

# Town of Odessa

## MINUTES OF THE REGULAR COUNCIL MEETING

February 7, 2005

Prior to the call to order of the Regular Meeting of Mayor and Council, Mayor Tulloch introduced Heather Dunigan of WILMAPCO who made a presentation on Transportation Programs and Funding.

Lieutenant Bailey of the Delaware State Police was asked by the Mayor to give a brief report to the community:

Lieutenant Bailey, choosing to take a different direction with her report to the community, handed out a summary consisting of all Delaware State Police service calls - Odessa for the month of January 2005. The summary reported 19 calls total. (6 paper complaints and 13 no paper required (NPR) calls.)

The Regular Meeting of Mayor and Council for the Town of Odessa was called to order at 7:00 p.m. by Mayor Rebecca Tulloch.

The following Council members were present: William Allen, Jim Grant, Frank Sims, and Mayor Rebecca Tulloch. Councilman John Raudenbush and Councilman Jerry Unruh were excused due to illness by vote of Council. Cheryl Gerken, Town Secretary, was also present.

A listing of all public in attendance is attached as documentation herewith.

The Mayor announced that Michelle Eisenburg, who normally covers our meetings from the Middletown Transcript, has moved on to the Delaware State News. Michelle's replacement, Dicken Hyatt, will now be covering the Town meetings.

Ms. Williams pointed out that the Meeting of Mayor and Council was called to order at 7:00 p.m. and that the Pledge of Allegiance had not been said.

Mr. Manista, after being recognized by the Mayor, stated his concern over the meeting not being called to order before being asked to address his issues to Mayor and Council, stating that he did not wish to speak off the record.

Mayor Tulloch then asked that all rise for the Pledge of Allegiance and re-called the Meeting of Mayor and Council to order at 7:21 p.m.

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## Public Opportunity to be Heard

The Mayor recognized Mr. Manista and directed him to the podium. Mr. Manista began with a follow-up to previous issues, citing unfinished business still not appearing on the Agenda, Council not following rules and his question from 8 months ago still going unanswered. These items were submitted in writing and will be attached as part of the official Minutes for the Month of February, 2005.

Mr. Manista continued with his second item, which was his personal issue for zoning, citing Article 16. Steps 1 and 2 were completed, Mr. Manista stated, but then accused the Mayor, Council and Planning Commission of losing or misplacing information.

The Mayor asked Mr. Harvey if he would like to address Mayor and Council.

Mr. Harvey, addressed Mayor and Council with regard to the leaking roof and the scaffolding at the Old Academy citing that a motion was made and seconded at the November 17, 2004 meeting to have Tom Woods, Sam Trice and Max Wallis present reports to Mayor and Council. To date, Mr. Harvey stated, nothing has transpired regarding either of these issues and insisted that rectification be made immediately.

The Mayor recognized Mrs. Harvey.

Mrs. Harvey addressed Mayor and Council with regard to several items left unresolved from last months meeting.

- Sidewalks
- Zoning Administrator's Request for Home Occupations
- Budget 2004/2005

Mrs. Harvey addressed Mayor and Council for lax budget preparations citing over - expenditures and poor itemization in her opinion and asked to be permitted to address Mayor and Council on the issues of Sidewalks and Home Occupations as they come up on the meeting agenda.

The Mayor responded that the Budget will be addressed on next month's agenda, but did answer Mrs. Harvey's concern regarding a \$2,300 expenditure for leaf removal stating that she had sent a letter to the Town of Middletown requesting that the invoice be reduced to the \$800 as budgeted for since we were not notified that the charge had increased.

The Town of Middletown has also been asked to supply us with a current price listing for services offered so Mayor and Council, in the future, can make informed decisions regarding Town needs.

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## Approval of Minutes

Mayor Tulloch asked for comments and/or any corrections to the Minutes for January 3, 2005. There being none, a vote to accept was requested.

- January 3, 2005 - Motion to approve was made by Councilman Allen, seconded by Councilman Sims. **All voted in favor.**

## EPB Settlement

Mayor Tulloch addressed the public regarding a meeting that took place on January 24, 2005 sponsored by Representative Cathcart with the sidewalk contractor, Ed Bush. There were several members of the public in attendance as well as some Council members.

Mr. Bush, Mayor Tulloch stated, proposed in a settlement that the remaining invoice of \$17,000 for sidewalk work performed be reduced to \$15,000 to accommodate an overcharge for the removal of a tree. Thus, the payment to be made EPB Associates upon acceptance of the offer will be \$15,000. The total payments made to EPB Associates will be the sum of the \$78,000. (already paid by the town) plus \$15,000. for a total of \$93,000.

Mr. Bush has agreed to guarantee the work performed for (1) year from the date of this meeting the Mayor added and asked that the Council vote to approve paying the revised EPB invoice of \$15,000 to close the issue and accept Mr. Bush's (1) year warranty.

Councilman Allen asked Mayor Tulloch if the money to pay this invoice was coming from the grant money.

