



CITY OF DELAWARE CITY
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**MINUTES
CITY OF DELAWARE CITY
MAYOR AND COUNCIL REGULAR MEETING
MARCH 21, 2016**

CALL TO ORDER – MAYOR AND COUNCIL MEETING

The Honorable Mayor Green called to order the Regular Meeting of the Mayor and Council at 6:30 pm.

PLEDGE OF ALLEGIANCE

Mayor Green led the Pledge of Allegiance to the Flag.

ROLL CALL

Present were The Honorable Mayor Green and Council Members Konkus, Titus, Johnson, Malinowski and Barrett. City Manager Cathcart, City Treasurer Hartman, City Secretary Gwynn, City Solicitor Walton and Police Chief Baylor were also in attendance.

ACTION UPON THE TREASURER'S REPORT

City Treasurer Hartman presented a revised Treasurer's Report for January 2016. *Council Member Johnson made a motion to accept the revised Treasurer's Report for January 2016, subject to audit. Council Member Malinowski seconded the motion. A vote was taken, all ayes, motion carried.*

City Treasurer Hartman presented the Treasurer's Report for February 2016. *Council Member Konkus made a motion to approve the February 2016 Treasurer's Report, subject to audit. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried.*

ACTION UPON THE MINUTES OF THE PREVIOUS MEETING

Council Member Titus made a motion to approve the minutes of the February 22, 2016 Mayor and Council Meeting, as written. Council Member Johnson seconded the motion. Mayor Green said he would like to have the tape reviewed regarding the 90 day notice letter about the removal of the sign advertising Kathy's Restaurant. A vote was taken, all ayes, motion carried.

POLICE REPORT

Chief Baylor reported the following:

- Statistics for February 2016
- Three individuals were apprehended around the perimeter of the Delaware City Refinery fence by two Delaware City police officers. After investigation, they were found to be hunters looking for deer. They were arrested and charged. This is now pending in court.
- Police officers responded to a 911 disconnect in the 200 Block of Adams Street. A 55 year old female and an 84 year old male were fighting with an individual who resided in the same building with them. The other resident tried to choke the female and fled the residence. The County police were called in and tracked the individual for about a block and a half. He was found to have a blood alcohol level of .35 and was taken to the Christiana Hospital. He was not released for about twelve hours, at which time his blood alcohol level came down. He was arraigned and incarcerated at Gander Hill. He was charged with strangulation, attempting to interfere with a 911 call, resisting arrest, and assault on the 84 year old and the 55 year old.
- Sergeant Wysock was on patrol and saw a SUV in the roadway in near Crabby Dick's. He approached the vehicle. The driver jumped from the vehicle and demanded that Sergeant Wysock shoot him, as he wanted to be killed. Sergeant Wysock did not comply. The individual threw his phone and keys at Sergeant Wysock, climbed the sea wall, began to disrobe and walked into the Delaware River. He stayed in the river until the New Castle County Police negotiators were able to convince him to leave the river. He was recovered by the New Castle Fire Company boat. On the scene were Delaware City Fire Company, New Castle County Police, State Police and Delaware City Police. He was transported to the Christiana Hospital where he was treated for hypothermia. He was given a psychological evaluation. He is still being treated for psychological issues. It was determined that he was at Delaware Park and lost all his money.

- Issues with campaign signs should be reported to the police department. No individual has the authority to remove these signs. The police will handle it. Any questions should be addressed to Chief Baylor.

CITY SOLICITOR'S REPORT

City Solicitor Walton said he would like to give his report during New Business.

CITY MANAGER'S REPORT

City Manager Cathcart reported the following:

- Met with DelDOT and Century Engineering concerning the Delaware City Streetscape Improvements in the Business District. A copy of the final Concept Design Report was included in Council's package. The next phase is to get a more accurate cost on the burying of the overhead utilities, which will give us a better understanding of the overall cost of the project.
- As I reported at the February meeting, Delaware City was designated a "Blueprint Community". Most of the team attended an orientation reception on February 9th during which we had an opportunity to meet the other three communities receiving designations. We also met the University of Delaware staff that will be teaching and directing the development of the City's plan.
- Met with the City Managers of the towns of Elsmere and New Castle concerning engineering services required for the new stormwater management regulations. The three towns agreed to form a consortium for the purposes of entering into separate agreements for engineering services from KCI Engineering at a discounted rate. This will save the City a significant amount of money.
- The state has transferred the Fort DuPont property to the Fort DuPont Redevelopment and Preservation Corporation, as of last week.
- I am still developing the revenue sources and expense categories that are related to the annexation of Fort DuPont. The revenue sources are pretty much straight forward (subdivisions, permit fees, property taxes, etc.). The expense categories are somewhat more complicated and are based on what the Fort DuPont Corporation is responsible for, i.e. streets, water, common space, etc. I'm working to better define this before I publish this information. The streets will be the responsibility of the Corporation, as will be the upgrade of the water system. Don't know if the water system, once updated, will be turned over to the City or be operated by the Corporation. Will email this information to the Mayor and Council when it is finalized, probably by the middle of the week.
- There will be a public presentation on the Master Plan of Fort DuPont, and the Fifth Street Bridge on April 11, 2016, at 6:30 in the Community Center. There will be an opportunity for residents to ask questions regarding these items.

