

MAYOR & COMMISSIONERS
January 8, 2018

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 and Clerk of Council Fisher. Absent: Commissioner Tucker and Town Attorney Benson. Guests: Delmar Police Chief Barkley, Delaware Senator Richardson, Michael Sullivan, Brock Parker, Chris Gilkerson and Ryan Poe.

Call to Order

The Maryland Mayor and Commissioners performed the Pledge of Allegiance.

Mayors Comments

Mayor Wells spoke of the winter storm and while she was home because the snow and the schools were closed, she fielded a lot of comments that were posted on Facebook. She posted an item today on Facebook in reference to snow removal and that the snow plow blades go within 3 inches of the road just to push the snow off the road. Someone on Facebook asked why 3 inches, her reply was because of the manholes. She said that there were a lot of comments about 12th Street being a problem area.

Mayor Wells said that she received a call from an unhappy resident of Bridgewood Estates stating that the plow had not been out there at all. Mayor Wells said that she had her husband drive her out to Bridgewood Estates to look for herself. She said the development had been plowed but because there were cars parked on the road, parts of the road could not be plowed. She suggested that a letter be sent out to the newer developments, that there never should be cars parked on the road. The Planning and Zoning Commission ensures that all developments have a driveway along with a garage. The newer developments also have overflow parking areas. Town Manager Bynum-King said the Public Works staff is down to 2.5 people. With the manpower that the Town does have, they managed to plow at least a single path down every street. Today the Public Works staff hit some of the areas that have softened so they can move the snow and slush out of the way. The Town does have one truck that has the plow all the way down that they use on the roadways that have no manholes or drains.

Mayor Wells referenced Ponds Edge that this year and last year, by the time the Public Works staff was able to do their area, their maintenance staff had already plowed Winners Blvd. Ponds Edge Management wanted the Town to reimburse them for the service. Town Manager Bynum-King did say that she authorized the Public Works Director to call a contractor to move the snow if he felt they needed the assistance. Ponds Edge management, assumed the Town was not coming so they plowed the roadway, prior to getting a status on when the Town would be in the area of Winner Blvd. Mayor Wells said with sub-zero temperatures and high winds, she thought the Public Works staff did a great job.

Mayor Wells said that she also tried to answer questions in regards to the trash collection issues during Christmas week. The Town was not informed that due to the holiday being on Monday, that the trash collection for the whole week would be pushed back a day. She asked her name be added to the list of contacts for Republic Services so she also can be notified by either emails or phone calls.

Approval of Minutes

Commissioner Scholl made a motion to approve the December, 2017 minutes as circulated. Commissioner Morgan seconded the motion which passed with 3 ayes, 1 absent and Deputy Mayor Unsell abstaining due to his absence at the December meeting.

New Business

Ethics Ordinance Update

Town Manager Bynum-King said that she has been in communications with the Town Attorney and there seems to be nothing new, however once he concludes his research we can address any necessary changes at the February meeting.

Deputy Mayor Unsell stated that he wants the Town to consider reducing the impact fees from \$11,000 to \$7,100 to compete with Salisbury and other local towns. It was suggested that this could be something discussed at the budget workshops. Also, since it involves a Utility budget item, any changes would have to come from the Utility Commission.

He also stated that during Christmas week, he noticed how much of the garbage is recyclable. Lots of cardboard and plastic. He asked what they had to do to get recycling on the Maryland side. Town Manager Bynum-King said that this also can be something to discuss during the budget workshops, since it will impact the budget. It is mandatory in Delaware but not in Maryland. For the Maryland side, we were quoted an unrealistic price for recycling. It was suggested that the Financial Officer contact Republic Services to see what they would charge for recycling on the Maryland side.

Town Manager Bynum-King said that when it became mandatory for Delaware to do recycling, they offered to include Delmar, Maryland as part of the set up grant awarded to Delmar, Delaware. Delmar, Maryland had concerns about the revenue generated from recycling and opted not to participate in the program. There was a question posed if Republic Services would do the recycling for only the individual that wanted the service if all the Maryland side did not want to participate. Anytime there is a discussion about increasing costs of anything, there are always people who think they pay too much already.

Student Advisory Report

No one present to give a report probably since there was no school today.

