



CITY OF DELAWARE CITY

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**CITY OF DELAWARE CITY  
MAYOR AND COUNCIL REGULAR MEETING AND  
PUBLIC HEARING  
JUNE 15, 2015**

**CALL TO ORDER – PUBLIC HEARING**

The Honorable Mayor Green called to order the Public Hearing at 6:00 pm. The following Council Members were present: Konkus, Titus, Johnson, Malinowski and Barrett. Also present were Mayor Green, City Manager Cathcart, City Treasurer Hartman, City Secretary Gwynn, Acting City Solicitor Wolcott substituting for City Solicitor Walton, and Assistant City Clerk Clifton.

**ORDINANCE 15-0518-01 – AN ORDINANCE TO AMEND AND MODIFY DELAWARE CITY CODE CHAPTER 3 ENTITLED "TAXATION" TO INCLUDE PROVISION FOR THE PLACEMENT OF TAX LIENS AGAINST TAXPAYER'S PROPERTY**

City Manager Cathcart said Joe Wolcott was sitting in for City Solicitor Walton. Acting City Solicitor Wolcott explained that this is simply a method of collecting certain charges for utilities, code violations, delinquent permit fees, etc. It would be a lien against tax payers' property in accordance with Delaware law. This ordinance was drafted at the request of the City Manager and mirrors other municipalities in Delaware especially Elsmere. Mayor Green asked if anyone had any questions or comments about this agenda item.

Kelly McVey, 308 Jefferson Street, asked how this would be handled for properties that have been foreclosed on. Mr. Wolcott replied that every case is different. If the property is owned by a bank, it is owned by a bank. It is what it is.

Mayor Green asked if there were any additional questions or comments related to Ordinance 15-0518-01. There were none.

**ORDINANCE 15-0518-02 – AN ORDINANCE TO AMEND AND MODIFY DELAWARE CITY CODE CHAPTER 8 ENTITLED “STREETS AND SIDEWALKS” TO INCLUDE REPLACEMENT REQUIREMENTS FOR SIDEWALKS LOCATED IN CERTAIN DESIGNATED AREAS**

Mr. Wolcott explained that this ordinance deals with the appearance of the sidewalks, that patterns are to be consistent in a certain area. It states that once a sidewalk must be replaced, it must be consistent with other sidewalks in the area. Mayor Green asked if anyone had any questions or comments about this agenda item. There were none.

**RESOLUTION 15-0615-01 – ADOPTION OF ASSESSMENT ROLL FY16 & TAX RATE FY16**

City Manager Cathcart explained that this is done annually and includes the properties on the assessment roll and establishes the tax rate for FY16. Mayor Green asked if anyone had any questions or comments about this agenda item. There were none.

**RESOLUTION 15-0615-02 – ADOPTING OPERATING BUDGET FY16**

City Manager Cathcart explained this is a balanced budget which expends 95% of the revenue, as there is an ordinance that allows the City to spend only 95% of the revenues. It is the same budget that was discussed at the Budget Workshop and is now formalized in the draft this represents. Mayor Green asked if anyone had any questions or comments about this agenda item. There were none.

**RESOLUTION 15-0615-03 ADOPTING CAPITAL BUDGET FY16**

City Manager Cathcart explained that the capital budget is made of the 5% of revenues that cannot be spent in the operating budget. It also includes anticipated revenues from the State. Mayor Green asked if anyone had any questions or comments about this agenda item. There were none.

**RECESS PUBLIC HEARING**

Mayor Green announced that he was going to recess the Public Hearing until 6:25 pm. Public Hearing recessed at 6:06 pm.

### **RECONVENE PUBLIC HEARING**

Mayor Green reconvened the Public Hearing at 6:25 pm. He asked again if there was anyone present to comment on the items on the Public Hearing agenda. There were no questions or comments on any agenda item.

### **ADJOURN PUBLIC HEARING**

Mayor Green said he would like to close the Public Hearing, as there no public questions or comments. *Council Member Johnson made a motion to adjourn the Public Hearing. Council Member Konkus seconded the motion. A vote was taken, all ayes, motion carried.* The Public Hearing was adjourned at 6:27 pm.

### **CALL TO ORDER – MAYOR AND COUNCIL MEETING**

The Honorable Mayor Green called to order the Regular Meeting of the Mayor and Council at 6:30 pm.

