

**MAYOR & COMMISSIONERS**  
**October 9, 2017**

Mayor Wells called the scheduled meeting of the Mayor & Commissioners of Delmar, Maryland to order at 7:00 P.M. In attendance were Mayor Wells, Deputy Mayor Unsell, Commissioners Scholl and Morgan, Town Manager Bynum-King, Town Attorney Benson and Clerk of Council Fisher. Absent: Commissioner Tucker. Guests: Delmar Police Chief Barkley, Ryan Poe, Brock Parker, Chris Gilkerson, Thomas Babcock and Nilesh Patel.

**Call to Order**

The Maryland Mayor and Commissioners performed the Pledge of Allegiance.

**Public Hearing- Ordinance 735**-Amending the Zoning Ordinance by amending the definition of “Board” in Section 2, amend Section 10 to permit warehouses and wholesale distributors as a Use Permitted by Special Exception in Community Business District, and to amend provisions of Section 24 as to signs and to amend Section 26 as to site plans.

Town Attorney Benson read the opening of Ordinance 735 and said that it was passed on its’ First Reading in September. This Public Hearing has been advertised in the local newspaper. This Ordinance did go before the Planning and Zoning Commission and this Ordinance is based on their recommendations. The Commission has an option of adopting the Ordinance this evening or wait until a later date.

Commissioner Scholl made a motion to open the Hearing up to public comments. The motion was seconded by Deputy Mayor Unsell and passed with 4 ayes and 1 absent.

Upon hearing no comments, Commissioner Scholl made a motion to close the public comment portion of the Hearing. The motion was seconded by Commissioner Morgan and passed with 4 ayes and 1 absent.

Commissioner Scholl made a motion to adopt Ordinance 735 as read this evening. Deputy Mayor Unsell seconded the motion which passed with 4 ayes and 1 absent.

**Mayors Comments**

Mayor Wells introduced Mayor Houlihan as the Mayor of Delmar, Delaware. Mayor Houlihan informed the Maryland Mayor and Commissioners that on the 28<sup>th</sup> of September, there was a Delaware League of Local Governments meeting which is similar to the Maryland Municipal League. At that meeting, they announced the 2017 Clerk of the Year along with the 2017 Town Manager of the Year. He submitted an application for someone to be considered. He is pleased to announce that our Clerk of Council Cindy Fisher was named the Delaware 2017 Clerk of the Year. Part of the consideration process was that she actually works for 2 states, 2 counties and is under 10 elected officials and a Town Manager. He displayed the plaque that Clerk of Council Fisher was awarded. Everyone offered Clerk of Council Fisher congratulations.

Mayor Wells spoke of the garbage collection policy that has made news on WBOC and phone calls to Town Hall. The garbage collection policy has been in place for quite a while. The policy states that residents can have no more than 4- 35 gallon cans with lids that weigh no more than 50 pounds. Through the years, that policy has not been

enforced by our garbage collectors. But a post was put on Facebook that the Town would not accept anything that wasn't within our policy guidelines. There were so many negative posts that it was getting out of hand so she took the post down and called Town Hall. The current policy was put in place way back when the Town was doing its' own garbage collecting, using the Public Works staff. The Town Manager is checking with our garbage collection vendor to see what they can handle as for the size containers. She has asked people to give comments that she could take to this meeting and discuss and that anyone was welcome to come to the meeting as speak as well. Well, there is no one here to address the issue. She did get some written comments and the Office Staff have forwarded to her some of the phone call messages that were left for her. There are several people who have had their garbage cans damaged. They then bought bigger and heavy duty ones which are 85 gallons and now the Town is telling them they can't use them because they are larger than the 35 gallons the policy allows. Some people are suggesting that just leaving trash bags out would be easier. Mayor Wells said that there are a lot of upset people.

Town Manager Bynum-King said that she would like to apologize on behalf of the staff, she did not review nor approve the Facebook notice. She said that she has put out a request to the garbage collection vendor as suggested by Mayor Wells and will be gathering information from them, but as of yet, she has not heard back from them. The Town Manager said that the garbage collection policy has been in place for quite a few years and was put in place around the time the Town started collecting its' own garbage. When we outsourced the job, there were no revisions to the guidelines. As soon as we receive the requested information from the service provider we will be in a better position to restructure the policy. The Town Manager said that Delmar, Delaware has used the same service provider for a number of years and they do provide a large container but it is only for recyclables.

