

**MAYOR & CITY COUNCIL
REGULAR MEETING MINUTES
January 14, 2019**

The Mayor & City Council met on **Monday, January 14, 2019 in Council Chambers at Lewes City Hall**, in accordance with proper notification, with the following members present: Mayor Ted Becker, Deputy Mayor Fred Beaufait and Councilpersons Bonnie Osler, Dennis Reardon & Rob Morgan. Also present were: City Solicitor Glenn Mandalas, City Manager Ann Marie Townshend, Chief of Police Thomas Spell, City Planner Thomas West and Recording Secretary Alice Erickson.

A. CALL TO ORDER: Mayor Becker called the meeting to order at **7:00pm**.

B. PLEDGE OF ALLEGIANCE: Mayor Becker led the Pledge of Allegiance and a moment of silence.

C. ANNOUNCEMENTS

- *Mayor Becker* recognized Detective Jonathan Moyer for receiving the State of Delaware's 2018 Law Enforcement Officer of the Year award for his leadership in the investigation at Beebe Medical Center for fraud and embezzlement. He thanked Detective Moyer for his dedication.

D. ADDITIONS AND/OR DELETIONS TO THE AGENDA

- **DELETED:** I 2- Presentation and possible action on a request by Delaware Bay Pilot's Association for placing of dredge pipeline in the right of way of Oregon and Laurel Avenue for maintenance dredging.
- **DEFERRED:** I 7- Presentation & possible action regarding amendments to Lewes City Code, Chapter 59 Animals, Article II Felines.
- **DEFERRED:** H 4- Presentation & possible action of an Ordinance regarding the creation of the Historic Preservation Architectural Review Commission (HPARC).
- **Agenda item H 3 was moved to directly after consideration of the minutes E 1&2.**

E. PROCLAMATIONS, RECOGNITIONS & APPOINTMENTS

1. Recognition of Gail Van Gilder, Chairperson, Historic Lewes Byway Committee

Mayor Becker presented Ms. Van Gilder with a Certificate of Recognition for her years of service on the Historic Lewes Byway Committee. Senator Ernie Lopez, Representative Steven Smyk and Sussex County Councilperson IG Burton were present to honor Ms. Van Gilder's achievements.

2. Presentation & possible action on the appointment of Jack Fisher to the Lewes Bicycle & Pedestrian Advisory Committee

ACTION: *Councilperson Morgan made a motion to approve the appointment of Jack Fisher to the Lewes Bicycle & Pedestrian Advisory Committee, seconded by Deputy Mayor Beaufait, all voting in favor, motion carried.*

F. MINUTES:

1. Presentation & consideration of the Mayor & City Council regular meeting minutes from December 10, 2018 and special meetings from December 11, 2018, December 14, 2018 & January 7, 2019 and public hearing minutes from January 7, 2019.

ACTION: *Councilperson Reardon made a motion to accept the minutes from the regular meeting on December 10, 2018 and special meetings on December 11, 2018 and December 14, 2018 as presented, seconded by Councilperson Osler, all voting in favor, motion carried.*

ACTION: *Councilperson Reardon made a motion to accept the minutes from the special meeting on January 7, 2019 and public hearing on January 7, 2019 as corrected, seconded by Councilperson Osler, all voting in favor, motion carried.*

2. Presentation & acceptance of the Board of Public Works meeting minutes from September 26, 2018 and October 24, 2018.

ACTION: *Councilperson Reardon made a motion to accept the minutes as presented, seconded by Councilperson Osler, all voting in favor, motion carried.*

H.3 Presentation & possible action on the City's recommendation to DelDOT regarding the disposition of the railroad tracks within the city of Lewes.

Mayor Becker explained in February 2018, city council approved the retention of a 201-foot section of the railroad tracks between Adams Avenue and Monroe Street, running through Stango Park. DelDOT allowed a one-year period to determine if the city wanted to do anything with these tracks. Several organizations have come together to work on a concept of how the tracks could be utilized. Representatives from Fort Miles, Lewes in Bloom, Lewes Historical Society and Lewes Public Library were present. Much of what is being proposed is within the DelDOT right of way and they will need DelDOT's approval prior to moving forward with the project. Tonight, they are requesting an extension to the one-year time frame to continue working on their plans.

Mr. Rich McGrail, 17448 Venables Drive, Lewes, introduced the proposed project "Lewes Junction: A Library-Arts Project". They are looking for council to endorse the concept and request a one-year extension for the planning of the project. The goal of the project is to enhance the appeal of the Rollins Community Center, Lewes History Museum and Lewes Public Library area as a cultural gateway to Lewes.

They are proposing the construction of a 4-sided enclosure around existing power equipment. Construction of the enclosure and other renovations will be executed and sponsored by the Schell Brothers. They do not anticipate there would be significant maintenance cost added to the Lewes Public Library operating expenses. In addition, they do not see any need for funding from the city to move the project forward.

