

*"A Historic Past"*



*"A Bright Future"*

**Mayor**

Stanley E. Green

**Vice Mayor**

Robert Malinowski

**Councilmembers**

Betty Barrett

Elizabeth Konkus

Chase E. Renoll

Margaret C. Titus

**THE CITY OF DELAWARE CITY**

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**City Manager**

Carol S. Houck

**Police Chief**

David Baylor

**City Solicitor**

Max Walton

**City Treasurer**

Deborah Sellers

**City Secretary**

Bonnie Hanna

**MINUTES**

**CITY OF DELAWARE CITY  
MAYOR AND COUNCIL MEETING**

**BOARD OF APPEALS 6:00 p.m.**

**PUBLIC HEARING 6:00 p.m.**

**MONTHLY MEETING 7 p.m.**

**May 21, 2018**

**Paul H. Morrill, Jr. Community Center  
250 Fifth Street**

**CALL TO ORDER – BOARD OF APPEALS – ANNUAL FY19 TAX ASSESSMENT**

The Honorable Mayor Green called to order the Board of Appeals at 6:00 p.m. Mayor Green opened the floor to anyone who wished to appeal their FY19 Tax Assessment. No one came forward.

**RECESS THE BOARD OF APPEALS**

Mayor Green recessed the Board of Appeals and moves on to the Public Hearing.

**CALL TO ORDER – PUBLIC HEARING**

Mayor Green reads the three (3) items for the Public Hearing. Council was seated. Vice Mayor Malinowski was absent.

**1. Ordinance 18-0416-01 to Amend Sign Code Chapter 46 Article X**

City Solicitor Walton tells Council this ordinance was introduced at the last Mayor & Council Meeting and was referred on to the Planning Commission. The Planning Commission suggested changes and revisions therefore he felt it warranted a new ordinance. His recommendation at this meeting was to pass this Ordinance 18-0416-01 until next Mayor & Council Meeting along with the revisions and changes suggested by the Planning Commission and deal with it in total at that time. City Manager Houck also agreed to have this passed to next month.

## **2. Ordinance 18-0416-02 to Amend the Delaware City Code Chapter 22 Residential Rental Property Inspections & Chapter 52 Relating to Property Maintenance-Substitution #1**

The rental property inspection ordinance was passed some time ago but questions were raised so another look at the ordinance was necessary. The proposal before Council tonight fixes the constitutional issues of the prior ordinance and creates a Life-Health-Safety inspection requirement which is to take place at the change of a rental term. It also has some significant changes:

- no annual inspection is required only when the property turns over or every 3-years for long term renters
- does not have to have a Delaware City code official to do the inspection; a private licensed property maintenance inspector is allowed
- fees have been reduced from \$75.00 to \$50.00

Mayor Green opened the floor to questions from either Council Members or the audience.

Paul Fitzwater, 136 Washington Street had several concerns. His main concern was over inspections and they being necessary before a new lease can be written. In addition his concern over private property inspectors, their fees, and what they will consider code compliant especially in the older homes and feels the idea of code compliant is subjective.

The City Solicitor explained the inspections were between the turnover of tenants and every 3-year for long term tenants. Delaware City does have a code official who can do the home inspections. The services of a private inspector is in the case landlord/or tenant wants to use someone else. The proposed ordinance does not go against the Landlord/Tenant Act. Mr. Fitzwater thanked City Solicitor for answering his questions.

For clarification Mayor Green asked the City Solicitor several questions. The following are his responses:

- There are grandfathered properties. The purpose is to make a residence safe.
- Regarding entering a renter's home: Delaware City law does not supersede State Code, specifically the Landlord/Tenant Act. The Landlord can write into the lease his/her terms for inspections. Our code officials follow those instructions.
- The tenant has the right to say no. Under Section 55:9 in the Delaware Landlord code, a landlord can get a writ of possession to allow an inspection to occur. A judicial officer allows the entry. No forced entry by the City.
- A provision states if this process is prolonged, the time period is suspended. There will be no penalties while under judicial review.
- A provision is also made for those tenants who do not want the city government to inspect their homes. Therefore, to accommodate those folks the Landlord can have the inspection done by a private property maintenance inspector.

