

## **JOINT COUNCIL MEETING**

### **December 11, 2023**

The regularly scheduled Joint Council meeting, comprised of the Mayor & Council of Delmar, DE and the Mayor and Commissioners of Delmar, MD, was called to order at 7:00 p.m. at Delmar Town Hall by Mayor Jorden. In attendance via role call were Mayor Bauer, Deputy Mayor Lenox, Vice Mayor Jones, Commissioners Boothe, Nembhard, and Shaffer, Council Members McClure, and Lanier, Town Manager Fleetwood, Chief Ivan Barkley, Administrative Assistant, Starr Conaway, Water Treatment Plant Superintendent, Sophia Oberton, and Clerk of Council Spencer. Guests: Tina Moffitt, Doug Marshall, Lloyd Unsell, Farrah Morelli, Aley Lankford, Sherill Nembhard, Monica Mandujano, Ray Nelson, Ginger Williams and 2 others were in attendance. Absent: Council Member Waldman.

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

Mayor Jorden called the meeting to order and lead the Pledge of Allegiance.

A quorum was established with four members with the Mayor and Council and five members with the Mayor and Commissioners.

#### ***Mayors Comments***

Mayor Jorden welcomed all attendees to the meeting.

Mayor Bauer congratulated Mayor Jorden on his re-election, and Commissioner Lenox and Mr. Ronald Nembhard on the November 21, 2023 Election.

Mayor Bauer commented this past Friday Chief Barkley, and officers from the Delmar PD went to support the family of Cpl. Heacock as justice was served to the person that attacked Cpl. Heacock and killed him. They also showed support for Steven and Judith Franklin.

Mayor Bauer said the Delmar Parade was a huge success with many people attending the festivities.

Mayor Bauer commented the Love Light Tree Lighting had to be moved indoors but he thanked St. Stephen's and said it was a great time at Camelot Hall.

Mayor Bauer wished everyone a Happy Hannukah, Happy Kwanza, and Happy New Year to all. He said may 2024 be a blessed year for all.

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

Mayor Jorden asked for a motion to approve the Mayor and Commissioners November 13, 2023 minutes. A motion was made/seconded (Boothe/Lenox) and carried by a roll call vote of 5 Ayes.

Mayor Bauer asked for a motion to approve the Mayor and Council November 6, 2023 minutes. A motion was made/seconded (Jones/McClure) and carried by a roll call vote of 4 Ayes 1 Absent (Waldman).

### ***Student Advisory***

Julianna Morelli (DE) reported: 1.) The middle and high school concert is scheduled for Thursday, December 14<sup>th</sup> at 7:00 p.m. 2.) The math league is having competition on Thursday, December 14<sup>th</sup>. 3.) The winter break will be from December 16<sup>th</sup> to January 1<sup>st</sup>. School will resume on January 2<sup>nd</sup>. 4.) A couple of days ago was the chorus concert for middle and high school. 5.) The school participated in the Christmas Parade and the middle and high school bands, Pop Warner Baseball, football, and cheerleaders were all in attendance. 6.) Veteran's Day the Delmar Marching Band performed at Perdue Farms and at the Delmar V.F.W. Ms. Morelli said they would like to thank Mayor Bauer for his generous support and funding the bus to Perdue Farms. She further said they are still waiting for the final bill from the busing company. 7.) The fall school sports are all over for the season: Delmar Field Hockey won the DIAA Division II State Championships which is their 8<sup>th</sup> consecutive championship, football finished the season with 6 wins and 4 losses, girls' volleyball and cross-country both finished up their seasons, boys' soccer ended with 9 wins and 7 losses but they did make it to the first round of DIAA Tournament.

