

*"A Historic Past"*



*"A Bright Future"*

CITY OF DELAWARE CITY  
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**CITY OF DELAWARE CITY  
BOARD OF APPEALS &  
MAYOR AND COUNCIL MEETING  
MAY 20, 2013**

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

The Honorable Mayor Green called to order the Mayor and Council Meeting at 6:30 pm.

**PLEDGE OF ALLEGIANCE**

The Honorable Mayor Green led the Pledge of Allegiance to the Flag.

**ROLL CALL**

Present were Council Members Barrett, Titus, Johnson, Malinowski and Buchheit. Also present were City Manager Cathcart, City Secretary Gwynn, City Treasurer Hartman, Assistant City Clerk Clifton and Interim City Solicitor Walton.

**ACTION UPON THE MINUTES OF THE PREVIOUS MEETING**

**April 8, 2013, Regular Mayor and Council Meeting Minutes**

Council Member Malinowski asked that the minutes show that he had questioned if the Charter Changes required a referendum, to which, City Manager Cathcart replied that it was not required. *Council Member Buchheit made a motion to approve the minutes of the April 8, 2013 meeting as amended. Council Member Johnson seconded the motion. A vote was taken, all ayes, motion carried.*

May 6, 2013, Special Mayor and Council Meeting Minutes – Council Member Barrett made a motion to approve the minutes of the May 6, 2013 meeting as written. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried.

### **ACTION UPON THE TREASURER'S REPORT**

City Treasurer Hartman presented the April 2013 Treasurer's Report. Council questioned why the beginning balance and ending balance did not agree. City Treasurer Hartman said she is still working on problems with the system. She has had IT people and employees from Sage, the software company, work with her. The City Treasurer stated that the problem is with the cover page. She said all the general ledger pages come right from the system. They also questioned some line items that had been charged to the operating account but moved as they were capital project expenses. Another question was asked regarding the monthly fee and transaction fees to Metro Merchant Services for credit card payments. *Council Member Buchheit made a motion to approve the April 2013 Treasurer's Report subject to audit. Council Member Barrett seconded the motion. A vote was taken, all ayes, motion carried.*

### **POLICE REPORT**

Chief Tjaden reported the police activity statistics for the period from 4/11/2013 through 5/19/2013, with a total of 45 arrests: 8 criminal arrests, 35 traffic arrests and 2 drug arrests. He also reported the following:

- Overdose on Clinton Street. Arrested victim for possession of heroin and syringes.
- Copper leads going into the police station from the emergency generator were stolen. Arrested the suspect and got a confession.
- Burglary on Fifth Street. Arrested two subjects from the trailer park. Victim received most of property that was stolen.
- 220 people participated in the triathlon.
- Purchased new police radios with the Homeland Security Grant.
- Work on 2013 COPS Grant.

Mayor Green thanked the police department for a job well done on Saturday and Sunday during the triathlon.

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

Interim City Solicitor Walton reported the following:

- Answered questions regarding Senior Tax Exemptions.
- Worked on Sign Ordinance.
- Followed up on some questions for the City Manager.

## **CITY MANAGER'S REPORT**

City Manager Cathcart reported the following:

- Participated in the final Fort DuPont Redevelopment Public Workshop. Also, attended the Steering Committee meeting the following day. Now waiting for the final printed report and Master Plan.
- Attended the Community Garden kickoff meeting. All 15 garden plots are occupied. Will be planning the next phase expansion and start exploring funding options.
- Met with Wendy Carey and Sari Rothrock to finalize the Flood Mitigation Hazards and Mitigation findings. The final public meeting, held last Thursday night, was attended by only 6 residents.
- Conducted the Mayor and Council Budget Workshop on April 30<sup>th</sup>. The Operating and Capital Budget will be introduced tonight with a public hearing at next month's Mayor and Council meeting.
- Did an interview with WHY? on a special they are producing about Sea Rise and Flooding.
- Met with Rep. Valarie Longhurst to discuss a variety of issues and both short term and long term funding needs.
- Met with Mike Casson of Casson Analytics relating to the development of a Business Incubator and Economic Develop strategic plan. This effort will include the participation of Main Street Delaware City.
- Met with Matt Carr and the new Intern to discuss this summer's Transportation Asset Survey. Mayor Green participated in that meeting.
- Opened Bids for the Sidewalk and Plaza Extension. We received three bids; the successful bidder was Cutting Edge.
- Met with Ed Strouse from DEMA to review our FEMA Grant request. He made some suggestions and requested additional information.
- The new Web Site went live on Friday. It is a much improved site. There is still some minor tweaking that needs to be done.
- Will start extended summer hours at Town Hall on June 3<sup>rd</sup>. The new hours will be Monday through Thursday 9:00 – 6:00 and Friday 9:00 – 1:00.

