

*"A Historic Past"*



*"A Bright Future"*

**CITY OF DELAWARE CITY**

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302-834-4573

**CITY OF DELAWARE CITY  
SPECIAL MAYOR AND COUNCIL MEETING  
June 13, 2012**

**CALL TO ORDER**

The Honorable Mayor Buchheit called to order the Special Meeting of the Mayor and Council at 5:05 p.m.

**PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE**

The Honorable Mayor Buchheit led the Pledge of Allegiance. He asked for a moment of silence for Jo Barnard, former owner of the Delaware City Marina, who had passed away and for former Mayor Dee Bennett who was in a nursing home.

**ATTENDANCE ROLL CALL**

The Honorable Mayor Buchheit called for an attendance roll call. Council Members Barrett, Titus, Johnson, Sullivan and Doebley were in attendance. Also present were City Manager Cathcart, City Secretary Gwynn and City Solicitor Walton.

**DISCUSSION OF MANAGEMENT CONTRACT FOR THE COMMUNITY CENTER**

City Manager Cathcart summarized the agreement that had been in place previously when Librarian Kevin Swed was managing the Community Center. The Library received the rent, totaling approximately \$20,000, from the day care and the fitness center, as well as a \$10,000 donation from the City and \$24,000 from Grant-In-Aid. The City Manager explained the process that occurred when

the City assumed control of the Community Center, as Kevin Swed was transferred to a new library. He explained that the City does not have the resources to manage the Community Center. He reported meeting with the Police Athletic League, who is hoping to have the youth program operational by July 15, 2012. City Manager Cathcart further explained that Main Street Delaware City was interested in having a daily presence within the City and that they would be interested in managing the Community Center. As a result of that interest and the City's lack of resources, City Manager Cathcart and Main Street's Mark Chura drafted a Management Agreement for the Delaware City Community Center.

City Manager Cathcart reviewed the Management Agreement, pointing out fine points of the business plan, Main Street's responsibilities, the City's responsibilities and financial considerations. Discussion followed. It was pointed out that there was no termination clause in the agreement. It was reported that PAL would not pay for the space used. However, they did pay \$4000 of the \$6000 cost to refinish the gym floor and they plan to renovate two classrooms as well as the baseball and soccer fields.

Mark Chura explained why Main Street Delaware City was interested in this role. He told the attendees about grants he had written that had been awarded in the total amount of \$360,000 which would benefit the City of Delaware City. Discussion followed regarding the role of Main Street in running the Delaware City Community Center. City Solicitor Walton said he would like to see Main Street's business plan before the contract is signed.

Discussion followed regarding putting this position out for bids. City Manager Cathcart explained that it would be difficult to find someone with the necessary expertise and willing to do the work for the small amount that Main Street would receive. Main Street looks upon this as a public investment in the community. He reviewed the bid process which would take approximately 60 days. He added that it would be an RFP, listing all the requirements, rather than a request for a bid. This would not include a request a business plan.

Discussion followed regarding having Main Street run the Community Center on a month to month basis while waiting for the RFP's. Mr. Chura said that the Main Street board would meet the next evening and would discuss a temporary set up. City Manager Cathcart said he would come to the regular Mayor and Council on the 18<sup>th</sup> with additional information and action could be taken at that time. He said a vote should not be taken at this meeting as a workshop was requested at the last Mayor and Council meeting. This was changed from a workshop to a special meeting when additional items were added to the agenda. In the spirit of transparency, the public expected this to be a workshop, so action should be taken at the next Mayor and Council meeting. The City Manager said that legally, a vote could be taken tonight. He said it was up to the Mayor and Council. It was

decided to wait until the regular Mayor and Council meeting to vote as they would know the decision made by Main Street's board regarding the temporary set up.

