

**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 31, 2012 – 6 p.m.**

Present:

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

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

Agenda

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

President Barthel explained this is the second Council workshop regarding proposed Charter changes. The major two issues from the previous meeting were borrowing and terms of office for Council and Mayor.

President Barthel said the recommendations from the Charter Committee came from the Middletown charter. The first tier was for operating expenses. He recommended giving Council the ability to borrow 20 percent of its budget. Given the current \$5 million budget, Council would be able to borrow \$1 million for short-term purposes.

The second matter discussed at the previous meeting was the ability to borrow in a natural disaster. His recommendation is 1 percent of the \$250 million, the assessed value of all properties in the City, which would be \$2.5 million. For the last tier, it was clear from Council's response the numbers were huge numbers.

Solicitor Losco said the total aggregate would be \$50 million, which is also the amount in the current City Charter.

President Barthel said after giving it some thought he would not want the responsibility to make that decision without a referendum. But one of the reasons for this discussion was to position the City to be able to react in a timely manner from a grant perspective, where the City would need to borrow for a matching grant. The City recently has missed out on getting \$400,000 in grant money for \$200,000 to be used for repairing the dikes and repairing the shoreline. The question is how does the City get that flexibility and balance it with the right of citizens to vote on capital projects.

President Barthel suggested that for 1) capital projects that have an impact on safety and well-being of City residents and 2) infrastructure, should grants become available Council would have the ability to borrow money without going to referendum. He suggested putting a cap on the amount of the grant at \$1 million. And no more than three grants could be in effect at one time. This would put a maximum borrowing of \$1.5 million and \$3 million in grants.

Councilperson Cochran said President Barthel's proposals were in line with his thinking on the borrowing.

Councilperson Megginson said those numbers were much better than the original proposed changes. He also said it must be voted on by two-thirds of the five-member Council.

Administrator Thomas said it would require a minimum of four votes.

Councilperson Petty said she would go along with idea of the whole Council. She said it still seems like a lot of money. She thinks Council would still be protecting the citizens. The referendum and voting of full Council would be helpful.

Administrator Thomas said the majority of grants available tend to be matching. In the ARRA project (stormwater projects) it required the matching grant be paid as part of a loan.

Councilperson Petty asked how long the dike projects are likely to take.

Administrator Thomas said it is a great question. There is not a definitive answer. At the last dike meeting, the City learned that the State funding this year will likely only complete one of the City's three dikes. That would mean the need to seek additional State funding. The City also could look at getting other grant money, but there is not a lot of grant money out there now.

President Barthel said based on earlier dike meetings officials were optimistic about the State completing two of the dikes from the current funding. Officials said last week it would be optimistic to complete the one City dike with this funding. The City does not know how long this will take.

President Barthel said the borrowing issue arose with the stormwater projects. He is concerned Councils down the road, without these changes, may not have the ability to access grants for infrastructure needs.

Councilperson Petty asked what happens if while the City is progressing towards repairing the dikes if a natural disaster occurs.

President Barthel said the City has made the State aware of these concerns. The State and Federal government are aware of the concerns and have some responsibility. He believes the State is on board with it.

Administrator Thomas said the State understands it needs to help a municipality like New Castle. The City and others are going to continue to lobby for it.

President Barthel said at some point, if the funding from the State does not come in, the City might have to go to a referendum to fix the dikes.

Solicitor Losco said his concern regarding tying borrowing to a natural disaster is that there has to be a buyer for these bonds or it won't get the City anywhere. The City has to get to a point where a bond counsel issues an opinion to the bank that the bond will have tax-free status. He is worried if the City ties in the ability of Council to a natural emergency that it might be subject to an attack down the road that, for example, it was not enough of an emergency. That could jeopardize getting a recommendation from a bond counsel. He has not seen any charter that ties borrowing to that kind of trigger. It is usually based on dollar amount and to a percentage of assessed value. He is nervous about tying it to subjective factors.

Administrator Thomas asked about it being part of some other document, such as borrowing guidelines.

Mr. Losco said that would be akin to resolution and future Council could rescind it.

Councilperson Cochran said he would prefer the limitation be in the Charter.

Mr. Losco said if the City wants to put in those type of limitations he will need to study the matter further. He added that right now the big issue is dike repair, down the road it might be something else that the current Council is not aware of.

President Barthel said the second major item is terms of office for elected officials. He said staggering the terms is a good idea, but putting in four-year terms might create a situation where people are nervous about running the first time for that time frame without knowing what they are getting into. He views three years as a better number than two years.

Councilperson Megginson also favors a three-year term. He does not see two years as sufficient to get up to speed and understand how the City works.

