

City Council of the Mayor and Council of New Castle
Regular Council Meeting at Town Hall – 201 Delaware Street – New Castle
Tuesday – November 9, 2010 – 7 p.m.

Present:

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

Also present: Mayor Jack Klingmeyer, Treasurer Janet Carlin, City Administrator Cathryn Thomas, Police Chief Kevin McDerby, Building Official Jeff Bergstrom, Solicitor Roger Akin

Approval of Minutes by Date

A motion was made by Councilperson Petty to approve the minutes of October 12, 2010, as presented. The motion was seconded by Councilperson Gaworski. It was approved unanimously.

Approval of Treasurer's Report

Treasurer Carlin reported that, as of October 31, 2010, total petty cash on hand was \$400; total monthly deposit, \$413,798.37; total cash for accounts, \$386,292.35; total certificates of deposit and Delaware Government Investment Pool, \$3,082,352.29; and total cash on hand, \$3,468,644.64.

Councilperson Cochran made a motion to accept the report as amended. Councilperson Gaworski seconded the motion. The motion passed unanimously.

Report from the City Administrator

Administrator Thomas said did not have anything to add to her written report.

Council President Barthel said the report was accepted as presented.

Approval of Staff Reports

Council President Barthel said the staff reports were accepted as presented.

Grant Review

Councilperson Cochran said under grant income: Community Redevelopment Fund, \$1,803; MSAF, \$43,808.54; and MSC appropriation, \$112,500. Grant expenses: Springhaus Landscaping, \$4,650.

Communications

Councilperson Petty said there is a concern when reading Mr. Bergstrom's report that the houses being built are being described as Buttonwood Village. Residents ask again that the name of the area not be changed to Buttonwood Village and that name not be used. She explained Buttonwood has been there for years and years and residents do not want to lose its historic value or have people to get confused.

Mr. Bergstrom said the subdivision is called Buttonwood Village.

Councilperson Petty said it is confusing. She added that the last time it was before Council Mr. Bergstrom said it does not have to be called that.

Mr. Barthel said to go back and to look at the record and see what was decided, and then see if they can address the concerns.

Business from the Council President

President Barthel read a letter from Marianne Caven, chair of the City of New Castle Board of Elections. The Board of Elections has proposed to eliminate the four individual election/voting districts.

President Barthel said it is something Council should consider and it will be put on next month's agenda. It would require a charter change. The Council could pass a charter change by simple resolution. That would then go down to the state. He asked that the Mayor be involved at the beginning so there is no wasted effort.

Dave Carter from DNREC has been providing information on flooding and the dikes and the tide gates, and the potential for flooding. He wants to schedule a meeting with Trustees of New Castle Common and MSC and have Mr. Carter and an engineer provide an update so everyone is on the same page.

Tall Oaks Classical School

Harold Naylor, director of stewardship, provided an introduction to the Tall Oaks Classical School. The school is in the First Baptist Church facility and aims to grow to 500 students. It has 230 this year. Next spring it is planning a day of service, including a River bank cleanup.

Unfinished Business

1. First and Second Reading of Ordinance No. 473, amending the City of New Castle Zoning Code Article VI - § 230-22.1, General Commercial District regulations.

President Barthel read the ordinance.

2. First and Second Reading of Ordinance No. 474, amending the City of New Castle Schedule of District Regulations (a chart: Zoning 230 Attachment 1), where six stories is currently allowed in some cases in some residential districts, where that maximum building height shall be amended to three stories.

President Barthel read the ordinance.

3. First and Second Reading of Ordinance No. 475, amending the City of New Castle Zoning Map to Include a Newly Annexed Parcel at 828 Frenchtown Road with the Zoning Designation of GC General Commercial.

President Barthel read the ordinance.

New Business

1. Discussion of the Planning Commission Recommendation relative to the request of the developers of the Riverbend Subdivision to have the 55+ Age Restriction Lifted.

Adam Balick, an attorney with Balick and Balick representing Riverbend, said it was originally before Council last Spring. He gave a review of what has happened since then, culminating with a vote before the Planning Commission on September 27, 2010. He said the vote was a specific motion. It was a motion to approve the request to remove the deed restriction, but with conditions. Riverbend was planned as a 210-house residential community that would be a 55 and older community. There is also a limitation of anyone older than 18 living in the residence. Riverbend is seeking the removal of both restrictions. The Planning Commission recommended the deed restriction be removed but with two conditions: sidewalks and the other dealt with an emergency exit.