### **DISCUSSION OF PURCHASING POLICY**

City Manager Cathcart reviewed the Section 10-4 of the Charter which addresses Purchases and Contracts by stating: "All contracts for the purchase of materials or for the furnishing of services authorized or permitted by this Charter shall be accomplished by competitive bidding, as required by ordinance." He added that there is no ordinance that codifies the requirements that are contained in the Charter. Therefore, the lack of the ordinance renders the Charter ineffectual. In addition, the Charter does not address capital expenditures. As a result of this, he determined that the City needs to establish policy and procedures that, when adopted by the Mayor and Council, becomes a mandate that must be followed by the City Manager as well as the administration when bidding or purchasing materials and services. The other option would be to pass an ordinance that has all the details of the policy or pass an ordinance that references the policy and procedures. City Manager Cathcart said he would like to see this in place by July 1, 2012, when the new fiscal year begins. He recommended that the Mayor and Council adopt the policy and procedures, which would allow the Mayor and Council time to codify formally an ordinance that resolves the conflict with the Charter.

City Manager Cathcart, when working with Administrative Services, wrote the purchasing policy and procedures for the State of Delaware. He also wrote the Purchasing Manual for Delaware State University. He drafted a policy and procedures for the City of Delaware City which he reviewed with the Council. He pointed out the sections that he felt were important and needed to be addressed. One section he explained was the section that referred to contracts. Discussion followed. City Solicitor Walton referenced Section 9-04K of the Charter which states, "The City Manager shall execute on behalf of the City, when authorized by the Council, all agreements, contracts, bonds, deeds, leases, and other documents necessary to be executed." He added that there is nothing in the Charter that addresses the form the authorization must take. The form of authorization would need to be determined by this Council as part of the policy or ordinance. City Manager Cathcart stated that adopting the budget is the authorization to expend the funds, how it is done is mandated by the policy.

City Solicitor Walton highlighted the answers to questions that were asked previously by Council Member Doebley. He reviewed Section 9-04K and 10-04K. He agreed with City Manager Cathcart that it would be best to adopt a policy and follow it with an ordinance to resolve the oversight of the Charter. In response to Council Member Doebley's question about emergency provisions in the purchasing policies of other state or government organizations, the City Solicitor referenced the New Castle County Emergency Purchasing Policy and the State of Delaware Emergency Purchasing Policy, which was written by City Manager

Cathcart. City Solicitor Walton commented that a common provision in a purchasing policy would be to make an exemption for professional services.

Council Member Sullivan questioned the actions of Council Member Doebley in contacting the City Solicitor to ask questions prior to the meeting. She said, "for the record" that she is opposed to "double-dipping" in the tax payers' funds to answer questions addressed privately by a Council Member. She asked the City Solicitor how much time it took for him to research these questions. City Solicitor Walton said he would have to review his records to determine this. City Solicitor Walton said he prefers having the ability to research a particular question rather than being put on the spot at a meeting. He added that he could give better advice and more succinct advice if he is made aware of the questions in advance of the meeting. The Honorable Mayor Buchheit said he thought all questions for the City Solicitor needed to go through the City Manager or the Mayor. City Manager Cathcart agreed, saying that it was a measure taken to keep legal costs down. Mayor Buchheit asked if the City was going to be billed for Council Member Doebley's questions. City Solicitor Walton said that yes, there would be a bill generated. City Solicitor Walton reiterated what he said at his first meeting, which was, he didn't care what the rules were, but he wanted to know what the rules were. A discussion followed. Council Member Sullivan said this should be put on the agenda for the next Mayor and Council meeting. Mayor Buchheit asked the City Solicitor for a copy of the bills that were generated by Council Member Doebley.

City Manager Cathcart said the Conflict of Interest section is a standard provision to provide guidance to employees, both hired and elected. Discussion followed.

City Manager Cathcart reviewed the Bidding Requirements Section. He said it establishes thresholds and the methods that are required to procure items under the policy. He explained the formal bid process and asked for any questions. There were no questions.

He also reviewed the Sole Source Purchase policy and procedures, as well as the Emergency Purchase policy and procedures. There were no questions.