Mr. McGrail reviewed the conceptual rendering of the enclosure, which would be approximately 40 feet in length. They have been in touch with the Board of Public Works about overhead wires and they should not be an issue. The front side will be made to look like the original Lewes train station with the other 3 sides having original art work. They are looking at potentially relocating railroad cars to the site. The final phase would be a railroad garden that is in the early stages of planning.

Jayne Ellan Golde, Public Art Committee & Lewes in Bloom, explained what the enclosure would look like with original art work on 3 sides.

Gary Wray, Covey Creek, President, Fort Miles Historical Association, explained the US Army's involvement with the railroad. They have been involved in finding railroad cars for the exhibit and they have found a steam engine, a passenger car and a caboose. A real piece of history is with the swing bridge. It is one of the few working swing bridges in the country and there are all kinds of opportunities for historical interpretation. They are requesting a one-year extension to do a feasibility study, call a public workshop and then return to city council with a complete recommendation.

Randy Voith, 16626 Shull Road in Breakwater, retired railroad civil engineer, stated the 210 feet of track between the library and the museum is a blank canvas. They have been working on preliminary concepts and do not have drawings at this time. They will return with the results of their study, define the scope, estimate the cost and present a timeline for the project. Finally, they need to determine the potential funding sources. They are looking for permission to work over the next year to determine what could be on the site. They also want to look at the 100-year-old manual swing bridge and the possibilities for preserving it. Their timeline is to complete the planning in 2019 and start implementation in 2020. There are a number of volunteers that are interested in working on the project.

Mary Roth, Chairperson, Historic Lewes Byway Committee, gave a statement on behalf of committee member Russ Tatman and a member of the railroad project team. The HLBC is in support of the project and the request for a one-year extension.

Mr. Voith stated they are requesting the mayor to go to DelDOT regarding city council's endorsement of the project and request for a one-year extension.

Mayor Becker stated the majority of the project is proposed to be within the DelDOT right of way and they will need to weigh in on the project. The bridge is totally separate from this project and DelDOT is already under way in evaluating what they may or may not do with the bridge. He is very pleased to see all the work that has been done. This is very much a conceptual idea at this point and there will be no approval from council tonight.

Councilperson Morgan stated he was impressed with the presentation.

Councilperson Reardon agreed but any endorsement of the concept would be premature. He has no problem endorsing the one-year extension.

Deputy Mayor Beaufait agreed. He has questions and feels they are not in a position to endorse the proposed project at this time. He has no problem with agreeing to a one-year extension but requested they update council on the progress of the project on a quarterly basis. It is a very ambitious project and they need to prioritize each component and take them one at a time.

Councilperson Osler agreed it is an ambitious project and she has no problem with granting a one-year extension, but she is concerned about the long-term maintenance issue.

Mayor Becker agreed and would like to receive quarterly updates.

ACTION: *Deputy Mayor Beaufait made a motion to seek a one-year extension from DelDOT on the railroad track project, seconded by Councilperson Morgan, all voting in favor, motion carried.*

G. STAFF REPORTS:

- 1. Presentation & acceptance of the Financial Activity Report.** *Councilperson Osler* presented the December 2018 Financial Activity Report.

ACTION: *Councilperson Osler made a motion to accept the Financial Activity Report as presented, seconded by Councilperson Reardon, all voting in favor, motion carried.*

- 2. Presentation of the City Manager's Report.** *City Manager Ann Marie Townshend* presented the December 2018 City Manager's Report. The report is available on the city's website.
- 3. Presentation & acceptance of the Police Department Activity Report.** *Chief Thomas Spell* presented the December 2018 Police Department activity report.
- 4. Presentation of the Fire Department Activity Report.** *Mayor Becker* presented the December 2018 Lewes Fire Department report and year-to-date comparison.

ACTION: *Staff reports were accepted by common consensus.*

H. UNFINISHED BUSINESS:

- 1. Presentation & final approval of the city of Lewes Anti-Harassment Policy.**

Ms. Townshend explained the policy was initially presented at the November council meeting and corrections were made as discussed. It was then distributed to all city employees for comment. One comment was received and incorporated into the draft policy. Councilpersons *Osler* and *Reardon* found some small corrections which were made and included in the draft distributed to council.

Councilperson Osler questioned if this policy could be applied to consultants? City Solicitor *Mandalas* stated it can't be used to impose any discipline, but it could be used in the context of removing a consultant or contractor for noncompliance with the city policies. Most contracts state a contractor agrees to comply with city policies and laws.

Councilperson Morgan stated it needs to be clear what harassment means in the HARASSMENT DEFINED section. There needs to be a clear definition instead of being vague. He suggested the second sentence state, "such conduct also constitutes harassment when..." and delete the redundant language at the end.

Mr. Morgan stated in the INVESTIGATION HARASSMENT section on page 3 it states, "The investigating City official will notify the complainant of the results of the investigation." He questioned about notifying the respondent also. *Ms. Townshend* clarified that they have corrected it to state "The investigating City official will notify the complainant *and the person accused of harassment*".

