



CITY OF DELAWARE CITY

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**CITY OF DELAWARE CITY
MAYOR AND COUNCIL MEETING & PUBLIC HEARING
DECEMBER 15, 2014**

CALL TO ORDER – PUBLIC HEARING

The Honorable Mayor Green called to order the public hearing at 6:00 p.m. Present were Council Members Konkus, Titus, Malinowski and Buchheit. Also present were City Manager Cathcart, City Secretary Gwynn, Assistant City Clerk Clifton and City Solicitor Walton.

ORDINANCE 14-1117-01 RELATING TO THE FLOODPLAIN

City Solicitor Walton explained that this ordinance is a form ordinance prepared by FEMA, which is required for adoption into the Federal Flood Insurance Program. Federal flood maps have been revised and will become effective in February 2015. The City Solicitor reviewed this ordinance with representatives from DNREC and others to make some Delaware City adjustments, such as some of the appeals procedures and historic properties procedures. He said he didn't have a chance to write much of this as the requirements are set by FEMA. City Solicitor Walton said it was the prerogative of the Council as to whether to adopt this ordinance. However, FEMA would have a problem with the flood insurance program if it were not adopted. He added that this ordinance would apply city wide. If the ordinance is adopted, it will go to FEMA for final approval and go into effect February 2015.

ORDINANCE 14-1117-02 RELATING TO FLOODPLAIN FEES

City Solicitor Walton said this ordinance is separate from the above listed ordinance. This ordinance includes all floodplain fees. In establishing the fees, the City looked at other municipalities' fees for the same service. The City has

never done a review like this before, so did the best job possible estimating the fees. After completing a few applications, the City may decide to revisit the fees.

STEPHEN & ROBIN TAIT – 87-89 WASHINGTON STREET – PROPOSED SUBDIVISION OF EXISTING ONE (1) LOT INTO TWO (2) LOTS FOR SEMI-DETACHED

City Solicitor Walton said he attended the Board of Adjustment when they granted the variances requested. They also granted a special exception that was sought. There is no written decision as of this date. Mayor Green asked if the Council could move forward to vote on the Board of Adjustment decision even though a written decision was not available. City Solicitor Walton said that they could vote on this issue, however, the approval would need to be contingent upon the written decision. Discussion followed about the special exception that was required as the structure is a semi-detached dwelling. The Code requires a special exception as the semi-detached property is located in the R-1 district. The Council will be voting on the subdivision.

The Honorable Mayor Green asked if anyone had any questions regarding any of the three items listed on the agenda.

Stephen Tait, 121 Colonel Clayton Drive, questioned the flood plain fees. City Solicitor Walton said the fees are set by the ordinance, based upon various applications that are required within the flood plain ordinance, such as a flood plain review, a certificate of occupancy, a variance application, etc. Mr. Tait asked if the fees would go to Delaware City and questioned the appeal process. City Solicitor Walton said the City of Delaware City would set the standards and if an applicant disagrees he could appeal to the Board of Adjustment or seek a variance. This would be two different procedures and would have two different fees. It was explained that a variance could have an impact on the cost of flood insurance. The City Solicitor explained that the federal standards for the grant of a variance under the flood plain are very different from those that are used to grant a variance for relief from municipal code. They are pretty stringent. Mayor Green asked if there were any additional questions. There were none

RECESS PUBLIC HEARING

At 6:10 p.m., Mayor Green recessed the public hearing until 6:25 p.m.

RECONVENE PUBLIC HEARING

Mayor Green reconvened the public hearing at 6:25 p.m. He asked if there were any additional questions or comments.

Stephen Tait, 121 Colonel Clayton Drive, asked what Delaware City does for the fees they collect.

City Solicitor Walton said the services are set in Ordinance 14-1117-01. He explained that the flood plain review would be done by the municipality of Delaware City rather than New Castle County as had been done in the past. Mayor Green asked if there were any addition questions. There were none.

ADJOURN PUBLIC HEARING

Mayor Green said he would like to adjourn the public hearing. *Council Member Buchheit made a motion to adjourn the public hearing. Council Member Malinowski seconded the motion. A vote was taken, all ayes, motion carried. The public hearing was adjourned at 6:30 p.m.*

CALL TO ORDER MAYOR AND COUNCIL MEETING

The Honorable Mayor Green called to order the Mayor and Council meeting at 6:30 p.m.

PLEDGE OF ALLEGIANCE

Mayor Green led the Pledge of Allegiance to the Flag. He also led a moment of silence for Council Member Johnson's stepmother who passed away.

ROLL CALL

Present were The Honorable Mayor Green, Council Members Konkus, Titus, Malinowski and Buchheit. City Manager Cathcart, City Secretary Gwynn, City Solicitor Walton, Police Chief Baylor and Assistant City Clerk Clifton were also in attendance. City Treasurer Hartman was absent.

ACTION UPON THE TREASURER'S REPORT

Council Member Konkus pointed out eleven general ledger accounts that are at or over 100%. She pointed out the Uniform and Personal Equipment for the police, to which City Manager Cathcart said part would be paid by a grant. In addition, she questioned Electricity – ST, to which City Manager Cathcart said there were credits coming from Delmarva. Also questioned were the large legal fees. The City Manager said it was for fees for legal work pertaining to Fort DuPont which would be reimbursed by the State. Council Member Titus pointed out some other line items. The City Manager said this happens every year and that the City is good financially. *Council Member Konkus made a motion to approve the November 2014 Treasurer's Report subject to audit. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried.*

ACTION UPON THE MINUTES OF THE PREVIOUS MEETING

Council Member Konkus made a motion to approve the minutes from the November 2014 Mayor and Council meeting. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried.

POLICE REPORT

Police Chief Baylor reported the following for the month of November:

- The police are tracking the number of hours on duty, with a total of 450 hours for the month.
- One felony, 17 misdemeanor reports, 34 non-criminal incident reports, issued 49 traffic arrests, 7 seat belt assessments, 10 warnings, 2 DUI arrests and 6 misdemeanor arrests.
- Officer Davidson stopped an individual for a traffic violation. He issued warning. He observed the state of the individual, which would lead one to assume the individual was DUI. However, he noted a fruity odor coming from the individual, which indicates a low blood sugar. He reported this to emergency services and kept the individual from going into diabetic shock. Chief Baylor commended Officer Davidson for going above and beyond and using his training to handle this situation.

Council Member Titus said she was glad to see that M & T bank was installing a card access which would prevent non-customers from entering the building. The Chief said this was done at the request of the City as there were people sleeping in the building which presents a safety issue.

Chief Baylor said Dart is doing a survey to see where the best locations are for bus stops. The City made them aware of the bus stopping in the middle of Clinton Street and making other unscheduled stops. They are looking at several locations on Clinton and Washington Streets which will serve the customer best. Discussion followed. Chief Baylor said the possible bus stop locations would come before the City Manager before any changes are made. City Manager Cathcart said he would bring it before the Mayor and Council.

Mayor Green said he has seen the officers walking on patrol and checking buildings. He asked the Chief to pass along his thanks.

RECOGNITION

Mayor Green recognized Senator Nicole Poore who was in attendance.

CITY SOLICITOR'S REPORT

City Solicitor Walton said he was going to speak about the ordinances establishing a new building code, property maintenance code and subdivision code which are on the agenda for the first reading and introduction. He said the reason these ordinances are being introduced is because the City of Delaware

City will be taking over the duties New Castle County is currently performing. He said the ordinances are intertwined. He said there is also an ordinance to amend the Comprehensive Plan and the Zoning Code as they relate to Fort DuPont. He said if the Council accepts them for a first reading, he will be asking for a referral to the Planning Commission. The Planning Commission will have a public hearing on December 16th in the Community Center to discuss these ordinances. He said hopefully the Planning Commission will refer these ordinances to the Preliminary Land Use Service (PLUS) for the State. There will be a hearing scheduled before them in, possibly, January. Following that, there will be a second public hearing before the Planning Commission. City Solicitor Walton said the action to be taken tonight is merely to accept the introduction and first reading. There can be no debate, but the Council may ask questions of the City Solicitor. He said he sent an attorney client privilege memo to the Mayor and Council in August, instructing the Mayor and Council what they can and cannot speak of regarding zoning matters. One of the ordinances may be on the agenda next month to create a department of building inspection and code enforcement. All other ordinances on the agenda will be debated in February or March.

CITY MANAGER'S REPORT

City Manager Cathcart reported the following:

- Held kickoff meeting with DEMA for the Washington Street Flood Mitigation Project reviewing reporting requirements and financial accountability.
- Met with DNREC concerning Air Monitoring station at the Ball Fields and some expanded air monitoring this spring/summer. The City asked them to move that station in anticipation of work that will be done at ball fields.
- Met with New Castle County Emergency officials concerning the updating of the All Hazards Mitigation Planning document that is being required by FEMA. This must be updated every five years.
- Hosted the FOIA Roadshow at the community Center which was attended by five other municipalities on December 4th. This was a very informative session.
- Met with USDA concerning our water system, security and future improvements. Also talked about available grants and loan opportunities.
- There is a letter/rumor that is circulating, requesting donations for the library because they can't pay their electric bill. Natalie Green had a copy of the letter. City Manager Cathcart said he wanted to stress that the Library is not having problems paying the electric bill.
- There will be a special Planning Commission meeting to review the ordinances. It will be in the gym at the Community Center.

General Meetings Friends of the African Union Church Cemetery.

- Fort DuPont Redevelopment and Preservation Board.
- Planning Commission
- Board of Adjustment

- Historic Preservation Commission.
- Main Street Delaware City.

Projected Updates

- Branch Canal Trail: No Change in status since last report.
- Washington Street Flood Mitigation Project: In design.
- Dragon Run Floodgate and Dike restoration: In design.
- Fifth Street Bridge Replacement: In design.

APPOINTMENTS, ANNOUNCEMENTS, COMMUNICATIONS

There were no appointments or announcements. Mayor Green said he received a letter from Kate O'Donnell regarding a Veteran's Day ceremony. He said he contacted her and said he would be willing to work with her to put a ceremony together, but she said she was very busy and wouldn't be able to assist.

REPORTS OF COMMISSIONS, COMMITTEES AND ORGANIZATIONS

There were no reports.

OLD BUSINESS

Second Reading & Adoption of Ordinance 14-1117-01 Relating to the Floodplain
City Manager Cathcart said City Solicitor Walton explained this ordinance.

Council Member Malinowski made a motion to accept Ordinance 14-1117-01 Relating to the Floodplain. Council Member Buchheit seconded the motion. City Solicitor Walton said he would like to amend the motion saying it should be to approve and adopt the ordinance. Council Member Malinowski made an amended motion to approve and adopt Ordinance 14-1117-01 Relating to the Floodplain. Council Member Buchheit seconded the amended motion. A roll call vote was taken, all ayes, motion carried.

Second Reading and Adoption of Ordinance 14-1117-02 Relating to Fees for Floodplain Code.

Council Member Buchheit made a motion to approve and adopt Ordinance 14-1117-02 Relating to Fees for Floodplain Code. Council Member Malinowski seconded the motion. Discussion followed regarding the fees. City Manager Cathcart said the fees are based on the effort of particular tasks, not the size of the town. He added that New Castle County currently charges for a floodplain review. A roll call vote was taken, all ayes, motion carried.

NEW BUSINESS

Stephen & Robin Tait – 87-89 Washington Street – Proposed Subdivision of Existing One (1) Lot into Two (2) Lots

Council Member Buchheit made a motion to approve the proposed subdivision of 87-89 Washington Street. Council Member Titus seconded the motion. There was no discussion. A roll call vote was taken, all ayes, motion carried.

First Reading and Introduction of Ordinance 14-0915-01 Relating to Adopting an Amended Comprehensive Plan

City Solicitor Walton said the purpose of this proposed ordinance is to change the City of Delaware City's Comprehensive Development Plan as it relates to the Fort DuPont complex. Under Delaware law development must be consistent with the Comprehensive Plan, which includes annexation. The current Comprehensive Plan includes only a small portion of the Fort DuPont complex. This ordinance would amend the future land use map to include the Fort DuPont complex. This expands the area for potential annexation. There is language that allows annexation to occur and allows the town to adopt a historic preservation and redevelopment district. This ordinance is a precursor to allow for annexation when the time comes. There were no questions for the City Solicitor.

Councilmember Titus made a motion to accept this First Reading of Ordinance 14-0915-01 Relating to Adopting an Amended Comprehensive Plan. Council Member Malinowski seconded the motion. City Solicitor Walton asked for the motion to be amended to say "accepted for a first reading and referred to the Planning Commission for review". Council Member Titus amended her motion. Councilmember Malinowski seconded the amended motion. Discussion followed and City Solicitor Walton gave a summary of the approval process. Mayor Green called for a voice vote, all ayes, motion carried.

First Reading and Introduction of Ordinance 14-0915-02 Relating to an Omnibus Zoning Ordinance

City Solicitor Walton explained that this is an omnibus ordinance with many changes to the zoning code. He gave an example, stating that all references to New Castle County, as far as the building code and inspections, have been removed. He said the introduction adds the Historic Preservation and Redevelopment District. There is a list of permitted uses and a list of excluded uses. There is also a set of NAICS industry classifications, listing particular uses that are allowed and all kinds of standards that would apply to the Fort DuPont complex if it were to be annexed. This would not affect any property in Delaware City at this time.

Section 24 is a schedule of fees, which can be debated and discussed at a future meeting. There is also a Section 148 which adds a beneficial use appeal which says if some action of the Council denies a property owner all or substantially all use of their land, there is an appeal process to give the property owner relief from those ordinances.

There is a "Clean Hands" provision insuring there are no violations by property owner before they apply for a permit.

Council Member Konkus made a motion to accept the First Reading and Introduction of Ordinance 14-0915-02 Relating to an Omnibus Zoning Ordinance. Council Member Malinowski seconded the motion. Discussion followed. City Solicitor Walton asked for the motion to be amended to also include a referral to the Planning Commission for this ordinance. Council Member Konkus agreed to amend her motion. Council Member Malinowski agreed to second the amended motion. A voice vote was taken, all ayes, motion carried.

First Reading & Introduction of Ordinance 14-1215-01 Relating to Procedures for Building, Plumbing, Mechanical and Other Codes.

City Solicitor Walton explained that this ordinance is basically a building code that was based on New Castle County's standards, with some adjustments that didn't make sense for Delaware City. City Manager Cathcart said there will be a public hearing next month regarding this ordinance and Council will also address the Second Reading and Adoption next month. This ordinance would not need to be referred to the Planning Commissioner for review.

Council Member Buchheit made a motion accept the First Reading and Introduction of Ordinance 14-1215-03 Relating to Procedures for Building, Plumbing, Mechanical and Other Codes. Council Member Titus seconded the motion. Discussion followed. A voice vote was taken, all ayes, motion carried.

First Reading & Introduction of Ordinance 14-1215-02 Relating to Stormwater
City Solicitor Walton explained that this ordinance adopts the Delaware Sediment and Storm Water Management Regulations as the Sediment and Storm Water Management Regulations for the City of Delaware City. It also talks about the conservation district and DNREC being the delegated agency to do the stormwater review for Fort DuPont. It also gives the basic parameters for stormwater plan submission and sets forth the requirements for stormwater approval which is required under State law.

Council Member Titus made a motion to accept the First Reading and Introduction of Ordinance 14-1215-02 Relating to Stormwater. Council Member Buchheit seconded the motion. There was no discussion. A voice vote was taken, all ayes, motion carried.

First Reading & Introduction of Ordinance 14-1215-03 Relating to Enforcement Procedures for Property Maintenance.

