*"A Historic Past"*

*"A Bright Future"*

CITY OF DELAWARE CITY
407 Clinton Street - P.O. Box 4159
Delaware City, Delaware 19706
302-834-4573

# CITY OF DELAWARE CITY
## PUBLIC HEARING &
## MAYOR AND COUNCIL MEETING
## August 20, 2012

**CALL TO ORDER – PUBLIC HEARING**
The Honorable Mayor Buchheit called to order the Public Hearing at 7:00 pm.

**PLEDGE OF ALLEGIANCE**
The Honorable Mayor Buchheit led the Pledge of Allegiance to the Flag.

**ROLL CALL**
The following Council Members were present: Barrett, Titus, Sullivan and Johnson. Also present were Mayor Buchheit, City Manager Cathcart and Interim City Solicitor Walton.

**ORDINANCE 12-0716-01- Establish Licensing Process for the Sale & Consumption of Alcoholic Beverages on Delaware City Property**
City Manager Cathcart gave an overview of the ordinance, stating that the ordinance came about when the Delaware River and Bay Authority, Fort Mott and Main Street Delaware City planned a wine and beer festival for October. DRBA would provide ferry transportation between Delaware and New Jersey for the event. Currently the Delaware City Code prohibits serving or consuming alcoholic beverages in the City parks. This ordinance would allow the consumption of alcoholic beverages in the park for City sponsored or co-sponsored events only, when there is a clear benefit to the City. The City is insured against liabilities. When questioned, City Manager Cathcart said there are no plans to serve alcohol

on Delaware City Day. Council Member Barrett suggested that each request for approval should come before the Mayor and Council instead of the City Manager. Discussion followed regarding liquor licensing, isolation of area, police control, permit fees and proceeds. City Manager Cathcart said the City could include in the permit that the City would receive a percentage of fees.

John Martin, 212 Washington Street, said he is opposed to the sale of alcohol on City owned property. He said it is irresponsible and heading down a path we don't want to take.

**ORDINANCE 12-0716-02 – Establish Purchasing Policy & Procedures**

City Manager Cathcart said this ordinance codifies the procedures the Mayor and Council had approved previously. Interim City Solicitor Walton said it should be adopted by ordinance and made an appendix to the Code. There were no comments.

**ORDINANCE 12-0716-03 – Modify Fees for Initiating Construction without a Building Permit**

City Manager Cathcart gave an overview of this ordinance, stating that people have been starting projects that require a permit, without getting one. Until now, there have been no consequences. This ordinance would double the permit fee for beginning work without a permit. There were no comments.

**ORDINANCE 12-0716-04 – Establish Code of Conduct for Elected and Appointed Officials**

City Manager Cathcart said this ordinance, which lays out a code of conduct and a process by which to govern it, was submitted at the request of Council Member Sullivan. Council questioned City Solicitor Walton about whether this was necessary as they are already covered, as elected officials, by code of conduct and ethics under the Public Integrity Commission (PIC). City Solicitor Walton said the law is a little muddled. He said there are some things that are covered under this ordinance that are not covered by the Public Integrity Commission. Ordinance 12-0716-04 is a little broader than PIC's statute. He added that if a municipality does not have a code of conduct, the PIC is the governing body. He recommended that, if the Mayor and Council adopt this ordinance, they should take it to the PIC for a comment. Discussion followed. There were no public comments.

**RECESS PUBLIC HEARING**

The Honorable Mayor Buchheit recessed the Public Hearing at 7:23 pm.

## RECONVENE PUBLIC HEARING

The Honorable Mayor Buchheit reconvened the Public Hearing at 7:30 pm.

## ADJOURN PUBLIC HEARING

*Council Member Barrett made a motion to adjourn the public hearing. Council Member Titus seconded the motion. A roll call vote was taken, all ayes, motion carried.* Public Hearing adjourned at 7:31 pm.