Mr. Morgan stated the NON-RETALIATION section is meant to forbade retaliation based on a complaint of harassment, but it goes a lot further. It states "... retaliation against any employee for reporting of any real or perceived incident involving alleged discrimination or harassment, **or unethical, illegal, unsafe conduct...**" He wondered if that is needed in this policy. He feels it should go elsewhere in the personnel manual.

Under APPEAL, it stated "... the aggrieved party may appeal to the Mayor... The Mayor shall have ten (10) working days to review... and render a binding decision." He questioned if it should be the Mayor and City Council.

Ms. Townshend explained it states the "Mayor" because it is following the grievance process in the current personnel manual. *Councilperson Morgan* stated they need to review that policy. Under the Charter, Section 4. F. the city council has to be involved.

Ms. Townshend explained they are currently reviewing the personnel manual and questioned if it would be better to wait until that process is completed. *Councilperson Morgan* stated it needs to be corrected here because if conflicts with the Charter.

Deputy Mayor Beaufait suggested letting the city manager determine the correct language and it bring back to council at their February meeting. *Councilperson Morgan* agreed to give time for additional review.

ACTION: *Deferred to the February city council meeting for consideration.*

2. Presentation and possible action on a Resolution to set public hearing on Amendments to the Annexation Zones.

Deputy Mayor Beaufait stated he feels the setting of a public hearing would be premature. It needs to be sent back to the annexation committee to look at the proposed changes. It is more than just one item and he would like more time for consideration.

Mayor Becker questioned if this would include changes to other zones as well. *Councilperson Morgan* agreed the changes regarding buffers and setbacks could be applied to other zones. Is the annexation committee the appropriate committee to review it? *Mayor Becker* stated it would be appropriate for the annexation zones but if they look at other zones, it should go to the planning commission.

Councilperson Morgan stated there would be a benefit to holding a public hearing to get input regarding the potential changes. *Deputy Mayor Beaufait* disagreed stating it needs to go back to the committee for review. All committee meetings are open to the public. *Councilperson Reardon* agreed that it should go back to the annexation committee for discussion. There would be ample opportunity for public comments.

There was continued discussion about whether a public hearing should be scheduled or forwarded to the annexation committee for consideration and recommendation.

Councilperson Osler recused herself from voting as she was not present for the workshop. She stated one of the sensitive issues is the question of when a potential amendment would become effective as related to an application for development. The middle ground would be that there is a specific date to follow the county's lead; otherwise, one of the concerns is that the wetland calculation issue could become subsumed into a variety of issues and delayed. This could result in a rush of applications that would not be subject to potential changes in the density. Is there anyone to put potential applicants on notice of possible amendments to the density calculation.

Deputy Mayor Beaufait clarified that the zones under consideration are for properties annexed into the city. He doesn't foresee additional properties being annexed into the city in the next 2-3 months. He agreed to a 120-day time frame for the annexation committee to complete their review. The planning commission could address the other zones as they are already working on wetland issues. They will not delay the process and return to council with a recommendation as soon as possible.

City Solicitor Mandalas stated the law is clear that once there is a public hearing scheduled and noticed then the Pending Ordinance Doctrine is in play and any applications file subsequent to that notice should be subject to the ordinance should it be adopted. But there is a split in Delaware Law, and it is not very clear at this time. Some cases state there doesn't need to be a public hearing and it is enough to publish a notice that council is considering a change in a zoning regulation even though a public hearing has not been scheduled. There has been a lot of discussion about the wetland density issue and a court may find the city has done enough to put a future applicant on notice. Council could adopt a resolution establishing a date by which an application must be filed, or it would be subject to any future ordinance.

Mayor Becker question if referring back to the annexation committee would serve as notice. *Atty. Mandalas* stated it could, but he is not sure as there are no findings to support it.

Councilperson Osler questioned if council could schedule a future public hearing that could trigger the pending ordinance rule. It could be canceled if needed.

Councilperson Reardon stated he would like the city to set a policy as to the effective date of an ordinance. When council passes an ordinance, when is it effective? Sussex County has a policy that when an ordinance is passed it is effective at that point and does not apply to any application on file.

Councilperson Morgan stated the county has a pending ordinance doctrine too. He doesn't see the inconsistency in scheduling a public hearing to trigger the pending ordinance doctrine.

Councilperson Osler agreed to scheduling a public hearing. There would be no harm and it would be a statement that this is something council is strongly considering and would assist with any legal issue down the road.

Mayor Becker stated the scheduling of a public hearing will encourage people to come to the annexation committee public meetings prior to the hearing. This will be an opportunity for there to be an open discussion prior to a public hearing.

Councilperson Morgan requested clarification that the purpose of the public hearing would be to comment on the proposed changes in the zoning ordinance. *Mayor Becker* agreed.