Aley Lankford (MD) reported: Ms. Lankford said the winter sports include boys' and girls' basketball, cheerleading and wrestling. 1.) The boys' basketball team has a game tomorrow at 5:45 p.m. at home against Lake Forest. They have 1 win and 2 losses so far. 2.) Girls' basketball has 2 wins and 1 loss. Their next game is away at Lake Forest on December 12<sup>th</sup> at 4:00 p.m. 3.) Wrestling has their invitational this weekend which is a great source of revenue for the team and the school. Ms. Ilah Preston volunteered making food for the invitational which was really great. They lost their first match against Sussex Tech but have an upcoming match against Seaford this Wednesday. 4.) Varsity will finish and JV will start. Winter sports admission tickets are \$5.00 for adults and \$2.00 for students. 5.) It's a good year for fundraising. Wrestling has fundraisers at this time, \$5.00 for blue or orange Christmas ornaments. There are also fundraisers at this time for agriculture which will fund student trips to the convention and all field trips students have to teach students more about trades and agriculture.

### ***Department Committee Reports:***

Police Chief's Report –

Chief Barkley said the Christmas Parade was fantastic.

Chief Barkley reported: 1.) Sunday was the Love, Light Tree Ceremony and everything went well. 2.) The trial involving Cpl. Heacock and the Franklins is now behind us. 3.) Recruit Kevin Doman will graduate the academy Monday, December 18<sup>th</sup> at 11:00 a.m. The ceremony will be in Ocean City, MD. 4.) The two newest recruits Trevor Karpavage and Chad Porter have passed all segments and signed with Delmar PD. They will be in the next academy class in January. 5.) the newest part-time PCO's are doing very well and ready for release but their ready to start work hopefully next month. The only wait for them is final certifications. 6.) The four new Durango's arrived Friday morning just before they headed off to court. PD is making the appointments to get them outfitted. 7.) PD's new pole building now has electric and fencing has begun outside. 8.) All of PD's files, old equipment, etc. has been removed from the old PD. 9.) There are no crime trends or patterns to report on however it is the time of the year where people tend to do things that they wouldn't normally do. PD will be diligent in the patrol checks and make sure it is the time for happiness. Chief Barkley clarified the academy graduation time.

Commissioner Shaffer commented he received phone calls from residents that love to see PD patrolling around the schools. A conversation ensued.

Mayor Bauer asked Chief Barkley about the speed changes that have been made on Old Stage Rd. and Rt. 54. Chief Barkley answered on Stage Rd. PD is getting ready to start ramping up enforcement. On Rt.54 about a week ago he had a meeting with some of his law enforcement partners and in the discussion was how they can work better together. There is another meeting scheduled and Chief Barkley said he would like to put forth asking some of the partners to step down on Rt.54 and give Delmar PD help on the part that is not in Town. There were no DE agencies involved in the discussion and are not invited to his upcoming meeting because seldom DE and MD are at the meetings together.

Parks and Recreation Report – The report is included in the mail packet.

Commissioner Boothe said the meeting was held November 28, 2023.

Commissioner Boothe reported: 1.) Possible chili cookoff with the farmer's market. 2.) The lights have been removed at Gordy Park. 3.) The Committee is participating grant information on the ball courts so they can be upgraded. 4.) The Committee is researching budget items for the upcoming fiscal year. He said the committee is interested in getting pickle ball courts. Commissioner Boothe mentioned he spoke with the Wicomico County Director of Parks and Recreation, Steve Miller about possibly doing a financial partnership with that. More to come on that in upcoming months. 5.) Movie Night will take place with a projected date in May 2024 and Star Wars will be movie of choice.

Code Enforcement Officer Report – The report is included in the mail packet.

Mayor Bauer asked what the meeting with the engineers for a Stillwater watermain change was about. DBF Engineer, Josh Taylor answered the meeting was a phone call that their developer

approached DBF about unexpected costs that they incurred due to extending the watermain to the eastern portion of the property for potential future expansion and costs regarding DelDot. DBF was asked if the Town of Delmar could offer help with those costs. He said he unaware of what is in the report but there were several change orders. Some of the additional costs were of the benefit for the Town, some were not, some would have been incurred regardless. Town Mgr. Fleetwood added he and DBF have not formulated anything for a recommendation for the Elected Body as of yet. A discussion occurred.

Public Works Report – The report is included in the mail packet.

Utility Commission Report –

Commissioner Shaffer said the meeting was held 7:00 p.m. December 11, 2023.

