

**City Council of the Mayor and Council of New Castle**  
**Regular City Council Meeting at Town Hall**  
**201 Delaware Street – New Castle**  
**Tuesday – November 8, 2011 – 7 p.m.**

**Present:**

Council President William Barthel  
Councilperson John Cochran  
Councilperson John Gaworski  
Councilperson Ted Megginson  
Councilperson Teel Petty

**Also present:** Mayor Donald Reese, Treasurer Janet Carlin, City Administrator Cathryn Thomas, Building Official Jeff Bergstrom, Police Chief Kevin McDerby, City Solicitor Daniel Losco

**Approval of Minutes by Date**

A motion was made by Councilperson Megginson to approve the minutes of October 11 and October 25. Councilperson Gaworski seconded the motion. The minutes were approved unanimously.

**Approval of Treasurer's Report**

Treasurer Carlin reported that, as of October 31, 2011: petty cash on hand was \$1,100; monthly deposit, \$319,884.86; total in the cash accounts, \$444,123.14; total certificates of deposit, money market and Delaware Government Investment Pool, \$2,793,626.45; and total cash on hand, \$3,241,749.59.

A motion was made by Councilperson Cochran to approve the Treasurer's Report. Councilperson Petty seconded the motion. The report was approved unanimously.

**Report from the City Administrator**

Administrator Thomas highlighted some items. Today she participated in the engineering interviews for the dike projects. DNREC, the Conservation District and the City will select a firm for the design work. On Battery Park cleanup, officials have been talking about keeping the park cleaner, particularly around the beach. The City is entering into a program with the State Corrections Department to have prisoners regularly come out to clean up. State Rep. J.J. Johnson helped in that any wood pulled off the beach the City will not have to pay to have that tipped anywhere to dispose of it. There is a company that will haul it away and recycle it.

The City also on Monday launched its new website. She thanked the Council and Staff members who worked on the redesign.

President Barthel said the report was accepted as presented.

**Staff reports**

President Barthel said the staff reports were accepted as presented.

**Grant Review**

Councilperson Cochran provided the review. Grant income: MSAF, \$65,201.98; Trustees of New Castle Common, \$5,000.

**Business from the Floor**

No comments from the floor.

## **Business from the Mayor**

Mayor Reese said they are trying to start a committee that will welcome people to New Castle. His goal is to visit every house where someone new has moved in. They are soliciting discounts for items from businesses. Newcomers also will receive maps, the City calendar and other items. A goal is to try to get them to spend their money in town. He hopes that as businesses see increased business they also will hire locally.

Mayor Reese asked that when people get up to speak about the riverfront proposal that they respect other people's opinions. He said he was disappointed by a person who said recently that it was going to pull New Castle apart. He hopes that is not the case. He said you can voice your opinion any way you want but when you leave the room you will see these people again and again.

## **Presentation of Proposed Concept Plan for Riverfront Revitalization**

After the presentation, persons may ask questions and make comments.

Planning Commission Chairman David Bird gave an introduction to the presentation. He said the last update to the City Comprehensive Plan included a component that talked about further study of the waterfront as far as what could be done to the benefit the City and its residents.

WILMAPCO will be doing a parking study for the City of New Castle. He gave an overview of the process related to the waterfront study. Duffield & Associates was one of the engineering firms to bid for the work on a concept plan. It discounted its \$8,000 bid to \$6,000 for the City. As part of that, a charette, or community meeting, was held and more than 100 people attended and heard a presentation by Duffield. A concept plan is needed for further implementation of the comprehensive plan. It is also required for any kind of grant funding. It is a very basic concept plan.

Chairman Bird said the Planning Commission is proposing and recommending to Council members that the City Council adopt this concept plan. The next stage would be to use the plan to go before grant authorities.

Mr. Bird addressed recent comments and letters regarding the project. He said there are legitimate concerns regarding security, maintenance, debris on the river, commercial vessels, how the dock will be used, what is the cost and what is the benefit to the City, and those concerns need to be addressed. A brochure prepared by the Historic New Castle Alliance addresses those issues. He said there is a lot of work and community input that remains.

