

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, October 12, 2004

Public Hearing to Consider Changing the Zoning of Bull Hill Park from Historical Residential (HR) to Open Space and Recreational (OS&R)

President Castagno called the Public Hearing to order at 6:35 PM to consider changing the zoning code of the City owned property of Bull Hill Park from HR to OS&R. He noted that the proposed change was posted in the *New Castle Weekly* and that the Planning Commission had reviewed the proposal. He next summarized the main tenets of the proposal and called on City Planner Jacqueline Seneschal to provide a brief outline of the progress on the proposal.

Ms. Seneschal related that the Planning had received a petition signed by approximately 500 property owners and that the Commission had discussed the proposal at their last meeting. Issues still to be resolved include:

- Which part of the property is owned by the Trustees
- Which is owned by the City
- The significance of an alley on the property
- Whether or not the OS&R classification will provide the necessary level of protection

She planned to prepare a recommendation to the Planning Commission at a meeting to be held two weeks from October 12, 2004. President Castagno encouraged interested residents to attend that meeting. Ms. Seneschal also encouraged residents to express their concerns to the Commission.

Jan Churchill identified herself as the citizen who presented the petition to rezone Bull Hill Park and boatyard. She was unable to attend the previous Planning Commission meeting because of scheduling conflicts. She revealed that as a licensed realtor in Maryland, she was knowledgeable about zoning and land use in that state. On September 25, 2004, she wrote to the City Council and the Planning Commission asking for definitions of the facilities permitted in Section A, Sections 230-14, Items one, two, three, and seven, and other relevant items. She noted that the 700 New Castle residents she consulted wish Bull Hill Park and the boatyard to remain open space. Jeff Bergstrom, has raised questions requiring clarification, such as whether or not a permit for a marina or a restaurant can be issued under the OS&R classification. Ms. Churchill stated that specific language should designate the OS&R as parkland only and that City owned land in Bull Hill Park and boatyard is not suitable for building. The area is in a floodplain. In severe rains, the water from the street meets the water from the Delaware River, and drains into the entire boatyard. At the same time, the water backs up in front of the pumping station and her house. Sometimes the water doesn't drain for a long time. She has been told to evacuate twice.

The County is vigilant during high-water situations because of the location of the sewage pumping station at the end of Second Street. In the last high-water incident, the sewage pumps malfunctioned and had to be operated manually.

As spokesperson for the residents, she asked that the area be rezoned as open space only, with no facilities permitted there.

When she concluded, President Castagno commented "Well said."

Mark Sitz approved Ms. Churchill's comments and added that the area is very noisy and busy with traffic. He fears that additional construction will compound the noise and the congestion.

Councilperson DiAngelo noted that neither the City nor the residents want any construction there. He suggested adopting a code that forbids any construction, and he doesn't think that rezoning the property OS&R will forbid later construction. He wants the property appraised. He noted that the value would be higher if the property is zoned HR.

President Castagno asked Ms. Seneschal to review the code. She replied that the Planning Commission is now reviewing the feasibility of the zoning change, including a recommendation prohibiting structures there. She will recommend plainer language to ensure that no structures are built there. She believes that the code forbids structures, but suggested revising the code so that it clearly forbids structures. She will recommend the use of clarifying language to ensure this.

Councilman Reese asked if this would exclude temporary structures. Ms. Seneschal responded that the charter no says "no structures." **Earl Carpenter** assumes that Susi Park is OS&R, but there is a structure there. Councilman DiAngelo replied that there is a shelter of four posts and a roof there that can be moved easily. Councilman Reese pointed out Battery Park's public bathrooms. Ms. Seneschal said that certain structures are permitted there. Councilman DiAngelo said that Susi Park is R3. He asked if the Council wants to change R3 to OS&R. He wants to adopt a law forbidding building on OS&R property.

Councilperson Miller said that this must be done through existing codes. She believes that OS&R predicates open space in every parameter of the definition. She believes this is possible through correct interpretation. She thinks a special ordinance is unnecessary.

Ms. Seneschal suggested clarifying a few words or phrases to remove ambiguities, so that anyone reading the code will get the same message.