Commission Member Shaffer reported: 1.) There was a presentation from Tina Moffitt from HydroCorp. On the MD side cross-contamination control efforts were supposed to be in place which were regulated in 2018. MD is now in the enforcement mode for cross-contamination control. Commissioner Shaffer explained cross-contamination control. He said DE is facing a deadline of February 3, 2024. There was discussion on tabling this but the majority felt that this needed to be acted on, 3 Ayes 1 Nay. Commissioner Shaffer discussed the costs for CCC. If all is accepted the Town will start on the commercial side.

Swearing In Newly Elected Officials -

Wicomico County Circuit Court Clerk, James “Bo” McAllister swore in the newly re-elected Mayor Benjamin Jordan.

Mayor Jordan swore in the newly re-elected Commissioners Jack Lenox and newly elected Ronald Nembhard. They took their seats at the dais.

Planning and Zoning Public Hearing for Rezoning Tax ID#05120950 (Doug Marshall) –

Vice Mayor Jones reported:

1. **Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation K – Lot 103, 38332 Stillwater Parkway, Delmar, DE** – Mr. Brown presented for a new home build as referenced per the attached drawings.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation K – Lot 103, Delmar, DE, per the attached drawings.

Vice Mayor Jones called for a motion to accept – Chris Brown/Ryan Homes New Home Build – Stillwater/Hazel/Elevation K – Lot 103, 38332 Stillwater Parkway, Delmar, DE,

per the attached drawings. A motion was made/seconded (Bauer/McClure) and carried by a roll call vote of 4 Ayes 1 Absent (Waldman).

2. **Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation L – Lot 165, 11708 Silverbell Dr., Delmar, DE** – Mr. Brown presented for a new home build as referenced per the attached drawings.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/Elevation L – Lot 165, 11708 Silverbell Dr., Delmar, DE, per the attached drawings.

Vice Mayor Jones called for a motion to accept – Chris Brown/Ryan Homes – New Home Build – Stillwater/Hazel/elevation L – Lot 165, 11708 Silverbell Dr., Delmar, DE, per the attached drawings. A motion was made/seconded (McClure/Bauer) and carried by a roll call vote of 4 Ayes 1 Absent (Waldman).

3. **Chris Brown/Ryan Homes – New Home Build – Stillwater/Tupelo/Elevation K – Lot 9, 11709 Silverbell Dr., Delmar, DE** – Mr. Brown withdrew this submittal.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Tupelo/Elevation K – Lot 9, 11709 Silverbell Dr., Delmar, DE per the attached drawings.

**Chris Brown/Ryan Homes – New Home Build – Stillwater/Aspen/Elevation K – Lot 101, 38338 Stillwater Pkwy., Delmar, DE** – Mr. Brown presented for a new home build as referenced per the attached drawings.

Deputy Mayor Lenox called for a favorable recommendation to the Mayor and Council for – Chris Brown/Ryan Homes – New Home Build – Stillwater/Aspen/Elevation K – Lot 101, 38338 Stillwater Pkwy., Delmar, DE, per the attached drawings.

Vice Mayor Jones called for a motion to accept – Chris Brown/Ryan Homes – New Home Build – Stillwater/Aspen/Elevation K – Lot 101, 38338 Stillwater Parkway, Delmar, DE, per the attached drawings. A motion was made/seconded (Lanier/McClure) and carried by a roll call vote of 4 Ayes 1 Absent (Waldman).

Deputy Mayor Lenox reported:

Deputy Mayor Lenox said the only item that was submitted is pretty significant and is for a public hearing.

Deputy Mayor Lenox stated the Mayor and Commissioners in the November 13<sup>th</sup> meeting adopted the 1<sup>st</sup> reading for public hearing for Mr. Doug Marshall consideration rezoning at property at Heron Ponds, 29.44-acre parcel to go from Highway Regional Commercial to R-2 Residential. The petitioner Mr. Marshall is present.

1. **Doug Marshall – Rezoning – Royal Tern Dr., Delmar, MD** – Mr. Marshall presented rezoning as referenced per the attached drawings. Mr. Marshall stated they are interested to rezone and to sell off the 29.44-acre parcel making them into 9 large parcels. The plan was to always build an amphitheater or wedding center so they rezoned the rear section back to Highway Commercial not realizing the comprehensive plan has to be adopted by the state which no one caught including himself. So, to make the best out of the project they are looking at putting the zoning back to what the state comprehensive plan calls for it to be which is residential. There are multiple offers on the property to do a large-scale subdivision but he prefers not to do that.