## CALL TO ORDER – MAYOR AND COUNCIL MEETING

The Honorable Mayor Buchheit called to order the regular meeting of the Mayor and Council at 7:32 pm.

## ATTENDANCE ROLL CALL

Present were Council Members Barrett, Titus, Johnson and Sullivan. Also present were City Manager Cathcart, City Secretary Gwynn, Interim City Solicitor Walton and Officer Kaczorowski.

## ACTION UPON THE TREASURER'S REPORT

City Manager Cathcart explained that City Treasurer Hartman was on vacation, but emailed the Treasurer's Reports before leaving. The City Treasurer is waiting for a consultation with City Auditor Vince Barbone before making a final decision about new software. *Council Member Johnson made a motion to approve the July 2012 Treasurer's Report, subject to audit. Council Member Barrett seconded the motion. A roll call vote was taken, all ayes, motion carried.*

## ACTION UPON THE MINUTES OF THE PREVIOUS MEETING

*Council Member Sullivan made a motion to approve the July 16, 2012 minutes as written. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried.*

## POLICE REPORT

Officer Kaczorowski reported the police activity statistics for the period from 7/19/2012 through 8/17/2012. He also reported the following:

- The new parking strategy for Delaware City Day was a success. There were 14 complaints this year, with no arrests. During Delaware City Day 2011, there were 36 complaints and 15 arrests.
- A trailer in the mobile home park was totaled in a fire over the weekend. Discussion followed about the fact that the owner was not living in the mobile home, but someone else was. City Manager Cathcart said the biggest problem is that the management doesn't enforce its own rules.

City Solicitor Walton said the City Code does not allow the City to evict tenants. He was asked if the City has any recourse against Mr. Leeds as a public nuisance. It was discussed that 90% of the calls to the mobile home park are for the same five or six tenants. The rest of the people are nice people and don't cause any problems. Council asked if there were anything in our Code or Charter that would allow the City to charge back the cost of repeat calls to the same tenants, to Mr. Leeds. City Solicitor Walton said that there is nothing currently, but that the City of Newark has a provision in their code that after repeat calls for the same tenant, that tenant must be evicted. City Manager Cathcart said the City could look into that if the Mayor and Council would like to research it. City Solicitor Walton said he would make recommendations to the Mayor and Council in a letter form, using research he has already done. Council reached a consensus that they would like to have that done. Council also asked to have James Nolan, the police consultant, look at this to see what recommendations he would make.

- Nothing has been discovered about the person(s) who poisoned and then cut down the tree at Town Hall. Mayor Buchheit said there is a $2500 reward for information. Discussion followed about security for Town Hall. Officer Kaczorowski said cameras at town hall would be helpful.
- Someone has been going into the basement at town hall, appears to be staying there, and going through the trash. Council asked for the City Manager to give them prices for cameras, alarm system, etc.
- Met with the Delaware City Refining Company as the police need to purchase new police radios. The refinery will purchase 5 radios, with them keeping one and giving 4 to the Delaware City Police Department. This is a savings of $20,000 for the City.
- Organized and attended "active shooter" training at the Community Center. There were 25 officers in attendance. With the PAL Center and two schools within ½ mile, the training has been updated.
- Police Chief Tjaden has scheduled a meeting with the police consultant.
- Assisted the Delaware State Police with a drug complaint which recovered three bundles of heroin and three bottles of methadone liquid.
- A marijuana arrest under Reedy Point Bridge occurred.

## CITY SOLICITOR'S REPORT

Interim City Solicitor Walton reported the following:

- Leaving current firm, along with 21 friends, and going to Connolly Gallagher. Discussion followed regarding legal bills. City Manager Cathcart said detailed legal bills are already being provided to the City. He said the City will not release copies of the bills, but Council may come to Town Hall to review the bills. City Solicitor Walton said his bills reflect legal advice he has given to the City, which is subject to attorney client privilege. If the bills

are copied and given to someone else, the attorney client privilege has been violated. At his request, the City will not give copies of the legal bills. He said if anyone wants to know what the City paid him that is public information. However, the detailed bills would need to be redacted and are not subject to FOIA.