Mayor Wells said that this is something that we can work through. The garbage policy has been posted in the last 3 of the 4 newsletters as well as on the Town's website. The office staff does a really good job in trying to keep everyone informed. She said that she can understand the frustration all the way around. The Mayor did say that she has asked about the cost of getting trash cans from the provider but then again she is worried about the affordability.

Town Manager Bynum-King said that in reference to the policies and having policies, we do go above and beyond to get the information out to the residents. When the policies are not adhered to and when people become accustomed to their own way of doing certain things over the course of years, it creates challenges to implement policies that they were not being required to follow.

Mayor Wells said that the Town will work through this but wants to wait until all the information from the vendor is available.

**Public Hearing-Ordinance 736** –The adoption of the 2015 International Building Code

Town Attorney read Ordinance 736 and stated that the Town currently uses the International Building Code and wants to adopt the newest version. It was here last month for a first reading and is here this evening, after being advertised in a local newspaper, for a Public Hearing.

Commissioner Scholl made a motion to open the Public Hearing to public comments. Deputy Mayor Unsell seconded the motion which passed with 4 ayes and 1 absent.

Upon hearing no comments, Commissioner Morgan made a motion to close the public comment portion of the Public Hearing. Deputy Mayor Unsell seconded the motion which passed with 4 ayes and 1 absent.

Deputy Mayor Unsell made a motion to adopt Ordinance 736 as presented here this evening. Commissioner Scholl seconded the motion which passed with 4 ayes and 1 absent.

### **Oath of Office- Parks and Recreation Council**

Mayor Wells stated that there should have been 3 residents to be sworn in this evening. One of them has contacted the Office and said that he would not be available this evening. She is not sure why the other ones were not present.

### **Resolution 2017-10-09- Halloween**

Mayor Wells read Resolution 2017-10-09 which stated that the Town of Delmar will be celebrating Trick-or-Treat on Tuesday, October 31, 2017 from 6 pm to 8 pm for children 12 years and younger. She also noted that there will not be any mischief night in the corporate limits of Delmar.

Deputy Mayor Unsell made a motion to approve Resolution 2017-10-09 as read. Commissioner Scholl seconded the motion which passed with 4 ayes and 1 absent.

### **Approval of Minutes**

Commissioner Morgan made a motion to approve the September, 2017 minutes as circulated. The motion was seconded by Commissioner Scholl and passed with 4 ayes and 1 absent.

### **Student Advisory Report**

There was no one present to give a report. Mayor Wells read an email from the student which indicated that she would not be able to attend the meeting this evening. She asked if there was someone she could email with a report in case she could not make a meeting. Town Manager Bynum-King said that she should email Clerk of Council Fisher with her report and it could be included in their mail packets.

### **Police Chief's Report**

Chief Barkley reported that Blue Heron Agility donated \$1,000.000 for a bullet proof vest for their K-9 unit. Officer Brown has completed his field training and is ready for regular assignments. Cpl. Heacock went into surgery on Friday, which was successful for at least one of his shoulder injuries.

Chief said that last month, the Town lost a 2 week old infant. The child was brought by car to the hospital and then rushed to Children's Hospital in D.C. The child's father later confessed that he injured the child while he was dealing with the crying baby at 4 a.m.

Chief Barkley said that there has been a big uptick on thefts from motor vehicle. Someone is actually breaking locked car windows to get valuables. He has started some initiatives this week and will have extra officers out on bike patrol late at night.

Mayor Wells said that last Halloween the police were out and about with the trick-or-treaters and the kids are actually hoping it will happen again this year. Chief Barkley responded that yes the officers will be out on the evening of Halloween.

### **Code Enforcement Officers Report**

Mayor Wells reviewed the report that was included within the mail packets.

## **Fire Department Report**

No one available to give a report and none was included within the mail packets.

## **Utility Commission Report**

Deputy Mayor Unsell reported that the back-up well progress meeting was held on September 27<sup>th</sup>. The completion date is scheduled for December 4, 2017. On September 6<sup>th</sup>, there was a bid opening for the water infrastructure project for the upgrades to the Pine Street Pump Station. TK Construction was the lowest bidder. The wastewater treatment plant has a new staff member. He has 27 years of experience with Worcester County.

## **Public Works Report**

Mayor Wells reviewed the report that was included within the mail packets.

