

"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
MAYOR AND COUNCIL MEETING
MONTHLY MEETING 6:30 p.m.
May 20th, 2019
DELAWARE CITY FIRE COMPANY
815 FIFTH STREET**

BOARD OF APPEALS

Acting Mayor Malinowski opened the Board of Appeals for the Annual 2020 Tax Assessment.

No one appealed their taxes

Acting Mayor Malinowski recognized Tom Reynolds, our City Assessor.

Acting Mayor Malinowski recessed the Board of Appeals meeting.

CALL TO ORDER

Acting Mayor Malinowski calls the May 20th, 2019 meeting to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE

Acting Mayor Malinowski led the Pledge of Allegiance

ROLL CALL

In addition to Acting Mayor Malinowski, Council Members Titus, Konkus, Renoll and Buchheit were present. Interim City Manager Baylor, Finance Manager Graham, City Solicitor Walton and City Secretary Loveland were also present.

ACTION UPON FINANCE REPORT

No financial report available at time of Mayor & Council Meeting.

ACTION UPON MINUTES

Council Member Konkus made the motion to accept the 4/15, 4/25, 4/30, 5/8 and 3/7/19 minutes as written. The motion was seconded by Council Member Titus. A vote was taken, all members were in favor. Minutes were accepted as written.

POLICE REPORT

Police Chief Baylor offered the following police report for the month of April 2019:

Crime Information:

- Friday, 4/19/2019 – DCPD arrested Generoso L. Malgiero of the 200 block of Washington Street and charged him with two counts of unlawful sexual contact in the first degree. The charges stem from an investigation in which it is alleged that Mr. Malgiero had inappropriate contact with an 11 year old girl at his residence.

General Information

- Reminder to parents – Parent's must accompany their minor child (age 12 and under) when they are at the playground.
- No child under the age 12 years of age and under are not permitted to be left home alone without supervision.
- Motorists are reminded to use caution when driving through the city. There has been an increase in bicyclist and pedestrian traffic in the city.
- **Section 26-22 Curfew for Minors Under Eighteen** – Generally It shall be unlawful for any minor under the age of eighteen (18) years to loiter, idle, wander, stroll or play in or remain unnecessarily upon the public streets, highways, roads, alleys, parks, playgrounds, wharves, docks or other public grounds, public places and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places, whether by foot or in a motor vehicle or other conveyance between the hours of 10:00 P.M. and 6:00 A.M., of the following day, official city time; provided, however, that the provisions of this Section shall not apply to a minor accompanied by his parent, guardian or other adult person having the care and custody of the minor, or where the minor is upon an emergency errand or legitimate employment directed by his parent, guardian or other adult person having the care and custody of the minor.

CITY MANAGER'S REPORT

- Water System RFP (Request for Proposal): Proposals from several water utilities have been submitted to the city for review and consideration as part of the RFP process. The proposals are ready for review by the new City Manager when she starts on June 3rd.
- Finance Manager Selection - Michelle Graham, was selected as the new Finance Manager for the City. Michelle comes to the city after serving 27 as a Manager with the Department of Finance for the State of Delaware.
- Washington Street Flood Mitigation Project: Update on the progress of the projects is:
 - The project is complete and fully operational.
- Meetings I attended
 - April 8, 2019 – Met with Senator Poore and Representative Longhurst, Jeff Randol, Vice Mayor Malinowski, and Councilwoman Konkus regarding the Branch Canal.
 - April 10, 2019 – Attended the Ft. DuPont Board of Directors Meeting.
 - April 11, 2019 – Councilwoman Konkus, Councilman Buchhiet and I met with the Chief Financial Officer with the New Castle County Government regarding local service function budget.
 - April 22, 2019 – Vice Mayor Malinowski, Councilwoman Konkus and I conducted interviews for the Finance Manager Position.

Below is a summary report from Mr. Paul Parets, the City of Delaware City's Board Member of the Ft. DuPont Redevelopment Board of Directors.

❖ **SUMMARY REPORT TO COUNCIL**

- ❖ 1. The FDRPC Board of Directors examined & discussed the proposed budget for 2019 - 2020. The proposed budget projects income of \$11,989,683 and expenditures of \$5,598,383.
 - ❖ 2. The Executive Director reported on the highly fluid circumstances surrounding development of the proposed marina & Marina Village, and the resulting difficulty in creating a definitive comprehensive plan at this time.
 - ❖ 3. The Board was informed that N. Reedy Road requires improvements by DelDOT and probable transfer of ownership to the Corporation in the future.
- Council Member Buchheit asked about an article he read in the News Journal that mentioned there is over a million dollars in penalty funds that have not been collected and wanted to know if Delaware City was on the list for that. Acting City Manager Baylor said he is not familiar with that article but he will look into it.