Jeff Bross of Duffield Associates described the concept plan process. They went out and talked with officials from WILMAPCO, Good Will Fire Co., Kalmar Nyckel and regulatory agencies.

He said there are a number of issues. There is the existing dock and the deteriorating ice breakers. He discussed issues with tides, flow and water levels.

The focus of most people initially was whether the City would use the existing pier. But after getting all the input—particularly from the Kalmar Nyckel, whose officials said they would not attempt to dock again at the existing pier because of the prevailing conditions—Duffield officials learned that, despite their initial leaning toward the existing structure, that they really needed to look at another location.

What they came up with was to build a new pier off the end of Delaware Street. It would be about a 180-foot to 200-foot pier. The goal is to place it where the currents are favorable for docking and the depths are adequate that no maintenance dredging would be required. The idea of providing some day slips is also an option. There is also a suggestion of having the fireboat there. They propose providing some shelter for docking by using floating wave attenuators. Another possibility, mentioned at the charette, was having other public support facilities. The possibility of having some additional parking off Delaware Street was removed after hearing

comments at the charette. People did say some public restroom facilities would be a good idea. The Banks Building is a possibility.

They have talked with regulatory agencies and do not at this point have any fatal flaws.

He also pointed out some areas that might make good pedestrian paths, a kayak launch area and two areas that could be restored with living shorelines.

President Barthel asked about the upcoming process and a timeframe.

Mr. Bird said upon completion of this concept plan, that will complete this year's budget on the waterfront. The next part of the process is looking for grant money. That process will be assisted by the Historic New Castle Alliance. They don't have a timeframe for that. There has been discussion about having a water taxi and some interest about the Three Forts Ferry coming to New Castle as well.

President Barthel opened the meeting up to comments.

A resident asked about the plans for having tall ships visit.

Mr. Bird said chiefly they are talking about the Kalmar Nyckel.

Dr. Soma Padmalingham of 222 Chestnut Street said he had heard a lot of plans for the riverfront area to make it more attractive. He said it was a major decision and residents should be given a chance, like a referendum, to make a decision. It is a great idea of modern type, but this is a very ancient City. He said he is not against it or for it.

Bob Briggs of Second Street asked whether the City has contacted its insurance carrier and have they signed off on this that they are willing to accept the liability. If so, how much will it cost extra?

Administrator Thomas said she does not yet have that information. The City is aware that the issue is a question and potential concern.

Mr. Bird said that is part of the ongoing process.

Karen Hurley-Heyman, of Second Street, asked where the New Castle Historic Alliance, a private organization, gets the authority to make changes in the City and to circumnavigate the vote of the citizens.

Mr. Bird said the Alliance is not circumnavigating anything. It is an organization that has as one of its missions to improve the economic development of the City. They facilitate different things. It does not have any authority to do things other than to propose things to the City.

Ms. Hurley-Heyman asked where does the citizen's right to vote to take on these type of responsibilities come in. She thinks that needs to be thought about.

Mr. Bird said citizens do have a right to vote. They vote for their representatives every two years. He likened it to the City's recent acquisition of land in the Broad Dyke area by obtaining grants. City Council pursued it; there was no direct public vote. This is a proposal and there has been every attempt to get input from the City of New Castle.

Elaine Watson, of South Street, asked if there could be a special vote.? There have been such votes in the past.

President Barthel said they are non-binding. Our Charter states only a referendum on borrowing.

Mayor Reese said in 1985 there was a non-binding referendum 535 for and 325 against for a launching ramp. There was one in the 1950s. Both are non-binding.

Jack Klingmeyer, of 14th Street, said the City of New Castle is a river town. He gave some background on that history and its history with his family. How does it benefit the City of New Castle? It says the dock is for day trippers, how will residents benefit from that? The City won't make any money on it. The State always pushes tourism because they make money on it; the City does not. The downtown area is a dead area that needs to be revitalized. Have we heard any numbers about how this will create any economic income? Have we heard how many people are going to come in on these day trippers? The City of New Castle, if it wants to benefit the downtown area, should create off-street parking. He has not seen anything as far as cost-benefits.

