

"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
PUBLIC HEARING
MONTHLY MEETING
Monday, October 21, 2019 at 6:00 p.m.
DELAWARE CITY FIRE COMPANY
815 FIFTH STREET**

CALL TO ORDER – PUBLIC HEARING

Mayor Johnson called the Public Hearing to order at 6:00 p.m.

Chris Griffiths took the podium and explained to the public each Ordinance that was on the Agenda tonight and why they were being implemented. He explained how each Ordinance would directly affect the Town.

1. Ordinance 19-0916-01 Repealing Chapter 22 Sections 6 and 10 E&F
2. Ordinance 19-0916-03 Expanding the Number of Board of Adjustment Members
3. Ordinance 19-0916-04 Relating to Permit Fees for the DDD
4. Ordinance 19-0916-05 Relating to Tax Abatement for the DDD
5. Ordinance 19-0916-06 Relating to a Lodging Tax

Council Member Konkus asked Chris Griffiths about Ordinance #5 Relating to the Tax Abatements. She said she didn't remember Council agreeing on any Tax Abatements. Chris Griffiths said he would look into that further and get back to her.

There were no other questions on comments relating to the Ordinances.

Mayor Johnson asked if anyone from the public was here to discuss the 2nd quarter supplemental Tax Assessment FY20.

There were no questions or comments.

Mayor Johnson recessed the Public Hearing at 6:10 p.m.

Mayor Johnson reconvened the Public Hearing at 6:30 p.m.
He asked the public again if anyone was here to discuss the Ordinances or the 2nd Quarter Supplemental Tax Assessment. No one had any questions on comments.

Mayor Johnson asked for a motion to adjourn the Public Hearing. Council Member Titus made the Motion that was seconded by Vice Mayor Malinowski, all were in favor. *The Public Hearing was adjourned at 6:30 p.m.*

CALL TO ORDER

Mayor Johnson calls the October 21, 2019 Meeting to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE

Mayor Johnson led the Pledge of Allegiance

ROLL CALL

In addition to Mayor Johnson, Vice Mayor Malinowski, Council Members Titus, Konkus, Renoll, and Buchheit were present. City Manager and Police Chief Baylor, Finance Manager Graham and City Secretary Loveland were also present.

Chris Griffiths was there in place of our City Solicitor Max Walton who was unable to be at tonight meeting.

Mayor Johnson asked to take the agenda out of order to have the special presentation from our City Consultant done first so the representatives from Artesian and Suez Water Companies, who were there to answer the public's questions after the presentation didn't have to stay for the entire meeting. All of Council was in favor. The meeting was taken out of sequence.

The City's Consultant Kash Srinivasan gave a PowerPoint presentation on the Delaware City Water System. He said that he was asked to act as the City's Consultant by previous City Manager Carol Houck and to help the City decide the best future for their water system.

He explained that due to the water system costing the City so much money, they City put out an RFP where they got 3 purchase offers, 1 long term offer and 2 maintenance options from Artesian, Suez and Tidewater. He pointed out that Suez was offering the most money for the water system. He gave everyone an explanation of the benefits and the concerns for all options.

He produced a comparison chart that broke down each purchase offer by Sales Price, Franchise fee and Annual User Charge. He then compared the Operation and Maintenance offers from Artesian and Tidewater, where Artesian had the lower annual rate. He again went back over the attractive elements of Artesian and Suez's proposals.

He expressed that he feels Suez is the best financial choice for the City.

- Council Member Titus asked the Consultant if he considered the cost of Suez not maintaining the water tower to meet federal requirements. She said she feels that's why there was such a price difference. He said he did not consider that because Suez would be obligated to make water investments that are needed. He suggested that be brought up in negotiations.
 - City Manager Baylor asked if the proposal Suez gave included the maintenance to the tower. Kash Srinivasan said that Suez's acquisition of the system puts the burden of any future investments on them.
 - Council Member Konkus asked the Consultant if he has any affiliation with Suez. He said he does not.
 - Council Member Konkus asked how much money each year Delaware City would receive with the endowment. He explained that council would need to decide what to do with the money and if they want to create an endowment, then they would decide how much to put into it. There was a lot of confusion around the breakdown of the endowment.
 - Council Member Konkus asked if there is a drought, how we would get water since Suez doesn't use our wells. Kash Srinivasan suggested that question be asked to Suez.
 - City Manager Baylor asked Kash Srinivasan if he had the opportunity to listen to the presentations given on Sept 18th. He said he did not but he did look at the minutes. Kash Srinivasan explained that the advice he is giving to Council is based only on the written proposals.
- Discussion Followed.

