

**Mayor and City Council of New Castle
Hearing and Council Meeting
New Castle Town Hall–Delaware Street–New Castle
Tuesday, November 11, 2003–7:00PM**

Roll Call

Present: President Castagno Councilman DiAngelo
 Councilwoman Miller Councilman Padmalingam
 Councilman Reese

Others present: Treasurer Janet Carlin, Senator Dori Connor, Finance/Human Resources Manager Marian Delaney, Mayor Klingmeyer, City Administrator Bob Martin, Human Benefits Coordinator Manager David Skupien, Public Services Manager Jim Weldin

At 6:30 PM President Castagno called a hearing to consider **Chapter 140, an amendment to Ordinance 423.**

President Castagno described the Chapter 140 as a measure to provide more effective policing of housing and property maintenance. The amended code would cover all existing “property, structures, and premises ” and their grounds, as well as mobile homes and travel trailers. The chapter requires that all such structures must observe “ a minimum level of health and safety.” An Office of Code Enforcement will be established to implement the code change. He then introduced Public Service Manager Jim Weldin who discussed the duties of Robert Renzi, the new housing code enforcer. He stated that the City needs someone who can effectively enforce all codes related to housing, health, and safety considerations. Mr. Weldin, City Solicitor Jeff Bergstrom, and Housing Code Inspector Herb Swanson all reviewed the code.

Tom Whitehead disclosed that he had skimmed Code 140 and asked about the legality of suits brought against City employees. Clifford Hearn, the City Solicitor, answered that if a lawsuit is brought against a City employee for performing his/her job, the City hires an attorney to defend that employee. The City determines the attorney fee. Mr. Whitehead also asked about equal enforcement of the code throughout the City. Jim Weldin assured him that the code would enhance the City’s ability to correct code violations. President Castagno also assured Mr. Whitehead that the code gives the City the ability to eliminate violations in response to all citizen complaints.

Joe Givens asked if the code applies to rental units. Jim Weldin replied that it does and that there is no additional fee for rental properties since rentals qualify as a business. Rental properties are inspected on a yearly basis. If rental properties are not properly maintained, the City will intervene. The method for dealing with the code would be to penalize only those landlords who violate the code. If a tenant has problems with a landlord, he/she must first contact the landlord. If that produces no result, the City will intervene.

Jim Weldin observed that in the case of code violations, there is currently no way to contact out-of-state landlords. The change would require that a contact person be available. He cited a case of a home without heat where children reside, with no way to contact landlord.

President Castagno wants to hear from rental property owners about whether or not they object to paying a \$30.00 fee for 15 units to 30 units, and \$2.50 for each unit over 30.

Jim Givens asked how Newark rationalizes inspecting rental units and not residences. Jim Weldin answered that the criterion is lack of maintenance. As an example he cited Brookmont Estates, which is 85% rentals. The three major landlords there are a positive influence.

Susan Souder asked whether or not a fee is levied for each location if a landlord has three properties in three different locations. Jim Weldin said there is because each rental property is considered to be a business. Councilwoman Miller suggested having a fee for each rental.

The City will get information about rentals from the Census Bureau. Councilman Padmalingam asked the number of rental units in New Castle. Jim Weldin responded that there are 60 rental units according to the last census.

Councilman Padmalingam asked if the fines collected would pay for a code enforcement officer. President Castagno said the City has allotted money to pay a part time code enforcer, who will have a statutory ability to enforce code. President Castagno stressed that the code would facilitate enforcement in the case of a violation. In the past, some codes were not enforced.

Councilman Reese suggested that rather than have three fees for three houses the City should charge a flat business fee. Councilman DiAngelo recommended one fee for all and that a rental contact person be required to facilitate enforcing the code.

In response to George Freebury's question about fines to be levied for code violations, Jim Weldin replied that the fine would be \$100.00 for the first offence, and up to \$500.00 for subsequent offences. The Code Enforcement Officer is putting together a code enforcement database to show return on investment.

President Castagno adjourned the hearing at 7:00 PM.

