

## **Joint Council April 26, 2010**

The regularly scheduled Joint Council meeting, comprised of the Mayor & Council of Delmar, DE and the Mayor & Commission of Delmar, MD, was called to order at 7:00 p.m. In attendance were Mayor Niblett, Mayor Outten, Deputy Mayor Hitchens, Vice Mayor Houlihan, Commissioners Anderton, Henderson and Wells and Council Members Payne and Thompson, Town Manager Bynum-King and Clerk of Council Fisher. Absent: Council Member Pase. Guests: Barbara Bynum, Keith Jones, David Ring, Peggy Luber, Sara Hughy, Eleanor Kaul, Norma Stewart, Doug Marshall, Chris Walter, and Mrs. Brittingham.

### ***Called to Order***

Mayor Niblett called the meeting to order at 7:00 p.m.  
The Joint Council performed the Pledge of Allegiance.

### ***Mayors Comments***

Mayor Outten administered the Delaware Oath of Office to Delmar Delaware Election Officials; residents Keith Jones and Barbara Bynum.

Mayor Niblett presented David Ring a Certificate of Appreciation in recognition of his participation on the Delmar Sesquicentennial Committee.

### **Municipal Clerk's Week Proclamation**

Mayor Niblett read the Municipal Clerk's Week Proclamation for Maryland for the week of May 2, 2010 through May 8, 2010. Deputy Mayor Hitchens made a motion to approve the Municipal Clerk's Week Proclamation. Commissioner Anderton seconded the motion which passed with 5 ayes and 0 absent.

Mayor Outten read the Municipal Clerk's Week Proclamation for Delaware for the week of May 2, 2010 through May 8, 2010. Vice Mayor Houlihan made a motion to approve the Municipal Clerk's Week Proclamation. Council Member Thompson seconded the motion which passed with 4 ayes and 1 absent.

### ***Approval of Minutes***

Commissioner Wells wanted to clarify that on page 2, in the Parks and Rec. report, the concession stand is not maintained by the Little League, it is maintained by Parks and Rec.

Deputy Mayor Hitchens made a motion to approve the March, 2010 minutes as amended. Mayor Outten seconded the motion which passed with 9 ayes and 1 absent.

### ***Parks and Recreation Report***

Commissioner Wells reported that they did not have a quorum. She spoke about how Delmar Little League does background checks on all volunteers or anyone who does anything with children. All volunteers who have passed background checks will have badges so they will be recognized by parents. She said that they are the only League in their district to do this. She also reported that Cricket is still being played in the evenings starting at 10:00 p.m.

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

Mayor Niblett read the report that was included within the mail packets.

### ***Delmar Revitalization Report***

Mr. Walter reported that they held their last meeting on April 21, 2010. At that meeting the minutes from January, February and March were approved. They have reduced the price of the memorial bricks to \$100.00. He also reported that they will be purchasing flowers for the planters downtown and the Century Club should be planting them next week.

Mr. Walter reported that a possible date for Heritage Day is October 22, 2010. He said that this Thursday, he will be having an auction at his downtown business and it will be the last day that the Museum will be open at that location.

He brought up the land agreement between Mr. Mills and other property owners in reference to the Lecates Building. He also spoke of the vacant building ordinance. He asked the Council to review it, especially the definition of a vacant building. He concluded by stating that their next meeting will be held on May 19, 2010.

### ***Code Enforcement Officer's Report***

Due to the absence of Code Enforcement Officer Bounds, no report had been included within the mail packets.

### ***Fire Department's Report***

Council Member Payne reported that there had been 143 fire alarms last month, with a total of 167 alarms for the year. There have been a total of 493 ambulance calls to date.

### ***Utility Commission Reports***

Council Member Thompson reported that Utility Chairman Pase had been absent. He reported that one of the new pumps had possibly been hit by lightning, and the Letter of Intent with Tidewater had been discussed.