Councilperson Miller asked if the Planning Commission will restrict OS&R use to open space. She suggested looking at the proposal again to clarify ambiguities.

Councilman DiAngelo asked Planning Commission Chair Jim Steele if Jeff Bergstrom had clarified what can be done with OS&R. Mr. Steele revealed that at the last Planning Commission meeting, he had asked the board to investigate the specifics of OS&R and HR. Councilperson DiAngelo asked if Mr. Bergstrom had identified precisely what OS&R allows. Mr. Steele

revealed that some possible constructions include marinas and restaurants. Councilperson DiAngelo said that he wanted it known that OS&R permits uses other than open space. He believes that changing HR to OS&R could have repercussions.

President Castagno adjourned the special hearing at 6:50 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 Reese

Absent: Councilperson Padmalingam

Others Present: Treasurer Janet Carlin, Finance/Human Resources Director Marian Delaney, Mayor Klingmeyer, Police Chief McDerby, Police Jacquelyn Seneschal, AICP, of KCI Technologies, Planning Commission Chair Jim Steele, Public Services Director Jim Weldin

Approval of Minutes by Date

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

Approval of Treasurer's Report

Treasurer Janet Carlin reported that as of September 30, 2004:

- Cash on hand totaled \$270
- Monthly deposits totaled \$383,342.08
- Wilmington Trust Accounts totaled \$321,289.70
- Certificates of Deposit totaled \$933,773.89
- Cash on hand totaled \$1,255,063.59
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Councilperson Reese moved to accept the treasurer's report. Councilperson Miller seconded the motion. Councilpersons DiAngelo, Miller, and Reese approved the motion. The motion carried.

Department Directors' Reports

Police Chief McDerby reported on the following.

- On October 26, 2004, a meeting on anti-terrorism will be held at 7 PM in the Police Building. Discussions will include terrorism at home and abroad and weapons of mass destruction.
- Programs: Volunteers in Police Service (VIP), a joint program with the federal government and Homeland Security, is intended to strengthen the Community Watch Program. VIP works with the Senior Center and other citizens in partnership with the police. Activities include shut-in checks and meals on wheels. Part of the funding will go to a private citizen's vehicle, not a police vehicle, for patrolling the area. The program is financed exclusively by federal dollars.
- Chief McDerby has contacted the Petty family about the closure of Howell Drive and Buttonwood Drive. He learned that DelDOT has given that the project to an outside consultant, but couldn't supply a time frame for the report back.

Councilperson Reese asked if the speed bump has made a difference. Police Chief McDerby said that it has not made a significant difference. It slows motorists down before they get to the railroad tracks, which was one of the goals. However, the main intentions were to deter speeding and to enhance safety on the road, and that it has not been a total solution. **Chief Petty** said it would not solve the problem. Mr. Weldin noted that the speed bump is the only one made of rubber in the City and that it had only been in place for 30 days. Councilperson Reese asked about the cost of the rubber speed bump, the cost of a paving speed bump, and the number of speed bumps in the City. Mr. Weldin said that there is currently only one speed bump of recycled rubber in the City. The estimated cost of a rubber speed bump is \$13,000. The cost of a speed bump made of paving would be more than \$13,000. He will meet with the company's representative in the following week.

Public Services Director Jim Weldin reported on the following.

- **The wharf railing** is to be installed the week of October 25, 2004.
- Bids for the **road paving project** will be open at the next City Council meeting, Before awarding the contract, the City Engineer will review all bids to ensure that they comply with specifications.
- For the **Greenway Construction**, the bases for the lights, the stonework at the end of Tenth Street and the conduit have been installed. The lights have been ordered, but haven't yet been received.
- **The Friends of New Castle City Parks and Beautification** has received the first State reimbursement (\$5,600) to be used for playgrounds and beautification. Installation of playground equipment was scheduled for the following week, with Susi Park, the first to receive the equipment. Signs for Bull Hill and Susi Park were slated for installation the following week. Work on basketball courts should begin the following week. The Trustees have purchased playground equipment for Battery Park.
- On October 7, 2004, work began on **the new park at Eighth and Young Streets**. The Home Depot donated mulch, flowers, and manpower to restore the trees and flower beds.