- Met with Mayor Green and Mike Williams from DMV. Have been invited to attend the ground breaking ceremony at the site of the Mid County DMV on June 5, 2013 at 10:00.

### GENERAL MEETINGS

- Planning Commission
- Historical Preservation Commission
- Delaware City Day Committee
- African Union Cemetery Friends Group
- Attended a meeting with Herman Seedorf and Lisa Lindsey with the Mayor.

### PROJECT UPDATES

- Solar System will be dedicated on June 10<sup>th</sup> at 11:00 AM at the site. The governor has been invited, and DNREC Secretary Collin O'Mara will speak.
- Branch Canal Project Army Corp permits still not issued.
- Brick Sidewalk and Plaza Extension, at Sterling's, contract awarded to the Cutting Edge. Mark Chura pointed out that this area will be the Trailhead with a facility that includes a bike rack, a bike fix-it station and a commercial air pump. He said Main Street is donating a \$10,000 match that will pay for the administration of the \$150,000 USDA grant. Granite curbing needs to be ordered. The anticipated completion date will be July 1, 2013.
- Advertised for the Community Center Park Master Plan and Enhancement.

Questions followed. Council Member Barrett asked if the recorded minutes could be included on the website. City Manager Cathcart said they are checking into that.

### APPOINTMENTS, ANNOUNCEMENTS, COMMUNICATIONS

Board of Health – The Honorable Mayor Green said he would like to reappoint Brenda Parker, Lisa Webster and Donia Gonzales. He said there were two new

members he would like to appoint and gave their qualifications: Joe Augustine and Mike Furrowh.

*Council Member Johnson made a motion to appoint Brenda Parker to the Board of Health. Council Member Buchheit seconded the motion. A vote was taken, all ayes, motion carried.*

*Council Member Buchheit made a motion to appoint Lisa Webster to the Board of Health. Council Member Johnson seconded the motion. A vote was taken, all ayes, motion carried.*

*Council Member Titus made a motion to appoint Donia Gonzales to the Board of Health. Council Member Buchheit seconded the motion. A vote was taken, all ayes, motion carried.*

*Council Member Buchheit made a motion to appoint Joe Augustine to the Board of Health. Council Member Johnson seconded the motion. A vote was taken, all ayes, motion carried.*

*Council Member Buchheit made a motion to appoint Mike Furrowh to the Board of Health. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried.*

**Board of Adjustment** - The Honorable Mayor Green said he would like to re-appoint Paul Parets for a two year term, and Jim Brady for a one year term and Joe Dionne for a three year term.

*Council Member Malinowski made a motion to appoint Paul Parets to the Board of Adjustment for a two year term. Council Member Johnson seconded the motion. A vote was taken with four ayes and one nay. Motion Carried.*

*Council Member Titus made a motion to appoint Jim Brady to the Board of Adjustment for a one year term. Council Member Buchheit seconded the motion. A vote was taken, all ayes, motion carried.*

*Council Member Buchheit made a motion to appoint Joe Dionne to the Board of Adjustment for a three year term. Council Member Johnson seconded the motion. A vote was taken, all ayes, motion carried.*

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

**Main Street** – Mark Chura reported the following:

- The planters have been installed and planted. Three planters are available for adoption.
- Outside Movie Night will be held on 6/21/13 at dusk at the Community Center Park. Two more movie nights are planned for July.