Mr. Fitzwater felt it would be easier to charge a licensing fee for each rental property as other towns do. City Solicitor responds the concept of the ordinance if Council chooses to pass it is not for raising revenue but to ensure the safety of the property for tenants.

Mr. Tim Konkus, 302 Canal Street believes standards will change as will the interpretations of them and reminds Council this is an 1820's town. He also wondered if this was good for tenants why not for homeowners as well. City Solicitor responded there are codes in place now; grandfathered properties have been taken into consideration. A rental checklist will set forth what's to be inspected and how it's to be enforced if Council so chooses to pass the ordinance.

## **3. Subdivision of Fort DuPont Branch Canal District – Subdividing 1 Lot into 77 Lots of Various Sizes**

City Manager Houck calls Council's attention to the letter from AECOM dated May 18, 2018 about the subdivision. Dave Athey from AECOM is serving as the town's engineer. Also present are

Steve Gorski and Jeff Brosch from Duffield representing Fort DuPont to answer Council's questions as well. There were no questions at this time.

Mayor Green reopens the **Board of Appeals** and once again no one came forward. The Board of Appeals will stay open until the end of the meeting.

### **CALL TO ORDER**

Before opening the Mayor & Council Meeting, Mayor Green acknowledges the Honorable Buchheit, Tim Konkus (Main Street) Senator Nicole Poore and Lisa Lindsey (Delaware City Refinery) and thanks them for being in attendance.

### **PLEDGE OF ALLEGIANCE**

Mayor Green led the Pledge of Allegiance. Mayor Green asked everyone to remain standing for a moment of silence to pay tribute to the children, police officer and teachers who lost their lives in the Texas school shooting and for strength for the parents to become whole again.

### **ROLL CALL**

Attending the meeting were Mayor Green, Council Members Barrett, Titus, Renoll and Konkus. Also present were City Manager Houck, City Secretary Hanna, Assistant City Clerk Clifton, Police Chief Baylor and City Solicitor Walton. Vice Mayor Malinowski was absent.

### **ACTION UPON FINANCE REPORT**

City Manager states in lieu of a report, Tara Berkheiser from By the Books will present an update to Council. Going through the packet Council was given, she notes she is still unable to give a line by line financial statement. What Ms. Berkheiser is presenting is a breakdown of all sections of the operating budget and how each affects the budget.

- 72% of the operating budget comes from six (6) top sources of revenue with water and property taxes being the lion's share
- The top six (6) expenditures of the operating budget is at 56% with personnel costs being at 37%
- Budgeted transfers to the General Fund come from Public Safety and Water Fund
- The actual fiscal year was adjusted in the General Fund's budget based on the times of the year of the property tax billing cycle
- The Actual Water Fund budget contains areas still being worked on to find what the allocations were based on so they can be properly represented in the future.
- The recap is the culmination of the previous areas.

Mayor Green suggests to Ms. Berkheiser that in the future the pages be numbered making it easier to follow. He also asked if there were any questions page by page but there were none. Mayor Green asks for a motion to accept the report. City Manager said one is not necessary since it's not a traditional one but making Council aware of what numbers are now coming out of Sage. Mayor Green respectfully disagrees and his reason is he believes Council has received viable information about the City's finances and wants each member to recognize it and understand it. Council Member Titus made the motion to accept the report as presented with the changes to add page numbers in future exhibits. Council Member Konkus seconded the motion and the roll call was all ayes.

### **ACTION UPON MINUTES**

Council Member Titus made the motion to accept them minute from April 16 as written. The motion was seconded by Council Member Konkus. All were in favor. Council Member Konkus

made the motion to accept the minutes from April 23 as written. The motion was seconded by Council Member Titus. All were in favor.