Ornamental grasses and a tree were also donated and planted. Mr. Weldin thanked Earl Carpenter for his article on the trash and litter clean up, planting roses, and mulching trees.

- On October 2, 2004, **Comcast donated mulch for the rose bushes and the trees** in Battery Park and sent approximately 100 volunteers to help with the mulching. Other projects, such as painting, could not occur because of the rain.
- Twenty-three trees were planted along Route 9 in the median strip of Boothurst on Monday 11, 2004, as the result of grants from DelDOT and the Department of Agriculture.
- On October 1, 2004, Mr. Weldin met with representatives from the Department of Natural Resources about the **Washington Park** drainage issue and the related issue of the marsh along Seventh Street near Dobbinsville. He presented a plan for a marshland and habitat restoration project that would enhance the water flow into the marsh and assist in the drainage of Washington Park. DNREC approved of the plan's concept and agreed to recommend it to Secretary Hushes for DNREC approval. Mr. Weldin met with an engineer, who will devise a plan in the next few weeks to devise a plan to present to DNREC.
- On October 10, 2004, the Department of Agriculture conducted aerial spraying of the Dobbinsville marshland as part of the Wildfire mitigation program. The spraying will be followed by mowing of the area.
- Sixty code enforcement complaints were received in September.

Councilperson DiAngelo advised that installing the permanent **rubberized speed bumps** requires 60% residential approval. He has discussed the issue with Representative Mulrooney and learned that the State will provide the funds. However, any placement of the speed bumps requires resident approval.

President Castagno asked about the monthly tonnage chart for 2000 to 2004. He noted a Saved column and asked what percentage is saved. Mr. Weldin replied that the tonnage is probably yard waste. President Castagno revealed that to date 138 tons of yard waste have been saved from the landfill. Jim Weldin said that the yard waste is a viable product that can be sold or given away. A consultant is helping the City to develop a market. He hopes to find large pieces of machinery to help reduce yard waste to mulch.

Councilperson Reese asked when the product would be ready. Mr. Weldin replied that some of the product is ready now. He has used some as mulch for trees and some for compost at Station Street. He is mixing the mulch with topsoil. He wants to put up signs so that residents can see the benefits of compost. However, he needs a thermometer to modulate the process.

DNREC is helping municipalities and nurseries to convert their yard waste into a product. Mr. Weldin believes that in the near future, yard waste will be forbidden in landfills.

Mr. Weldin revealed that the City needs large pieces of machinery for the yard waste program, which the City cannot afford. Councilperson Reese suggested contacting Newport to share machinery. Mr. Weldin revealed that he had done so, but Newport was not interested. Newark had been interested in purchasing a tub grinder and a screen that could be used to produce a product that the City could sell. Unfortunately they decided not to buy the equipment.

President Castagno thanked Jim and then Jeff Bergstrom and the Business Department for including the business license outline and for the improved Certificate of Occupancy list.

Finance/Human Resources Director Marian Delaney reported on the following.

Finance

- Everyone who receives an electric bill will receive a calendar.
- The City finalized an outstanding balance with GE Capital Modular Space on the January 2004 tear down and removal of four police trailers at the Washington Street site. The City Administrator had disputed the balance. GE's \$1300 adjustment left a balance due of \$8266.
- A police vehicle sustained damage on September 28, 2004.
- Three worker compensation incidents occurred on September 11 and September 28, 2004. All employees have returned to work.
- The City advertised for the June 30, 2004 year-end audit in the *Wilmington News Journal* and the *New Castle Weekly*.

