

## MAYOR & COMMISSIONERS

November 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, Delmar Police Chief Barkley, Town Manager Bynum-King, Town Attorney Benson and Clerk of Council Fisher. Guests: Mark Welsh.

### Call to Order

The Maryland Mayor and Commissioners performed the Pledge of Allegiance.

### Mayors Comments

Mayor Wells welcomed everyone.

### Approval of Minutes

Commissioner Scholl made a motion to approve the October, 2018 minutes as circulated. Deputy Mayor Unsell seconded the motion which passed with 4 ayes and 0 absent.

### Unfinished Business

#### Delmar Assisted Living Annexation Update

Town Manager Bynum-King reminded the Commission that at an earlier Maryland meeting a Public Hearing was held on the annexation of the Delmar Assisted Living facility. The Commission, at that time did not vote on the annexation. A Public Hearing, which is required, will be held this Thursday at the Planning and Zoning Commission meeting to amend the 2009 Comprehensive Plan to incorporate a new growth area which includes the additional land from Heron Ponds to the Assisted Living Facility. Following that Hearing and recommendation from the Planning and Zoning Commission, this will be before the Maryland Commission for a vote. The Town will re-advertise for the annexation. Town Attorney Benson explained that the Commission will re-open the Public Hearing to hear the recommendations for the Comprehensive Plan.

Town Manager Bynum-King said that the County has been invited to come to the Public Hearing to voice their comments. We are not on the County's schedule for zoning on the Assisted Living Facility parcels. She also said that the County's issue with the proposed land use in the proposed growth area, aside from that, we need the County to approved the proposed zoning. The County could possibly say no to the zoning request and could hold up the zoning for up to 5 years.

### New Business

#### Mark Welsh- Audit Presentation (Maryland and Utility Commissions)

Mr. Welsh introduced himself as being the lead auditor for the Town of Delmar.

Working from the Mayor and Commissioners Audit, Mr. Welsh reviewed the Independent Auditors Report which gives an unqualified opinion, which is the best opinion you can get.

Mr. Welsh described the Management Discussion Analysis as a financial statement. It is the management writing in their own words the financial overview of what has happened in the Town financially. It is in plain language so

that a constituent could understand without having to have an accounting background.

Mr. Welsh started with the data for Delmar, Maryland. He said that the paperwork he passed out shows the 4 year analysis. He reviewed the analysis as follows:

Cash and Investments: Maryland started in 2015 with a little more than \$2.2 Million and in 2018 has \$3,362,513.

Capital Assets: The numbers went from \$3,395,731 in 2015 and in 2018 are \$3,174,523. He summarized that the numbers have remained steady. The debt is going down and the fixed assets are remaining at the same level.

Change in Net Position- which is total revenues minus expenditures went from \$84,184 in 2015 to \$322,244 in 2018.

The big change came in Net Income- from \$6,485 in 2015 to \$592,859 in 2018.

The Fund Balance is over \$3Million of non-restricted funds.

Mr. Welsh said that all the information is positive.

Moving on to the Utility Commission, Mr. Welsh summarized the following:

The Utility Commission also received an unqualified opinion, which is the best you can receive. He said he presented the same information about the Utility Commission to the Delaware Council last week. He spoke again of the importance of the Management Discussion Analysis and how it is very understandable to the residents of the Town.

He said that there was an operating loss that moved up to \$440,000 with over \$1Million in depreciation and allocation. The Utility Commission, while doing well, does have to replace some equipment and you are providing for that.

Cash and Assets went from \$2,474,037 in 2015 to \$2,931,726 in 2018.

Capital Assets are decreasing over the 4 year analysis and the reason is depreciation. The Utility Commission is not replacing equipment.

The long term debt is declining so it shows that the Commission is paying down the debt.

The Net Position leaves \$15,720,361.

Again, Mr. Welsh said that this is all very positive information.

The Commission thanked Mr. Welsh for his presentation.

### **Student Advisory Report**

There was no one available to give a report and there was not one in the mail packet.

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

Chief Barkley reported that they participated in the Home Coming Parade. On Mischief Night there was no activity. There was one juvenile problem on Halloween that was taken care of.

On Election Day, there were no issues. The County had requested the Police Department to stand at the polls. He did not have his Officers do that. He felt it was not appropriate to have Police in uniforms to stand around the polls.

