



CITY OF DELAWARE CITY
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**MINUTES
CITY OF DELAWARE CITY
MAYOR AND COUNCIL MEETING AND
PUBLIC HEARING
JUNE 20, 2016**

CALL TO ORDER – PUBLIC HEARING

The Honorable Mayor Green called to order the Public Hearing at 6:00 pm. The following Council Members were present: Greene, Fitzwater, Titus, Malinowski and Barrett. Also present were Mayor Green, City Manager Cathcart, City Treasurer Hartman and City Solicitor Walton.

ORDINANCE 16-0516-01 - RELATING TO ANNEXING THE PROPERTY COLLECTIVELY KNOWN AS THE FORT DUPONT COMPLEX IN TO THE CITY OF DELAWARE CITY, ASSIGNING HISTORICAL PRESERVATION AND REDEVELOPMENT ZONING DESIGNATION TO SUCH ANNEXED AREA AND ORDERING UPDATE OF OFFICIAL ZONING MAP

City Solicitor Walton explained that this is basically a zoning hearing. He said he would walk through the documents that need to be put in the record. They are as follows:

- Exhibit A – The minutes of the Planning Commission's Public Hearing on December 2014 and March 2015, where the HPR zoning was discussed.
- Exhibit B – Ordinance to amend the Delaware City Comprehensive Plan to allow for the annexation of Fort DuPont, which was unanimously approved.
- Exhibit C – Ordinance to create a new HPR zoning classification under the City's Code, which would be assigned to the Fort DuPont Complex, which was adopted.

- Exhibit D – Resolution 16-0321-01 established a date for the referendum, as required in the City Charter.
- Exhibit E – The Certification of the Election which indicated that the residents of Delaware City voted in favor of the annexation with a vote of 287 to 150.
- Exhibit F – The Plan of Services that was submitted to the Office of State Planning Coordination as prescribed by Delaware State Law.
- Exhibit G – The Approval Letter for the Plan of Services from the Office of State Planning Coordination.
- Exhibit H – Ordinance 16-0516-01, an Ordinance to Annex Property Collectively Known as the Fort DuPont Complex in to the City of Delaware City, Assigning Historical Preservation and Redevelopment Zoning Designation to such Annexed Area and Ordering Update of Official Zoning Map, which is under consideration tonight.
- Exhibit I – Assistant City Clerk Clifton’s Affidavit:
 - Exhibits C and D contained notice of this public hearing that was posted and mailed by certified mail to any abutting property owners of the Fort DuPont Complex and any adjacent property owners across any public or private right of way from the Fort DuPont Complex.
 - Exhibit E was the notice of the Public Hearing which was mailed to the County as required by Code.
 - Exhibit F consisted of the notice of the Public Hearing this evening that was posted and published in the newspaper.
 - Exhibits G and H of the Affidavit consist of the agendas for the meeting this evening.
- Exhibit J – Police Chief Baylor’s Affidavit as proof of the posting of the Public hearing, along with the copy of the proposed ordinance, on or in front of the Fort DuPont Complex Property.
- Exhibit K – Letter from City Solicitor Walton, advising the Office of State Planning Coordination that the 30 day comment period had expired.
- Exhibit L – If and only if Council adopts Ordinance 16-0516-01, the Council will consider a resolution to update the Zoning Map. A copy of that Resolution will be Exhibit L.

City Solicitor Walton submitted that Exhibits A through L are now part of the public hearing record and have become part of the Public Hearing for consideration tonight. He added, for the record, that he painstakingly checked and is 100% sure that all notices were posted as required for the consideration of this ordinance.

Mayor Green asked if there were any questions or comments from the public regarding Ordinance No. 16-0516-01. There were none.

RESOLUTION 16-0620-01 – ADOPTION OF ASSESSMENT ROLL FY17 & TAX RATE FY17

City Manager Cathcart stated that the Assessment Roll is as presented at the last meeting. Mayor Green asked if there were any questions or comments from the public. There were none.

RESOLUTION 16-0620-02 - ADOPTING OPERATING BUDGET FY17

City Manager Cathcart explained that the Operating Budget FY17 is as presented at the Budget Workshop and at the last meeting. Mayor Green asked if there were any questions or comments from the public. There were none.

