

MAYOR & COMMISSIONERS

August 13, 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 Tucker, Town Manager Bynum-King, Town Attorney Benson, Police Chief Barkley, Fire Chief Johnson and Clerk of Council Fisher. Guests: Nilesh Patel

Call to Order

The Maryland Mayor and Commissioners performed the Pledge of Allegiance.

Mayor Wells thanked everyone for coming to the meeting. She said that we are having some difficulties in the recording so she is speaking loudly and is not yelling at anybody.

Approval of Minutes

Commissioner Scholl made a motion to approve the July, 2018 minutes as circulated. Commissioner Tucker seconded the motion which passed with 4 ayes and 0 absent.

Unfinished Business

Town Manager Bynum-King reported on the annexation of the Delmar Assisted Living Facility. It is a long process, the Town had to make some corrections to the Comprehensive Plan and those changes have to be sent to the Maryland State Clearing House and Wicomico County for review and approval. Tracey Gordy, Director for the Eastern Shore Region of the Maryland Planning Department has been working with the Town and is helping expedite the process which normally takes 60 days.

She also spoke of the Safe Route to School Project. The State is granting a time extension, to complete the project, until May 31, 2019. The project consists of the reconstruction of 2200 linear feet of sidewalk and curbing to meet the ADA requirements. The project extends from State Street to Second Street, which is the route the kids walk to school. The project has been extended a few times over the years. Although this project was funded with a grant, the process has been long and drawn out by the policies as set by the State and from the Federal Government agencies.

Mayor Wells said that the State and Federal Governments are holding the Town to meet certain requirements and the Town still had to ask for an extension. The Town Manager said that there is a lot involved in the process of receiving this grant. It has taken a long time getting to this point.

New Business

Nilesh Patel- Storm-water concerns at Bridgewood Estates

Mr. Patel said that he brought quite a few residents from Bridgewood Estates with him to the meeting this evening. He said that the water doesn't drain properly in his development. He stated that the correct size pipe was not put in the property so it could drain correctly. He stated that he wants the Town to do something about it. He identified his Lot as # 23. His property is located around the perimeter of the development.

Deputy Mayor Unsell said that usually Delmar gets around 3.8 inches of rain per year but this year we got 11 inches of rain. The property is fenced and it appears he fence makes it hard for that much water to drain. The pictures provided shows the water lodged against the fence

Another homeowner in Bridgewood Estates stood and identified himself as being the owner of Lot 21. He said that Lots 13, 14 and 15 should be draining from Lot 19 but it doesn't. He said Lot 19 should drain out to Lot 67. He said that his property has the same problem. This has been an issue for the past couple of years, probably since 2013.

Deputy Mayor Unsell said that if the water was coming up to his house, he would be concerned. But with all the rain that the area has experienced and the rain water is building up by the fence in the back yard he is not concerned.

Mr. Patel said that the ditches were designed for the water to drain through Stage Road. The ditch in the back of Lot 67 is full and is blocking the water flow. It is getting backed up from Stage Road. The water stays standing for 3-4 days and is a breeding ground for mosquitoes.

Town Manager Bynum-King said that there is a piping system through the property designed by the engineers of the development. At the time Bridgewood was developed, all storm-water management review and approvals were handled by the County and not the Town. During this time, the County reviewed and approved all storm water plans for the municipalities in Wicomico. The ditches on Foskey Lane and Stage Road are Town maintained. She wasn't sure who was responsible for maintaining the forest conservation area on the south side of the development, though perhaps it was the property owners.

Town Attorney Benson stated that the County required a forest conservation area. The County was the entity that approved the drainage and pipes design. At the time, the County had the sole approval process.

Commissioner Scholl asked Town Attorney Benson that since the Town signed off on the plans, does this make the Town liable for any warranties or inadequacies in the pipes and drainage. Town Attorney Benson stated no.

Mr. Patel asked if the Town is responsible for cleaning the ditches. He said on the south side, connected to Stage Road, if cleaned most of the problem would be solved. There is a drain behind the fence on Lot 23. Water is flowing from Lots, 14, 15, 19 and 20 all the way to Lot 67. He stated that the ditch in the back is full of debris. Nothing has been done as far as cleaning the ditch and it is filling up with water which has nowhere to go.

