

**Mayor and City Council of New Castle**  
**Public Hearing (6:30 PM) and Regular Council Meeting (7:00 PM)**  
**New Castle Town Hall–Delaware Street–New Castle**  
**Tuesday, September 14, 2004**

**Public Hearing to Consider the Planning Commission's Proposed Changes to the Zoning Code**

President Castagno called the Public Hearing to order at 6:30 PM to consider the Planning Commission's proposed changes to New Castle's zoning code. The changes had been reviewed at a joint meeting of the Planning Commission and the City Council on September 7, 2004. He called on **Planning Commission Chairperson Jim Steele** to explain the changes. Mr. Steele reported that the Planning Commission had revised the code in accord with the comprehensive plan of 2003. He then yielded the floor to City Planner **Jacquelyn Sceneschal**. She explained that the revised plan clarifies and expands zoning designations, eliminates some ordinance conflicts, and improves regulations for home occupation, especially regulation of doctor and dentist offices to ensure that City businesses are good neighbors. She noted that as an outgrowth of the September 7, 2004, public hearing, developers of residential areas must provide 2 parking spaces for each residence.

**Ms. Seneschal** also discussed the changes in the Service Commercial (SC) and Residential Commercial (RC) areas. She identified the biggest change is the approval of corner stores at the City's collector streets (streets that carry major traffic). Merchandise that can be sold includes groceries, coffee, ice cream, coffee, videos, dry goods, books, magazines, and newspapers. Basically, the businesses will be small scale, pedestrian oriented. On-premise service is limited to four tables and outdoor café settings. Basically, the stores will be in keeping with those that historically existed in the City.

The ordinance also regulates landscaping and screening requirements for SC and RC establishments, including sidewalks and parking areas. For example, 10% of an area must be set aside for parking (5% if significant landscaping is provided). Loading areas must face away from residential areas. Another set of standards regulates industrial areas, including the size of the building and the size of the lot.

The Planning Commission will use the new requirements to review site plans and enforce regulations for all new development and nonconforming use.

The changes are detailed in the planning Commission report, a copy of which is available at the City Offices.

President Castagno noted that the zoning changes give the City statutory authority to regulate building within its boundaries. He noted that the comprehensive revisions represent a way to

make the comprehensive plan come to life. Councilperson Reese thanked **Ms Seneschal** for her informative presentation. President Castagno then asked for comments from the floor.

**Earl Carpenter** asked about the next step in the approval process. President Castagno revealed this public hearing was the second of three and that another public hearing is required, followed by presentation to the City Council for approval.

A resident who lives next door to St. Peters Church complained about his inability to park in front of his house. President Castagno reminded him that the Council had passed an ordinance outlawing dedicated parking spots and that parking spaces are for the use of the public. The law would have to be changed to reserve spaces for resident use.

Councilperson Reese noted that the public hearing was very informative.

**Janet Churchill** presented a proposal from over 100 concerning residents requesting that the area from Second Street to the river, known as Old Bull Hill, and the adjacent area known as the boatyard be rezoned from Historical Residential (HR) to Open Space and Recreational (OS&R). Changing the zoning will help to preserve open space within the City.

President Castagno noted that the area's property owner (the City and/or the Trustees) must petition the Planning Commission for a zoning change, which will survey the Council for their thoughts on the proposed zoning change. He then asked Council members if they approved approaching the Planning Commission for their consideration of the zoning change.

Councilperson Miller noted that the change would preserve the view there. Planning Commission member **Tom Wilson** said that City property goes from the last house on the riverside up to the dike. The Trustee property goes to the wharf area and up to the Strand.

**Tom Wilson** asked if the proposed change would eliminate the rebuilding the old fort as an option. President Castagno deferred the question to Jim Steele, who replied that the rezoning would dictate the use of the land. Ms. Seneschal said that she recommends reviewing OSR zoning because some types of structures may be desirable.

**Tom Freebery** noted that the zoning guidelines attached to the petition, specify "outdoor recreation and facilities" which would probably encompass the fort. President Castagno disclosed that such an undertaking would probably require the Council's approval. Mr. Freebery also noted that a restaurant had once been planned there. President Castagno said the restaurants are not an option in OSR areas.

**George Freebery** noted that a tax write off for the use of the ground could be involved and that Council should investigate the plot lines and ownership carefully before changing the zoning.

**Tom Freebery** disclosed that a common alley once ran behind the last house on the riverside to the parking area and suggested investigating that possibility.

President Castagno assured him that the Council would clearly investigate the ownership issues before taking any action.