RESOLUTION 16-0620-03 – ADOPTING CAPITAL BUDGET FY17

City Manager Cathcart said the Capital Budget FY17 is as presented at the Capital Budget Workshop and at the last meeting. Mayor Green asked if there were any questions or comments from the public. There were none.

ADJOURN PUBLIC HEARING

Mayor Green adjourned the Public Hearing at 6:09 pm.

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 AND MOMENT OF SILENCE

Mayor Green led the Pledge of Allegiance to the Flag. He also led a moment of silence in memory of Gabe, the owner of LaMatasina, who passed away.

ROLL CALL

Present were The Honorable Mayor Green and Council Members Greene, Fitzwater, Titus, Malinowski and Barrett. City Manager Cathcart, City Treasurer Hartman, Police Chief Baylor, Assistant City Clerk Clifton and City Solicitor Walton were also in attendance.

ACTION UPON THE TREASURER’S REPORT

City Treasurer Hartman presented the May 2016 Treasurer’s Report. *Council Member Titus made a motion to approve the May 2016 Treasurer’s Report, subject to audit. Council Member Barrett seconded the motion. There was no discussion. 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 May 16, 2016 Mayor and Council meeting, as written. Council Member Barrett seconded the motion. There was no discussion. A vote was taken, all ayes, motion carried.

POLICE REPORT

Police Chief Baylor gave the statistics for the month of May 2016 and reported the following:

- There were drug problems in town during May, due to the youth being out and about at night. There are some unregistered vehicles parked on residents' property. These vehicles can sometimes house illegal drugs. From a code enforcement angle, the residents are being fined and will hopefully remove these vehicles. The Chief pointed out problem vehicles. He asked for everyone to report suspicious activity, or "see something, say something". Vacant properties are also being addressed by the police.
- The police have also been working to control high grass. He asked residents to report any unusually high grass.

Chief Baylor addressed questions from the Council regarding not hiring summer help, parking issues in the business district which could be partially corrected by 20 minute parking signs, parking places marked on areas of Washington Street, and a commercial business working from a residence.

CITY SOLICITOR'S REPORT

City Solicitor Walton reported that it had been fairly quiet. The only work to report was the preparation for the meeting this evening.

CITY MANAGER'S REPORT

- Completed final visual inspection of the Dragon Run Tide Gate and Dike Replacement project. With the exception of some final cleanup work, this flood mitigation project is complete.
- Met with Army Corp of Engineers concerning an earlier start on the Fifth Street Bridge Replacement project. The City has been informed that they are tentatively planning to start the project September 6th, which is the day after Labor Day.
- The first meeting of the 2016 River Towns Ride and Festival was held to begin the planning for the fourth annual event. This year's event in Delaware City will be co-managed by Main Street Delaware City.
- After a long delayed project, the Branch Canal Trail was dedicated on June 15th with a ribbon cutting that included the Governor, Secretary of DNREC and Secretary of Transportation. There was also 100% attendance by the Council. The event was well attended and hundreds of people have used the trail already.

- As a related note, the dedication of the African Union Church Cemetery will be held on September 17th. The project is in its final weeks of completion.
- Construction of a handicap ramp at the south side of the Community Center has been completed to give handicap accessibility to restroom facilities for Branch Canal Trail users. This is a temporary measure. The restrooms will be open to the public within the next four weeks. The project was paid for with a grant.

General Meetings

- Planning Commission
- Fort DuPont Redevelopment and Preservation Board Meeting
- AUCC Friends Board Meeting

Project Updates

- Branch Canal Trail: Complete with the exception of fall tree planting.
- Dragon Run Tide Gate/Dike Replacement: Complete
- Washington Street Flood Mitigation Project: Going out to bid.
- Fifth Street Bridge Replacement: Tentatively scheduled to start September 6th.

Discussion followed regarding handicap accessibility to the trail.