Mayor Wells asked that if the blocked ditch is in the development then why isn't the HOA responsible for cleaning it. Town Attorney Benson stated that the HOA owns the ditch and the residents pay HOA fees and the fees are for the maintenance of the development. Town Attorney Benson said that if the ditch is on the developments property then it is the responsibility of the HOA.

Town Attorney Benson said that drainage is a general problem throughout Wicomico County. The problem in Bridgewood is not unique. The swales in the storm water plans are designed to move water away from the houses. If the Town's engineers reviewed this, the ditch part of the storm water plan is part of the subdivision then it is part of the HOA responsibility. The same as cleaning out the storm water retention pond on the property is the HOA responsibility.

Town Attorney Benson said that either the Town's engineers or a Public Works staff member needs to see where the blockage is and what is causing the water to stop flowing. If the problem is the result of ditches outside the subdivision, it would then have to be determined if the ditch is on Town's property or that of the County. He said repeated examples of these 100 Year Storms that we have had in the past 2 years has caused havoc on property. The County is going through the same deal and they are making the property owners clean out their own ditches at

the owners' expense.

The County approved the storm water plan provided by the developer. The problem needs to be identified and determine where it is and why it is happening.

Town Manager Bynum-King said that the Town's engineer did offer an assessment of what he thought the problem was at no cost and she relayed that information to Mr. Patel but he has not replied to that email. Mr. Patel stated that he did not remember receiving that email and asked her to email it again. He also said that he would make someone available to be there anytime the engineer can come out to Bridgewood Estates. Town Manager Bynum-King said that once the engineer determines what the problem is, the question remains on how it gets fixed and who should be paying for that fix. If the problem is outside the Town's limits and in the County, then the Town cannot go onto County property and fix anything.

Mayor Wells said that if this matter is something that can be fixed, it should be resolved and not have to wait until next month's meeting.

Student Advisory Report

Mayor Wells said that it is not surprising that there is no one to give a report since the kids are out of school. She estimated that it wouldn't be until October before there is a Student Advisory Report.

Police Chief's Report

Police Chief Barkley reported that there was a suicide this month. A young man was dealing with substance abuse and depression issues. The Town also experienced one overdose death. Both were Town residents.

The Town is experiencing thefts from vehicles, which is not just happening in Delmar. The thieves are taking advantage of unlocked vehicles. Several were reported last night. A sexual assault has been reported which was more of a date rape situation. The attacker was known to the victim. The investigation is still ongoing.

Blue Light Night was a success. Chief stated that he was very happy with the turnout. They are now preparing for Heritage Day. The Delmar Police Department will be hosting a golf tournament on September 29th at Mulligans. They have already scheduled next year's tournament. They have close to 30 teams for this year's fundraiser. The proceeds are used to support their other community efforts.

Chief Barkley said that he met with State representatives from the Special Olympics today. He informed the Commission that the Town of Delmar Police Department raised more money for the Special Olympics than any other municipality. They raised \$11,000 for the Special Olympics. The Delmar Police Department has been asked to attend one of the Special Olympics fundraising meetings to share with other municipalities how they raised so much money; which they basically did by doing a door to door campaign.

Chief said that a transformer blew today and caused power outages throughout the Town. The traffic lights at Rt. 13 and Rt. 54 were not working. The Department received over 30 calls in 7 minutes about the power being out.

Deputy Mayor Unsell said that some towns have mixers with their police departments such as "Coffee with a Cop". He asked if Delmar does anything like that. Chief responded that yes they do. In October they host "Coffee and Doughnuts with a Cop" right at the Police Station. They usually put out that information on social media. They also do "Cookies with a Cop" at the Delmar Library.

Parks and Recreation Report

Mayor Wells reviewed the report that was included in the mail packets. The Parks and Rec. Council is having regular monthly meetings. Town Manager Bynum-King said that they are interested in having a movie night in August. She spoke with Amanda Taylor, the Town's liaison to the Parks and Rec. Council, and asked that they concentrate more of the organization as a whole and then come up with an itinerary on a calendar for next year. There will not be a movie night in August. They want to focus on the Community Garden for the first of next year; seeing what materials they will need. They will be using planters, so the plants can be moved. They have some really great ideas, it's all a matter of starting the planning process.