- Mayor Buchheit asked for clarification about whether or not a Council Member can contact the City Solicitor directly. City Solicitor Walton reiterated that, per motion made by Council at the last meeting, all requests must be signed off by the requesting Council Member and an additional Council Member, and then presented to the City Manager for presentation to the City Solicitor. Discussion followed regarding an email dated 7/13/12 that was sent from the City Solicitor's office to Council Members Doebley and copied to Johnson and Barrett, addressing a request made by Council Member Doebley to opine on this subject. Council questioned that since the City Solicitor's opinion, prior to the motion made a the last meeting, was that one Council Member could not contact the City Solicitor directly, shouldn't the charges incurred by Council Member Doebley be paid by him personally, rather than by the City. The City Solicitor said that would be up to Council. He did, however, recommend that this issue be clarified in the Charter when it is revised.

  Council asked the City Solicitor if he had received any emails from Council Member Doebley after the last Mayor and Council meeting. He said he had written a short response to every email he received but gave no opinions, with took 6/10's of an hour. He said he would not charge the City for this time. City Solicitor Walton asked what he should do if he receives an email directly from a Council Member without going through the required approval process. Council response was that the email should be forwarded to the City Manager. Discussion followed about whether Council Member Doebley should be responsible for paying all the legal bills for requests he, and only he, made to the City Solicitor. Mayor Buchheit said this topic would be discussed later in the meeting as was on the agenda.

**CITY MANAGER'S REPORT**

City Manager Cathcart reported the following:

- Received an announcement from the Federal EPA that Occidental Chemical Corp. made a settlement with them to continue to remediate the contamination at the Delaware facility for a total cost is $8 million in capital and an additional $11 million is operating and maintenance costs.

- Met with Alan Levin, Director of the Delaware Economic Development Office, and Linda Parkowski, Director of the Delaware Tourism office. Mark Chura and Christine Thomas also attended the meeting. Purpose of the

meeting centered on the Business Incubator concept at the Community Center, promotion of Delaware City Eco-Tourism and a request for assistance in making both of these a more focused objective for both DEDO and the Tourism Office.

- Attended a meeting of multiple state agencies to discuss and plan for the control and eradication of phragmites in Delaware City, Grassdale, Thousand Island Marsh and areas of property owned by the refinery. This joint effort will be very beneficial to the City. There will be spraying in the morning of 8/21/12. This will not have a negative impact on animals.

- Met with Colin O'Mara, Secretary of DNREC and several of his staff members. Mark Chura and Christine Thomas attended as well. The primary focus of the meeting was to garner support for several on going projects in Delaware City including: the Branch Canal Trail project enhancements; Baby Beach/ Stouffer Slip clean-up and development; flooding issues and solutions for Washington Street, Monroe Street and the Mobile Home Park; Dragon Run area enhancements; Community Center Park master planning and enhancements; Bayshore Ecotourism related to the Business Incubator; Grassdale Restoration; and other ecotourism related projects. The reception was very positive and a follow up visits and meetings are planned.

- Met with various officials from the refinery to specifically discuss the acquisition of lands to move forward with the expansion of the municipal parking lot and the Baby Beach project. This was a very positive meeting and we are delineating land needed for both projects. Follow-up meetings are scheduled. They agreed to clean up the whole Stauffer slip area.

- Continuing meetings with the Mayor and members of the New Castle Business Alliance discussing joint promotional events and fund raising events for both Cities.

- Met with John Horsey, the selected appraiser for the Sterling House, and visited the site and surrounding area.

- Attended a grant workshop sponsored by DNREC.

- Joined Mark Chura and Christine Thomas in a tour of the above mentioned eco-tourism with Karen Bennett from DNREC.