Chief Barkley said that after last month's meeting where the High School student gave the report for the Student Advisory on e-cigarettes, the SRO was watching the cameras one day after school and saw smoke coming from the kids. One did have a smoking device which was taken from him. The Police contacted the parents and they said that they were not only aware that their child smoked, but they actually bought it for the child. The Police informed

the parents that it is still illegal for a minor to have it in his possession since he is under age.

Mayor Wells said that they look like electronic devices. Chief Barkley said it is a battle with the parents who think it is okay since there is not any nicotine in the e-cigarettes.

### **Parks and Recreation Report**

Mayor Wells reported that the Council met twice last month. Town Manager Bynum-King said that she attended their Oct. 30<sup>th</sup> meeting. She said that she tried to channel their energies in creating plans for next year. She suggested that they get good estimates for their Community Garden by February so it can be presented in the budget workshops. The Town Manager said that not everything can be fully funded by fundraisers, the Town has an obligation to fund. There are some things that they may want community participation with contributions. She wanted to make the Parks and Recreation Council aware that the Town is very interested and supportive of the proposed plans.

### **Code Enforcement Officers Report**

Mayor Wells reviewed the report that was included in the mail packets. Town Manager Bynum-King said that the Town is aggressively doing the rental inspections for the complexes in Town and that the new Code Enforcement Officer is doing well with them.

### **Fire Department Report**

No one was present to give a report and one was not included within the mail packets.

### **Utility Commission Report**

Deputy Mayor Unsell reported that the upgrade for Grove Street is still slated to be re-advertised in December. He said that under New Business, the Town's engineering firm DB&F made a recommendation to accept the pump station at Heron Pond, which the Utility Commission did. He also stated that Doug Marshall was selling out his interest in Heron Ponds to Ryan Homes. A new wastewater operator has been hired and started this past Wednesday. He has a CDL license and lives in Delmar.

He continued by stating the aeration clarifiers have been cleaned on the east side. Also, A.C. Shultes informed the Town that they couldn't do the repairs on 3A well because we could not turn on the back-up well.

Town Manager Bynum-King said she was shocked when she got the phone call. Back in May, she reported to the Commission that Well 2B was on-line. A.C. Shultes needed to get paid for the materials they purchased for the repairs for 3A. They couldn't complete the repairs since DNREC has not released the permit to the Town to place the back-up well on-line. The same individual in DNREC that we had issues with previously is now suggesting that before he issues the permit for the well to be on-line, he wants the Town to do additional testing to ensure there is no PCE contamination. The Town has been cleared through the E.P.A. for the soils are not contaminated. The Town's engineers said that even if there were small traces of PCE, we now have the capacity to treat it. She stated that if the Town engineers cannot resolve the issues, the Town will need to reach out to Representative Dukes for support in finding resolution to the issues.

### **Public Works Report**

Commissioner Tucker reviewed the report that was included in the mail packets. Mayor Wells said that she has heard some complaints about a hole in the street outside of Chestnut Manor. The Town Manager said that Public Works has checked into it and made a temporary repair until outside skilled services can make the repair. She also said that there are several sink holes throughout Town.

## **Planning & Zoning Report**

Commissioner Scholl reported that the Planning and Zoning Commission made a favorable recommendation for the Maszera Concept plan to move forward to the Maryland Board of Zoning Appeals.

## **Town Manager Report**

Town Manager Bynum-King reported that the Cub Scouts and Public Works did wet land planting on Walnut Street. This happened on October 20<sup>th</sup> and there were about 15 scouts participating. She asked the Commissioners about presenting them with a Certificate of Appreciation. This was an excellent opportunity to participate in an event with the Town and learned about wetlands. Public Works Clerk Sophia Oberton coordinated with the Cub Scouts and they worked hard together. The Town Manager said that the plants that were planted in the ditches were very costly. When they were first planted, the Public Works Staff mowed them down, not knowing what they were. We got these plants at a discounted rate. One of our engineers marked where the plants should be planted. Mayor Wells suggested that the Scouts be invited to the December meeting of the Mayor and Commissioners.

The Town Manager said that Frito Lay received their Certificate of Occupancy on October 26<sup>th</sup>.