- Council Member Buchheit asked about the status of the sidewalks on Washington Street and the construction. Acting City Manager Baylor said he was not aware of any construction taking place but he did see it. He is going to contact the Flood Mitigation contractor and see if that's something they are working on. He will look into it and get back to Council.
- Acting City Manager Baylor added that he and Acting Mayor Malinowski met with Jerry's Paving and they made a proposal that they don't believe is in the City's best interest, he plans to go back to them with a new proposal as the Clinton Street project was done incorrectly.
- Acting City Manager Baylor mentioned that he received a letter from a business person downtown regarding the side walk that traverses from the park to the post office, stating that it is causing damage to some of his properties. Acting City Manager Baylor looked into it and believes the issues are the owners and not an issue of the City. Acting City Manager Baylor is drafting a letter to this property owner indicating that it's probably in his best interest to get a structural engineer to look at his property.

CITY SOLICITOR'S REPORT

City Solicitor Walton reported the following:

- Prepared for the Special Meeting that was held.
- Involved in things that pertain to item # 3 under old business, holding comments until that discussion.

ANNOUNCEMENTS / COMMUNICATIONS

RECOGNITION OF BETTY BARRETT'S YEARS OF SERVICE ON COUNCIL

Acting Mayor Malinowski presented Betty Barrett with a plaque recognizing her dedicated service as a Council Woman, Chief Baylor also presented her with a plaque of appreciation from the Delaware City Police Department.

APPOINTMENTS

City Secretary

- Acting Mayor Malinowski asked for a motion to appoint Britney Loveland as City Secretary for a 2 year term. Council Member Buchheit made the motion. Roll Call vote resulted in all Ayes. Motion passed.

SWEARING IN OF BRITNEY LOVELAND AS CITY SECRETARY

Britney Loveland took the Oath of Office, sworn in by Acting Mayor Malinowski.

Board of Health

- Acting Mayor Malinowski asked for a motion to reappoint Lisa Webster to the Board of Health, Council Member Konkus made the motion, Council Member Titus seconded, roll call vote resulted in all Ayes, motion passed.
- Acting Mayor Malinowski asked for a motion to reappoint Donia Gonzalez to the Board of Health, Council Member Titus made the motion, Acting

Mayor Malinowski seconded, roll call vote resulted in 3 Ayes and 2 Nays, Motion Passed.

Board of Adjustments

- Acting Mayor Malinowski asked for a motion to reappoint Andrea Nolan to the Board of Adjustments for a 3 year term. Council Member Titus made the motion.

Acting Mayor Malinowski recused himself from the discussion and vote.

With no second, the motion was deemed failed.

REPORTS OF COMMISSIONS, COMMITTEES AND ORGANIZATIONS

- Paul Johnson- President of the Delaware City Fire Department. The Fire Department is gearing up and getting ready for Delaware City Day and the Annual Crab Feast at Ft. DuPont. He also informed Council that the Fire Department has hired a part time Administrative Assistant to help with the day to day activities as the work load steadily increases. He will act as a liaison between the Town and Fire Company during the day.

OLD BUISNESS

Review and Discuss Ordinance 17-0227-03 relating to Chapter 46-31, Parking, Building Height and General Standards

- Council Member Buchheit is concerned with the maximum height requirements at Ft. DuPont. At a recent HPC meeting, he says they were all in agreeance with keeping the maximum height the same as Delaware City's code of 35 Ft, whereas now the Marina District in Ft. DuPont can build up to 99 Feet. He fears that building that high will overshadow Delaware City and take away from the historic charm. He also mentioned that he recently learned that Delaware City's hook and ladder truck only reaches 35 feet.
- Council Member Titus asked if there is already a contract to build a building higher than 35 feet. Council Member Konkus said that at the HPC meeting, Ft. DuPont stated there were no plans at this time.
- City Solicitor Walton mentioned that the maximum height of all Districts is 45 feet, the Marina District is 99 feet. Tonight we are looking at an Ordinance for introduction to lower the 99 foot maximum height to 50 feet, in the Marina District. If you pass this Ordinance it will go to the Planning Commission and they will give their comments and then it will come back to Mayor and Council.
- Council Member Titus asked about the parking angles and widths. She asked if anyone has measured the spots. Acting City Manager Baylor responded that he has not measured them but he can direct the Engineer and City Planner to confirm that they are correct.

- Council Member Buchheit requested to amend the Ordinance they are discussing to be 35 feet rather than 50 feet since that is the maximum height in Delaware City.
- Council Member Konkus asked a question to the president of the Fire Department, is it correct that your equipment only goes up 35 feet. Paul Johnson from the DCFD responded that Delaware City's equipment can only reach 35 feet but in New Castle County they depend on mutual aid for ladder truck assistance

City Solicitor Walton let Council know they need to vote tonight on the first reading, and then it would go to the planning commission.

