

Attendance: Steve Benigni, Ed Rohrbach, Carol Larson, Rick Farrell

Absent: Mark Wood

Call to Order Steve Benigni, Civic Chairman, convened the meeting at 7:31 p. m.

Approval of October 2022 Minutes Approved contingent on adding clarification note on page 4, “Civic cannot cut branches hanging over a leaseholder because of trespass issues” to further clarify add note “they cannot cut branches without leaseholders’ permission”.

Snow Contracts

Rick has a copy of the new annual snow contract that he has reviewed and will distribute to all committee members for their approval. There was a slight increase in hourly rate due to inflationary conditions that Rick believes is reasonable and he supports the modest increase. All present approved the new snow contract contingent on any objections raised after this meeting.

Storm Water Management Grant update by Carol Larson.

They received the purchase order to start the work but before they can do that, they need Jeff Politis’s signature on the \$62,000 proposal. Steve cautions if there are any substantial deviations that could add extra costs, they could be held liable. Their next step is to meet with Drew in middle of December in which he will let the committee know specifically what they need to do. They plan to invite all members of Civic as well as Bev from Forest and anyone else who is interested in attending. Steve, Bev and Carol will prepare for this meeting.

Roads

Gatering on Orleans Rd in front of red cottage next to Walker’s residence. Rick and Smith Company will take a look at it and make recommendations. Encroaching fence and growth from the Starr leasehold on Orleans Rd across from the Walkers.

Roads Painted Arrows

They will have a discussion in the spring about the fading painted road arrows. It appears that in the past the paint lasted longer and that could be because of the special quick drying paint that was used this time to avoiding shutting down roads to wait for the paint to dry. Durability is a separate issue than quick drying. Rick will investigate.

Need to paint one of the arrows that was overlooked at the triangle on Orleans & Millers Rd which appear to cause confusion for those traversing the circle. They will also revisit the drawing arrow layout for direction clarity. (For example, approaching

the circle from Orleans Rd the arrow at Miller Rd points one-way towards Ardentown but not towards Marsh Rd. This should be a two-way arrow. It appears you cannot make a left from Orleans onto Millers Rd.).

Trash Tech

Another complaint was received about Trash Tech comingling trash with recycle which prompted Steve to observe this first hand in which he also witnessed the comingling. Jeff left a message for their management and it appears they have received the message and they have corrected it.

Maintenance Projects

The bulletin board at the Green near Miller Rd will be Ed's project and Jeff said he would be willing to help. Ed recommends that the Lexide cover slide instead of lifting it up (40 x 40) because two panels (40 x 21) could save considerable amount of money. A one-piece Lexide 4 x 8 costs \$280 in which most of it would be waste. Check with Denis or Ken to see if he they have any Lexide left over.

Tree work

The Fells oak

Ed obtained an estimate. Carol spoke to Bob Day, an Arborists who worked for Bartlett. They recommend him because he does chemical fertilization and other services instead of just cutting the tree down. The Fells Oak has borers holes where the dead wood is. He recommends to widen the mulch so you do not get as much compaction. The roots can be damaged if they are on the surface. The arborist suggests a small fence that you could step over which would be only a signal to not walk on it but it might not be an off-limits signal for children. Also, he suggested an air spade which is an excavation device that uses compressed air to remove soil and leaves roots intact. Not sure how compacted it is. Carol will ask Heidi, who is a soil scientist, to evaluate how compacted the area is under the Fells oak. They took soil samples which might inform about the chemistry of the soil; they are waiting for soil test results. Cabling system needs to be checked each year. It is due to be checked out. Steve recommends that they make sure that they are covered by making the best decision. He also, highly recommends to obtain at least two experts' opinion. Carol has a second Arborist scheduled for December.

White Pine

The white pine near the Soldier's Memorial has a double trunk that is splitting. Arborist recommended to cable it and removing all deadwood. Ed and Carol agreed. Those prices do not include the cable. Steve wants a second opinion. Carol suggested to the Playground Committee to move the bench a little further out of the canopy. It's their decision.

American Grass removed all the leaves from the Memorial Gardens and the Stile area and it seems that they waited till all the leaves fell from the trees which is what the committee wanted.

Ordinances

The Governor Task force sent two proposed Ordinance changes(copy below) regarding public utility and excavation work. He asks all to look it over and they will do a deeper dive at the December Civic Monthly meeting.

Adjourn meeting at 8:28 p.m.