President Castagno called the regular meeting of the New Castle City Council to order at 7:05 PM. Before beginning the business of the Council, he asked for a moment of silence in remembrance of veterans' contributions to the well being of the nation.

Because of the full agenda, he asked those assembled to limit their comments to agenda items, and reminded them that item #10 permits comments from the floor.

Approval of Committee Reports

President Castagno called for approval of committee reports. Councilwoman Miller moved to accept the committee reports. Councilman Reese seconded the motion. Councilwoman Miller and Councilmen DiAngelo, Padmalingam, and Reese all voted to accept the minutes. The motion carried.

Approval of Treasurer's Report

Treasurer Carlin reported that as of October 31, petty cash totaled \$270.00. Cash in Wilmington Trust accounts totaled \$257, 510.35; monthly deposits totaled \$211,556.86; CDs totaled \$923,394.90. Total cash on hand equaled \$1,180,905.25. Councilman Reese moved to accept the treasurer's report as presented. Councilwoman Miller seconded the motion. Councilwoman Miller, Councilmen DiAngelo, Padmalingam, and Reese all voted to accept the Treasurer's report. The motion carried.

Approval of Minutes by Date

Councilman DiAngelo called for a vote to accept the minutes of October 11, 2003. Councilwoman Miller moved to accept the minutes with a few typos fixed. Councilman Reese seconded the motion. Councilwoman Miller, Councilmen DiAngelo, Padmalingam, and Reese all voted to accept the minutes. The motion carried.

Communications

A letter from the Mayor Klingmeyer stated that he disapproves of hiring an attorney for a specific term. He learned that there is a five-year term for the City Solicitor. Mr. Hearn revealed that he has no objection to serving at the pleasure of the client.

President Castagno advised that a letter from the New Castle Flower Beautification Committee urged the Council to act on their request to hire a knowledgeable person to help plant, water, maintain, and prune the City's public gardens.

In a letter dated November 10, 2003, the Planning Commission notified the Council that the Commission had voted unanimously to recommend that the City Council accept the zoning recommendations from the Comprehensive Plan Update. The zoning code is covered in the second half of the planning project. The Planning Commission's report is available at the City Office. The Council will vote on it at their next meeting.

Business from the Floor

President Castagno called for comments specifically related to agenda items. David Skupien asked about the guidelines for hiring a City solicitor. Mayor Klingmeyer asked if the position would be a five-year term. President Castagno replied that it need not be.

Business from the Mayor

There was no business from the Mayor.

Business from the Council President

President Castagno asked Gary Gredell of Gredell and Associates to present the results of the workshop held on November 3, 2003. The workshop was in response to New Castle residents' concern about the design of the **wharf fence** to be erected on the wharf. Mr. Hearn revealed that the wharf fence is required for insurance purposes, and that the City is too small for self-insurance. The four-foot drop off from the wharf parapet makes it an "attractive nuisance." A child who falls off could get hurt or drown without the safeguard of a fence. He advised that even though the town has sovereign immunity, it would not protect the City if gross negligence is involved. He also warned that Judges tend to stretch the right to sue, and that a jury of mothers and fathers would be sympathetic to a plaintiff.

Gary Gredell briefly described the fence requirements. It must be 42 inches tall, constructed in a way that prevents a child from putting his head through any part of the fence; it must not be climbable, and must also be impossible to step over. He described the design selected at the workshop and circulated a sketch of that design. The 42-inch wrought iron fence will sit atop the river side of the wharf's 18 inch parapet. The pickets will be 4 inches apart with a point on top and two inches in diameter. Lamps would be placed in appropriate places. After the last Council meeting a group looked at the fence next to the wharf and decided on that fence as a model.

Councilman Reese asked the approximate cost of the fence. Charlotte Houben of Washington Park asked if Mr. Gredell had a sample of the fence. She also wanted to know if the mesh design had been rejected. Mr. Gredell said that it had.

