

## **Joint Council April 27, 2009**

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, Hodgins, and Williams and Council Members Pase, Payne and Thompson, Town Manager Bynum-King and Clerk of Council Fisher. Guests: Peggy Luber, Chris Mills, Howard Dickerson, Mike McClure, Earl Holland and Lacy Griffith.

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

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

### ***Mayors Comments***

Mayor Niblett reported that Commissioner Anderton has been elected as 1<sup>st</sup> Vice President of the Eastern Shore Chapter of the MML, along with being elected as the Legislative Delegate for District 1.

Mayor Niblett also thanked Vice Mayor Houlihan for conducting the Joint Council meeting last month in his absence.

### **Oath of Office- Aron- Canine Unit**

Mayor Niblett along with Mayor Outten administered the Oath of Office to Delmar Police Department's Canine, "Aron". Aron's handler Patrolman Dallam was also present.

### **Municipal Clerk's Week Proclamation (MD)**

Mayor Niblett read the Municipal Clerk's Week Proclamation that designates May 3, 2009 through May 11, 2009 as Municipal Clerk Week. Deputy Mayor Hitchens made a motion to recognize May 3 through May 11, 2009 as Municipal Clerk's Week. Commissioner Williams seconded the motion which passed with 5 ayes and 0 absent.

### **Municipal Clerk's Week Proclamation (DE)**

Mayor Outten read the Municipal Clerk's Week Proclamation that designates May 3, 2009 through May 11, 2009 as Municipal Clerk Week. Vice Mayor Houlihan made a motion to recognize May 3 through May 11, 2009 as Municipal Clerk's Week. The motion was seconded by Council Member Payne and passed with 5 ayes and 0 absent.

### **Silver Star Banner Day Proclamation (MD)**

Mayor Niblett read the Silver Star Banner Day Proclamation that designated May 1<sup>st</sup> Silver Star Banner Day, the permanent and official day to honor the wounded and ill soldiers of the Town of Delmar, Maryland. Commissioner Williams made a motion to accept the Silver Star Banner Day Proclamation. The motion was seconded by Commissioner Hodgins and passed with 5 ayes and 0 absent.

***Approval of Minutes***

Council Member Payne made a motion to accept the March, 2009 Joint Council minutes as circulated. Council Member Thompson seconded the motion with 7 ayes and 3 abstaining. (Mayors Niblett, Outten, and Council Member Pase were absent last meeting).

***Parks and Recreation Report***

Commissioner Williams reported that Parks and Recreation did not meet this past month. She also reported that she, Council Member Payne and Parks and Rec. Chairman Wilkosz met to review plans for the Skateboard Park. The project design layout and equipment is being done by Rampage at a cost of \$28,475.00. She said that Parks and Rec. is starting to make a list of things needed to improve the parks; such as additional greenery, game boards, exercise stops and some other items. Once the types of improvements are decided upon; they will be given to Community Development Coordinator Hardin to review and investigate grant options.

***Police Chief's Report***

Mayor Niblett read the Police Chief's report that was included within the mail packet.

***Delmar Revitalization Report***

Mayor Outten stated that the report was included within the mail packet.

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

Mayor Niblett read the Code Enforcement Officer's Report that was included within the report.

***Fire Department's Report***

There was no one present from the Fire Department to give a report. Council Member Payne reported that Chief might be out on a call and that the ladder truck is now in service.

***Utility Commission Reports***

Council Member Pase reported that the Utility Commission did revisit the EDU's for the State Street Laundromat. They have been well within the 15 EDU's allotment arranged for them last year. She also reported that the adaptors for the fire hydrants are in and will be installed on the 1<sup>st</sup> of May, 2009.

She continued by reporting that in the course of redoing the sidewalks for the streetscape project, the sewer lines on Pennsylvania Avenue were televised to check out their condition. The terra cotta pipes were found to have some cracks in them. There is a process called Slip Lining that would allow the pipes to be fixed at anytime and would not require the digging up of the streets. She said that the Utility Commission did vote to pursue the Slip Lining of the pipes now rather than later, so if there happens to be a bigger problem with the pipes, the Town would not have the extra expense in digging up the streets. It was also mentioned that the already formed cracks could potentially get worse with all the heavy equipment and construction on Pennsylvania Avenue.

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

Vice Mayor Houlihan reported that a new modular home had been placed at 704 E. Walnut Street, Delmar, MD. At the time, the owners thought that they already had water and sewer services to the lot. While they did have services to the location, the pipes were the wrong size.