## **PUBLIC HEARING- Ordinance 737- Ordinance to amend Ordinance 699 to allow either the Town Police Department and/or the Town Code Enforcement Officer to take custody and remove inoperative vehicles to storage areas designated by the Town.**

Town Attorney Benson said that Ordinance 737 was here last month for a First Reading. The Public Hearing scheduled for this evening has been advertised and published in a newspaper. He said that the Town has contracted with private towing companies. Under the new procedure, the Code Enforcement Officer will be dealing with the private towing companies more than the Police Department. The only change in the Ordinance will be to include the Code Enforcement Officer along with the Police Department.

Deputy Mayor Unsell made a motion to open the Public Hearing to public comments. Commissioner Scholl seconded the motion which passed with 4 ayes and 1 absent.

Upon hearing no public comments, Deputy Mayor Unsell made a motion to close the public comment portion of the Public Hearing. Commissioner Morgan seconded the motion which passed with 4 ayes and 1 absent.

Mayor Wells asked how the Town determines which vehicles are inoperative. Town Manager Bynum-King said that it is based on a few things. A lot of the inoperative vehicles have significant undergrowth and flat tires and some are dismantled and not running. Once the Town sends out a letter, it is the hope that the property owners would contact Code Enforcement and discuss the situation. In most cases, the letters and the Town are being ignored by the property owners. Once the Ordinance passes and the Town starts towing vehicles, she is sure that we will be getting feedback from the residents. We have towed cars before but we didn't have the storage area for them. Code Enforcement does have a considerable number of abandoned vehicles that will need to be towed. The plan is to deal with certain quadrants of the Town at a time.

Commissioner Scholl made a motion to approve Ordinance 737. Deputy Mayor Unsell seconded the motion which passed with 4 ayes and 1 absent.

## **Planning & Zoning Report**

Commissioner Scholl reported on the following:

Revised Concept Plan for Frito Lay Proposed Commercial Site Plan Development Delmar, MD

Brock Parker from Parker and Associates stated that this project was located next to the trampoline park and was

presented for the first time about 2 months ago. The plan then was to have one additional building along with the proposed Frito Lay warehouse, which was approved. Through engineering, they are now able to propose 3 buildings on the property. There will be the same landscaping and buffers. The storm water management plan has been submitted to DB&F for their comments. Mr. Chris Gilkerson said that the intent for the site is to develop the full infrastructure for the complete site and then develop the Frito Lay building.

Deputy Mayor Unsell made a motion to accept the favorable recommendation of Planning and Zoning for the revised site plan showing 3 building sites for the proposed commercial site development for the proposed warehouse for Frito Lay on Foskey Lane, Delmar, MD as presented this evening. Commissioner Morgan seconded the motion which passed with 4 ayes and 1 absent.

#### Bergey's Truck Centers, 30299 Foskey Lane, Sign Approval, Delmar, MD

Thomas Babcock was present for Bergey's Truck Centers. He provided within the mail packets the sign changes that the Planning and Zoning Commission recommended. The business is allowed to have two (2) signs on the building since it is a corner building, but the name of the business would have to be removed from the doors, which the new drawings show.

Commissioner Morgan made a motion to accept the recommendation from Planning and Zoning for sign approval for Bergey's Truck Centers located at 30299 Foskey Lane, Delmar, MD, per the attached revised drawings that indicates the removal of the Bergey's name from the doors. Deputy Mayor Unsell seconded the motion which passed with 4 ayes and 1 absent.

#### Nilesh Patel- Addition to the home at 9106 Newbridge Drive, Delmar, MD

Mr. Patel informed the Commissioners that he is proposing to add square footage onto the first floor bedroom and on the top left, they will be bumping out some rooms. Commissioner Scholl said that at the Planning and Zoning meeting, Mr. Patel was instructed to provide, prior to this meeting, a certified site plan showing the proposed addition, which he has done.

Commissioner Morgan made a motion to accept the favorable recommendation of Planning and Zoning for the addition at 9106 Newbridge Drive, Delmar, MD, since Mr. Patel did provide a certified site plan for the addition. Deputy Mayor Unsell seconded the motion which passed with 4 ayes and 1 absent.

#### **Town Manager Report**

Town Manager Bynum-King informed everyone that the auditors wrapped up their on-site audit on September 29<sup>th</sup>. The process has moved along very well. The Audit Report should be presented at next month's meeting.