Mr. Balick said the housing market is flat and particularly flat are home sales for people 55 and older communities. Riverbend had hoped it would produce 45 homes a year and they would be absorbed each year. There are three built and 15 lots sold. It was hoped 90 homes would be built by now. Riverbend is in trouble, he said. There is a significant loan and a default letter has been issued by the bank. Riverbend needs the deed restrictions lifted to continue with the project.

Mr. Balick said Riverbend has reached an agreement with a builder, Cornell Homes, which has agreed to come in and buy 100 home lots and build homes. It is only agreeing to do it if it can sell to an unrestricted market. It will infuse Riverbend with hopefully the cash needed to keep the project afloat.

Every homeowner has signed a document saying they have no opposition to the changes, Mr. Balick said. The lender also has no problem with it.

There is no anticipation of any impact on the City, Mr. Balick said. It has always been projected that there would be about \$2 million worth of fees associated with it, including transfer taxes. They do not see this changing. The projected home price was \$350,000. The Cornell homes will be in that price range. On the impact side, Planning Commission looked at traffic. A lot of the data that it won't have an impact is speculative, he said. With respect to emergency access: during the approval process originally there was concern over emergency vehicle access if the main road was flooded. Riverbend was willing to provide access with an emergency gate through the Dobbinsville side of the project, but the problem was it would have to go over Trustees property. But the Trustees were not willing to do that. The developer remains willing to do that.

There is also possible access across the railroad tracks. A majority of the members of the Planning Commission did not seem to feel there would be any difficulty in accessing the property in an emergency that way, Mr. Balick said. The other issue the Planning Commission was focused on was sidewalks. The proposal the developer is making is to put in sidewalks from Route 9 down the main boulevard and then put in a four-foot-wide bike lane throughout the development.

One issue was the sufficiency of the roadways but the roadways are wider than traditional roadways in the City, he said. That would allow vehicles to pass even with the bike path.

President Barthel said sidewalks and emergency access were the Planning Commission's two major points of concern. His understanding is it would require a redesign of the project.

Mr. Balick said sidewalks throughout are an impossibility otherwise the developer would do it. Lots have been depicted and 15 or 19 have been sold. He has been told by his client that given the economic situation of the client, he does not have the ability to do that.

President Barthel ask about the ability to do a stormwater management proposal.

Mr. Balick said he thought the plan was submitted to DNREC and is working with DNREC.

President Barthel said the City has a document from DNREC that it issued a notice of cease-and-desist and administrative order and penalty.

Mr. Balick said his client is fighting the \$50,000 fine and he hopes the plan is approved.

President Barthel said the next issue was that the Planning Commission requested a traffic analysis. He read from the minutes of the September 26, 2010, meeting that indicated there was not time for a full traffic study and that the developer referred to a study done for Deemer's Landing in 2008.

President Barthel said Mr. Balick's counterpart essentially forced the Planning Commission into a vote that night and these are the answers. Regarding school bus stops, nothing concrete was brought back to the Planning Commission.

Mr. Balick said it made more sense to the developer to wait until people are living in the community and work with the School District to let the School District decide where to put the bus stops. The School District seemed to agree. The developer agreed to put in what the School District requested.

President Barthel questioned the density. There has not been a study and it is one of the factors the City needs to make a decision. He also asked about the causeway, which was brought up at a past City Council meeting when Mr. Capano was in attendance and is an issue Building Official Bergstrom brought up some time ago. The City had asked for a structural engineering study to be done and that was based on the 55 and older community. Mr. Capano said he would be willing to do that. He asked if Mr. Balick had that.

Mr. Balick said he did not. He addressed the assumption that there were a lot more people if the restriction is lifted. He said the issues were addressed by the Planning Commission. He cited studies that showed the impact on traffic. He said the Planning Commission voted 6-1 in favor of the approval. He said it is very clear the Trustees are against having their property used for emergency access.

President Barthel read a letter from MSC regarding its concerns, including looping of electric and interconnections for water. MSC urged Council not to approve the change unless the matters are addressed.

President Barthel said the matter was only on for discussion at this meeting, not a vote. He said there are a lot of loose ends. He said the Planning Commission reports to City Council and it ultimately is up to Council, which is doing its due diligence.

Councilperson Petty said she agreed wholeheartedly with President Barthel's comments and reiterated MSC's concerns.

Mr. Balick said the project is “so far off the rails” that there has been no revenue. The developer has said repeatedly and put in writing that it will loop the system. The problem is everything costs money. This is a way to infuse the project with money. It is in financial trouble. He urged Council to get it resolved one way or another as quickly as possible.