Human Resources

- Department heads met with the City insurance agent and the underwriter from Zurich to discuss homeland security, disaster recovery, computer system recovery, and workplace safety.
- On September 8, 2004, Bob Briggs (ISF), Adam Briggs, Marian Delaney, David E. Skupien, and Jim Weldin met with the underwriter from Zurich to address risk-management issues pertaining to Zurich North America's coverage. The Zurich company writes the City's property, general liability, automobile, and umbrella policies
- On September 9, 2004, Ms. Delaney met with insurance agent Bob Briggs and Robert Plett, safety consultant from American Compliance Systems. IFS had contacted Mr. Plett to assist in an assessment related to reducing and preventing work-related injuries.
- To approve the 2005 holiday schedule, department heads were consulted to decide what day to designate the Christmas holiday, which falls on a weekday in 2005. Ms. Delaney is developing a calendar to be mailed December 2005 using the Municipal Service Commission's list. All residents who receive an electric bill will receive a copy.
- On Saturday, October 16, 2004, Markatos will clean all Windows at the City Administration Building. On September 23, 2004, Markatos will clean the carpets in the Administration Building and the rug in the Mayor's office. Elected officials are advised to steer clear of the buildings on both dates.

Councilperson Reese moved to accept the Directors' reports. Councilperson DiAngelo seconded the motion. Councilpersons DiAngelo, Miller, and Reese approved the motion. The motion carried.

Communications

There were no communications.

Business from the Floor

President Castagno asked for questions related to the agenda. There were none.

Business from the Mayor

Mayor Klingmeyer reported that he had filed a Freedom of Information complaint. He suggested that the City clerk record all meetings electronically as well as in notes. He wants all meetings recorded, especially the executive sessions. He declared that the City's residents should have accurate information about "what's going on in our City government." Although he understands that City residents cannot participate in all meetings, he wants a record of those meetings.

Business from the President

President Castagno recently visited solid waste facilities and reported that the City now has a volunteer recycling program. For participants, waste will be collected at the client's residence; however, there is a charge involved. Applications are available at the City Office.

Unfinished Business

Councilperson DiAngelo reported that Planning Commission Chair Jim Steels spoke to Father Fiore about his request for a change in the traffic pattern on Harmony Street and that Father Fiore has withdrawn his request.

New Business

Ordinance 428: President Castagno asked to table Ordinance 428. Passage of the ordinance would change the zoning of the City property at Bull Hill from HR to OS&R. He noted that more information was necessary to make an informed decision. Councilperson DiAngelo moved to table Ordinance 428. Councilperson Miller seconded the motion. Councilpersons DiAngelo, Miller, and Reese approved the motion. The motion carried.

Resolution 2004-16. Recognizing the Efforts of Kerstin Almquist: President Castagno read the ordinance honoring Kerstin Almquist for her service in beautifying the City. The ordinance notes that "due to the efforts of Mrs. Almquist and [the New Castle Flower Beautification Project], the entrances to the City are beautifully adorned with flowers as well as hanging baskets on lampposts and...urns on street corners. Councilperson Miller approved the motion. Councilperson seconded the motion. Councilpersons DiAngelo, Miller, and Reese approved the motion. The motion carried. Ms. Almquist reported that her efforts resulted from her love of the City.

Appointment to the Board of Housing Appeals: President read a letter from Charles Cobb announcing his resignation from the Board of Appeals. He then asked for nominations from Council members and from those assembled. When none were forthcoming, he asked the Council to consider nominations to be voted on at the next Council meeting.

Resolution 2004-17: Placement of a Stop Sign at Second and Chestnut Streets: President Castagno read the resolution calling for an addition stop sign at Second and Chestnut Streets. A public hearing was held on August 10, 2004, to elicit resident input and support. Councilperson Miller suggested putting a yellow stripe there. People park up to the corner, making the stop sign difficult to see. Jim Weldin said that the City could rent a yellow painter. DiAngelo noted that the language in the resolution refers to a four-way stop, although the additional stop sign will result in a three-way stop, with none at the parking lot at the end of Chestnut Street. President Castagno said that the reference should be to a three-way stop.

Councilperson moved to accept the resolution, with four-way stop amended to three-way stop. Councilperson Reese seconded the motion. Councilpersons DiAngelo, Miller, and Reese approved the motion. The motion carried.

Bank Resolution to Pay Grassbusters Landscaping Company, Inc. \$68,047: Councilperson Miller read the resolution to pay Grassbusters Landscaping Company, Inc., for State project 24-200-11, which encompasses Heritage Trail from New Castle to Christiana River, of Phase 1. Councilperson DiAngelo moved to accept the bank resolution. Councilperson Miller seconded the motion. Councilpersons DiAngelo, Miller, and Reese approved the motion. The motion carried. Councilperson Reese asked Marian Delaney if the money had been paid.

