

MAYOR & COMMISSIONERS

October 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 Tucker, Town Manager Bynum-King, Delmar Police Chief Barkley, Town Attorney Benson and Clerk of Council Fisher. Guests: Brian Tunnell, Noah Hale, Kalpesh Patel and Doug Marshall

Call to Order

Mayor Wells called the meeting to order. The Maryland Mayor and Commissioners performed the Pledge of Allegiance.

Mayors Comments

Mayor Wells said that the Homecoming Parade is this Saturday and asked the Commissioners who would be attending the parade. Deputy Mayor Unsell and Mayor Wells are the only ones who are able to attend.

Approval of Minutes

Commissioner Scholl made a motion to approve the September, 2018 minutes as circulated. Deputy Mayor Unsell seconded the motion which passed with 3 ayes and Commissioner Tucker abstaining due to his absence last month.

Unfinished Business

Delmar Assisted Living- Annexation Update

Town Manager Bynum-King said that she has received a letter from the Maryland Clearing House indicating that they had some concerns and made some recommendations. She also spoke with Jack Lennox with the Wicomico County Planning and Zoning Commission and he expressed some of the same concerns. The Town would be including 88 acres in the proposed growth area and the Assisted Living property is only 5 acres. It would be separate from the Town boundaries by 83 acres. The Town is working with KCI on some of the concerns expressed and the reports are being forwarded to Josh Taylor of the Town's engineering firm, DB&F. The information from the planner and engineer is also being provided to the Town Attorney. The Maryland Clearing House is concerned that the Town is proposing to incorporate too much land which is not contiguous to the Town's boundaries and the future land use is not consistent with what is currently existing. The Town Manager said that the Town was looking at the bigger picture for our future growth of which some amendments have been made.

Town Attorney Benson said that this process started with Wicomico County asking the developer to approach the Town to annex the property. Now, the County is saying that they have issues. The Town Manager said that she has asked Jack Lennox to put in writing what his concerns were. Mr. Lennox informed her that he would be finished with the draft and get it to the Town this week. Town Attorney Benson said that the Town cannot proceed with the annexation with Mr. Booth until the Town is clear on what they can do. He said that the applicant and the Town do have an agreement for annexation.

New Business

Parks and Recreation Council By-Laws- Approval

The Town Manager highlighted some of the changes that have been made to the By-Laws. The major change in the

By-Laws is the financial component. It is now handled by the Supervisor of Finance. Any money that is brought in for an event is collected by the Treasurer and then turned over to the Supervisor of Finance. The Supervisor of Finance will pay all invoices, reconcile bank statements and be accountable through the annual audit. The Delaware Council approved the By-Laws contingent on Maryland's approval.

Commissioner Scholl made a motion to approve the Parks and Recreation Council By-Laws as submitted. Deputy Mayor Unsell seconded the motion which passed with 4 ayes and 0 absent.

Halloween Resolution

Mayor Wells read the 2018 Halloween Resolution that designates Wednesday, October 31, 2018 from 6:00 p.m. to 8:00 p.m. as the hours for Trick-or-Treat for children 12 years and younger. Deputy Mayor Unsell made a motion to approve the 2018 Halloween Resolution which was seconded by Commissioner Tucker. The motion passed with 4 ayes and 0 absent.

Proclamation- November is Municipal Government Works Month

Mayor Wells read the Proclamation declaring November as Municipal Government Works Month.

Student Advisory Report

Noah Hale from Delmar High School reported that the school is in the process of looking for a Maryland Student Advisor. He reported an issue that is becoming a problem at the High School; that of e-cigarettes. He said that the brand, "Juil" has gained popularity. He passed out pictures to the Elected Officials and said that it looks like a flash drive. He has seen them being used by students right in the classroom, hallways and bathrooms and right in front of the teachers. It happens a lot in the mornings in front of the school and in the back where the buses drop off the students for school.

He said the price for a starter pack is \$50.00 and each "pod" is about a pack of cigarettes worth of nicotine.

The Suorin Drop is another e-cigarette that is gaining popularity in school. There are videos to show how you can smoke these in classrooms. A lot of football players do these. The flavors in the pods take away from the nicotine smell. The smell is a faint whiff of something sweet which may be passed off as cologne, perfume or candy. Not a lot of research has been done and none of them are government regulated.

When asked about the No Smoking Policy on School Grounds, Noah replied that he is not aware that the No Smoking Policy applies to e-cigarettes. Mayor Wells said that it should be looked into and if not worded in the existing policy, then a change needs to be made and there also be a punishment. The teachers and administrators need to be made aware of the situation.