Atty. Mandalas questioned if it would be limited to the sole question of whether to exclude wetland areas from the zoning density calculation. Notice of the public hearing will have to include a description of what the public will be commenting on. *Mayor Becker* suggested it include wetlands and buffers. *Atty. Mandalas* felt those two discreet items would be appropriate.

ACTION: *Deputy Mayor Beaufait made a motion to refer possible amendments to the annexation zone back to the annexation committee based upon changes made by Sussex County Council and to bring a recommendation to city council within 120 days, seconded by Councilperson Osler. All voting in favor, motion carried.*

ACTION: *Deputy Mayor Beaufait made a motion to set a public hearing on April 24, 2019 at 7pm, seconded by Councilperson Osler, all voting in favor, motion carried.*

I. NEW BUSINESS:

1. Presentation & possible action on LPC Recommendation 617 for the approval of a request by Gills Neck Realty Company for a Minor Subdivision of property located at 15841 Gills Neck Road (SCTM 335-9.00-1.00) into three (3) lots because the submission is consistent with city ordinances and recognizing recommendations by the Planning and Development Officer.

City Planner Tom West summarized the proposal for a minor subdivision as follows: Property located at 15841 Gills Neck Road, a subdivision of 23.26 acres parcel into three (3) lots. No development is proposed as a part of the subdivision. The lots range in size from 5.66 acres to 9.1 acre and is in the R-2 zone. A complete application was received with all necessary documentation included. The lots all meet the dimensional requirements for the R-2 zone. There is an existing nonconforming structure on one of the lots but could remain as long as there are no improvements. The planning commission recommended approval with the following considerations:

- **Flooding:** A portion of the parcel containing the proposed subdivision is with Zone AE (special flood hazard areas subject to inundation by the one-percent-annual chance flood). All construction provisions should comply with the latest City code requirements and Federal guidelines to ensure the safety of the future inhabitants. Further, any construction methods used on this property must be designed to ensure that it does not increase flooding and runoff problems on adjacent properties or public rights-of-way.
- **Runoff and impervious cover:** Splitting the current lot to create 3 separate lots will open up the possibility, but not likely increase the overall amount of impervious surface to accommodate both structures and facilities, such as off-street parking. New construction must meet code requirements for impervious cover (50% for structure and up to 65% overall). Additional steps should be taken to ensure that resulting designs retain all runoff on-site and avoid any runoff or erosion problems that could result from the development.
- **Transportation:** The property fronts Gills Neck Road, a state road, requiring approval of access permits from DelDOT.

Tim Willard, Attorney, representing Gills Neck Reality Company, and the principal Karen Parker, explained this is being done for estate purposes, and no development is planned. They have no problem adhering with the considerations. Utilities are available, and they have a letter of no objections from DeDOT. Showfield, LLC is the only other property within 100 feet, and they have no problem with the minor subdivision. The lots comply with the R-2 zoning district.

Councilperson Morgan questioned if approval is contingent on the planner's recommendations? *Mr. West* explained it is an acknowledgement that portions of the tract are in the flood plain and if there is any development, they would need to be aware of these issues. They are notification to the current property owner that if development should occur, these are issues the city would be looking at.

ACTION: *Councilperson Reardon made a motion to approve the LPC recommendation for a minor subdivision of property located at 15841 Gills Neck Road SCTM 335-9.00-1.00 into three (3) lots, seconded by Deputy Mayor Beaufait, all voting in favor, motion carried.*

Councilperson Morgan requested an amendment to the motion to include the conditions. *Councilperson Osler* stated these are not conditions, they are issues that the LPC felt the property owner should be aware of.

Atty. Willard agreed these are not conditions, but they are issues that will be required if development should occur. They are law and will have to be adhered to in the future. *Mayor Becker* agreed, it is a notice of what would be required should development occur in the future.

Councilperson Morgan questioned if they adopt the current motion without the three considerations, would anything be lost? *Councilperson Osler* stated they are approving a recommendation from the planning commission which includes all of this language.

She made a friendly amendment.

ACTION: *Councilperson Osler made a motion to amend the motion to include the three (3) considerations as recommended by the planning commission, seconded by Councilperson Reardon, all voting in favor motion carried.*

ACTION: *All voting in favor of the motion, motion carried.*

2. Presentation & possible action on the submission of comments to the Office of State Planning regarding development of the Lowder Mitchell farm.

Mr. West explained this is a development located outside of the city of Lewes and is scheduled for a state PLUS review next week. *Mr. West* distributed and reviewed information for the PLUS review for council consideration. The parcel is currently zoned Agriculture/Residential (AR-1) and they are requesting the parcel be divided into one 20-acre piece and rezoned to Planned Commercial District (C-4) and the other 30.15-acre piece to be rezoned to Medium Density Residential (MR). Sussex County has not received a development application yet, therefore, a development plan is not available at this time. Sussex County requires a master plan when rezoning from AR-1 to C-4 and they do not have the master plan either. These zoning changes must happen at the same time as approval of the master plan.