Sally Denton, 209 Second Street, said she lived on Route 9 and spent her entire teenage years on the river. She said it was wonderful and the City of New Castle is missing out on this. She described her father's efforts to rescue boaters because he was able to put a boat in the water faster than the fire company. They saved many people on the river. They saved lives. She hopes Council moves forward with this. She learned to waterski, sail and operate motor boats on the river. It's not a dangerous place. If it is such a dangerous place why do we have the New Castle Sailing Club and why do we have the Bullhill Boat Club?

Roger Clarke, of W. 4th Street, asked whether the proposal could be broken into discrete elements such as beautifying the shoreline, and what it would cost; a Good Will fireboat and what it would cost; rather than doing it all at once.

Mr. Bird said Mr. Clarke has a good point and it is part of the additional studies. The economic impact on businesses is going to be somewhat hard to measure because you don't know how many people will be coming but there are probably models.

Mr. Bross said that when the Kalmar Nyckel docks in Lewes it does attract a lot of people to see the boat and tour the boat.

Mr. Bird said the City has to provide infrastructure: parking and a way to get from parking down to the waterfront.

Matilda Bixby, of the Strand, asked why the City is not talking about extending the dock that is already there instead of building a new one. She also asked how many times the Kalmar Nyckel is going to visit there.

Mr. Bross reiterated that the existing dock extends into an area that has shallow water, with bad currents. The icebreakers are part of the problem. There are multiple reasons. He said the engineering firm went into the study with the prejudice toward using the existing dock. You have to take into account what the ship people say and what the coastal engineers say. Mr. Bross said the icebreakers are owned by the Army Corps of Engineers, and officials indicated that perhaps if the Congressional delegation wanted to earmark some money they would be happy to repair one or more of the icebreakers.

Bill Simpson, 149 E. Third St., said he is past chief of the Good Will Fire Co. and past rescue captain. He works on the river. He wanted to address the need of the rescue boat. He explained they are not talking about anything that is new. He described a brief history of the current dock. He said it took a two-year learning curve to where they could get the boat docked there because of the current and wave action, because the boat got beat up. But it was a very effective place to put the boat in, in terms of response time. It cuts the response time from 20 minutes at Third Street to about 5 minutes. He can attribute a life saved to having it there. This is nothing new—the City had the same exact facility before, with the exception of day boaters. The icebreaker are in horrendous condition. The icebreakers on the non-shore side are falling apart. From the point of view of the fire department, he believes it would be a great benefit.

Amy Cooper, 212 E. Second St., has been a resident of New Castle for eight years. She said the conversation in the room sounds like the community is planning and moving forward, which she finds exciting. It is a preliminary plan. She is in favor of continuing to work in 2012 and beyond to answer the questions. She said we are not being called upon to make a decision about doing it or not, we're being asked if we are interested in understanding the ramifications of doing this project. She thinks that would be interesting.

Michael Heyman, a resident of Bull Hill, said that from the beginning the Alliance has been allowed to dominate the discussion. Tonight the same thing is happening. Mr. Bird is responding to people. He has no standing at this meeting. It is time to let the residents who are against this project, and as you read in the paper there are a lot of them, present their reasons for this project not going forward. He said we don't want to see the most expensive and invasive project in New Castle history to go forward. Mr. Heyman said he went to the Planning Commission meeting and found it very sad. Each member, with the exception of Dorsey Fiske, said they fell in love with New Castle when they moved here. If they fell in love, why do they want to change it so much? At the meeting a citizen asked what are the benefits to residents. Mr. Bird answered that maybe a tourist would come off the boat and spend a \$1 million and buy a house. After laughter from the audience, he reduced the price to \$750,000. He continued reducing the price. Mr. Heyman concluded by saying: put the brakes on.

