

Joint Council November 30, 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 Council Members Pase, Payne and Thompson, Town Manager Bynum-King and Clerk of Council Fisher. Absent: Commissioner Williams. Guests: Jay Hammerer, Karen Wells, JR Wells, Dr. Ring, Howard Dickerson, David Goslee, Sharon Levadnuk, Chris Walter, Wade Alexander, Mark Bowen, Michelle Niblett, Barbara Hudson, and Spencer Fothergill.

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 Outten congratulated the Delmar Football Team for their victory and their forward movement to the State Championship game this Saturday. He also thanked the Delmar Fire Department for escorting the team back into Town. Mayor Niblett suggested that, either win or lose on Saturday, the procession with the fire truck could go onto the Maryland side.

Mayor Outten reported that the Christmas Parade will be held on Saturday, December 5, 2009 at 2:00 p.m. The rain date will be Sunday, December 6, 2009 at the same time.

Approval of Minutes

Mayor and Council October minutes

Council Member Pase made a motion to approve the October minutes from the Mayor and Council meeting. Council Member Payne seconded the motion which passed with 4 ayes and 1 absent (Council Member Thompson arrived late)

Joint Council October Minutes

Vice Mayor Houlihan stated that one correction needed to be made on page 5, the 3rd paragraph in the Planning and Zoning section. He said that the actual vote was 3 ayes, 1 nay and 1 abstaining. Council Member Pase made a motion to approve the minutes as amended. Council Member Payne seconded the motion which passed with 4 ayes and 1 absent. (Council Member Thompson arrived late).

Parks and Recreation Report

No one was present to give a Parks and Recreation Report.

Police Chief's Report

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

Council Member Payne questioned the “Special Note” section of the report. He wanted to know if the Town benefited, by actually receiving money, from the proceeds of the Police Auction or if the money was only for the Police Department. Town Manager Bynum-King stated that she would research how the proceeds are distributed.

Delmar Revitalization Report

Chairman Chris Walter reported that their last meeting was held on November 18, 2009. There had been some discussion on a museum fund and that they had individuals who wanted to donate money. He wanted to speak to the Council in reference to setting one up with the Bank. The only ones who would have access to it would be Janet Smith and Mr. Mitchell. Town Manager Bynum-King said that there is an account already set up for the Delmar Revitalization Committee, but she did not think it was solely for the museum. She said that she would follow-up with Municipal Clerk Layton about that.

Chairman Walter continued by reporting that they have received approval from the Fire Marshal for the museum plan and the next step is to submit it to the Town and he would like to have the permit and plan review fee waived. Council Member Thompson made a motion to waive the permit and plan review fee for the museum for the Delmar Revitalization Committee. Council Member Payne seconded the motion which passed with 5 ayes and 0 absent.

He continued by reporting that they will be having an after-hours forum for the downtown property and business owners sometime in January. He said that the next meeting would be held on December 16, 2009 at 7:30 p.m., at Town Hall, which is a Wednesday. He said that they were going to move their meetings to Wednesdays so that more members can attend.

Code Enforcement Officer's Report

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

Fire Department's Report

Chief Joe Morris, Jr. reported that elections had been held this past month and he was re-elected as Chief of the Delmar Fire Department, Jay Hammerer has been elected as President, and Steve Twilley, Sr. is the Vice President. He said that a lot of the line officers stayed the same.

He reported that to-date the Fire Department has had approx. 420 alarms which is considerably lower than what it has been in the past few years. He has received the plans for the museum from the Fire Marshall’s Office. He said at first glance there seemed to be no major problems but that it would be thoroughly reviewed by his officers and if there are concerns it would be returned to the Fire Marshall’s Office.

He continued by reporting that the Sportsman’s Bash was a success. He said that the funds would be used wisely since there have been a lot of cut-backs. He also reported that computers with a mapping system with GPS are being installed in the ambulances so they can better locate

individual houses. He said that he has spoken with Roger Martinson, from the Delmar Chamber of Commerce, and he requested that Fire Police be available for the parade to assist with traffic control. He also said that Engine 3 is being worked on but would be available for Santa Claus.

Chief Morris spoke of JCR and their chicken waste spills in Town. It is becoming more frequent again and they are sending the bills for the Fire Department's time, if it's happening on the Maryland side, to Wicomico Emergency Management. He said that the fines of \$1,500.00 just from the Fire Company and then the bills coming from both States and then The Town; it starts getting pretty costly.