- Movie Night in Battery Park will be held 8/17/13. There will also be a Cool Car show that evening.
- Music in the Park will be 8/3, 8/10, 8/17 and 8/24.
- Main Street will organize the Christmas parade this year.
- Working on incubation of ecotourism businesses with support from Delaware Main Street.
- An ad will be going out on Thursday to get a consultant on board for a land and water grant master plan, including a community Park, a handicapped access ramp and a deck. Several open workshops will be held and the public is encouraged to attend. Restrooms will also be discussed.

### **RECESS MAYOR AND COUNCIL MEETING**

The Honorable Mayor Green recessed the Mayor and Council meeting at 7:00 pm.

### **CALL TO ORDER – BOARD OF APPEALS – FY14 ANNUAL TAX ASSESSMENT**

The Honorable Mayor Green called to order the Board of Appeals at 7:00 pm. He asked if anyone was present to appeal their tax assessment.

Rosemarie Ellis, 8 Warfel Drive, was here to appeal not receiving the Disability Exemption for her taxes, as she did not file by the deadline. Ms. Ellis said she was in the hospital when she received the application packet. She said her mother passed away after that, and then she was back in the hospital. She said she had to go through three bags of mail and was not able to apply on time. Ms. Ellis asked if the Mayor and Council would permit her to file her application late.

Interim City Solicitor Walton said there was no provision for an extension under the City Code Section 3-3. Under the City Code the applications must be filed by April 15<sup>th</sup>. City Manager Cathcart asked for clarification to see if the Mayor and Council could approve an extension which would violate the Code. Solicitor Walton said that was correct, so no extension could be granted. He added that Council could introduce an ordinance to address this in the future. Mayor Green asked if the Mayor and Council can't grant this extension, what steps could be taken. Interim City Solicitor Walton said it could be appealed to Superior Court. Discussion followed. City Secretary Gwynn explained that Ms. Ellis was at town hall the day before the deadline and was reminded that she only had until 5:00 pm the following day to apply. Ms. Ellis came in the day after the deadline to apply and her application was not accepted. Mayor Green encouraged Ms. Ellis to speak with him to see what other steps, if any, could be taken.

Solicitor Walton reminded Mayor Green that a vote would need to be taken as an official appeal had been made. Council Member Johnson asked if a payment

plan could be set up rather than requiring payment in full. Assistant City Clerk Clifton explained that residents have from the beginning of July, when bills are mailed, until September 30<sup>th</sup> to pay in full without finance charges. After that time, they would need to contact town hall to make payment arrangements. *Council Member Titus made a motion to deny Ms. Ellis' request as it would be a violation of City Code to grant the request. Council Member Buchheit seconded the motion. A roll call vote was taken, all ayes, motion carried.* Mayor Green encouraged Ms. Ellis to speak with him following the meeting. City Manager Cathcart said the City would try to find some assistance as well.

Mayor Green asked if there was anyone else present to appeal an assessment. There was no response. Mayor Green introduced Tom Reynolds, the City Assessor.

### **RECESS BOARD OF APPEALS**

The Honorable Mayor Green recessed the Board of Appeals at 7:20 pm.

### **RECONVENED MAYOR AND COUNCIL MEETING**

The Honorable Mayor Green reconvened the Mayor and Council Meeting at 7:20 pm.

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

#### **(continued)**

Discussion followed regarding the Community Garden and restroom facilities in the Community Park.

Ad Hoc Playground Committee - Council Member Buchheit announced that an Ad Hoc committee had been formed to raise money for playground equipment. He reported that the employees of the Ice Cream Parlor had decided to donate their tips to the playground fund. Council Member Buchheit and his partner Dale Slotter will match the donation. He presented a check in the amount of \$200. He has scheduled fundraisers at Crabby Dick's. They are trying to raise enough money for new playground equipment at 7<sup>th</sup> Street Park and the Community Center.