According to the Sussex County comprehensive plan, the C-4 zone if used in a coastal area, which would be Lewes, it should happen in conjunction with a master plan that is intended to create a mixed-use development so that there are opportunities for walking and community design instead of uses that attract a lot of traffic. They don't know if that is the purpose. From the PLUS information, a rezoning plan indicates six (6) office buildings on the C-4 parcel, with no details on the parcel to be rezoned MR.

Mr. West stated the PLUS review is next week and they are requesting input from city council regarding a letter to go the state regarding this rezoning request.

Councilperson Morgan stated because it will be going to the PLUS review next week, council needs to authorize Ms. Townshend and *Mr. West* to create a letter with comments from city council.

Sumner Crosby, 10 Missouri Avenue. *Mr. Crosby* stated this property sits on the city's wellhead area and needs to be protected. Obviously, the county doesn't care, and the city needs to address the importance of protecting our wellhead. *Mr. Crosby* has worked for the U.S. Environmental Protection Agency in ground water protection coordinating with the Delaware Department of Natural Resources and Environmental Control to put the source water protection program back in place in the late 1980-1990s. In talking with DNREC regarding the Village Center proposal, the groundwater personnel

with DNREC pointed out that they had urged the county to have stronger language in the ordinance and were not satisfied with what they received. This is an opportunity for Lewes to make more of a demand.

Deputy Mayor Beaufait questioned how many acres are related to these zones. *Mr. West* explained 20-acres would be C-4 and 30+ would be MR. *Mr. Beaufait* stated the city has put together a planned residential zone and allowed only 16% of the total acres to be allocated to office buildings or retail. This plan has 40+ percent for office buildings. The city needs to oppose this development for several reasons. First, it is making Kings Highway a commercial corridor. Secondly, they aren't taking into account the Village Center shopping center that is proposed to be across Gills Neck Road. The level of traffic will increase all day long and when the ferry comes in, it will be impossible to get out to Route 1 or into Lewes. The city has every reason to say this is not in the best interest of the city of Lewes, specially in the harm it will do to the city's water supply. This will be a recipe for disaster for the future of the area.

Mr. West agreed these are all concerns listed by the state. He expects they will hear about the source water protection area because the state is on top of it. This is a zoning change and there are more things that could be developed in the C-4 district than what is proposed. The purpose of the C-4 zone is very broad, including shopping centers, and is quite a departure from what is currently allowed. The city's letter needs to go on record, capture all the high points and will be the initial conversation the city will have with the state. The county will be there to hear the comments and once they receive the application, there will be many more meetings.

Councilperson Osler agreed with *Mr. Beaufait*. The proposed access points on Kings Highway and Gills Neck Road are insane. The capacity of these two roads will not be able to handle the volume this development will produce and would create gridlock. The proposed development of office buildings would produce 1,000 trips per hour even before any residential traffic is factored in.

Mayor Becker agreed the access points are in wrong locations. It is projected that traffic volume would increase by 7,600 additional vehicle trips per day. Neither of the access points are far enough away from the Gills Neck/Kings Highway intersection that would allow a traffic light to be installed and one will be needed. The property is being divided into two parcels and they do not know what is being planned for the residential parcel. The city needs to ask for a disclosure of what they plan to do with the remaining residential parcel.

Mr. West stated that is why it is important to see a master plan. *Mayor Becker* agreed given as there are already 1500 house along Gills Neck Road and there are only two ways out, the traffic light at King Highway or through Lewes.

Ms. Townshend asked what the difference is between C-4 and AR-1 in terms of the amount of impervious coverage allowed. The property is within the city's wellhead protection area, and the change from agricultural/residential zone to C-4 will increase in impervious coverage and the MR zone will also have an increased allowance that needs to be cited. This is the area that supplies water to the city's wells. Also, there is a master plan for Kings Highway and Gills Neck Road.

Mayor Becker stated the master plan for Kings Highway is important. The Beebe property directly across Kings Highway from this property is about to be developed. This going to have multiple vehicle access points as well.

Gail Van Gilder, Cape Shores Drive, stated the efforts made by the city regarding the city's wellhead protection area related to the Lingo Townshend shopping center and given the county did nothing to protect it, gives her cause for concern. She believes working very hard with the state at the PLUS review is very important. We need to get as much help and support as possible. Council needs to be talking to the state representatives and asking them to write a letter on behalf of the city.

ACTION: *It was agreed by a consensus of council to authorize the city manager and city planner to draft a letter based on comments made and authorize Mayor Becker to reach out to state representatives, Cape Henlopen School District and the DRBA*

3. Presentation & possible action on the Lewes Running Branch Multi-Use Trail Agreement with DNREC.

Ms. Townshend stated they are not ready to take action tonight on the agreement. Councilperson Osler has stated concern that the agreement outlines the city's responsibilities but not those of DNREC. *Ms. Townshend* has communicated with DNREC about additional language regarding DNREC's responsibilities.

