

Utility Commission
October 26, 2009

The regular scheduled meeting of the Delmar Utility Commission was called to order by Council Member Pase. In attendance were Commission Members Dickerson and Dewald, Commissioner Hodgins, and Council Member Thompson (arrived late), Town Manager Bynum-King and Clerk of Council Fisher. Guests: Jerry Friedel, Bruce Patrick, Pam Schell, and C.W. Clayton.

Approval of Minutes

Commission Member Dickerson noted that on page one of the September minutes, he was referring to the light on the north end of Town Hall. He made a motion to amend the minutes to reflect such change. Commissioner Hodgins seconded the motion which was passed with 4 ayes and 1 absent.

Commissioner Hodgins made a motion to accept the amended September 28, 2009 Utility Commission minutes as amended. The motion passed with 4 ayes and 1 absent.

Unfinished Business

Tidewater Utilities Draft Agreement

Town Engineer Jerry Friedel from DB&F was present and reported that the Town had been approached by Bruce Patrick, a Tidewater Utilities (TESI) representative, regarding a method by which they could move forward with their plan to provide utility services for the growth area of Delmar, Delaware, north of Rt. 13. There have been some time delays in their process to secure a location for the spray irrigation site, due to State of Delaware requirements as well as the current of the economy. However they are currently negotiating with interested property owners to secure a location for the spray irrigation site as well as the Treatment Facility location. The original agreement was signed in January, 2008, however with the state of the economy and the other issues related to securing a site; TESI has requested the Town's consideration to enter into an interim agreement to allow them to connect the initial developers to its system. Town Engineer Friedel reviewed with the Commission the proposed Interim Agreement for services as follows:

Within the draft agreement TESI is proposing to purchase wastewater treatment and disposal services from the Town to be served to there users in the Delmar, Delaware growth area. For those utility services TESI is proposing to pay the Town's current in town user rates. They will also be required to pay the State regulated Bay Restoration Fees as assessed each quarter. TESI will be responsible for all cost associated with connecting to the Town's wastewater system. TESI estimated that the temporary connection would only be for four years at the most. Originally, they felt they needed 100,000 gallons per day, but have reconsidered and are only requesting 50,000 gallons per day allocated with an option to increase 10,000 gallons per day until they reach the 100,000 gallon per day limit.

Town Engineer Friedel reported that on page three, there are safeguards to protect the Town's services, such as TESI contributing 50% of the current transmission fees for the upgrade to the new facility and downstream pipelines, if they were not prepared to provide utility service to the growth area at the end of the agreed terms of the agreement. The payment is due and payable within 6 months of the date of the agreement and is non-refundable. If for some reason, TESI has not terminated the service with the Town within 48 months, TESI shall be responsible to paying the current connection/impact fees at the time of agreement expiration.

Also on page four, there are methods of requiring certain milestones, such as having the land option to secure and move forward with detail testing of land for spray irrigations sites. The agreement has several mechanisms in place to protect the so that TESI is not a permanent customer of the Town of Delmar Utility Commission.

Town Engineer Friedel also noted that Number 6 on page 4 addresses another milestone. When the plant reaches 90% hydraulic capacity, TESI has to disconnect from the system or finance the necessary upgrades to accommodate the service. He said that the extended forcemain installed by TESI to serve the growth area could be beneficial to the Town in the event that extra storage capacity is required by the Town for additional future connections.

Commission Member Dickerson asked about capacity that has already been allocated to other developments. Town Engineer Friedel explained that there are expiration dates in the Public Works Agreements that show for how long the Town would be obligated to allocate services to a particular development.

Tidewater Vice President of Engineering Bruce Patrick spoke about the hardship they experienced trying to secure property for the spray irrigation site. He said that they have found one landowner who seems willing to work with them and they are real close to finalizing a contract.

Commission Member Dickerson asked specifically which developments are interested in moving forward with this agreement. Mr. Patrick answered that he thought two residential developments Delmar Grove and Whitetail Run were ready to proceed forward. Additionally Gateway Plaza is a potential commercial development in the growth area.

Commission Member Dewald said that last time they met with TESI; it was in a work session. She asked what TESI had done for the Town since that last meeting where they committed to be good business partners with the Town. Mr. Esposito responded that they have joined the Chamber of Commerce and sponsored fireworks for the Sesquicentennial Celebration, which was a \$2,500.00 contribution. He thought they had sponsored some Little League equipment. He said that at this point his organization do not have a physical presence in the Town, but fully intent to keep their commitment to support Town events.

Town Manager Bynum-King stated that if the Commission would like to see anything modified in the agreement, to email her so that she can forward them to Delaware Attorney Waehler along with Town Engineer Friedel to be included in the final draft. Town Mgr Bynum-King, did state that the section on page 2 of the draft agreement under item #1 needs to be modified to include: The commercial user rates and sewer front foot fees in addition to the residential rates. Additionally the State of Maryland has implemented a sliding scale fee for Commercial Bay Restoration fees.

Commission Member Dickerson asked what assurances the Town will have if we sign this agreement, that the property will be developed and this will not hang in limbo for many more years to come. Town Mgr. stated that the draft agreement has an expiration date which will become void if the property is not developed. Mr. Patrick said that no one will make any commitments on this property until there is ability and commitment to provide with water and sewer.

Town Manager's Report

Town Manager Bynum-King reported that there will be Town wide fire hydrant flushing on Friday, October 30, 2009 starting at 9:00 p.m.

Commission's Comments

Commission Member Dickerson asked for an update to the back-up well. Town Manager Bynum-King responded that there has been no current update. The last discussion regarding this matter was the State was trying to assist the Town with finding funding to install another well and that the State would require the Town to abandon the well, it can be used for testing. Jerry Friedel, mentioned that he thought Josh Taylor from his office had some current information he could share regarding this situation. He said he would have Mr. Taylor to follow up with the Town Mgr. within the week.

Adjournment

Council Member Thompson made a motion for adjournment which was seconded by Commission Member Dewald. The motion passed with 5 ayes and 0 absent.

Submitted,

Cindy Fisher
Clerk of Council