

"A Historic Past"



"A Bright Future"

CITY OF DELAWARE CITY
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Delaware City, Delaware 19706
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**MINUTES
CITY OF DELAWARE CITY
MAYOR AND COUNCIL MEETING
MONTHLY MEETING
Monday, August 18, 2020 at 6:30 p.m.
DELAWARE CITY FIRE COMPANY
815 FIFTH STREET**

MONTHLY MEETING OF MAYOR & COUNCIL

CALL TO ORDER

Mayor Johnson called the July 20, 2020 meeting to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE

Mayor Johnson led the Pledge of Allegiance

ROLL CALL

In addition to Mayor Johnson, Vice Mayor Malinowski, Council Members Titus, Barrett, Konkus and Buchheit were present. City Manager and Chief of Police Baylor, Finance Manager Graham and City Secretary Loveland were also present.

Chris Griffiths was present for City Solicitor Walton

Presentation by Colonial School District Super Intendent Jeffery Menzer

Council Member Titus took her Oath of Office, Sworn in by Mayor Johnson

ACTION UPON MINUTES

Council Member Buchheit made the motion to accept the June Meeting Minutes as written. The motion was seconded by Council Member Titus. A vote was taken, all members were in favor. Minutes were accepted as written.

Council Member Titus made the motion to accept the July Meeting Minutes as written. The motion was seconded by Vice Mayor Malinowski. A vote was taken, all members were in favor. Minutes were accepted as written.

City Manager Baylor introduced the new Chief of Police Stephen Smith.

City Manager Baylor also introduced a new officer, Lieutenant Matthew Kurten.

POLICE REPORT

Chief of Police Baylor gave the Police Report for July 2020.

CITY MANAGER'S REPORT

- On August 6th, I sent a letter to Mr. Nathan C. Vorachack of the U.S. Army Corp of Engineers regarding the overgrowth of phragmites along the Branch Canal. On August 7th, I received an email reply from Mr. Vorachack indicating the letter was forwarded to one of his colleagues (attached is a copy of the letter sent to Mr. Vorachack).
- At the July Mayor and Council meeting, it was requested that a fireworks ordinance for Council's consideration be drafted. The draft ordinance has been disseminated for Council's review and will be placed on the September Mayor and Council meeting.
- I have contacted The Cutting Edge regarding trash pick-ups in Battery Park on the weekends.
- As a result of the storm, which led to the tornado that struck the Middletown area on Tuesday August 4th, there was some minor damage in the City. Most of the damage was tree related, however, a few Delaware City residents did experience some damage to their houses and property. The Washington street pump and the Flood Mitigation Project was a success. There was no flooding on Washington Street or in the Downtown area.
- During the July Mayor and Council meeting, there was discussion regarding the Bluewater Campground project as it relates to wetlands and environmental

buffers. After the meeting, I contacted Mr. Dave Athey; the City's Engineer from AECOM and shared with him the concerns that were expressed by residents and members of the community. While the city does not have Buffer mandates, and after some discussion with Mr. Athey and Max, a decision was made to send the attached letter to Bluewater. In the letter, we shared with Bluewater the concerns expressed by the community as well as a request for their re-consideration to include Buffers in their project. To date, I have not received a response from Bluewater.

- An independent legal opinion regarding City Council's requirement as it relates to the Blue Water Major subdivision plan was sought from D. Barrett Edwards, Esquire, at the request of City Solicitor Walton. On August 6, 2020, Mr. Edwards, provided a written opinion to the City regarding the question posed to him. Summarizing the letter and his opinion, Mr. Edwards wrote the City Council is required to approve final major subdivision plans that satisfy the requirements of the Delaware City Code(see attached letter).
- Meetings I attended
 - August 13, 2019 – Attended the Ft. DuPont Redevelopment Corporation Board Meeting.
 - August 14, 2019 – Attended the Historic Preservation Meeting.
 - August 15, 2019 – Attended the River Towns meeting.
 - August 19, 2019 – Attended the Downtown Development Designation Presentation at the Birding Association Building.

