

**Joint Council
October 26, 2009**

The regularly scheduled Joint Council meeting comprised of the Mayor & Council of Delmar, DE and the Mayor and 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, Council Members Pase, Payne and Thompson, Town Manager Bynum-King and Clerk of Council Fisher. Guests: Sharon Levadnuk, Melanie Boltz, Pam Schell, C. W. Clayton, Jerry Friedel, Bruce Patrick, Pam Schell, John McGuire and Howard Dickerson.

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 Niblett reported that he had received a letter from Representative Norm Conway's office to remind everyone to wash their hands and to sneeze in their arms as preventions for the H1N1 virus. He also received a letter from the Community Foundation of the Eastern Shore asking for financial support and if anyone wishes to do so could go online at www.cfes.org.

He received a letter from the Executive Office of Wicomico County stating that there will be a meeting held on October 27, 2009 in the Nanticoke Room of Salisbury University starting at 6:30 p.m. that will cover topics such as public safety, crime, water quality, rain gardens and establishing a neighborhood watch.

Halloween Resolution

Mayor Niblett read the Joint Halloween Resolution that will establish Saturday, October 31, 2009 from 6:00 p.m. to 8:00 p.m. as the designated date and time for Trick-or-Treating in Delmar. Mayor Outten made a motion to accept the Halloween Resolution and was seconded by Deputy Mayor Hitchens, the motion passed with 10 ayes and 0 absent.

Mayor Niblett also reported that the Delmar High School will also have their Halloween festivities on the 31st and that it is being sponsored by the Glee Club.

Approval of Minutes

September, 2009 Maryland Commission Minutes

Deputy Mayor Hitchens made a motion to accept the September, 2009 minutes as circulated. Commissioner Hodgins seconded the motion which passed with 5 ayes and 0 absent.

September, 2009 Joint Council Minutes

Council Member Payne made a motion to accept the September, 2009 Joint Council minutes as circulated. The motion was seconded by Mayor Outten and passed with 9

ayes, 0 absent, and Deputy Mayor Hitchens abstaining, due to his absence last month.

Parks and Rec. Report

Commissioner Williams reported that there had not been a meeting this past month. She said that there are possibly 3 new members that will be attending the next meeting.

Police Chief's Report

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

Delmar Revitalization Report

No one was present to give a report and Commissioner Hodgins stated that she had not attended the last meeting.

Code Enforcement Officer's Report

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

Fire Department's Report

Chief Shawn Johnson was present and gave this report. He thanked everyone responsible for the 150th Celebration. He said that everything was excellent, especially the fireworks.

He did report on a couple of structure fires; one on E. East Street that basically gutted the residence and the other was on the 9100 block of Rt. 13, across from BFI. The fire took place in a multi-family dwelling and was due to unattended cooking. Neither home had working smoke detectors. He asked if the Council could make it mandatory that the new developments have a hard wire system installed. He said that during inspection, they probably have everything in-line, but after the inspection, batteries seem to be removed from them, making them inoperable. He also suggested that they be inspected more than once a year.

He said that the State of Delaware is getting ready to start the "Wake-Up Delaware Program" which enables anyone who lives in Delaware and needs a smoke detector to come to the Fire Department and receive one.

He also said that rental units should have a CO2 detector installed in them, especially if the tenants are using kerosene as an alternate heating source.

Chief Johnson reminded everyone that November 7, 2009 is their annual Sportsman's Giveaway. Tickets are going fast. Also on November 6, 2009, Joe Morris, Jr. will be the new Fire Chief. He said that due to family obligations, he chose not to run again this year.

Utility Commission Report

Council Member Pase reported that they had discussed the Tidewater Agreement. Also, that on Friday, October 30, 2009, there will be Town-wide fire hydrant flushing that will begin around 9:00 p.m.

Public Works Report

Vice Mayor Houlihan reported that the sewer line lateral repair at Thirsty's has been

completed, along with the leak on Jewel Street. The Public Works crews have been working on all the Parks throughout the Town. Force accounts have slowed down due to the changing of the seasons. Fire hydrant flushing will take place on Friday, October 30, 2009 at 9:00 p.m.