Code Enforcement Officers Report

Mayor Wells reviewed the report that was included in the mail packets. Town Manager Bynum-King said that the Code Enforcement Officer has been moving inoperable vehicles out of town. We had removed 4 abandoned vehicles from one property. The owner paid to get them back and has sold some of them. The Town has been trying to work with the residents for a long time but it is now time to start getting the properties cleaned up.

Town Manager Bynum-King said that the next phase of the Code Enforcement Officer's training will be rental inspections. While rental inspections will be done every year, the complexes and developments with more than 7 units will be inspected in the even years and those single family rentals along with buildings with under 7 units will be inspected in the odd years. The rental fees are due annually. The inspections will take place during the months of September, October and November.

Fire Department Report

Chief Johnson said that the transformer that blew that caused the power outage was just outside the fire station. When he called DP&L, they did not know where Delmar, DE was located. He said the insulator was busted and laying on the ground and the wire was hot, laying on the cold wet area. It would have been a bigger issue had it been left and not reported. He said probably due to the power outages, they received 9 calls just today.

Chief Johnson spoke of the fire siren going off. He said that Sussex County will blow the ambulance siren on the 3rd call.

He asked the Town Manager if it would be possible to come up with some kind of form that the fire department could communicate with Code Enforcement. He said on W. Elizabeth Street and on Pine Street there seems to be individuals who want to light bon fires late at night. The individual on Pine Street states that he's cleaning up his yard and lights a bon fire to burn the lawn debris.

Chief Johnson said that they are still in the running for the grant to receive the new mandated smoke detectors. He asked if the Town could require landlords to have the new smoke detectors in their rental units. He said that the batteries cannot be removed from the new smoke detectors. Town Manager Bynum-King said that she would have to look at the International Housing Code of 2015 and see what they mandate, but she did say that checking the detectors is part of the rental inspection process.

Chief Johnson said that right now it is mandated in Maryland but not in Delaware. He suggested that people take a marker and put a date on the outside. They are good for 10 years.

Utility Commission Report

Town Manager Bynum-King reported that as an update to the Grove Street Water Main Project; it has been advertised for bids. The pre-bid meeting will be held on Wednesday, August 15th at 10 a.m., here at Town Hall. The opening of the sealed bids will take place on Wednesday, August 29th at 2 p.m. at Delmar Town Hall.

She also gave an update on the funding reallocation requested by Mayor Houlihan from the Utility Commission to assist in the water and sewer main project along Stage Road to the Highway Regional Zoning on Rt. 13 North. The State of Delaware did contribute \$205,000 towards the project and Sussex County did match the \$125,000 that the Town was contributing. This is a great opportunity to partner with the State and County.

She informed the Commission that on Wednesday, August 15th, she will be traveling to Baltimore with the Director of Public Works, the Superintendent of the Waste Water Treatment Plant and Town Engineer Jason Loar for a meeting with MDE. The Town has submitted a letter for a Consent Order for major maintenance that needs to be done at the Waste Water Treatment Plant. The MDE suggested that the Town have a sit down meeting with them to discuss the major projects that we need done and the process does take some time. While at the meeting, they will also discuss some instances where the Plant has exceeded our permit. The Town has taken some measures to improve some of the issues.

The potential developer for 2 N. Pennsylvania Avenue, Mr. Liembach, came before the Utility Commission requesting a waiver of the impact fees for the restoration of the building across the street. The Utility Commission did not agree to waive the fees, they may consider a reduction of the fees for the budget next year.

Mayor Wells spoke about the leak that was on 2nd Street. She has been speaking with someone that informed her the Town was made aware of this situation a few months ago. The Town Manager said that there have been a number of sink holes throughout the Town. She said that the one on 2nd Street was not just a hole but was washed out underneath. We were able to get it repaired. There are a lot of areas where we have dips in the road. Some of it is being caused by the storm drains and some is where a water main is leaking. She said that water ponding on a road, on a dry day, is an indicator. Our intent is that when we have information that services are affected or there will be a road closure, to make the residents aware up to 48-72 hours before time. The Town Manager said that sometimes, the Town does not know how deep the problem is until they start investigating. This is what happened today, we had a break in the main and had to call on an outside service.

