

MAYOR & COMMISSIONERS

February 11, 2019

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, Commissioner Scholl, Town Manager Bynum-King, Delmar Police Chief Barkley, Town Attorney Benson. Absent: Commissioner Tucker. Guests: Shawn Johnson, Kyle Hughes, Chris Brown, Vasilios Diakos, Jack Lennox and Bunky Luffman.

Call to Order

The Maryland Mayor and Commissioners performed the Pledge of Allegiance.

Mayors Comments

Mayor Wells thanked everyone for attending the meeting this evening. She stated that there is a Public Hearing scheduled for 7:00 p.m.

Public Hearing- Ordinance 741- Acceptance of gifted property at S. Memorial Drive

Town Attorney Benson stated that in January, the Commission adopted the First Reading of Ordinance 741 which authorized the gift of the property at South Memorial Drive to be used for a public purpose. The Public Hearing is scheduled for this evening and has been advertised.

Commissioner Scholl made a motion to open the hearing to Public Comments. Deputy Mayor Unsell seconded the motion which passed with 3 ayes and 1 absent.

Upon hearing no Public Comments, Commissioner Scholl made a motion to close the Public Comments portion of the hearing. Deputy Mayor Unsell seconded the motion which passed with 3 ayes and 1 absent.

Mayor Wells stated that the Commission does adopt Ordinance 741.

Approval of Minutes

Commissioner Scholl made a motion to accept the minutes from the January, 2019 minutes as presented. Deputy Mayor Unsell seconded the motion which passed with 3 ayes and 1 absent.

Unfinished Business

Delmar Assisted Living Annexation

Town Manager Bynum-King said that she has spoken with Mr. Hall with Wicomico County Planning and he informed her that this item would be going before the Salisbury Wicomico Planning Commission on March 21st. She informed Mr. Hall that the Town held a Public Hearing on the Assisted Living Annexation in December, anticipating that the zoning matter would have been reviewed and accepted by the County. He suggested that the Town take their final vote with the condition, that the County gives a favorable recommendation to the proposed zoning. He said that he did not believe that there would be an issue with the zoning with the Planning Commission. It would be more of a formality especially because the property is already developed. The Maryland Planning Department indicated that they agree with the Town's designated zoning, since the development is already established.

Town Attorney Benson stated that when the Town annexes any parcel and we want to change the zoning, we have to get the County's approval. If not, then the County, according to state law, could impose zoning remains in its current zoning classification for a period of 5 years. Mr. Hall will be presenting to the County Zoning Commission, that what the Town is asking for, does not constitute a change in zoning. Assuming the County Planning Commission adopts the reasoning, then it should not be a problem. If it is overruled, then it has to go before the County Council. They usually adopt the staff's recommendation. In March they should adopt the staff's recommendation. There should be no change in zoning subject to the determination in March.

Resolution 2018-5-1 is a resolution for the annexing to the Town land situated contiguous to and binding upon the Corporate limits of the Town of Delmar located on the south side of East Line Road; known as the Delmar Assisted Living Annexation. A Public Hearing was held in June. The Town did re-advertise for a second public hearing and it was held in December. We held off on any final voting pending State approval of the water and sewer plans. The adoption of Resolution 2018-5-1, can be done subject to Wicomico County deeming that the change in zoning would not be a problem.

Deputy Mayor Unsell made a motion for the adoption of Resolution 2018-5-1. Commissioner Scholl seconded the motion which passed with 3 ayes and 1 absent.

Town Attorney Benson said that he will contact Mr. Hall and asked to be informed what is needed and suggested that someone from the Town should be at the hearing on March 21st. Mayor Wells stated that she would plan on attending.

New Business

Marcie Elliott- Rental Property Maintenance

Ms. Elliott was not in attendance. We had rescheduled her from last month due to the weather conditions.

Student Advisory Report

No one present to give a report.

