

Final Version

**Mayor and City Council of New Castle
Regular Council Meeting
New Castle Town Hall–Delaware Street–New Castle
Thursday–June 10, 2003–7:00 PM**

Roll Call

Present:

President Castagno	Councilman DiAngelo
Councilwoman Miller	Councilman Padmalingam
Councilman Reese	

Others present:

Treasurer Janet Carlin, Finance/HP Manager Marian Delaney, Mayor Klingmeyer, City Administrator Bob Martin, Public Service Director Jim Weldin, Stanley Sykora, Chairman of the Planning Commission

President Castagno called a public hearing to order at 6:30 PM to consider Ordinances 421 and 390.

Ordinance 421: The Tree Preservation and Protection Ordinance of The City of New Castle

A public hearing was held to consider public opinion on Ordinance 421, which encompasses the planting, preservation, maintenance, and removal of trees and all other matters concerning trees within the City limits. The City Council will appoint a committee of nine people from nominees (one each) submitted by the Trustees of New Castle Commons, Arasapha Garden Club, Colonial Garden Club, New Castle Flower Beautification Committee, Municipal Services Commission, the Mayor of New Castle, and three citizens at large, all of whom will serve without compensation.

Earl Carpenter asked if the Tree Commission has the authority to plant a tree between the curb and the sidewalk if the resident doesn't want a tree there. Chip Paterson replied that the City can plant a tree there, but wouldn't do so because newly planted trees need frequent watering for the first few years. An unwilling resident wouldn't be likely to do so. Mr. Carpenter also asked if the limb of a tree on private property was about to fall and cause damage or injury, could the Tree Commission do something about it. Mr. Carpenter stated that if a neighbor complained, the Tree Commission would send someone to inspect the tree.

Ordinance 390: Modification of the Noise Ordinance

The modified ordinance is intended to provide a stronger, more forceful means for controlling noise in the City of New Castle. The modified ordinance states that the noise level cannot exceed 10 decibels over ambient noise (normal noise), with the decibel level to be determined by a reading taken before and after the peak of the objectionable noise. President Castagno pointed out the need to delineate between constant noise and intermittent noise. He revealed that anyone who generates noise that violates Ordinance 390 will be fined.

The current zoning code has a stipulation restricting the level of noise that can be generated within the City. Bill Hutchinson of Fourth Street noted that the code cannot be enforced against motorcycle noise because the City's current noise ordinance is ineffective. He cited the rude behavior of some of the motorcycle riders and complained that their use of cut-outs above mufflers intensifies the problem.

Councilman Padmalingam noted that after observing the railroad crossing for the past three years, he believes that more stringent protection should be provided in the areas surrounding the crossing. Because no such protection exists, motorists routinely toot their horns when they come to the crossing, and the noise carries, thus contributing to the noise level in the vicinity.

Victor Kasun complained that noise from motorcycles, cars, and minibikes are a constant problem. One such problem is that children on Rogers Manor cut through Rogers Road on noisy minibikes, and the police cannot pursue them because they do not have access to the land near Zenith. President Castagno asked if another access exists. Mr. Kasun replied that no direct route exists and that because children can get into backyards, the police cannot pursue them.

Teel Petty proposed that fines for organizations that violate the noise ordinance should be greater than those for individuals.

The Regular City Council meeting began at 7:00 PM.

President Castagno called the role, with all members present. He then asked visitors to sign in and to take an agenda.

Councilman Reese introduced the two new bike patrol officers Justin Smeltzer and Michelle Maykutt. Todd Ziger, another patrol officer was not present. Each officer will patrol the area between the City and Farmers Market 32 hours a week.

Approval of Committee Reports

President Castagno called for approval of committee reports. Councilwoman made a motion to accept the committee reports; Councilman Reese seconded the motion. The motion carried unanimously.