### **POLICE REPORT**

Chief Baylor reported on the significant events in the month of April as follows:

- April 5: theft of a package at the door step in the 300 block of Madison Street. The contents were recovered by another resident.
- April 7: a criminal mischief investigation at Ft. DuPont of a broken window by a thrown rock at the Artesian Water Company's pump house
- April 8: an altercation in Lewinsky's between two Delaware City residents resulting in one being charged with assault in the third degree
- April 13: a drug overdose in a unit on Hamilton Place. The individual was transported to Christiana Hospital, treated and released.
- April 17: a domestic incident in the Delaware City Mobile Home Park resulted in an individual being charged with criminal mischief and terroristic threatening.
- April 24: a burglary in the 200 block of Washington Street resulted in arrest warrants to be executed once the individual is released from a correctional facility
- April 24: with the cooperation of management, three (3) individuals were identified and arrested for shoplifting and theft at Crabby Dick's.
- April 28: police and ambulance were summoned to a unit on Hamilton Place for a drug overdose by the same individual as on April 13<sup>th</sup>. Individual was treated at Christiana Hospital. Addressing this issue with the property owner.

Announcements:

- Delaware City has partnered with CodeRED, an emergency notification system. This will be available to all residents of Delaware City. The system will allow notifications in case of severe weather, natural disasters, community crime information or other types of vital information that requires community notification via telephone or cell phone. Registration will begin June 1, 2018 on our website. An 800 number will be provided to anyone who does not have access to a computer.

In light of the thefts of packages left on doorsteps, Chief Baylor urges everyone to make provisions with neighbors or someone when you are expecting a delivery.

### **CITY SOLICITOR'S REPORT**

City Solicitor Walton reported the following:

- Attended the meeting of the Planning Commission and assisted them with their recommendations on the proposed sign ordinance and in drafting the recommendations.
- Participated in meetings regarding the subdivision requirement as applicable to the canal district subdivision
- Have been working on and continue to do so on the state revolving loan fund for the Washington Street project
- He has a pending zoning question that needs to be answered
- Addressed several FOIA requests directed to the City from out state individuals

### **CITY MANAGER'S REPORT**

City Manager Houck reported the following:

- Parking Task Force's walking meeting was productive. Areas of focus were trailhead kiosk signage (3 locations); wayfinding signage from 5<sup>th</sup> Street to municipal lot on Washington Street; lighting and visual improvement to the alley near the post office to bring visitors from the parking lot to the business area; and locations for additional bike

racks. Mayor & Council will be presented with the recommendations at a future Council Meeting

- Washington Street Flood Mitigation Project Phase 1 will be completed once the blackout period for fish migration is over. Phase II has been funded by the State Revolving Loan Fund will begin following the approval of the Resolution before Council tonight which triggers the loan closing. Assistance of By the Books organized our grant funding reimbursement requests to allow for quicker turnarounds. The staff at DNREC has been most helpful.
- Delaware City Day is July 21<sup>st</sup>. Applications for parade participants and vendors are beginning to come in. Confirmations will be mailed out the week of July 2. Sponsorship fundraising effort is also underway.
- Comprehensive Planning for Delaware City DE. We received an extension from the state to November 2019. Awaiting a reply from the U of DE any assistance they can be. It may be necessary to enlist assistance of others to complete the update in the time allotted.
- Downtown Development District Plan will be completed soon and a draft will be presented to Mayor & Council at a future meeting. The presentation will permit submission for reimbursement of the costs associated with AECOM's involvement as required by the grant we received. The DDD plan will be incorporated into our Comp Plan update.
- Community Environmental Project Fund (Penalty Fund) it was confirmed last week that Delaware City will receive information once additional funds are available but is not expected until fall. City Manager will continue to reach out keeping the needs of Delaware City in mind to ensure the submission of an application/proposal is competitive and well received.