Delaware City Day Committee – City Manager Cathcart said everything is progressing well for July 20<sup>th</sup> Delaware City Day. He said the parade will be another good one and there will be more entertainment and more kids' events. \$800 was raised at the fundraiser at Crabby Dick's. There was about \$2200 raised at the previous fundraiser.

Mayor Green thanked Council Member Buchheit for starting this project. He also thanked Council Member Malinowski who is interested in forging ahead to get things done for the children.

## **OLD BUSINESS**

### **Addendum to Ordinance 12-1217-01 Relating to the Sign Ordinance**

Interim City Solicitor Walton said before any business can be transacted, a motion needed to be made to take Ordinance 12-1217-01 off the table. *Council Member Barrett made a motion to take Ordinance 12-1217-01 off the table. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried.*

Interim City Solicitor Walton clarified the record on the ordinance by stating that this ordinance was introduced at a regular Mayor and Council meeting, posted throughout the city, read in abstract at a previous meeting and discussed at a public hearing. There have been some amendments made since that time. The amended ordinance, before the Council at this time, becomes the ordinance.

City Manager Cathcart said there were seven changes made by the Planning Commission, as follows: definition of banners changed to state, "attaching a banner to wood does not make it a sign"; definition for digital signs was added; in Section 46-81 changed the sign size for Bed and Breakfast from 4 square feet to 6 square feet per frontage and it can't exceed the height of the roofline of the structure; and, in Section 46-92 stated "digital signs are permissible on City owned property only and existing digital signs (Fire Company) are grandfathered. Solicitor Walton recommended that the language in the political sign section mirror the standards used by DelDOT and the State of Delaware as they pertain to rights of way, utility poles, etc. In addition, regarding political signs the ordinance states that any sign erected prior to 30 days of the election and not removed 72 hours after the election are subject to a \$25 per sign removal fee payable by the candidate for that office.

*Council Member Titus made a motion to adopt Ordinance 12-1217-01 Revised Ordinance to Amend and Modify Chapter 46, Article X – "Sign and Outdoor Advertising Regulations". Council Member Buchheit seconded the motion. Discussion followed regarding section 46-81 m) which addressed Bed and Breakfast signs. A roll call vote was taken, all ayes, motion carried.*

## **NEW BUSINESS**

### **Introduction of FY14 Budget – Resolution 13-0617-02**

City Manager Cathcart said this budget was the one discussed in the workshops. He said that tonight is the introduction. Both the Operating and Capital Budget will be available tomorrow afternoon and a public hearing will be held at the



June 17, 2013 Mayor and Council meeting. Council Member Malinowski asked when the debt obligations of the Water Fund would be paid off. City Treasurer Hartman said she would let him know tomorrow. *Council Member Johnson made a motion to introduce Resolution 13-0617-02 for the FY14 Budget. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried.*

#### Discussion of Mayor and Council Meeting Times

City Manager Cathcart reminded everyone that they wanted to discuss this at a previous meeting and it was decided to try meeting at 6:30 and discuss it later. Discussion followed. Council Member Johnson asked to defer the vote until after the Citizen's Comments to see if any members of the public have an opinion. It was agreed to wait for a vote.

#### **COUNCIL COMMENTS**

Council Member Buchheit reported on four fundraisers held by Crabby Dick's last month. He asked City Treasurer Hartman about the status of the donation for the Delaware City Athletic League. She said the City has not received verification of 501(c)3 status, without which, a donation from the City cannot be made.