John Thater from Artesian Water addressed the presentation and felt it focused on one thing only and that was the sale price. He said the price offered is a contingent price and is based on the approval of the public service commission. The RFP addresses many facets that support Delaware City and he feels the infrastructure at Ft. DuPont will be the best support for Delaware City. He expressed concern that the consultant communicated with Suez before this meeting and Artesian has not been contacted by the consultant and given that same opportunity. He also said he feels the consultant is underestimating the future costs to the City if they keep the system. Discussion Followed.

Larry Finnicum from Suez Water Started by addressing the ground water/ surface water discussion that was brought up again at tonight's meeting. He assured everyone that Suez water meets and exceeded all Federal and State guidelines. He then addressed the question on who would own the assets and maintain them. He said Suez would be responsible for maintaining the assets and keeping them up to their requirements. In regards to questions about drought, he said the plan is to connect Delaware City into their River Road system but they will keep the wells in the event of drought or emergency. He also pointed out that they do have a Local Customer Service Office and while they do use contractors for maintenance they do have their own Suez maintenance staff. Lastly he responded to Artesian's statement insinuating that Suez had met or had conversations

with the City Consultant. He said Suez did not have any meeting with the City Consultant since their September presentation.

Mayor Johnson thanked both companies for coming tonight.

ACTION UPON MINUTES

Council Member Konkus made the motion to accept the September 16th & 18th 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 Sept 2019:

➤ **General Information**

- ✓ The Delaware City Police Department have received several complaints regarding some of our young people riding their bicycles on the sidewalks and in the street in the business district. There have been some close calls involving bicyclist almost hitting pedestrians and pulling out into traffic.
 - We are asking parents to discuss bicycle safety with their children.
 - We are also reminding parents that children should wear approved safety helmets.
 - ✓ It is getting dark earlier and earlier, we would like to remind pedestrians and cyclist to carry and display lighted flashlights when they are out after dark.
 - ✓ On Saturday, October 26th the Delaware City Police Department will be participating in National Drug Take Back Program. Residents are reminded they can drop off their drugs at the Delaware City Police Department for destruction. The hours of the take back Saturday will be from 9:00 a.m. until 12:00 noon.
 - ✓ We will be holding a Trunk or Treat event for City residents on Wednesday, October 30th. The Trunk or Treat will begin at 5:30 p.m. and will end at 7:30 p.m. in the Delaware City Town Hall parking lot.
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- Council Member Renoll asked if residents should contact anyone if they see bicyclist that are a concern. Chief Baylor suggested that anyone who see something concerning with the bicyclist should call the Non-Emergency Line.

CITY MANAGER'S REPORT

- Downtown Development District Program (DDD) The City staff and I, along with Mr. Tim Konkus, met with Representatives from the State regarding the DDD program and the next steps for the City to implement the program. The meeting took place in Town Hall and we have begun the process of ordering signage and working with the state to fully implement the program in Delaware City. I anticipate the program to be operational next month.
- Water System RFP (Request for Proposal): A community meeting held on Wednesday, September 18th, for proposals from two water utilities, which were been submitted to the city regarding the city's water system. The next steps will be discussed this evening after a presentation from Mr. Kash Srinivasan, the City's Consultant for this project.
- Outstanding Taxes and Fines – At my request a report of outstanding taxes and fines owed to the City was produced by our Finance Manager. As of today, the city is owed more than \$211,192.29 in outstanding fines and taxes. A breakdown of those fines and taxes are as follows: \$74,108.20 in fines from outstanding code violations, \$78,983.54 in delinquent taxes from previous years, and \$78,983.54 in delinquent taxes for 2019.
- Solar Farm – We are currently in communication with TESLA regarding the solar farm agreement. They are doing an analysis of what we are paying to Delmarva Power along with what benefits we are receiving from our agreement with their organization and hope to have a report for you for the November meeting.
- City Trees – Britney Loveland and I met with representatives from the Delaware State Forestry Service regarding the condition of some of the city owned trees. We have developed a list of trees which have been determined potentially dangerous and have to be removed. We are in the process of obtaining three estimates, which are required by the state in order to receive state funds to assist the city in removal of those trees.
- Leases – I am currently reviewing all of the city's leases and agreements. Some leases have expired and will be renewed (for example, the Delaware City Library, the Reedy Point Players, the Delaware City Senior Center, and the Cutting Edge of Delaware).
- Hydrant Flush – Artesian Water will be flushing the fire hydrants beginning on Monday, October 28th and continuing most of the week.
- Meetings I attended
 - September 20, 2019- Attended Dedication Ceremony for POW-MIA – Delaware National Guard Facility in New Castle.
 - October 1, 2019 – Meeting with Mr. Joseph Hughes from the State of Delaware, regarding a grant for improving the lobby and Security of Town Hall.