Police Chief's Report

Chief Barkley stated that his Department is dealing a lot with accidents. The staffing is going very well. The cadet that is in the academy is doing well and when he is finished, the Department will be fully staffed. Chief Barkley informed the Commission that the new vehicles are in and being outfitted today. He thanked the Commission.

Parks and Recreation Report

Mayor Wells reviewed the report that was included within the mail packets. Town Manager Bynum-King stated that the Parks and Rec. Council will be sending out donation request letters to the local businesses to see if they would like to participate. Some of their proposals will come before the Joint Council in the budget workshops to help defray some of the costs associated with the garden. The Council has created a calendar of events for this year. They need a Maryland volunteer. There were 5 members on the Council and now they are down to 3 members. They do have someone from the Delaware side interested in attending the meetings, so that leaves a vacancy for a Maryland resident.

Code Enforcement Officers Report

Mayor Wells reviewed the report that was included within the mail packets. Town Manager Bynum-King informed the Commission that the Code Enforcement Officer completed the Maryland rental inspections at the end

of last month. Right now, she will be focusing on yard debris and abandoned vehicles.

Mayor Wells questioned the building permit issued for new commercial construction. She didn't know what it was for. She doesn't remember anything coming before the Mayor and Commissioners. Town Manager Bynum-King said that she is aware of a business fit-out but not for new construction. She said that she would inquire tomorrow with the Code Enforcement Officer.

Fire Department Report

Chief Shawn Johnson reviewed the report that was within the mail packets. He indicated that the back page of the report applies to Delaware. A new Delaware Law requires the owner of any new and existing lodging to install carbon monoxide detection devices in a dwelling unit or sleeping unit that has either of the following: 1) a fossil-fuel burning heater or appliance, a fireplace or other feature, fixture, or element that emits carbon monoxide as a byproduct of combustion, 2) an attached garage. For newly erected or constructed after January 1, 2019, the required carbon monoxide detection devices must be installed at the time of construction. For existing lodging erected or constructed prior to January 1, 2019, the required carbon monoxide devices must be installed by December 31, 2020.

Mayor Wells asked that since this is a Delaware mandate, should the Maryland side do a Resolution requiring the same thing. Town Attorney Benson said that it would be a Town Ordinance and be inspected by the Town and not by the fire marshal. Town Attorney Benson asked Chief Johnson that if a residence had an HVAC system, would carbon monoxide devices still be required. Chief Johnson stated that according to the Delaware Law, yes they would but they are a minimal expense. Town Attorney said it wouldn't be a minimal expense if they had to hard wire them in.

Chief Johnson also spoke about the entrance to Chestnut Manor. He said that it is very hard on their vehicles with all the dips and pot holes at the entrance. Town Manager Bynum-King informed Chief Johnson that it is private property and Chestnut Manor has been made aware of the issue. She said that the Town will be doing some paving in the area and we are making it available to them to take advantage of the paving company at a reduced cost while our paving project is being done.

Chief Johnson said that they are replacing one engine with a 2019 model that has a 750 gallon tank.

Utility Commission Report

Deputy Mayor Unsell reported that there was a bid opening for the Grove Street Water Main Upgrade. He stated that 2 of the proposals came in over \$1 Million and the 3rd bid came in at \$770,395 which was still at least \$100,000 over the engineer's estimates. The Town will review the overall bids and see what can be done with the overall cost.

Deputy Mayor Unsell continued by reporting that our re-submittal for the back-up well has been received and is under review.

He stated that there are serious flow issues at our wastewater plant. He said that the flows have been up to 2.8 million gallons and we are permitted for 850,000 gallons per day.

Mayor Wells asked what was going on to fix this issue. Town Manager Bynum-King said that the Public Works Director, WWTP Superintendent and the Town's engineers are working together to try and locate the sources. Three of the Town's pump stations are running longer than normal and in areas where there is no new development

and no new activity.