He also reported on an on-going problem with Gordy Park and the vandalism of the restrooms. The locks are continuously being broken. It was suggested that they be left unlocked to maybe curtail the vandalism, but Little League does not want to leave them unlocked.

Fire Chief Shawn Johnson stated that Little League does do the cleaning and is responsible for the restrooms. He said that the locks are being broken not only on the restrooms but also at the concession stand. He also reported that soon the water will be turned off to the restrooms, since there is not a heating source for the water. He said that it's not so much that they have to use the restrooms as it is to see what they can destroy.

Town Manager Bynum-King said that with the upgrades to the basketball court and the skate park complete, the Town need to provide restrooms for the kids to use. Therefore we are seeking permission from the State to use the leftover funding construct another restroom or upgrade the existing one.

Vice Mayor Houlihan continued by reporting that Heron Ponds is still in the water and bacterial testing stages, and the refurbishing of the filters at the water plant is continuing. Public Works is currently sweeping the streets to remove the fallen leaves covering the catch basins and the large garbage truck has come in handy to haul the leaves away.

Planning and Zoning

Vice Mayor Houlihan reported that there had only been two items on the agenda for this past meeting.

Bridgewood Estates- Mr. Tarlaian- Open Space

On the Maryland side, Mr. Tarlaian, from the Homeowners Association of Bridgewood Estates was present and wanted to sell off a parcel that had been designated for Open Space. Vice Mayor Houlihan reported that Planning and Zoning was not in favor of this since it would reduce the Open Space in that Community. He said that in this particular zoning code 15% of the land has to be designated as Open Space. The motion through Planning and Zoning was denied.

Commissioner Williams made a motion to accept the recommendation of Planning and Zoning to deny the request to reduce Open Space in Bridgewood Estates as made by Mr. Tarlaian. Commissioner Hodgins seconded the motion which passed with 5 ayes and 0 absent.

Full House Poker, Inc.- C.W. Clayton

Vice Mayor Houlihan said that on the Delaware side, Mr. Clayton had requested a business license to operate Full House Poker, Inc. at the State Line Plaza. He said that

this was something new for Planning and Zoning, and they had quite a discussion about it. He had asked Mr. Clayton to be present here this evening to address the Council about his request.

Mr. Clayton stated that he is the manager of Full House Poker, Inc. and would like to put a charitable gaming room in the State Line Plaza. They are a third party management of the game. They basically host the games for non-profit charities, which get 50% of the income on the night of the event. He said that right now he has about 40 charities ready for him to open his doors. The State of Delaware regulates how they function. They can only be open 6 hours a day and players can lose no more than \$150.00 per evening. There will be no alcohol served on the premises and smoking will not be allowed. Free soda and food will be served during the course of the event. No one under 21 will be allowed to enter. ID's will be shown at the door and surrendered. They will be closed on Sunday and Monday and they will open at 5:30 p.m. with the first hand being dealt at 6:00 p.m. and will be closed by midnight. He stated that he has already spoken with the owner of the Plaza along with tenants that will be next to the site. No one has any problem with this business coming to the Plaza.

There will be a total of 6 tables that will seat 10 persons per table. There will be both men's and women's restrooms and they will provide and maintain a smoking urn outside. He stated that they will have dealers that will have to go through a background check with the State of Delaware Gaming Board. He did report that there is a local police officer who has already inquired into being a dealer, which will provide security also. He said that he will also install 16 cameras and that every inch of the place, with the exception of the restrooms, would be covered, along with there being a floor manager on the floor at all times. Mr. Clayton stated that there is nothing in Delmar's zoning code that would prevent him from operating his business in Delmar. He did say that he would like to do this on a trial basis so that everyone can see how it operates and how parking issues will be addressed.

Vice Mayor Houlihan stated that Mr. Clayton is correct in that there is nothing in the zoning code to prevent this type of business from operating in Delmar. He did say that Planning and Zoning did not approve this, due to too much gray area, such as security and parking. He said that Mr. Clayton did answer the question of security with the addition of the cameras. He still said that parking will be a major concern especially with Delmar Pizza being so close.