Police Chief McDerby said emergency access over the railroad tracks is not going to work. Fire trucks and police vehicles are not going to go over the railroad tracks. He added that the Riverbend community was presented as a community with its own police force that would have little impact on the City Police Department. There is going to be more demand on the Police Department.

Mr. Balick said the deed restriction does require the community be a gated community and that there be a private security force. They are not proposing a change to that restriction.

Chip Paterson of MSC objected to the mischaracterization of MSC not issuing meters until it is satisfied. Mr. Capano built a temporary electric line to Riverbend to serve the property, even though there is a master plan that has been approved. It has issued meters based on a temporary service that is owned by Mr. Capano, which is not adequate for the development as it is built. MSC is already experiencing problems with water. The system that was built was built primarily for fire protection. With only two occupied units, there is insufficient turnover to maintain water quality to the tap. MSC has to spill water onto the ground to keep the quality up. There are also units served by diesel generators.

Mayor Jack Klingmeyer said with the real estate bubble bursting, if you are using 2000 Census things have changed. Sidewalks are necessary if there are going to be children there. It creates dangers and this is not allowed in other developments. Changing the 55 and over restriction will require changing the requirements.

2. Discussion of what shall be contained in the City’s Request to the Trustees for Funding for 2011.

The Trustees have asked City Council to provide a list of items requested for next year. Councilperson Megginson said the City needs two new trucks: a dump truck and a four-passenger vehicle. Councilperson Petty said she would like to ask for an additional \$1,000 for the summer recreation program. Councilperson Gaworski requested \$30,000 for a new police car.

President Barthel said the green space management, the parks patrol and the recreation program can come from another part of the budget. He would like to request an additional \$150,000 for the stormwater management project. He suggested doing a workshop on the matter.

3. Motion, Discussion and Vote on a Bank Resolution to pay \$78,534.00 to Cirillo Brothers, Inc., for work completed under the 2008 Paving Contract.

Councilperson Cochran made a motion to approve the resolution. Councilperson Megginson seconded the motion. The motion was approved unanimously.

4. Comments from the floor.

Beth Thomas, a resident of Dobbinsville, who lives on Route 9, said in April she started communicating with Administrator Thomas about truck traffic and signage in the area. She was looking for a status report. She said there are signs up but it is not being enforced. Administrator Thomas recommended a meeting with DeIDOT, Chief McDerby and Beth Thomas to get a definitive plan.

Chief McDerby said he has a problem with how DeIDOT has the signs. He said they are not adequate. He said this has been going on for two or three years.

Erv Thatcher of Seventh Street said he is speaking again before Council regarding what the City is going to do about traffic on Seventh Street. He said it is time something is done. He said Sixth Street is wider and can handle the traffic.

Chief McDerby gave an update on the traffic counters.

Councilperson Cochran said he is concerned about Dr. Padmalingam's office, which Mr. Thatcher had brought up. The agreement with City was the building would have off-street parking.

Councilperson Megginson said Dr Pamalingham has taken down the gate on his parking area and informed his patients to park in the back.

Gene Monzillo of Sixth Street said the traffic went to Sixth Street when Seventh Street was temporarily made one way. The issue is larger than Seventh Street or Sixth Street, the issue is it is a bypass, especially on the weekends and the summer time. The answer is not making Seventh Street one way, it just routes it to Sixth Street. Sixth Street may be wider but it has more traffic and it has buses and emergency vehicles. It's a town issue and he hopes when it is addressed that what will be done will not just benefit Seventh Street.

Patty O'brien of Sixth Street said she agreed with Mr. Monzillo's comments. Traffic is bad and dangerous. She hopes the City looks at the traffic situation in total.

Eric Mayer of 700 Larkin Street asked about the heights of buildings.

Earl Carpenter of Sixth Street said the situation on Sixth Street with traffic is well-known. It is difficult at times to get out of the car. He also expressed concerns about people parking downtown in crosswalks, parked in the wrong direction and trucks parked in the middle of streets. He said either look at removing yellow curbs downtown to allow people to park or make them be used for what they are intended. Downtown needs a look at as far as parking.

President Barthel suggested a workshop to look at traffic on Seventh and Sixth Streets.

Councilperson Megginson made a motion to adjourn the meeting. Councilperson Petty seconded the motion. It passed unanimously. The meeting was adjourned at 8:37 pm.

Respectfully submitted,

Michael Dickinson, New Castle City Clerk