He said that he is no longer the President of the Sussex County Chief's Association. He said that it was only a one term position, but he is the Director. The State is planning on cutting funding by 20% across the board. They will start looking for other ways to make money to come up with the funds to run the department.

He did announce that there are smoke detectors along with batteries being offered for free at the Fire Hall for whoever needs them.

Chief Morris turned around and addressed the audience.

He said that the Fire Department had received a few phone calls about some people complaining about the noise the Fire Company made and accusations that the drivers would be fined and in violation of the Town's noise ordinance. He said that if there is anybody to be fined, it would be him since he is responsible for what happened. He said that this tradition has been going on since 1985 and all Fire Chief's for the past 20-25 years have also done this. He said that he is guilty of violating the noise ordinance since it was past 10:00 p.m. when the noise from the fire engines started. He said that he went to the Police Station and asked if there was anything he needed to do and if any complaints had been made formally and they said "No". He said that if there was a fine to be paid, that he would pay it.

He said that he wanted everyone here to understand that the Town Council has nothing to do with the complaint. They were very supportive but it is their ordinance and that he was Fire Chief when the ordinance was made. He asked specifically if the Fire Department and the ambulances, Police Departments and the Railroads be exempted from the ordinance, since there are certain things that they have to do that will make noise. He said that it will happen again next Saturday. He said that he was not being defiant, he was just being honest. He said that if a complaint is made, he would appreciate it if it is made to the Fire Department or to one of the members. He said that it really is not about the Fire Company, but it is about the kids.

Council Member Payne said that he was one of the members of the fire apparatus, he wanted to make sure that they honor Mayor Niblett's request to go through the Maryland side. Chief Morris did say that he did appreciate the Delmar Police escort the other night. The Laurel Police Chief was also thanked for his escort of the team into Delmar.

Oath of Office- Maryland Elected Officials

Mark Bowen from the Wicomico County Circuit Court Clerk's Office was present to administer the Oath of Office.

Mayor Niblett announced that he has received a letter of resignation from Commissioner Carrie Williams from her position as Commissioner for personal reasons.

Mark Bowen administered the Oath of Office to Mayor Niblett. (see attached)

Mark Bowen administered the Oath of Office to Commissioner Anderton. (see attached)

Mayor Niblett said that they will fill the vacant position left by Commissioner Williams as per the Charter, which is a selection process that goes before the Commission.

Utility Commission Reports

Council Member Pase reported that there had been an issue with the media filters. The cost for the replacement and installation of all three media filters will be \$43,294.34.

Public Works Reports

Vice Mayor Houlihan reported that the Public Works employees are working in the streets removing leaves from the storm drains. It has been labor intensive with the use of the back hoe and the garbage truck.

He said that the new pump for the Pine Street Pump Station will arrive in approximately 10 weeks and will have a price tag of approximately \$22,000.00. Hopkins Construction will be doing the replacement and installation of the three media filters at the water plant.

Vice Mayor Houlihan continued by reporting that MARCOR is doing some of the curb replacement in Bridgewood Estates. It has been reported that a resident in Bridgewood Estates has added on to his driveway with concrete and in doing so has covered over the Town's utilities. A letter has been written and sent to the homeowner that informed him that he had until December 15, 2009 to fix the situation.

He reported that on Connelly Mill Road, on the Maryland side, last spring a truck overturned and did some damage to the ditch. The company is coming back to fix the ditch. Some of the Town trucks have been down for maintenance and the streetsweeper is also being repaired.

Vice Mayor Houlihan reported that the Public Works Department is struggling with the amount of rain and is doing the best they can to keep up with the drainage problems. He also said that Schrock & Sons has submitted an estimate of \$6,900.00 to do all the road patch work that is pending in Town.

Commissioner Hodgins informed Vice Mayor Houlihan that the estimated cost of the new pump for the Pine Street Pump Station is \$26,000.00 instead of the \$22,000.00 that he reported.

Planning and Zoning Commission Report

Vice Mayor Houlihan reported on the following:

Dr. Chandra- Strip Mall Proposal

Vice Mayor Houlihan said that Dr. Chandra had been asked to appear here this evening, but he didn't see him.