Town Manager Bynum-King asked for some clarification. She said that although the zoning code does not prohibit this, the Planning and Zoning Commission had some concerns. Vice Mayor Houlihan responded that was correct.

There was some discussion amongst the Council Members. Some thought that they should wait for the responses to come back from the casino survey. Others thought maybe another survey should be done about the parking at the State Line Plaza. Mr. Clayton said that if the Town allowed him to operate for 6 months, they could re-address these issues and if there are still concerns, he would move his business out of Delmar.

Resident Melanie Boltz stated that it seems to be a mute point since there is nothing in the zoning code to prevent this.

Council Member Payne made a motion to accept the non-favorable recommendation of Planning and Zoning for the approval of a business license for Full House Poker, Inc. Hearing no second, the motion dies.

Council member Thompson made a motion for the approval of a business license for 6 months for Full House Poker, Inc., in care of Norma Stewart at State Line Plaza in Delmar, DE. After that time it will be brought back to the Joint Council for re-evaluation. The motion was seconded by Mayor Outten and passed with 3 ayes and 1 abstaining and 1 nay.

Vice Mayor Houlihan concluded by stating that due to the upcoming Thanksgiving holiday, the next Planning and Zoning Commission meeting will be held on Thursday, November 19, 2009.

Unfinished Business

Mayor Niblett reported that an additional Stop Sign on Chestnut Street had been discussed at the Police Commission meeting. At that meeting, Chief Saylor said that he would do a traffic study to see if one was warranted. At this time, the study has not been presented to the Council for review.

Town Manager Bynum-King reported that for the Delaware side, the rezoning for a casino surveys have been mailed out and the responses have been good. She said that about 135 surveys have been returned. The postmark deadline is October 30, 2009.

She also reported that all the lights on Pennsylvania Avenue streetscape are now working. Mayor Niblett reported that it had been a design flaw.

New Business

Tidewater Draft Review

Council Member Pase reported that the Utility Commission has reviewed the draft interim service agreement. Town Manager Bynum-King said that the Elected Officials had received a copy of this draft agreement earlier this month for their review and asked if there were any questions, since Town Engineer Jerry Friedel, Jerry Esposito and Bruce Patrick are here from Tidewater.

Commissioner Anderton said that he was confused. He said that he thought that this issue was resolved. Town Engineer Friedel explained that TESI had come back to the Town for another agreement request. This request was due to the slowdown in the housing market, and because of the State of Delaware's position regarding the Glatfelter properties for the spray irrigation fields. He said going forward they will need 2-3 years to go through the permitting process for them to get their facility built.

He continued by reviewing that they would need, due to the economy and regulatory approval process, that temporary service could be necessary for up to 100,000 gallons per day for a period of 3-4 years. TESI will pay the Town for such use at a rate that the Town charges for In-Town metered uses, which is currently \$5.00 per 1,000 gallons per quarter. Also, the allocation by the Town will be 50,000 gallon increments. Service to the area is currently limited in the collection system and at Stage Road Pumping Station. Upon reaching 80% hydraulic capacity, the Town shall notify TESI, and they will have a period of 18 months or until 90% hydraulic capacity has been reached. Either way, they need to disconnect within 6 months of notification.

Commissioner Anderton said that he wants a timetable established so that deadlines are not continuously missed and is an on-going situation. He said penalties should be significant. TESI Representative Bruce Patrick said that Town Engineer Friedel has integrated major penalties by establishing the payment of transmission fees including that they still will have to disconnect.

Town Manager Bynum-King said that if the Elected Officials had any other concerns with the agreement to contact her.

Citizen of The Year

Mayor Niblett informed everyone that John Layton had been named Delmar's Citizen of the Year and will be acknowledged at the Citizen of the Year Banquet hosted by the Delmar Chamber of Commerce on October 28, 2009 at the V.F.W. at 6:00 p.m.

Town Manager's Report

Town Manager Bynum-King reported that she had received a letter from Wicomico County Executive Rick Pollitt, announcing that the County has received \$407,928.00 in grant monies from Neighborhood Conservation Initiatives. This money is for buyers of foreclosure properties to help with down payments, closing costs, and any necessary repairs. Anyone interested in information on how to receive these funds should contact Cheryl Meadows at Salisbury Neighborhood Housing.