Earl Carpenter asked if the fence had a bar in the middle. Mr. Gredell replied that the fence would be thicker in the middle. He also advised that a cast iron fence would be more expensive than a steel post fence, and that most decorative fences now are steel. The pickets are on six foot centers, with two-by-two-inch bottom and top rails. The planned fence would be galvanized.

To Mayor Klingmeyer query about how tall a person would have to be to see over the fence, Mr. Gredell replied a person would have to be about the Mayor's height.

Earl Gardiner asked if the pickets could be aluminum and if aluminum pickets are bendable. Mr. Gredell that aluminum could be used and that they could probably be bent if enough force was applied.

Jim Whitehead asked about the cost difference between a cast iron fence and a steel fence. Mr. Gredell was unable to tell. He said the City was considering a cost of \$100 to \$200 a foot for a 400 feet of fence. President Castagno and Mr. Gredell will confer with Mr. Martin to arrive at a possible budget.

Senator Dori Connor pointed out that the fence's pointed tops could be a safety problem. Mr. Gredell noted that the final design doesn't have to have sharp points, that duller points could be used.

Mayor Klingmeyer asked if moving the fence closer to the edge would eliminate the need to place the fence on the parapet. Mr. Gredell replied that if a fence with four-inch pickets are placed atop a parapet, a child could put his foot through

Business from the City Administrator

The City Administrator reported that a recent audit of various State grants gave the City a "clean bill of health."

Unfinished Business

There was no unfinished business.

New Business

Resolution 2003-16: Municipal Bond Issue: President Castagno announced that two years ago the City and the Municipal Services Commission hired an exceptional firm to study the needs of the City. After a series of neighborhood and *ad hoc* meetings, they developed a comprehensive plan that identified areas that need addressing. As a result, the Council has retained Janney, Montgomery, Scott to develop a municipal bond issue in the amount of \$285,000 for a 20 year period. The purpose of the bond is to undertake capital improvements that the City cannot now afford. Some of these are rebuilding streets, improving parks and eliminating drainage problems. Other projects involve the Municipal Services Commission projects, which will repay their own indebtedness. He introduced Mr. Wayne Smith, Vice President of Janney, Montgomery, Scott, who presented slides to define the particulars of the bond being considered. City Bond Counselor Sandra Battaglia of Balick and Balick was also present to answer questions. 2,830,000
SEE P. 6

In his slide presentation, Mr. Smith explained that a bond is a promise to repay money to the institutions or individuals that lent the money. Bondholders will receive tax-free interest on their investment because the bond is a municipal bond. As a result, the City will pay the lowest rate. Property taxes will be used to repay the bonds. New Castle residents will acquire no personal liability for repaying the bond. He emphasized that critical projects will become increasingly expensive as time progresses, and that "bonds allow projects to be undertaken at today's prices." He also emphasized that by spreading the cost over time, the users of the improvements would be those who have the advantage of them during the project's life span. The bond's cost would

be \$75,000 in broker fees. The cost per year to the City would be \$168,000. The cost to the Municipal Services Utilities would be \$58,227.

The bond's maturity date would be December 1, 2023. The all inclusive interest rate is 4.88 %. Janney, Montgomery, Scott is an investment bank with over 1,600 brokers with 76 offices on the East Coast. It serves many Delaware cities and counties from its Delaware office in Greenville. It is owned by Penn Mutual Life, which has 12 billion in assets.

New Castle residents will be the first to be offered the bonds. Advertisements in the local paper, a Retail Order Only period, and an 800 number will expedite their purchase. He noted that the bonds would be most attractive to affluent buyers.

President Castagno thanked Mr. Smith for his presentation and reminded those assembled that the State uses New Castle's plan as a model. The plan serves as a road map of what needs to be fixed in the City. He assured those present that although the bond issue was introduced at the Council meeting, other meetings would follow. A meeting is scheduled at the Middle School on November 20, 2003, to explain the details of the bond issue. To take on debt the City must schedule a referendum.