Council Member Konkus asked if anything was asked of Fort DuPont in regard to coming to the Council Meetings. City Manager Baylor said he did ask but the request was not well received, and he does not believe that they will be coming.

Council Member Buchheit asked if the City Manager could bring the report for Fort DuPont back to Council. City Manager Baylor said yes he can but he thought the right thing to do was for the Fort to be here to answer question.

Council Member Buchheit asked if there was a timeline for the Pump on Washington Street. City Manager Baylor said he will get an update with a timeline.

Council Member Buchheit said that there was a significant impact to the Commercial District due to the recent storm. Restaurants lost thousands in products.

CITY SOLICITOR'S REPORT

Chris Griffiths gave the Solicitors Report for the Month.

- Closed the sale of the water system
- Fireworks ordinance
- Letter to the refinery
- Advise on nuisance issues
- FOIA request from Suez Water
- Building code issue at 110 Jefferson
- Timeline of Fort DuPont
- Compilation of building codes
- Leases at the Community Center
- Gave FOIA advice.

ACTION UPON FINANCE REPORT

Finance Manager Graham presented the financial report as of July 30, 2020 to Council.

Council Member Buchheit made a motion to accept the Finance Report, seconded by Council Member Barrett. All were in favor, Motion passed.

(Full report is attached)

Questions/Comments from Council

Council Member Buchheit asked if there are a lot of uncollected water bills. Finance Manager Graham explained that artesian did a Final Billing, so we have to wait until we start our collection process for that.

Council Member Buchheit said at the last meeting they discussed the Hotel Reporting and wanted to know if we've come up with that yet. Finance Manager Graham said she is in the process of working on that. He asked if someone has an Air B&B how is that reported. Finance Manager Graham said she is looking into that.

Council Member Barrett asked to receive the report a few days early. Finance Manager Graham said she will do that.

APPOINTMENTS

None

ANNOUNCEMENTS/COMMUNICATIONS

None

REPORTS OF COMMISSIONS, COMMITTEES AND ORGANIZATIONS

None

OLD BUISNESS

There was no Old Business on the agenda

NEW BUISNESS

Introduction and First Reading of Ordinance 20-0817-01 relating to the site plan review procedure

Chris Griffiths explained that this is the newest and latest draft of this Ordinance. This has been through the Planning Commission and is coming before Council for Discussion. The City does not have a Major Site Plan review process and technically if someone was not subdividing they can come in and get a building permit and can build what they like. With the Site Plan review there's a lot of other things we can make sure they are conforming to.

Council Member Buchheit asked how that will affect the current development. Chris Griffiths said there has only been one that's fallen under this and they agreed to follow the subdivision process.

Mayor Johnson asked if there is a need for them to suspend any development until this Ordinance is passed. Chris said that's up to Council, you are within your rights to do that. Anyone who submits between now and the next meeting would fall under the old rule.

Vice Mayor Malinowski said he asked last month, and City Solicitor Walton said there was another mechanism for this situation. Chris said he can look into it and get back to him. Vice Mayor Malinowski said he is concerned that someone will come in and apply in this meantime. Chris said he is not sure what the difference another thirty days would make because its been in process since November.

Mayor Johnson asked if the City Manager can wait to sign off on anything was submitted. Chris said he needs to investigate it more to make sure we are fully protected.

Council Member Barrett made a motion to accept, Council Member Titus seconded the motion. All were in favor, motion passed.

Discussion of leases at the Community Center

City Manager Baylor explained that he is in the process of renewing the leases with different entities using the Community Center. There is currently only one acting agreement with Delaware Dept. of Health and Social Services for Aging Adults to deliver hot meals to the elderly in Delaware City and Neighboring Communities.

He explained he has presented a few contracts to the occupants but because he's in the negotiation phase he doesn't want to discuss the leases in a Public Forum. He explained

that he did apply for a grant from the state for the Community Center but we did not get awarded that money. He said he will try again next year.

