

*"A Historic Past"*



*"A Bright Future"*

CITY OF DELAWARE CITY  
407 Clinton Street - P.O. Box 4159  
Delaware City, Delaware 19706  
302-834-4573

**MINUTES  
CITY OF DELAWARE CITY  
SPECIAL MAYOR AND COUNCIL MEETING  
Tuesday August 8, 2017  
CITY COUNCIL CHAMBER  
407 Clinton Street**

**CALL TO ORDER – MAYOR AND COUNCIL MEETING**

The Honorable Mayor Green called to order the Special 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, Vice Mayor Malinowski, Council Members Greene, Titus, and Barrett. City Manager Houck, City Solicitor Walton, and Police Chief Baylor were also in attendance as was Mr. Steven Lewandowski of Duffield Associates. Absent with advance notice was Council Member Fitzwater.

**THE AGENDA**

Mayor Green reads the agenda item by item. The intent of the meeting is to have City Manager Houck address the Washington Street Flood Mitigation Project. Mayor Green implores the Council to listen carefully and ask questions so when it comes to the vote they have a full understanding of what is involved.

After lengthy conversations with City Manager Houck, Mayor Green sees two (2) things that are paramount in his mind:

1. Plan of attack for the project.
2. If borrowing money:
  - a. Specific details on the borrowing (looking at other sources for borrowing: financial groups, State organizations or Federal funding)
  - b. How to pay it back, and
  - c. What direction to take to be sure the City remains solvent at all times

### **PROCLAMATION IN HONOR & RECOGNITION OF NATIONAL AIRBORNE DAY**

Mayor Green made changes to express more respect for those who are currently serving have served and those posthumously served. Mayor Green also felt the families of those members have sacrificed their loved ones to serve this country and deserve to be honored as well. The proclamation will be presented on Wednesday, August 16 at Kathy's when the group assembles for their annual meeting to celebrate National Airborne Day. Mayor Green read the proclamation as edited.

### **DISCUSSION OF THE WASHINGTON STREET FLOOD MITIGATION PROJECT AND FUNDING – INCLUDING DISCUSSION OF THE POTENTIAL LOSS OF FUNDING**

City Manager Houck extends her thanks to Council members for being available to attend, Deanna for assisting her on the finances and reimbursements, Mr. Lewandowski of Duffield Associates for bringing her up to date on the project and City Solicitor Walton for being in attendance to help decide the path forward.

City Manger begins by addressing the revisions on the spreadsheet. When Vice Mayor Malinowski had some questions it prompted her to take another look at the figures. By doing so she found a \$37,000 reimbursement had been submitted and paid twice and carried over into the total spent. The error is in Delaware City's favor. The State will make itself whole through future reimbursements.

As of August 8, 2017 the original funds were \$920,000. The error of the double reimbursement said \$318,088 had been spent. The correction is \$280,784 has been spent. The balance of funds is \$639,215.00. This adjustment also corrects the statement on the first page of her memo.

As of now:

- Began with \$920,000.00
- Current needs (absent any loans) \$1,220,000.00

If loans are procured the following will have to be taken into consideration:

- Have to add the prevailing wage for just completing Phase 2
- Money for legal support
- Closing costs on loan
- Less the amount on hand - \$639,215.00
- Less contingency
- Amount to borrow = \$790,000.00 (this is a not to exceed number)

Mr. Steven Lewandowski introduces himself as the Project Manager from Duffield Associates. He explains a contingency, between 5% to 10%, is added for those unforeseen circumstances that can occur in construction and is commonly included in construction loans.

A discussion began about what is the exact percentage being allowed. City Solicitor Walton explained the contingency is not based on the total amount of the loan but on the total amount of the project which is \$1,220,000 He also answers Mayor Green's question that yes it is allowable pursuant to State and Federal audit guidelines.

Mayor Green asked if the contingency is paid back at the end if we don't have to use it? City Manager Houck said the money would be drawn as needed. Therefore, we only pay back what was used.

Mayor Green asks City Manager Houck to walk through the project instead of just having a question and answer session. Therefore, the following:

Goal of the Washington Street Flood Mitigation Project:

To mitigate flooding conditions on Washington Street and to protect homes up to what is called a 100-year storm (a storm event of 1% happening in any given year)

Timeline of the Project: as asked by Council Member Greene

- Effort to procure grants began in 2013
- Engineering firm hired
- Design developed and publicly advertised for bids according to the requirements of the grant funding
- The apparent low bid exceeded the available grant funding
- Former City Manager Cathcart engaged Duffield Associates to embark on an engineering effort to align the cost of the project
- Duffield re-engineered the project
- Duffield engaged the apparent low bidder, Kuhn Construction, to seek a bid from them on the redesign

The Design Solution

Mr. Lewandowski considers this a 3-bucket course of action for the scope of improvements. First, addressing the existing storm surge collector: a network of underground pipes that drain a 17 acre water shed down Washington Street exiting the watershed through a single pipe to the river. This pipe has a check valve that allows water to flow in one direction. This check valve no longer prevents water from coming back into the collection system.