He also reported that unbeknownst to the Town, a utility company did an underground bore that went right through the Town's sewer line on Mulligan's Way in WoodCreek. They had to replace about 8 ft. of line. He discussed the street stripping in WoodCreek and how the Spring Clean-Up along with the hydrant flushing went well for the Public Works Department. They have received more mulch for the parks.

He reported that some ditch work on Old Stage Road has been started. The Public Works will be doing the weeding along State Street this fiscal year because State Highway Administration is unable to fund the project. They will also be doing some repair work to the restrooms at State Street Park.

### ***Centennial Reports***

Mayor Niblett reported that the next meeting will be held at Town Hall on Thursday, April 30, 2009 at 7:00 p.m.

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

Vice Mayor Houlihan reported due to not having a quorum, Planning and Zoning did not hold a meeting.

He did say that he did have one item for the Delaware side to discuss. He reported that Bill Diakos from Delmar Pizza had been present at an earlier meeting and wanted to put a sign for Delmar Pizza on the pylon sign in the shopping center. Several options had been discussed such as either raising the height of the existing pylon sign to accommodate the new sign, or to work on cleaning out the shrubbery underneath, so it could be seen from the highway. He has since spoken with the landlord of the shopping center, and the underlying brush in the stormwater pond will be cleaned up, so that the sign can be more visible. He is very anxious to move forward on getting his sign in place. Council Member Thompson made a motion for sign approval for Bill Diakos for Delmar Pizza, Delmar, DE. to attach his sign as per the drawing provided to the existing pylon sign at the Food Lion Shopping Center. Council Member Payne seconded the motion which passed with 5 ayes and 0 absent.

Vice Mayor Houlihan concluded by stating that their next meeting will be held May 21, 2009.

### ***Unfinished Business***

Town Manager Bynum-King reported that since there was not a quorum for the Maryland meeting, they will need to discuss the painting of the curbs in WoodCreek. She reported that at the Police Commission meeting, Chief Saylor recommended treating the on street parking problems as a safety issue instead of a parking issue. If the curbs are painted yellow on Executive Club Drive, and treat it as a fire lane, the enforcement of no on street parking issues will be strictly enforced. There was some discussion on installing more "No Parking" signs in addition

to the curb painting. It was mentioned that additional signs were not necessary according to Chief of Police; the matter at hand will become a safety matter verses a parking issue. Vice Mayor Houlihan reported that this was discussed at the Public Works meeting, and a total of 18 signs would be needed to be placed on Executive Club Drive for them to be enforceable. Commissioner Anderton made a motion to make Executive Club Drive a Fire Lane by painting the curbing yellow on both sides of the street, without the signs. The motion was seconded by Deputy Mayor Hitchens and was passed with 5 ayes and 0 absent.

Town Manager Bynum-King reported that the next issue to be discussed was the meeting schedule. The designated trial period of four months for the individual meetings and the Joint meeting is over, and needs to be reassessed for the future calendar schedules. Council Member Pase stated that she feels that more things are accomplished at the individual meetings, and if the opportunity is needed, they can always have a Joint Meeting at the end of the month. Commissioner Anderton stated that he is happy with the way the meetings are scheduled now. There was also discussion about eliminating some of the individual reports since they seem to be repetitious. Both Vice Mayor Houlihan and Commissioner Anderton suggested that Planning and Zoning information be kept for the Joint Council. Mayor Niblett said that there are times when he is asked what project is happening on the Delaware side, and he only knows because of the information shared at the Joint Council. Town Manager said that there are elected council and commission representation on each committee/commission meeting. The elected representatives should give the summation of what is happening on each side of Town at their respective meetings. Commissioner Hodgins stated that Delmar is one Town and should have only one meeting which is the Joint Council. This meeting usually does not go past 2 hours and should be the only meeting held. This is one Town and should have one meeting where the whole Town is represented. Council members Payne and Thompson agreed that there should only be one meeting per month. It was the consensus of the Elected Officials to go back to having one meeting per month.

Town Manager Bynum-King stated that if we go back to the one meeting a month schedule, it will have to happen in the new fiscal year, since there are pending matters previously scheduled for the individual meetings.

The consensus of the Joint Council is that beginning July 1, 2009 the individual meetings (Mayor and Commissioner & Mayor and Council) will only be held when the individual sides feel it is necessary for their particular issues. The Joint Council will continue to be held on the last Monday of the month.