Mayor Tulloch stated that the money would be coming from the Community Street Aid account, which was set-up when we initially got money from the State. While the Town did transfer money from our Real Estate Transfer account to initially open the Community Street Aid account, we will receive money from DELDOT and in turn pay the invoice from the Community Street Aid account and return the initial monies borrowed from the Town's Real Estate Transfer account.

Councilman Allen made a motion that the final invoice from EPB Associates be paid in the amount of \$15,000 and the (1) year guarantee be accepted. The motion was seconded by Councilman Sims. **All voted in favor.**

Mrs. Harvey asked to address the EPB invoice issue, but was asked by Councilman Sims to submit her concern in writing.

The Mayor stated that a copy of the Minutes of the January 24, 2005 meeting, sponsored by Representative Cathcart, would be requested.

Mr. Manista stated that he had taped the meeting and could make a copy available.

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## Tax Rate Adjustment - Castle Day Care

While we have agreed in principle Castle Day Care is a commercial establishment, the Mayor stated, Councilman Raudenbush asked that she look around for definitions as well as taxing statutes that other communities might use.

After looking into the matter and looking at other businesses that are operating in Town, it is clear that Mrs. Fahey (Castle Day Care) is operating a commercial business that in no way is operating as a residence.

Such is the same, the Mayor stated, for the cabinet and pizza shops that are also located within the residential zone but paying taxes at the commercial rate.

Some discussion ensued.

A motion was made by Councilman Allen that the tax rate for Castle Day Care remains commercial. The motion was seconded by Councilman Sims. **All voted in favor.**

## Home Occupations Definition

In response to a question raised by the Zoning Administrator, Sam Trice, Mayor reviewed information from the Zoning Ordinance detailing the definition of Home Occupations and the regulations from Section 80. Councilman Sims commented on the important aspects of the definition that the importance that the primary use of the property is the residential use. The occupation practiced in the home is subordinate to the residential use so that the overall character of the property is residential. The Mayor pointed out that there is some limited language in section 80 which also must be followed.

The Treasurer's Report was read by Treasurer Grant with a copy attached herewith.

## Correspondence

The Mayor reviewed all correspondence as attached herewith. And noted that that DNREC - Parks and Recreation had approved the use of matching funds for the proposed storage building at the park. The Mayor had contacted Tom Myer at DELDOT who is responsible for approving and placement of a Jake Brake sign.

Tom Woods, the structural engineer who did a brief inspection of the tower and roof area of the Old Academy

## **NEW BUSINESS:**

1. Parks Building - David Fox made a brief report on the shed for the Memorial Park to be placed at the end of Diemler Street. Following some discussion, a motion to accept the building and transfer money from Real Estate Transfer temporarily until the monies from DNREC are received was made by Councilman Allen and seconded by Councilman Sims. **All voted in favor.**
2. Election Judge - Due to the resignation of Christine Whitehead, Mayor Tulloch

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asked for a motion to nominate Connie Miller as an Election Judge. Councilman Allen responded "so moved", seconded by Councilman Sims. **All voted in favor.**

3. Upcoming Election - All Election materials will be transferred to the Election Judges for the upcoming election.
4. Meet the Candidates Night - A motion to schedule Candidates Night at the Firehouse for Wednesday, March 30, 2005 was made by Councilman Allen and seconded by Councilman Sims. **All voted in favor.**

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5. Nomination of Richard Smith to Tree Commission - A recommendation from Mayor Tulloch to temporarily appoint Richard Smith to the Tree Commission was met with a motion of the same from Councilman Allen, seconded by Councilman Sims. **All voted in favor.**
6. Appointment of Coordinator for Candidates Night - No determination was made.
7. Gulf Station Property - This item will be held over to the next regular meeting of Mayor and Council as the Historic Commission did not meet.
8. Historic-Conservation Timeline - This item will be held over and discussed at the next regular meeting of Mayor and Council after the Historic Commission has had time to review the draft received from David Ames.
9. Hazards Mitigation Grant Program - The Mayor stated that the Town does not apply directly for this grant money but needs to work with the County and the State. The Mayor asked that recommendations be made for mitigating damages in the event of disaster as well as being part of a study.

## Open Issues

Sidewalk Overgrowth - Mayor Tulloch stated that Willard Massey has submitted a request to provide services for the upcoming season.

Ms. Williams stated that her issue was not the grass in the walks, but the overgrowth of the trees. Ms Harvey asked if letters went out to everyone listed on the survey. The mayor responded that letters did go out to residents where the problem reported was located on their property. Issues with overgrowth in the Town right-of-way will be addressed by the Tree Commission.

A motion to adjourn at 8:47 p.m. was made by Councilman Allen; seconded by Councilman Sims. **All voted in favor.**

Respectfully submitted,

*Cheryl L. Gerkens*

Cheryl Gerkens

Secretary

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Mayor

Date approved:

Date Protected: