

Utility Commission
May 1, 2017

The regular scheduled meeting of the Delmar Utility Commission was called to order by Vice Mayor Pase. In attendance were Commission Members Dickerson and Dewald, Council Member Smith, Commissioner Unsell, Town Manager Bynum-King and Clerk of Council Fisher. Guests: Doug Marshall.

Approval of Minutes

Commission Member Dewald made a motion to approve the April, 2017 minutes as circulated. Deputy Mayor Unsell seconded the motion which passed with 4 ayes, Chairman Pase abstaining due to her absence at the April meeting.

Unfinished Business

Back-up Well Project Status

Town Manager Bynum-King informed the Commission that as of Friday, April 28th, the Town is in receipt of the well drilling permit for our back-up well. We can now proceed with the project. The engineers are working with the drilling company so we can formalize their proposed start and completion date of the back-up well.

Delaware Drinking Water Revolving Fund- Water Main Upgrade Project

Town Manager Bynum-King said that Delmar, DE will have to go through the Bond Council process, which starts with a public hearing on May 15, 2017 at the Joint Council Meeting.

New Business

Marshall Home & Land Co.- Reduction Request for Water and Sewer Impact Fees for Phase II of Yorkshire Estates, Delmar, DE

Mr. Marshall addressed the Commission seeking consideration for the same reduction of impact fees that was given to Mr. Mahta in Wood Creek 3 or 4 years ago. The Utility Commission at the time agreed to reduce the fees for a certain window of time. He has been approached by NVR to finish out the project of Yorkshire Estates. They have encountered a water depth of 13 feet. The engineers stated that the sewer line had to be 17 ft. deep for future development on Stage Road. He has to do this for the betterment of Delmar and the line ends at a manhole. So the project goes from 13 ft. to 17 ft. through his project. They have been constantly de-watering the project. He thought that the impact fees were still \$7,000, but speaking with the Municipal Clerk, he realizes that they have been increased. The 17 ft. sewer dig is adding about \$500,000 to the project. He is asking for consideration for 2 years of the reduced impact fees. If NVR pulls the plug, then the project is in jeopardy. He did say that the project should be completed within 2 years.

Mr. Marshall said that he was told by Public Works Director Reid that with the previous developer, the Town paid someone to stub off the water main and it never was inspected. When they were digging down, they hit a piece of wood. Upon digging it up, the pipe was plugged with some sort of plastic material. In the process, they busted the water main.

Mr. Marshall informed the Council that the project was approved for 50 ft. wide lots. Through Planning and Zoning the lots were adapted for Ryan Homes with larger lots for larger homes. They actually removed 75-80 lots due to the increase of the individual lot sizes.

Mr. Marshall did speak about the moratoriums that different communities around the state are offering. He said that his request is not atypical. The request is only for Phase II which involves approximately 43 homes. Doug said that the Town engineer has to be on site watching the pipes being put in the ground and their fees are enormous.

Deputy Mayor Unsell said that it seems to be a reasonable request to be able to finish up the project and be done with it.

Town Manager Bynum-King said that she was not aware that the Town paid anyone to plug up the line and it not be completed properly. She said that the Utility Commission needs to understand while Mr. Marshall is trying to receive consideration for impact fee reduction or the waiver of the fees, we are still waiting for him to finish up the punch list items in Phase I of the development. The streets associated with Phase I of the development have not been turned over to the Town and there is still an escrow account being held for the remaining punch list items that need to be closed out. As for Phase II, we are also waiting on the Letter of Credit along with the signed Public Works Agreement. Mr. Marshall has plenty of items that need to be tied up and taken care of before any consideration is given.

The Town Manager also reminded the Commission that the previous owner of the development, Mr. Glenn Fishman, was granted a reduction of impact fees back to the 2007 rates. The rates were reduced by \$3,000. The consideration had a term of two years. That approval has since expired.

Mr. Marshall said that they have made great strides in the completion of the punch list and the Public Works Agreement will be completed in a few days. Town Manager Bynum-King said that the punch list should have already been completed and the Letter of Credit and the Public Works Agreement should have already been in place. She also advised the Utility Commission that the Town has just completed the budget process for FY 18, which included some anticipated revenue from projected impact fees at the current rates from Phase II of Yorkshire Estates Development. The proposed FY'18 budget was balanced with all rates remaining constant and the installation/connections of utilities in developments.

Commission Member Dewald referred to the communities that Mr. Marshall said were putting moratoriums on impact fees in that they all were Maryland communities. She asked if he had any reference points for Delaware communities since Yorkshire is in Delaware. Mr. Marshall said that was a good question and he is not aware if any Delaware communities have placed moratoriums on impact fees for developers. Town Manager Bynum-King said that she could send out a letter of inquiry to Delaware municipalities and ask about their fee structure and any moratoriums if the Commission feels it is needed for this process.

Chairman Pase said that she is understanding of what he is saying but that impact fee money is anticipated revenue for the Town and has been calculated in the budget. It is not fair for our other residents to pay for the reduction of fees for developments.

Commission Member Dickerson said that the Utility Commission lowered the impact fees to encourage the builders to build houses. But it seemed that lowering the rates did not do anything since no homes were built. All government agencies are having problems with their budget this

year. The budget is pretty well fixed and the impact of this fee reduction will be significant. He said that he doesn't see how the Utility Commission can do anything to help Mr. Marshall due to the way the budget is. He continued to say that Mr. Marshall should have come before the Commission months ago, maybe at that time some consideration could have been given. He said if he had to vote this evening, he would not be in favor of a fee reduction. He added that he was only one vote.

Mr. Marshall said that he is going through this process at the project so any future developments, such as Perdue can tie into the system. The benefit will also be that this development will finally get done.

Mr. Marshall said that the Town will benefit from the 13 ft. manhole on Stage Road. The Town Manager said that it came with the project and part of the negotiations along with the Public Works Agreement. Mr. Marshall said that he was aware that the terms of the utilities were specified in the Public Works Agreement, which were in place when he acquired the development.

Mr. Marshall asked that instead of 2 years, could the Commission offer the reduction for 1 year. Commission Member Dickerson said that the budget is done. By his standpoint, he doesn't see how any changes can be made to the budget without majorly affecting it.

Council Member Smith said that he would like to see what still needs to be done for the punch list and Public Works Agreement so he will feel better on what he will be voting on. Mr. Marshall said that the punch list is down to a handful of items. He said that the Town has \$25,000 in escrow. Town Manager Bynum-King asked that if it is only a handful of items that need to be completed on the punch list, then why not just get them done and we can close it out. She informed Mr. Marshall that he needs to contact DBF so they can have a final walk through and then have the streets and utilities in Phase I be dedicated to the Town. The reduction of the impact fees that he is asking for is only for Phase II of this project. Mr. Marshall said that he could have the Letter of Credit done in two weeks and the punch list could be completed within a few days. The Public Works Agreement has a few minor changes that is being worked out between the Attorneys, he added.

Commission Member Dewald said that she appreciates that Mr. Marshall cares about the development and that he is actually living in Delmar, but before she votes she would like to get those outstanding items wrapped up and have more data on what other Delaware communities are doing with their impact fees and developers. He has resurrected 2 dead projects. She would like to table this until June, in that way the Letter of Credit along with the punch list and Public Works Agreement should be completed.

Commission Member Dewald made a motion to table this discussion until June so that Mr. Marshall will have time to tie up all the loose ends and the Commission will have time to review what, if anything, other Delaware communities are doing with their impact fees. Deputy Mayor Unsell seconded the motion which passed with 5 ayes and 0 absent.

Town Manager Bynum-King said that she would gather the information from the other Delaware communities in reference to their impact fees.

Town Manager's Report

Town Manager Bynum-King said that the Public Works clerk has been accepted in the Utility Management Program at the Water University sponsored by the National Rural Water Association. Our clerk is one of 6 recipients of a tuition scholarship sponsored by the University. She will be attending classes from May 3rd to May 4th. This is a great thing for the Town as well as the Department.

Commission Member Dewald made a motion that the Utility Commission make a statement acknowledging Public Works Clerk Sophia Oberton for her going above and beyond in the work she contributes within the Water Department and receiving a scholarship with the Water University. The motion was seconded by Deputy Mayor Unsell and passed with 5 ayes and 0 absent.

Commission's Report

Chairman Pase said that she is glad that Council Member Smith is back after his health scare.

Adjournment

Council Member Smith made a motion for adjournment which was seconded by Deputy Mayor Unsell. The motion passed with 5 ayes and 0 absent.

Submitted by:

Cindy Fisher
Clerk of Council