Councilperson Cochran said he favors a four-year term because of the learning curve for new members. He definitely favors staggered terms.

Charter Change Committee member John Houben said most people favor four-year terms. He thinks that if people are going to run for office, it does take one and one-half

years to get comfortable. In addition, with staggered terms 50 percent of your Council and the Mayor remains. With three-year terms you wouldn't be able to stagger them.

Councilperson Petty and Councilperson Gaworski said they support four-year terms.

Charter Change Committee member Josephine Moore said the committee liked the three-year terms but could not stagger them. It liked the staggering so there are always people familiar with the City operation.

Mr. Losco gave an overview of the other items in the proposed changes. One change would change the City's name to the City of New Castle from the Mayor and Council of New Castle. The committee tried to incorporate state law that controls matters anyway, such as annexation, election procedures and Freedom of Information Act, by reference. The unconstitutional requirement that candidates for election be landowners was eliminated. The path to appointment of City Solicitor and City Engineer has been clarified. Also the fee for candidates to pay to run for office has been eliminated.

Mr. Losco said one thing being looked at that was brought up by Mayor Reese at the last meeting was the idea limiting lame duck appointments. He would like to hear from Council in terms of their thoughts on this area. Another area is to add a section that calls for removal of a Councilmember who misses more than one-third of the regularly scheduled Council meetings in a calendar year. It has a due process mechanism. The fraudulent voting fine was increased to \$1,000. Duties of Mayor left chiefly unchanged. There was a discussion about the Mayor's Court, but it was left in. Under meetings and procedures, the three readings requirement for an ordinance was changed to two readings. Currently the first and second readings occur at the same time. The Mayor's right to veto legislation was retained and Council can overturn it by a two-thirds majority.

Mr. Losco said there is no real estate assessment appeal at the local level.

Councilperson Petty asked why the committee felt it was better to change the name to City of New Castle. She thinks it sounds like the City is trying to get rid of the Mayor. Also the City would need to change all of its materials.

Mr. Losco said it is the more conventional approach, and the committee was trying to modernize.

Councilperson Petty said she liked the history of the current name.

Administrator Thomas said the staff plan would be to make any changes as existing supplies expire and anything new would reflect the changed name, if that is approved. Therefore, there would be little to no fiscal impact.

Mayor Reese said the City is the City of New Castle and he has used that as his return address.

President Barthel asked about the idea of limiting lame-duck appointments.

Mr. Losco said it could be addressed by the Charter—that the power is suspended as of Election Day—but there are arguments on both sides.

President Barthel opened the meeting to comments from those in attendance.

Janet Wurtzel, of East Third Street, asked if there was any consideration of moving the City election to the general election day in November. The committee had some concerns about the cost of the elections.

Jack Klingmeyer, of West Thirteenth Street, said most municipal elections, except Wilmington and Elsmere, are non-partisan. If the election is tied in with the general election it will become partisan. Local issues do not match up with national issues. It allows people to focus on local issues.

Michael Heyman, of East Second Street, said two-year terms are plenty. Let the people decide. Every two years is a referendum.

Mr. Klingmeyer said that seeking approval for Charter changes via resolution uses the lowest form of action by Council. It just requires three votes and is nominal. It does not require a public hearing and it is not subject to the Mayor's veto. He said there should be more public hearings. There has been little publicity on it. He said the Charter is comparable to the Constitution.

President Barthel said the Charter Committee has been meeting for nine months and they have been public meetings. Mr. Klingmeyer could have attended any or all of those meetings. At the meeting last week, Council decided to send letters to every household notifying residents about the meetings being held. The News Journal also was contacted.

Mr. Klingmeyer said there has been no publicity about the meetings and no reporting about the meetings.

Councilperson Cochran said weekly the newspaper lists the meetings scheduled. It has been nine months of meetings.

Administrator Thomas said Council did direct her to send a mailing to households in the City about the meetings. After the last meeting of Council she uploaded Mr. Losco's executive summary, the full text of the entire proposals of the changes to the Charter to the City's website. The postcard sent to residents directed people to that information on the Internet. It also included Mrs. Thomas' email and phone number for more information. She does not think it is fair to criticize the City for not engaging people and keeping them informed.

Ms. Wurtzel said she is tired of people waiting until something is done and then complaining about it. If you want to know what is going on there are lots of meetings on lots of topics. Get involved and offer your input from the start.

Councilperson Megginson made a motion to adjourn the meeting. Councilperson Cochran seconded the motion. It passed unanimously. The meeting adjourned at 7:13 p.m.

Respectfully submitted,

Michael Dickinson
New Castle City Clerk