City Manager listed the 22 meetings she attended in the last 2-weeks on behalf of Delaware City.

Council Member Titus asked if there was a time frame for the lights on the 5<sup>th</sup> Street Bridge to be installed. City Manager replied she has reached out to a local electrical company asking if the lights were in stock. The funding for this is not yet in place.

### **APPOINTMENTS, ANNOUNCEMENTS, COMMUNICATIONS**

Mayor Green asked Council for approval for the following appointments:

- Tree Committee for a 3-year term:
  - Sandra Malinowski: Council Member Konkus made the motion to accept and Council Member Titus seconded the motion. All were in favor.
  - Paul Lyons: Council Member Barrett made the motion to accept and Council Member Renoll seconded the motion. All were in favor.
- Board of Adjustment for a 3-year term
  - Paul Parets: Council Member Barrett made the motion to accept and Council Member Konkus seconded the motion. All were in favor.

### **REPORTS OF COMMISSIONS, COMMITTEES, AND ORGANIZATIONS**

Main Street, Mr. Tim Konkus reported:

- The month of May is National Historic Preservation Month and stated what an impressive list of properties that have been inventoried as historical and those marked for preservation here in Delaware City.
- The Farm on Fifth has been planted and the market will open the third Saturday in June.

Delaware City Refinery, Ms. Lisa Lindsey reported:

- The May 7<sup>th</sup> 4<sup>th</sup> Annual Charity Golf Fundraiser raised a little over \$200,000 that will be shared among 19 non-profit organizations in the state.



- Fifteen new hires recently graduated from a 7-week Basic Operator Training Program covering basic fundamental concepts. Job-specific training will continue through the summer.
- DCR will again sponsor Delaware City Day.
- DCR Safety & Environmental compliance is below industry average.
- No recordable injuries for DCR employees or contractors in April (0.17 compared to industry's 0.71)
- No agency reportable environmental events for the month of April.
- DCR is in planning stages for a new Hydrogen Plant having state of the art Nitrogen oxide controls which will increase hydrogen production to further reduce sulfur levels in fuels and enable DCR to comply with the Federal Tier 3 Sulfur specs for gasoline
- This project is expected to result in approximately 150 construction jobs.

## **OLD BUSINESS**

- **Resolution 18-0521-01 Resolution to Proceed with Closing on a State of Delaware Storm Water Revolving Loan for the Washington Street Flood Mitigation Project.**

City Solicitor Walton said he did not prepare this resolution but it was reviewed by his office. The attorney, Sylvia Shinn prepared the resolution and will do the closing on behalf of the state. Council Member Titus made the motion to accept the resolution. It was seconded by Council Member Barrett. A roll call vote was taken and the motion passed with no opposition.

- **Second Reading & Possible Adoption of Ordinance 18-0416-01 to Amend the Delaware City Sign Code & Outdoor Advertising Regulations Chapter 46, Article X**

City Solicitor reminded Mayor this ordinance would not be heard at this meeting. Council Member Titus made the motion to pass this ordinance to the next meeting of Mayor & Council so it can be heard along with the suggestions from the Planning Commission. Council Member Barrett seconded the motion. . A roll call vote was taken and the motion passed with no opposition.

- **Second Reading & Possible Adoption 18-0416-02 to Amend the Delaware City Code Chapter 22 Residential Rental Property Inspections and Chapter 52 Relating to Property Maintenance – Substitution #1**

City Solicitor requested if Council desires he'd like to make a floor amendment to change the permit fee from \$75 to \$50. Mayor Green asked for a motion. There was no motion therefore the floor amendment was not passed. City Solicitor asked for a motion to pass the ordinance as it's written. There was no motion therefore the ordinance was not passed.