- October 8, 2019 – Delaware City Refinery Citizen’s Advisory Council Meeting at the Delaware City Refinery.
- October 9, 2019 – Ft. DuPont Redevelopment Corporation Board Meeting at the Grassdale Center.
- October 10, 2019 – DC –CAER Meeting at the Delaware City Refinery.

Below is a summary report from Ft. DuPont Redevelopment Board of Directors.

❖ **SUMMARY REPORT TO COUNCIL**

- ❖ 1. As of this meeting, Blue Water Development has not made any formal presentations or request regarding the proposed campground at the Grassdale site.
- ❖ 2. Mr. Bryon Short is the New Chairman of the Board of Directors. Mr. Short is the Executive Vice President of the Delaware Contractors Association (DCA). He was appointed as Chair by Governor John Carney.
- ❖ 3. Mr. Short announced that he was nominating the below three individuals to the Board of Directors.
 - Ms. Pam Scott from Saul Ewing
 - Mr. Dan Scholl from Wilmington Trust Company.
 - Mr. Neal Dangelo from Newmark, Grubb, Knight & Frank.
- Council Member Buchheit asked if the Ft. DuPont Meeting Minutes are on the City’s website. City Manager Baylor said he is not sure but he will look into having them added. He also mentioned that Town Hall is in the process of updating their website.
- Council Member Buchheit asked if the outstanding taxes that are owed are majorly historically old or majorly new. Finance Manager Graham said it’s a combination; some are vacant properties that have been vacant for years. Council Member Buchheit asked if we put liens on the properties. City Manager Baylor said no.

CITY SOLICITOR’S REPORT

Draft site plan ordinance – complete [Engineering reviewing and next step is Planning Commission Review]
 KCI Contract review – complete
 Opioid settlement – assigned to Chris G. today
 City Manager contract draft – sent to Paul today
 Comprehensive plan extension – received
 Fee v. Tax memo – complete
 Agenda amendment question from John B. – complete
 Kevin Donnelly 2013 agreement – Chris G. is working on it
 84-86 Clinton Street Variance issue (from Friday)– will give a response this weekend.

Community Center certificate of incorporation – ordered.
Water system agreement/sale – [Presentations at Council Meeting]

- Council Member Buchheit said that at the April 2017 meeting Mayor Green stated that Mayors Ball Money does not belong to the City, the money belongs to the committee. He wants to know when that changed. Chris Griffiths said he does not know that answer but he will get an answer for him.
- Mayor Johnson replied to Council Member Buchheit’s Question about the Mayors Ball money. He said he plans to reach out to the City Solicitor to clarify how the Mayor’s Ball operates. There are no Policy and Procedures in place, so he wants to differ this topic to legal experts. Since he now sits in the Mayors seat he wants to make sure everything is being handled appropriately. Council Member Konkus said that it’s never been a City related event. Council Member Titus asked is there City time and resources used for this. City Manager Baylor said yes, the keeping of the books and Bank Account comes under the control of the City. He said he feels this event should be kept completely separate from the city, including the monies. Mayor Johnson added that they would need to set up a 501C3.

ACTION UPON FINANCE REPORT

Council Member Konkus made a motion to accept the finance report subject to audit; the motion was seconded by Council Member Titus. *The Finance report was accepted.*
Finance Manager Graham presented the financial report as of Sept 30th, 2019 to Council. (Full report is attached)

Questions/Comments from Council

Council Member Konkus asked if the water fund shows the gross amount taken in from the water for the year, Finance Manager Graham said yes. She asked if artesian is maintaining our water system why are we paying for water maintenance. Finance Manager Graham said that expense was for the repairs to well 5.

APPOINTMENTS

Board of Adjustments

Andrea Nolan

Mayor Johnson asked for a motion to appoint Andrea Nolan to the Board of Adjustments.