APPOINTMENTS, ANNOUNCEMENTS, COMMUNICATIONS

Mayor Green said he would like to appoint Tom Smith to the Planning Commission for a two year term, ending September 2018. *Council Member Barrett made a motion to approve the Mayor's appointment of Tom Smith to the Planning Commission for a two year term. Council Member Malinowski seconded the motion. There was no discussion. A roll call vote was taken, all ayes, motion carried.*

Mayor Green said he would like to appoint Cynthia West to the Planning Commission for a three year term, ending September 2019. *Council Member Malinowski made a motion to approve the Mayor's appointment of Cynthia West to the Planning Commission for a three year term. Council Member Titus seconded the motion. There was no discussion. A roll call vote was taken, all ayes, motion carried.*

REPORTS OF COMMISSIONS, COMMITTEES AND ORGANIZATIONS

Main Street – Tim Konkus, Main Street President, reported that Music in the Park starts on Saturdays at 5:00 pm and continues until 6:30 pm. This was paid by a generous donation from Silver Heron, LLC. Mr. Konkus said anyone who would like to donate to Main Street can do so through www.plumfund.com. Mr. Konkus added that the RFPRFQ for the walkway across Fort DuPont and the spur is in the second draft, being reviewed by DNREC and DeIDOT. He said they hope to have the RFPRFQ out for

engineering and design work bids by the end of September and have the completed design by next summer.

Playground Committee – Council Member Malinowski said Tim and Beth Konkus had donated a bike rack to the Playground Committee, to be installed near the Central Hotel.

Tree Commission – Sandy Malinowski reported that some of the trees near the Central Hotel are in bad shape. The tree commissioners think the trees have blight. Sean Johnston from The Cutting Edge has a call in to Urban Forestry for them to look at the trees. She added there was a large maple that was cut down at the Fourth Street Playground. She said now the playground is in the hot sun, with no shade. She said the Tree Commission is planting four new trees in that area.

Discussion followed regarding a tree near Seventh Street Park that was trimmed by Delmarva to free up the power lines. City Manager Cathcart said Sean Johnston looked at the tree after it was trimmed and felt it was not hazardous.

OLD BUSINESS

Second Reading and Adoption of Ordinance 16-0516-01 – Relating to Annexing the Property Collectively Known as the Fort DuPont Complex in to the City of Delaware City, Assigning Historical Preservation and Redevelopment Zoning Designation to such Annexed Area and Ordering Update of Official Zoning Map
Mayor Green said this ordinance was introduced at a prior Mayor and Council Meeting and a Public Hearing was held. City Solicitor Walton explained that under Delaware Law, at least for zoning actions, Delaware Supreme Court requires that there must be a reason stated into the record for every vote. He added that this technically isn't a rezoning action, but rather an annexation. However, the City Solicitor felt it should be handled in this manner. He said each Council Member was sent a memo explaining the special requirements for votes on the Annexation Ordinance.

Council Member Malinowski made a motion for the Second reading and Adoption of Ordinance 16-0516-01 - Relating to Annexing the Property Collectively Known as the Fort DuPont Complex in to the City of Delaware City, Assigning Historical Preservation and Redevelopment Zoning Designation to such Annexed Area and Ordering Update of Official Zoning Map. Council Member Titus seconded the motion. There was no discussion. A roll call vote was taken, with the Council Members voting as follows:

Council Member Barrett voted aye, saying that she was originally opposed to the annexation, but having seen that the majority of the Delaware City Residents were in favor of the annexation, she changed her mind. The two reasons for voting aye were that she hopes it boosts the economy and her property value.

Council Member Malinowski voted aye, for the following reasons: the annexation and the HPR zoning for the Fort DuPont Complex comply with the City's comprehensive plan; it will encourage additional and needed business and recreation opportunities for Delaware City; and, a mixed use concept encourages the most appropriate use of land because it allows this semi-depressed area, full of historic and recreational potential, to be revitalized, which will, upon connection to Delaware City, be beneficial to the City as a whole. Property values throughout the City should be increased through the adoption and implementation of the annexation and the HPR zoning for the Fort DuPont Complex.

Council Member Titus voted aye, first, because two-thirds of the citizens made their voices heard and voted in favor of the annexation. Secondly, the annexation does comply with the City's comprehensive plan, allowing the city to grow with the complex as one connected unit, which will be beneficial for the economic growth and increased tax base. The annexation is preserving open space and the historic buildings, that otherwise rot and fall down, will be saved. The mixed use concept will allow things to be repaired, allowing the maximum historic and recreational potential to be achieved. Preserving the parks and greenways will also benefit Delaware City.