- Met with James Noland, Law Enforcement Consultant, concerning the Police Department evaluation. (Resume In Your Packet).

- Met with Neil Semmel, Piranha Sports, concerning past issues and discussion about another Escape from Fort Delaware event. The meeting

ended well with Mr. Semmel agreeing to pay previous legal costs for a collection letter.

- Attended a DNREC Floodplain and Drainage Workshop.

- Received a $79,000 grant award from DNREC Division of Parks and Recreation, Delaware Land and Water Conservation Trust Fund. The grant award is for professional services to design accessible ramp, pathways and lighting at the Community Center Park, conceptual plans for Battery Park interpretive area including better display of the diving bell and live video of the Pea Patch Island Heronry, six interpretive signs at the Branch Canal Trail Outlook. This is a $229,000 project and is matched by a $150,000 USDA grant previously awarded.

- Received a $240,000 grant award from the federal Scenic Byways Program. This grant will be used for the design for the Branch Canal Trail observation bridge and flood-control to protect the African Union Church Cemetery. This would not resolve the flooding issue at the trailer park. However, the phragmite is part of the problem, which will be sprayed tomorrow. Fixing the problem will be taken care of with the Branch Canal Project.

- Received an appropriation under the Municipal Street Aid Fund of $34,969 in unrestricted funds and $8,759 in restricted funds. The projects have not been selected, as the City Manager is in the process of surveying the conditions of the streets.

- Continued IT infrastructure and hardware problems make it an urgent priority to complete the IT upgrades we were hoping could have been delayed until next fiscal year. The frequently reoccurring loss of email and internet, computers and server that are way beyond their expected life, and outdated software packages that are 2 or 3 versions behind. The server has failed to do the back-up three times over the past 30 days. Estimated cost of upgrade is $15,000. Will discuss further in the meeting.

- Received an email from Council Member Doebley in reference to serious allegations toward City Manager Cathcart and Mayor Buchheit. None of this it true and the Council Person that it was directed to will agree that it is not true.

- Still waiting for a time line for the solar project. They plan to start in the middle of September.

- The PAL Center opened today. They will be open from 1:00 to 6:00, Monday through Friday.

- The former day care area has been rented to the dredging company for $1200 per month. It will be a short term lease.

**APPOINTMENTS, ANNOUNCEMENTS, COMMUNICATIONS**

The Honorable Mayor Buchheit said he would like to appoint Lynn Dilliplane to the HPC as her term is up. *Council Member Sullivan made a motion to confirm Mayor Buchheit's appointment of Lynn Dilliplane to HPC. Council Member Barrett seconded the motion. A roll call vote was taken, all ayes, motion carried.*

**REPORTS OF COMMISSIONS, COMMITTEES AND ORGANIZATIONS**

Main Street Delaware City – Mark Chura summarized the Federal Byway Grant. Delaware City is the trailhead of the system that will run all the way to Lewes. Delaware City, Main Street, DNREC and DelDOT have a good working relationship. DNREC provided the 20% match that was required for the Byway Grant for the construction of an observation platform at the Thousand Acre Marsh.

Another grant was awarded to the Delaware City Environmental Coalition, under the umbrella of Main Street's 501(c)(3) status, for the bucket brigade. Main Street will partner with the Sierra Club to see that the bucket brigade continues, as Sarah Bucic is unable to do this at this time.

Main Street is in the final process of putting together a newsletter and email blast. It should be released within a week. A sign up sheet was circulated.

Delaware City Library – Deb Sellers reported that some students of William Penn High School created a mural in the children's section of the Library. There will be a dedication August 21st at 7:00 and everyone is invited.

Delaware City Day Committee – City Manager Cathcart reported that the day was a great success with the largest parade ever, most vendors ever, the most people during the day and the same amount of people for the fireworks. The parking permits were a great help. Half of the parking proceeds went to the fire company cadets who assisted with the parking, as did the fire police. He thanked the fire company for all their help. The City Manager said a Treasurer's Report would be prepared after all the invoices are received and paid.