Noah also said that the high schoolers are selling them to the middle school students. He said that it is a hard issue to tackle. He said that there is no surveillance or supervision especially in the bathrooms. It was suggested that maybe the school station someone outside of the bathrooms and monitor the smells of the students coming out of them. He said that the vapor disappears quickly. He said that there are also pods that have THC in them.

Commissioner Tucker suggested that Noah should first go to the principal and do the same presentation he has done here this evening. Mayor Wells suggested the same thing and that the school needs a policy to include this as well as a punishment.

Everyone thanked Noah on such a great presentation.

Police Chief's Report

Chief Barkley said that he watched a news broadcast on the same product sometime this week. He said that the way these things are marketed, the manufacturers know that the youths want to indulge. He said that he is passing this information on to the Resource Officer in the school.

Officer Novack has returned from light duty and as of September 27th, has been at the school. Cpl. Heacock is out on light duty. He has had all of his surgeries and in physical therapy and his return date to full status is unknown at this time.

The Police Department in September participated in 2 DUI checkpoints; one in Maryland and one in Delaware. There are some more DUI checkpoints lined up in the coming months.

Chief Barkley reported that the K-9 vehicle is finally completed. The vehicle was ordered in December of 2017. The golf tournament was a great success and everyone seemed to have a wonderful time.

They are now preparing for the Homecoming Parade this weekend and then for Halloween. There will be extra patrols at Halloween and there will be patrols at the high school for their event. He did say that they are an officer short.

When asked about the situation with students being dropped off at the elementary school and the issues that it causes, Chief Barkley responded that he has spoken with some of the parents and no one knows a solution. The Sheriff's Department did have Officers there for a while. Parents cannot just park on the street in front of the school and get out and walk their student to the front door. It blocks and holds up traffic. He said that he is not sure if the Sheriff's Department has issued any citations.

Mayor Wells said that there is a work truck parked on the sidewalk on Walnut Street. She stated that she is concerned about the new sidewalk and she will send an email to Chief with the particulars of the address. Town Manager Bynum-King said that the Town will send a letter making it clear that the sidewalks need to remain clear of obstacles.

Parks and Recreation Report

Noah Hale spoke about the possible events for October that the Parks and Rec. Council has discussed. They suggested a jack-o-lantern carving contest. He could contact several farms that would be willing to donate pumpkins for the event. The Council visited the old police department property for the site of the proposed community garden. The Council is thinking about the garden being 3 cinder blocks high and are pricing supplies. They are also looking for donations from suppliers. Noah said that there are a lot of companies who are willing to donate to such a cause as the community garden.

Town Manager Bynum-King said that the community garden would be on the south side of the building facing the ball field. Mayor Wells said that ideally a "community garden" would be to benefit those who contributed and worked in the garden and not for anyone walking by to clean out the vines of produce. Noah said that Ryan Poe of the Parks and Rec. Council chose the location because it would be visible with the street lights and would be accessible to water.

Town Manager Bynum-King said that she will be attending the next Parks and Recreation meeting on the 30th. She said that lots of events require lots of volunteers and volunteerism is at an all-time low. She wants to assist in

putting a plan of action together and executing it.

There was discussion on having the community garden on the impound lot on the Walnut Street side, and there is a possibility of having parking. Chief said that there are still items in the bay area that needs to be secured.

Code Enforcement Officers Report

Mayor Wells reviewed the report that was included within the mail packets. Town Manager Bynum-King reported that the Town has received a lot of vacant building registrations. The new Code Enforcement Officer is moving aggressively towards properties that are showing no water usage

Fire Department Report

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

Utility Commission Report

Deputy Mayor Unsell reported that not much has changed since the last Utility Commission meeting. There are 3 application for the waste water operators' position. Two of the applicants are licensed and one applicant lives locally and has a CDL.

Town Manager Bynum-King informed the Commission that there have been several deadlines for the applications and since it has been hard to fill the position, the deadline keeps being extended. It has been posted on the Town's social media, as well as the newspaper and on the MML website and Del Tech and Wor Wic Tech websites. It is challenging to find a licensed operator. Right now there are only 2 operators running the plant when there should realistically be 3.

Mayor Wells asked why it is so hard to fill the position and the Town Manager said that she didn't know. The Town has modified the application and relaxed some of the standards and still finding applicants is challenging.