Resolution 2004-18 Adopting a Hazard Mitigation Plan for the City of New Castle: This resolution requires the City to “develop and adopt natural hazard mitigation plan in order to receive certain federal assistance.” At President Castagno’s request, Mayor Klingmeyer explained that the City of New Castle and the Delaware Emergency Management Agency worked together to develop s comprehensive hazard mitigation plan for New Castle County. The City is eligible for a \$1000 grant as part of the Disaster Mitigation Act of 2000. The act addresses a variety of disasters that involve repairing, recovering, or replacing damaged public utilities. President Castagno asked about the City’s fiscal responsibility. Mayor Klingmeyer said that the City has no fiscal responsibility associated with the plan. President Castagno then asked what the \$1,000 would be used for. Mayor Klingmeyer replied that he doesn’t know the precise details. Both Councilpersons Reese and DiAngelo complained that they had too little information about the resolution to make an informed judgment. President Castagno recommended that at least the Public Service Director and Police Chief should be involved. He then called for a motion to table the resolution until more information could be obtained. Councilperson DiAngelo moved to table the resolution. Councilperson Reese seconded the motion. Councilpersons DiAngelo, Miller, and Reese approved the motion. The motion carried.

First Reading of Ordinance 429, Amending Chapter 230: President Castagno read the preamble to the ordinance involving changes to New castle’s zoning code. and reminded those assembled that there had been several reading of the ordinance and of the City’s \$90,000 investment. He recommended that interested parties read the 20-page document. Councilperson

Reese noted that the Planning Commission had invited the public to a special meeting, at which changes were discussed in detail. Councilperson DiAngelo noted that the date for the first reading of the ordinance should be changed from October 11, 2004, to October 12, 2004. President Castagno called for a motion to approve the first reading of the revised ordinance with the appropriate date change. Councilperson Miller moved to approve the first reading of Ordinance 429. Councilperson Reese seconded the motion. Councilpersons DiAngelo, Miller, and Reese approved the motion. The motion carried.

Holiday Schedule for 2005

President Castagno asked Ms. Delaney if the holiday schedule is consistent with the State's holiday contract. She replied that it is and that only question concerned the Sunday date of Christmas 2005. As a result, that Christmas holiday will be celebrated on Friday and Monday, December 23 and 26, 2005. President Castagno asked if the dates are specified in the bargaining contract. She replied that they are, and that she consulted the Department heads, who approved the dates. Councilperson Reese moved to accept the motion. Councilperson DiAngelo seconded the motion. Councilpersons DiAngelo, Miller and Reese approved the motion. The motion carried.

First Reading of Ordinance 424, Chapter 74, Article 1: The Green Infrastructure: President Castagno read Chapter 74, Article 1 of Ordinance 424, which details the benefits of trees to the environment and to the health of the residents. He urged the public to read the ordinance which, concerns New Castle's trees, shrubs, parks, and open spaces. The ordinance would strike "the existing Tree Commission and by addition to the City of a new Chapter 74 entitled "The Green Infrastructure, Article 1." He stated that the new code would give the City extensive control over the Green Infrastructure. The extensive new code detailing the changes was attached. President Castagno paraphrased Article 1: to moderate storm runoff, to alleviate soil erosion, to improve water quality, to reduce pollutants, to reduce noise and glare, and to increase property values. The new ordinance would govern tree care, removal and replacement on both public and private lands. He noted that the lengthy new information had been discussed before and invited Mr. Weldin to paraphrase the changes. Mr. Weldin said that the ordinance speaks for itself, and that it is intended to protect the tree canopy. He said that a number of trees had been killed in the construction process, and the new ordinance would prevent this. He further revealed that certain trees would have to be removed and that these trees would be replaced by designated species of trees. Even a healthy tree could be replaced if it was considered to be a nuisance tree; that is, one that no longer benefits the City. The 30-page manual provides details based on ordinances around the country. He suggested reading the manual to have a clear understanding for the next discussion.