Delaware Pride – Mayor Buchheit announced that this will be moved from Rehoboth Beach to New Castle County this year. It will be celebrated at the Blue Diamond Amusement Park on September 8, 2012. He added that Crabby Dick's is a sponsor and he will be there representing Delaware City. He said he takes great pride in being the first gay mayor elected in the State of Delaware.

**OLD BUSINESS**

Second Reading & Adoption of ORDINANCE 12-0716-01- Establish Licensing Process for the Sale & Consumption of Alcoholic Beverages on Delaware City Property

*Council Member Sullivan moved for the adoption of Ordinance 12-0716-01, Establish Licensing Process for the Sale & Consumption of Alcoholic Beverages on Delaware City Property, with approval by the Mayor and Council and with 25% of the revenue being paid to the City.* Discussion followed about whether an ordinance could be changed. City Solicitor Walton said the Mayor and Council could adopt the ordinance as written and he could return with a new ordinance to modify this one. Discussion of tabling the ordinance followed. Mark Chura said that if the ordinance were tabled, the event with Fort Mott and DRBA would have to be cancelled as there would not be sufficient time to plan and advertise it. *Council Member Sullivan made a motion to adopt Ordinance 12-0716-01, Establish Licensing Process for the Sale & Consumption of Alcoholic Beverages on Delaware City Property.* Discussion followed. There was no second.

Second Reading and Adoption of ORDINANCE 12-0716-02 – Establish Purchasing Policy & Procedures

*Council Member Johnson made a motion to adopt Ordinance 12-0716-02 Establish Purchasing Policy & Procedures. Council Member Barrett seconded the motion. A roll call vote was taken, all ayes, motion carried.*

Second Reading and Adoption of ORDINANCE 12-0716-03 – Modify Fees for Initiating Construction without a Building Permit

*Council Member Sullivan moved to adopt Ordinance 12-0716-03 to Modify Fees for Initiating Construction without a Building Permit. Council Member Titus seconded the motion. A roll call vote was taken, all ayes, motion carried.*

Second Reading and Adoption of ORDINANCE 12-0716-04 - Establish Code of Conduct for Elected and Appointed Officials

*Council Member Johnson made a motion to table the vote on Ordinance 12-0716-04 until it can be presented to the Public Integrity Commission for review. Council Member Barrett seconded the motion. A roll call vote was taken, with the Council Members voting as follows: Sullivan – nay, Titus – aye, Johnson – aye and Barrett – aye. Ordinance 12-0716-04 tabled.* City Solicitor Walton said he would call the Public Integrity Commission and give an update to City Manager Cathcart.

Community Center Management Agreement

City Manager Cathcart reminded the Council that he had come before them early in the summer regarding management of the Community Center. He, at the request of the Council, advertised the position and had one person submit a proposal. Apparently the applicant did not understand the scope of work or the RFP, as she submitted a proposal for writing rules and regulations for the Community Center. This brings the City back to entering into an agreement with Main Street Delaware City as previously discussed. Council asked to see a

business plan. Main Street had not prepared a business plan as they didn't know what action the Mayor and Council would take. Main Street's Mark Chura said this is not a money maker for Main Street and that they would need more information about what the City wants from this agreement. Discussion followed. *Council Member Sullivan moved to authorize City Manager Cathcart to move forward with the contract to allow Main Street to manage the Delaware City Community Center. Council Member Barrett seconded the motion. A roll call vote was taken, all ayes, motion carried.*

