

MINUTES

FRANKFORD TOWN COUNCIL

August 4, 2014

Town Council	Joanne Bacon, Vice- Pres.	
Roll call:	Pamela Davis	
	Cheryl Workman, Sec/Treasurer- Absent	
	Jesse Truitt	
	Charles Shelton	
Town Employees:	Terry Truitt, Town Administrator	
	Chief William Dudley, Police	
Town Solicitor:	Dennis Schrader	
Others:	Elma Gray	Maria Counts, Coastal Point
	Lewis Gray	Kathy Murray
	Robert Murray	Greg Johnson
	Velicia Melson	Matthew Melson
	Janet Hearn	Bernard Lynch
	Albert Franklin	Barbara Franklin
	Edward Ash	Marty Presley
	Toni Presley	James Sample
	Jerry Smith	Elizabeth Carpenter
	Greg Welch	

The regular monthly meeting of the Frankford Town Council was opened by Vice-Pres. Joanne Bacon at 7:00 PM.

A motion was made to accept the agenda as posted by Charles Shelton with a 2nd by Jesse Truitt. Motion was unanimous.

Reorganization of Town Council was next on the agenda. Vice-Pres. Joanne Bacon called on members of Council if they were in a position to do so tonight. Terry Truitt announced in the absence of Cheryl Workman due to her husband being in the hospital she could not be present tonight but had expressed interest in remaining in her position as Secretary/ Treasurer on Council. Dennis Schrader clarified the opening of President was the result of Jesse Truitt resigning only from the position and not from Council at the July 7, 2014 Council meeting.

Joann Bacon noted she would accept the position as President with the following appointments for the remainder of the year upcoming year as follows:
All liaison positions would remain the same.

Joanne Bacon	President.
Pamela Davis	Vice-President
Cheryl Workman	Sec./ Treasurer

A motion was made to accept the above appointments to Council by Jesse Truitt with a 2nd by Charles Shelton. Motion was unanimous.

Citizen's Privilege:

Pres. Joanne Bacon called on those present if they wanted to address Council with concerns/ questions on posted agenda items. No one requested to speak.

A review of the Town Council Monthly Minutes from July 7, 2014 was done; A motion was made to accept the minutes as presented by Jesse Truitt with a 2nd by Pamela Davis. Motion was unanimous.

Pres. Joanne Bacon noted the minutes from the Second Budget Hearing on June 23, 2014 have been tabled.

Pres. Joanne Bacon noted the minutes from the Town Council Work Shop Meeting on July 31, 2014 have been tabled

Vice-Pres. Joanne Bacon called on Terry Truitt to read aloud the Financial Report in its entirety. Council reviewed the Financial Report/ Accounts Payable; A motion to pay the bills as listed was made by Charles Shelton with a 2nd by Pamela Davis. Motion was unanimous.

Report from Town Departments/ Employees:

Water Plant: Jesse Truitt noted there was nothing new to report.

Terry Truitt, Town Administrator: Terry Truitt presented Council with a copy of the outstanding balances for Collection report as of July 31, 2014. Lighting at the Town Park was installed on July 31st and the ADA accessible ramp to the new pavilion was installed on August 1st. She noted they had also repaired another ADA ramp which was cracking free of charge. She noted they had enough asphalt with them to correct the entrance gate on Hickory Street where flooding occurred in the amount of \$225.00. A motion was made to approve the \$225.00 cost by Jesse Truitt with a 2nd by Charles Shelton. Motion was unanimous.

Maintenance: Pres. Jesse Truitt noted David Ward has been very busy.

Chief William Dudley, Police: Chief Dudley reported for the period of July 7 through August 3, 2014 there were 20 tickets written for speed, 1 for driver license violations, 4 for registration, and 6 for miscellaneous for a total of 31 traffic arrests written for this time period. He added there were 15 complaint/ service calls and 9 for criminal arrests. He noted that if anyone hasn't spent much time up at the Town Park they should do so. In his opinion it was one of the finest parks in Sussex County. He added with that said there is starting to be minor vandalism with broken glass, etc. He added that Indian River High School had donated a set of corn hole game boards to the Town Park but has been hesitant to installing them for this reason. He has added there was grant money available to buy surveillance cameras if needed. He called for those to assist with reporting any types of offences seen. He noted with the start of school should correct a lot of the behavior problems.

Frankford Vol. Fire Co.: Robert Murray offered the use of the Frankford Vol. Fire Co. sign to promote/ advertise the monthly Town Council meetings. Council agreed it would serve as a good reminder and thanked the Fire Company for the use.

REPORTS:

President Bacon asked for report(s) from Council regarding Parks, Police, Streets and Water.

Joanne Bacon- Parks- She reported the new lights had been installed at the Town Park as discussed earlier. She noted at some point she would like to have a working water fountain installed up at the Town Park but with the current vandalism did not feel it would be wise to do so given the expense.