Council Member Titus asked if we received any grants this year for the center. City Manager Baylor said we did in 2019 but not 2020.

City Manager Baylor said that with Delaware City Day being cancelled he reapplied to the state to reallocate the Delaware City Day grant funds to the Community Center and they agreed.

Council Member Titus asked what the operating expenses were last year for the Community Center and City Manager Baylor said \$94,400 and \$96,000 the year before.

Council Member Barrett asked if we have any of their financial statements, City Manager Baylor said no.

Council Member Barrett said she would like the City Manager to set up a meeting and work something out because we don't want to lose the Library. City Manager Baylor said he doesn't want to run anyone out but it does cost a lot of money to keep up that building operational.

Proposed MOU between Delaware City and Fort DuPont.

City Manager Baylor said that he reached out to the City Solicitor about Fort DuPont over a parking issue. He was told that the area being developed is private property. Private Property is unenforceable under Title 21 of the Delaware motor vehicle code in the state and by our Ordinances because it is private. City Manager Baylor said that Jeff Randol approached him with the MOU and he advised him that he can't enter into that agreement without Mayor and Councils review and approval.

Council Member Konkus said she was under the impression that when Fort DuPont was Annexed into the City they had to follow the rules of the City. Chris Griffiths said he just seen this but he can have a Memorandum for Council next month.

Council Member Titus asked that where is says the FDRPC recorded its amended declarations of covenants, conditions, agreements, etc. on July 7 and people were buying houses before then. That means those people who bought prior wouldn't need to follow. Also the residents that complained knew nothing about this when buying.

Mayor Johnson said he feels those streets need to be turned over to the City.

Cancellation of Delaware City Day

After the last Delaware City Day Committee meeting, they decided to cancel Delaware City due to no vendor or parade participant interest.

Update on the Sale of the Water System

Mayor Johnson explained that everyone should get two bills in the mail from artesian. One bill will be a Final bill from the City and a Start up bill with artesian.

The sale has been finalized and the first phase of construction is the interconnectivity with Fort DuPont so hopefully that helps with water pressure. We have no other dates for the other improvements.

MAYOR & COUNCIL COMMENTS

Council Member Barrett-

None

Council Member Konkus-

None

Council Member Buchheit

High weeds near the solar panels, will that affect them? City Manager Baylor said he will find out

The merchants on Clinton Street will be celebrating small business Saturday on Nov 28th and Santa will be there. Santa will also be here on a weekly basis through Christmas at 38 Clinton Street. All safety guild lines will be followed.

Vice Mayor Malinowski

- Welcome Chief Smith and Lieutenant Kurten

Council Member Titus

The bushes near Pampered Pets stick out and could possibly block the view of someone crossing.

Mayor Paul Johnson

Spoke to the Fort Delaware Park attendant and found out the bathrooms there are open Friday through Sunday. If there is a need to open them more they are willing to discuss a partnership.

The proceeds from the water sale will net around 1.4 million and he would like to invest 1 million in a managed account.

His father passed on the 29th and he wants to thank everyone for the cards, call and texts.

Vice Mayor Malinowski asked where the money is at now. Finance Manager Graham said it is in our Money Market account for now.

CITIZENS COMMENTS

Erica Lindsey 905b Fifth Street – She reminded everyone that at the last meeting she discussed items that were violations of the state law in regards to the sale and development at Fort DuPont. She says since then she has found another significant violation. She believes these violations should warrant a Federal Investigation. She also explained her reasoning's in her letter to residents for why the Council should vote down the Blue Water Development Plan. She feels City Residents and Government have been deceived and she would like to see an investigation launched.

Tim Dilliplane 118 Clinton Street- Renovations done on the gazebo look great. He also said there are a lot of pot holes around town and would like them fixed before winter. He also is concerned about the rusting railings on the storm panels.

