Yes                      Councilperson Sherry Lambertson – Yes  
Vice-Mayor Robert Sine - Yes

The motion carried with a unanimous vote.

Upon approval of his hiring, Mr. Walton has scheduled a preliminary meeting for Thursday, May 2, 2013. The location of the meeting, and those required to attend is yet to be determined.

**PENDING**

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**DISCUSSION ITEMS "con'td"**

**b. Emergency Operations Plan – Councilperson Sherry Lambertson**

Under the direction of Ms. Lambertson, the following revisions/changes/corrections were agreed to be made to the Emergency Operations Plan.

In addition, Chief Workman pointed out that the intent of the document cannot be changed, as it is a Federal, State and County regulation.

Therefore all changes are either grammatical, spelling corrections, punctuation corrections or changes of applicable Town of Cheswold municipal positions or changes of Sussex County to Kent County.

<b>PAGE #</b>	<b>REVISION; CHANGE; CORRECTION</b>
21	Change Town Manager to Emergency Management Coordinator/Town Manager.
22	Change Sussex County to Kent County. Change Finance Director to Secretary/Treasurer. Move responsibility document preservation from Town Clerk to Secretary/Treasurer per Town Charter – Section 6.2.3 Add Note: Section D is included in this document to provide detailed information for municipalities of the process and procedures of the Emergency Operations Center, which is typically staffed by either County, State or Federal personnel during emergencies.
24	Remove the space after the open parentheses and before the word, "if".
25	Correct the word "recover" to "recovery" and add periods where required.
26	Insert (NIMS) after the word "System".
27	Add dashes between "multi" and "agency". Remove the word "needs" from sub-section 17. Insert "Town of" before "Cheswold" in Section E. Correct Section spacing. Remove the word "which" from both descriptions at the bottom of the page.
28	Make all open dots - black.
29	Un-bold Item D. Re-align Section Letters. Change the number "2" in front of Organizational Functions to the letter "a".
30	Capitalize the first letters of the words "incident commander"

Mayor Tinari also pointed out and requested that various and assorted periods be added; that various and assorted commas be either added or removed and that various and assorted "ands" also be removed.

Pages 31-40 will be reviewed at next month's Town Council Workshop Meeting.

**PENDING**

**c. Safety Manual Review – Secretary/Treasurer Theon Callender**

Mrs. Callender asked the Mayor and Council if they had any revisions to present for the Ordinance concerning the Safety Manual or any of the Sections that she previously forwarded to them for review.

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### DISCUSSION ITEMS "con'td"

#### **c. Safety Manual Review** "continued"- *Secretary/Treasurer Theon Callender*

There were no revisions presented for the Safety Manual, however, Mayor Tinari pointed out that section 3.9 of the Ordinance should be corrected to reflect that there are six, (6), members of the Town Council and not five, (5), even though he is the Mayor he is still a member of the Council.

Mrs. Callender acknowledged the requested revision and informed the Council that she would present the ordinance for approval at the May Town Council Meeting with the correction to Section 3.9.

### **PENDING**

#### **d. Water System for Old Town** - *Mayor Donald Tinari*

Mr. Tinari once again provided a condensed historical review of the Water System project. The project began in August 2012 and three, (3), meetings have been held since that time. The Mayor explained that forward motion on the project more or less ceased when a principal of the meetings stated that a grant would not be considered until everyone in Old Town agreed to sign up for the Municipally approved water distribution system.

A survey was created and supplied by KCI Engineering and it included a brief statement and also asked the question of the respondent as to how much they would be willing to pay for the connection. In addition, the survey was only related to property owners and not residents, so the Mayor created his own survey that related to property owners, property owner/residents and tenants. He sent his survey to the State of Delaware Water Facilities Department; KCI Engineering and Tidewater. He did not receive a response from KCI or Tidewater and the response from the State was a marked up survey sheet indicating that the statement that filters would not be needed is inaccurate.

The Fire Company is also in need of a Municipally approved water distribution system, but they have been informed by Tidewater that to bring water to them will cost approximately \$56,000 and attempts to contact Tidewater have been unsuccessful.

Out of frustration and a concern for the health, welfare and safety and residents of Old Town, Mrs. Callender sent a letter to Senator Dave Lawson and Representative Trey Paradee requesting their assistance in fulfilling the Delaware plan for Delaware Health and Safety for its residents. Senator Lawson responded immediately and requested status information and subsequently Representative Paradee responded and agreed to provide support.