President Barthel said he would respond to correct the record on one item: on May 26, 2011, the City held a budget workshop, which is the reference Mr. Heyman made in accusing President Barthel of not letting anyone speak. He read from the minutes of that meeting: "President Barthel said there are a lot of people at the meeting in support of this item. The Council is not going to take any comments on this matter at this meeting because it is a budget workshop. There are four other groups presenting requests. He suggested anyone interesting in commenting for or against it, or other items, to come to the regular meeting of the month. Mr. Bird said they can come to the next Planning Commission meeting as well. Michael Heyman, of Second Street, complained it is backdoor approach."

President Barthel said, for the record, Mr. Heyman has had four other opportunities to speak.

Mr. Bird said he is chairman of the Planning Commission. He was formerly on the board of the Alliance. He is no longer on that board or an officer. He is a member. There are a number of people who have paid \$10 to belong. He explained his comment, that may have appeared to be flippant, at the Planning Commission meeting. People come off the boat and fall in love with the City. They may want to buy a \$1 million house on the Strand. When he reduced the price he did not mean on the Strand, he meant in the community in general. He explained that no matter how people come here, they have a right to visit.

Bob Poskitt, a resident of the Strand, said the residents look to Council and the Mayor for leadership on this question. He is proud to say their leadership over the last few years on so many issues has been outstanding. Though citizens end up on taking sides on this issue, they look to City leaders for leadership. He likes the definition of leadership that you are not in a position to take sides but are in a position to bring sides together. By doing your role in serving the community, we can do two things: increase the vitality of the City as we strengthen the quality of life for everyone here. If Council can bring everyone together so both residents and merchants benefit, it will be doing all a great service.

Jim Meek, of the Strand, said the ice piers differ radically in terms of what shape they are in. The square one at the end of the catwalk is falling apart. The best that could be done is go over the top of it and not tie into it. The other ones on the map are in good shape. The ones further out are damaged inside. In terms of safety—he has been a small boater all his life and a volunteer on the Kalmar Nyckel and a member of the sailing club—he described the issues of safety facing boaters not experienced or familiar with the area. The Good Will Fire Co. is going to have a lot of business rescuing these people. He is against having amateurs launch from the boat launch near where the boat dock is or power boaters and sailors coming into finger slips on the main dock.

Ms. Denton said nobody said anything about power boaters launching from the ramp and the traffic on the other side of jetty is commercial traffic. Most people who do go out on a boat do read navigational charts. People are much more educated now than they were hundreds of years ago.

Mr. Beale of the Strand addressed the issue of the Kalmar Nyckel. The Kalmar Nyckel would spend a maximum of 35 days a year here; if they had charters it might be a little longer. It seems like a lot of money for just the Kalmar Nyckel, however, he agrees the fireboat, the Three Forts Ferry boat, and perhaps some visiting tall ships would be a good usage for a dock facility. What needs to be done by the Alliance or whomever promotes the City is to be sure that kind of draw is there. If it isn't, it is not worth spending that kind of money. It is a hostile environment for the average small boat. He thinks the City should discourage that kind of operation there. He would not want this to become Canal Day (Chesapeake City) every weekend during the summer.

A resident of Seventh Street asked about using the area at the end of Chestnut Street for this project instead.

Hick Rowland, of the Strand, said the Alliance asked him to do some soundings along the shore and there isn't any other area that would work. There isn't any water there. He was in three feet of water there and he was about 150 feet from the end of the outboard side of the ferry terminal. When they brought this project up to the Army Corps and DNREC, they loudly indicated to not talk about dredging. The only place found on the whole New Castle waterfront that would work was in the area being proposed.

Roger Clarke, West Fourth Street, said years ago he served on the parking committee. One of the things that came up with parking is if you are going to change parking you better have good enforcement, and that costs money. The other thing is Delaware Street and/or the Wharf won't be the only attraction. The other attraction is the park. And when people know there is more parking in town that doesn't cost money, they are going to go to the park and leave their trash there for the City to pick up. He advised the City to be careful when looking at changing parking.

Councilperson Petty said Mr. Bird mentioned about the dikes and comparison with this project. She said there was no comparison between this project and the dikes which is needed and necessary. They have to be repaired. He said residents did not get to vote on that. Councilperson Petty said that is something that has to come from Council.