### ***Public Works Reports***

Vice Mayor Houlihan reported that Public Works personnel have been busy filling pot holes, cutting grass, as well as doing the Spring Clean-Up, which went well. He said that there were a few places that had excessive items out for collection.

He reported that Yorkshire Estates had a problem with its sewer system. It was discovered that an inflatable plug was out, so all the water and the sediment had flowed into the system and caused the ground around it to cave in. Bearing Construction had to go about 17 ft. into the

ground and that cost will be assessed to the next owner of Yorkshire Estates. Clarks Environmental cleaned up the pump station.

He reported that Heron Pond now has the full loop for water which has been tested and has passed inspection. He said that the Town has received one bid for the replacement of the pavilion roof at Gordy Park for \$5,300.00 along with one bid for \$3286.00 for the pump house on Foskey Lane from Shoreman Construction. There have been some discussions on putting footbridges at the Mason Dixon Complex. Vice Mayor Houlihan reported that Mr. Hearne of Shoreman Construction recommended putting in culverts which would also prevent any vehicular traffic. This might be better since the footbridges might be high maintenance.

He concluded that the Public Works personnel did a great job with the Little league Parade this past Saturday.

### ***Planning and Zoning Commission Report***

#### **Doug Marshall- Building of two homes**

Vice Mayor Houlihan reported that Mr. Marshall is present this evening if the Council wanted to ask any questions. Vice Mayor Houlihan summarized this property history starting in 2005. The existing house on one parcel of this property is located across from the V.F.W. This at one time was one parcel of land, and now has been subdivided into three lots.

He continued by stating that Planning and Zoning did not have a problem with the building plan for Lot #3 on Memorial Drive. Originally, there was a proposed easement behind the houses that would have a shared driveway to serve Lots #1 and 2. Lot #3 would be served off of N. Memorial Drive. Approvals from a different Planning and Zoning Commission and a different Council were made for that easement. Mr. Marshall was present to plead his case to allow access onto State Street. After some discussion the Council stated that Maryland maintains that part of the road and he would have to get permission from Maryland State Highway. Mr. Marshall stated that he can foresee problems with a shared driveway. Town Manager Bynum-King reported that in another development, Amber Ridge, they have shared driveways and there doesn't seem to be any problems. The easement would be paved and would be maintained by the property owners and not the Town. Vice Mayor Houlihan reported that the members of Planning and Zoning could see it either way.

Discussions continued about the possibility of making the front a "No Parking" area and painting the curbs yellow. The consensus of the Council was not to grant a driveway access to State Street for Lot #1.

Mr. Marshall had another request from the Council. The prospective buyer of the N. Memorial Drive property would really like to have the style of home that he is proposing for State Street. He asked if possible, if he could get approval for the same style home as he proposed for the State Street property, for the N. Memorial Street property.

Council Member Payne made a motion to accept the favorable recommendation from Planning and Zoning for the building plan in care of State Street 201, LLC, Lot #1 located at 203 State

Street, Delmar, Delaware, as per the attached drawings. Council Member Thompson seconded the motion which passed with 4 ayes and 1 absent.

Council Member Thompson made a motion to accept the favorable recommendation from Planning and Zoning for a favorable recommendation to move forward to the Delaware Board of Adjustments for a front setback variance for the building plan in care of State Street 201, LLC, Lot #1 located at 203 State Street, Delmar, Delaware, as per the attached drawings. Council Member Payne seconded the motion which passed with 4 ayes and 1 absent.

Vice Mayor Houlihan asked for a motion to accept the favorable recommendation from Planning and Zoning for the building plan for Lot #3, in care of State Street 201, LLC located on Memorial Drive, Delmar, Delaware, as per the attached drawings. He announced that no motion was made, so the motion dies.

Council Member Thompson made a motion for the approval of a building plan for Lot #3 on Memorial Drive, Delmar, Delaware, in care of State Street 2001, LLC, per the attached drawings that mirror the house plans for Lot #1. Council Member Payne seconded the motion which passed with 4 ayes and 1 absent.