Councilperson Osler stated she doesn't believe the agreement as it stands is enforceable. There is no mutual consideration.

Deputy Mayor Beaufait is concerned about the number of trails the city is responsible for maintaining. They may need to increase personnel to handle it. This will need to be considered with the upcoming budget.

Councilperson Osler agreed but it is even more than that. With all these bikes coming into the city, they will need to park somewhere, and it will stress the city's public restroom facilities. She wants DNREC to pay for whatever is included in the city's budget for maintenance of this trail.

ACTION: *Action was deferred to the February agenda*

4. Presentation & possible action on an amendment to the FY March 31, 2019 budget.

Ms. Townshend reviewed amendments to the FYE 3-31-19 budget.

ACTION: *Deputy Mayor Beaufait made a motion to approve the requested amendments to the FY2019 budget as presented, seconded by Councilperson Osler, all voting in favor, motion carried.*

5. Presentation & possible action on a contract with AECOM for coastal engineering services.

Ms. Townshend explained the city needs to hire a hydrologist as related in part to the Fisher's Cove and the Brittingham developments, but mostly looking at the of Canary Creek basin and the Great Marsh to determine both localized effects of development but also the accumulative affects with other proposed developments within the basin.

Betsy Hicks, AECOM, reviewed the proposal. Their initial focus will be on the Fisher's Cove and Brittingham developments, both are located on the fringe of the Great Marsh where there are combined affects of coastal flood sources and precipitation flood sources. Developing the model will show how these factors affect flooding in the area and how any proposed development or change to the city's landscape might affect flooding behavior.

Ms. Osler questioned what the assumptions are regarding sea level rise and extreme weather conditions. *Ms. Hicks* stated that is something that is flexible, and they would need to discuss. She initially considered looking at three different combinations of coastal flooding plus precipitation driven flooding. With sea-level rise, they can pick the timeframe to look from the DNREC provided projections.

Councilperson Morgan questioned if that would be included in the proposal or is it an option. Also, the marsh deterioration. *Ms. Hicks* stated both would be under the options.

Mayor Becker questioned if the plan would encompass the Point Farm and Groome Church property developments as they are within the Canary Creek Basin. *Ms. Hicks* explained they are not in the initial plan, but it can be expanded to build a model to be basin drive, which is larger than the city boundaries.

Deputy Mayor Beaufait suggested approaching the county to see if they would be willing to participate in the project with possible funding.

Mayor Becker stated the project needs to include all four developments as they will contribute to the Canary Creek Basin and the city needs a complete picture of the situation. The city could approach the county to determine what they are willing to do in terms of assisting in funding.

Mr. West questioned how long it will take to construct the model of the existing conditions and then be able to use it for evaluation. *Ms. Hicks* stated it would be approximately 10-11 weeks to do the base analysis and the incorporation of any of the options would be another 4 weeks.

ACTION: *Deputy Mayor Beaufait made a motion to approve moving forward with the proposed contract for coastal engineering services with AECOM to include options, seconded by Councilperson Osler, all voting in favor, motion carried.*

6. Presentation & possible action on a request by the American Legion Post 17 of Lewes for permission to display banners on street light poles starting Memorial Day for a few months each year.

Kelly Bergan, 17018 Bristol Road. *Ms. Bergan* explained 2019 is the 100th birthday of the American Legion and Lewes will be hosting the moving Vietnam Wall at the Cape May-Lewes Ferry terminal. They have spoken with the board of public works to get permission to display 30-40 troop banners on street light poles. They would like to have this in place before the moving wall comes to Lewes, which will be from May 15th – May 21st. They are looking for a vote of

approval and support from city council. This year they are requesting to display the banners starting on May 15th but in the future the timeframe would be Memorial Day through 4th of July. The primary location will be along Savannah Road and Kings Highway. The banners will be purchased by individuals and all proceeds will go towards the purchasing and maintenance of the banners.

BPW president Pres Lee stated the American Legion will be coming before the BPW at their next meeting. He doesn't anticipate any problems.

ACTION: *Deputy Mayor Beaufait made a motion to endorse the proposal for the American Legion to display 30-40 banners on street light poles in conjunction with the moving Vietnam Wall for a time period starting May 15 through July 4, subject to the approval of the BPW seconded by Councilperson Reardon, all voting in favor, motion carried.*

7. Update regarding the amending of penalties in the City Code.

Councilperson Morgan explained he would like to revise the city's approach to fines and penalties. The penalties listed in the City Code are somewhat out dated and need to be reviewed and amended. He proposes to add to Chapter 1, a provision that overrides all others fine and penalty provisions within the Code and outline a more simplified fee schedule. He is looking for input from council or to create a working group. There are currently 79 different provisions that have penalties associated with them.

Councilperson Osler volunteered to sit on the working group. She pointed out this is similar to what they did with the business license fees, which makes it much easier to amend. The other piece is to consider a change to the City Charter, which limits penalties to a maximum of \$500, and they may want to go higher. This was a recommendation from General Code, who brought this issue to our attention during the recent recodification of the City Code.