### ***New Business***

#### **Proposed 2009-2010 Budget**

Town Manager Bynum-King reviewed the highlights of the Fiscal 2010 budget. She reported that the total operating cost budgeted for Delmar, Maryland is \$2,007,324.00, with the budgeted capital outlay being \$936,019.00. For Delmar, Delaware the budgeted operating expenses is \$1,280,314.00, and the budgeted capital outlay being \$598,500.00. The Delmar Utility Commissions' Budgeted operating costs is \$1,801,119.00, with their capital outlay being budgeted at \$4,239,569.00. The totals for the 2009-2010 budgets are as follows:

Operating Costs: \$5,088,757.00

Capital Outlay: \$5,774,088.00  
Total: \$10,862,845.00

**Resolution 2009-05-26.1- Adoption of Budget (DE) First Reading**

Mayor Outten read Resolution 2009-05-26.1- the budget adoption for fiscal year 2009-2010. Council Member Pase made a motion to accept the First Reading of Resolution 2009-05-26.1. Council Member Payne seconded the motion which passed with 5 ayes and 0 absent.

**Resolution 2009-05-26.2- Adoption of Budget (MD) First Reading**

Mayor Niblett read Resolution 2009-05-26.2- the budget adoption for fiscal year 2009-2010. Commissioner Williams made a motion to accept the First reading of Resolution 2009-06-26.2. Commissioner Anderton seconded the motion which passed with 5 ayes and 0 absent.

**WWTP Upgrade- DBF Recommendation**

Town Manager Bynum-King stated earlier this month Delmar, Maryland Commissioners could not take action on the WWTP Upgrade project bid award recommendation, because they did not have a quorum. Davis, Bowen & Friedel, Inc. has recommended the contract for the WWTP Upgrade be awarded to Bearing Construction out of Sudlersville, MD. Their bid was the lowest in the amount of \$5,884,000.00. She stated that the Utility Commission and the Delmar, Delaware Council have previously endorsed Davis, Bowen & Friedel, Inc. recommendation. She stated that the Maryland Commissioners still needed to discuss and take a vote on DBF's recommendation. Commissioner Hodgins made a motion to accept DB&F's recommendation to award the WWTP Upgrade project to Bearing Construction, in the bid amount of \$5,884,000.00. Deputy Mayor Hitchens seconded the motion which passed with 5 ayes and 0 absent.

**Resolution 2009-05-11- CDBG Application**

Mayor Niblett read Resolution 2009-05-11 which authorizes the submittal of an application for Community Block Grant funds in the amount not to exceed \$500,000.00. Commissioner Williams made a motion to accept the First Reading of Resolution 2009-05-11. Deputy Mayor Hitchens seconded the motion which passed with 5 ayes and 0 absent.

**Delmar Education Association**

Town Manager Bynum-King reported that the Delmar Education Association (DEA) is asking if the Town would be willing to partner with them to host a forum at Town Hall for the candidates running for the School Board election. The Town would be hosting and monitoring the event. She said that due to other obligations of the Elected Officials and for the conference room, the tentative date would be this Tuesday, May 5, 2009 at 6:30 p.m. The DEA would be in charge of sending out the invitations and providing refreshments.

Council Member Pase stated that she feels that the School should be able to host it themselves. Both she and Council Member Payne stated that they represent the citizens of the Town and not necessarily the citizens of the school district. The consensus of the Council is that they are not interested in hosting this event.

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

Town Manager Bynum-King introduced Chris Mills as the individual who is trying to purchase and renovate the Lecates Building at the corner of State Street and N. Pennsylvania Avenue. She reviewed the issues that he has faced in securing this property such as the strip of land to the rear of the property and to be able to leave an easement for the other property owners along downtown. Mr. Mills also reviewed the stumbling blocks he has tried to resolve. The major factor in all is that after several meetings with all the appropriate individuals involved everyone walks away from the table with the understanding that the issues have been resolved. But in reality the opposing parties haven't changed their minds. He revealed that he has been trying to purchase the Lecates building for 7 years, with no success to date.

Town Manager Bynum-King reported that she has received an email from the Town's Delaware Attorney that offered a few options for the Delaware Council to consider. One of the options is to exercise eminent domain over the alleyway and exercise eminent domain over the building for demolition. The other option is for the Town to potentially intervene in the pending litigation in Lecates vs. Unknown others, and seeking an easement on behalf of the Town of Delmar. In this way it will be economically feasible to do so by joining forces with Mr. Mills. Mr. Mills said that about 2 feet of the building, due to the way the survey was done back then, is actually in the alley and thus belongs to the State of Delaware. The consensus of the Council is to join parties with Mr. Mills' pursuit of gaining clear title to the land behind the Lecates Building.

Council Member Payne made a motion to join Chris Mills petition to allow a 10 ft. egress/ingress for the properties involved in the suit for quiet title. Deputy Mayor Houlihan seconded the motion which passed with 5 ayes and 0 absent. The Council thanked Mr. Mills for his persistence in this endeavor.