#### Jason Hathway- New Home Construction- Breckenridge

Vice Mayor Houlihan reported that everything in this building plan was within setbacks and the Planning and Zoning Commission were in favor of it. Commissioner Henderson made a motion to accept the favorable recommendation from the Planning and Zoning Commission for Keystone Builders, LLC for the building of a new home in Breckenridge, Section 2, Lot #26, located in Delmar, Maryland, per the attached drawings. Commissioner Wells seconded the motion which passed with 5 ayes and 0 absent.

#### William Green- New Sign Approval for 16 Pennsylvania Avenue

Vice Mayor Houlihan reported that Mr. Green has the Church located in the Downtown area. The sign would be mounted just above the door and would not be illuminated. Council Member Payne made a motion to accept Planning and Zoning's favorable recommendation for sign approval for William Green at 16 N. Pennsylvania Ave. Delmar, Delaware, per the attached drawings. Council Member Thompson seconded the motion which passed with 4 ayes and 1 absent.

#### Kevin Gleason- Subaru Dealership- New Sign and Lighting

Vice Mayor Houlihan reported that they requested to install a 10 ft. monument sign out front where the pylon sign of Saturn used to be. It will have the signature Subaru colors and will be called Gateway Subaru of Delmar. Deputy Mayor Hitchens made a motion to accept the favorable recommendation from the Planning and Zoning Commission for a 10 ft. monument sign for Gateway Subaru of Delmar, Delmar, Maryland per the attached drawings. Commissioner Henderson seconded the motion which passed with 5 ayes and 0 absent.

#### Greg Lines- Subaru Renovations

Vice Mayor Houlihan reported that Subaru wants to do renovations to the front façade of the building. He passed out drawings of the proposed renovations for the Commission to review.

They will have to come back before Planning and Zoning for the building signs. Commissioner Henderson made a motion to accept the favorable recommendation from Planning and Zoning for the renovations of the west façade of Gateway Subaru of Delmar, Delmar, Maryland, as per the attached drawings. Deputy Mayor Hitchens seconded the motion which passed with 5 ayes and 0 absent.

#### Jaimie Rostocki- Proposed Casino

Vice Mayor Houlihan reported that Mr. Rostocki had been present and had asked the Commission for some conceptual ideas for the casino/hotel area. The casino and hotel would be separate buildings. He reported that the Planning and Zoning Commission had asked about having a conference center. The front parcels would be for restaurants and a gas station.

Vice Mayor Houlihan asked the Maryland Commission not to forget to entertain the General Provision of the zoning code to use for Maryland issues.

He concluded with informing everyone that the next meeting will be held on Thursday, May 27, 2010.

#### ***Unfinished Business***

##### Norma Stewart- Full House Poker

Vice Mayor Houlihan reported that Mrs. Stewart from Full House Poker is here for a 6 month review of her business license. He said that at the time Full House Poker originally came before the Planning and Zoning Commission, they had given her an unfavorable recommendation based on parking and security concerns. The Delaware Council did grant her a temporary license for 6 months. She came before Planning and Zoning this past Thursday evening and addressed the issues that had been the original deterrents.

Vice Mayor Houlihan did say that at the Planning and Zoning meeting, Mr. Diakos of Delmar Pizza, who did arrive at the meeting late, did have some parking issues with Full House Poker. He also had concerns with the clientele that frequented the Poker establishment. Vice Mayor Houlihan said that Mrs. Stewart had discussions with the Commission on some possible solutions such as the Poker patrons parking down by the Food Lion or possibly starting at a later time so that the parking does not interfere so much with the dinner hour at Delmar Pizza. Vice Mayor Houlihan said that the parking issues should be something that Mr. Silicato (Stateline Plaza owner) should be addressing. Commissioner Anderton said that short of having reserved parking, there is nothing the Commission can do about the parking concerns. There was also discussion about the possibility of Full House Poker moving to the soon to be vacated Movie Gallery unit.