Russell Smart, Sr. is the honoree of the 2017 Citizen of the Year award and banquet. The banquet is scheduled for Thursday, November 2, 2017 at the V.F.W. starting at 6:15 p.m. At this time we don't have all the details. Town Manager Bynum-King asked the Elected Officials, that if the banquet tickets were mailed to their homes, to turn them into the Director of Finance.

The Town Manager stated that the Town received a letter from the Tri-County Council that was sent out to all the municipalities. For the next calendar year, they are looking for names to be appointed representatives. All names for consideration should be submitted no later than November 3<sup>rd</sup>, 2017. The Council meets four (4) times a year.

Town Manager Bynum-King reminded everyone that the Town of Hebron will be hosting the L.E.S.M.A. meeting

on the 19<sup>th</sup> and you will need to RSVP with Clerk of Council Fisher no later than October 12<sup>th</sup>.

She said that the Town has received notification from the Board of Public Works that we received a grant of \$49,645 from the Community Parks and Playgrounds for the pavilion at Gordy Park. It has long been overdue for an upgrade.

Wicomico County had marked off Foskey Lane for striping from Connelly Mill Road to Bi-State Blvd. and in doing so has skipped the sections of the roads that are within the Town limits of Delmar. She thought they would have contacted the Town to see if we would want to do the streets within our limits and get it done under one contract. The Town Manager found out that County Roads has an open P.O. with State Highway and State Highway did the striping. She contacted State Highway and asked if the Town could be issued a P.O. with them to have sections of Foskey Lane identified as in Town limits stripped. The Town could set up a P.O. and provide the State Highway Administration with the linear footage and type of striping, i.e.; single line, double line, etc. Once the information regarding the total linear footage is submitted, they could give us a price quote.

A letter was sent to Mr. Mehta in August regarding the overgrown retention ponds in Wood Creek. Mr. Mehta contacted the Town requesting an additional 30 day extension and it was granted. The Town granted that extension until October 25, 2017, if the ponds are not cut by that deadline, the Town has made arrangements with an outside skilled service provider to cut the ponds on October 26, 2017. Based on an assessment of the ponds today, there has been no activity at the location. Town Manager Bynum-King said she would be sending Mr. Mehta a reminder of the upcoming expiration date.

### **Commission Comments**

Commissioner Scholl apologized for missing the homecoming parade. He said that with kids and a new puppy, it's hard to get things organized.

Deputy Mayor Unsell reported that the gas tax for Maryland is 27 cents per gallon. There are 26 states that have lower gas tax than Maryland. Tomorrow night at the Civic Center in Salisbury there will be a meeting at 7:00 p.m. with the Department of Transportation representative Jim Beauchamp. He gave a talk in Frederick, Maryland where he spoke about the General Assembly taking money away systematically from municipalities. We have double taxation; we pay at the gas pump and we don't get our share of money and the roads are in constant need of repair. MML is asking Wicomico County to have as many people as possible to attend the meeting at the Civic Center tomorrow evening.

Commissioner Morgan wished everyone a Happy Halloween.

### **Public Comments**

Resident Ryan Poe asked where all the public were? He said that after all the comments on Facebook in reference to the trash collection, he knew it would be standing room only here this evening, but there's no one here. He said that even if we received cans from the garbage company, what would everyone do with the trash cans they already have. Mayor Wells said that she has received emails from older residents who say for them it is easier to carry out a bag to the curb instead of trying to handle a trash can. Mayor Wells said that she wants to be fair to everyone. Mr. Poe said that based on the original post, there must have been issues with the trash collection. Commissioner Scholl mentioned that there are smaller trash containers that may be easier for the seniors to handle, he noticed them when he was purchasing his own containers.

Town Manager Bynum-King said that the Town has received some communications from the trash collector. She said that the policy has been on the books for at least 20 years when our Public Works employees were getting injured doing the trash collection. People complained about the lids being blown around, lost or smashed from being blown into the streets. She said at one time residents were instructed to drill holes in the bottom of the cans for the rain to go through, if they weren't going to be using lids.

Mayor Wells said that she didn't want to financially burden anyone. So, right now everyone should continue to use whatever they have been using. Until this situation has been resolved, nothing will change.

**Adjournment**

Commissioner Scholl made a motion for adjournment which was seconded by Deputy Mayor Unsell. The motion passed with 4 ayes and 1 absent.

Submitted by:

Cindy Fisher  
Clerk of Council