

MAYOR & COUNCIL
May 4, 2020
Via Teleconference

Mayor Houlihan called the regular scheduled meeting of the Mayor and Council of Delmar, Delaware to order via teleconference at 7:00 P.M. In attendance were Vice Mayor Pase, Council Members Smith and Boyan, Town Manager Bynum-King, Police Chief Barkley and Clerk of Council Fisher. Guests: Steve Marsh and J. Silvia from GMB and Vishal Patel.

Mayor Houlihan took role call and everyone was present. Everyone performed the Pledge of Allegiance.

Mayor's Comments

Mayor Houlihan informed everyone that there is a Public Hearing scheduled for 7:10 p.m. He said that with this Stay-In-Place order, April seemed to be a very long month.

Approval of Minutes

Mayor Houlihan asked for a motion to approve the April 6, 2020 minutes as circulated. Council Member Boyan made that motion which was seconded by Council Member Smith. Upon a role call vote taken by Mayor Houlihan, the motion passed with 4 ayes and 0 absent.

Old Business

Attorney Retainer Agreement

Town Manager Bynum-King informed the Council that our former Town Solicitor, James Waehler gave notice in January that he would be resigning his position after 25 years. He did recommend some legal counsels that could possibly be a good fit for the Town. One firm, The Smith Firm, LLC, seemed to be the best fit for our needs as well as being consistent with the same type of service that Mr. Waehler provided the Town.

The Town Manager said that she had spoken to Mayor Houlihan about the Attorney Retainer Agreement. The Agreement was signed by both parties at the end of April to be effective as of May 1, 2020. Mr. Waehler retired as of March, but he extended limited services to the Town until we secured an Attorney.

Mayor Houlihan asked for a motion to have The Smith Firm, LLC as the legal counsel for Delmar, Delaware as of May 1, 2020. Vice Mayor Pase made that motion which was seconded by Council Member Boyan. Upon a role call vote taken by Mayor Houlihan, the motion passed with 4 ayes and 0 absent. Town Manager Bynum-King said that Michael R. Smith will be our lead counsel out of that firm.

Public Hearing- Blair Carey- rezoning of property on Second Street and Old Racetrack Road, Delmar, DE
Mayor Houlihan read the legal advertising for this Public Hearing. He stated that Mr. Carey had approached the Council a few months ago with his plans for this parcel and the request for a zoning change from Industrial to R-2 Residential. It is scheduled for 7:10 this evening as a Public Hearing.

Mayor Houlihan asked for a motion to open the Hearing up for Public Comments. Council Member Smith made

that motion which was seconded by Vice Mayor Pase. Upon a role call vote taken by Mayor Houlihan, the motion passed with 4 ayes and 0 absent.

Council Member Boyan stated that the Planning and Zoning Commission did give a favorable recommendation even though there was some conversation about the saturation of the area with the number of houses and density issues.

Upon hearing no more comments, Mayor Houlihan asked for a motion to close the comment portion of the Public Hearing. Council Member Smith made that motion which was seconded by Council Member Boyan. Upon a role call vote taken by Mayor Houlihan, the motion passed with 4 ayes and 0 absent.

Mayor Houlihan read **Ordinance 174- To rezone property known as tax map 20.10, parcel 5.00 off of Second Street and Old Racetrack Road in Delmar, DE from Industrial to R-2 Residential.** Mayor Houlihan asked for a motion to accept Ordinance 174. Council Member Smith made that motion which was seconded by Council Member Boyan. Upon a role call vote taken by Mayor Houlihan, the motion passed with 4 ayes and 0 absent.

Continuing with New Business, Town Manager Bynum-King wanted to discuss the 2020 Heritage Day event. The Heritage Day Committee has not been pushing for the event and the vendors have not voiced any interest in being a part of the festivities. We also have not been able to raise any funds through out the year from any fund raiser activities. There had been some discussion about not going forward with any 2020 Heritage Day activities and wanted input from the Council. Mayor Houlihan said that his thoughts are to not go forward with the festivities with the uncertainty of COVID-19. Vice Mayor Pase stated that the best thing to do is to cancel it now and wait for 2021. Council Member Smith agrees with everyone that it should be canceled. Council Member Boyan said that there is no way to get any kind of outside funding with this uncertainty. The consensus of the Council was to cancel the 2020 Heritage Day festivities.