The Town received notice that we will be receiving some LED lights. Delmarva Power will be replacing 20 street lights on the Maryland side. They will start on State Street and Bi-State and work on all the major streets throughout the Maryland side.

Town Manager Bynum-King informed the Commissioners that the Town did receive notification from the Maryland Department of Natural Resources for Parks and Play that we received \$104,000 for the new field lights for the Mason Dixon Softball Field.

She reported last month that she had a meeting with Chris Poole and Steve Miller in reference to the funding for the small field closest to Foskey Lane. They said that there are some funds available from Program Open Space and they are submitting an application to enlarge the field. They will submit the application to include the temporary fence so it still leaves the soccer field in place. Steve Miller had said if they could secure the funding for the ball field, then they could host tournament games. In 2020, the existing agreement between the Town and the County for the Mason Dixon Park maintenance will expire. Town Manager Bynum-King said that according to Mr. Miller, the Town could opt to amend our existing agreement or to do a new agreement entirely. The Town could also opt not to be a part of the agreement and let the agreement be between the County and Little League. The Town Manager and Mayor Wells expressed concerns on how the other recreation components such as the playground, pavilion, men's field and soccer field would be managed. The discussion was it would not be in the best interest of the Town to give the Little League authority to manage the park. Additionally, the Town has a responsibility to the guidelines that are incorporated in the Town's Comprehensive Plan for open space.

Mayor Wells said that she did not feel comfortable about giving Little League control of all the fields. The Town Manager mentioned that the Commissioners will have an opportunity to revisit this discussion and decide when the County submits the revised or new agreement. She also suggested that the agreement remains between the Town and County.

Town Manager Bynum-King informed the Commissioners of a matter brought to her attention in reference to the Country Hearth Inn and Suites, Delmar Fire Chief Shawn Johnson informed her that upon an EMS response to an emergency call to one of the rooms at the facility, there was an assessment that the room was infested with roaches and bed bugs. Chief told her that after the service run, the responding ambulance was taken out of commission to

be treated due to the infestation. She was informed that there are elderly individuals living there; and older man and his mother. The Town Manager said that after learning of the condition of the unit and the major health and sanitary concerns, she sent a letter to the owner giving him a deadline to address the identified issues. The owner had to provide documentation from a licensed professional stating the hotel was clear and free of roaches and bed bugs or give a professional plan of action to address the infestation.

Upon receipt of the letter, the owner contacted the Town Manager and expressed his desire to have the occupants to vacate his property. He also insisted that there were no extended stay units at the Motel and he had a professional pest control service contract. The Town Manager said in an effort to provide some assistance for the elderly lady, because she learned that her son was in the hospital, she reached out to the Health Dept., Social Services, the Commission on the Aging and Shore-Up MAC, Inc. A representative from the MAC Inc. provided her with the most information. Town Manager Bynum-King provided the information she obtained from MAC, Inc. to the motel owner so he could contact Social Services to submit an application for an emergency petition.

A representative from Taylor Pest Control spoke with the Town Manager and verified that they have a contract with the Country Hearth Inn and Suites to do pest control on a monthly basis. They do 15 units one month and 15 units the next month. They are not treating the one room for bed bugs or roaches because they cannot physically get inside the room because of excessive hoarding. He informed her that it was literally floor to ceiling of stuff and the room cannot be treated. There are 6-7 rooms in the area of this one room that cannot be rented due to the infestation. Everything else is clear except for that one unit and the units next to it.

The Town Manager Bynum-King said that when she spoke with the representative from the MAC Center, they were very familiar with the Country Hearth Inn and suites. They refer people there who need emergency placement. They pay for them to go there for some period of time. The Town Manager said that she was in total disbelief.

The owner of the Inn informed the Town Manager that he was going to contact Social Services in reference to the Emergency Protective Order, He expressed that he wanted the elderly lady and her son out of the unit, but they refuse to leave.

Mayor Wells said that if there is no long term rentals, then what is the problem with them not leaving? The Town Manager said that the unit the elderly lady and her son occupied stays in is an efficiency that has a kitchenette and a living space. Mayor Wells said that she was under the impression that the efficiency was for the caretaker/maintenance person. Town Manager Bynum-King said no, the elderly land and her son are living there. She said that there is a dumpster that had multiple mattresses and recliners inside and around it, the owner was instructed to have them removed and he did have the area cleaned up. He acknowledged that the bed bugs and roaches are the reason for the furniture being around the dumpster.