Vice Mayor Houlihan reported that Dr. Chandra is proposing a retail center on the north end of Sleepy's and had been asked to attend this evening's meeting, but he is not present. He said that this building will have the same design as Sleepy's along with having some characteristics as Delmar Commons. There was one item that had some discussion and that was with the proposed sign. Dr. Chandra was interested in having a pylon sign, but the sign ordinance calls for a monument sign. This plaza would have 10 units and be what Dr. Chandra calls a "Professional Building". He wants to move quickly with this. Everything else is within code and he is coming back for the December Planning and Zoning meeting for approvals.

Council Member Payne asked if the existing storm water management pond at the southeast corner of the building will be able to handle everything that will be added. Vice Mayor Houlihan said that it would. He said that Sussex County Conservation District will instruct Dr. Chandra on everything he will need to do for this project.

Mayor Niblett said that Stop signs should be added in the lot just as they were for McDonald's.

Fire Chief Morris said that when the Zoning Code was updated, he believed that the Fire Company had requested that any stormwater management pond that held over 15,000 gallons of water be required to have a dry hydrant so that the Fire Company can get to it in case of emergency. He understands that the pond that is out there currently was there before the Zoning Code change, but with this new addition could a dry hydrant be put at that facility so that the Fire Department could access it in case of emergency. Vice Mayor Houlihan said that he wished Dr. Chandra's engineer was here to answer that question. Mayor Niblett Niblett asked about requiring them to install an aerator for the storm water management pond.

Vice Mayor Houlihan said that these changes seemed to be doable. Mayor Outten said that the crepe myrtles may need to be changed since when they grow they will be in the path of drivers. Vice Mayor Houlihan said that he will make Dr. Chandra aware of these cosmetic comments.

Alan Perry- Pond's Edge- Re-Landscaping

Vice Mayor Houlihan reported that Mr. Alan Perry was present and spoke about the approved landscaping plan for Pond's Edge. He said that his company now has taken back management of Pond's Edge and in the process of redoing some of the landscaping, noticed that it did not meet the approved landscaping plan. He made a good faith effort by doing over 180 plantings. Mr. Perry submitted a revised landscaping plan for approval along with a plan for landscaping for the lights at the entrance of the development. Vice Mayor Houlihan said that Planning and Zoning did not have many comments about the new plan.

Commissioner Hodgins made a motion to accept the favorable recommendation from Planning and Zoning for the approval of the revised landscaping plan along with approval of the sign at

the entrance of Pond's Edge, as per the attached drawing. Mayor Niblett seconded the motion which passed with 4 ayes and 1 absent.

Michael Harpool- Handicap Ramp 11 Spruce Street

Vice Mayor Houlihan reported that Mr. Harpool had been present and asked for permission to have a handicap ramp installed on his property. He did provide drawings of the ramp and how it would fit on the property. Because of the magnitude of the project, and because it was encroaching on the setback lines, it was brought before the Planning and Zoning Commission.

Deputy Mayor Hitchens made a motion to accept the favorable recommendation from Planning and Zoning for approval of the installation of a handicap ramp at 11 Spruce Street, Delmar, MD. per the attached drawings. Commissioner Hodgins seconded the motion which passed with 4 ayes and 1 absent.

Vice Mayor Houlihan concluded by reminding everyone that due to the upcoming holidays, the December Planning and Zoning Commission meeting would be held on December 17, 2009 at 7:00 p.m. and they would be working on the modification of the zoning code.

Unfinished Business

TESI Agreement

Council Member Pase reported that the Utility Commission is waiting to get a complete revision of the Agreement before making any recommendations to the Joint Council. There have been several copies of the revisions circulating. Town Manager Bynum-King is going to incorporate some of the recommendations and suggestions by the Utility Commission and have the completed document prepared for circulation by next month's meeting.

Zoning Code Change

Town Manager Bynum-King reported that the proposed zoning code amendment was an outstanding Delaware issue. The Town has received the results from the zoning code change survey last month. It was added to the agenda so that if the Council wanted to take further action to proceed, they can. By that she meant that if they wanted to do a zoning code amendment, it would need to be put in a motion so the necessary process to make sure that things can get done for the first reading and then for the public hearing.

Mayor Outten reported that the survey results were that the majority of the Delmar, Delaware residents were in favor of a zoning code change to allow casinos, by 101 in favor to 67 against, and 25 undecided.