Approval of Treasurer's Report

Treasurer Carlin reported that as of May 31, 2003, petty cash totaled \$270, and deposits totaled 108,470.37. Funds in Wilmington Trust totaled 259,178.10, and CDs totaled 186,048.03, for a total cash on hand of \$445,226.13. Councilman Reese made a motion to accept the report; Councilwoman Miller seconded the motion. The motion carried unanimously.

Approval of Minutes for May 13, 2003

President Castagno remarked that the minutes provided a thorough account of the previous meeting's business. Councilman DiAngelo noted the following changes: Senator Conner to

Senator Connor, Sempler to Simper, Cavanaugh to Kavanaugh, 700 block Connor Street to 700 block Clymer Street, Washington Park to Dobbinsville Park in paragraph 7 that references lights on the basketball court. Councilman Reese made a motion to accept the minutes as amended. Councilwoman Miller seconded the motion. The motion carried unanimously.

Communications

Mayor Klingmeyer has appointed Teel Petty, Mary Davis, and Richard Mendelsohn to the Planning Commission.

President Castagno announced that on May 5, 2003, Mr. Joseph Toner was appointed liaison between the Trustees of New Castle Common and the City and Municipal Government for joint agency meetings.

Councilwoman Miller reported that several citizens had complained verbally that trash is being put out too early and also that some residents are placing barriers in the street to protect their parking areas. She suggested passing an ordinance to forbid the latter practice.

Business from the Mayor

Mayor Klingmeyer had no business to present.

Business from the Council President

President Castagno reported that the on-street basketball problem has not been solved. He has distributed a possible ordinance that a resident gave him concerning the problem. He suggested that the City prepare a model basketball ordinance and distribute it for comments.

Councilwoman Miller noted that DeIDot has rules and regulations concerning basketball courts in roadways, but question whether they could address the problem. Police Chief Kevin McDerby responded that DeIDot can enforce prohibitions against a basketball court only if the court blocks traffic. President Castagno advised devising a city ordinance to solve the problem. Councilman Padmalingam observed that children need recreation and that the City should set aside such an area. He suggested placing a basketball court in the small park near Fulton Street, and then instituting a law prohibiting basketball on the streets. Councilwoman Miller proposed that basketball courts should be in driveways, not on the streets. President Castagno promised to generate a plan for the Council's July meeting.

President Castagno identified the need for two city maps: one that provides a plan of the streets within New Castle, which could be distributed both to residents and visitors, and one that defines election districts. President Castagno asked Mr. Martin to consult Jim Weldin about the feasibility of developing a street map. Discussion on the maps ensued. Councilwoman Miller reported that she had met with Beverly Rossi, Election Board Chair, about the proposed election board manual. Mr. Victor Kasun noted that the City's election districts are primarily divided into two sections, and that Senators Connor and Mulrooney represent most of the City. Councilwoman Miller will meet with Ms. Rossi about the map to devise a way to educate people about their correct districts.

Business from the City Administrator

Mr. Martin reported that Senator Connor has advised him that \$40,000 has been allotted from the 12th Senatorial District Community Transportation Account to fund New Castle's road improvements for the year. Representative Mullins notified the City that they will receive a similar grant of \$40,00 for a total of \$80,000.

Mr. Martin supplied information about Zenith's investigation of the City's noise complaint. Zenith revealed that current ambient noise level on their property line in the early morning hours is 50 decibels and that the noise level from the dust-collector fans is 70 decibels. The noise is generated by dust-collector fans. These levels must be reduced to 10 decibels to conform to the City's modified noise ordinance. President Castagno revealed that Zenith will purchase silencers for the dust collectors to reduce the noise to an acceptable level. Once installed, the offending units will be retested to ensure that they comply with City code.

A letter from the Governor detailed the state of Delaware's fresh water supply and asked for support of two bills concerning it. One concerns Delaware's plan for a self-sufficiency fresh water supply; the other expands the mission of the Water Supply Coordinating Council. The letters are on display in Mr. Martin's office.