President Castagno thanked Mr. Smith and Ms. Battaglia for addressing the issues. He reminded the audience that the pay-as-you-go approach currently followed doesn't permit the City to address serious problems. Although the City hasn't taken on debt in recent years, many cities and counties routinely do so to fix problems. He then asked Councilwoman Miller to read a description of **Resolution 2003-16**, which represents a statement of intent to enter into a municipal bond issue. After the reading, Councilman Padmalingam made a motion to adopt Resolution 2003-15. Councilwoman Miller seconded the motion. President Castagno then called for a roll call vote. Councilman DiAngelo voted yes; Councilwoman Miller voted yes; Councilman Padmalingam refrained; Councilman Reese voted yes; President Castagno voted yes. The motion carried.

Councilwoman Miller read a list of the planned improvements. They include:

- Drainage \$1,000,000
- Park improvements \$250,000
- Street rebuilds \$750,000
- Various Community improvements \$100,000
- Municipal Services Corporation (Debt Service paid by MSC) \$700,000
- Bond Costs \$75,000.

2, 875, 000

President Castagno asked the Council to reschedule the date of the referendum, which was originally scheduled for December 6, 2003. Councilman Reese moved to reschedule the date. Councilwoman Miller seconded the motion. Councilwoman Miller and Councilmen DiAngelo, Padmalingam, and Reese all voted in favor of the motion. The motion carried unanimously.

Appointment of City Solicitor President Castagno revealed that the City had duly posted the employment vacancy and assembled a City Management interview team. After interviewing candidates, the team selected Clifford Hearn, Jr., for City Solicitor. Mr. Hearn is a graduate of the

the University of Delaware and the Temple University School of Law. He was Judge Advocate in the US Military Judiciary and City Solicitor for Odessa. He has an extensive private legal practice. Currently, he serves as General Council for the Wilmington Housing Authority. Councilwoman Miller moved to accept him as City Solicitor for New Castle; Councilman Reese seconded the motion. Councilman Padmalingam asked if Mr. Hearn was to be paid on an hourly basis. President Castagno said that he was. Councilwoman Miller and Councilmen DiAngelo, Padmalingam, and Reese all voted to accept Mr. Hearn as City Solicitor. The motion carried unanimously.

Mr. Hearn said that he looked forward to working for the City.

Ordinance 423, Chapter 140, the Housing Code: President Castagno asked Councilman DiAngelo to summarize Chapter 140. This served as the first and second reading of the amended code. The code strengthens housing and property standards to better protect the health and safety of New Castle residents. The changes affect both renters and homeowners. Copies of the code were available at the meeting and are available at the City Office.

President Castagno announced that the third reading of the ordinance at the December Council meeting would provide one more chance for resident input. Since Mr. Weldin had explained the code and answered questions earlier, he asked that a motion be made to accept the first and second readings of the code. Councilman DiAngelo moved to accept the first and second readings of the code; Councilman Reese seconded the motion. Councilwoman Miller and Councilmen DiAngelo, Padmalingam, and Reese all voted in favor of the motion. The motion carried unanimously.

Playground Audit Plan: President Castagno noted that Mr. Weldin attended a playground safety certification course that gives him the tools to evaluate the City's playgrounds and related safety concerns. Mr. Weldin took the course in response to a request from the City's insurance company. Together with Erv Thatcher, he conducted a playground audit to help the City pinpoint playground problems as a preliminary to eliminating them. Swings and other equipment are old and some do not meet safety standards. There are four playgrounds in Battery Park alone, although Battery Park is in good condition compare to the other parks.

Councilman Padmalingam complained that some playground equipment is a hazard to children and asked Mr. Weldin to report his findings.

Mr. Weldin reported that most playground fatalities are the result of head entrapment and entanglement. In most of cases of entrapment, the body can get through the equipment, but the head cannot. Entanglement results from things worn around the neck. He also said that any part of the equipment that sticks out can cause strangulation. Exposed screws are a source of serious injury. Lead paint is another concern. Still another problem is that the equipment lacks protection in the event of a fall. Something under the equipment should protect children who fall. He has started to correct that problem. He has consulted a guide that provides a breakdown and rating of safety factors to help decide which problems must be addressed at once and which can wait. Although he has started to correct some of the problems, the City hasn't provided the money or the manpower to make a significant difference.