She also reported that the Town is the recipient of \$18,000.00 in grant funds through the State of Maryland Energy Efficiency and Conservation Block Grant Program. Delmar, Maryland has received \$167,500.00 in funding for housing rehabilitation needs to bring sub-standard living conditions up to code.

The Delaware League of Local Government will hold it's meeting on November 19, 2009 in Dover at the Sheridan Inn. Please contact Clerk of Council Fisher when making your RSVP's.

The SCAT meeting will be held on November 4, 2009 at the Cheer Center in Georgetown and will be catered by the Georgia House Restaurant. It is being hosted by South Bethany and RSVP's are needed by the 29th of October.

Town Manager Bynum-King stated that this year the Town will be participating in "Be A

Santa To A Senior” Program sponsored by Home Instead Senior Health Care of Delaware. There will be a small tree in the front lobby of Town Hall that will have several ornaments with gift ideas on them. The idea is to stop by Town Hall, take a gift ornament off the tree, purchase the gift suggestion on the ornament, return the ornament and gifts to Town Hall for pick up that will be delivered to the senior on the tag. A representative of Home Instead will be here weekly to pick up the gifts for the seniors.

Commissioner Williams reported that she does work for Home Instead Senior Care. She said that she probably will be the one who will be picking up the gifts. Those gifts will be going to the Home Instead clients. She said that she wanted everyone to know that she works for this company, but had nothing to do with arranging this program.

Town Manager Bynum-King discussed the Holiday Employee and Volunteer Dinner with the Elected Officials. The outcome was that the event will be held at the V.F.W. on Friday, December 11, 2009. They also discussed November and December Joint Council meeting dates due to the upcoming holidays. The decision was to hold the November Joint Council on its’ original date of November 30, 2009 and for December, move it to December 21, 2009.

Council & Commission Comments

Council Member Payne asked for an Executive Session after this meeting for a personnel issue.

Council Member Pase also issued precautions in hand washing and coughing and sneezing. She also asked that if anyone is aware of any seniors or shut-ins that are struggling with food, she would be glad to see if the Elementary School could be of any assistance.

Vice Mayor Houlihan stated that he wanted to address the issue of him asking Mr. Clayton of Full House Poker to be here tonight, even when his business is permitted under the current zoning code. Vice Mayor Houlihan stated that this is the way the Planning and Zoning wants to do things. There were some gray areas, and he wanted to bring it to the Council so that they can have some input and to be knowledgeable on what is happening with Planning and Zoning.

Commissioner Anderton stated that the State of Maryland has cut \$200 Million out of their budget. Any monies that the Town was hoping to get next year will not be happening.

Deputy Mayor Hitchens stated that he thought the Planning and Zoning Commission did a great job and he is proud of them. He also reported that the American Legion will be collecting food for the needy one day a week. He also spoke of the American Legion flag pole light at State Street Park needs adjusting.

He also reported that the American Legion has gone in with the Wellness Program at the High School to raise money for under-nourished children. A 1969 Camaro street rod is

being raffled off for \$25.00 a chance, with 3000 chances being sold. He said you could also visit the website wina69camaro.com for more information.

Public Comments

Resident Sharon Levadnuk stated that she is having new resident problems on her street. She said that after 11:00 p.m. there seems to be concerns on who is to respond to resident complaint phone calls. Town Manager Bynum-King said that this seems to be a personnel issue and should be addressed to her.

Resident Melanie Boltz thanked all the Elected Officials. She said that they do an outstanding job. She wanted to speak about Gordy and State Street Park and all the vandalism that seems to tie in with them. She asked that whatever is done at Gordy Park to also be done at State Street Park. She also asked if Public Works could use the street sweeper in State Street Park to mulch the leaves, before the equipment is put away for the season.

Resident Howard Dickerson asked if a street light could be installed between the two doors of the Town Hall. He said that when they leave after these meetings, it usually is pitch black.

Adjournment

Commissioner Hodgins made a motion to go into Executive Session for personnel issues. The motion was seconded by Council Member Payne and passed with 10 ayes and 0 absent.

Submitted,

Cindy Fisher
Clerk of Council