Councilman DiAngelo asked about the boardwalk planned for use during construction at Battery Park. Mr. Martin met with the contractor, who said that a temporary boardwalk would be built, but not before the June 15 start date. However, people will have access either through the existing walkway or through the planned boardwalk that can be used at any time except when machinery is in use.

Unfinished Business

Ordinance 419: President Castagno completed the third and final reading of ordinance 419 for rezoning a parcel of land at Basin and Frenchtown Roads designated retail commercial (RC and Residential-R1) to Open Space and Recreational (OS&R, known as tax parcel 21-0-010.00-004). The ordinance has been published and posted as provided for in section 230-62 of the Code of the City of New Castle. Rezoning will become effective when duly entered on the zoning map in accordance with section 230-2 of the New Castle City Code. Councilwoman Miller moved to accept the third reading of the resolution; Councilman DiAngelo seconded the motion. The motion carried unanimously. Councilman Reese then moved to pass the ordinance; Councilman Padmalingam seconded the motion. The motion carried unanimously.

Ordinance 420: President Castagno completed the third and final reading of Ordinance 420 for rezoning a parcel of land located at Quigley Blvd and Frenchtown Road known as Delaware League Services Parcel (tax parcel number 21-027.00-001) from residential (R1) to retail commercial (RC). The ordinance has been duly published and posted as provided for in Section 230-62 of the code of the City of New Castle. Rezoning will become effective when duly entered on the official zoning map in accordance with Section 230-2 of the NC City Code. Councilwoman Miller mover to accept the third reading of the resolution; Councilman Reese seconded the motion. The motion carried unanimously. Councilman Reese moved to pass the ordinance; Councilwoman Miller seconded the motion. The motion carried unanimously.

Resolution on Vacant and Dangerous Buildings: President Castagno called for nominations to a Citizens Appeals Board, as an adjunct to a resolution concerning vacant and dangerous buildings. He pointed out that to pass the resolution requires a review by a five-person appeals board and that three people have been selected Tom Whitehead, Ned Hutchinson, and Ennio Delasandro, but that two more, plus an engineer, are required. Councilman DiAngelo cautioned that if the City is to effectively crack down on violators, it is necessary to have a Board of Appeals in place. He asked who appoints the City engineer. Councilwoman Miller said that when the board is formed, it is crucial to have clearly defined responsibilities and limits. Jim Weldin can help with defining these. She perceives the board's major role to be to act as arbitrators between the City and its residents.

President Castagno stated that once Don Reese has been confirmed, the board will still need one more member. He suggested nominating John Bobankovich, who lives on Seventh Street. One problem might be that Mr. Bobankovich does fix up work, and his appointment to the board could be construed as a conflict of interest. Councilman Padmalingam suggested James Woodward of Gray Street as a fifth candidate, but cautioned that this might also entail a conflict of interests. President Castagno will decide on a name of the fifth member and give the list of names to the public service group. He will announce the names of board members at the next Council meeting.

New Business

Resolution 2003-05, Updating the Comprehensive Plan for the City of New Castle: The Planning Commission presented a comprehensive plan for New Castle. President Castagno called on Stanley Sykora, who explained some of the plans that have been made since the effort began one year ago. He identified annexation as the next big issue and suggested that it is important to address the concerns of the citizens on this issue. Included in the plan was a provision for the future annexation of the area south of the City boundary directly adjacent to Graham Lane and Army Creek. He believes that annexation will help to protect the City's borders. Councilwoman Miller stated that the development of the area North or South of the City is to be jointly determined by the City and County of New Castle. She noted that the City cannot annex an area without the approval of the County and State.