Councilman Padmalingam asked about plans to remove defective equipment and provisions for replacing it. Mr. Weldin said that he has great plans, but no money to implement them. For example, a sliding board costs \$3,200, plus another \$1,000 for installation. The City allots only \$5,000 a year to its parks. When he and Mr. Thatcher identify defective equipment, they block it off with orange tape, then remove it. He warned that other problems need fixing soon.

President Castagno asked Mr. Weldin to present a plan for the parks that includes a firm number, but he warned that little can be done until the City has a bond for capital expenditures. He advised consulting the community about park needs. Mr. Weldin suggested that to spark discussion requires a conceptual plan. A mother confronted him at Battery Park and pointed out the need to designate specific areas for specific ages. She observed that toddlers can get hurt on equipment designed for older children. She wants more swings, especially for younger children. Mr. Weldin promised to devise a conceptual plan and to go from there.

Resolution 2003-13: Playground Safety in City Wide Parks: Councilman Padmalingam asked for a commitment on the part of the Mayor and the Council that the City implement a plan to ensure that City playgrounds meet national safety standards. The Resolution was tabled for discussion at the December Council Meeting.

Approval of City Holidays for 2004: Councilwoman Miller noted that the City's holidays correspond with the State government's. These holidays are:

January 1	New Year's Day
January 19	Martin Luther King Day
February 16	Presidents' Day
April 9	Good Friday
May 31	Memorial Day
July 5	Independence Day
September 6	Labor Day
November 2	Election Day
November 25	Thanksgiving Day
November 26	Day after Thanksgiving
December 24	Christmas Eve
December 26	Christmas Celebration
December 31	New Year's Eve
2 Personal Holidays	

Councilwoman Miller voted to accept the designated holidays. Councilman Reese seconded the motion. Councilwoman Miller and Councilmen DiAngelo, Padmalingam, and Reese all voted to accept the list of holidays. The motion passed unanimously.

Resolution 2003-14: Councilman Reese read Resolution 2003-14, which provides a one-time lump sum pension benefit of \$600.00 to four retirees of the City of New Castle. The pensions will be paid from the 2003-2004 budget. The retirees are Charles R. Burris; Charles L. Bowen, John T. Cini, and Eugene C. Petty, police officers who retired from City employment in the early

1980s. Councilman Reese observed that the Council does this every year. The State will reimburse the City. Councilwoman Miller moved to accept Resolution 2003-14. Councilman Padmalingam seconded the motion. Councilwoman Miller and Councilmen DiAngelo, Padmalingam, and Reese all voted to accept the resolution. The motion passed unanimously.

Route 9 Flooding: Councilman Padmalingam noticed that since 1980, when he moved to the City, flooding on Route 9 sometimes causes motorists to become stranded. Last week, he was almost stranded in his vehicle. With all of the new buildings on the route, traffic has become heavier as people use it to commute. He thinks that the City should look to State or federal funding so that people don't get stranded and their vehicles damaged. He urged the Council to address the problem immediately.

Mr. Martin pointed out that because Route 9 is a State highway the City has no jurisdiction. Thus, the State is responsible for its maintenance. He further revealed that the State is considering a causeway structure, with work to be done as part of the Army Creek Marsh project. He then deferred the issue to Senator Connor. Senator Connor said that the City can present the State with a resolution asking that the problems on Route 9 be alleviated. Whether or not the resolution will meet with approval depends on available funding. Councilman Padmalingam asked Senator Connor to get involved. Senator Connor reiterated that a resolution is needed to bring the issue to the forefront. President Castagno asked Councilman Padmalingam to draft a resolution.