Town Manager Bynum-King said that there is some interest in 2 Pennsylvania Avenue; the building across the street from Town Hall. There is a conference call scheduled with the potential developer tomorrow. The developer is currently in contract with Mr. Mills for a period of study and wants to discuss the concept plans for the building and potential funding opportunities and possible tax incentives that would help with the overall funding of the project. The Town Manager said she would keep the Council informed of any progress in getting the building restored.

Old Business

The Town Manager informed the Council that restoration on the caboose will start tomorrow. TLC Installation was awarded the project. It will be done in 2 phases, with the 1st phase being completed this fiscal year and the 2nd phase being completed in FY21. Both Delmar, MD and Delmar, DE contributed to the caboose funding. It will basically be a total restoration.

Committee Reports:

Student Advisory-

Mayor Houlihan said that the Delmar Middle/Senior High School will not be going back this school year. Not sure what the new school year will bring.

Police Chief's Report

Chief Barkley reported that they have not received a lot of COVID-19 related calls. There was a situation where a

lady was saying that her 18-year-old sister would not stay home. Chief said that except for putting her on a 24- hour surveillance, there was not much they could do. Come to find out, the one sister wanted the other sister out. The mother of the girls did not. The mother had no issues with what the sister was doing.

Another call, Chief Barkley believes is a custody issue. The father wanted his children removed from the ex-wife's home. He believed that they were not being properly schooled. The ex-wife allowed the children to live with their father.

Chief reported that domestic incidents are up. He believes it is due to everyone being pent up together and alcohol doesn't help. Last week the Town did have an armed robbery at the motel. Both individuals are from Seaford and the investigation is continuing. Chief said that it seems that the motel is doing long term stays again. There isn't a lot of proof, but it does seem to be that way.

Chief also reported that last night there was a reported burglary at WAWA. The store is closed for deep cleaning in the overnight hours for about an hour. Someone broke the first set of glass doors while WAWA was closed. Officers responded and the individual took off on foot. He eventually got tasered. He is actually a suspect in other burglaries in northern Delaware.

The Department has done a lot of patrol and compliance checks. The Department are good on PPE's. Chief said that they continue to attend all the conference calls from both Delaware Legislative bodies as well as all of Maryland conference calls.

They have completed most of the process for the applicant for their current vacancies. There are 3 good applications in the remaining pool. Chief said that at first he wasn't sure if the Academy would still be holding classes. He was notified that classes would be starting up in July.

Chief Barkley said that he agrees with everyone in regards to Heritage Day and cancelling it for this year. The Police Department will be doing the same for their Blue Night Out festivities. Most of their funding comes from local businesses and now is not the time to be asking small businesses for donations. He is hoping to have it next year.

Chief also informed the Council that Officer Novak will not be returning to the Delmar Middle/High School this year as the Resource Officer. He is being assigned to shifts to cover vacancies.

Chief Barkley wished all the females on the call a Happy Mother's Day.

Council Member Boyan said that his neighbor witnessed a car exploding on Rt. 13 and asked Chief Barkley if the Delmar Police Department responded to the call. Chief said that he is aware of the incident but his department was not called out to the scene. The Fire Department handled the situation.

Town Manager Bynum-King said that she was doing some follow-up on the traffic on W. Jewell Street. There is a resident that speaks of teenage drivers speeding down W. Jewell Street as well as some people not stopping at the STOP signs on N. Memorial Street. Chief Barkley said that he has recently reached out and he has not received anything to help in the investigation. Town Manager Bynum-King said that the resident is asking how she can help to catch the speeders. She said that she had been told by the Police in order to catch the speeders they would have to be present as it was happening. Town Manager Bynum-King said that it is unlikely that the Police would be present to witness the speeders. The Town Manager asked if the officers could patrol the area more frequently. Chief Barkley said that they have been patrolling that area. The resident also advised that in an attempt to address the

matter, she knew who the teenagers were so she went to their house to discuss it with the parents which turned out to be unsuccessful. The resident said one of the parents is a retired police officer and wanted to know how she could prove the vehicle that was speeding belonged to his son. The Officers know who this individual is and what he drives. The father is an officer from another jurisdiction and lives in Delmar, just not in Town limits.

Mayor Houlihan thanked Chief Barkley and stated that the statistical report is included in the mail packets.

Parks and Recreation

Mayor Houlihan said that there is nothing going on with parks and Recreation since COVID-19.