Mayor Wells said that it doesn't look good. The Town Manager said that other areas have the same situation. People live in motels and hotels as an alternative to living on the streets. She said that the owner told her that he does rent rooms and he lets them stay in one room for the maximum of 4 days and then he moves them to another room and then to another room. He's doing exactly what we asked him not to do.

Mayor Wells said that sending elderly people to places that have roaches and bed bugs and needles in the parking lot is not the way to treat the elderly. Commissioner Scholl said that there should be minimal standards to house the elderly.

Mayor Wells wanted to understand the situation. She said that the owner of the Country Hearth Inn and Suites is trying to get an emergency petition to have her removed. The Mayor said that she feels the Town is stuck with this situation of the extended stay. The owner is doing things that he was told not to do. If he is renting the rooms for a longer period of time, then he should get a landlords license and then the Town can do inspections. She said that there are health department standards but we don't inspect motels or hotels to know.

Town Attorney Benson said that he thought the problem with the zoning did not permit long-term stay. The Town Manager said that when State Line was bought by the Country Hearth Inn and Suites, it was established at that time that there would not be any long term stays. In the minutes, it indicates that the Inn was to be used in the traditional hotel sense and no long term stays.

Mayor Wells said that looking at the past, when there is something in writing then there must also be a way to enforce it. She does not know how we can stop them from the extended stays. Town Attorney Benson said that they need to go back and look at the minutes. In the zoning district that he thinks the motel is in, short term stays are allowed in hotels and motels. Apartments are not permitted in this zoning district.

Town Attorney said that there is a proof problem. That's the problem in any enforcement situation. The Town enacts legislation but does not have the staffing and ability to enforce their own codes. Town Manager Bynum-King thought that she would work with the owner to at least clean up the inside and outside of the establishment. If the Town is continuously on him to keep the property cleaned and required him to provide reports that the motel is being treated, might lead to the cleaning up of the inside of the rooms. She said that she is working one layer at a time.

Town Attorney said that if the property is zoned as Highway Regional, which he thinks it is, he read the definition of motels and hotels. The key word in the definition is "transient". It doesn't mean a month or six months. It is potentially a zoning violation. He said right now the Town has proof that at least one person is "living" there. He does not know how to remove a person from the motel. The Town needs to document how long this one person has been staying there and that will prove that there is a violation and the owner could be cited for it. He knows it is a temporary solution. The Town Manager said that she would look into the zoning of the property. He said in Salisbury, there are about 4-5 hotels that are as bad as The Country Hearth.

When asked, Chief of Police Barkley said that he has not received a lot of calls from the motel. His Officers went over there to help remove the son from there and the Officer noted the infestation. He said in all motels, there is that one problem room. The owner should no longer accept money from the lady and tell her she needs to go. The lady in question has some psychological problems. There is a daughter in Pennsylvania, and when contacted by the Delmar Police, stated that she did not want anything or know anything about her Mom.

Town Manager Bynum-King said that she will check into the zoning and would work closely with the owner and watch to ensure that the property gets cleaned up. Then we will approach him in reference to the long term stays.

The Town Manager reminded everyone that the Christmas Parade is December 1<sup>st</sup> at 2 pm. The line-up will take place on N. Pennsylvania Avenue instead of S. Pennsylvania Avenue. The Masonic Temple sent a letter asking the public to be made aware that they will serve hot chocolate and hot coffee on Parade Day. They will be setting up in front of their building from 12:30 p.m. until the end of the parade.

Mayor Wells asked if someone would remind the Public Works Director that the parade is on December 1<sup>st</sup>. He forgot about the homecoming parade. All four members of the Mayor and Commissioners stated that they would

be in attendance for the Christmas Parade.

Commissioner Scholl asked if the Town has a plan for snow removal and if we do, could it be posted on Facebook. Mayor Wells suggested that it also be posted on the Town's website.

Deputy Mayor Unsell said that he will be in attendance for the December meeting. Also a reminder that the Delmar Volunteer and Staff Appreciation Dinner is scheduled for December 14<sup>th</sup>.

***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