Deputy Mayor Lenox clarified this is the same location where the Town permitted the second wedding venue. Mr. Marshall said yes. There was also a hearing about tiny homes which was permitted and he received quite a blow back from some residents.

Mr. Marshall further said they want to finish the project, topcoat the back section of Heron Ponds, and a pond fountain has to go in Phase I, and miscellaneous items. Lot 9 is already under contract. Mr. Marshall clarified this location is the southern portion of Heron Ponds. Deputy Mayor Lenox asked Mr. Marshall if this would finish things. Mr. Marshall answered yes.

Mayor Jorden said obviously the biggest concern is the fountain and some other things. The idea is while this is being done that those items are being satisfied. Mr. Marshall responded yes; he has to topcoat the back section. It can not be turned over to the Town until it is top coated and it is a number one priority for him. There is a huge mortgage on the property so he has to pay the bank for a couple of lot sale but they are very meaningful to him, finishing these off, finishing the topcoat.

Commissioner Shaffer asked Mr. Marshall if he has a plan as far as a breakdown of the lots and after that number of lots then money comes in. Mr. Marshall answered after the 4<sup>th</sup> lot is sold he can topcoat, it's public record.

Mr. Ray Nelson stated he lives in the Heron Ponds development and with the new lots coming into play he understands that they will not be part of the HOA. Mr. Nelson asked Mr. Marshall why is that. Originally, the new lots were a part of the HOA then they changed around. They were going to do this and they were going to do that, back and forth. He said plus what about all the trees. He asked Mr. Marshall if the property that has to be rezoned has forest reserve and if so, has the Forest Conservation been notified there is going to be 9 homes put back in that area. There are signs all through Heron Ponds about the forest, nothing is supposed to be done to the trees. The new lots will be using their roads, it will be more traffic and only one entrance with children running around and playing, etc.

Mr. Nelson stated another concern is making sure the items already talked about are going to be taken care of. Originally, they were supposed to be taken care of one year after the last house was finished almost two years ago now. The ponds were already supposed to be taken care of which has not happened yet.

Deputy Mayor Lenox asked Mr. Marshall if he has forest conservation on the 29.44-acres. Mr. Marshall answered absolutely not. That back parcel is fully platted, fully approved for 95 homes. The Forest Conservation goes by percentage and the Forest Conservation from that project was moved to Song Sparrow and some area of the woods but the engineer Brock Parker said we obviously cannot disturb Forest Conservation areas. So, lots would be laid out but all that woods was slated to come out originally.

Deputy Mayor Lenox further asked Mr. Marshall if he thought there was platted Forest Conservation on the 29.44-acres. Mr. Marshall answered if there is it is along Lot 9 which the Forest Conservation was based on the 95 homes that were going back there. Deputy Mayor Lenox said to Mr. Nelson when you look at the subdivision plan that is proposed which is not before us, we'll see the details associated with the property. If there is recorded easement for Forest Conservation that has to be correct, that will be laid out in the subdivision plan.

Deputy Mayor Lenox stated the Council has heard about traffic and they are aware that one of the things being evaluated here is potential traffic comparing highway regional commercial with residential, which would have a greater impact.

Deputy Mayor Lenox asked Mr. Marshall to discuss the HOA. Mr. Marshall stated the HOA's just do not function very well. There always deficits, problems, etc. These are 3–5-acre estate lots. To the attorney, engineer, and himself it really does not make any sense to have that a part of the HOA. The road entrance will be a city street so there is no difference than people driving down State St. to get to the school. It is not like they share common elements. The road is a City of Delmar Street. Some HOA's are actually responsible for streetlights, snow plowing, maintenance of the streets, in here the streets will be dedicated to the Town of Delmar.

Deputy Mayor Lenox responded in the original approval, if there are documents on record, that require to be part of the HOA, it would be part of the HOA. He asked Mr. Marshall if it were silent, he does not want the 9 lot buyers to join the HOA. Mr. Marshall answered he did not think the HOA wanted the 9 lots back there and he did not think the buyers of the 9 lots would want to join the HOA. He further responded if there was an agreement originally when this was a much bigger project that was going to be a part of the HOA.

