

"A Historic Past"



"A Bright Future"

CITY OF DELAWARE CITY
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**CITY OF DELAWARE CITY
MAYOR AND COUNCIL MEETING
October 20, 2014**

CALL TO ORDER – MAYOR AND COUNCIL MEETING

The Honorable Vice Mayor Johnson called to order the regular meeting of the Mayor and Council at 6:30 PM.

PLEDGE OF ALLEGIANCE

Vice Mayor Johnson led the Pledge of Allegiance to the Flag and a moment of silence.

ATTENDANCE ROLL CALL

Present were Council Members Konkus, Titus, Johnson, Malinowski, and Buchheit. Also present were City Manager Cathcart, City Treasurer Hartman, City Secretary Gwynn, and City Solicitor Walton. Vice Mayor Johnson reported that Mayor Green would not be present as he had health issues.

ACTION UPON THE TREASURER'S REPORT

City Treasurer Hartman presented the September 2014 Treasurer's Report. She said there was a difference of \$4.93 which she hadn't been able to locate yet. *Council Member Buchheit made a motion to approve the September 2014 Treasurer's Report, subject to audit. Council Member Titus seconded the motion. No discussion occurred. A vote was taken, all ayes, motion carried.*

ACTION UPON THE MINUTES OF THE PREVIOUS MEETING

Council Member Titus, questioning the minutes from the September 15, 2014 meeting, said she didn't remember saying that she would apply for additional funding for Delaware City Kitty. She said that if she did say that, she misspoke. *Council Member Buchheit made a motion to approve the minutes of the October 2, 2014 special meeting. Council Member Titus seconded the motion. No discussion occurred. A vote was taken, all ayes, motion carried.*

Council Member Buchheit said he would also make a motion to approve the minutes of the September 15, 2014 meeting. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried.

POLICE REPORT

There was no police report as Chief Baylor was not able to attend the meeting.

CITY SOLICITOR'S REPORT

City Solicitor Walton said he would defer to the City Manager as most of what he was going to say was in the City Manager's Report.

CITY MANAGER'S REPORT

City Manager Cathcart reported the following:

- The 2nd Annual River Towns Ride and Festival was held on October 4th. Although the rain kept many people away it was another very successful event. The event saw a record number of professional riders (130) and has proven to be a popular event on the pro rider's race schedule. Although all the accounting has not been finalized the event will generate over \$4,000 that will go towards the playground fund.
- Max Walton and his father met with Barry Nickson and Al Stichberry of the Delaware City Little League to discuss improvements to the complex. The Walton's are donating their time, equipment and materials to make significant improvements to the fields. The improvements include re-grading of the infields, adding new infield "diamond-tex", removing the outfield fence and moving it back, new benches, installing a new pitcher's mound and netting the backstop to help prevent balls going into the solar farm. Many thanks to the Waltons for taking on this much needed project.
- Met with Keith Rudy of Landmark Engineering to develop the design and construction schedule for the Washington Street Flood Mitigation Project, as a result of receiving the \$920,000 FEMA Grant. As the schedule is finalized I will make sure all members receive a copy.

- Met with Becky Sheppard (U of D) and the African Union Church Cemetery Friends Group for the study of the cemetery and Polktown. This project is being funded by a grant received from the State and in cooperation with the University of Delaware.
- The Pike Creek Running Club held their 34th Annual 15K race in the City on October 12th. The event attracted more than 400 runners and hundreds of spectators. The event will return next year.
- Met with Kevin Donnelly of the New Castle County Conservation District to develop the design and construction schedule for the Dragon Run Flood Mitigation Project. This project is being funded by a \$500,000 appropriation from the General Assembly. When the schedule is finalized I will make sure each member receives a copy.

General Meetings

- Friends of the African Union Church Cemetery Friends Board meeting.
- River Towns Ride and Festival meeting.
- Pike Creek Running Club 15 K Event meeting.
- DFIT Quarterly Stewardship meeting.
- Special Mayor and Council Meeting.
- Fort DuPont Redevelopment and Preservation Board meeting.

Project Updates

See above for the two Flood mitigation Projects. The Branch Canal Project status is unchanged.

APPOINTMENTS, ANNOUNCEMENTS, COMMUNICATIONS

There were no appointments, announcements or communications.

REPORTS OF COMMISSIONS, COMMITTEES AND ORGANIZATIONS

There were no reports of commissions, committees or organizations.

OLD BUSINESS

Fort DuPont Board Appointees - Discussion

Council Member Titus said the annexation of Fort DuPont is one of the most important events to happen to Delaware City. She said she would like to express her dissatisfaction with the process the mayor used to choose and present his appointees to the Council for approval. The Council had no idea who they would be asked to confirm. She thought Council would be asked for nominations or their opinions on the candidates prior to being asked to confirm them. There were

two very qualified local people who were nominated after that meeting. One was disregarded and one was insulted by being offered an advisory position when he was clearly more qualified than the individuals chosen by the mayor. Council Member Titus said she had nothing bad to say about any of the appointees, but as a member of Council, she has a responsibility to vote for the most qualified candidate for any appointment. She said Council should not blindly follow and confirm without any information on or time to consider the candidates' qualifications or conflicts of interest they may have. *Council Member Titus made a motion to require the names and resumes of the appointees at least seven days prior to the meeting for their confirmation. Council Member Buchheit seconded the motion. A roll call vote was taken, all ayes, motion carried.*

Council Member Titus made a motion to rescind her motion to appoint Laura Lee to the Board of Directors. She said she didn't have sufficient time to consider the appointees. She said she felt her appointment was a face value conflict of interest as Ms. Lee is a State of Delaware employee. Vice Mayor Johnson said the motion was out of order as there are no provisions in the Charter or Code to rescind an appointment. The only provisions made to remove someone from an appointed position are resignation by the appointee or removal due to ethic violations. Vice Mayor Johnson said he would defer to City Solicitor Walton. The City Solicitor read the specific legislation saying, there are four directors appointed by the Mayor of The City of Delaware City and approved by the City Council of Delaware City. Once they are vested in their office they cannot be removed and you cannot rescind the appointment. You can't divest someone unless they do something really bad. Vice Mayor Johnson said there was not second for the motion so the motion is null and void.