Council Member Fitzwater voted aye because he supports the majority vote of the Delaware City residents in favor of the annexation, and this annexation and HPR zoning for the Fort DuPont Complex will not congest streets within Delaware City, and will not cause overcrowding of the streets if the improvements contemplated by the Master Plan are made. In addition, the annexation and the HPR zoning for the Fort DuPont Complex contemplates a walkable community design which should increase pedestrian traffic and will not substantially or impermissibly increase vehicular traffic.

Council Member Greene voted aye in hopes that the annexation will boost the economy and increase her property value. Also, she would like to see Fort DuPont come alive.

Mayor Green said there was a unanimous vote in favor of the adoption of Ordinance 16-0516-01, motion carried. Mayor Green said this was an historic occasion, as Fort DuPont was originally designed to be part of Delaware City. He thanked everyone who made this possible. City Manager Cathcart said the City tried to be as transparent with the process as possible. He said he appreciates the support for the annexation during the referendum vote and certainly appreciates the Council's vote for the annexation as well.

Jefferson Street Paper Street (to be discussed in Executive Session)
Council Member Barrett made a motion to accept the revised lease that was sent to the City by PSC Electric. Council Member Greene seconded the motion.

Discussion followed. City Solicitor Walton said the Council could not vote on the lease this evening, as the agenda did not state that this vote would occur. The FOIA law states that a lease vote must be placed on the agenda seven days prior to the meeting. He said this is the first he heard about it and he would have put it on the agenda if he had known about it. City Solicitor Walton asked Mayor Green to table this until the next meeting so that the vote could be listed on the agenda. Mayor Green said he would honor the request for FOIA reasons. Council Member Barrett withdrew her motion. Council Member Malinowski said he would still like to go into Executive Session to discuss the Jefferson Street paper Street. City Solicitor Walton said that is on the agenda, but he recommends that Council not go into Executive Session at this time. He said it would be better to put it on the agenda for the next meeting. He said he feels it would be improper to go into executive session. Council Member Malinowski asked City Solicitor Walton to prepare a memo listing the rights of the City and the rights of PSC Properties concerning the right of way. The City Solicitor agreed to prepare that memo.

FY17 Budget

Council Member Fitzwater made a motion to accept FY17 Budget. Council Member Barrett seconded the motion. There was no discussion. A roll call vote was taken, all ayes with Council Member Greene absent, motion carried.

NEW BUSINESS

Resolution 16-0620-01 - Adoption of Assessment Roll FY17 & Tax Rate FY17

Council Member Barrett made a motion to adopt Resolution 16-0620-01 – Adoption of Assessment Roll FY17 and Tax Rate FY17. Council Member Malinowski seconded the motion. There was not discussion. A roll call vote was taken, all ayes with Council Member Greene absent, motion carried.

Resolution 16-0620-02 – Adopting Operating Budget FY17

Council Member Barrett made a motion to adopt Resolution 16-0620-02 – Adoption Operating Budget FY17. Council Member Fitzwater seconded the motion. There was no discussion. A roll call vote was taken, all ayes, motion carried.

Resolution 16-0620-03 – Adopting Capital Budget FY17

Council Member Barrett made a motion to adopt Resolution 16-0620-03 – Adopting Capital Budget FY17. Council Member Greene seconded the motion. There was no discussion. A roll call vote was taken, all ayes, motion carried.

Resolution 16-0620-04 – Updating Zoning Map

Council Member Fitzwater made a motion to adopt Resolution 16-0620-04. Council Member Greene seconded the motion. City Solicitor Walton explained that the purpose of Resolution 16-0620-04 was to update the Zoning Map to reflect the changes that were made in Ordinance 16-0516-01, which was adopted earlier in the meeting. A roll call vote was taken, all ayes, motion carried.

Refinance the Citizens Bank Loan

City Manager Cathcart asked for a motion authorizing the City Manager to refinance the Citizen's Bank Loan that originated in 2006, in the amount of \$355,000, for a 15 year term. Wilmington Savings Fund has offered a better rate of 4.49% fixed rate, for a five year term, with approximately \$153,000 financed. This would save the City about \$3,000. *Council Member Titus made a motion to authorize the City Manager to refinance the loan with Wilmington Savings Fund Society, at the fixed rate of 4.49%, for a five year term. Council Member Fitzwater seconded the motion. There was no discussion. A roll call vote was taken, all ayes, motion carried.*

Introduction and First Reading – Ordinance 16-0620-01 – Amending City Code Section 46-63 Clarifying those Lots Subject to Subdivision Limitations

Council Member Fitzwater made a motion to accept Ordinance 16-0620-01 for introduction and first reading in abstract and title only. Council member Titus seconded the motion. There was no discussion. A roll call vote was taken, all ayes, motion carried. Mayor Green said a Public Hearing, regarding this ordinance, would be held at the next Mayor and Council meeting.