- Council Member Titus asked what Delaware City's height limit is. Council Member Buchheit asked Kathy Clifton to answer that. Kathy Clifton pointed out that Crabby Dick's has a Variance for its height but the height requirement in Delaware City is 35 feet, the HPR District is 45 feet. Council Member Titus said she is comfortable with 45 feet, she doesn't think it needs to be any less, Council Member Buchheit pointed out for everyone to keep in mind that Ft. DuPont has been built up, with over a million dollars in dirt being put in to take them out of the flood plain so they are already sitting higher than us.
- Council Member Konkus stated that if we cap them at 35 feet they can always come back for a Variance. Council Member Buchheit commented that we would then have more control over where the buildings are being placed and the impact it would have on this side of Delaware City. Discussions followed.

Acting Mayor Malinowski asked for a motion to accept the Ordinance 19-0520-01 to be introduced as a first reading. Council Member Titus made the motion, Council Member Konkus seconded the motion. A roll call vote was taken and resulted in all Ayes. Council voted to accept Ordinance 19-0520-01. A public meeting will be held once it is moved to Planning Commission.

River towns Ride Festival- Permission to serve Beer and Wine in Battery Park

Acting Mayor Malinowski asked for a motion to approve the permission to serve Beer and Wine in Battery Park. Council Member Konkus made the motion, seconded by Council Member Titus. All were in Favor. Motion passed.

Discussion and possible vote regarding interpretation of the Charter language relating to a vacancy in the Office of Mayor

City Solicitor Walton explained that as everyone knows Mayor Green resigned but did so before being sworn in as Mayor. In this odd situation our Charter does not address what happens when the Mayor does not take the Oath of Office.

This is being brought before Council to make a decision whether or not to call for a Special Election. There is nothing in the Charter that outlines how the Election would work so he recommends we follow the guidelines for a normal Election.

Notice of the Election would be posted May 28th, Filing deadline would be June 20th 2019. The deadline for a candidate to file a Certificate of Intention would be June 27th 2019. The Election would then be held on August 20th 2019 from Noon to 8:00 p.m. A Special Meeting would be held on August 29th 2019 for the swearing in.

- Acting Mayor Malinowski asked if we would need a Special Election for the Council person. City Solicitor Walton said No, Council would just appoint someone to serve the term.
- Council Member Titus asked if there would be any special length of term for the special election of Mayor and City Solicitor Walton replied No.
- Council Member Buchheit asked If only one person filed for Mayor, would the appointment come sooner than August. City Solicitor Walton did not know that answer but he will find out.
- Council Member Konkus asked why the Election isn't until August, rather than July. City Solicitor Walton replied it's because you have to wait 60 days from the filing deadline of June 20th.

Acting Mayor Malinowski made a motion to approve Option #1, to call for a new election for Mayor. The elected Vice Mayor would continue to serve in a temporary capacity as Mayor until the new Mayor is elected and sworn in and the Vice Mayor would maintain all voting rights as a Council person. Council Member Konkus seconded the motion. Roll call vote resulted in all Ayes, motion passed.

City Managers message on the FY20 Budget

Acting City Manager Baylor let Council know that once the new City Manager starts on June 3rd 2019, they will schedule a workshop immediately to start working on the budget as it has to be passed and operational by July 1st 2019.

MAYOR AND COUNCIL COMMENTS

- ❖ Council Member Titus - No
- ❖ Council Member Buchheit - Wished the new City Manager Good Luck!
- Also he wanted to explain why he voted against the DDD at the last meeting, we don't have the budget for it so he won't vote for it.
- The State of Delaware has a beach replenishment fund, and Delaware City has Baby Beach that has disappeared over the years and he feels a beach could be a big asset to our town, as a council member he wants to work on restoring baby beach and getting Washington Street to look the way it should. Discussion Followed.
- ❖ Council Member Renoll- Welcomed Michelle Graham as the new City Finance Manager. He also pointed out that he recused himself last year from the roll call vote about the River Town Festival because he works for that company.
- ❖ Council Member Konkus – Thanked Acting Mayor Malinowski for filling in and thinks he's doing an incredible job.
- ❖ Acting Mayor Malinowski- Met with Senator Poore, Representative Longhurst, Jeff Randol, Chief Baylor and Council Woman Konkus

concerning the Branch Canal. He met with Council Woman Konkus to conduct interviews for the finance position. He also met with Jerry's Paving with Chief Baylor.

A meeting was set to swear in the new City Manager Danielle Metcalfe at 4:30 p.m. on May 28th, 2019 at Town Hall.

CITIZENS COMMENTS

There were no citizen's comments.

Acting Mayor Malinowski Recessed the regular meeting of Mayor and Council and asked for a motion to reopen the Board of Appeals, Council Member Titus made the motion.

Acting Mayor Malinowski Adjourned the Board of Appeals and reopened the regular meeting of Mayor and council.

ADJOURNMENT

Vice Mayor Malinowski asked for a Motion to adjourn. Council Member Buchheit made the motion, Council Member Titus seconded the motion, and all were in favor. Vice Mayor Malinowski adjourned the meeting at 7:26 p.m.

Respectfully submitted,

Britney Loveland

City Secretary