Community Development Block Grant (CDBG): Councilman DiAngelo read a summary of the grant for housing rehabilitation. The grant would result in removing "blighted homes or homes on the verge of being blighted." It would also provide interest-free loans to low income and senior citizens for home improvements that add to their safety and well being. Mr. Weldin advised that the grant would improve the City by helping low- to moderate-income residents to comply with the City's Property Maintenance Code. He wants the Council to urge the Mayor to apply for the grant. Councilman DiAngelo moved to encourage Mayor Klingmeyer to sign the statement of intent. Councilman Reese seconded the motion. Councilwoman Miller and Councilmen DiAngelo, Padmalingam, and Reese all voted to accept the motion. The motion passed unanimously.

Comments from the Floor

Allen Muller of the organization Green Delaware distributed two circulars describing Green Delaware's concerns about a proposed **incinerator and New Castle's low recycling rate**. He reported that he had sent a memo in 1998 and in 1999 opposing the construction of additional incinerators in the State. The State now has some of the most stringent laws against incinerators in the country. Unfortunately, the Delaware Solid Waste Authority is attempting to build another incinerator. He asked the Council to draft a resolution against any further construction of incinerators. He then read a resolution against incinerators. He reminded that State environmental regulators shut down the Pigeon Point incinerator in New Castle.

He pointed out that the Cherry Island landfill causes odor and health problems. He complained that Delaware has an extremely low recycling rate. New Castle County's recycling rate is 6%.

He pointed out that everyone in New Castle could have curbside recycling at no extra cost. He reminded that New Castle had been strong supporters of recycling in the past.

President Castagno asked about advances that could replace incinerators. Mr. Muller said that presently none existed. Although it is possible to build a very clean incinerator, the one being planned would be the dirtiest one possible. Because it would lack scrubbers, it would produce millions of tons of toxic air pollution, in fact it would produce more pollution than was produced in 1985. He complained that the current administration is opposed to pollution control and that the proposed incinerator would further compromise the health of people, who already suffer more from pollution than their share. He believes that 80% of people are against the incinerator.

In response to a question about the percentage of recycling possible. Mr. Muller responded that some areas have accomplished 70% recycling, with 50% of that being paper. However, it's possible to do even better. Jim Whitehead revealed that Mr. Muller defeated a plan to build an incinerator in Plainesville. Senator Connor revealed that she is a cosponsor of the bill forbidding the construction of incinerators. Mr. Muller agreed that no one has worked harder than Senator Connor to protect her constituents. President Castagno invited Mr. Muller to stay after the meeting to discuss the problem in more detail.

John DiMondi questioned how the City would fund the **bond issue**. He said that the City has borrowed \$2,000,000 from the Trustees and that \$200,000 has been added to the City payroll just this year. He wanted to know the source of the \$228,000/year needed to pay for the bond. Mr. Martin revealed that the funding will come from the City's budget. The City will repay \$168,000 a year, and the Municipal Services Commission will pay the rest. Councilman DiAngelo said that the payment will come from the annual budget. He pointed out that the City pays \$80,000/year in stop-gap road repairs alone, and that such funds could go toward paying off the bond. President Castagno disclosed that the City has a \$100,000 obligation to the Trustees, and if the bond issue passes, it will have a \$168,000 yearly obligation to pay the bond; however, the City's budget will accommodate the bond payment. The 25% increase in revenues will help. Mr. DiMondi maintained that the City spends more than it takes in. President Castagno said that the City does not indulge in deficit spending and that it is imperative to invest in the City.

To Mr. DiMondi's contention that the City has never had a bond issue, Councilwoman Miller revealed that the City had an earlier bond issue. Mr. DiMondi observed that the voters would decide on the bond issue

Meeting Adjourned

President Castagno called for a motion to adjourn the Council meeting and to go into an Executive Session. Councilman Reese moved to adjourn the meeting and to go into an executive session; Councilwoman Miller seconded the motion. Councilwoman Miller and Councilmen DiAngelo, Padmalingam, and Reese all voted to accept the motion. The motion passed unanimously. The meeting adjourned at 8:25 PM.

Next Meeting

The next regular meeting will be held at 7:00 PM on December 9, 2003, in the Town Hall.

Respectfully submitted,

Darcy Mozer, City Clerk