- The playground equipment was installed at Seventh Street Park last week. It looks great! That was a \$109,000 project, that didn't cost the City a penny. Half the money came from the State grant the City applied for and the other half came from money raised by the community and the business folks.

General Meetings

- Planning Commission
- Main Street Delaware City
- AUCC Friends Board Meeting

Project Updates

- Fifth Street Bridge: On schedule to start the beginning of October.
- Dragon Run Flood Control: As pictures sent last week indicated, real progress is occurring.
- Washington Street Flood Mitigation: In the permitting phase of the project and final construction drawings.
- Branch Canal Trail: Scheduled for opening the end of May.

APPOINTMENTS, ANNOUNCEMENTS, COMMUNICATIONS

None

REPORTS OF COMMISSIONS, COMMITTEES AND ORGANIZATIONS

Main Street – Tim Konkus, President, reported two major events.

- Hired David Doss as the project manager to create an RFP to engineer the trail from Fort DuPont to the Delaware City Branch Canal.
- The Townwide Yard Sale will be a two day event, 4/30 and 5/1.

Delaware City Fire Department – Wally Poppe was at the meeting to pay his respects to Council Member/Vice Mayor Paul Johnson who had served in those capacities for six years. He said the Vice Mayor gave his heart and soul to Delaware City and the Mayor and Council for the last six years, just as he has during the 30 years he has served as a member of the Fire Department. He congratulated Vice Mayor Johnson for his years of service to the City. This was followed by a round of applause.

OLD BUSINESS

There was no Old Business.

NEW BUSINESS

Introduction and First Reading of Ordinance 16-0321-01 Relating to Signs

City Solicitor Walton gave a brief summary of activity regarding the sign on Fifth Street that gives directions to Kathy's Restaurant. He also reminded the Mayor and Council of the information he gave them last month about the U. S. Supreme Court ruling on signs. He said he prepared a draft sign ordinance, changing the

existing Delaware City sign ordinance, to comply with the U. S. Supreme Court ruling. That draft ordinance we presented to Council at the last meeting. At that time, the Council voted to forward the draft to the Planning Commission for review and recommendation. The Planning Commission reviewed this ordinance as to substance and has recommended its introduction. However, the Planning Commission will continue to review the ordinance during their next two meetings to see if any changes are necessary. City Solicitor Walton explained that this ordinance would go through the normal process, which means the introduction and first reading would be done at this meeting, a notice would go out and a public hearing would take place next month prior to the Mayor and Council meeting.

Council Member Konkus made a motion to table the Introduction and First Reading of Ordinance 16-0321-01 Relating to Signs. Council Member Titus seconded the motion. City Manager Cathcart said, for clarification purposes, this is the ordinance Council referred to the Planning Commission for review and they recommended that it be accepted for an introduction and first reading. Discussion followed. Council Member Johnson said this ordinance would get the City Code in compliance with the Supreme Court ruling. Council Member Konkus withdrew her motion to table. Council Member Titus withdrew her second.

Council Member Johnson made a motion to accept Ordinance 16-0321-01 Relating to Signs for Introduction and First Reading in abstract and in title only. Council Member Titus seconded the motion. There was no additional discussion. A roll call vote was taken, all ayes, motion carried.

Introduction and First Reading of Ordinance 16-0321-02 Relating to Moratorium on Sign Ordinance

City Solicitor Walton explained that last Wednesday he received a request from Vice Mayor Johnson, via City Manager Cathcart, to draft a resolution to put a moratorium on the sign code enforcement until the new sign ordinance is final. He said he researched it and found that a moratorium could not be put in place by a resolution. On Thursday, Vice Mayor Johnson requested that the City Solicitor prepare an ordinance for consideration. There was not sufficient time for the ordinance to be posted for this meeting. That is why the agenda for this meeting was amended, in compliance with FOIA, at least six hours in advance of the meeting. He explained that a moratorium cannot place a hold on enforcement only. It has to place a hold on all sign activity. In this case, a moratorium would be on all new signs and enforcement in Delaware City for a period of 90 days. The 90 days would begin when the ordinance is adopted. It must be passed with the same formality as any other zoning code amendment. Discussion followed.

City Solicitor Walton asked that, going forward, the Council give him 10 days notice to prepare an ordinance.

Council Member Johnson made a motion to accept Ordinance 16-0321-02 Relating to Moratorium on Sign Ordinance for Introduction and First Reading in abstract and in title only. Council Member Barrett seconded the motion.

Discussion followed. City Solicitor Walton reminded the Council that this vote was just for an Introduction and First Reading and that there would be a public hearing before the next Mayor and Council meeting. He said the time for debate would be at the public hearing. Discussion followed.