Town Manager Bynum-King said that due to the wet season and high water table, just about every WWTP is having to deal with excessive flow. The Town has a lot of terra cotta pipes in our system and are in different stages of decay. The Town is trying to secure a funding source from the State to address our overall condition. The Town has also been budgeting annually funds to perform some slip lining where possible using the I&I Study as a guide to address some of the severely cracked pipes. The State is aware of our plan of action.

Deputy Mayor Unsell asked about all the developments with all the homes being built and if the Town has the capacity to handle all of it. The Town Manager replied that the Town did a Capacity Management Plan recently completed and based on a formula from the Maryland Department of the Environment, 250 gallons per day per EDU with these proposed development as well as the developments under construction, the system would be at approximately 700,000 gallons per day. Our permit is 850,000 gallons per day so we would still have the ability to serve. The best case scenario is with the I&I issues resolved and the system operating at 100% to design, the Town would not be looking to do an upgrade with the Plant at this time.

Public Works Report

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

Planning & Zoning Report

Commissioner Scholl reported on the following:

Kyle Hughes- Addition of a small shed and airstream for pictures- Kylan Barn, Heron Ponds, Delmar, MD

Commissioner Scholl stated that at the Planning and Zoning Commission meeting, there were contingencies placed on their favorable recommendation that Mr. Hughes had to provide prior to final approval being given. Mr. Hughes did provide that documentation this evening.

Mr. Hughes said that the shed would be used for outside storage and the airstream would be used for photo opportunities. Nothing would be permanent. No one would be residing in the airstream and it would be located by the parking lot. The measurements of the airstream are 23 ft. long by 8 ft. wide.

Deputy Mayor Unsell made a motion to accept the favorable recommendation from the Planning and Zoning Commission for the approval of a small shed and airstream to be placed, on a temporary basis, at Kylan Barn in Heron Ponds, Delmar, MD, per the attached drawings and the photos and dimensions provided by Mr. Hughes this evening. Mayor Wells seconded the motion which passed with 3 ayes and 1 absent.

Mike Rittenhouse- House Addition to 705 E. Pine Street, Delmar, MD

Commissioner Scholl informed the Commission that Vasilios Diakos represented Mr. Rittenhouse at the Planning and Zoning Commission meeting. Also, Mr. Diakos was informed at that meeting that a signed, certified site plan would be needed prior to this evening's meeting before any approvals would be given. Mr. Diakos has provided that documentation.

After reviewing the newly acquired certified site plan, Deputy Mayor Unsell made a motion to approve the favorable recommendation from the Planning and Zoning Commission for the house addition to 705 E. Pine Street, Delmar, MD, per the attached drawings and documentation. Mayor Wells seconded the motion which passed with 3 ayes and 1 absent.

Chris Brown- Ryan Homes- Homestyle “Alberti Ranch”, Lot 181 located at 30653 Green Heron Way, Heron Ponds, Delmar, MD

Upon reviewing the documentation and no one having any questions, Deputy Mayor Unsell made a motion to approve the favorable recommendation from the Planning and Zoning Commission for home-style Alberti Ranch to be built by Ryan Homes on Lot 181 at 30653 Green Heron Way, Heron Ponds, Delmar, MD, per the attached drawings. Mayor Wells seconded the motion which passed with 3 ayes and 1 absent.

Chris Brown- Ryan Homes- Homestyle “Sienna- 2 story” Lot 129 located at 9549 King Rail Drive, Heron Ponds, Delmar, MD

Upon reviewing the documentation and no one having any questions, Deputy Mayor Unsell made a motion to approve the favorable recommendation from the Planning and Zoning Commission for home-style Sienna- 2 story to be built by Ryan Homes on Lot 129 at 9549 Kings Rail Drive, Heron Ponds, Delmar, MD, per the attached drawings. Mayor Wells seconded the motion which passed with 3 ayes and 1 absent.