Public Works Report

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

Planning & Zoning Report

Commissioner Scholl reported on the following:

Doug Marshall- new house on Lot 65 in Heron Ponds, Delmar, MD

Mr. Marshall indicated that it would not be a new house build. They will be moving a house on Rt. 13 to the Lot in Heron Ponds. The property where the house is located now has been sold to Aldi's Market and they need to move the house. They settle on the property on November 2nd. There is a major power line in front of the house now and they are thinking that they might have to split the house in half to be able to move it up Rt. 13. He said he received a favorable recommendation from the Planning and Zoning Commission and since it is not new construction, a sprinkler system is not mandated.

Deputy Mayor Unsell made a motion to accept the favorable recommendation from the Planning and Zoning Commission for the relocation of a home to Lot 65 in Heron Ponds, Delmar, MD, per the attached drawings. Commissioner Tucker seconded the motion which passed with 4 ayes and 0 absent.

Mayor Wells asked Mr. Marshall if he wanted to discuss the email she received from him. Mr. Marshall said that the remaining land in Heron Ponds will be sold. They are studying the R-4 code. They are attempting a concept

plan that would not extend the housing project to the back area. Ryan Homes is pushing him to do a cluster development. His preference is to study the R-4 code and making a minute text amendment. It was originally zoned R-2 and then adjustments were made from the Board of Zoning Appeals to rezone it to R-4 in 2011. He is saying that his concept would meet the R-4 requirement under Special Exception. This will be located south of the circle and behind Kylan Barn.

Town Attorney Benson said that the property is located behind Kylan Barn and is zoned R-4 and the current permitted uses are all residential uses. He said that he does not think that even under Special Exception, what Mr. Marshall is proposing is allowed. Mr. Marshall will either need to amend the zoning code to allow the use with what is being proposed. If Mr. Marshall wants to amend the Special Exception uses and the reason for that is not an inherent use he can apply to go before the Board of Zoning Appeals. Under the Board of Zoning Appeals, they Board can impose certain restrictions.

The Town Attorney said he informed Mr. Marshall that if he wanted to pursue this, that he should come before this Commission so they can get a feel for what is being proposed. Mr. Marshall would then make his presentation to the Planning and Zoning Commission and they will consider if they want to make the change in the zoning code to allow the special exception use. If they do, then the Commissioners would make that change. He would then make an application to the board of Zoning Appeals. Currently in the Special Exception for R-4, it allows stores and restaurants in a multi-family residential unit, on the first floor.

Town Attorney Benson said that the advantage to the Town for Mr. Marshall to go before the Board of Zoning Appeals is that the Board will have a public hearing and while it may be allowed it is not a right and they can put some parameters on the project. If Mr. Marshall asks for a change in zoning, he would have to show that there is a mistake in the zoning or some change in the neighborhood and that change would have to come after it was zoned R-4.

Mr. Marshall said that Kylan Barn has a high seating capacity. This proposed project would be smaller and have a restaurant concept that was proposed to be in front of Heron Ponds in the commercial zoning district. It would have a commercial kitchen, which Kylan Barn does not might mandate the facility to have sprinklers. He said the EDU's are the killer.

Town Attorney Benson said that in a zoning change, the Commissioners sit as judge and jury and they can make the decision on what they want to do. Mr. Marshall will have to demonstrate that there is some change in the character of the neighborhood, or they can do it as an amendment to the code.

A change in the zoning code is much faster. The other way would require a public hearing with Planning and Zoning, a meeting with the Mayor and Commissioners, another public hearing before the Board of Zoning Appeals. It could take 4-5 months. Mayor Wells said that with the zoning change option, the Town would not be able to set the hours for operation. Town Attorney Benson said that the Planning and Zoning Commission should make the recommendation on how it should be handled and make that recommendation to the Mayor and Commissioners. He did say that the Kylan Barn and the Amphitheatre could be considered as changes to the neighborhood. Mr. Marshall is going to have to identify the changes in the neighborhood. Mr. Marshall will need to make a presentation and support it with evidence so the Mayor and Commissioners can make a decision.

Mr. Marshall was informed of the deadline date for submittals for the October Planning and Zoning Commission meeting along with the date for the meeting. Town Attorney Benson suggested to Mr. Marshall to use his presentation to the Planning and Zoning Commission as a dry run for the Mayor and Commissioners.

Kalpesh Patel- New home build at 30376 Trestle Place, Delmar, MD

Mr. Patel stated that he purchased the property in December, 2017. He has been before the Planning and Zoning Commission a few times and now has the correct plans for the property. Commissioner Scholl informed the Commission that the house does sit within the setbacks and that the Lot is abnormally shaped. The house will be 2-storied and have 3 bedrooms and 3 bathrooms with a front porch and vinyl siding.