Police Chief's Report

Chief Barkley reported that there were several vehicle accidents this past month. The Police Dept. used their utility vehicles in the snow. Even with all the warnings for everyone to stay off the roads due to treacherous conditions, there were vehicles on the road. Chief Barkley informed everyone this evening that Pennsylvania Avenue is a sheet of ice and to be careful leaving this parking lot.

He stated that last month there was an armed robbery at the Corner Market. The evidence has been sent for DNA testing. The person of interest is in a rehabilitation facility. There was also a reporting of a child near the elementary school. Delmar Police spent 3.5 hours working on the case and in interviewing the children who reported it, they found that it was a false report.

Chief Barkley stated that the second canine is here and training will begin next month. Her name is Roxy. The Department had extra patrols for Christmas and the New Year's. There were no significant events during the

holidays.

Mayor Wells said that Salisbury implements fines for disabled vehicles that are stranded in the snow. Chief Barkley said that there is nothing in writing stating that fines are to be issued but the Police can write them citations but Delmar is trying to be kinder to its' citizens.

Police Chief Barkley said that residents of Delmar are fortunate with what snow plowing was done. Other municipalities, such as Salisbury, the roads are still bad. Mayor Wells stated that she is struggling with Delmar fining its' residents for not shoveling their sidewalks. She received phone calls stating that the resident did shovel their sidewalk but the snow plow came by and plowed the snow back onto the sidewalks. The elderly and those who work have real complaints. With the low temperatures and the wind, no one should be out shoveling.

Code Enforcement Officers Report

Mayor Wells reviewed the report provided by the part time Code Enforcement Officer. Town Manager Bynum-King stated that our full time Code Enforcement Officer is still out on medical leave and will be returning to the doctor's office on the 19th of this month.

Fire Department Report

No one present to give a report.

Utility Commission Report

Deputy Mayor Unsell reported that the back-up well is completed. There is no update on the Pine Street Pump Station project. Richard Rush from Baracah Homes was asking the Commission for a refund of \$900. That was tabled until Council Member Smith was present to participate in the discussion.

Public Works Report

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

Planning and Zoning Report

Commissioner Scholl reported on the following:

Pheasant Lake- Maszera Corp. Revised Site Plan Approval

Michael Sullivan introduced himself as speaking on behalf of the Maszera Corporation for the Pheasant Lake Subdivision. He is here this evening seeking approval for the final site plan revision. Mr. Sullivan informed the Commission that in 2008 the project was to be started and the market caved in. It left the developer with a \$2 Million construction bond. The development was planned and platted before the market crashed and now it has rebounded. Since then the storm water mandates have changed. The original site plan did not reflect the storm water management changes. With the changes to make the plans compliant, the density has been lowered by 15 units. The Lots will not be buildable and will be used as retention ponds.

Mr. Sullivan said that since 2008, when the plans were originally approved, the developer has been paying taxes on the 265 subdivided lots. He has paid real property taxes of \$7,000 per year to Delmar as well as Wicomico County. They wish to pursue the development of this project by being compliant with the new storm water regulations.

Mayor Wells said that originally the project was approved for 263 units. The project has already been approved. It is what it is. Now the site is showing 248 units. Mayor Wells said that the Councils of the past did not really look into the future. This project will take a while to develop completely. She wants to insure that the developer does

not start selling houses implying that the children of this development will be going to the Delmar School District. The school is at capacity now. She does not want anyone to think that their kids will be going to Delmar schools when they will not be.

Town Manager Bynum-King also noted that a Public Works Agreement will be needed before final approval can be given. Mr. Sullivan said that a Public Works Agreement has been established and recorded with the Town. The Agreement does not mention the number of units, so it should not have to change.

Town Manager Bynum-King said that at the time of that Public Works Agreement, capacity may not have been an issue. The Public Works Agreement should coincide with the phases that would be developed. The EDU's have not been reserved. Mr. Sullivan said that he would like to revise the Public Works Agreement in order to get the project underway and then modifications can be made.

The Town Manager said that the Public Works Agreement is not consistent with the phasing of the project. All the phases of the project will not be completed in one year. What was originally proposed is now being changed so the Public Works Agreement should change to match the project.