### **PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE**

Mayor Green led the Pledge of Allegiance to the Flag. He also asked for a moment of silence for a long-time resident, Ivy Constango, who recently passed away. He asked that her parents, Charlie and Jane Neel, also be remembered. He asked the attendees to remember Beau Biden, and a long-time public servant, John T. McCool, who served as head of the Attorney General's Office, Chief of Police in Wilmington, and New Castle County Public Safety Director.

### **ROLL CALL**

Present were The Honorable Mayor Green, Council Members Konkus, Titus, Johnson, Malinowski and Barrett. City Manager Cathcart, City Treasurer Hartman, City Secretary Gwynn, Assistant City Clerk Clifton and acting City Solicitor Wolcott were also in attendance.

### **ACTION UPON THE TREASURER'S REPORT**

City Treasurer Hartman presented the Treasurer's Report for May 2015 to the Mayor and Council. *Council Member Konkus made a motion to approve the May 2015 Treasurer's Report, subject to audit. Council Member Titus seconded the motion. A vote was taken, all ayes, motion carried.*

### **ACTION UPON THE MINUTES OF THE PREVIOUS MEETING**

Council Member Malinowski said he wanted to make an addition to the minutes. He said that on page 13, right before the roll call vote was taken; he stated that the motion was only to approve the money not the location for the playground.

*Council Member Malinowski made to approve the minutes as amended. Council Member Johnson seconded the motion. A vote was taken, all ayes, motion carried.*

### **CITY SOLICITOR'S REPORT**

Acting City Solicitor Wolcott reported that their office has been working on the two ordinances that were presented during the public hearing. They have also assisted the police department with some ongoing matters. The investigation is continuing so it would be inappropriate to comment these matters. There was a FOIA complaint filed with the Attorney Generals Office by muckrock.com. The response to that was filed with the Attorney General on behalf of the City. There was an additional FOIA complaint by muckrock.com which will be responded to on Monday. The office has assisted the City Manager with an accounting software contract.

Council Member Titus asked what muckrock.com is. Mr. Wolcott responded that is just a company that files FOIA complaints. City Manager Cathcart said that muckrock.com is a company that will file a FOIA complaint for someone who doesn't want to expose his/her name.

### **CITY MANAGER'S REPORT**

City Manager Cathcart reported the following:

- There have been several contacts (conference calls and meetings) with the Delaware City Refinery in an attempt to resolve access issues for the Dragon Run Flood Gate and Dike repair project. The issue remains unresolved as of this date, but we are confident that a resolution will be forth coming. Did receive an email and phone call late this afternoon. Hopefully there is a resolution which will be developed during the next couple weeks.
- The Fort DuPont Redevelopment and Preservation Corporation has named the new Executive Director. Jeff Randol started his new job this morning and will be spending all day tomorrow and part of the day Wednesday with various individuals in Delaware City.
- Met with Bonnie Metz of Verizon to discuss her company's effort to start eliminating their copper wire infrastructure. This typically would reduce the City's tax revenue on the utility by as much as 40%. However, they have proposed legislation that would cap the tax that is received by municipalities at the 2015 rate level. The bill would give Verizon consideration in other areas that would offset the potential reduction in taxes.
- Tom Reynolds, our tax assessor, has provided the recommended rental rate for the Jefferson Street Paper Street. Unless there are objections from Council we will begin the process to lease this property.

- Interviewed with Delaware Today magazine for an article they are doing on Delaware City.
- Had a telephone conference with Scott Green, the Executive Director of DRBA concerning the sale of the Post Office and the disposition of the parking areas behind the Post Office and the large lot on Washington Street. They promised that there would be no movement on the sale until they meet with Delaware City. Expressed concerns about the large lot on Washington Street, which is owned by the City and leased to DRBA, and the smaller lot to the right of the rear of the Post Office.
- Attended a NCC Workshop on Emergency Preparedness that focused on the loss of facilities and use of communication.

#### General Meetings

- Friends of the African Union Church Cemetery.
- Fort DuPont Redevelopment Corp Board Meeting
- Historic Preservation Commission
- Delaware City Day Committee
- Associated Builders and Contractors Event Committee

#### Project Updates

- Branch Canal Trail: Final lift is just about complete with some minor grading left to do.
- Washington Street Flood Mitigation: Design is progressing on schedule.
- Dragon Run Tide Gate and Dike: Ready to bid; working on access issues.
- Fifth Street Bridge: In final design.