The working group will consist of Councilperson Morgan, Councilperson Osler and Chief of Police Tom Spell, consulting with City Solicitor Mandalas as needed. They will bring recommendations back to Mayor & City Council.

ACTION: *Deputy Mayor Beaufait made a motion to form a working group of Councilperson Morgan and Councilperson Osler, seconded by councilperson Osler, all voting in favor, motion carried.*

City Solicitor Mandalas clarified a working group is still considered a public body and is subject to FOIA. He suggested forming a committee on one, Councilperson Morgan, who can consult with any member of council or staff as needed.

ACTION: *Councilperson Osler rescinded the motion and moved to appoint a committee of Councilperson Morgan to consult as needed on the development of a revised fine and penalty schedule, seconded by Councilperson Morgan, all voted in favor, motion carried.*

8. Discussion regarding revisions to the policy on windfall revenues.

Councilperson Morgan explained he has been working with Ms. McCabe on expanding the idea of windfall into a special reserve.

Councilperson Reardon stated as this is about budgeting, he suggested deferring it to the budget process and meetings. *Councilperson Morgan* explained that it is necessary to consider these changes prior to the process so it can be built into the draft budget.

Assistant City Manager Ellen Lorraine McCabe explained it would be easier to identify before they move into the new fiscal year, which begins April 1st, to have the plan already mapped out on how they are going to track transfer taxes. Mr. Morgan is suggesting all transfer taxes be put into one fund and it would be a major change resulting in a short fall in the budgeting of the general fund. They would need to know how to balance the budget. One of the ways to do this is to move the debt service and general obligation bonds out of the General Fund as well. There would still be a short fall, but it would be manageable.

Deputy Mayor Beaufait questioned if this could be done in the budget process as a recommendation to council. Then it could be addressed as a part of the budget process.

Ms. McCabe stated they can prepare the draft budget with the transfer tax in a specific fund and either move the debt service or transfer it. It would be very hard to do mid-fiscal year and an April 1st start date would be best.

Councilperson Morgan stated funds that fall under the new definition of windfall funds are being tracked by the finance department so they could be retroactive to when these transfers started to hit. *Ms. McCabe* agree they are identifying transfers greater than \$3million and the transfer tax received is separate on the monthly financial report.

Mr. Morgan stated there is an annex to the report listing of developments that would be subject to the windfall tax reserve. Are they being tracked so the city can account for those transfer taxes in the new reserve? *Ms. McCabe* will follow up.

Mayor Becker requested this be one of the first things discussed in the budget process.

9. Presentation & possible action on recommendations from the Downtown District & Beach District Parking Review Committees.

Deputy Mayor Beaufait, Chairperson, Beach Parking Committee, reviewed recommendations from the beach parking committee as follows:

Sand Dunes:

1. Installation of fencing along the sand dunes from Beach 1 to Roosevelt Inlet to discourage people from going on the dunes for any reason;
2. Daily patrolling of the public beaches by the police during the summer season

Street Parking between Savannah and Roosevelt Inlet

3. To be consistent with a 1977 agreement with DeIDOT, the city must post and maintain no parking within 30-feet of intersections along Cedar Street to allow for a clear sight line for turning vehicles.
4. There have been numerous complaints about the behavior of beach goers and the committee recommends the police patrol this area frequently during the summer season.
5. There is a problem with objects being placed within the city's right of way. Before this issue can be dealt with, the city must first define the right of way boundaries; therefore, the committee recommends a survey of the connector streets between Cedar and Bay Avenue from Savannah Road to Roosevelt Inlet, staking each corner.
6. The city will be looking into the placement of mailboxes in one location on each of the connector streets.
7. The city, with the approval of DeIDOT, delineate head in parking in the following locations:
 - Fronting the Lewes Yacht Club on the bayside of Cedar Street;
 - Along Maine Avenue between Cedar and the Lewes Yacht Club;
 - Fronting the Children's Beach House;
 - Work with DNREC to delineate parking spaces at Roosevelt Inlet;

Deputy Mayor Beaufait explained the three items the committee discussed but did not recommend action on are permit parking, cross walks on Cedar Street, and expanding the parking lots on beach 1 & 2.

Councilperson Morgan questioned if they have an estimate on completing the survey of the right of ways? *Deputy Mayor Beaufait* clarified the estimate is approximately \$15,000.

Councilperson Osler stated she feels 30-feet at intersections is too much. The city needs to go to DeIDOT to request a more reasonable length. This would result in the loss of 60 parking spaces. *Councilperson Reardon* agreed there would be a large loss of parking, but it is a real safety issue. Many residents complained that they have to go pretty far into an intersection to see before making a turn onto Cedar.

Councilperson Morgan questioned if they considered putting port a pots on the paper streets. *Deputy Mayor Beaufait* stated they did not consider this option. The real problem is trash on the streets and people going onto the dunes.