- Council Member Buchheit expressed concern for reappointing Andrea Nolan after feeling like the board did not consider resident’s concerns at a previous meeting, Andrea Nolan was serving on the Board at that time.

Council Member Titus made the motion that was seconded by Council Member Renoll, a roll call vote was taken that resulted in 3 Ayes and 1 Nay. Vice Mayor Malinowski recused himself from the vote. *The motion passed.*

Dale Slotter

Mayor Johnson asked for a motion to appoint Dale Slotter to the Board of Adjustments.

Council Member Konkus made the motion that was seconded by Council Member Titus. Council Member Buchheit recused himself from the vote. All were in Favor, *the motion passed.*

Andrew Titus

Mayor Johnson asked for a motion to appoint Andrew Titus to the Board of Adjustments.

Council Member Konkus made the motion that was seconded by Vice Mayor Malinowski. Council Member Titus recused herself from the vote. All were in favor, *the motion passed.*

ANNOUNCEMENTS/COMMUNICATIONS

None

REPORTS OF COMMISSIONS, COMMITTEES AND ORGANIZATIONS

Main Street- Tim Konkus

Thanked everyone for help with the River Town Festival.
October 31st is the Halloween Parade- Meet at Town Hall.
Small Business Saturday is November 30th- there will be pictures with Santa, complements of Mrs. Dilliplane.
New Hair Salon coming to Town in December.
Tim Presented the Finance Manager with the check from Main Street for their portion of the DDD application.

OLD BUISNESS

Second Reading & Possible Adoption of Ordinance 19-0916-01 Repealing Chapter 22 Sections 6 and 10 E&F

Council Member Konkus made the motion that was seconded by Vice Mayor Malinowski, all were in favor, *motion passed.*

Second Reading & Possible Adoption of Ordinance 19-0916-03 Expanding the Number of Board Adjustment Members

Council Member Konkus made the motion that was seconded by Council Member Titus, all were in favor, *motion passed.*

Second Reading & Possible Adoption of Ordinance 19-0916-04 Relating to Permit Fees for the DDD

Council Member Titus made the motion that was seconded by Council Member Konkus, all were in favor, *motion passed.*

Second Reading & Possible Adoption of Ordinance 19-0916-05 Relating to Tax Abatement for the DDD

Council Member Titus made the motion that was seconded by Council Member Konkus, all were in favor, *motion passed*.

Second Reading & Possible Adoption of Ordinance 19-0916-06 Relating to a Lodging Tax

Vice Mayor Malinowski made the motion that was seconded by Council Member Konkus.

- Council Member Buchheit asked what the difference is between a Tourist home and a Multi-dwelling home. Chris Griffiths said he would look those up under our code but in his experience a Tourist home is where you rent out individual rooms and a Multi-dwelling would be apartments/ multi units in a building rather than just renting a bedroom. Council Member Buchheit said we have several Single Family Residential houses that have multiple units inside one house, how would that work with this Tax. Chris Griffiths responded that it would be considered a Multi-dwelling; He does not believe it would fall under this Tax. Vice Mayor Malinowski believes that anything over 90 days does not fall under this.
- Council Member Titus asked how we are going to go about getting this Tax. City Manager Baylor replied that he believes the intent for this was for Ft. DuPont. Chris Griffiths said that they would get a Rental Permit, which is how we would know they were out there, that's how we would go about getting the Tax.

A Roll Call Vote was taken that resulted in 4 Ayes with Council Member Buchheit recusing himself from the vote, *motion passed*.

NEW BUISNESS

Introduction & First Reading – Ordinance 19-1021-01 Creating a Site Plan Review

- City Manager Baylor requested that this item be tabled as there is some question on some of the language used. He asked for feedback from Council on this Ordinance to go back to the Solicitor with. Council Member Konkus made the motion that was seconded by Vice Mayor Malinowski, all were in favor, *motion passed*.

Discussion about finalizing a date for the 2020 Delaware City Day – Suggestion: 9/19/20 or 10/10/20

- Mayor Johnson explained that he put out an online pole to get input from the public on when throughout the year they would like to see Delaware City Day held. The Chairs people from last year came up with 2 dates that didn't conflict with other events around the State and the Mayor asked if the Council wanted to vote on one of those dates or for any input they had.