Town Manager Bynum-King reported that Shore Housing will be hosting a Foreclosure Information Workshop at UMES in the Richard Hensen Building. The Workshop will take place on Thursday, April 30, 2009 from 6:00 p.m. to 8:00 p.m. Our Community Development Coordinator sits on that Board and will provide additional information for anyone who would like it.

She also noted that she has received notice that Senator Carper will be in Sussex County on May 8<sup>th</sup> and 30<sup>th</sup>, 2009. They are setting his agenda now for the month of May and if anyone has any meetings or special events that they wish the Senator to attend, they will need to contact his Regional Director, Tim Winstead.

Town Manager Bynum-King reminded everyone that the MML Convention is scheduled from June 28-July 1, 2009. She stated that the Council will have to reschedule the Joint Council meeting to June 22, 2009 and the Planning and Zoning meeting should be rescheduled for the week before that. She said in reference to MML, she asked if any of the Maryland Officials wanted to participate in the Parade of Flags. Deputy Mayor Hitchens and Commissioner Anderton suggested that our Chief of Police carry our flag. He said that there are quite a few municipalities that have their Chief carry their flag. Town Manager Bynum-King said that she will ask Chief to carry our flag in the Parade.

She also reminded everyone that LESMA will be hosted by Hurlock at Suicide Bridge. She asked everyone who wanted to attend to RSVP with Clerk of Council Fisher no later than May 14, 2009. They will offer a boat ride on the Choptank River and seating is limited. The boat will leave promptly at 6:00 p.m. and you will have to be there no later than 5:45 p.m.

Town Manager Bynum-King stated that she wanted to thank the Public Works Employees for their great efforts in making this Spring Clean-Up a success. She also thanked Commissioner Williams for her work in Parks and Recreation. She said that Commissioner Williams' passion for the Parks to have adequate play equipment is something that has been needed for quite sometime. She thanked Council Member Payne also in his help along with Commissioner Williams in getting a list of proposed projects available so when it is the next grant cycle, we will have ideas for things to apply for funding.

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

Commissioner Williams thanked Town Manager Bynum-King for her statements.

Commissioner Williams stated that this was a good meeting and that they will be getting out at a reasonable hour.

Commissioner Anderton asked if the center white lines will be painted on Pennsylvania Ave when it is done. He thought that when Foskey Lane was painted Pennsylvania Avenue would be painted also. Town Manager Bynum-King replied that it was not part of the contract. She said that she will check with the County to see when they would be painting their lines and to see if the Town could get them to paint the lines on Pennsylvania Avenue at the same time.

Mayor Niblett reported that he and Commissioner Anderton attended the Eastern Shore Chapter of MML meeting and they handed out flyers on some legislation that passed. One thing that might affect Delmar is the speed cameras in school and work zones. Also Delmar is part of the MML Geotrail. He reported that through MML, a large portion of the cuts in municipal highway user revenues have been returned. Based on information provided by MML staff members and contacts by municipal officials, about \$8 million of the \$12.4 million will be returned.

Mayor Niblett reported that he has been contacted by several residents in reference to the tree at the corner of the Pine Street Storage facility. The tree makes it so that it difficult to see around it for oncoming traffic. He asked if Public Works could be sent to 309 Pine Street to clear the limbs out of the back yard.

He continued by stating that Delmar had a good turnout at the LESMA meeting this month.

Council Member Thompson thanked everyone for coming out this evening and that he is happy that the Town is finally able to do something about the Lecates Building.

Council Member Pase reminded everyone that there are only 31 more days of school and then the children will be out and about.

Council Member Payne directed his comment to the residents from WoodCreek. He said that at last month's Joint meeting, there was conversation about gang activity in Delmar. He said that he has spoken with Chief Saylor and confirmed that there is no gang activity in Town. He wanted to set the record straight so that the elderly in Town would not be fearful. He also thanked Mr. Mills for continuing his effort in purchasing and restoring the Lecates building.

Vice Mayor Houlihan also was glad that the Town is stepping forward in joining forces with Mr. Mills, and with the Town's sesquicentennial coming up, maybe the Town will have something to show.

***Public Comments***

Resident Howard Dickerson inquired as to what is happening with the Delmarva Inn. Mayor Niblett stated that the Council is waiting on information from the Town's Attorney.

***Adjournment***

Council Member Payne moved to adjourn. There was a second to the motion which passed with 10 in favor and 0 absent

Cindy Fisher  
Clerk of Council