Council Member Titus asked what the rent rate would be for the Jefferson Street paper street. City Manager Cathcart said he would rather not disclose this now, as it would put the City at a disadvantage during the negotiations. Council Member Titus said it needed to be resolved now. *Council Member Titus made a motion that the lot rent would be \$600 per month. Council Member Malinowski seconded the motion.* Acting City Solicitor Wolcott said this could not be discussed at this meeting as it was not on the agenda. Council Member Johnson asked if they could go into executive session. City Manager Cathcart said they couldn't go into executive session without posting it first. Mayor Green summarized the steps that have been taken to date. Council Member Titus asked why the statement appears at the bottom of every agenda which states, "Note: These Agenda Items may not be considered in sequence. This Agenda is subject to change to include additional items or deletion of items that arise at the time of the meeting". City Solicitor Walton arrived during the preceding discussion. He explained that the statement on the agenda refers strictly to something that comes up at the meeting that must be addressed. City Solicitor Walton said for a matter that has been out there, like the Jefferson Street paper street has been, the standards that are set forth in the Delaware Code must be followed. There are exceptions for when the Council can go into executive session and those must be met. He added that the language at the bottom of each agenda is there in case of special, very rare situations. City Solicitor Walton said Council Member Titus could make a motion during New Business. Discussion followed. City

Manager Cathcart summarized the process for leasing the Jefferson Street paper street. Council Member Johnson asked how long this would take to resolve, to which the City Manager replied that it would be resolved by the next meeting.

### **POLICE REPORT**

Chief Baylor reported the statistics for the month of May. He said there were a couple burglaries. He added that he has been concerned by the number of DUI's and traffic crashes, with one fatality on Cox Neck Road, and two serious crashes at Routes 9 and 72 in front of the refinery. The police have been seeing drivers with blood alcohol levels of .20 and greater. With levels this high, the driver should be passed out. He said they are working with the New Castle County and State Police regarding alcohol abatement issues.

Chief Baylor said they are continuing to address the heroin issue in multifaceted ways. They have been working with the State and County Police drug units. They have implemented their own traffic stops that have lead to drug arrests and they have had reports from residents who have conveyed information about suspected drug dealers in town. He told the attendees that they should pay attention to their kids and watch to see who they come into contact with. The chief said he appreciates the calls reporting suspicious activity.

Chief Baylor said there were two drug arrests in May and there have been four arrests made in June, so far.

Chief Baylor said the police have given out 10 bicycle helmets. He said they will give them out to kids who are residents of Delaware City.

Chief Baylor said the police are developing a "Stranger Danger" program for the children of Delaware City at the request of Council Member Konkus.

### **APPOINTMENTS, ANNOUNCEMENTS, COMMUNICATIONS**

There were none.

### **REPORTS OF COMMISSIONS, COMMITTEES AND ORGANIZATIONS**

Delaware City Day – Council Member Johnson said Delaware City Day is just about ready to go. He thanked Mayor Green, City Manager Cathcart and Council Member Konkus for all their assistance.

Playground Committee – Council Member Malinowski said the playground equipment is in the mail. He said he knows that all members of Council have visited the potential playground area. He said he wanted to note that the playground equipment was not purchased with tax dollars, but rather with money from private donations and fundraisers that have been held over the last two years. He asked if all Council Members were ok with the location. City Manager

Cathcart pointed out that there was an agenda item to discuss the playground location under Old Business and a motion could be made at that time.

## **OLD BUSINESS**

### **Discussion of Location of the Playground**

*Council Member Malinowski made a motion to approve the location for the new playground equipment, to be located in the general area of the existing Fourth Street Playground. Council Member Barrett seconded the motion. There was no discussion. A roll call vote was taken, all ayes, motion carried.*

### **FY16 Budget**

*Council Member Johnson made a motion to accept the Budget for FY16. Council Member Titus seconded the motion. A roll call vote was taken, all ayes, motion carried.*

### **Second Reading and Adoption - Ordinance 15-0518-01 Relating to Tax Liens**

*Council Member Titus made a motion to adopt Ordinance 15-0518-01 Relating to Tax Liens. Council Member Malinowski seconded the motion. Discussion followed. A roll call vote was taken, all ayes, motion carried.*

### **Second Reading and Adoption – Ordinance 15-0518-02 Relating to Sidewalk Standards**

*Council Member Malinowski made a motion to adopt Ordinance 15-0518-02 Relating to Sidewalk Standards. Council Member Konkus seconded the motion. Discussion followed. City Manager Cathcart said if a sidewalk created a tripping hazard, the property owner would be cited. A roll call vote was taken with the Council Members voting as follows: Konkus – aye, Titus – aye, Johnson – aye, Malinowski – aye and Barrett – nay. Motion carried.*