Resident Howard Dickerson commented on the survey. He said that the survey was sent out to the Delmar, Delaware residents. It was pretty much a blank piece of paper that asked if the residents either want to or not want to make this zoning change. He said that there really was not any control factors in the survey. It would be hard to know that the replies received were actually from Delmar, Delaware residents. He said that it would have been easy to Xerox the form, fill it out and then send it back to Town Hall. He felt a line should have been added to the survey to have the residents write their address on to give it more validity.

Mayor Outten responded that the surveys were sent to the individual addresses, in Delmar, Delaware. Town Manager Bynum-King said that nearly all of them that were returned were returned in the self-addressed envelope that was provided, which would give us every confidence that the surveys were valid. The Town did have approximately 10 surveys that someone did photocopy that were opposed, which were very obvious that they were photocopied and were not included within the final count; even if the photocopied surveys were counted it would have not made a difference in the outcome.

Mayor Niblett stated that he wanted to make a recommendation that if the Council agrees to change the zoning code, he would like to see it tied to a Community Impact Ordinance. What impact the proposed casino would have, and to make restitution on things such as roads, the fire dept., police dept., library, post office, etc. That would be under the Planning and Zoning's jurisdiction.

Vice Mayor Houlihan asked if Planning and Zoning should first be working through this zoning change, since Planning and Zoning never made a recommendation to move forward to the Delaware Council. They had a question, which was brought to the Delaware Council. After some discussion, it was decided that Planning and Zoning will work on preparing the language to be included in the proposed zoning code amendment to be recommended to the Delaware Council for approval.

There was also some discussion that the State of Delaware has changed its' deadline from October 15, 2009 to December 15, 2009 and now it's being reported that they have pushed back the deadline once again. Mayor Outten said that he would like to get this done as soon as possible. Vice Mayor Houlihan said that Planning and Zoning will actually write the language for the casino insertion into the zoning code specifically in the highway regional zone and will include language for any special exceptions.

Stop Sign on Fourth Street

Mayor Niblett reported that this was a Maryland issue. There is a resident that lives on the corner of 4th and Chestnut Streets and had come to one of the meetings with a signed petition from residents of that area about excessive speed coming off of Bi-State and coming onto Chestnut Street. The residents were requesting a Stop Sign be placed at that intersection. Mayor Niblett said he asked the Delmar Chief of Police to do a traffic assessment and he recommended a Stop Sign there also.

Mayor Niblett did speak to the resident that brought it to the Council's attention and he said that the residents would be willing to try a 90 day trial period with the sign. Mayor Niblett advised him that when a Stop Sign is installed, it's permanent. The resident did offer to hand out flyers up and down the street to let the residents know that there will be a Stop Sign installed there.

Commissioner Anderton said that with the history of the author of that petition, he questioned the validity of the signatures on it. He said he would like to actually have the residents come in and voice their opinion instead just seeing signatures on a piece of paper. He said maybe something like a Public Hearing, where they can come in and say what it is they actually want instead of

relying on what someone else states that everybody wants. Mayor Niblett suggested a mini-survey be taken of the residents of the area to see if they are actually in favor of putting up a Stop Sign at that intersection. The Council should take the results of that survey as well as the Chief's recommendation into consideration.

Additional Street Light on E. Elizabeth Street

Mayor Niblett said that another concern that has been brought to his attention is of the lighting on E. Elizabeth Street. He said that he asked Sgt. Bond of the Delmar Police Department to look at that area during the evening. On one corner is a tree that blocks most of the street light and then there's a long block before there's another street light. He wanted Sgt. Bond to submit a report of his findings. He has not received that report, so he would like to see this matter on next month's agenda under "Unfinished Business". He said that he wants to fix the problem either by having the tree trimmed or adding another light.

The resident who had contacted Mayor Niblett in reference to the lighting was in the audience and he said that his vehicle along with the neighbor's vehicle had been broken into earlier in the week. A police report has been filed. He said that his belongings were found in one of the Council Member's yard. He said that the majority of people living on the street are elderly. They would greatly appreciate anything the Council could do to bring more lighting to E. Elizabeth Street.

New Business

Delmar Police Department- Proposed DE Collective Bargaining

Sgt. Wade Alexander of the Delmar Police Department was the spokesperson for the Collective Bargaining issue. He said that he asked the Council to meet with the Delmar Police Department so that they can come to some sort of understanding to the facts as they pertain to collective bargaining in the State of Delaware. He said that he wants to lay out the chain of events as they have happened since 1997. He has provided numerous documentations and correspondences that were included within their mail packets. He said that some of the correspondence is from the Public Employee Relations Board (PERB).

