

**Utility Commission**  
**August 6, 2018**

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, Town Manager Bynum-King and Clerk of Council Fisher. Absent: Deputy Mayor Unsell. Guests: Matthew Leimbach and Bob Palmer.

**Approval of Minutes**

Commission Member Dickerson made a motion to approve the July, 2018 minutes as circulated. Council Member Smith seconded the motion passed with 3 ayes, 1 absent and Vice Mayor Pase abstaining due to her absence last month.

**Unfinished Business**

Update- Grove St. Water Main Project

Town Manager Bynum-King stated that the Town has received the permit from DelDot to be able to jack and bore under Bi-State Blvd. The project has been advertised in the local paper for bids and a pre-bid meeting is scheduled for August 15, 2018 at 10:00 a.m. The deadline for the submission of bids is August 29, 2018 at 2:00 p.m.

In June, Mayor Houlihan appeared before the Utility Commission asking for a re-allocation of \$125,000 for the water and sewer main project along Stage Road to the Highway Regional Zoning District on Rt. 13 North. She said that they, Mayor Houlihan and herself, have been working with Senator Richardson and Representative Dukes in securing funds for the infrastructure project along Stage Road North. The Town has received a letter from the State of Delaware in which they are contributing grant financial assistance in the amount of \$205,000. Town Manager Bynum-King said that she, Mayor Houlihan and Representative Dukes met with Sussex County on July 31<sup>st</sup> and made an appeal to them to partner with the Town and State on this project. By unanimous vote, the County agreed to match the \$125,000 contribution from the Town toward the project construction costs. The partnership between the Town, County and State is a major accomplishment. The Town appreciates everything that is being done to assist in this project.

**New Business**

Baron Emery- Delmarva Central R.R. - Water and Sewer Service

Town Manager Bynum-King said that she is not sure if Mr. Emery had planned on attending this evening. He sent her the request via email. The Railroad currently has an office on Pennsylvania Avenue. Mr. Emery asked if the Town would allow the railroad to install a mobile office on the south end of Foskey Lane and Pennsylvania Avenue and serve it water and sewer. The property is located outside of the Town's limits. He would first have to contact the County to inquire about well and septic as well as their zoning for that parcel. She further said that she wasn't sure even if the Utility Commission agreed to serve the parcel, there are still questions about main capacity that needs to be addressed. There is water and sewer currently servicing the Mason Dixon Parks, not sure which way the main is running. Town Manager Bynum-King stated that she has not heard back from Mr. Emery. She said that if the Utility Commission was agreeable, the Maryland Mayor and Commissioners may have to address some concerns from the residents

in the Wood Creek community for allowing a mobile office that could potentially impact property values, to be served utilities. There does not seem to be a lot of information to work with, she believed Mr. Emery was seeking potential options.

Vice Mayor Pase suggested that the Utility Commission wait for Mr. Emery to come to them with a complete proposal with a site plan on where they would be putting the mobile office.

Matthew Leimbach- Waiver of Impact fees for 2 N. Pennsylvania Avenue, Delmar, DE

Mr. Leimbach introduced himself as the possible developer for the ugliest property in Delmar, located across the street at 2 N. Pennsylvania Avenue, Delmar, DE. They already have preliminary approval from the Town. It is his wish to restore the building back to the way it was with residential on the top 2 levels and commercial on the bottom level.

The building currently has 3 EDU's and they will need 7 EDU's. He said in order to restore the property it should already have what is needed to be the same as before. He did state that the due diligence period with the bank expires on Wednesday, August 8<sup>th</sup>.

Mr. Bob Palmer introduced himself as an engineer with Beacon Engineering. He has represented Mr. Leimbach at the Planning and Zoning meeting and the meeting of the Delmar, Delaware Board of Adjustments. They have seen an unprecedented outpouring of hope for this project.

Mr. Palmer stated that he did a lot of research in preparation for the Delmar, Delaware Board of Adjustments meeting. The building was actually built in 1868, which pre-dates the Town's water and sewer system. There will be 12 small apartments on the 2<sup>nd</sup> and 3<sup>rd</sup> floors with probably 2 or maybe 3 commercial shops on the 1<sup>st</sup> floor. On the site plan they indicated 4 businesses since there are 4 doors entering the 1<sup>st</sup> floor. During the pre-development meeting with the Town Manager and Community Development Coordinator, the EDU's were reviewed by the Town Engineer and Mr. Josh Taylor thought that 7 EDU's would be sufficient.

Town Manager Bynum-King said that 3 EDU's were assigned to the property when the Town started to assess EDU's for the water and sewer system. Mr. Palmer stated that he understood why capacity wasn't tied up with a vacant building. When the water system was established, the property owners paid along the way through their user rates. Town Manager Bynum-King stated the impact fees are collected for future impact and expansion on the system.

Mr. Palmer stated that Mr. Leimbach is asking for the waiving of the impact fees for those additional 4 EDU's. Mr. Leimbach wants to move forward with the property and his budget is very tight. He said that \$44,000 would go a long way in restoring the building. He was surprised that there was only 3 EDU's allocated to the property.

Town Manager Bynum-King said that when the Avenue Building was restored and converted into combination of commercial and residential units, they had to pay for their EDU's without a discounted fee. They did have to pay for the impact fees for the EDU's above and beyond the two that they were assigned. Mr. Leimbach said the comparison of the two buildings is not the same. The building he is interested in previously and still has the set-up for commercial on the first floor and apartments on floors 2 and 3. He further said the Avenue Building was converted

into the first floor commercial and floors 2 and 3 for apartments. Town Manager Bynum-King agreed that was true, however the Utility Commission needed to be mindful that there are other buildings downtown that have commercial on the first floor and apartments on the second and third floors that may seek the same consideration. Mr. Leimbach said that he is ready to proceed with the project if it is cost effective. Any consideration would be helpful. The Town Manager said that normally the impact fees are paid up front but the Town could collect them at the time of the issuance of the CO.