Introduction and First Reading – Ordinance 16-0620-02 – Amending City Code Section 46-137 to Correct Scrivener Errors

Council Member Greene made a motion to accept Ordinance 16-0620-02 for introduction and first reading in abstract and title only. Council Member Fitzwater seconded the motion. There was no discussion. A roll call vote was taken, all ayes, motion carried. Mayor Green said a Public Hearing, regarding this ordinance, would be held at the next Mayor and Council meeting.

COUNCIL COMMENTS

Council Member Greene– Called the media to see if there could be some publicity for the Catholic Heart Work Camp. She also said she would like to see some kind of a Welcome Center that points out historic areas of interest. City Manager Cathcart explained how the Catholic Heart Work Camp has helped residents of Delaware City. He also said he thought Main Street is working on a Welcome Center.

Council Member Fitzwater – No Report

Council Member Titus – Said she was very impressed by the Branch Canal Trail opening. She also asked about having the flood wall removed. City Manager Cathcart said he thought it had been removed that morning. Council Member Titus offered free flea protection for dogs (only dogs) of residents who are experiencing financial difficulties. She said they could stop at Pampered Pets and pick up a six month free supply. She said there is a lot of horse manure in the streets. Chief Baylor said he has been getting a lot of calls about it. As a result, he has contacted both residents in the area who ride their horses through town. The Chief asked residents to report this to the police if they witness it.

Council Member Malinowski – Attended the Fort DuPont Redevelopment and Preservation board meeting and the trail opening. *Council Member Malinowski made a motion requiring that a posting occur two weeks before the removal of any city tree, and that every member of the tree commission be notified when the posting occurs.* Mayor Green said this could be put on the agenda for the next meeting and it could be discussed at that time. Council Member Malinowski agreed. He also announced that this was Mayor Green's birthday. The announcement was followed by a round of applause from the attendees.
Council Member Barrett – No Report

CITIZENS COMMENTS

David Veasey, 400 Adams Street, said it has been quite some time since the Jefferson Street paper street has appeared on a Mayor and Council agenda. None of the people who own contiguous property have been notified of this lease that was on the agenda tonight. He said it is now a wooded area, with animals living there. He said he would appreciate being notified about what the lease includes and before anything is done, as it would affect him and his family.

Mike Hendry, 400 Clinton Street, thanked Council Member Barrett for pointing out the parking problems down town. He said the 20 minute parking signs would help. He also thanked Council Member Titus and Greene for expressing concern about the tree near Seventh Street Park. He reminded the attendees that he had complained about a tree in front of his house, were told there was no danger, but a limb broke and fell on his car. He asked the Council Members to make sure the tree is safe or have it removed.

Sandra Malinowski, 304 Bayard Street, said she agreed with everyone who said the Branch Canal Trail opening was wonderful. However, she was glad it was held near the ball field and not by the Community Center. She said it looks bad with the rain gutters hanging off, the flower beds full of weeds and the cigarette butts laying outside. She said the front of the building faces Route 9 and that Delaware City could do better. City Manager Cathcart said that would be addressed when the new fiscal year begins, as there are no funds to do this work during this fiscal year.

MAYOR GREEN'S COMMENTS

Mayor Green read the letter of resignation from City Manager Cathcart, effective August 15, 2016. Mayor Green then read his response to City Manager Cathcart, thanking him for his years of hard work and commitment. The Mayor, Council and other attendees gave City Manager Cathcart a standing ovation. City Manager Cathcart stressed that all the accomplishments have been a team effort. He thanked the people for the opportunity to serve Delaware City.

ADJOURNMENT

Council Member Barrett made a motion to adjourn the Mayor and Council Meeting. Council Member Malinowski seconded the motion. A vote was taken, all ayes, motion carried. The meeting was adjourned at 7:39 pm.

Respectfully submitted,
Dawn K. Gwynn
City Secretary