He said that in 1997, the Fraternal Order of Police filed a petition with PERB which would allow the Officers of the Delmar Police Department the right to organize and bargain collectively for salaries and benefits under the Police Officers and Fire Fighters Public Employee Relations Act which is a law in the State of Delaware. The Police Commission, at that time, filed a motion for dismissal with the PERB, based on two reasons. The first reason was that the Town stated, at the time, that the Police Commission was the employer of the Police Department and the Police Commission was equivalent to a Bi-State Agency and in the absence to specific circumstances, not present in this matter, the Commission was not subject to the laws of the State. The second argument was that the Town of Delmar did not employ 25 full time employees.

A hearing was held in 1998, where the PERB made a decision and ruled that the Police Commission was not the employer of the Delmar Police Department as was presented by the Town. The Police Commission's only function was as an administrative agency for a bi-state municipality. The PERB ruled that a bi-state agency is only subject to the jurisdiction of one of the states only when a complimentary or parallel statute exists in each of the states. He said that

that did not exist at the time. At the hearing, the Town of Delmar showed that they only employed 24 full time employees. The motion for dismissal was granted by PERB.

In September of 2009, the FOP and the Officers of the Delmar Police Department signed a petition with the PERB for collective bargaining rights. On Sept. 25, 2009, the PERB contacted Sgt. Alexander and said that the PERB lacked jurisdiction to process the petition based on the 1998 ruling. They wanted to know what circumstances had changed since then. As a result of that, the FOP responded that the Town now employed 25 or more full time employees and that the Town now also has a complimentary or parallel statute on the Delmar, Maryland side.

On October 2, 2009, based on the information that was provided to PERB, they were satisfied with that information and at that point, contacted Town Manager Bynum-King and requested certain information and requested that the Town Manager submit to the PERB the Town's position on the petition. On October 9, 2009, the Town Manager wrote a letter to the PERB, on behalf of the Delmar Mayor and Council stating opposition to the petition based on two reasons. The first being that there would be an unavoidable and additional administrative and legal cost that the certification of the bargaining unit would bring and secondly that there are 31 full time employees that the Town of Delmar, Delaware only contributes 40% of the cost, and thus does not have exclusive authority over 25 employees.

On November 11, 2009, the PERB re-contacted Sgt. Alexander in writing and requested that the FOP give a rebuttal to the Town Managers' letter and to also supply supporting documentation. The following day, the FOP responded to the letter by stating that the unavoidable and additional administrative and legal costs that the bargaining unit would generate has no legal bearing on whether or not PERB has on this case. Also, by the Town Manager's own admission, the Town of Delmar jointly employs more than 25 employees. The assumption that the PERB ruled in favor of the Town based on the percentage of the cost that one state pays as opposed to the other state is incorrect. The decision made in 1998 was based on the fact that the Town only employed 24 full time employees.

On November 24, 2009, the PERB wrote another letter to the Town Manager requesting the Town to respond to the FOP's position specifically as it relates to the Maryland Charter Amendment. At this time based on this information, he asked the Mayor and Council to give consideration to the facts that he has outlined this evening. He quoted the first paragraph of the Delaware Police Officers and Fire Fighters Employment Relations Act. "It is the declared policy of the State and the purpose of this chapter to promote harmonious and cooperative relationships between public employers and their employees, employed as police officers and firefighters, and to protect the public by assuring the orderly and uninterrupted operations and functions of public safety services." He asked the Council why they would not want that for their employees and citizens of the Town.

Mayor Outten asked what FOP stood for and then asked how many Police Officers were on the force. Sgt Alexander responded that FOP stood for Fraternal Order of Police and that there are 12 Officers. Mayor Outten said that they only have 12 officers and the law states that 25 are needed. He said that the FOP has already taken the Delaware side to court and that case has been dismissed. He also said that the Town does not pay for the firefighters, since they are volunteers,

they don't have anything to do with this. He said that he doesn't understand how the Delmar Police Department getting collective bargaining will benefit the Town. The only ones he sees benefiting, is the Police Department. Mayor Outten asked Sgt. Alexander to explain how the other Town employees and the residents of Delmar, Delaware would benefit from the Police Department gaining Collective Bargaining rights.