### **STERLING'S BUILDING**

City Manager Cathcart gave an update on the status of the Sterling's Building. He reported that the City had received permission to sell the building without being required to repay the grant, provided there is a conservation easement to protect the building. He reviewed the application process and purpose of the grant, as well as the process that was followed in order get this permission. City Solicitor Walton said that a conservation easement could be recorded in advance so it goes with the property when sold or it could be recorded in the deed. City Manager Cathcart said the City would need an appraiser who is familiar with conservation easements, tax credits, deed restrictions and historical buildings so

that when the appraisal is done, all these things would be taken into consideration. He said he had been given the names of three of possible appraisers by one of the consultants for the Fort DuPont project. When the City Manager contacted them, he found that one no longer has a license in the State of Delaware, which leaves two possible appraisers. He would like to get written proposals from both of them which would state the cost of the appraisal. He should have the proposals by next week.

Discussion followed regarding how to sell, the advantages and disadvantages of a public auction, marketing, zoning and possible price. Discussion followed about possible appraisal costs. *Council Member Johnson made a motion authorizing the City Manager to spend up to \$5000 to have an appraisal done on the Sterling's Building. Council Member Titus seconded the motion. A roll call vote was taken, all ayes, motion carried.*

### **POLICE CONSULTANT**

The Honorable Mayor Buchheit said that he fully supports the Delaware City Police Department. He feels the City needs the police boat and supports the use of the Hummer. However, he said he feels there is a need for a police consultant and would like to revisit this. City Manager Cathcart explained again that he does not have a law enforcement background and feels the police department would benefit from the work a consultant would do. He complimented Police Chief Tjaden and the police for the work they do using limited resources. He stated unequivocally that he is not in favor of eliminating the police department. He said he views a consultation as a positive process. The City Manager said the only way he would hire a consultant would be to do an RFP and he would not submit a request to the consultant who was considered previously, due to rumors that he and the consultant were friends. Discussion followed regarding the accreditation process. Chief Tjaden said the process has not started yet. The Chief said he would need to take classes and that the police chief from Blades would help. Discussion followed. City Manager Cathcart said that he sat on the steering committee when the Delaware State University police were seeking accreditation. It took three years to complete the process. Additional discussion followed. *Council Member Sullivan made a motion to authorize the City Manager to hire a police consultant at a cost of up to \$3000. Council Member Titus seconded the motion.* Discussion followed. City Manager Cathcart said the greatest advantage of a consultant is that he/she would be independent and would form an unbiased opinion. Council Member Barrett asked for Stan Green's opinion, as he was previously a Council Member with 21 years law enforcement experience. He said he was involved with an in depth study, using consultants, that was done for the Wilmington Police Department. He said it was very intense and one of the best experiences of his career. He said it would be in the best interest of the City of Delaware City to conduct a study with a consultant. *A roll call vote was taken with the Council Members voting as follows: Barrett – nay, Titus – aye, Johnson – aye, Sullivan – aye and Doebley – nay. Motion Carried.*

### **CITIZENS QUESTIONS AND COMMENTS**

Stan Green, 135 Monroe Street, said he feels sure the appraisal for Sterling's is going to be more expensive than the City anticipates because of the nature of the building. He said, within the police department, rules and regulations must be followed. Whether Chris Tjaden is associated with Chief Tjaden or not, the Chief has regulations he must follow, as does Chris. He said it would be a good thing to hire Chris Tjaden, who has really shown that he can do the job and does an excellent job. Mr. Green commended all the police officers on the Delaware City Police force, saying that they do a wonderful job.

Beth Konkus, 302 Canal Street, asked if former City Managers had to come to the Mayor and Council to get approval to sign contracts. Discussion followed. Ms. Konkus offered the City a free boat slip in order to keep the police boat in the water. City Manager Cathcart said the boat was evaluated to see how much it would cost to put the boat back in the water. He will meet with Chief Tjaden to write a proposal to bring to the next Mayor and Council meeting. Discussion followed regarding the use of the police boat. Council Member Johnson offered to include the officers of the Delaware City Police Department in the water training that is done by the Fire Company.

### **ADJOURNMENT**

Council Member Barrett made a motion to adjourn the meeting. Council Member Sullivan seconded the motion. A vote was taken, all ayes, motion carried. The meeting adjourned at 8:20 pm.

Respectfully submitted,

*Dawn K. Gwynn*  
City Secretary



## ATTENDANCE SHEET – PLEASE SIGN IN

MEETING: M+C Special Meeting DATE: 6/13/12

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