**NEW BUSINESS**

Resolution 12-0820-01 Relating to Sterlings – Surplus Property Declaration

City Manager Cathcart said the Mayor and Council have been discussing the sale of the Sterling's property. Before it can be sold, it must be declared as surplus property. All auctioneers have said it would take 60 days to market the building, which would make the sale date sometime in October. This resolution needs to be passed before the sale process can begin. *Council Member Johnson made a motion to adopt Resolution 12-0820-01 Relating to Sterlings - Surplus Property Declaration. Council Member Titus seconded the motion. A roll call vote was taken, all ayes, motion carried.* A discussion followed regarding a public auction, paying the marketing fee and setting a reserve price. City Manager Cathcart said the City has received numerous proposals, with the maximum marketing cost of $4000, which would need to be paid up front by the City. The City needs to determine a reserve price. City Manager Cathcart said the Council would need to make a motion to authorize him to award a contract to an auctioneer subject to a review by the City Solicitor. The City Manager said he would like to call a special Mayor and Council meeting when he has the appraised value and the amount of money the City has tied up in the property. At the meeting, a reserve price could be set and the motion, authorizing him to take the action proposed by Council, could be made.

Overtime Policy

City Manager Cathcart reminded the Mayor and Council that there had been a discussion about police overtime at a previous meeting. He said the policy in front of them had been reviewed by Tim Holly, the employment expert in City Solicitor Walton's office. He said it is in compliance with FLSA. Police Chief Tjaden and City Clerk Hartman have both reviewed the policy. Discussion followed. *Council Member Barrett made a motion to adopt the Overtime Policy. Council Member Sullivan seconded the motion. A roll call vote was taken, all ayes, motion carried.*

Upgrades in IT Hardware/Software

City Manager Cathcart said the City brought in an IT consultant to look over the problems and make recommendations. He said the condition of the server presents the greatest problem and the frequency of issues has increased dramatically over the last two months. The server is the hardware that contains all the City records, data, historical records, etc. The consultant said it should be

replaced as soon as possible as it is in danger of crashing. In addition, all the computers, with the exception of the City Manager's, are several years old. The proposal to replace the hardware/software and any equipment the City needs to protect data, would be approximately $15,000. As a possible source of funding, there is a $40,000 administrative fee that was not in the budget as the solar contract had not been awarded at that time. Part of the money could come from $10,000 that was set aside to match a police grant that the City did not get. He asked for approval from Council to proceed with these upgrades as the budget would not be negatively impacted. The service contract would be substantially less than the current contract. *Council Member Johnson made a motion to approve the computer upgrades, using $10,000 from the COPS grant and $5000 from the administrative fee from the solar project. Council Member Titus seconded the motion. A roll call vote was taken, all ayes, motion carried.*

Security for Town Hall

Mayor Buchheit said he asked to add this to the agenda as he is concerned about it. City Manager Cathcart said it would be paid from the Capital Budget. He said if the Council chooses to install a security system, it would require the Capital Budget to be reprioritized. He will come to Council with proposals. He would add this to the agenda for the special meeting.

Discussion of Legal Bills & Other Legal Issues

Mayor Buchheit said he has concerns because a Council Member has gone, on his own, to the City Solicitor and has not shared this information with the other the Mayor and other Council Members. Discussion followed regarding whether Council Member Doebley should pay for the legal bills, several thousand dollars, he has incurred without consent of the City Manager and/or Mayor and Council. City Solicitor Walton said an individual Council Member is not his client, so he would not invoice any one individually. He said if the City would like to invoice Council Member Doebley that would be up to them. He said the cost of preparing the memo interpreting the Charter regarding legal rights of individual Council Members, was $3485 (20.5 hours with a 15% discount). He did not bill the City for 7.3 hours or 8.7 hours that was spent on an ethics opinion which he had to get, that was voted on at the last meeting. If he had charged the City for those hours and had not given the City the discount, there would have been an additional charge of $3815. Additional discussion occurred. City Solicitor Walton said he would resend a copy of the letter he sent, due to a motion made by Council at the last meeting, regarding the procedures for Council to contact the City Solicitor. Additional discussion followed. City Solicitor Walton said that if he receives an email or any inquiry from a Council Member, he understands he is to forward that to the City Manager and take no additional action. The Mayor and Council agreed with that procedure.