## **NEW BUSINESS**

- **Introduction & First Reading Ordinance 18-0521-01 Amending Section 23-14 of the Delaware City Code-Numbering Correction**

City Solicitor said this was to correct a typographical error in the code. Council Member Barrett made the motion to accept and Council Member Konkus seconded the motion. There were no questions or comments or opposition. Mayor Green announced the motion to accept the ordinance in abstract & title only has been passed. A public hearing on the proposed ordinance will be held at the next meeting of Mayor & Council.

- **Introduction & First Reading Ordinance 18-0521-02 Amending & Modifying City Code Floodplain Chapter 48 Sections 21, 32, 34**

City Solicitor said this ordinance has been worked on for months in respect to the historic properties in the floodplain. The prior ordinance was tabled. City Solicitor sought out FEMA and DNREC about this issue. On March 10, 2018 City Solicitor sent this draft to them but has not received any response to date. If Council so approves, he will send it back to them stating it has been passed for first reading. Council Member Titus made the motion to accept the ordinance for

first reading at it was seconded by Council Member Konkus. There were no comments, questions nor opposition. Mayor Green announced the motion to accept the ordinance in abstract & title only has been passed. A public hearing on the proposed ordinance will be held at the next meeting of Mayor & Council.

- **Introduction & First Reading Ordinance 18-0521-03 Planning Commission Recommended Sign Ordinance**

City Solicitor said this is the recommendations of the Planning Commission from their last meeting. If accepted it will be considered with the other sign ordinance at the next meeting. Council Member Titus made the motion to accept the first reading of the ordinance. It was seconded by Council Member Renoll. There were no questions, comments or opposition. Mayor Green announced the motion to accept the ordinance in abstract & title only has been passed. A public hearing on the proposed ordinance will be held at the next meeting of Mayor & Council.

- **Subdivision of the Fort DuPont Branch Canal District – Subdividing 1 Lot into 77 Lots of Various Sizes**

City Manager Houck said David Athey from AECOM and Steve Gorski and Jeff Brosch from Duffield Associates will be addressing Council. Council wanted to hear a presentation before asking their questions. Mr. Gorski opened the discussion recalling the first subdivision approved was Officers' Row for 15 single family lots. This second phase is for 77 single family lots being a mixture of town home style attached and single family detached homes. Approval from Artesian, DNREC, the County, and Fire has been given for water mains and sewer systems. The roads and trail will be maintained by the Corporation and opened to the public. The proposed promenade will connect shoulders, sidewalk, and the Fifth Street Bridge along the canal. DelDot is involved with the design plan to wrap it around the site.

#### Questions from Council

Mayor Green: will there be a retention basin to assist with flood mitigation?

- There will be seven (7) separate smaller water collectors to collect storm water and have it piped into the branch canal.

Council Member Barrett: what phase will the levees be in place?

- They are not needed in this phase; it's above the flood plain. However, depending on funding it's expected to begin in 2019 and completed in 2020.

Council Member Konkus: who is the builder?

- Rockwell Homes. There is no signed contract at present. The Fort has its own HPC standards for design and the builder is in negotiations now with the Corporation. They have to adhere to a pattern book that developed standards for the aesthetics. There will be a mix of carriage style and townhomes along the parade grounds and branch canal and standalone homes in the center.

Mayor Green: will there be a rendering of the designs?

- Once the contract is signed. Mr. Brosch added they are only asking for approval of the subdivision tonight.

Council Member Konkus: is the contractor's conception of the project match with the Corporation's?

- Contractor has seen the plan, made suggestions and in agreement and we are anticipating having a signed contract soon. In the event we go with another contractor this is an important first step to have in place to move forward.

Council Member Konkus: has several concerns regarding the round-about. She wanted to know how it was decided to put one in place and would like to see the traffic impact study that was done to warrant this decision. She does not feel a roundabout is necessary.

- The roundabout was a joint decision with DelDot and believes it's the best way to keep traffic flowing in and out of the Fort. The design was not done before the bridge work took place otherwise a left turn lane and light may have been done. The traffic impact study has given to City Solicitor Walton. When the study was done, DelDot determined a

roundabout would satisfy the traffic impact. They have the autonomy because Route 9 is a state road.