Council Member Buchheit said he filed a complaint with the Governor's office, regarding Rick Geisenberger. Mr. Geisenberger didn't even know there was not a marina at Fort DuPont. He thought there was one there already. He also complained about the agenda for the next meeting, saying that he did not have time for lengthy meetings. Council Member Buchheit said he is not a good appointee. City Manager Cathcart said Mr. Geisenberger was appointed by the Secretary of State.

Council Member Titus said she wanted to address the questions that resident Jean Bonner was not allowed to ask during the special meeting. She wanted to ask how many people were going to serve on the Board. She said Ms. Bonner also wanted to know the criteria for the board members, who established the criteria for the board members, was or is a resume required for each nominee

and do all council members receive one in time to peruse it before voting. City Solicitor Walton said there are a total of 11 board members, with 4 from Delaware City, and an Advisory Council also. He said the criteria for the Board Members can be found in Title 7, Chapter 47, State Parks, Subchapter 2. City Solicitor Walton said the General Assembly established the criteria for the members of the Board of Directors. A resume was not required for each appointee. Council Member Titus said the City Council did not receive a resume for each Delaware City appointee in time to peruse it.

Council Member Konkus asked if the Council should have made a motion to accept Herb Netsch's resignation before making a motion to confirm his appointment to the Board of Directors when Mayor Green read his letter of resignation. City Solicitor Walton said it wasn't necessary for the Council to accept his resignation. Council Member Titus asked if the motion could be made to "accept his resignation contingent upon the approval of his appointment to the Board of Directors". City Solicitor Walton said yes it could.

NEW BUSINESS

Certification of 2nd Quarter Supplemental Tax FY15

Council Member Buchheit made a motion to approve the 2nd Quarter Supplemental Tax FY15. Council Member Malinowski seconded the motion. A roll call vote was taken, all ayes, motion carried.

FY16 Grant-in-Aid Application

City Manager Cathcart explained that it is the time of year to apply for Grant-in-Aid for the Community Center and Delaware City Day. He said he needs a motion that authorizes the City Manager to submit those applications. *Council Member Buchheit made a motion authorizing the City Manager to submit the Grant-in-Aid applications for FY16. Council Member Titus seconded the motion. A roll call vote was taken, all ayes, motion carried.*

MAYOR AND COUNCIL COMMENTS

Council Member Konkus – Thanked the City Solicitor for the work he and his father are doing at the ball field.

She reported that the second annual coat drive at the marina went very well. She said it was great because so many folks bought new coats and brought them to the marina.

She asked the City Manager for an update on the property at Jefferson and Fifth Street (a paper street). City Manager Cathcart said he will follow up at the next meeting with his recommendations and an inventory of other paper streets and alleyways

Council Member Titus – no report

Council Member Malinowski – no report

Council Member Buchheit – *made a motion that all public comments be allowed at all special meetings and Mayor and Council meetings. City Solicitor Walton made an amendment to add “unless otherwise specified” to the motion, as there are times when it is necessary for the Council to hold workshops when public comments would not be necessary, such as the budget workshops. Council Member Titus seconded the motion as amended. A roll call vote was taken, all ayes, motion carried.*

Council Member Buchheit said Crabby Dick’s sponsored the Pike Creek Running Club event. He spoke with a couple who liked Delaware City so much that they came back looking for a house to buy.

He asked City Solicitor Walton if there was any inspection of mobile homes before they are rented or sold. (This was triggered by the minutes that reported a death from a generator in the trailer park. The minutes from the September 15, 2014 M & C meeting were revised to read “theft of a generator”, rather than “death from a generator.) City Solicitor Walton said there are no inspections before renting, however New Castle County currently does some inspections. There are different inspections required for different areas. Going forward the City would take on that responsibility.

CITIZEN COMMENTS

Ray Fruytier, 909 Fifth Street, reported that the alleyway behind 704 Fifth Street is still full of containers of oil. He said they should not be in the alley. The alley should be empty so residents can access their yards and to allow access for fire trucks if necessary. The garage works on vehicles in the alley and even leaves them parked there overnight.

Natalie Green, 202 Seventh Street, asked the City Solicitor about the wording of the bill for Fort DuPont. It states that “any member of the Board with a personal or private financial interest in the outcome of any matter before the Board shall

disqualify himself or herself from any consideration of that matter and shall inform the chairperson who shall note such interest in the record of the matter". Ms. Green asked what if someone did not disqualify himself or herself. City Solicitor Walton explained that this comes from the State Code of Conduct for state organizations. He said it is also in the Delaware City Code. He said his interpretation is that this refers to a particular matter that the Board is addressing, not the general outcome of the whole project. He gave an example, saying that if he wanted to build something at Fort DuPont, he could not vote on that construction. He added that if his wife wanted to build something at Fort DuPont, he could not vote on that construction.

ADJOURNMENT

Council Member Malinowski 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 7:03 pm.

Respectfully submitted,
Dawn K. Gwynn
City Secretary