Mr. Sullivan said that there is no time table nor changes due to the number of houses being built. There are no terms as of dates and any affect in the reduction of the density by 15 buildable lots. He stated that that would be like the cart pulling the horse. He feels that the plan should be approved first and then the Public Works Agreement can be addressed.

Commissioner Scholl asked about how to tell the amount of EDU's that are available. Town Manager Bynum-King said that the Town has multiple developments going on at the same time. Some of the developments have been approved and there is no activity on them. Other developments are moving forward. Capacity is not something that can be put on hold. The PWA (Public Works Agreement) is a basis for a certain time period for the project to move forward. While there is not an expiration date to the PWA, it will be based on the phases of the project and availability of EDU's.

Mr. Sullivan said that the subdivision plat will remain recorded with Wicomico County and with the Town. The developer agrees to comply with the PWA. Mr. Sullivan stated that the revised site plan will comply with the current storm water management regulations. The EDU's can be addressed outside of the site plan process. He said that the Public Works Agreement states the obligation for payment and maintaining of the public works facility system addresses financing and maintenance infrastructure.

Town Manager Bynum-King said that our Town Attorney should weigh in on this discussion. The Public Works Agreement does identify who is responsible for what. In the Public Works Agreement there should also be number of EDU's established and consistent with the project development phases.

Mr. Sullivan asked how the Public Works Agreement changes the approval of the site plan this evening. What modification is needed for the Agreement? Town Manager Bynum-King responded that as part of our standard process, the Public Works Agreement has been contingent to final approvals to make sure certain things are in place.

Mr. Sullivan said that those issues would be more likely discussed prior to the construction phase. All Town Standards will be met.

Mayor Wells said she would feel better with Town Attorney Benson weighing in on this matter, so she is thinking the matter should be tabled until such time as our Town Attorney can give some guidance.

Mr. Sullivan said that if the PWA is part of the process, there is no reason why we can move forward with it being a contingency as part of the approval.

Mayor Wells said that she doesn't understand why the big discussion on the Public Works Agreement since it doesn't affect the approval of the site plan. Commissioner Scholl stated that the Planning and Zoning Commission did give a favorable recommendation with contingencies.

Deputy Mayor Unsell made a motion to give final approval of the revised site plan for the subdivision Pheasant Lake located in Delmar, MD, contingent on the review of the Public Works Agreement, the changing of the zoning from Community Business to R-2 Residential on the plans and the correct phone number in the professional certification block be listed. Commissioner Morgan seconded the motion which passed with 3 ayes, 1 absent and Mayor Wells abstaining.

Frito Lay- Site Plan and Subdivision final Approval

Brock Parker from Parker and Associates was present and identified the plan as being next to the Trampoline Park on Foskey Lane. It is here for final site and subdivision approval. Everything on the subdivision is per the Towns Standards. The site plan engineering has been completed and will be signed off on tomorrow. This meeting is the last of the governmental approvals they need to get started. The buildings other than the one occupied by Frito-Lay will be empty until there is a buyer.

Commissioner Scholl stated that Planning and Zoning did give this a favorable recommendation.

Deputy Mayor Unsell made a motion for final approval to the Frito-Lay site and subdivision plan located on Foskey Lane, Delmar, MD, per the attached drawings. Commissioner Morgan seconded the motion which passed with 4 ayes and 1 absent.

Mayor Wells suggested that it might be time to consider moratorium on residential development. She said that she is sorry for making that statement but infrastructure can't handle too much more and it is putting a strain on our school system.

Town Manager Bynum-King said that this is something that can be discussed during the budget workshops. You can discuss capacity and the ability to serve potential developments. The Town does have I&I issues. Currently, on a daily basis, our daily flows exceed our permit. We are treating the issue by slip lining some of our mains and trying to hold off some of the larger projects of digging up pipes and replacing them. That is the importance of the Public Works Agreement. She said that 10 years ago, it might not have been much of a deal, but we have started to look at things a little differently now. The projects are phased over a period of time and that is how the EDU's should be as well. The Pheasant Lake Public Works Agreement would have expired by now. For Mr. Maszera and the Pheasant Lake Subdivision, it is to his advantage that he has a guaranteed number of EDU's for a certain number of years. She also said that Frito-Lay has their Public Works Agreement in place.