Deputy Mayor Unsell made a motion to approve the favorable recommendation of the Planning and Zoning Commission for the new house build at 30376 Trestle Place, Delmar, MD, per the attached drawings. Commissioner Tucker seconded the motion which passed with 4 ayes and 0 absent.

Town Manager Report

Town Manager Bynum-King reported that she received from Mr. Culver, County Executive, a copy of his letter sent to the Secretary for the Department of Transportation for Wicomico County Priority Transportation Projects. In the letter he identified projects for municipalities that included a study to evaluate the intersection from Connelly Road to Rt. 54 as needing a signal or not in Delmar. The County is also asking that the weigh inspection station located on Rt. 13 be relocated. It has been decided that it is not compatible in their present location. They are encouraging the State to find another location. They are asking for virtual scales. She will provide copies of the letter in everyone's email. The letter was dated August 27, 2018 and she received it this past Friday. They are asking FHA to do a current study.

She also reported that last month, she and Community Development Coordinator Hardin met with Steve Miller from Wicomico County to secure funding for the renovation of the Mason Dixon Sports Complex. Shawn Johnson and Roger Waters were also present and they wanted to see what they could do to get additional fields so they could host tournaments. After the meeting, Steve Miller, Shawn Johnson and Roger Waters did a site visit to the Mason Dixon Park and took measurements to determine if an additional field could be added without taking away from the soccer field. Town Manager did advise the meeting attendees that the Town had an obligation to provide a variety of open space for a variety of outdoor recreation not just softball, therefore the soccer field had to remain on site. At the conclusion of the meeting it was determined that Mr. Miller would report back with some cost estimates for a proposed project.

Town Manager Bynum-King said that she had a second meeting with Mr. Miller, Mr. Poole and CDC Hardin to discuss the options and cost estimates being proposed for the modification to the Mason Dixon Park. Steve Miller presented two options and cost estimates for the Town consideration, both options being funded through Program Open Space. If the project is approved with the temporary fence, the cost would be approximately \$35,000 and the County would provide the in-kind match. If the project is approved with the permanent fence, the cost would be approximately \$50,000 with a \$3,500 cash in-kind contribution. The Town would have to contribute the cash contribution.

The Town Manager said that the meeting for the Mayor and Commissioners in November will be on Tuesday, November 13th since Veterans' Day is celebrated on the Monday and the Administrative Office will be closed. In reference to the audit, the field work was concluded this past Friday.

Commission Comments

Commissioner Scholl thanked Noah Hale for giving such a great presentation and bringing that information to their attention.

Deputy Mayor Unsell informed the Commission that he will be attending E.S.A.M. tomorrow where there will be a presentation on the bay bridge study. He stated that he also will be attending the fall MML.

Public Comments

Resident Brian Tunnell stated that he is a resident of Breckenridge and spoke on the condition of the roads. He said that Connelly Mill Road is unsafe if there is any amount of rainfall. The face of the road is gone from Lynch Drive on. He said that there is a lot of truck traffic on that road which is totally destroying the road. He is asking the Town if they are going to be resurfacing the road anytime soon. He also spoke about road-side trimming of the brush that makes it almost impossible to see around. When asked, Mr. Tunnell stated that he is not aware of anyone cleaning the storm drains in his community.

Town Manager Bynum-King said that part of what the problem is that she had had challenges trying to find some company that we could either hire or rent the equipment to move the overgrowth along the side of the roadway. The Town is making efforts to do the roadway in phases and unfortunately the Town has had a set back because of the farm equipment that damaged the portion of the roadway that was just paved less than two years ago.

Mr. Tunnell stated that he works for State Highway. He did some striping on the road to better enhance the road. The bushes are so that on the corners you cannot see around them and they need cutting back.

Town Manager Bynum-King stated that the snow removal, street sweeping and the maintenance of the storm drains are the responsibility of the Town, but the cleaning of the retention ponds belongs to the HOA. Mr. Tunnell said that he feels his community does not get enough service with the street sweeping or snow removal. Mayor Wells asked if it was that there is no snow removal or is it that the quality of the removal. Mr. Tunnell said it was the quality of the work done.

Mr. Tunnell wanted to express to the Commissioners that his development pays taxes and he feels they are not getting the services for the taxes they pay to the Town. Town Manager Bynum-King said that she would speak with the Public Works Director about the street sweeping because there is a schedule and Breckenridge is on the list of Subdivisions.

The Town Manager said that the Town has received quotes on resurfacing Connelly Mill Road and at that time we would do it in phases, and in an effort to preserve the roadway, we had a contractor come in and put down significant patches over the area where there were potholes. We can get a cost estimate now and the Commissioners can decide what they want to do. .

Adjournment

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