Vice Mayor Houlihan and Mrs. Stewart spoke of her interest in having later business hours. Instead of 6:00 p.m. to 12 Midnight, during Daylight Savings Time, she would like to be open from 7:00 p.m. to 1:00 a.m. and then revert back to 6:00 pm to Midnight once Daylight Savings Time is over. She is hoping that this might alleviate some parking concerns for Delmar Pizza. There was some discussion about how the Town can dictate a business' hours of operation.

Council Member Thompson made a motion to accept Planning and Zoning's favorable recommendation for a business license for Full House Poker, Inc. in care of Norma Stewart in Stateline Plaza, Delmar, Delaware. Council Member Payne seconded the motion which passed with 4 ayes and 1 absent.

Council Member Thompson made a motion to adjust the business hours for Full House Poker, Inc. in care of Norma Stewart in Stateline Plaza, Delmar, Delaware in Daylight Savings Time from 7:00 p.m. to 1:00 a.m. After the expiration of Daylight Savings Time, they will revert back to being open from 6:00 p.m. to 12 Midnight. The motion was seconded by Council Member Payne and passed with 4 ayes and 1 absent.

### ***New Business***

#### Budget Resolution 2010-06-01.1 Maryland First Reading

Mayor Niblett read the First Reading of Maryland Budget Resolution 2010-06-01.1.

Commissioner Anderton made a motion to accept the First Reading of Maryland Budget Resolution 2010-06-01.1 as read. Commissioner Henderson seconded the motion which passed with 5 ayes and 0 absent.

#### Budget Resolution 2010-06-01.1 Delaware First Reading

Mayor Outten read the First Reading of Delaware Budget Resolution 2010-06-01.1. Council Member Thompson made a motion to accept the First Reading of Delaware Budget Resolution 2010-06-01.1 as read. Council Member Payne seconded the motion which passed with 4 ayes and 1 absent.

Town Manager Bynum-King discussed meeting dates with Mayor Niblett. The Maryland Municipal League Convention is scheduled for the last week of June and most of the Maryland Elected Officials will be there, which means the Maryland side will not have a quorum here for the Joint Council meeting. It was decided to move the Joint Council, Utility Commission and Public Works meetings up one week so that they will be held on June 21, 2010. The Planning and Zoning Commission will also move up one week and be held on Thursday, June 17, 2010.

Town Manager Bynum-King reported that the vacant building ordinance from Smyrna was placed in their mailboxes so it could be something they could think about and discuss if they feel they wanted to incorporate such ordinance in the Delmar Zoning Code. It can be either done here at Joint Council or defer it to Planning and Zoning. The consensus of the Council was to defer it to the Planning and Zoning Commission who can then make recommendations to the Council.

Mayor Niblett reported that he did send invitations to everyone from the Sesquicentennial Committees to the Revitalization Commission meeting. He said that he wanted some input on the upcoming Heritage Day Celebration from those who had worked on the Sesquicentennial Day Celebration. He said that Chris Walter will be in contact with the vendors from the Sesquicentennial Celebration. He is asking for the Town of Delmar to pick up half the tab for the fireworks for the celebration. He said that possibly Ron Wilcosz may have a baseball game or even a cricket match that afternoon/evening. There was some discussion on the date for Homecoming and if it would be a good or bad idea to have the Heritage Day Celebration the same day as Homecoming.

Mayor Niblett asked if there is any paperwork that shows who should be responsible for the clean-up after a parade. Town Manager Bynum-King responded that nothing was on any form that designated anyone for clean-up after the parade. He said that it would be nice if maybe the day after the parade, a crew comes out and walks the route and picks up any candy, wrappers and empty paper cups from the parade.