Deputy Mayor Lenox informed Mr. Marshall if that's in writing somewhere the Council would have to respect that. Mr. Marshall responded he is unaware if it is in writing, that would be a Ryan Showalter question. Deputy Mayor Lenox responded take a look at it with the subdivision plan because that would be required. Mr. Marshall further responded they are separate; these properties. He said he does not think the HOA would want those lots in there because how do you deal with people with 4 estate lots verses people who have 6,000 sq. ft. lots. Deputy Mayor Lenox further responded that is a question for them. If that is an original requirement that they will be a part of it.



Mr. Marshall stated Heron Ponds was originally 3 phases. Phase 1, 2, & 3 and Ryan Homes had them set-up to amend the two phases to bring them together and Phase 3 was excluded from that. He said he was aware of that for certain. Mayor Lenox responded we will follow-up on that.

Heron Ponds President, Ms. Ginger Williams questioned Mr. Marshall if there is any way to guarantee the work will be done on Song Sparrow Circle; streets, sidewalks, etc. will be fixed after the 4<sup>th</sup> Lot is sold. She said there are people getting injured on Song Sparrow Circle having falls where the sidewalks are torn-up, the sidewalks are not completed. She further said Mr. Marshall gave a timeline but is there any way that it can be guaranteed. Mr. Marshall responded do an escrow agreement after the 4<sup>th</sup> lot is sold. He said here is something we can do, a simple agreement. It is going to be up to Hebron Savings Bank; something to memorialize this let's put it down. Ms. Williams responded we would be happy with that.

Deputy Mayor Lenox stated as part of the submission of the plan which the Council has not seen yet in formal setting, he asked Mr. Marshall if that is going to be reflected as well. Mr. Marshall answered the alternative is less comfortable for him, he would say if Hebron Savings Bank blesses it that they have an escrow agreement, they may go for 3 lots but he has to sell at least two or three of them to pay the lenders.

Town Mgr. Fleetwood asked Mr. Marshall what the likelihood is if Mr. Marshall sold 8 of the 9 lots or all 9 lots that something could tip the cart and the topcoat could not take place. Mr. Marshall answered there is absolutely no reason that he could think of that the top coating could not take place.

Deputy Mayor Lenox called for a motion to close the public hearing. A motion was made/seconded (Boothe/Shaffer) and carried with a roll call vote of 5 Ayes.

Mayor Jordan commented he thought it was a pretty simple procedure if the Council got it in writing whether it is the 3<sup>rd</sup> or 4<sup>th</sup> lot sold before something happens with work in Heron Ponds. We want to work it out, but it is an important thing obviously to the Heron Ponds residents. He said it is definitely something that the Town of Delmar needed to look into and get it taken care of. A conversation ensued.

Mr. Marshall added they will make sure that Lots 1-9 are not eating for free off of HOA expenditures. Deputy Mayor Lenox encouraged Mr. Marshall to have that conversation. Mr. Marshall responded he is 100% sure they were amended out for a fact.

Deputy Mayor Lenox called for a motion to approve the rezoning of property at Heron Ponds of approximately 29.44-acres from Highway Regional Commercial to Residential as proposed for. Deputy Mayor mentioned when going through a rezoning in the state of MD it has to be because of change or a mistake and in this case, it was a mistake as it was inconsistent with the adopted Comprehensive Plan. A motion was made/seconded (Boothe/Nembhard) and carried by a roll call vote of 5 Ayes.



## ***New Business***

### Cheer Civic Organization –

Monica Mandujano from Volunteer Services discussed the Cheer Civic Organization servicing all of Sussex County, Senior Center, age requirements, array of services, need for volunteers for all seven Cheer Centers in Sussex County, and member the fee for Meals on Wheels and other services. The website is [www.cheerde.com](http://www.cheerde.com) or phone number 1 (302)515-3040 was specified.