Sgt. Alexander stated the Delmar Police Department and the FOP did not take the Town of Delmar, Delaware to court, it was the other way around, and the motion was dismissed based on things that no longer apply. The law does not say that you have to have 25 Police Officers, the law states that your employer must employ 25 or more full time employees. He said that the citizens of Delmar would benefit by creating a harmonious and cooperative atmosphere. Mayor Outten stated that he thought that we were already harmonious and cooperative. He asked Sgt. Alexander if he meant that the Council is not harmonious and cooperative with the Police Department now ? Mayor Outten further said that the Town is pretty lenient with the department and gives them basically everything they ask as the Town budget would allow. Sgt. Alexander said that they are asking the Town to voluntarily elect to follow what is in the guidelines. Mayor Outten said that he could not see supporting anything that would eventually lead to taxing the Delaware residents to death so that the Police Department could have everything their way and no one else could benefit.

Council Member Payne asked if this collective bargaining would be for the Police Officers only. Sgt. Alexander responded that was correct.

Town Manager's Report

Town Manager Bynum-King reported that the Delaware Board of Adjustments needs 2 additional volunteers before their next hearing. There is not one scheduled. But it has to happen as stated in the new regulations. So, either 2 volunteers need to be added or change the regulations to reflect what we have always had.

She reported that on November 20, 2009, she, Mayor Niblett and Commissioner Hodgins met with Rachel McCullick who is an Eastern Shore Outreach Coordinator from Governor's O'Malley's office. She came to introduce herself and let them know that she is available to hear any of their concerns.

U.S. Senator Tom Carper's schedule coordinator has forwarded an email informing them that the Senator will be in Sussex County on December 7, 18, and late afternoon on the 12th of December. Anyone having an event that they would like the Senator to attend could contact him at 302-856-3505.

The preliminary schedule for the 2009-2010 Eastern Shore Municipalities Chapter Legislative Dinner is scheduled for Tuesday, January 19, 2010 in Kent Island. The SCAT Steering Committee will meet Friday, December 4, 2009 at 9 A.M. at the Lighthouse Restaurant at the Sussex County Airport. The actual SCAT meeting is Wednesday, of this week in Rehoboth Beach. Tri-County Council for the Lower Eastern Shore of Maryland will hold its' annual meeting on December 10, 2009 in Cambridge at 9 A.M.

Town Manager Bynum-King reported that Mr. Michael Pettington who is the Executive Director for the Tri-County Council for the Lower Eastern Shore sent a letter that said the legislation has established that the Council contain the following provision regarding municipal representation on the Council. Three elected municipal officials, one from each County appointed to their respective municipal corporations. This is the time of year where they need to start appointing representatives. The Council meets 4 times per year. If the Maryland Commission has a recommendation, please let her know and she will forward that information on.

The Town received the annual letter from Wicomico County regarding the appropriations for 2009, for the State Fire Protection Grant. Mayor Niblett sent a letter authorizing that it be distributed equally among the 14 volunteer fire departments of which each will receive \$15,757.78.

Delmarva Power sent notice that beginning this month and continuing through the year 2010, they will begin a Smart Meter Deployment across Delaware. They are taking steps to automate their utility readings for their customers in their Delaware service territory. This digital technology will allow DP&L to provide customers with improved service, and with fewer estimated bills.

Delmarva Power Senior Public Affairs Manager sent a letter regarding plans for future electric reality for the Delmarva Peninsula. DP&L is willing to send a representative to attend Town meetings to discuss the Mid-Atlantic Power Pathway. They are looking to do their upgrades from 500 kilowatts transmission lines that will be a vital component for providing electricity in the future.

Town Manager Bynum-King reported that the Employee and Volunteer Holiday Dinner will take place on December 11, 2009 at 6:00 P.M. Town Hall will be closed on December 24th and 25th. The Maryland garbage service will not be interrupted due to the Christmas holiday. The Joint Council will meet on Monday, December 21, 2009. Also Town Hall will be closed on Friday, January 1, 2010.

She said that Sgt. Alexander did address the Council this evening in reference to collective bargaining. In the mail packets is a letter that they will have to respond back to PERB by December 8, 2009. She would like to know from the Delaware Council how they wanted her to respond. A special meeting could be scheduled on Monday, December 7, 2009 so that it can be discussed and a written response could then be prepared. If the Council wanted, she would ask Delaware Town Attorney Waehler to be present. It was agreed to hold a special meeting on Monday, December 7, 2009 at 7:00 p.m..

