

**City Council of the Mayor and Council of New Castle  
Special City Council Meeting and Workshop Session  
Town Hall – 201 Delaware Street – New Castle  
Tuesday – January 24, 2012 – 6 p.m.**

**Present:**

Council President William Barthel  
Councilperson John Cochran  
Councilperson John Gaworski  
Councilperson Ted Megginson  
Councilperson Teel Petty (arrived at 6:15 p.m.)

**Also present:** Mayor Donald Reese, City Administrator Cathryn Thomas, members of the Charter Change Committee: Chair Dr. Genevieve Miller, John Houben, Josephine Moore, James Vincent and City Solicitor Daniel Losco

**Agenda**

1. Motion, Discussion and Vote on a Resolution approving an auditing firm to perform the City's audit for the fiscal year 2011.

A motion was made by Councilperson Megginson to approve the resolution. Councilperson Gaworski seconded the motion. It was approved unanimously.

Administrator Thomas said the City advertised for proposals and received two. The proposals were reviewed in detail and it was recommended by Councilperson Cochran that Haggerty & Haggerty be selected.

2. Motion, Discussion and Vote on a Bank Resolution, to pay \$539,924.07 to the New Castle Conservation District, for work done on the City's ARRA/Stimulus projects.

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

Administrator Thomas said this is the second payment to the New Castle Conservation District. It is the second requisition. The reason for the delay since the first requisition is there was a lot of documentation the district had to get to DNREC. All the projects are nearly done. The process is nearing its conclusion.

3. Council Workshop to discuss proposed changes to the City Charter.

Charter Change Committee Chair Dr. Genevieve Miller said that as the committee went through the process it hit some bumps and Solicitor Losco led them through it. One item the committee recommends Council look at is the name of the City. Mayor and Council of New Castle is a bit awkward and sounds more like a committee.

(Councilperson Petty arrives.)

Dr. Miller said when it came to money, in terms of borrowing, there was a little concern. The concern was not about the current members of Council, but future Councils. She said she was pleased to be part of the committee, which worked very well.

Solicitor Losco said the committee spent its first few meetings going through the existing charter looking for ways to improve it, modernize it and make it gender neutral. The committee also looked at other charters. The one they ended up with is an amalgam of the Middletown charter, modified by the committee, and the existing New Castle Charter.

The two areas that caused the most discussion were the borrowing and the elections.

The draft charter gives two alternatives on elections. The first premise the committee came to was it is not a great idea to have two-year terms for Councilmembers and Mayor because it takes newly elected members a year to get up to speed. The thought was it would be nice to extend it to three-year terms. The second thought was the City would benefit from staggered terms. An outgoing Council could be entirely replaced by a Council with no administrative or parliamentary experience. The idea emerged to have the Mayor and two Councilpersons elected in one term and the Council President and the remaining two Councilpersons elected two years later. For this to work with three-year terms, it would require a City election every year.

Mr. Losco said the options in the draft are: 1) 3-year terms non-staggered and 2) four-year terms staggered. The vote was 4-0 on the committee to go to the staggered terms but they recognized it might be an area of disagreement.

The second big area related to Sections 20 and 21, related to borrowing money. The recommendations borrow heavily from Middletown. The current charter requires a referendum to borrow, which can be difficult to expedite and can be costly.

The Middletown charter contains a three-tier process.

The first allows for short-term borrowing for operating expenses that must be repaid within 13 months. It cannot exceed annual revenues. No referendum would be required. It could be done by Council resolution but would require a two-thirds majority vote. An example would be a line of credit because tax bills have not come in yet.

The second and third tiers are for larger and longer borrowing. The third tier would require a referendum; the second tier would not. There is a 20 percent aggregate cap on total borrowing by Council based on the total value of real estate in the City. Currently the value is \$250 million, so 20 percent would be \$50 million.

The second tier, however, could be achieved by Council resolution but would require a two-thirds majority vote. However it is limited to 5 percent of the value of real estate in the City, or \$12.5 million. This would not require referendum.

The third tier is much like the current Charter. It would require a citywide referendum. It would be for loans that would exceed 5 percent, but still must be within the 20 percent maximum aggregate.

Dr. Miller said the members of the committee struggled with it. It is not people in office now. No one knows who will be sitting on Council in the future.

Mr. Losco said \$12.5 million is a big number and it is a lot of power. It's not just for the current Council, Council needs to decide for future Councils as well.

Councilperson Cochran said it is a lot of money and he is concerned about down the road.

Mr. Losco said one thing to consider is what purpose might the borrowing be used for. He said dike repair and natural disaster come to mind.