Mayor Green asked City Manager to obtain copies of the study to give to Council Members. Senator Poore said she has one (47 pages long) and will provide copies to Council.

Council Member Titus: does this plan incorporate the changes the contractor suggested?

- Yes.

Also referring to page 2 of Mr. Athey's letter said approval was needed from Delaware City on the utility lines before any of the lots could be transferred in Officers' Row. Have any lots been transferred?

- No.

Mayor Green asked for a motion on subdivision. Council Member Titus made the motion to accept the subdivision of the Fort DuPont Branch Canal District-Subdividing 1 lot into 77 lots of various sizes. Council Member Renoll seconded the motion. There were no questions or comments. A roll call vote was taken and the motion passed with no opposition.

### **MAYOR & COUNCIL COMMENTS**

Council Member Konkus: no comments.

Council Member Renoll: no comments

Council Member Titus: no comments

Council Member Barrett: The 20 minute parking sign in front of the Sunset Market is missing and she makes the recommendation to have it replaced. Council Member Barrett also asked what Chief Baylor needs from Council to be able to enforce the time limit. Chief Baylor said a letter from the Mayor stating the sign is official and should be enforced. A letter will be composed by the Mayor's signature. She also adds the three (3) signs at the post office that the time limits should be enforced there as well.

Discussion occurred regarding the necessity of the signs and how they are ignored by some of the merchants who park there themselves. Chief Baylor says the challenge is to have personnel there at all times to enforce the time limits. The police department will have two (2) interns this summer and if Mayor & Council approves, they can be directed to that.

Mayor Green: has been helping to interview for a new Police Chief with the City of New Castle's City Manager and HR. Working with City Secretary on fund raising letters; continuing the process of reviewing all the past Mayors to get their names on the plaque and put in the city; presented Dale Slotter with a proclamation at his birthday party; assisting Old New Castle on their June 21<sup>st</sup> fundraiser; and I have enlisted the help of the Honorable John Buchheit to select areas in town where specific signs will be appropriate.

### **CITIZENS COMMENTS**

Ray Fruytier, 909 Fifth Street asked if the 77 lots were between the parade ground and the canal and about the types of homes being built at Fort DuPont and would there be apartments. Mr. Gorski answered his questions that there are single and town homes and no apartments.

Tim Diliplane, 118 Clinton Street asked if he heard correctly that the bridge would be widened for a left turn lane. No. One of the iron benches is broken off its legs and lying on the ground. Police Chief said it was backed into by a vehicle and they are in contact with the owner. Mr. Diliplane also wanted to know if the area in the center (parade ground) would be raised. Mr. Gorski said yes.

John Buchheit, 210 Clinton Street first thanks the Police Department for the fast apprehension of the individuals who did a dash and run at Crabby's. His next comments pertained to signs and sign ordinance. He believes over the 191 years of the town, merchants have had very creative with interesting signs and hopes the sign ordinance would be stopped to allow that again. He



firmly believes the money spent writing sign ordinances could be put to much better use in public maintenance.

Gail, Reedy Point Players, 250 Fifth Street was pleased to announce that the Reedy Point Players had taken second place in playwriting & actor awards. The film about the town also won multiple awards. The next production will be a one-act play on June 16<sup>th</sup> at 7:30 p.m. In the fall they will produce "Romeo & Juliet"

### **RECONVENE BOARD OF APPEALS**

Mayor Green once again opens the floor to anyone who wished to appeal their FY19 tax assessment. No one came forward.

### **ADJOURNMENT**

Mayor Green adjourns the Board of Appeals and asks for a motion to adjourn meeting of Mayor & Council. Council Member Barrett made the motion to adjourn which was seconded by Council Member Konkus. All were in favor, meeting adjourned at 7:50 p.m.

Respectfully submitted,

*Bonnie Lynn Hanna*

City Secretary