### HydroCorp Cross Connection Control (CCC) –

HydroCorp Specialist in Cross Connection Control, Tina Moffitt, Water Treatment Plant Superintendent, Sophia Oberton, and Town Mgr. Fleetwood discussed Cross Connection Control for MD and DE, Town of Delmar compliance requirements, MD/DE state regulations and enforcement phases, deadline for compliance requirements, ordinance adoption and enforcement, plan implementation, goals for drinking water and protecting drinking water, surveying/inspections and staffing to help survey/inspect, certifications to be able to inspect/survey, costs for the two year contract, cost of commercial side breakdown, and yearly testing. A conversation ensued.

Mayor Jordan asked for a motion to approve the proposal for the HydroCorp Cross Connection Control (CCC). A motion was made/seconded (Bauer/Jones) and carried by a roll call vote of 9 Ayes 1 Absent (Waldman).

### Lead and Cooper Rule

Water Treatment Plant Superintendent, Sophia Oberton and DBF Engineer, Josh Taylor discussed and explained the Lead and Cooper Rule Revisions, EPA mandated rules, urgency, property owner education and property owner questions, inventory, grant funding, property owner costs, pipe replacement, pipe treatment, survey links, methods of evaluating pipes, educating residents ahead of deadline, replacement of lines, invasiveness, etc. A lengthy conversation ensued.

### Personnel Policy –

Administrative Assistant, Starr Conaway discussed grammatical language, bringing up-to-date changes and not a lot of meat changes to the Employee Personnel Policy. She said updated changes from last winter are already a part of the policy: Military Leave, amendments to the on-call pay, removal for maximal age requirement for the police pension and updates to bring the family medical leave current.

Ms. Conaway stated a new document has been added which is a new acknowledgement page that explains the purpose of the handbook and what the responsibilities to the handbook are. Town Mgr. Fleetwood added the main purpose of the acknowledgement page is to establish with every employee that they are “At Will”.

She further stated there was a minimum of 2 hours overtime when employees are brought in for emergency weather events. The Maryland Sick and Safe Leave Act has been added for part-time employees so part-time employees will accrue sick leave based on how many hours they work in a month. The biggest change added to the policy is the proposal for a 14<sup>th</sup> holiday which is a floater holiday for employees' birthday.

Ms. Conaway mentioned for FY'25 The Town of Delmar is working towards creating a plan to work towards a pension change for the nonlaw enforcement. As of now the Town is with the Voya Savings Plan. The Town is gathering information and making a plan to look into the Municipal State of DE Plan which is a similar plan as the PD. Town Mgr. Fleetwood publicly acknowledged it has been a year and a half effort for these changes. He said Ms. Conaway has gone through the policy cover to cover and it has been needed and he appreciated what Ms. Conaway has put together.

Deputy Mayor Lenox mentioned he has been through the documents and he has no issue with the changes. He encouraged Ms. Conaway to make some improvements for the Town of Delmar employees. Deputy Mayor Lenox further mentioned The Town of Delmar is in competition with a lot of public and private organizations. He asked Ms. Conaway why the Town of Delmar has never had a 457 plan. Ms. Conaway answered a 457 plan was researched at one point but because of the Town of Delmar's size it would be expensive to set the plan in motion. Town Mgr. Fleetwood added a simple overview of the Municipal State of DE Plan.

Mayor Jorden asked for a motion to approve the new changes to the handbook and personnel policy. A motion was made/seconded (Boothe/Jones) and carried by a roll call vote of 9 Ayes 1 Absent (Waldman).

***Council/Commissioners Comments:***

Mayor Bauer, Council Member McClure, and Deputy Mayor Lenox had no comments.

Vice Mayor Jones wished everyone Happy Holidays.

Council Member Lanier wished everyone Happy Holidays.

Mayor Jorden wished everyone a Happy New Year.

Commissioner Boothe wished everyone a Merry Christmas.

Commissioner Shaffer wished everyone a Merry Christmas.

Commissioner Nembhard wished everyone Happy Holidays.

***Public Comments:***

None.

**Adjournment –**

After hearing no further comments, Mayor Jorden asked for a motion for adjournment. A motion was made/seconded (Boothe/McClure) and carried by roll call vote of 9 Ayes 1 Absent (Waldman).

Clerk of Council

Vondell Spencer