Respectfully submitted
Elizabeth Resko
Village Secretary

221122 Ordinance 6 Excavation Permits

Summary of the Ordinance

The purpose of Ordinance 6, adopted June 1972, is to “provide for an acceptable standard of road restoration in cases requiring excavation through or into the roads of the Village” which “shall apply equally to public agencies, public utilities, private contractors, leaseholders and/or residents.”

Section 2, amended in January 1971, specifies that

- All excavations in Village roads require a Road Excavation Permit in advance of excavation
- The Village Treasurer issues the permit and collects the fee
- The fee is determined by the Civic Committee with the consent of the Town Assembly.

Section 3 specifies that the Road Excavation Permit will document the details of the road restoration and provide for inspection of the work. The road restoration details must be approved by the Civic Committee.

Section 4 provides for Emergency Excavations

Section 5 describes fines and other actions to be taken in the event of excavations which do not follow Sections 1-4 of the Ordinance.

Discussion

In general, Ordinance 6 is necessary and well written. Some minor revisions to the Ordinance language, in consultation with the Civic Committee, would improve the clarity and workability of the Ordinance. The Excavation Permit document should be reviewed and updated concurrently so that the Ordinance and the permit are consistent and clear.

The biggest issue with this Ordinance is that it appears to have been inactive since about 2011. John Scheflen reports obtaining an excavation permit in 2011. The current and previous Treasurers (Skip Bailey, Dave Michelson) and current Civic Chair Steve Benigni all report no experience with excavation permits during their tenure.

Susan Rothrock, Civic Chair until 2010, provided the following background.

- A copy of the excavation permit.
- During her tenure, Delmarva and Suez (now Veolia) were well informed and on board with the excavation permit process. The Ordinance should probably be revised to clarify responsibility to maintain communication with utilities.

- It is not clear how new residents are informed of ordinances and other relevant Village information. MLS information typically says “no HOA”, which is actually incorrect. Enforcement of Village ordinances may be impeded if new residents do not feel properly informed of their obligations.
- In updating enforcement policies generally, consider adding language that Trustees should be informed about certain violations. Since the Trustees have the power to place a lien on a property, but the Village Government is now separately responsible for operations, there needs to be a specific action called for to bring the Trustees in as needed.

Recommendations

- Review Ordinance 6 and the Road Excavation Permit concurrently with the Civic Committee to clarify and align language of both documents with respect to Permit Process, Roles and Responsibilities, and validation of Road Restoration after the excavation. Document where blank and completed Permit Forms are archived.
- Review and update the Permit Fee as required
- Add a section to the Ordinance to specify that the Civic Committee should regularly inform affected utilities, such as Veolia and Delmarva, of the Ordinance 6 requirements. Consider communicating with utilities (1) prior to first reading of revised ordinance at Town Assembly, (2) upon adoption of the new ordinance, (3) annually thereafter. Only the annual communication needs to be in the Ordinance.
- Add a section to the Ordinance to specify how residents should be informed of the requirements for an excavation permit. The process of revising the Ordinance will naturally remind current residents of the permit requirements. The Ordinance should specify (1) how new residents are informed, (2) what periodic reminders should be provided by the Civic Committee.
- Revise Section 5 to (1) update fines, (2) define an enforcement role for the Trustees as appropriate.

Ordinance 10 – Public Utilities – Approved June, 1976

Summary of the Ordinance

This ordinance (1) defines utilities, (2) states that it is a misdemeanor to trespass upon or tamper with said utilities, (3) provides a fine which like all others is out of date, (4) states that utilities companies should protect their facilities from unauthorized access, (5) states that said protection should be periodically inspected and maintained, (6) provides a fine for failure to do items 4 and 5.

Discussion

While the concept behind this ordinance is sound and useful, it is likely that this ordinance is redundant relative to New Castle County, State of Delaware and other jurisdictions for protecting the safety of utility installations. Additionally, if Arden has no authority with respect to utility installations, what is the purpose of having such an ordinance?

A quick search reveals the following two statutes:

New Castle County Code Chapter 38 – UTILITIES (with subsections on Sewers)

https://library.municode.com/de/new_castle_county/codes/code_of_ordinances?nodeId=PTIICO_CH38UT

Delaware Title 26 – Public Utilities

<chrome-extension://efaidnbnmnnibpcajpcglclefindmkaj/https://delcode.delaware.gov/title26/title26.pdf>

Recommendations

- Review the relevant statutes to determine whether Ordinance 6 is needed
- Discuss findings with Civic Committee in conjunction with the Ordinance 6 action items
- Recommend repeal or revision of Ordinance 10. For example, it may be useful to have an Ordinance which cites the relevant statutes and then defines Arden residents' responsibility with respect to those. Or not...