Mr. Sykora said that the Commission is now in Phase 2 and will meet with HACC to discuss code revisions. He expressed appreciation for the strong support he has received from the Planning Commission and the Ad Hoc Committee. President Castagno revealed that the State continues to reference the City's plan and its process as exemplary models. He asked for a motion to accept Resolution 2003-05. Councilwoman Miller made the motion, and Councilman Reese seconded it. The motion carried unanimously. Councilman Reese asked when the plan will be available. President Castagno said that the final version will be available in about a month. Mr. Martin revealed that there is a working version in his office now. Mr. Sykora said that there will be a plan on the City's web site and one in the library as soon as the final version is available.

Discussion of Tree Ordinance 421: President Castagno asked whether or not the Council should proceed with approving the first and second reading of the Tree Ordinance. Councilman

R Reese said that he still has questions. President Castagno agreed and suggested that there be more public hearings and asked for a workable document by the regular July meeting. Bob Martin suggested using the letter Council members received from Mr. Kavanaugh in their mailboxes as draft #4. Councilman DiAngelo suggested approving the first and second readings and making changes later. President Castagno preferred fixing problems first. Councilwoman Miller agreed with Councilman DiAngelo. President Castagno read Ordinance 421 for the preservation and protection of trees in New Castle, but replaced "Chapter 74: Tree Commission" with "City Code Chapter 74: Tree Preservation and Protection Ordinance of the City of New Castle." Councilman DiAngelo made a motion to accept the first and second readings of the ordinance; Councilwoman Miller seconded the motion. The motion carried by a majority. President Castagno also voted in favor of the ordinance.

New Business

Reconveying to the Trustees the Old City Garage Property at Fourth and Chestnut Streets

The question of reconveying the property at Fourth and Chestnut Streets back to the Trustees has arisen. Mayor Klingmeyer revealed that according to the original agreement with the Trustees, if the Council ever offers the property for sale, it is to be sold back to the Trustees for the original price (\$40,000) paid to the Trustees in 1972. Councilwoman Miller and President Castagno both stated that would like to keep the property as open space managed by the Trustees.

Councilwoman Miller advised that the Council needs a letter from the Trustees to make the property open space in perpetuity. Mr. Martin said that two steps are required to achieve this.

The first is a resolution from the Council; the second is an ordinance for rezoning the property.

President Castagno wondered that, as owners, could the Council request that the area be rezoned as open space. Mr. Martin said that to do so requires a zoning change. Councilman Reese advised requesting a zoning change to designate the property as open space. Mr. Martin noted that the Council could request transfer of ownership to the Trustees at the same time.

Councilwoman Miller advised rezoning before transferring the property to the Trustees.

President Castagno would like to have a resolution for transferring ownership for the July meeting. Mr. Sykora asked the Council to delay action until determining whether or not the City has a use for the property. He advised consulting the Planning Commission before acting.

Mayor Klingmeyer noted that because the Council paid for the property, the Trustees must buy it back if they reclaim it. He stated that the Council has no obligation to give it back and that he wants the area kept for potential parkland. President Castagno suggested that an assessment of the economic value of the property should be determined since the selling price will be the purchase price in 1972. Councilman DiAngelo advised setting up a meeting with the Trustees to discuss the issue. He also questioned whether the Council should give away property that belongs to the City. Councilman Padmalingam recommended that the City keep the property and hold a public hearing to let the people decide what to do with it.

Mr. Sykora noted that the Planning Commission recommends using the property as a parking lot. If it becomes a parking lot, he suggests creating a buffer between the area and the residents.

Councilman Padmalingam advised keeping it as City property, even if it used for a parking lot.

Mr. Sykora advised letting the Trustees have the property if they assume responsibility for it.

President Castagno agreed with the advice and stated his desire to come to an agreement with the Trustees.

President Castagno called for a motion to adjourn the meeting. Councilman Reese presented the motion; Councilwoman Miller seconded the motion. The motion carried. The meeting was adjourned at 9:13 PM.

Next Meeting

A special meeting will be held at 6:30 PM on June 30, 2003 in the Town Hall. The next regular meeting will be held at 7:00 PM on July 8, 2003 in the Town Hall.

Respectfully submitted,

Darcy Mozer
City Clerk