Mayor Green called for a roll call vote for the Introduction and First Reading of Ordinance 16-1321-02 Relating to Moratorium on Sign Ordinance. Discussion followed. City Solicitor Walton explained that the moratorium would end at the time the new sign ordinance was adopted. *The roll call vote was taken, with the Council Members voting as follows: Konkus – nay, Titus – nay, Johnson – aye, Malinowski – nay, and Barrett – aye. Motion defeated.*

Report & Discussion Regarding Request for Annexation of Fort DuPont Complex
City Solicitor Walton explained that, on March 14th, the Fort DuPont Redevelopment and Preservation Corporation received title to what is known as the Fort DuPont Complex, minus one property called the McConnell Tract, which is an area down by the bridge. The McConnell Tract has a previously unknown federal restriction against the use of the property or the transfer of the title to the property.

On March 16th, the Fort DuPont Redevelopment and Preservation Corporation passed a resolution requesting annexation of the parcels it owns by the City of Delaware City. City Solicitor Walton pointed out that the New Business agenda item #4, titled Resolution 16-0321-01 relating to the Proposed Annexation of Fort DuPont Complex and Special Election, is a request that a special election be held, at the request of the Fort DuPont Redevelopment and Preservation Board, much in the way the Council spoke at the last Council meeting. This resolution states the following: the election will be held on May 5th; the voting requirements will be as set forth in Delaware City's Charter; who is eligible to vote, and; how the process will work. There will be an information session on April 11th with more information for the public regarding the annexation and plans for the Fort DuPont Complex, and with the Army Corps. If Resolution 16-0321-01 relating to Proposed Annexation of Fort DuPont Complex and Special Election is passed, the Council will be asked to attend a special meeting on May 10th. There would be an ordinance introduced at that time, with a public hearing held before the June 21st Council meeting. This is just a formality because there are a lot of notice procedures in the Code. He reminded Council that: 1. the voters of Delaware City have the opportunity to vote on the annexation proposal; 2. Council has an introduction and first reading of an ordinance for the annexation; 3. Following a public hearing, Council makes the decision on the ordinance for the annexation.

City Solicitor Walton pointed out New Business agenda item #5, Resolution 16-0321-02 relating to the Wording to be placed on the Ballot for the Special Election. He said the wording on the ballot is acceptable to the Department of Elections

Resolution 16-0321-01 relating to Proposed Annexation of Fort DuPont Complex & Special Election

Council Member Titus made a motion to adopt Resolution 16-0321-01 as written. Council Member Konkus seconded the motion. A roll call vote was taken, with Council Members voting as follows: Konkus – aye, Titus – aye, Johnson – aye, Malinowski – aye, and Barrett – nay. Motion carried.

Resolution 16-0321-02 relating to the Wording to be placed on the Ballot for the Special Election

Council Member Konkus made a motion to adopt Resolution 16-0321-02 as written. Council Member Malinowski seconded the motion. A roll call vote was taken, with Council Members voting as follows: Konkus – aye, Titus – aye, Johnson – aye, Malinowski – aye, and Barrett – nay. Motion carried.

COUNCIL COMMENTS

Council Member Konkus – No Report

Council Member Titus – No Report

Council Member Malinowski – Reported that he attended the Fort DuPont Redevelopment Meeting, and the proclamation signing by Governor Markel in Battery Park.

Council Member Barrett – No Report

Council Member Johnson – Reported that the reason he decided not to seek reelection was so that he could spend more time with his family. He thanked Wally Poppe for his kind comments. He said that hopefully he would be back in the future. He pointed out many of the things the City accomplished while he served on Council. He thanked everyone for all their help and support. He thanked the residents and said they were the reason he served on Council.

Mayor Green – Reported the following:

- Married a young couple and took their wedding pictures, too.
- Mayor's Ball was a success. Donated money for playground equipment, the PAL Center, Delaware Humane, Fort Delaware, Babe Ruth and Little League, and to move the playground equipment from Seventh Street Park to the ball field.
- Attended, with Council Members Barrett, Titus and Malinowski, a proclamation signing for endometriosis by Governor Markel in Battery Park.
- Working on the parking for the ball field.

Mayor Green commended and thanked Vice Mayor Johnson for all his hard work during his six years of service as a City Council Member.

CITIZENS COMMENTS

Natalie Green, 202 Seventh Street, said, regarding the stolen signs, she just wants a fair chance to be on City Council. She said she wants to be here for the people and to work for the community. She said she wants it to be a safe, fair election.

John Buchheit, 210 Clinton Street, speaking as a former Mayor and Council Member, said it was an honor and pleasure to serve with Vice Mayor/Council Member Johnson. He spoke about the sign ordinance, saying that Delaware City was founded on business. He said he doesn't know why we need a sign ordinance, as we should do everything we can to promote business. He said if Kathy needs a sign on Fifth Street, she should be allowed to have one. He asked the Council to reconsider the sign ordinance.

Kathy Wisowaty, 107 Fifth Street, thanked Vice Mayor Johnson for all the help he has given her. She said he has stood up for all the people in this town and not just a certain group. She said he wanted her to be treated fairly. She said she will just wait to see what happens with the sign ordinance.

ADJOURNMENT

Council Member Johnson made a motion to adjourn the Mayor and Council Meeting. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried. The meeting was adjourned at 7:40 pm.

Respectfully submitted,
Dawn K. Gwynn
City Secretary