Councilperson Morgan questioned the possibilities of allowing parking on the paper streets? *Deputy Mayor Beaufait* explained this topic has been discussed and the beach residents were firmly against it. *Councilperson Osler* stated when council made the paper streets open space, they made a representation to the residents that they would not become parking.

Sumner Crosby, 10 Missouri Avenue, stated Mr. Morgan's suggestions are valid and they need to look at using the paper streets for parking. He agreed there are a safety issues trying to turn from the side streets onto Cedar Street in the summer. He also thinks they need to be looking down Cape Henlopen Drive for additional parking. They should not try to squeeze more parking out of the connector streets without looking at other possible locations for additional parking.

Mayor Becker would like to relook at additional port of pots at Roosevelt Inlet and the possibility of locating at the Children's Beach House. *Pres Lee, Children's Beach House*, stated they would not be happy about that.

Deputy Mayor Beaufait stated one of their finding was that parking is available on the canal side of Cedar Street, but people are not willing to walk across Cedar to get to the beach.

ACTION: *Councilperson Morgan made a motion to approve the Beach Parking Review Committee's recommendations 1, 2, 4, 5, 6 & 7 and pursue discussion with DelDOT on 3, seconded by Councilperson Reardon, all voting in favor, motion carried.*

Mayor Becker, Chairperson, Business District Parking Review Committee, stated they are still working on their recommendations. There has been discussion on the following issues:

- The possibility of a permit system in downtown residential neighborhoods but they are a long way from knowing what the ramifications would be and a lot more study is needed.
- They looked at creating a jitney service between Schley Avenue and downtown, hoping to encourage use for employee parking. They don't have any cost or administrative details yet.
- They continue looking into whether it would be appropriate to make directional changes to W. Third Street and create angled parking. The city engineers have advised that it would not be viable for W. Third Street to provide angled parking and one-way traffic in the area from Market Street to Shipcarpenter Street, however it could be an option from Savannah Road to Market Street. There is still more work to be done.
- There has been some discussion with M&T Bank regarding the merging their parking lot and the city's lot on W. Third Street. This could result in a reduction of driveways and therefore, could create additional parking spaces. No decisions have been made with M&T Bank at this time.
- City council has approved the purchasing of additional parking meters for possible installation along Kings Highway from the Zwaanendael Museum to the beginning of the residential district. This would result in 10 metered spaces and would yield \$15,120 assuming 100% occupancy and with a 50% occupancy the yield would be \$7,560. The meters will cost \$755 each with a 10-year life expectancy. The first year would cover the cost of the meters. They have received correspondence from 3 residents in the area expressing concerns about what metering this area would do in terms of pushing parking into the residential area.
- They need to improve signage directing people to available parking. This will be a major topic of discussion at the next meeting.

Carol Epifano, 111 Kings Highway, directly across from the proposed meters. She feels this would negatively impact her property. There is no parking fronting her house and then there will be no parking across the street. This is a really big problem for her. She feels they need to look at the lack of enforcement of the 2-hours parking limit as relating to the long-term parking problem this action is meant to address. She feels the meters will be encroaching into a residential area. There are no businesses in this area and single meters would not be attractive to the park. Also, there is a lot of the traffic for the chamber and meters will complicate it. If council believes meters are necessary for revenue, she suggested starting with fewer meters and see how they work out.

Mayor Becker agreed the 2-hour enforcement has not been done for many years. At a bare minimum they need to delineate parking spaces and enforce the 2-hour parking limitation.

10. Presentation & possible action on the implementation of two-way traffic on Shipcarpenter Street during the Front Street Closure.

Mayor Becker stated they looked at this as an interim solution to the road construction on Front Street up to Queen Anne Avenue. Given the difficulty in making it work and the length of time it would be in effect, it has been determined it would not be practical and therefore, no action would be taken.

11. Presentation & possible action on a request to reduce the speed limit in Henlopen Gardens to 15 mph.

Ms. Townshend stated a request was received to reduce the speed limit in Henlopen Gardens to 15 mph. The current speed is 25 mph and limited to 2 axle vehicles.

Deputy Mayor Beaufait requested this request be forwarded to the Traffic Safety Review Committee for consideration and recommendation. Council agreed.

J. EXECUTIVE SESSION: Pursuant to 29 DEL. C §10004(b) an executive session shall be held to discuss the following: Collective bargaining, personnel-Elaine Bisbee Award and pending litigation.

Council went into Executive Session at: 10:58 pm
Council returned to Open Session at: 11:21 pm

K. CONSIDERATION AND/OR ACTION ON MATTERS DISCUSSED IN EXECUTIVE SESSION

ACTION: Deputy Mayor Beaufait made a motion to award the Elaine Bisbee Service award as discussed in executive session, seconded by Councilperson Osler, all voting in favor, motion carried.

L. ADJOURNMENT The meeting adjourned at 11:25pm.

Submitted by,

Alice M. Erickson
Recording Secretary
Mayor & City Council