**Tom McDowell** asked about the August 23, 2004 public hearing regarding St. Peters request for traffic changes on Harmony Street. **Ms. Seneschal** advised that the meeting had been postponed until August 30, 2004, but because a quorum was not present, no business could be transacted. However, DelDOT reviewed some of the issues involved, as did **Chairperson Steele**. She advised Mr. McDowell that the matter would be considered at the Planning Commission's September meeting.

President Castagno said that, based on the input from the public at the August 30, 2004, meeting, the Planning Commission would devise a mutually acceptable plan.

**Planning Commission Chairperson Steele** stated that deciding the issue is a traffic function, not a Planning Commission function and that a traffic engineer's input is required. He said that Foundry Street had been changed without going through the Planning Commission. Rather, the Police Chief, Mr. Bergstrom, and the residents met in the Fourth and Harmony Street area. After much discussion, two possibilities were considered: to make Foundry a two-way street up to the parking lot; to keep it a one-way street without any changes. In the current situation, the Planning Commission advises against changing the traffic pattern without conduction further studies. He said that issue is off the table until the Commission can speak to a traffic engineer, Father Fiore, and others who are involved.

President Castagno said that the plan was to arrive at a recommendation that would address the traffic change as well as the residents' concerns. Chairperson Steele revealed that everyone at the meeting was opposed to making Harmony a two-way street up to the parking lot. President Castagno then asked for recommendations from the City Planner. Ms. Seneschal responded that she had presented the Planning Commission with a list of recommendations and that the next step was for the Planning Commission to respond to those recommendations. The Planning Commission will next meet on September 27, 2004. President Castagno stated that the Commission's September docket would include a recommendation concerning the church's traffic request. He encouraged those interested to attend that meeting, to be held at 6:00 PM at the City Hall. He suggested that the issue could be resolved at the October meeting.

Councilperson Reese asked how many trucks go into St. Peters' parking lot. A resident replied that trucks going into the parking lot are not the problem. The problems are speeders and motorists going the wrong way on the one-way part of the street.

President Castagno adjourned the special hearing at 7:06 PM

---

President Castagno called the regular meeting of the New Castle City Council to order at 7:06 PM and led those assembled in the pledge of allegiance. He asked attendees to sign in and to take an agenda.

**Roll Call**

**Present:** President Castagno Councilperson DiAngelo  
Councilperson Miller Councilperson Padmalingam  
Councilperson Reese

**Others Present:** Lieutenant Adam Brams, Treasurer Janet Carlin, Finance/Human Resources Director Marian Delaney, Mayor Klingmeyer, Jacquelyn Seneschal, AICP, of KCI Technologies, Planning Commission Chairperson James Steele, Code Enforcement Officer Herb Swanson, Public Services Director Jim Weldin, Planning Commission Members George Freebery and Thomas Wilson

President Castagno then announced that agenda items One, Two, and Three on the agenda were to be considered first to accommodate guests to be honored with resolutions.

Before the presentations began, **Ned Hutchinson** complained that the City Council has meetings that had not been advertised, meetings that were advertised without identifying the agenda and a meeting on the budget that was not recorded.

**Resolutions 2004-11, 2004-12, and 2004-13:** Representatives from Daystar Sills, Premcor, and Zenith were honored for their contributions to the Friends of New Castle City Parks and Beautification Program. These organizations helped provide “a safe and pleasurable area with new and improved equipment for our children to once again enjoy our Parks and Playgrounds.” He yielded the floor to Councilperson Padmalingam, who announced that the City had approached businesses to help defray the costs of upgrading City parks without imposing any obligations on City residents. He next read the resolution honoring Daystar Sills.

President Castagno called for a motion to adopt Resolution **2004-11**. Councilperson Reese moved to accept the resolution. Councilperson Miller seconded the motion. Councilpersons DiAngelo, Miller, Padmalingam, and Reese approved the motion. The motion carried unanimously.

Public Services Director Weldin announced that the company had pledged \$5,000 a year for five years for a total of \$25,000 to be used to renovate Susi Park and presented the award to Daystar Sills’ representatives.

Public Services Director read **Resolution 2004-12** honoring Premcor Corporation for their contributions of funds and manpower to improve Bull Hill Park and presented the award to Premcor representatives.

Councilperson Miller moved to accept Resolution 2004-12. Councilperson Reese seconded the motion. Councilpersons DiAngelo, Miller, Padmalingam, and Reese approved the motion. The motion carried unanimously.

Councilperson Padmalingam then read **Resolution 2004-13** honoring Zenith Corporation and presented the award to Zenith representatives for donating funds and manpower to the beautification of the City.