## **NEW BUSINESS**

### **Jefferson Street Paper Street**

*Council Member Titus said the Council Members wanted to have this resolved months ago. They do not want to negotiate with interested parties for the lease and would rather set the lease amount. Council Member Titus made a motion to lease the Jefferson Street paper street for not less than \$600 per month. Council Member Malinowski seconded the motion. Council Member Konkus said she would like to amend the motion to see that the lease is finalized by the next meeting. If the property has not been leased by then, the business that currently occupies the property would need to vacate it. Discussion followed. Council Member Titus agreed to amend the motion and Council Member Malinowski seconded the amended motion.*

City Manager Cathcart confirmed the process by saying that according to the motion; he should contact the contiguous property owners and inform them that

the property can be leased for \$600 per month. If they are interested in leasing the property for that amount, they should contact the City Manager. Council Member Titus said if more than one party is interested, they could submit sealed bids, with the highest bidder being awarded the lease. Discussion followed. *A roll call vote was taken, all ayes, motion carried.* Discussion followed.

Resolution 15-0615-01 – Adoption of Assessment Roll FY16 & Tax Rate FY16  
*Council Member Barrett moved for the adoption of Resolution 15-0615-01 – Adoption of Assessment Roll FY16 & Tax Rate FY16. Council Member Malinowski seconded the motion. There was no discussion. A roll call vote was taken, all ayes, motion carried.*

Resolution 15-0615-02 – Adoption of Operating Budget FY16  
*Council Member Titus moved for the adoption of Resolution 15-0615-02 – Adoption of Operating Budget FY16, with a budget of \$1,390,500. Council Member Johnson seconded the motion. There was no discussion. A roll call vote was taken, all ayes, motion carried.*

Resolution 15-0615-03 – Adoption of Capital Budget FY16  
*Council Member Johnson moved for the adoption of Resolution 15-0615-03 – Adoption of Capital Budget FY16, with a budget of \$152,150. Council Member Titus seconded the motion. There was no discussion. A roll call vote was taken, all ayes, motion carried.*

Introduction and First Reading Ordinance 15-0615-01 Relating to Outdoor Equipment

City Solicitor Walton explained that the code enforcement officer asked for this in order to clarify existing code relating to outdoor equipment, such as upholstered furniture, rusty furniture, etc. Discussion followed.

**COUNCIL COMMENTS**

Mayor Green said he continues to meet with the refinery during their monthly CAP meeting. He also attended the Lions Club Meeting and the DFRC which is a group that raises money for Delaware citizens who are intellectually challenged. He said he continues to attend the Delaware League of Local Governments and any meetings that take place within the City which pertain to him.

Vice Mayor Johnson said the Delaware City Day Committee has been meeting on a regular basis. He attended the New Castle County Emergency Management Meeting.

Council Member Titus said the Delaware City Kitty program has ended, with one dollar left. She has heard of no cat complaints or any new kittens, so the program must have been effective. She has to complete her final report.

Council Member Malinowski said he attended the Board of Directors meeting for the Fort DuPont Redevelopment Committee. He also attended the signing of Valerie Longhurst's legislation on teen suicide.

Council Member Barrett asked if the new code enforcement officer could attend the next Council Meeting so he could be introduced to the residents and answer any questions they may have.

Council Member Konkus did not have a report.

### **CITIZENS COMMENTS**

Patti Schrack, Lot 66, asked the following questions:

1. What is the playground location and where it is going to be moved to?
2. Regarding city trees that are coming up through sidewalks, causing the sidewalks to be damaged/raised, is the town going to pay to have the tree removed?
3. Is the town going to help pay for the brick sidewalks to replace the concrete sidewalks?
4. Mentioned letter written by her husband. Ms. Schrack said they are being targeted. If she is a tax paying citizen of Delaware City who has lived here 26 years, why should she have to pay for trash collection? Other residents' trash collection is paid by their taxes, why not the trailer park?
5. Why isn't maintenance done every year on the drainage retention pond? There is a terrible odor and the City owns it, don't they? Why wasn't the fence replaced when it was removed, as a child could get stuck in it?

Eldee Fisher, Lot 10, asked the following question:

1. Why doesn't the City go after the people in town that owe taxes, why just go after the trailer park residents? Why doesn't the City cut something else?