Councilperson Megginson said he has issues with the insurance, maintenance, where the grant money is coming from, who is going to benefit, is the Kalmar Nyckel going to be here 30 times a year? He would like to hear from someone from the Kalmar Nyckel and someone from the Delafort on what their plans are. He cannot vote up or down on this tonight.

Councilperson Cochran said that sometimes when you bring something like this to the table people think we are jumping the gun. We need to sit back and relax, it is just a concept. No decision is going to be made here and there may be some workshops. It's a long period of time.

Councilperson Gaworski said he would like the best of two worlds. He wants the Delafort, the Kalmar Nyckel and a safe waterfront. But he sees a lot of problems doing that. He also wants to see what to do about parking because it is a mess now. That is the major part, without the parking you are not going to have people visiting.

Councilperson Petty said the river has been here a long time and the City has been here a long time. Both have co-mingled. This is not the first time people have used the river. Boats have been going in and out for years. When did it get so dangerous? Why will people be killed now? She is trying to understand that. She has been looking at the Banks Building, which was built in the 1800s, and then they had all these docks and boats and people. People now are saying it's so dangerous. She didn't understand why claims are now being made about how dangerous it is on the river.

President Barthel thanked everyone. City Council has to be more informed about the behind the scenes stuff, such as a sequential timeline. The Planning Commission needs to give Council an indication of what this process entails.

Mr. Bird said a parking study should be completed by the end of this fiscal year.

President Barthel said regarding the funding, let the Council and let the community understand how that funding process works. Mr. Rowland mentioned the soundings, President Barthel said it would be good for Council to hear from Mr. Rowland about what he found. Mr. Megginson mentioned about hearing from the Kalmar Nyckel and the other folks. There also have been talks about insurance and maintenance costs, and it should be possible to estimate those costs. He suggested coming up with a date and time to reconvene for a workshop for the Council. Then Council is informed and the community is informed so people aren't making decisions on innuendo and hysteria.

Councilperson Megginson made a motion to take a 10-minute break. Councilperson Cochran seconded the motion. The motion was passed unanimously and meeting adjourned at 8:36 p.m. The meeting reconvened at 8:48 p.m.

### **New Business**

#### 1) Discussion of a report received on the Banks Building.

Councilperson Petty said the City received an inspection and report from Richard Byrne, who was in the City a couple weeks ago. There will be a committee meeting to go over the report and then have a Council workshop.

President Barthel said the City is at a point where there are a lot of things going with the Banks Building and the waterfront project. He does not see them as tied together because the City has an immediate problem that has to be addressed. The City is getting to a point where it has to decide what to do with the building, sooner rather than later.

The report estimated the cost for restoration and reuse of the building is \$270,000. Councilperson Petty also would like to contact a couple of additional engineers.

#### 2) Discussion of the status of the development of the Riverbend Subdivision.

President Barthel said there was a recent article with someone complaining about Riverbend and DNREC having a cease-and-desist order. There are some thoughts that the City is giving out Certificates of Occupancy and it looks like the City is not cooperating with DNREC.

Solicitor Losco said the cease-and-desist order is still in effect. The developer is under Chapter 11. Council heard a presentation a couple of months ago from Greg Lingo of Cornell Homes, in September. It seems any developer who wants to come in and be the white knight and buy out the developer's interest is going to be tied into requesting Council remove the 55+ age restriction. Ryan Homes is exploring it now. Cornell is out. He sent the attorney for Ryan Homes a copy of minutes that show what the issues are.

Mr. Losco added that regarding issuing COs, there have not been any recently. There were a couple in the summer. The City has gotten the developer to address the outstanding issues related to water and electric issues.

Regarding the future, the issue is one of code compliance. Nothing in the City Code allows it to withhold building permits if the developer meets the International Building Code. If they do that they are entitled to a building permit, unless Council wants to entertain a new ordinance that prevents the issuing of building permits in the event a State order was in effect. He said he does not know that it is necessary. He will stay in touch with the Attorney General's office.

Councilperson Megginson said the last three weekends there have been placards on City property and private property directing people down to Riverbend.