Charles Shelton, Police: He noted the Town Park is a nice Park and felt it would take all of the resident to address problems not only with the Park but the Town as a whole to keep things safe. He suggested that anyone could bring concerns to him or the police department. He added he worries for the safety of the senior citizen residents of the Town with all of the crime taking place around the community. He added that he as observed kids riding bikes on streets without helmets and all hours of the day and night. Pres. Joanne Bacon asked Chief Dudley if the Town has a curfew. Chief Dudley responded no the Town does not have one currently in place. If the Town chose to then they need to be aware of the surrounding business hours which could conflict with creating a Town curfew. Chief Dudley added it becomes a parenting problem.

Pamela Davis, Streets- She said she did not have a report at this time.

Jesse Truitt/ Chery Workman, Water- Jesse Truitt noted he had nothing new to report.

UNFINISHED BUSINESS:

Pres. Joanne Bacon noted there was nothing to discuss.

NEW BUSINESS:

Pres. Joanne Bacon read aloud the names of the three newly registered voters requesting to be added to the Listing of the Eligible Voters for the Town of Frankford as being:

Elizabeth Carpenter	#26 Frankford Avenue
Ian Carpenter	#26 Frankford Avenue
Russell Davenport	#5 Dover Street

Pres. Joanne Bacon called for a motion to approve. Dennis Schrader, Town Attorney noted there was no action required to be taken to accept these applications as registered voters. He noted that once they come in and complete the registration process they are approved. Pres. Joanne Bacon questioned that this action would no longer be necessary? Dennis Schrader replied no but only if they chose to announce new registered voters of the Town. Jerry Smith interjected by questioning if the Town was not following its Town Charter related to voter registration. Dennis Schrader replied no they were following State law and that it supersedes the Town Charter. Jerry Smith then questioned the procedure for when there are deletions to the voter registration due to death or moving. Pres. Joanne Bacon noted the Town has usually done the same method of listing them for approval of deletion in the past. Dennis Schrader noted it as complicated but didn't see it as a problem.

Correspondence:

Pres. Joanne Bacon noted there were no correspondences to discuss/ review.

Citizen's Privilege: Open Forum:

Pres. Joanne Bacon announced the start of the new Citizen's Privilege which would follow the same three (3) minute time limit but for generalized conversational topics.

Elizabeth Carpenter noted the new speed limits signs along Frankford Avenue have been observed and appreciated. She added that when the Town does install the corn hole game boards at the Park that they consider a "vending machine" to distribute the toss bags to promote possible revenue. She then suggested that the Town considering a "farmers Market" on weekends given the abundance of produce.

Councilman Jesse Truitt excused himself from the remainder of the meeting.

Robert Murray noted his concerns related to a letter submitted to the Town Hall on July 15th which was addressed to the “acting president Joanne Bacon”. He noted that the letter contents had been discussed with Councilman Jesse Truitt with Vincent Hitchens (who was named in the July 15th letter) and to his knowledge had not been shared with Joanne Bacon. He added the Town Attorney was then involved. He noted it raises concerns with him for any future correspondences not being delivered to the designated person intended and felt it should be addressed. Pres. Joanne Bacon thanked him and noted it would be discussed.

Kathy Murray expressed her concerns over a FOIA request dated July 14, 2014 with regards to a response dated by Dennis Schrader dated July 18, 2014. In her FOIA request she inquired about obtaining copies the 12 month actuals to proposed budget for fiscal years 2011/2012, 2012/2013, 2013/ 2014 to which Mr. Schrader stated they do not exist. She posed her question to Council and then Terry Truitt as to what financial data is provided to the CPA’s for yearend financial statement preparations as only being the 11 month figures which was provided to Council for budget planning or do the 12 month actuals actually exist. Pres. Joanne Bacon commented that she did not have an answer for her. Terry Truitt replied that when the accountants come onsite to start the actual year end audit they have remote and internal access to all programs/ figures up to the date they arrive. She added they are usually onsite for two weeks and can even access reports remotely from Georgetown. Terry Truitt finished by saying the reports she requested do not exist but through the financial year end reports generated by the accountants. She noted they could comprise more reports through QuickBooks once budget figures were entered. Dennis Schrader noted the accountants do have the actuals. He offered to address her concerns as to when the budget in review comes up the Council is not looking at the actuals versus when the fiscal year ends. Kathy Murray interjected him by stating she did not care when the fiscal year ended but rather noted it was a disgrace that the Council does not have the 12 month actuals compared to the budget. Dennis Schrader replied that the Town was trying to modify their reporting capability by using similar reports used by two other Towns. Council discussed the availability of doing so. Terry Truitt replied that she was already working on entering in the 2014/2015 budget and hoped to have the new reports by the September meeting. Pres. Joanne Bacon questioned if it would be possible to go backwards with the prior fiscal years. Terry Truitt replied she could check into it and advise them as soon as she discussed it with the accountants. Councilwoman Pamela Davis agreed that she felt it would be best to have the information when answering questions regarding the budget.