- Council Member Buchheit asked if it is set in stone that it's a one day event. He said he prefers it be a two day event, it's better for the businesses and with the lack of Volunteers it makes a full day event difficult. He also said he doesn't feel the Mayor's Facebook page is an accurate way to reach all of the public, he feels it only reaches the people who like his page. Mayor Johnson said he's not only had feedback from the pole but from talking to people around the Town and the people stopping into Town Hall. Council Member Buchheit also said the grant we receive for Delaware City Day is intended to promote the businesses in Town.
- Council Member Titus feels like if they go with a fall date, the direction of the event needs to go in a fall direction.
- Council Member Renoll said he would like to see this go to a Public Hearing, not only to get the Public's opinion but to bring awareness to the need for volunteers. Mayor Johnson Agreed, this item will go to a Public Hearing.

Discussion about using Mayor's Ball Funds for the Park Gazebo

- Mayor Johnson said he wanted this on the agenda since he is new to this and he is not sure exactly how the funds are appropriated. He said it was brought up that the funds were there to upgrade the gazebo.
- Council Member Buchheit said the money was supposed to be set aside for new street signs.
- Mayor Johnson said he thinks they should use around Fifty thousand for a new gazebo and use the rest for new street signs to keep constant with the signage at Ft. DuPont.
- Council Member Konkus said she would like this to be handled between Mayor Johnson and the Mayor's Ball Committee. Council Member Buchheit added that he would like our previous Mayor Stan Green to be a part of that as he raised a lot of that money. Mayor Johnson said he will move forward with that idea.

MAYOR & COUNCIL COMMENTS

Council Member Titus

None

Council Member Konkus

Annual Coat Drive- Donations accepted at the marina- coats are going to the kids at the PAL center.

Council Member Renoll

If you're interested in being on the Tree Committee, send your resume to City Manager Baylor

Vice Mayor Malinowski

None

Council Member Buchheit

He said the Mayor Spoke about Penalty Funds and what they are designated for. He wants to know how that is determined. He asked if there is a priority list. He also asked if it can be used for upgrades to the water system. Mayor Johnson said he was told that it could not be used for the water system.

Council Member Buchheit asked how a basketball court, which is what the money is being used for, falls under the allowance for this fund.

Mayor Johnson said he met with Secretary Garvin, the head of DNREC about those funds. Secretary Garvin told the Mayor to put together a list and they would review it to see what met the funds criteria, which does have to be environmentally related. The paving for the basketball court meets the criteria because they are using a type of pervious pavement, this allows the water to filter through the pavement and reduces storm water runoff and gives us credit for our MS4 permit where we have to come up with 1 Acre of pervious land. So these 3 items were chosen from a list of 10 things by DNREC.

City Manager Baylor added that we are being audited by DelDot regarding the Jerry's Paving project for the way everything was done with that project.

Mayor Paul Johnson

1. Had follow up conversations with DNREC in regards to the penalty fund. Approximately 150K has been approved, so far, for 3 City projects. Paving at the Community Center, new basketball court at 7th Street Park, and an energy audit on all buildings.
2. Attended a community meeting at Buena Vista with Senator Poore and representative Longhurst.
3. Considering ordinances next month to increase the number of Tree Commission members and to establish a Park & Recreation Commission.
4. Would like to establish an adhoc gazebo committee under new business to replace our gazebo with Mayors Ball money.
5. Met with the City Manager, and Councilman Renoll, about getting the Tree Commission fully functional again. We discussed grant opportunities, tree removals, and an inventory system.
6. Held a demonstration on an asset management system that we can hopefully implement in the future to track service requests and work orders.
7. Met with the City Manager and the Cutting Edge to discuss service issues within the City.
8. Had conversations with Lisa Lindsay in reference to clearing all the downed trees in Dragon Run Creek to help with flooding issues.
9. Working on a list of street repairs to give to Senator Poore to see what can be included in next year's State budget.
10. Discussed our website and email system with the City Manager. We're recommending all City Staff, and elected officials, switch over and use our

official email system for all City business. Highly recommend to get all business off of personal email accounts.

CITIZENS COMMENTS

None

ADJOURNMENT

Mayor Johnson asked for a Motion to adjourn. Council Member Konkus made the motion, Council Member Titus seconded the motion, and all were in favor. *Mayor Johnson adjourned the meeting at 8:50 p.m.*

Respectfully submitted,

Britney Loveland

Britney Loveland