Councilperson Reese moved to accept the motion. Councilperson Padmalingam seconded the motion. Councilpersons, DiAngelo, Miller, Padmalingam, and Reese moved to accept the motion. The motion carried unanimously.

President Castagno advised the representatives so honored that plaques acknowledging their contributions would hang in the City's Public Service Building and that a sign in the appropriate park would announce their sponsorship of that park. President Castagno thanked Daystar Sills, Premcor, and Zenith for their corporate citizenship in helping to provide safe playgrounds for the City's children." Councilperson Padmalingam thanked Public Services Director Weldon for his hard work.

#### **Approval of Minutes by Date**

President Castagno called for the approval of the minutes by date. Councilperson DiAngelo moved to accept the minutes. Councilperson Padmalingam seconded the motion. Councilpersons DiAngelo, Miller, Padmalingam, and Reese approved the minutes. The motion carried.

#### **Approval of Treasurer's Report**

Treasurer Janet Carlin reported that as of August 31, 2004:

- Cash on hand totaled \$270
- Monthly deposits totaled \$1,154,114.08
- Wilmington Trust Accounts totaled \$645,869.87
- Certificates of Deposit totaled \$563,595.84
- Cash on hand totaled \$1,209,465.71

Councilperson Reese moved to accept the treasurer's report. Councilperson Miller seconded the motion. Councilpersons DiAngelo, Miller, Padmalingam, and Reese approved the motion. The motion carried.

#### **Approval of Department Directors' Reports**

**Public Service Director Jim Weldin reported on the following.**

The contract for the **wharf railing** has been signed with Backflips and the steel has been ordered. The steel is expected to arrive at the end of September, with construction to begin early in October.

**Ninth Street** was closed in September when the County replaced part of the sewer line. An archeological examination of the area conducted to determine the presence of anything of historical value yielded nothing of significance. The proper permits are expected to be issued. Municipal Utilities expected to replace water lines within the next few weeks. The City Solicitor is establishing necessary easements for widening the roadway. The Public Services Department is finalizing the bid for widening the street.

**Greenway construction** has begun, with completion expected in 60 days. The conduit was laid for pathway lighting and the base has been laid. The cost of the 25 lights has been reduced by \$400 each for a significant saving. The sidewalk from the pathway to Clayton Street has been replaced along Tenth Street, and ramps leading to the pathway have been constructed. The City Solicitor is working on acquiring easements for the project.

**The Friends of New Castle City Parks and Beautification** have made significant progress. New swings and related hardware have been ordered. In Van Dyke Park, safety zones are in place and a new tot swing has been erected. Mr. Weldin emphasized that certified playground equipment installers must be employed. Both Van Dyke Park and Bull Hill Park now have swings for both tots and children. Additional swings will be installed at Susi Park and Penn Valley Park when the necessary hardware arrives. Low hanging tree limbs were cut at Penn Valley in preparation for installing a basketball court in the park there. Additional growth was removed to increase safety by improving visibility from the homes and the street near the park.

Playground equipment has also been ordered for the Bull Hill Park and the Susi Park, with delivery expected early in October. The equipment includes a small slide and climbing structures designed for two to five year olds. Mr. Weldin submitted invoices to the State seeking reimbursement for the initial expenditure. He expects to receive \$5,500 as a result of the parks grant program.

**Home Depot is donating mulch and approximately 8 volunteers** to help with weeding, mulching, and planting flowers at the new park at Eighth and Young Streets.

Comcast is donating approximately 125 volunteers and the material to spruce up Battery Park. The volunteers will mulch trees, pick up trash and paint benches. Some roses were lost at the Third Street parking lot, but the New Castle Flower Beautification Project will replace them.

Early in October, the **US Forest Service will pay for planting 23 trees** in the median strip on Route 9 in the area of Boothurst toward Brylgon.

**Connectiv has donated eight trees.** Mr. Weldin met with the vendor who will plant the trees.

The City has hired Jonathan Schlegel as the new **Code Enforcement Officer**. Jon, a recent graduate of the University of Delaware, serves as a cryptologist in the US Navy. He currently

resides in New Castle with his child and his wife, who is also in the US Navy. He had a small problem in Washington Park, but the City police helped him to resolve it.

At Boothurst Drive, the Enterprise Company has installed a **temporary speed bump** made of recycled tires on a 30-day trial basis. The installation was the result of residents' complaints about speeding there. The \$1300 speed bump can be moved as needed. At the end of the 30 days, he will solicit feedback from the residents.