When asked what other historic buildings Mr. Leimbach has worked on, he responded that he is currently working on one in Selbyville. They are literally gutting out the building. Also in Willards. It was an illegal duplex and made it into a legal duplex. Something large like this, he would not be able to micro-manage. He said that he has spoken with Chris Walter about being the general manager since he is knowledgeable of people and what the Town expects.

When Commission Member Dewald asked about how much he would be investing in the project, Mr. Leimbach responded that it would be between \$750,000 and \$1 Million. The payment of impact fees was not on his radar. He fell in love with the building right away. It is an eye sore and he sees a lot of potential. He will have to make his final decision on Wednesday.

Commission Member Dickerson said that he thinks that Mr. Leimbach should have to pay for the additional EDU's, the same as the Avenue Building. Council Member Smith said that they would be setting a precedent. The Town definitely would like something done with the building and he knows that an extremely large amount of work needs to be done.

The Town Manager informed the Commission that the cost of an EDU is \$11,000 so 4 EDU's would be \$44,000. Town Manager said that she did explain to Mr. Leimbach that this is the first time the Commission is hearing this request and there is a possibility that they won't be able to make a decision this evening.

There was some discussion on parking but Commission Member Dickerson said that the parking issue would be something the Mayor and Council will decide, not the Utility Commission. We need to expect the same from Mr. Leimbach as we did for the developer of the Avenue Building. If not, every other developer would come before the Commission and complain about special treatment.

Mr. Leimbach said that the Avenue Building is something that wasn't there before. He is asking for a relief of the EDU's for the residential units that are already there. They have been out of use for some time, but he wants to put them back in use. Commission Member Dickerson said that he doesn't remember anyone living in any of the apartments. He knows that there have been 3 businesses there that he remembers; a grocery store, liquor store and a jewelry store.

Vice Mayor Pase said that they would be running into problems if they reduced the impact fees. Council Member Smith said that we set a standard with the Avenue Building.

When Commission Member Dewald asked Mr. Leimbach if the Utility Commission were to table this discussion, how would this impact his decision? Mr. Leimbach responded that he probably would not move forward on the project.

Mr. Leimbach asked if any other developer has come and asked for a reduction of fees for EDU's. Town Manager Bynum-King said that the Commission has granted reduction in the impact fees. In times past, making the decision to reduce the impact fees was to help the developer move their projects forward, in most cases it really didn't make a difference; the construction remained dormant. The budget for this year has already been established. The fiscal year is from July 1, 2018 through June 30, 2019 and the rates have already been set. Mr. Leimbach said that the project would take about 10-13 months of construction. Town Manager said that maybe a rate reduction is something the Commission would be willing to consider for the next budget cycle.

Commission Member Dewald asked Mr. Leimbach that if the Utility Commission considered some type of reduction, would he consider continuing with the construction. Mr. Leimbach asked what type of consideration she was talking about. She said that the Utility Commission has never waived the EDU impact fee. They have cut some deals and lowered the fees. They have been lowered to as much as \$8,000. Mr. Leimbach said that with such a large project there are always cost over-runs and \$44,000 is a big deal to encompass along with everything else. Commission Member Dewald said that she would be willing to give some type of reduction on all 4 EDU's. She said that she would not go to 50% but she would want to do something.

Vice Mayor Pase said that she would like to take into consideration that the Utility Commission have had times where we collected the fees at the time of the issuance of the CO.

Mr. Leimbach asked the Utility Commission members to consider the building being done, the tax base going up, water and sewer payments being made every month and traffic in the downtown area. Maybe because of the issuance of impact fees, the property has remained vacant. He said that this is a prime historic property.

Town Manager Bynum-King said that whatever decision is made tonight, it has to go through a vote. She said that she misspoke when she spoke on how it would impact the budget. It will not impact the budget this year because the Town did not anticipate development on this building. This is a new proposal for this building that came in after the budget process.

Commission Member Dickerson made a motion to deny the request of Mr. Leimbach for the waiver of \$44,000, the impact fees for 4 additional EDU's for 2 N. Pennsylvania Avenue, Delmar, DE. Council Member Smith seconded the motion which passed with 3 ayes and 1 nay and 1 absent.

### **Town Manager's Report**

Town Manager Bynum-King said that on Wednesday, August 15<sup>th</sup>, she, Town Engineer Jason Loar, Public Works Director Reid and Waste Water Superintendent Hardy will be meeting with the MDE in Baltimore to discuss the Consent Order the Town has to obtain from the State for major maintenance that is needed on the wastewater treatment plant. In the budget process, it

was discussed that the aeration tanks needed to be cleaned. At the meeting they plan on discussing other maintenance issues with the plant. She said that it is the intent to obtain the Consent Order for the four major items to be repaired over a period of time, so in this way the Town will not have to submit a request for each individual item that needs to be repaired. Obtaining a Consent Order from the State can take months and that is why we are starting the process now.

### **Adjournment**

Upon hearing no public comments, Council Member Smith made a motion for adjournment which was seconded by Commission Member Dewald. The motion passed with 4 ayes and 1 absent.

Cindy Fisher  
Clerk of Council