President Castagno disclosed that at the next meeting, Brian Hall, and Dave Carter were in attendance. Mr. Weldin replied that at the December meeting he had much feedback from DNREC and the Department of Agriculture. The Department of Agriculture helped in the drafting of the replacement document.

Councilperson DiAngelo asked who pays for tree removal. Does the Tree Commission pay? Mr. Weldin revealed that the details are spelled out in the ordinance. Mr. Weldin said if a resident

who wants a tree taken down must first appeal to the Tree Commission. A resident who disagrees with the Tree Commission's decision can appeal to the Department of Agriculture. President Castagno noted that one benefit of the new ordinance is that it establishes an appeal process.

Councilperson Reese cautioned that that only relevant article in the resolution is Article 1. President Castagno explained the Article 2 deals with recycling; Article 3 with wetlands. He said that providing for a green infrastructure is really on the cutting edge. Mr. Weldin disclosed that New Castle is the only city with such a program.

Councilperson Reese moved to adopt the first reading of Chapter 74, Article 1 of Ordinance 424. Councilperson Miller seconded the motion. Councilpersons DiAngelo, Miller, and Reese approved the motion. The motion carried.

Comments from the Floor:

Teel Petty expressed several concerns.

1. Her first concern was the lack of a park in Buttonwood. She noted that the City owns property on Arbutus Avenue, which could be used for a park to get the children off the streets and give them a place to play. Councilperson DiAngelo suggested putting a swing set and/or some other kind of playground equipment there. Mr. Weldin noted that the Council has to approve making the property a park. Ms. Petty said that if the park is too big, drug dealers will congregate there. President Castagno said that the matter would be considered at the next Council meeting. Mr. Weldin advised Ms. Petty to talk with residents to determine their feelings about the park.
2. Speed bumps do not in any way help to deter speeders. She asked when DelDOT would complete its study and do something about speeders. She thought that the resolution controlling speeding in Buttonwood had been signed. Eventually someone is going to be hurt. She wants something done immediately. Speed bumps do not deter those who are not law abiding drivers
3. The City has been talking about drainage for Buttonwood for 50+ years. She wants someone to get excited about drainage in Buttonwood. It's getting worse. Now there are two drainage problems. One is in the yard across the street where water has been sitting all summer long. When it rains, the water crosses the street, creating more problems. There is a well where a pipe could be put in to drain the water into the drainage ditch. The Council tells us that they are working on it, but water is still coming up all around us. Even since the new drain was installed, drainage has improved, but water comes from Collins Park and sits on the other side of the road. In fact, water is sitting there now. Sometimes she can't get out of her house.

New houses being built increases the problem. The warehouses there also contribute to the problem. Funding has been allocated. She wants to know why the drainage problem hasn't been fixed yet. President Castagno explained that plans to resolve the problems have actually been expanded and put out to bid. More funds have been added to the \$174,000 that was initially allotted to the project. Jim Weldin noted that until the New Castle Conservation District gets the funding, not much would happen. Plans could entail replacing the sluice

gate. Currently, the City is working on getting some of that phase done. He noted that the City is at the mercy of the Conservation District.

Jim Weldin advised obtaining the support of Senator Henry. Ms. Petty reported that she had talked with Senator Henry who assured her that Buttonwood Road would be closed, but that DeIDOT must first do a study.

Councilperson Reese advised that because the election is 20 days away, now is the time to pressure politicians to do something. He suggested getting them to commit to effectively addressing the problem.

Councilperson Reese said that he thought a drain had been installed in Buttonwood. Ms. Petty said that no drain had been installed. The City put a well there, but no pipe. Mr. Weldin advised her that the City is trying to get a drain installed on the Trustees land. He advised that the Conservation District must approve all drainage projects. President Castagno said that a drain would not have a negative effect. Mr. Weldin disclosed that the City is trying to install a drain on Trustee land out to Buttonwood Creek and that the City has gone to the Conservation District to get funding for that project.

Charlotte Houben of Washington Park asked if Councilperson Reese had come down Eleventh Street recently. He replied that when he came down Frenchtown Road and turned on Washington Street, a tractor trailer was turning down Twelfth Street. Councilperson Reese followed him all the way around and learned that he was lost. She said that her neighborhood had been flooded all afternoon and at night and that she had been trapped in her house as a result. Councilperson Reese mentioned the high tide connection. Ms. Houben noted that in the 42 years she has lived in Washington Park, she had never been flooded twice in one day.