President Barthel said the idea for this really came out of the dike meetings. If there was grant funding available that needed to matching funds, how could the City do it quickly.

Administrator Thomas said one example of road repair that might warrant borrowing would be Centerpoint, which was estimated years ago at \$1 million.

Mayor Reese asked what happens if two members of Council go on vacation, whether the remaining two Councilperson could enact this borrowing.

Mr. Losco said that is correct if it states two-thirds of the board and there is a quorum.

Mrs. Thomas suggested it could be changed to reflect two-thirds of the full Council.

Councilperson Cochran said \$3 million he can accept. But if a Council can come in and spend \$12 million on various items he has a serious problem with that. It makes him nervous.

Mrs. Thomas said a compromise could be to make it subject to permissive referendum rather than mandatory. In that case the Council could take a resolution, but it would not take effect for 30 days. If during that time, residents could file a petition with a certain number signatures to require a mandatory referendum.

John Houben, a member of the Charter Committee, said at the time the committee discussed the percentage limits it did not know the real estate value of the City. It is a lot of money. It is a suggestion, but Council might decide 2 percent.

Councilperson Cochran said he would support 3 percent.

President Barthel said it is a huge number, especially considering the history that City never borrowed until the ARRA project. Council is trying to modify it to be able to run a business. He said Council should take some time to digest the information and will meet again.

Mr. Losco said the changes attempt to balance the need for flexibility with citizen control.

A discussion was held about natural disasters and what type of costs the City could face. And whether it could expect to get federal or state aid, and what it would need immediately.

Josephine Moore, a member of the Charter Committee, said the committee would not object to Council lowering the amount. The Committee did struggle with it and was trying to project and take into account inflation.

Mr. Losco recommended keeping it as a percentage.

Councilperson Megginson pointed out the first-tier borrowing for operating expenses would amount to up to \$3 million currently.

Councilperson Cochran asked how much time does Council have to proceed with the changes.

President Barthel said the goal would be to vote on it at the next regular City Council meeting which is in three weeks. The end of February would give Council six weeks. He believes that should be enough time to reach a decision, unless they come across something insurmountable, in which case they could consider postponing seeking Legislature approval until the fall.

Mayor Reese pointed out that in the fall the state Legislators will be focusing on re-election.

Mr. Losco recommended additional publicity and community input. Almost no one attended the Charter Committee meetings.

Mrs. Thomas said immediately after the meeting she would write an article and can post it along with the proposed changes and the summary on the City website.

Mayor Reese asked if all three tiers would have to stay in.

Mr. Losco said all of it can be modified.

A discussion was held about the timeline. The Charter Committee started meeting in June.

Mr. Houben suggested trying to get something in News Journal.

Mr. Barthel returned the discussion to the elections.

Mr. Houben said 10 years ago (2001) the results of a survey done at the polls was 2-to-1 in favor of four-year terms, staggered. He said when he was elected three new members got in, if five new members got in it would be a disaster.

Ms. Moore said that once you get the staggered terms established you always would have people with experience on Council.

Mayor Reese said there has not so far been that type of problem.

Councilperson Gaworski asked whether the requirements for election should include being a citizen of the United States.

Mr. Losco said it is not addressed right now, but they would not be qualified to vote so they could not run.

President Barthel asked if there were other matters being proposed for change.

Mr. Losco said the reference to freeholder, or landowner, was removed because it was determined by the U.S. Supreme Court it is unconstitutional. Also the matter of who names a City Solicitor and City Engineer is clarified; it is Council. The payment of candidate filing fees was eliminated. A vacancy issue was added for dealing with a member of Council who is missing regular meetings. The Committee looked at the Mayor's Court, and decided to keep it in. If the Mayor is unavailable, the Council President can serve in his stead. He went through a variety of other items included in the changes.

Mayor Reese asked if something could be changed to prohibit lame duck appointments in the closing days of a Mayor's term, such as a seven-day wait after an election.

A discussion was held on the issue.

Councilperson Cochran said he had a problem with Council deciding on raises for itself, he suggested a committee.

Administrator Thomas said the power to pay people does rest with Council. A committee could only recommend it.

Mayor Reese said MSC is using a lobbyist for work related to its proposed charter change.

Mrs. Thomas said she had planned to work through the Delaware League regarding lobbying for that.

The next meeting will take place at 6 p.m. on January 31.

Mr. Barthel thanked the members of the Charter Committee for all their work.

Mr. Cochran made a motion to adjourn the meeting. Councilperson Megginson seconded the motion. It passed unanimously. The meeting adjourned at 7:18 p.m.

Respectfully submitted,

Michael Dickinson  
New Castle City Clerk