Council Member Buchheit asked the status of the flooding issues with Madison St., Monroe St. and Solomon Place. City Manager Cathcart reminded the attendees that an engineering study was done, at the cost of \$30,000, to see what could be done to repair the Dragon Run flood gate. The engineer's report came back with two possible solutions, costing about \$500,000. The City is in the phase of finding funding for this project. The City Manager met with Representative Longhurst who has also met with DNREC. DNREC has some ideas for funding. Ownership of the problem has never been established. The City has taken the lead to try to get the problem resolved, but it is not the City's problem. The City is responsible for the Stauffer Slip, but not the Dragon Run tide gate. No one wants to take responsibility for the tide gate. City Manager Cathcart said even if the City gets funding to fix the dyke as well as the tide gate, someone needs to take the responsibility of maintaining these in the future. Mayor Green said he is concerned about false rumors being spread. He said if anyone hears rumors; please contact the Mayor or the City Manager.

Council Member Johnson asked the status of the charter changes. City Manager Cathcart said the attorney who is drafting the bill will contact Solicitor Walton. It will probably be introduced the first week of June 2013.

The Honorable Mayor Green asked if anyone was in attendance to appeal their tax assessment. There was no response.

### **CITIZENS QUESTIONS AND COMMENTS**

The Honorable Mayor Green reminded the citizens that the Mayor and Council want to hear their comments. He said they are not there to enter into a debate, but rather to listen and then follow up as requested or as needed.

Jeff Menzer, principal of William Penn High School, reported on the upcoming referendum on June 4<sup>th</sup> and encouraged support. He left leaflets and brochures.

### **RECESS MAYOR AND COUNCIL MEETING TO GO INTO EXECUTIVE SESSION**

City Manager Cathcart explained that they would be going into Executive Session to discuss the position of City Solicitor and to decide if the position becomes permanent or if the City should do interviews to hire a new City Solicitor. This was posted on the Agenda in the necessary language to comply with Delaware Code.

Interim City Solicitor Walton said that as the Board of Adjustment was still open, he would remain in the room and monitor the doors to make sure if anyone comes in while the Mayor and Council are in Executive Session they will be heard as soon as the Executive Session ends.

*Council Member Barrett made a motion to recess the Mayor and Council meeting to go into an Executive Session. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried. Mayor and Council Meeting was recessed at 8:05 pm.*

### **RECONVENE MAYOR AND COUNCIL MEETING**

The Honorable Mayor Green reconvened the Mayor and Council Meeting at 8:20 pm. Interim City Solicitor Walton made a statement for the record that he monitored the doors and no one came in to appeal their tax assessment.

#### **Discussion of City Solicitor**

*Council Member Johnson made a motion to take the acting City Solicitor position and make it a full time position for Delaware City. Council Member Titus seconded the motion. A roll call vote was taken, all ayes, motion carried. City Solicitor Walton thanked the Mayor and Council for choosing him for this position.*

#### **Discussion of Mayor and Council Meeting Times**

There were no comments from the public regarding the meeting times and City Manager Cathcart said a public hearing was not required to change the meeting times. Council pointed out that the Quarterly Assessment Roles, according to Charter, must be from 7:00 to 9:00 pm. This can be reviewed next year when

charter changes are looked at. *Council Member Buchheit made a motion to change the monthly meeting time from 7:30 to 6:30pm. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried.*

**RECESS MAYOR AND COUNCIL MEETING**

Mayor Green asked if anyone was present to appeal their tax assessment. There was no one present to appeal their assessment. The Honorable Mayor Green recessed the regular Mayor and Council meeting at 8:25 pm. He added that the Board of Appeals would remain open until 9:00 pm.

**RECONVENE THE BOARD OF APPEALS**

The Honorable Mayor Green asked if anyone present wanted to appeal a tax assessment. There was no response.

**ADJOURN BOARD OF APPEALS**

*Council Member Barrett made a motion to adjourn the Board of Appeals. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried. Board of Appeals adjourned at 9:02 pm.*

**RECONVENE MAYOR AND COUNCIL MEETING**

The Honorable Mayor Green reconvened the Mayor and Council meeting at 9:02 pm.

**ADJOURN MAYOR AND COUNCIL MEETING**

*Council Member Johnson made a motion to adjourn the Mayor and Council meeting. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried. Meeting adjourned at 9:03pm.*

Respectfully submitted,

*Dawn K. Gwynn*

City Secretary