#### Public Hearing- Delaware Resolution 2010-04-26

Mayor Outten read Delaware Resolution 2010-04-06 the Issuance of General Obligation Bond and Ordering a Special Election. Town Manager Bynum-King said that this for the replacement of the smaller 4 inch lines with 8 inch lines which runs down by the nursing home which would improve fire protection. Mayor Outten opened up the meeting to Public Comments. After hearing no comments, Mayor Outten closed the hearing to Public Comments. Vice Mayor Houlihan made a motion to accept Delaware Resolution 2010-04-26. Council Member Payne seconded the motion which passed with 4 ayes and 1 absent.

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

Town Manager Bynum-King reported that she does have the stipulations in order from the court regarding the Lecates property in reference to the unknown owners of land behind it. Our Delaware Attorney has reviewed the document and everything is in order. The Mayors can sign it this evening. She said that after everyone has signed it Mr. Mills can move forward with purchasing the property.

The dumpster on Lincoln Avenue has been removed. The property owner is an elderly lady whose granddaughter, living in New York, has taken over the responsibility of cleaning the property. A letter was sent that the dumpster was on sidewalk and if there was any damage to the sidewalk they would be responsible.

The Delaware Department of Transportation did a traffic study on the north bound lane of Pennsylvania Avenue on East Street. They are recommending that the Stop sign on the corner of Pennsylvania Avenue and Grove Street remain in place and is prepared to execute their resolution unless the Town wants the sign removed. There was some discussion on why it was not a 3-way stop and how the Council felt it was not needed. Council Member Payne made a motion to remove the Stop sign at the corner of Pennsylvania Avenue and Grove Street. Mayor Outten seconded the motion which passed with 3 ayes, 1 nay, and 1 absent

Town Manager Bynum-King reported that basketball hoops are showing up all over Town. Community Development Coordinator Hardin has been sending out letters and the Town has confiscated a few of the hoops. She is asking the Council how the Town wants him to precede with the basketball hoops. She said that the Ordinance is very clear about playing ball in the streets but not necessarily about the hoops. The consensus of the Council, after some discussion, was to continue to send out the letters with a specific time frame to remove the hoops from the sidewalks and streets. If the time passes and the hoops are still on the sidewalks or streets, then the Town can remove them and they can be stored. The property owners can reclaim them for a fee and if it happens again with the same property owner, the hoops will be removed and

discarded. She said that there is no Ordinance that directly relates to basketball hoops. She will work up a proposal and send it to the Attorney for his review.

Bloosurf, Inc. is a provider of broadband services to the area for those who do not have access to high speed internet. They are asking to be able to hook up to the water towers. If the Council is interested, then the Town can partner with them for some profit sharing with the number of users in Town. Commissioner Anderton said that he wouldn't mind entertaining this just as another form of revenue for the Town. He said that the City of Pocomoke is currently doing this. Council Member Payne stated that he would prefer for the Town to wait until Pocomoke is done to see how they are doing and to use them as a model for this Town, if we choose to go forward with this.

Town Manager Bynum-King reported that the State of Delaware is currently working on legislation for universal recycling. It will be mandatory state-wide very soon. Maryland might want to look into curb-side recycling as well.

She concluded by reporting that the SCAT meeting will be held on April 27, 2010 in Bridgeville and RSVP's are needed.

#### ***Council & Commission Comments***

Commissioner Wells thanked the members of the Delmar Fire Dept. and Public Works for all their help with the parade. She said that there is a standing invitation to all the Elected Officials to be in the parade.

Deputy Mayor Hitchens asked what could be done about the PT Cruiser that is on the railroad property jacked up due to it not running. He said that the vehicle has been there for a while. Contacting the Police Department was a suggestion.

Mayor Niblett said that the Delmar Maryland property tax rate will be decreased for FY 2011, while the Delmar, Delaware tax rate will remain the same.

#### ***Public Comments***

Delmar Resident Mrs. Brittingham spoke about the block she lives on and how the water does not drain. She said that the storm drains are not being cleaned out properly.

#### ***Adjournment***

Mayor Outten moved to adjourn. There was a second to the motion which passed with 9 in favor and 1 absent

Sincerely,

Cindy Fisher  
Clerk of Council