Town Manager Report

Town Manager Bynum-King asked for an Executive Session after this meeting.

The Delmar School District is having their District College and Career Day on Monday, February 25th from 10:00 a.m. to 3:00 p.m. The Town still needs to confirm with them if we are having a table this year. Last year, the staff did go and have a table, but basically no one stopped by the booth. She thinks it was better served as it was before. Mayor Wells said that she would contact Mayor Houlihan. The Town Manager said she or either of the Mayors should contact the school to let them know if they will be setting up a table.

The first budget workshop will be held Wednesday, Feb. 27th at 6:00 p.m.

Delmarva Power and Lights have started their program of LED lighting of State Street. From last year we were allocated 23 lights for the upgrade.

She concluded by saying the Office and Services will be closed on Monday, March 18th in observance of President’s Day.

Public Comments

Thomas “Bunky” Luffman said hello to everyone and informed the Commission that he has accepted a job with Congressman Harris and is doing case work as well.

Shawn Johnson spoke about Gordy Field and how there is a track running around the field. He stated that the Public Works staff is driving through picking up the trash. Other people think that the tracks are for them and drive their cars on the field. He feels it is a safety concern especially around 1st Street. The ruts in the field will likely cause someone to have a broken ankle. Town Manager Bynum-King said that Public Works does park a trash truck out there for the Little League trash during the clean-up efforts prior to Opening Day. Mr. Johnson said that the access to the field is off of Spruce Street, but they would have to get out of the trucks and unlock the chain and then back out of the truck to lock it up when they are finished. Town Manager Bynum-King said that the Director of Public Works has submitted a proposed quote for fencing and he will be looking into his current budget to install the fencing. Mayor Wells suggested that there should be another location for the trash cans to be placed.

Jack Lennox, introduced himself as a Delmar resident and has submitted a letter of interest to fill the vacancy as a Commissioner. This is the first time he has attended one of our meetings. He retired from the County in January

after 40 years. He intends to continue to live in Delmar. Mayor Wells said that she and Mr. Lennox have a meeting scheduled for Thursday.

Deputy Mayor Unsell said that he has known Mr. Lennox for some time and feels he will be an asset to the Commission.

Mr. Luffman said that when he chaired the Delmar Planning and Zoning Commission, he often referred to Mr. Lennox for advice.

Adjournment into Executive Session

Commissioner Scholl made a motion to adjourn into Executive Session. Deputy Mayor Unsell seconded the motion which passed with 3 ayes and 1 absent.

Those present at the Executive Session were Mayor Wells, Deputy Mayor Unsell, Commissioner Scholl, Town Manager Bynum-King and Town Attorney Robert Benson. Town Manager Bynum-King updated the Mayor and Commissioners on two outstanding legal matters and one new legal matter. The outstanding matters are still in a pending status, waiting the final decision on one matter and the other awaiting a reschedule of a hearing. The February 4th hearing was postponed.

The new matter pertained to a discrimination matter, the Town is involved by association. The case is regarding an employee and their employer of which the Town is not party to either. The Town provides a payroll/benefit service for the employer, in which the Town is 100% reimbursed. In order to get the Town released from this suit, there was a need to retain legal counsel that specializes in Labor Employment Law. The Town Manager was seeking guidance from the Maryland Mayor and Commissioners on how to proceed in recovering the unexpected cost that is impacting the Town's budget. She advised the Commissioners that the Delaware Elected Officials consensus on the subject matter. Much discussion occurred among the Commissioners and the Town Attorney.

A motion made and carried to return into regular session. The consensus of the Maryland and Commissioners are in agreement with the Mayor and Council to seek reimbursement from the employer for all legal costs incurred by the Town. Additionally, the consensus of the Mayor and Commissioners to discontinue the payroll/benefit service provided by the Town effective June 30th.

A motion was made and carried to adjourn.

Submitted by:

Cindy Fisher
Clerk of Council