Mayor Tinari responded with a three, (3), page status and history report of the situation. A few days later Ms. Heather Warren of the State Water Facilities Department forwarded an e-mail to the Town indicating a standing offer to assist the Town in the following manner:

1. To collect and analyze water samples from Old Town if the Town will supply a person to assist and a few dates to conduct the collection
2. To provide input on surveys, etc.
3. To provide information to residents during a public workshop(s).
4. To assist the Town with a Drinking Water Facilities application if a referendum is passed.

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**DISCUSSION ITEMS** *"con'td"*

**d. Water System for Old Town – Mayor Donald Tinari**

The Mayor concluded by saying that he expects to meet with Ms. Warren next week.

In the meantime the Council is requesting the Planning Commission to provide them with a revision to Article 11 – Utilities; Section 11-2 Water Facilities of the Land Use Ordinance, to provide relief for well owners who do not currently have access to a Municipally-owned or Municipally-approved water distribution system.

**PENDING**

**e. Trash Ordinance Review – Town Council**

Mrs. Callender presented the revisions and concerns previously voiced to her by Vice Mayor Sine concerning the Trash Ordinance. Specifically his concerns were:

- Sub-Section 5.5 The requirement for the trash containers being put curbside no later than 6:00 a.m, on the day of collection.
- Sub-Section 5.7 Trees and limbs are not part of the regular pick-up process for Fox Pointe.
- Sub-Section 6.2 Vehicle owners being responsible for anything thrown from a vehicle registered to them.
- Sub-Section 9.2 Are violation fees paid directly to the Town of Cheswold. If not all references to such should be removed.

The other concerns or revisions discussed were:

- Sub-Section 6.10 Cheswold Volunteer Fire has requested to be referred to as Company and not Department
- Sub-Section 10.2 A word appears to be missing from the statement.
- Conclusion In the conclusion, the document is referred to as a resolution instead of an ordinance.

After discussion and agreement, Mrs. Callender committed to making the following changes:

- Sub-Section 5.5 Remove the curbside placement statement from the sub-section.
- Sub-Section 5.7 Remove the trees and limbs statement from the sub-section.
- Sub-Section 6.2 Change vehicle owners to vehicle drivers.
- Sub-Section 9.2 Remove all reference to violation fees being paid directly to the Town of Cheswold.
- Sub-Section 6.10 Change Department to Company
- Sub-Section 10.2 Add “the violators” between “conviction” and “shall”.
- Conclusion Change “resolution” to “ordinance”.

**PENDING**

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**DISCUSSION ITEMS** *"con'td"*

**f. Noise Ordinance Review – Town Council**

Mrs. Callender acknowledged that the Council had not had sufficient time to review the Noise Ordinance in time to provide feedback for the Workshop meeting. However, she asked them to add "Section 8", in Sub-section 4.9.4

She then requested them to provide feedback on the ordinance prior to the May Town Council meeting, because doing so will provide the opportunity to make corrections for review and they can be addressed at the meeting.

Vice Mayor Sine suggested that rather than sending one ordinance at a time to the Town Attorney for review and agreement that we wait until both ordinances are ready to be sent. The Council agreed.

**PENDING**

**g. Summertime Bar-b-que/Picnic – Secretary/Treasurer Theon Callender**

Mrs. Callender reported that the Committee had met and made the following decisions about the bar-b-que/picnic.

**TITLE: 1<sup>ST</sup> Annual Cheswold Pride Day**

**PURPOSE:**

- **To re-introduce Town pride to old time residents**
- **To introduce Town pride and history to new residents**
- **To introduce residents to their Town government officials**
- **To form a strength and bond between all Town residents**
- **To have good clean healthy fund**

**WHAT:**

- **Food**
- **Games**
- **Music**

**WHEN: SATURDAY, JULY 27, 2013  
2:00 p.m. – 9:00 p.m.**

**WHERE: TOWN PARK – SCHOOL LANE**

**PENDING**

**h. Police Department Status Report – Police Chief Christopher Workman**

- **Policies and Procedures** – are completed and were signed off on by the Officers of the Police Department. They are now in full effect and include Safety information and the Emergency Plan.
- **Grants**
  - **OHS – Office of Highway Safety** is currently sponsoring cell phone enforcement overtime, which results in officers being available to the Town for an additional 56 hours in a two, (2), week period.