Councilperson DiAngelo asked if funds had been allotted for Buttonwood. Mr. Weldin promised to work on procuring funds to replace playground equipment for the area and that he hoped to get a company to donate funds. He reported that he has made a pitch for land for park. The community would like to have a baseball field, but he doesn't know if this is feasible.

Councilperson DiAngelo then expressed appreciation for Mr. Weldin's efforts, and reminded him that a park for Buttonwood has been a long time coming. Councilperson Miller reminded him that the City doesn't want to put equipment on property that the City doesn't own. Once that problem has been eliminated, Buttonwood can be accommodated.

President Castagno then asked about **Buttonwood drainage**. Mr. Weldin said that the original scope of the project was to provide some relief from the point where the cement channel starts. As time has passed, the scope has increased. The Conservation District of New Castle County (CDNCC), which is funding the project, now wants to improve the Boothurst pond to increase its ability to handle rain from very large storms and to increase effluent quality while minimizing the community's maintenance requirements. When the Boothurst Pond overflows, it drains into the Buttonwood ditch. Because work hadn't started yet, CDNCC decided that they wanted to extend the drainage to the railroad trestle.

Mr. Weldin, Jeff Bergstrom, and members of CDNCC will look at the City's last remaining sluice gate at Buttonwood to consider the possibility of replacing that gate. Mr. Weldin also reported that the solution to the problem requires starting at the river. CDNCC considers removing the drainage problem important. He is cooperating with them to work out the details.

President Castagno revealed that several years ago CDNCC had pledged \$175,000 to the project. He asked if they would now allocate more money to the project. Mr. Weldin was unsure. He said that first the City had to decide what is needed, and then the cost. He also said that the restoration might involve going into the area next to Zenith. President Castagno asked about the possibility for money for marshland restoration from the federal government. Mr. Weldin said he had discussed marshland restoration in Washington Park in a letter to Senator Hughes and that he had received a telephone call from the Senator's office expressing interest in the project. However, he had not yet connected with the Senator. He mentioned habitat restoration in the Buttonwood area down from the Railroad trestle. Removing the fragmites there would allow more water into the area. He emphasized that City must first fix the drainage problem in Buttonwood before doing anything in Washington Park.

Councilperson Padmalingam noted that because Boothurst has no recreational facilities, children there have no place to play. President Castagno said that the problem is a private property issue.

Mr. Weldin said the City has no land there to put a park. He said that the City would put swings and a basketball court in Penn Valley Park, and, as more money becomes available, tot equipment. He would like to see a park at Buttonwood and Boothurst, but handling the issues involved is the Council's responsibility.

Councilperson Reese said that for a year, people had complained about dogs at 600 Tremont Street. Herb Swanson said that the last time he informed Ms. Deemer, the owner of the property, that she is responsible for the sanitation of the property. The SPCA found several violations and issued a warning. He understands that the dog owners have been cleaning up the back yard. The owners leave the dogs out in the morning and bring them in at night, letting the feces accumulate. He delivered a copy of the ordinance and checked the condition of the property every day. He has not had any recent complaints.

Councilperson Miller asked if the tenants breed dogs there. Mr. Swanson said that they do and that they show dogs at the Westminster Dog Show in New York. Councilperson Miller asked if the property is in a commercial area and if the dog operation should be considered a business in a residential district. Councilperson Reese noted that the case is not listed as closed.

Mr. Swanson also reported that he had received complaints about feral cats at Battery Park. Councilperson Miller replied that the dog kennel problem is a different issue. Someone is running a business in a residential area. Mr. Swanson promised that if this were so, the business would be closed. He asked if she would like to see the business closed by the next meeting. She would like to know if the dog breeders are in opposition to a City ordinance.

**Lieutenant Adam Brams spoke for Chief McDerby.**

Lieutenant Brams reported that there was no report from the Police Department.

**Finance/Human Resources Director Marian Delaney provided the following information.**

**Finance**

**Marian Delaney reported on the following.**

As of September 3, 2004, the City transferred \$1,040,000 to the Delaware Government Investment Pool.

The draft of the August 2004 financial report shows that, year-to-date, the City has collected 41.3% of revenues and expended 16.9% of the budget.

The IRS held a workshop on September 13, 2004 at the University of Delaware on employee reimbursement and allowances. The workshop focused especially on the need to have a plan and procedures in place for tracking employee pay allowances, reimbursements, and expenses. The IRS has a renewed interest in what is and is not taxable. Examples of taxable items include the clothing allowance for detectives, the use of cars an employee takes home, and life insurance—anything under \$50,000 is not taxable, anything over is taxable.