Greg Welch questioned if the Town Budget had been adopted and if so what date. He questioned when the adopted budget was going to be advertised as it had not been done so yet. Pres. Joanne Bacon commented that it had been adopted/ passed in July.

Jerry Smith questioned the Town Budget pension line item was to reflect it as being encumbered. Dennis Schrader replied it will be noted as “encumbered” until such time the Town Council makes a decision with regards to a possible pension plan.

Bernard Lynch stated the Town cannot afford a pension plan. Pres. Joanne Bacon stated the Council is working on it with no decision made.

Janet Hearn noted the budget shown on the Towns website is the proposed budget version and not the adopted one.

Velicia Melson discussed concerns she had with the corner of Thatcher and Main Street and Pepper & Main Road not having “stop ahead” signs. She stated people are running through the stop signs coming from both directions. Chief Dudley noted he would have to contact DelDOT as both are State maintained roads. She added motorcycles are running through Town at excessive speeds. Councilwoman Pamela Davis stated she has reported the problem before with 6-7am being the worst time frame.

Jerry Smith Street stated he still has “lingering” questions with regards to the December 2013 Town Council meeting when both Charter amendments were discussed and voted upon. Dennis Schrader stated it would include the vote on Christmas bonuses as well. Jerry Smith replied yes and stated that Dennis Schrader had noted the three votes required were not required since the quorum was met for the meeting. Dennis Schrader asked him to be precise in his question as he was sure Mr. Bernard Lynch also had the same question. Jerry Smith stated it was his opinion that the vote taken was incorrect and should have required a three (3) member vote to be passed on all subjects since there was a majority of the quorum. Dennis Schrader noted that since he did not have the information/ literature before him at the July 2014 meeting nor was it on the agenda he has now assembled all of the documents and is prepared to answer based on supporting documentation. In December 2010 the Council adopted the Rules and Procedures for various its bodies and agencies such as the Council, Board of Elections, Zoning Commission, etc. that under rule 11 under Masons Manual of Legislative Procedure. Dennis Schrader outlined rule 11 of Masons Manual of Legislative Procedure as being: Rule 5-10 Paragraph 4 in the absence of an expressed regulation a proposition is carried in a legislative assembly by the majority of the votes cast in the exercise of lawmaking powers not stopped by mere silence any action by someone present but does not vote.

Dennis Schrader added that the rules does say that three (3) affirmative votes will be required to approve any matter within the jurisdiction under rules 5.5 under Rules of Procedure which is a restatement of what is in the Towns Charter. Dennis Schrader noted Mr. Lynch was correct and thanked Jerry Smith for bringing it to his attention. Dennis Schrader remarked "I got it wrong". However, we will take it one step further. In reviewing the approved minutes of December 2, 2013 the only thing that Mr. Truitt recused himself from was the voting of Christmas bonuses which there were only two votes. Theoretically you should bring Christmas bonuses back before Council in September for a vote to ratify the decision made on December 2nd or get the money back. He suspected it would be easier to ratify than to request the money be paid back. Dennis Schrader also stated the minutes should reflect that Mr. Truitt read aloud to the members of Town Council who were present that night the two proposed Charter amendments. One dealt with annexation and the other for the release of a percentage cap on employee benefits. The portion of the minutes from December 2013 was read aloud where the vote to direct the Town Attorney to forward both Charter amendments to the General Assembly. He noted there were three votes (a majority) in favor of sending it forward to the General Assembly. Dennis Schrader outlined the letter of complaint submitted to the Attorney General's office by Greg Welch dated Dec. 9, 2013. In his complaint he asked the Attorney General's office (Dept. of Justice) to involve themselves with regards to the Charter Amendments specifically the amendment regarding the pension plan, health insurance, etc. for the percentage/ cap being set aside. The Department of Justice asked for Dennis Schrader to respond which he did dated Dec. 9, 2013. His full reply has been entered into record (copy on file with these minutes).

Jerry Smith commented under Rule 11 he noted the wording Dennis Schrader read in July 2014 stated only two (2) votes (of the 3 members of Council) were required unless expressed otherwise. Dennis Schrader replied it was expressed otherwise. Jerry Smith noted on July 7, 2014 Dennis Schrader noted the rules that were adopted on December 2010 were changed so that only two (2) votes were required and that he did not refer to Mason Manual of Legislative Procedures. Dennis Schrader responded "if it makes you feel better Jerry I am changing my answer". Jerry Smith noted from his information gathered there were no prior discussions on the Charter change(s) which he notes as pertaining to employee benefits not having open discussion about the subject.