Town Manager Bynum-King reported that there had been an inquiry from a Wilmington Police Officer in reference to the property owned by Jaimie Rostocki on the Delaware side. He and several other officers had hunted on the property prior to it being annexed into Town. She said that there is an ordinance banning the use of firearms within Town limits. He asked about the use of bows for hunting. She said that there is nothing in the Town's ordinances that addresses that issue. If the Council did not want to allow bow hunting, they would have to amend the ordinance accordingly. Mayor Outten suggested that other towns be checked to see how they handle, if

they do, bow hunting within town limits. Town Manager Bynum-King said that she would pull sample ordinances from other towns.

Council & Commission Comments

Council Member Thompson apologized for being late. He said that he is in favor of all the support that the Town gives to the school system.

Council Member Payne congratulated the Delmar Football Team. He said that he was the one who blew the horn on the fire truck as it was passing through Delmar after the win last week and probably will be doing it again on Saturday. He thanked Sgt. Alexander for explaining to the Council the collective bargaining issue.

Council Member Pase said that she is all in favor of supporting the kids. She also announced that as of July 1, 2010, she will be retiring out of the school system. She said that she did receive 2 calls Saturday night about the noise. She also said that Christmas is coming and there are a lot of needy families in Delmar. The High School is accepting contributions of any kind.

Vice Mayor Houlihan stated that he shares the same thoughts about the football team as the other Council Members. He said that it shows Town pride and spirit.

Commissioner Anderton said that the school system was the reason he moved to Delmar as well as the community. He said that he is proud to live here and proud to serve his community.

Deputy Mayor Hitchens congratulated the Delmar football team as well as their hockey team.

Mayor Niblett sent kudos to both Delmar teams. He also spoke about the possibility of redistricting. There is a gentleman who is serving of the Steering Committee who will be meeting with Joint Council. He also asked Dr. Ring if he, also, could be at that meeting.

Public Comments

Michelle Niblett identified herself as working for the Wicomico County Sheriff's Department. She said that it would be a mistake not to consider collective bargaining. She said that the Town paid \$19,000.00 in legal fees already back in 1998 and wouldn't it be cheaper just to voluntarily go with collective bargaining.

Dr. David Ring identified himself as the Superintendent of the Delmar School District. He said that he was not the Superintendent in 1999, when redistricting was last addressed. He and Joanne Gum are serving on the Redistricting Committee. There are 4 members of the Delmar, Delaware and Delmar, Maryland on this Committee. He said that he thinks things are a little bit different this time under the direction of Dr. Fredrickson, Superintendent of Wicomico County School District. He is aware of the Bi-State Agreement which was revised two years ago. There are 533 Delaware students at the Delmar Elementary School. He said that there is a seating law in Maryland. The Elementary School is over-capacity with 967 students. The major concern is the 14 trailers that are on that property.

Dr. Ring said that Dr. Frederickson informed him that no one has gone to either Dover or Annapolis to seek help for the Elementary School. He said that Annapolis is not looking at putting money into the building since it educates Delaware students. The Delmar Middle/Senior High School educates over 500 Maryland students. The Wicomico County School District does not have the room for these 500 students if the agreement is terminated. He said that he will be keeping the Joint Council updated on the outcome of the meetings.

Mayor Niblett and Dr. Ring spoke of the possibility of consolidating the Delaware School Districts from 19 to 3. He said that Gov. Markell during the Election preached consolidation. He asked to have a consolidation report complete and the final copy will be in the papers either this Tuesday or Wednesday. It will be a downsizing the District Administration. There would only be one Superintendent in Sussex County where there are now five. This is basically mirroring what Wicomico County has. He said that the portables at the Elementary School have been there for 16 years. He said that Wicomico County has put together a 12 year construction plan for their school system. The Delmar Elementary School System is not on that list due to them educating Delaware students. He said that Delmar is one of four in the country that share a bi-state community and a bi-state school system. He said that Dr. Frederickson would like to travel to another bi-state school system and see how they do it both politically and financially.

Barbara Hudson identified herself at the Student Government Association Advisor for the Delmar Middle/Senior High School. She wanted to thank the Council for inviting some of her students to this meeting. She introduced Spencer Fothergill as the President of the SGA.

Adjournment

Mayor Outten moved to adjourn into Executive Session for personnel reasons. There was a second to the motion which passed with 9 in favor and 1 absent

Cindy Fisher
Clerk of Council