First course of action is to replace the existing pipe that goes to the river with a new tie gate called a "duck bill" which only opens when there's enough water in the pipe to force it open. It prevents water from coming back into Washington Street. This alone will be a significant improvement.

Currently there is not enough force in the existing pipe running down Washington Street to force the water to the river. A network of new storm sewer improvements has been designed, which are 30" and 36" plastic pipes that will take the water to a new 18,000-

gallon high volume pumping station located on the Refinery's property. It will pump the water up and over the sea wall. A diesel-fueled stand-by generator with an automatic transfer switch will be installed for emergency power.

Commissioner Greene asked if this was satisfactory with the Refinery. Mayor Green, City Manager Houck and Mr. Lewandowski said there are ongoing discussions with the Refinery and their legal department. However, there is no easement agreement yet. This plan also impacts the Refinery in a positive manner and there has been no indication of them not supporting it.

Since Delaware City code requires the height of the electrical power components to be above the 100-year flood zone with at least a foot of free board, it is necessary to realign the Refinery's existing driveway to accommodate the pumping station which is a subsurface concrete vault with three (3) pumps that have pipes that will come up and over the sea wall to dump the water into the river.

Mayor Green asks how much access are we asking from the Refinery? Mr. Lewandowski says he does not have the exact dimension but perhaps less than 10,000 square feet.

Mr. Lewandowski concludes that this is the scope of the improvements will accomplish the intent of the original grant funding procured from FEMA & DEMA. It meets the requirements in the original grant application to protect the structures up to the 100-year flood zone.

The following questions were asked of Mr. Lewandowski:

- Mayor Green: Will this eliminate pumps sitting on the street?  
Yes.
- Council Member Titus: Will this stop the flooding behind the post office?  
Yes, because the flooding now is caused by the rate the water exceeding the capacity of the current temporary diesel driven pumps.
- Mayor Green: In your study, have you looked at that particular parking lot? Will water still accumulate there unless something else done?  
Yes we have looked at this. During a 100-year storm there will be minor surface ponding characterized as less than 12". As you go towards the river you come up in grade about 3 feet. The storm sewer connectors will get into the weir (wall). The water flows over the weir into the new pipe to the pumping station and out into the river.

Mayor Green asks Council if they have any questions in terms of the design features or the process to be used to take the water away from Washington Street and into the river?

- Council Member Titus: How long will the construction take?  
What we are asking you to consider and recommending tonight is a two-phased approach: Two (2) different projects and two (2) different schedules. That information is in the information packet you have.

City Manager Houck adds that the two-phase approach was implemented because FEMA-DEMA wants to see a “starts work”. This is critical for them to approve the extension. The two-phases allows us to use the \$600,000+ we have to start Phase 1.

Mr. Lewandowski says Phase 1 would be the bucket item #1 he described earlier. The second component is installing the concrete structure which is called the “wet well”, 12’ x 15’ x 15’ deep where the pumps reside to begin in October 2016. Kuhn Construction agrees four (4) months to complete is reasonable.

- Mayor Green: The milestones of Phase 1 & 2 are overlapping because you are doing administratively one part in preparation to do the fiscal labor of the second part?

Mr. Lewandowski: The two-phase approach is to secure the State Revolving Funds (SRF) to complete the balance of the work. The SRF loan process starts with the resolution you have before you tonight. A whole series of milestones are identified in the Phase 2 project schedule. Phase 2 will be a publicly bid process after the SRF is approved. It can take months because of the red tape of the administrative process through DNREC.

- Council Member Greene: Having Phase 1 done, or in progress, makes it more appealing to procure the other set of funds?

FEMA-DEMA is looking at this since it’s the third time the City is requesting an extension. It’s called a “period of performance” from the original grant.