Discussion of Compensatory Time

City Manager Cathcart said that Council Member Doebley requested that this be placed on the agenda so there could be a discussion of the violation of comp time

made by the City Manager. He said he was disappointed that Council Member Doebley was not here. First, the City does not have a comp time policy. City Manager Cathcart agreed that he used time to do various things, such as going to Atlanta, GA to testify on gambling (6 hours) in place of a State Legislator who was unable to go due to an emergency. The City Manager said that in the last 18 years working as a senior manager, it has always been understood that you put in more hours than you are paid for. He thought that was the case here, also. He said, based on an earlier conversation with Council Member Doebley, he started keeping track of his hours. He passed out and explained a spreadsheet showing hours worked. He pointed out that every time he used comp time, he had worked in excess of the hours he was paid for. From 9/26/11 through 8/6/12 the City Manager worked 450.75 hours more than his required hours, which averages to more than 6 days a week. For Council Member Doebley to suggest that he is in violation of some unwritten policy is insulting. He said he is not complaining about the hours worked as he expected to work additional hours and does it willingly. Mayor Buchheit asked how much time was spent on work caused by Council Member Doebley. City Manager Cathcart said he could not give a specific number of hours, but a considerable amount of time has been spent on these issues. He said Council Member Doebley has contacted the staff directly with FOIA requests. City Solicitor Walton read Section 3.08-C of the City Charter as follows: "Interference with Administration. Except for the purpose of inquiries and investigations, the Mayor and Councilpersons shall deal with city officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Mayor nor the Council, nor its members shall give orders to any such officer or employee, either publicly or privately, nor shall the Mayor nor any Councilperson usurp any power given to the City Manager in this Charter." When Mayor Buchheit asked what action could be taken against a Council Member in violation of this section of the Charter, the City Solicitor asked the Mayor to direct that question to him through the City Manager and he would respond with a letter.

Discussion of Employee Evaluations and Review

City Manager Cathcart said this item was also added to the agenda at the request of Council Member Doebley, for the express purpose of discussing the City Manager's evaluation. The City Manager said he has no problem with having an evaluation done, but he doesn't know how it would be done as no one directly supervises him on a day to day basis. He added that his evaluation is how he performs over the course of any given year as follows: worked within the budget, acquired grants, improved the City, created strong public relations, etc. The precedent has been that the City Manager does not get a formal evaluation.

City Manager Cathcart said he wanted to discuss the most recent email received from Council Member Doebley. He read as follows: Dated 8/18/2012, 6:31 PM, to all Council Members.

"All,

I am sharing this letter and my thoughts on it with you as an FYI.

By the numbers. This is the second time Buchheit has used the tax-payer funded City Solicitor to target either a member of Council or a resident for political purposes. This is the second time that Cathcart has been caught up in a scheme to undermine or seek the ouster of a duly-elected sitting member of council.

Council member Sullivan's outburst at the last meeting where she publically admitted to seeking my ouster was very helpful.

By was of background, Council member Sullivan admitted to me a few months back that she went to Cathcart last August seeking my ouster because she was personally upset with me. She went on to say that Cathcart gave her advice on how to go about "isolating and demonizing me". I figured Cathcart would have at the least sought an opinion of the Solicitor, on behalf of Sullivan, to determine if there was a legal way to go about this and to give himself cover for engaging in an activity that otherwise should result in his termination. Clearly he did not.

And Buchheit and Cathcart wonder I use the word corrupt to describe them...

For me, it is an obvious choice to have an affirmative vote to disclose this information to the public. Doing so, in my opinion, would not be the disclosure of information that exposes the City to any liability but does enhance transparency in our Government so our residents will know more about what Buchheit and Cathcart are doing with their money."