Mayor Wells said that she is worried that the number of families with children that can come with these massive developments won't give her the small town feeling that she likes. The Town does not have a way to serve all these

people the way they want to be served. We have a hard enough time bringing businesses to Town. She would like this to be a topic of conversation at the budget workshops. There will come a time when the Bi-State Agreement will end.

Town Manager Bynum-King said that the Town is in the process of working with Jason Loar, a member of our engineering firm. He has been asked to perform a table top assessment of our utilities so we can take a look at our capacity, and what we are treating on a daily basis. The last monthly report to the State of Maryland showed the daily reports that we were higher than our flow permit. The information will be ready for the budget workshop.

Town Manager Report

Town Manager Bynum-King said last week she was on vacation and then the storm hit. She thanked the Mayors for closing Town Hall due to safety concerns. She passed out the budget workshop calendars to the Elected Officials letting them know that the workshops will be starting next month.

The Town Manager informed everyone that Republic Services will be collecting natural Christmas trees along with the garbage on the regular collection days for both Maryland and Delaware. The Code Enforcement Officer is out on medical leave until at least the 19th when he returns to the doctors' office. By then we should have a status of his recovery.

Town Manager Bynum-King said that the Public Works staff is down 2.5 men. One employee was injured Thursday night, one wastewater treatment plant employee slipped and fell Thursday during the storm. We are working with what we have and so far we have been able to maintain.

She did inform the Commission that she would need a brief Executive Session after this meeting to discuss land acquisition.

Commission Comments

Commissioner Scholl hoped everyone had a great holiday season and said that he had a great time at the holiday dinner.

Commissioner Morgan thanked everyone for coming to the meeting and for everyone to drive safely.

Public Comments

Delaware Senator Richardson said that this was an informative meeting. He understands the Towns' concerns about over-development. The Legislative Session starts tomorrow and they have a lot going on.

Resident Ryan Poe asked about the location of Pheasant Lake. He was informed that it is off Maryland Avenue and Foskey Lane. Mayor Wells said that if a development is going to have a significant impact on the Community, then the development needs to pay for that impact. It has to be fitting on what the burden is. Town Manager Bynum-King talked about the proposed Blackwater Development located outside of the Delmar Town limits and if it was developed the overall impact it would have on the Town and its infrastructure. For major residential development we would give thought about what kinds of fees should be established. Mayor Wells said that the spokesperson for the Pheasant Lake Subdivision did offer to donate land to the Town for a new school. She met with the Superintendent of Wicomico County Schools and informed her of the offer of the land so another school could be built. Mayor Wells said that the Superintendent told her that the County does not have the money to build another school.

Mayor Wells said at one time the Commission tried to interest Mr. Maszera into converting his development into a Senior Citizen development. Mr. Maszera didn't want to do that. People look at the school district first when they are house hunting. The children in this new development will not be able to attend Delmar Schools. At some point we have to help ourselves and our neighbors.

Mayor Wells said that in her opinion previous administrations were not looking towards the future, they were just looking at the tax dollars. Deputy Mayor Unsell suggested the Town have some sort of long term planning.

Adjournment into Executive Session

Deputy Mayor Unsell made a motion to go into Executive Session which was seconded by Commissioner Scholl. The motion passed with 4 ayes and 1 absent.

Those present in the Executive Session were Mayor Karen Wells, Deputy Mayor Lloyd Unsell, Commissioners Donald Scholl and Chris Morgan and Town Manager Sara Bynum-King. Absent was Commissioner Torlondo Tucker. The purpose of the Executive Session was for the Maryland Commissioners to discuss a proposal from A&K Properties, LLC to purchase a parcel of property located at 11 E. East Street, Delmar, Maryland. A motion was made and seconded to return to regular session by Deputy Mayor Unsell and Commissioner Scholl. A motion was made and seconded by Commissioner Morgan and Commissioner Scholl for the Town Manager to proceed with the necessary process to secure the parcel at 11 E. East Street, Delmar, Maryland. The motion passed with 4 ayes and Commissioner Tucker absent.

Submitted by:

Cindy Fisher
Clerk of Council