Delaware City Library- He feels like since Covid lock down there has been action taken by the town which affects the staff's ability to do their job. Locks on the exterior of the building were changed and the staff was not immediately provided access. There are also other interior rooms that have had locks changed and access has been denied to the library and other organizations. This included a room that they were using as a quarantine room from returned items to the library. This constitutes part of the total defined footage of the library which could void the agreement the library has with the state or county and alter the library status that is right now considered a Community Library and could affect the funding the Library gets from the state. The current lease permits limited lending of space in the library that the town deems necessary. There is space now being lent to the state for the distribution of food is in violation of the lease. The Board is wondering if an alternative venue was considered, this is not a usable kitchen. He also said earlier this year the library was presented with a lease renewal and he couldn't find where this lease was discussed during a Council meeting. The Board feels like this is a significant amount in rent. The current budget shows that 100% of the income of the Community Center would come from the requested rent from the Library. There are other organizations using that facility, The City Fare and The PAL. The Board feels like this request is unreasonable and puts the library at risk of being bankrupt in 2 years. He also said he will get the Library budget requested tonight to council.

Gale Wagner- Reedy Point Players- They are also another tenant at the Community Center. They have been affected by the Covid crisis as they survive by their ticket prices. They are looking for other ways to have performances. She hopes everyone will come out to support the local organization when they are back performing. She also said a few years ago she shot a film that took place mainly in Delaware city called "The Reprogramming of Jeremy" and it was sent on its festival circuit and it won an annual award for best LGBT film.

Herb Netsch 212 Madison Street- He has seen the proposed fireworks Ordinance and he wants to thank everyone for protecting our citizens.

Len Pusey/Heritage association- He said it is his understanding that they are not allowed to get access to their collections kept at the library. City Manager Baylor said that the

City was unaware that their organization had anything there but they can make arrangement to get their belongings.

Gale Smith Jefferson Street- A neighbor has a large dead tree and he has contacted town hall but nothing has been done. They would like something done. Also another neighbor had an area of his yard dug up by a plow he would like fixed. City Manager Baylor said to call town hall and we will take care of it.

Eric Smith/ Resident at Fort DuPont- He explained why he chose to move to Delaware City and Fort DuPont and said he's felt so welcomed by this Community. He said however his experience at Fort DuPont has left him feeling anxious harassed, threatened, etc. by the Director and Site Manager at Fort DuPont and feels his privacy is being violated. He went on to explain different encounters he has had. He also explained that there were rules presented to him after the purchase of his home.

Susan Rahn 1313 Officers Row- She read a letter she created discussing issues she had with Jeff Randol at Fort DuPont. She feels they are being singled out and that approvals for home projects from Jeff and Peggy depend on how much they like you. She said she asked Rockwell if there was any homeowners association, she was told No, but that homeowners had to contribute to the open space maintenance. The Holly tree next to their house had been hacked at close to settlement. She asked Tony Bassara to remove the tree and Tony said he would have an Arborist look at the tree. The tree had been trimmed but it was just missing more branches. After a few months they got estimates to remove the tree and they had the tree removed on March 25. She said Jeff Randol pounded on the door and demanded to know who authorized this. She said he told her not to do anymore to the tree and that they would be hearing from his lawyer. They were never told about any covenants or restrictions.

Kelly McVey- She questioned how Max Walton can represent both Delaware City and Fort DuPont.

Mayor Johnson reminded everyone that a lot of the legislation for the Fort was done in Dover. He reassures everyone that everything is being looked into.

Council Member Buchheit wants clarity on the Library and Community Center and he wants to make sure we don't lose our Library. Mayor Johnson said we are not going to do anything to lose any of the programs over there. He said we want to do more with that building but we need to make sure it's sustainable.

ADJOURNMENT

Mayor Johnson asked for a Motion to adjourn. Vice Mayor Malinowski made the motion, *Mayor Johnson adjourned the meeting at 9:07 p.m.*

*Respectfully submitted,
Britney Loveland
City Secretary*