- City Solicitor Walton: FEMA-DEMA has the right, if it so choses, to not give an extension at the “period of performance”. The money already spent would have to be returned under the grant documents without any improvements. City Manager Houck and Mr. Lewandowski have worked very hard to get FEMA-DEMA in the position to give an extension, which they don’t usually do. The extension has two (2) requirements for not giving the money back:

- 1.) Begin moving dirt
- 2.) Making sure you have enough money to complete the project

### **DISCUSSION OF POTENTIAL APPLICATION TO THE STATE REVOLVING LOAN FUND RELATING TO THE WASHINGTON STREET FLOOD MITIGATION PROJECT**

Mayor Green opens the discussion of the loan by asking City Manager Houck:

- How do we get it?
- Once we have it, what is the interest on the loan?
- How do we pay it back?
- Who is it going to?

City Manager Houck says the current interest rate is 2% on the \$639,000.00 we recommend you give us a “not to exceed amount” to borrow. It is based on the lowest apparent bidder and we anticipate his bid on Phase 2 will come in for what he was going to do the whole project for. Depending on when we pull the trigger on the loan we may not need as much. That’s why we are asking for the “not to exceed” the \$790,000 in the resolution.

Council Member Barrett asks if this will be enough to do both phases.

- City Manager Houck answers, there is enough money for Phase 1 (\$639,000 in hand) and we will continue to spend and be reimbursed. Council Member Titus affirms the fact already stated that we couldn't get another extension without spending the money on hand.

Mayor Green wants to be sure the loan amount of \$790,00.00 being requested is enough to finish the project.

- Mr. Lewandowski said we are in a much stronger position estimating the cost because we have a concrete bid from the general contractor from 2016. His bid then was for \$1,009,000 and that's where we get the \$790,000. We are going into this with a level of confidence. City Manager Houck said you didn't have that assurance in 2013-2014 when applying for grant money.

Mayor Green presents a hypothetical question of what if in the end the actual costs comes in \$25,000 more what happens?

- Mr. Lewandowski says you have the contingency. Bids are always subject to market conditions at the time. The construction market was quieter 6 – 9 months ago. Because there is ample work out there now, bids are higher. In February when we advertise to bid Phase 2, can't say. But we have a degree of confidence based on the numbers we've received from Kuhn Construction and the contingency will cover the cost.

Council Member Titus asks if our capital money could be used instead of losing the grant?

- City Manager Houck – If prices go up and everyone is working and the bids come in high at that time we would have to re-engage you for recommendation on how to move forward. In talking with Kuhn Construction they remain committed.

Do they warrant their work?

- Mr. Lewandowski – standard contract is a one (1) year warranty and manufacturer's warranty is applied differently.

Mayor Green asks to revisit Council Member Titus' about using the capital fund.

- City Solicitor Walton – Yes

Council Member Titus asks is it possible to do that and not have to give all the money back?

- City Solicitor Walton – not sure of the exact amount but it is there and is what it's meant for.

Vice Mayor Malinowski asks about the interest rate on the SRF loan would remain the same for Phase 2 even though the current contract concludes December 31, 2017 and Phase 2 loan schedule won't be put in until 2018?

- City Manager Houck – The rate is not locked in at 2% but the SRF did give a strong indication that it may stay at 2%. They have a lot of money to lend so keeping it the same makes it most attractive to communities to borrow.

Council Member Titus asks what does it mean about the 50% of engineering costs on page 2 of City Manager's report.

- Mr. Lewandowski explains that there are policies and guidelines required by DNREC that are explicitly detailed. Delaware City is eligible for this grant even though the design plan had been previously done. It is essentially a 50% grant. They front the money for the engineering services. They give 100% towards the engineering and when the loan is closed they will take 50% of the loan amount and pay back the loan fund.

**POTENTIAL ADOPTION OF RESOLUTION 17-0808-01 REGARDING AGENDA ITEMS 1-5**

Mayor Green entertains the following motion:

*To accept Resolution 17-0808-01 with all documents and financial revisions paramount to Phase 1 and Phase 2 of The Washington Street Flood Mitigation Project*

Council Member Titus makes the motion to accept and Vice Mayor Malinowski seconds. Mayor Green asks if there are any further comments or discussion? There was none. Roll call vote was taken and the motion was unanimously approved.

**ADJOURNMENT**

Mayor Green asks for a motion to adjourn. Vice Mayor Malinowski made the motion and it was second by Council Member Titus.

Mayor & Council Meeting was adjourned at 7:30 p.m.

Respectfully submitted,  
*Bonnie Lynn Hanna*  
City Secretary



## ATTENDANCE SHEET – PLEASE SIGN IN

MEETING: M+C Special Meeting DATE: 8-8-17

NAME:

Steven Lewandowski

Kathy Clifton

Deana Durand

John Buhler

Paul J. Parets

ADDRESS:

Duffield Associates

Town Hall

Town Hall

210 Clanton

300 Bayard