Mr. Losco said the City has signage codes and people should be abiding by it. But he said if the City is going to strictly enforce rules prohibiting such signs, you can't just target Riverbend. The City will have to target everyone, private homes for sales, lost cats, garage sales, etc. He can contact the attorney who represents the company putting up signs but beyond that it is a matter of police or code enforcement.

### 3) Discussion of the City's request for funding from the Trustees.

President Barthel reviewed the items from last year.

In addition, the City is looking for \$8,500 for carpet to be installed in the City Administration building; the Chief of Police in addition to asking for \$30,200 for a police car, is seeking \$9,000 for half the cost of another police car and \$11,300 to upgrade Audiolog server and software (telephone recording system).

President Barthel said the City has not yet reached a point where it is ready to tap into the \$140,000 related to the stormwater project.

Councilperson Megginson said the City fleet is growing old and rusty. The city has a 1996 Ford dump truck that is starting to rust away. It is the main snowplow vehicle for drifts and larger amounts of snow. He had two estimates, \$131,000 and \$108,850. The group of trucks are slowly deteriorating. The City has another dump truck that was purchased in 2000; another truck is a 1989 model in rough condition and used for the flowers and beautification work.

He also had John Lloyd develop a list of what the Tree Commission has spent. Trustees gave them \$5,000 and the City gave them \$5,000 for 2012. So far they have spent \$9,650. They have remainder of \$3,000. But they also have a requisition for \$7,650. They are going to need money from the Trustees or the City.

A discussion was held about possible funding for the dump truck and other equipment.

Councilperson Petty said the City is planting a lot of trees, but the trees grow and they cost a lot of money to take care of. Building Official Bergstrom said there is more focus on planting appropriate species.

The consensus of the Council was to add the dump truck to the request for funding from the Trustees. That request is due by the end of the month.

### 4) Motion, Discussion and Vote on a Bank Resolution, to pay \$565,114.79 to the New Castle Conservation District, for work done on the City's ARRA/Stimulus projects.

Councilperson Cochran made a motion to approve the resolution. Councilperson Gaworski seconded the motion.

Administrator Thomas said this is payment requisition, the second out of six. The City contracted with the Conservation District to do the paperwork for us. The paperwork is significant. President Barthel said the City should update the financial partners about the status of the need for funding.

The bank resolution passed unanimously.

- 5) Discussion of a request from the Police Department to purchase an additional vehicle not included for funding in the City's current fiscal year budget.

Chief McDerby provided some history about the police fleet. Chief McDerby said for the past three years the Department has not received a vehicle from the City. The 2003 Stratus has died. The Department currently is not funded to replace the Stratus, an administrative vehicle. The City Administrator has allowed the Department to use the other 2003 Stratus, which is the City Administration vehicle. The Department is using that vehicle to supplement the Police fleet until he learns whether Council will consider funding the request he made during the budget process for another vehicle.

Councilperson Gaworski said several vehicles have high mileage. A discussion was held about timing of purchasing a vehicle. Chief McDerby said he is looking for \$18,000 for an administrative vehicle. Council agreed to take some time to take a look at it.

- 6) Motion, Discussion and Vote on a Resolution authorizing the City to execute easement agreements from DelDOT for work on the Washington Street project which impacts City-owned properties.

Solicitor Losco said the total amount the State is offering is \$19,850. That is for two permanent easements. The first is at Fourth and South streets; the second is at Delaware Street and Washington Street. Also requested are two temporary easements on the southeast side of West Third Street.

Administrator Thomas said the Council might want to have DelDOT come in and go over what the plans involve so the Council is comfortable with it. Mr. Losco said the documents look fine. The only issues are price and what DelDOT is expecting to do there. President Barthel said the City should look at the appraisal numbers have the DelDOT official come in.

### **Comments from the floor**

Earl Carpenter asked how much of South Street does DelDOT need easements for.

Councilperson Megginson made a motion to adjourn the meeting. Councilperson Petty seconded the motion. The meeting adjourned at 9:41 p.m.

Respectfully submitted,

Michael Dickinson  
New Castle City Clerk