Councilperson DiAngelo asked if Public Service had done anything on Eleventh Street yet. Mr. Weldin said that they couldn't get there because of the rain, but they would go there on Monday. He said that he could replace all of the drains in Washington Park, but it wouldn't solve the problem because of the area from Seventh Street to the railroad tracks. He is trying to create a large pond in Washington Parks to accommodate the water, but drainage is still needed there.

One way to approach the problem is to go to DNREC and the Corps of Engineer for permits and hope that the City has the money to dredge out the area. Another approach is to propose a habitat restoration program involving DNREC and the Corps of Engineers, so that they would pay for removing fragmites, which grow in shallow water. This would allow the area to retain more water thus eliminating fragmites and providing a greater drainage area. He showed DNREC his plans for habitat restoration and they seemed excited about it.

Kerry Foy of 919 Clayton Street asked if residents are responsible for removing trees. She complained that she received a violation for tree roots in front of her house. Not only are the bricks in her sidewalk coming up, but the roots have invaded her sewer line. She approached the Tree Commission about the tree without receiving satisfaction. She asked about the benefit of the tree, but received no response. Chip Paterson advised her to go to the Council, which has the power to resolve the problem.

The builder DiAscanis has sent a workman to remove roots and smooth the sidewalk. She asked if the City would pay for this because she will not. President Castagno asked if a permit was involved. Councilperson DiAngelo complained that it is not right to hold property owners responsible for tree problems. Ms. Foy said she would not object to having the treetop removed. Councilperson DiAngelo said that the City is trying to get problem trees removed. Ms. Foy asked who could solve her problem. President Castagno advised her that the Council would find out and get back to her. Mr. Weldin assured her that the time frame of the violation can be extended.

Mr. Weldin explained that the ordinance restricts street trees to a certain species. He maintained that trees that grow to be 60 feet tall cause problems with power lines and that the roots of trees with a diameter of 30 to 60 foot cause sidewalk problems. The Department of Agriculture's philosophy is the proper tree for the proper location. However, the authors of the ordinance met with the Tree Commission and learned that they want large stately trees.

The new ordinance mandates that City trees must have a tree-foot minimum grass medium.

Councilperson DiAngelo asked how a tree could be removed.

President Castagno said such a tree is called a nuisance tree in the ordinance.

Councilperson DiAngelo asked if an elm tree is a nuisance tree?

Mr. Weldin said that labeling a tree a nuisance tree depends on the situation. He also revealed that only certain species of tree can be planted and that trees with a diameter of more than 30 feet can cause problems.

President Castagno said that the City should probably pull back on code violations associated with trees.

Mr. Weldin said that someone who tripped over a tree could sue the City.

Chief McDerby noted that the ordinance shows that the City is aware of the situation and that extensions could expose the City to law suits.

Steve Painter read a letter from the *New Castle Weekly* about the street budget. He asked if the figures are accurate--if the City's street budget is \$180,000 and the City is paying the contractor \$150,000, with the County paying for sewers. He asked how much is being spent on West Ninth Street. Councilperson Reese noted that Ninth Street is one of the worst in the City. Mr. Payne asked why the contractor doesn't pay.

Mr. Weldin said that West Ninth Street, now in horrible shape, will be one of the best in the City, with proper drains and paving. MSC is putting in the water line. Connectiv is supplying the gas line. He noted that the meetings on Ninth Street started when Bob Martin was City

Administrator and continued when the Council decided that rebuilding Ninth Street was the proper thing to do.

Meeting Adjourned

President Castagno asked for a motion to adjourn. Councilperson Reese moved to adjourn. Councilperson Miller seconded the motion. Councilpersons DiAngelo, Miller, and Reese all approved the motion. The motion carried. The meeting adjourned at 8:55 PM.

Next Scheduled Meeting

The next City Council meeting is scheduled for November 9, 2004.

Respectfully submitted,

Darcy Mozer, City Clerk