Greg Welch states this was the basis of his complaint to the Attorney General's office. That the Charter amendments "just showed up" without being discussed as being needed or a change. Conversation between Mr. Smith and Mr. Welch went back and forth to the intended reasons for the initial complaint and subsequent concerns. Pres. Joanne Bacon stated the subject had been discussed prior.

Mr. Welch argued no that it may have occurred during an executive session but not open forum. Pres. Joanne Bacon noted it had been raised during a budget hearing back in May 2013.

Greg Welch agreed that it had been brought up during a budget meeting but added that it had not been listed as a posted agenda item for open discussion and had only shown up in complete written form. Dennis Schrader asked for the discussion to stop for a minute so he could reply to a specific question raised. Pres. Joanne Bacon reminded everyone of the three minute limit on open discussions. Dennis Schrader read into the minutes the reply from the Attorney General's office (copy on file with the minutes) where it was noted that Greg Welch had been in attendance at the July 1, 2013 Council meeting and the Budget Hearing where the 15% cap were discussed. Dennis Schrader read aloud the management letter formulated by Jefferson, Urian, Doane and Sterner (the Town accountants) with regards to the necessity to correct the Town Charter regarding benefits. The Attorney General responded by noting that Mr. Welch had been in attendance and present during discussions of the Charter amendments. Dennis Schrader noted the release of the cap does not imply the change in employee benefits until such time the Town Council votes to implement a change in benefits with regards to pension, etc.

Jerry Smith resumed discussion on the Charter amendments specifically to the release of the cap where Council Pres. Jesse Truitt would have a financial interest in doing so. He noted the Charter is now changed to reflect no cap whatsoever.

Janet Hearn questioned the process by which the Charter amendments are enacted. She questioned once the draft was submitted and voted on by the General Assembly if that was all that was required to change the Town Charter or does the Town Council then get to vote to adopt the change(s)? Dennis Schrader replied the Town Charter is changed by the General Assembly and noted the Town cannot change their own Charter..

Bernard Lynch stated the Town Council has to vote to pass a Charter change. Dennis Schrader noted the Town Council had voted in December 2013 to send the request to the General Assembly for a change but noted the General Assembly for the State is the only ones capable of changing the Town Charter.

Councilman Charles Shelton commented that everyone needs to move on noting the meeting was going back to the same old thing over abusing the three minute time limit. He noted there were good discussions and comments raised tonight but the other discussions were running over by 5, 10, 15 minute over repeating itself. He added if the discussion were necessary to be placed on the agenda for further discussion. Jerry Smith interjected by calling on the Council President to permit him to continue his discussion.

Pres. Joanne Bacon permitted Jerry Smith to continue with one last statement.
Councilwoman Pamela Davis agreed to have his remarks finished by one last statement.

Jerry Smith continued his recapture of the July 7, 2014 Council meeting where Dennis Schrader commented that Terry Truitt and Cheryl Workman said that Jesse Truitt did not vote. Jerry Smith stated that if that was the case then the Charter amendments were sent to the General Assembly with only two (2) votes. Jerry Smith then stated he (Dennis Schrader) now states that Jesse did vote at the December 2013 Town Council meeting. Dennis Schrader replied he was not in attendance at that meeting and may have misspoken. Dennis Schrader replied he was not the only person in the room who may have misspoken but offered for him to go back and look at the minutes from the December 2, 2013 Town Council meeting as they were adopted on January, 2014 that the minutes reflect there were three votes.

Marty Presley questioned if there was a mechanism in place to rescind the Charter amendments since at best they sound like they were voted on unethically. Dennis Schrader replied no revision could be done. Marty Presley commented the only way would be to submit yet another Charter change placing a cap for example of 30, 40%. Dennis Schrader replied yes. Concerns over the cost of health insurance were discussed when developing a cap versus the cap percentage were discussed..

Kathy Murray stated she knows the healthcare expense for the Town during the prior fiscal year will be over budget by \$100,000. She added by paying 100% of family cost on health insurance was obscene and that the Town Employees should be paying the cost for family rate.

Councilman Charles Shelton noted they are starting the process of reviewing. The subject matter of a pension

Councilwoman Pamela Davis noted they are handling one issue at a time and wants the public know they hear their concerns.

Dean Esham commented that “he is sick of things being snuck through” directing his remark to Charles Shelton being aware of their concerns.

Albert Franklin commented that he is paying for his health insurance and is retired.

There being no further business, a motion to adjourn was made by Pamela Davis with a 2nd by Charles Shelton at 8:25 PM. Motion was unanimous

Respectfully submitted,
Terry H. Truitt
Town Administrator
Town of Frankford