City Solicitor Walton explained that this ordinance is to adopt a property maintenance code. He said it was basically modeled after New Castle County's code with some adjustments. It is an international code. The only significant changes are related to enforcement. City Manager Cathcart told the Mayor and Council that this ordinance will come before them next month.

Council Member Buchheit made a motion to accept the First Reading and Introduction of Ordinance 14-1215-03 Relating to Enforcement Procedures for Property Maintenance. Council Member Malinowski seconded the motion. Discussion followed regarding why the City is going to be taking on this responsibility and the fact that these services will be paid from the fees, not taxes. A voice vote was taken, all ayes, motion carried.

First Reading & Introduction of Ordinance 14-1215-04 Relating to Creating a Department of Building Inspection & Code Enforcement

City Manager Cathcart said this would also come before the Mayor and Council again next month.

Council Member Konkus made a motion to accept the First Reading and Introduction of Ordinance 14-1215-04 Relating to Creating a Department of Building Inspection & Code Enforcement. Council Member Buchheit seconded the motion. A voice vote was taken, all ayes, motion carried.

First Reading & Introduction of Ordinance 14-1215-05 Relating to Implementing a Subdivision Code

City Solicitor Walton explained that this ordinance implements a subdivision code and review procedure. The way it is currently administered in Delaware City is not consistent with the way most jurisdictions handle this. For most small, minor subdivisions, the procedure would not change that much, but if the Fort DuPont annexation occurs which would entail dealing with development of open spaces, there needs to be a subdivision review procedure.

Council Member Konkus made a motion to accept the First Reading and Introduction of Ordinance 14-1215-05 Relating to Implementing a Subdivision Code. Council Member Titus seconded the motion. A voice vote was taken, all ayes, motion carried.

City Manager Cathcart asked the Mayor and Council to keep the copies of all the ordinances so they didn't have to be copied again for the next meeting.

COUNCIL COMMENTS

Mayor Green said the Mayor's Ball will be held on February 28, 2015. He said Jill Snow is chairing the event with Lisa Webster as the second chair. He said he attended the Fort DuPont meeting, the CAP meeting at the refinery, and spoke at the Governor Bacon Hospital holiday lunch. He rode in the Christmas parade and attended the FOIA meeting.

Council Member Malinowski had no report

Council Member Buchheit attended the Taste of Delaware. The Toy Run will be held this Sunday. He asked that any names of needy families be submitted to Town Hall no later than Wednesday. He said he attended the Main Street public meeting where they appointed three new board members, James Brady, Todd Foraker and Liz Gordon. A silent auction was held after the Christmas parade. Over \$2000 was raised which will go to the Christmas decorations fund.

Council Member Konkus had no report.

Council Member Titus had no report.

CITIZENS QUESTIONS AND COMMENTS

Natalie Green, 202 Seventh Street, said she thought it would be best to put the question about the library needing money on her facebook wall, which is public. She said she didn't accuse anyone of not doing the right thing. She was just trying to find out if the library was having problems. She said the question was answered tonight when she was given a copy of the letter from the library asking for donations to purchase books and technological equipment. She said there must have been a misunderstanding as the people who contacted her thought the library needed money for utilities. Discussion followed. City Manager Cathcart said that the record should be crystal clear that no one ever contacted him to ask a question about the financial status of the library.

Kerry Rhoades, 122 Clinton Street, said he attended the Main Street meeting which was very disappointing when he saw what had not been done. He said he didn't know if the City subsidizes Main Street in any way. He asked the Mayor and Council to deny the request if Main Street should ask for anything. He said they should not be given any help until there is a new, active board. He said he would hate to see Delaware City lose the Main Street status as it would have a negative impact on the town. He said Main Street needs change from the top down.

ADJOURNMENT

Mayor Green asked for a motion to adjourn the meeting. *Council Member Buchheit made a motion to adjourn. Council Member Malinowski seconded the motion. A vote was taken, all ayes, motion carried.* The meeting was adjourned at 7:35 p. m.

Respectfully submitted,
Dawn K. Gwynn
City Secretary