City Manager Cathcart said that Council Member Sullivan never came to him for this advice. Nor did he give her that advice. Council Member Sullivan said that at the last meeting she stated that she was seeking Council Member Doebley's impeachment, which she is not ashamed of. The City Manager did, however, contact the City Solicitor, at the request of Council Member Sullivan, to see what the process would be to remove or impeach a seated Council Member from office. He did this openly so he did not need to cover this action as he would seek legal advice for any Council Member who requested it through him. He said to refer to him as a corrupt individual is insulting and libelous. He said this all goes back to what was discussed in an executive session and feels it was retaliation against him for what he brought up at that executive session. He is extremely frustrated from dealing with this man. When asked what action could be taken against Council Member Doebley, City Solicitor Walton reiterated that he would respond with a letter. Mayor Buchheit agreed with the City Manager in voicing his high level of frustration. He said City Manager Cathcart is a stellar employee who puts in much more time than he is paid for. He said our City Manager is the best in the State of Delaware.

## COUNCIL COMMENTS

Council Member Johnson said he is always in favor of saving money, however, based on recent events, such as, harassing emails, pending legal action between two Council Members, legal bills, Charter violations and the issue that was discussed in executive session, he would like to reopen the discussion about having the City Solicitor attend every Mayor and Council meeting. *Council Member Johnson made a motion that effective immediately, the City Solicitor be present at every town meeting until the Mayor and Council determine otherwise. Council Member Barrett seconded the motion. A roll call vote was taken, all ayes, motion carried.*

Mayor Buchheit said Council Member Doebley called the police on Sunday night at 10:00 to complain about loud music at Crabby Dick's. He said as soon as he heard there was a compliant, the music was turned down. He said they want to be an asset to the community and asked anyone to please call them with any problems they may have. The mayor said he has tried to talk with Council Member Doebley but his request was denied. He gave the particulars about how the problems began with Council Member Doebley.

## CITIZENS QUESTIONS AND COMMENTS

Ray Fruytier, 909 Fifth Street, asked why the City can't go after the owners of the trailer park, making them do what they are supposed to do, rather than just dealing with the small percentage of residents who are causing all the problems. He would like an answer by the next meeting. He also asked why the City can't do something about Council Member Doebley rather than just talking about it. He said the City needs to deal with it because they will never find a better City Manager than Dick Cathcart. He also said the garage on Fifth Street is an eyesore and is blocking the sidewalk, making people walk in the street. He added that the alley is supposed to be empty but is full of tires and a boat that is parked there. The deed to 406 Adams Street says they will always have access but they don't because it is blocked. The Mayor and Council were not aware of this.

Wally Poppe, President of Delaware City Fire Company, wanted to address a comment that was made at the last meeting about Council Member Doebley. In the heat of the discussion, there was a comment about inappropriate actions taken by Council Member Doebley with the fire company cadets. Mr. Poppe wanted to let the town people know there were no inappropriate actions. Mr. Poppe said there was horseplay and they were punching each other in the leg. He said that Council Member Doebley, as the adult should have known better, but Mr. Poppe, as president, addressed it and the behavior was not inappropriate. Council Member Doebley made the comment himself about it being inappropriate. Mr. Poppe said it is a shame that the Mayor and Council meetings have deteriorated as they have, but he doesn't want that carrying over into the fire company. He said Council Member Doebley has done an excellent job with the

marine equipment for the fire company. He assured the attendees that there was no inappropriate action and if anyone had any questions, they could contact him.

Beth Konkus, 302 Canal Street, asked City Solicitor Walton why he couldn't answer tonight the question about what could be done with Council Member Doebley. His reply was that it was a Constitutional issue that needs to be addressed carefully and not rush into anything. He said it would take time.

**ADJOURNMENT**

*Council Member Barrett made a motion to adjourn the Mayor and Council Meeting. Council Member Sullivan seconded the motion. A vote was taken, all ayes, motion carried. Meeting adjourned at 9:55 pm.*

Respectfully submitted,
Dawn K. Gwynn
City Secretary