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**DISCUSSION ITEMS** "con'td"

**h. Police Department Status Report "continued" – Police Chief Christopher Workman**

- **Grants – "continued"**
  - **COPS** – The quarterly reports have been submitted and approved. There is a \$28,675.46 balance remaining for submittal and the grant is scheduled to expire on December 31, 2013. However, the government is sponsoring a 2013 COPS Application process.
  - **BULLET PROOF VEST PARTNERSHIP** – Currently applying for this grant, which is valid for two, (2), years.
- **Vehicle 102** – is the 2006 Crown Victoria, which went out of service on Friday, April 5, 2013 and remains out of service. The vehicle has approximately 129,000 physical miles and approximately 258,000 engine idling miles. The transmission is an issue and repair, parts and labor costs are \$2,900 with a three, (3), year unlimited mileage warranty. There is also a yet to be determined issue with the gas gauge and the electrical system.

The Chief recommends not repairing the car but purchasing a 2012 Dodge Charger from Hertrich Fleet Services. Associated marking, and additional equipment will be purchased through the Violent Crimes and EDIE grants as a one-time vehicle enhancement. This car will be fitted as a marked unit.

The terms of the agreement will be \$7,860.66 payments for three, (3) years. The price of the car is \$21,747.00 with a 6.5% APR and a payment factor of 0.354531.

**NOTE: FOR PERSONAL REASONS – COUNCILPERSON LAMBERTSON LEFT THE MEETING AT 8:57**

A motion was made by Vice Mayor Sine to purchase the new 2012 Dodge Charger and with a second from Councilperson Justin Curley the votes on the motion were as follows:

Councilperson Theon Callender – Yes	Councilperson Justin Curley Yes
Councilperson Mildred Johnson – Yes	Councilperson Sherry Lambertson – Not Present
Vice-Mayor Robert Sine - Yes	

The motion carried with a unanimous vote of those in attendance.

- **Upcoming Events** – the Chief will be attending the following events and representing the Police Department of the Town of Cheswold. ***In cases where tickets or expense is concerned the Chief will cover the cost out of his personal finances.***
  - Friday, April 26, 2013 – Delaware Crime Stoppers Annual Golf Outing
  - Wednesday, May 1, 2013 - 22<sup>nd</sup> Annual Crime Victim's Tribute
  - Friday, May 3, 2013 – Blue Mass, St. John the Beloved
  - Saturday, May 4, 2013 – New Castle County PD Centennial Celebration
- **Statistics –**
  - Increase in Domestic Disturbances
  - Decrease in Alarms
  - Decrease in Assisting Other Agencies



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**DISCUSSION ITEMS** *"con'td"*

**i. Town Council Monthly Meeting Agenda – Town Council**

It was agreed to post all pending items from this meeting to the Town Council Monthly Meeting Agenda except for the review of the Emergency Operations Plan and the Safety Manual.

In addition, any new issues of concern that may arise prior to the posting of the agenda will added to it.

**j. New Website Review – Secretary/Treasurer Theon Callender**

Due to the lateness of the hour the new website was not reviewed.

**Comments:**

**Councilperson Justin Curley** – Nothing to Report

**Councilperson Mildred Johnson** – Nothing to Report

**Councilperson Sherry Lambertson** – Not in Attendance at This Time

**Secretary/Treasurer Theon Callender** – presented Requisition #2487 for review and approval for Printer Toner for the Police Department in the amount of \$302.97.

A motion was made by Councilperson Curley to approve the requisition and a second was presented by Vice Mayor Sine. The votes on the requisition were as follows:

Councilperson Theon Callender – Yes	Councilperson Justin Curley Yes
Councilperson Mildred Johnson –Yes Present	Councilperson Sherry Lambertson – Not Vice-Mayor Robert Sine - Yes

The motion carried with a unanimous vote of those in attendance.

Following the approval of the motion, Mrs. Callender informed the attendees that DelDOT had forwarded the approval letter to pave the Town Hall parking lot for Project 13-P-Prog. 92.

**Vice Mayor Sine** – Nothing to Report

**Mayor Donald Tinari** – Nothing to Report

**MOTION to ADJOURN :**

A motion to adjourn was made by Mrs. Callender at 8:36 p.m., and a second was received from Vice-Mayor Sine. The votes on the motion were as follows:

Councilperson Theon Callender – Yes	Councilperson Justin Curley Yes
Councilperson Mildred Johnson –Yes Present	Councilperson Sherry Lambertson – Not Vice-Mayor Robert Sine - Yes

The motion carried with a unanimous vote of those in attendance.