Councilperson Reese shared information from a company that manufactures a machine for stopping vandalism. The machine is a battery operated motion detector that can be placed anywhere. As soon as someone crosses the detector, it takes a picture that can be used to prosecute offenders. He cited the incidence of vandalism at the Trolley Barn. The company that produces the detectors offers a 30-day trial period. He submitted the letter containing the offer to the Council.

Councilperson DiAngelo reminded the Council about previous discussions concerning the new traffic pattern on Route 9. He cited a letter sent to be sent to DelDOT requesting the Route 273 be included in the program as soon as possible. The problem is that traffic backs up at Route 273. The letter explains the new developments in detail. Planning Commission Chairperson Steele and the City planners had drafted a letter asking for the President Castagno to review and submit to Secretary Hayward. President Castagno agreed to sign and to send the letter.

**Ned Hutchinson** asked about the \$75,000 Wilmaco study of two years ago. He asked for a definition of Wilmaco and questioned whether Wilmaco had interfaced with DelDOT. Mayor Klingmeyer explained that Wilmaco is a federally mandated entity consisting of New Castle, Salem County, and Cecil County. It is part of a metropolitan planning council, originally charged with ensuring that excessive spending does not occur. Currently, Wilmaco reviews transportation projects. The Mayor represents New Castle County except for Wilmington.

Mr. Hutchinson again asked if DelDOT was considering Wilmaco's findings and whether Wilmaco is considering DelDOT plans. The Mayor responded that the two organizations coordinate their efforts.

President Castagno signed the letter to DelDOT expressing hope that the problems on Route 273 would be addressed. He next asked for business from the floor concerning agenda items. He asked Kerstin Almquist to delay her comments until the agenda item Comments from the Floor.

### **Unfinished Business**

There was no unfinished business.

### **New Business**

**Resolution 2004-14<sup>15</sup> for Establishing a Capital Reserve Account:** President Castagno read the resolution establishing a Capital Reserve Account for excessive funds of \$75,000 anticipated during the current fiscal year. The Account would be used for "future capital improvements and/or emergencies and cash flow requirements. The use of such funds should be set forth by a vote of a majority of the Council at a publicly scheduled hearing and jointly administered by the CITY Treasurer and the CITY Finance Department Director."

Councilperson Miller moved to accept the resolution. Councilperson Reese seconded the motion. Councilperson Reese asked about the resolution's impact on government funding. Councilperson DiAngelo noted that the date on the resolution was incorrect. The date was changed from September 13, 2004, to September 14, 2004.

**Confirmation of John Wik to the Planning Commission:** President Castagno read Mayor Klingmeyer's recommendation to confirm John Wilke's appointment to the Planning Commission. He then identified Mr. Wilke's qualifications that make him a tremendous asset to the post.

Councilperson Reese moved to confirm Mr. Wilke's appointment. Councilperson Padmalingam seconded the motion. Councilpersons DiAngelo, Miller, Padmalingam, and Reese all approved the motion. The motion carried unanimously.

### **Comments from the Floor**

**Kerstin Almquist** expressed a hope that the \$36,000 that Dori Connor acquired for the City would go toward the Western Gateway. She said that the \$2,000 seed money that NCFBP donated was the money used as the basis for the grant. Jim Weldin promised to investigate what would be necessary to get the planting done in the fall. He will submit related plans to the Secretary of Transportation.

**John DiMondi** asked about the City's total contribution to the Ninth Street project. He learned that the City's contribution is \$150,000, and that the cost of resurfacing the road is \$26,000. He questioned why the City is subsidizing contractors by paying for improvements that should be the contractor's responsibility. He expressed dismay that the City is spending \$150,000 on Ninth Street, when the City's total street repair budget is \$180,000. City Engineer David Athey said that repairs to Ninth Street are so expensive because it has no sub base and that plans include correcting drainage improvements. Mr. DiMondi said that he had a problem with drainage, but he fixed it himself.

**John Houben** asked for a definition of a Capital Reserves Account. President Castagno reread the ordinance, which explained that a Capital Reserves Account is dedicated "to future capital improvements and/or emergencies, and cash flow requirements. Mr. Houben noted that when his term on the Council ended, the City had a surplus. President Castagno answered that the surplus went toward the construction of the new Police Building.

### **Meeting Adjourned**

President Castagno asked for a motion to adjourn. Councilperson Reese moved to adjourn. Councilperson Miller seconded the motion. Councilpersons DiAngelo, Padmalingam, and Reese all approved the motion. The motion carried. The meeting adjourned at 8:34.

### **Next Scheduled Meeting**

The next City Council meeting is scheduled for October 12, 2004.

Respectfully submitted,

Darcy Mozer, City Clerk