Town Manager Bynum-King reported that the Town was contacted by the railroad asking if they could connect to the Town's water and sewer. They want to put a mobile office on their property located on the south side of Foskey Lane. No one from the railroad attended the meeting but it was addressed. The Town Manager said that we would also need to have input from the Mayor and Commissioners. The property is actually located in the County. We are not sure what the zoning is for that property and if it would be allowed. The Utility Commission did not do anything with this request. It was decided that they would have to start with the County to see if they could put a mobile trailer on the property. The Town does have water and sewer that we service Mason Dixon Park but she is not sure of anything else above and beyond what is already there could be served there.

Public Works Report

Commissioner Tucker reviewed the report that was included within the mail packets.

Town Manager Bynum-King said that the Town does have 2 Public Works employees that have achieved their certification in water and sewer licensing; Sophia Oberton and Bob Conaway.

Planning & Zoning Report

Commissioner Scholl had nothing to report since there were no Maryland items voted on at the Planning and Zoning Commission meeting.

Town Manager Report

Town Manager Bynum-King said that there has been damage done to the roadway on Connelly Mill Road, which was caused by farm equipment. The damage is quite extensive and seems to have been caused by a farm disc which dug into the street and tore it up. The Town has exhausted all their means to try and identify who caused the damage. The road will have to be milled up and overlaid again. We have no way of stopping it from happening again.

Heritage Day is September 15th between the hours of 9 am and 4 pm. This year the event will kick off with the Delmar Elementary School Color Run.

The final audit will be conducted at Town Hall starting September 10th.

Town Manager Bynum-King said she received an email from the Laurel Starr Publication asking if the Town wanted to participate in purchasing an ad in the Fall Starr. In the past we have done a quarter page ad. The cost for a whole page is \$395, for a half page the cost is \$275, for ¼ page the cost is \$155 and for a 1/8 of a page the cost is \$75. She said that whatever the Commission does decide to do, they would be splitting the cost with the Delaware Council. Mayor Wells said that she would like to do something and asked the Town Manager to speak with Mayor Houlihan to see what he is willing to do and whatever they decide, Maryland will split the cost.

Commission Comments

Commissioner Scholl said that he is ready for the kids to go back to school.

Deputy Mayor Unsell reminded the Commission that the Fall MML Conference will be held from October 10th through the 12th.

Town Attorney Benson spoke in reference to the annexation of the Delmar Assisted Living Facility. At the annexation Public Hearing that was held, the Commission decided not to cast a vote. The Town has to go before the Wicomico County Planning Council to approve the change in zoning. He is asking if the Commission would want to adopt the annexation before or after the meeting with the County. Right now, they can adopt the annexation but they cannot change the zoning until after the County gives the approval and zoning change. Traditionally the Town has chosen to wait, as a courtesy to the County, until after their decision. The possibility is that the Commission could vote to annex in September, but the Town would not be able to get on the County's agenda in September until after the date of the Delmar Maryland Mayors and Commissioners meeting.

Town Attorney Benson said that the petitioner is eager to get started. Town Manager Bynum-King said that originally the septic was failing, the sewer mains have been installed and ready for connection, however now the developer is anxious to get this property annexed because he has a waiting list and really needs to start their expansion project. She said that after the annexation is finalized, they will need to request a special exception for the expansion project.

Town Attorney Benson said that if the Town does get the approval for the zoning change from the County, the adoption for the annexation won't take place until the October meeting. No public hearing is required. Town Manager Bynum-King said that the petitioner is aware of the length of the process. It was a little bit more involved than most of our annexations. The Town had to amend the Sewer Plan and the Comp Plan.

Town Attorney Benson asked the Town Manager to please remind the petitioner to attend the County meeting. He wants the County Council to have to have someone to look at, at the proceedings. Town Attorney Benson

stated that it is just he and the petitioner who attends these County meetings. Mayor Wells stated that she would be able to attend as well. Attorney Benson said that if the Mayor and the applicant is there, it may carry more weight. He said that the Council usually meets on the 3rd week of September.

Adjournment

Upon hearing no public comments, Commissioner Scholl made a motion for adjournment which was seconded by Commissioner Tucker. The motion passed with 4 ayes and 0 absent.

Submitted by:

Cindy Fisher
Clerk of Council