Ted Swan, Lot 86, asked the following questions:

1. If there is a short fall that is causing the trash collection to be removed from the trailer park, are people also included who get a discount on taxes (senior/disabled exemption)? Has the City looked into not giving the tax reductions?
2. He would like to see the credentials of the Code Enforcement Officer. One time they hear that Delaware City can't do anything for the mobile home park and then you hear Delaware City is going to do code enforcement in the mobile home park. Is the park part of the City or not?

Natalie Green, 202 Seventh Street, asked the following questions:

1. Assume there is a tree that cannot be cut down by resident because it was planted by the City, which is growing up through the sidewalk. This tree damages the sidewalk. If the resident cuts roots down and repairs sidewalk and tree comes up again, who pays for tree/sidewalk work?

2. Why couldn't we afford additional officers when T. J. was chief of police, but now we have 4 or five officers?

Kris Lynn, 907B Fifth Street, asked the following questions:

1. What is the code enforcement process? How anonymous is it? How above board is it? Who can make complaints? Who solves appeals? There is too much non-transparency. Does anyone want to answer that question?

David Veasey, 400 Adams Street, asked the following question:

1. Is the wooded section of the Jefferson Street paper street included in the lease?

Rita Marocco, 133 Adams Street, asked the following questions:

1. Who in the town has not paid taxes or has a tax reduction that is not covering all the services of the town. The answer to this would determine if targeting is occurring.
2. What is the plan when trash is not being picked up on a regular basis? Won't tourists using our canal and trails be impacted by rodents if the trash is not being taken care of?
3. Is it fair to residents of one part of the community to have to pay their water bills on private property? Should that be readdressed by Council?
4. Who is the code enforcement officer? What are his hours? How can residents communicate with the code enforcement officer? To whose benefit is it to have code enforcement and not be a detriment to people?

Lois Drummond, Lot #17, asked the following questions:

1. Has had trash collection in the trailer park for the 45 years she has been living there. Is there another way the City can make money or come up with money so their trash collection does not have to be taken away?
2. Why has the park just started paying the occupancy fee in 2014 as it was adopted in 1969? If it was supposed to be collected for the last 45 years, why wasn't it?

Ted Swan, Lot #86, asked the following questions:

1. Where did the occupancy tax come from? Why is it there? The residents of the mobile home park pay it in their rent and if the trailer park is collecting that money for itself, the residents need to know. If the City is charging the fee, what gives the trailer park the authority to collect that for the City?

Natalie Green, 202 Seventh Street, asked the following question:

1. Will there be time for public answers, as some residents are intimidated to go to town hall to ask questions?

Vice Mayor Johnson asked the City Solicitor to explain how the City got to where we are today with the trash issue. He said it was not the result of action taken by the Council. City Solicitor Walton explained that the Council did act by adopting

the Omnibus Zoning Ordinance that deals with franchise for trash collection. That was to clarify all the different districts which would have trash service and which would not. There have always been some districts that didn't have trash collection and some that did. The City is not required to provide trash collection to everyone. Vice Mayor Johnson said he thought the trash collection in the trailer park was carved out by an ordinance that was done in 2002. The Omnibus just clarified it and carved out the language for Fort DuPont. Discussion followed. City Manager Cathcart said all questions would be answered in writing.

Fran Pollack, Lot #82, asked the following questions:

1. Until this is settled will the trash continue to be picked up in the mobile home park? Will the trash be picked up if this is still unresolved? Why can't the City give answers now?

William Davis, Lot #74, asked the following questions:

How did it take this long for this law to be enforced? Where were the finance director and the City Treasurer? Why didn't a former Council discover and enforce this?

Mayor Green asked if the date for the end of trash collection in the mobile home park could be pushed back until August 1<sup>st</sup> to give an opportunity to answer the citizens' questions. City Manager Cathcart said that was possible. *Council Member Johnson made a motion that the City continues trash collection in the mobile home park until August 1<sup>st</sup> to give the City ample time to consider this and answer all the tenants' questions. Council Member Malinowski seconded the motion. A roll call vote was taken, all ayes, motion carried.*

Patti Schrack, Lot #66, asked the following questions:

1. Who comes and picks up the cans when trash collection stops? Who gets the money from the recycling?

## **ADJOURNMENT**

*Council Member Malinowski made a motion to adjourn the Mayor and Council Meeting. Council Member Johnson seconded the motion. A vote was taken, all ayes, motion carried. The meeting was adjourned at 7:15 p. m.*

Respectfully submitted,

*Dawn K. Gwynn*

City Secretary