Code Enforcement Officer Report

Mayor Houlihan stated that the reports are in the mail packets. The Code Enforcement Officer has not been doing rental inspections due to COVID-19.

Utility Commission

Vice Mayor Pase reported that the installation of the infrastructure for the Stage Road water and sewer project has been completed. The contractors will return on May 5th to finish the punch list.

Town Manager Bynum-King reported that there was a caustic spill as the tank was being filled. An operator got some caustic in one of his eyes. He was taken to PIVOT and then sent to Dr. Azar's office. The incident occurred on April 29th. As of today, his eye is 2/3's better than when he was first seen at Dr. Azar's office. The eye is being monitored closely and if it doesn't heal then there is a chance that the Operator will lose his eye. We all are hoping for the best.

Public Works

Council Member Smith reviewed the highlights of the report that was included in the mail packets.

Planning & Zoning

Council Member Boyan reported on the following:

Council Member Boyan said that the Public Hearing for Blair Carey for the rezoning of the property on Second Street and Racetrack Road has already been taken care of at the beginning of the meeting.

Vishal Patel- Re-approval for Stillwater development in Delmar, DE

Mr. Steve Marsh and Mr. J. Sylva from GMB were present as well as Mr. Patel to answer any questions that the Council may have. Mr. Marsh stated that Mr. Patel is the property owner of the Stillwater Development and is pursuing the development for what was previously approved. The original approval for the Stillwater Development came in 2010 and was recorded. There are 172 Lots on record with Sussex County Tax Maps. They submitted a pre-application to DelDot and reviewed old approvals for what needed to be altered since the last approval. They met with the Town Manager on December 3rd of 2019 and were told that if Mr. Patel wanted to get the development re-approved, he would have to start at the Planning and Zoning Commission and then move forward to the Mayor and Council meeting with the recommendation from P&Z.

Mr. Marsh continued by saying that the roads and the Lot layouts are exactly the same as the original. Mr. Patel is working with a national home builder and making sure that the house plans fit within the footprint of the Lots. They are working with DB&F to update any construction standards since the original approval.

Mayor Houlihan said that he believes that he was the Chair of Planning and Zoning when this was originally approved. Mr. Marsh said that he is not trying to re-invent the wheel. The only changes from the original approval is the stormwater management and with DelDot.

Council Member Boyan reported that the Planning and Zoning Commission did give a favorable recommendation for the re-approval of the Stillwater Development, per the attached documents with the contingency that a Public Works Agreement is finalized before any permits are issued.

Mayor Houlihan asked for a motion to accept the favorable recommendation from the Planning and Zoning Commission. Council Member Boyan made that motion and Council Member Smith seconded the motion. By a role call vote made by Mayor Houlihan, the motion passed with 4 ayes and 0 absent.

Town Manager's Report

Town Manager Bynum-King reminded everyone that the Joint Council has a meeting on May 18th for the budget Public Hearing and the meeting starts at 6:30 p.m.

She also said that CDC Hardin informed her that he has completed the final inspection on the final home in Yorkshire Estates. He is preparing a CO to be issued this week. That subdivision has been built out. Town Engineers and Personnel will be on-site on May 11th to go over punch list items so that the infrastructure can be turned over to the Town.

Town Manager Bynum-King said that on behalf of the Town, we want to thank the Elected Officials for the Annual Administrative Day Luncheon. We had lunch delivered from Brew River and desserts from Delmar Pizza. Everyone ate in the large conference room.

Mayor Houlihan thanked everyone at Town Hall for what they do for the Elected Officials and the Town.

Council Comments

Council Member Boyan said that he saw on the National news that Sussex County, Delaware is one of 10 new hot spots for COVID-19. He wanted everyone to be careful.

Council Member Smith said that the State Street landscaping has greatly improved the look of the whole area. It really looks great. Town Manager Bynum-King said that she would relay that to the Public Works personnel.

Vice Mayor Pase said that the staff at Town Hall is doing a wonderful job and we all appreciate them as well as the members of our community.

Mayor Houlihan wanted everyone to be safe and stated that the days are so very long in quarantine.

Adjournment

Upon hearing no public comments, Mayor Houlihan asked for a motion for adjournment. Council Member Smith made that motion which was seconded by Council Member Boyan. By a role call vote, the motion passed with 4 ayes and 0 absent.