

**City Council of the Mayor and Council of New Castle  
Public Hearing at Town Hall  
201 Delaware Street – New Castle  
Tuesday – May 8, 2012 – 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, Chief Kevin McDerby, Building Official Jeff Bergstrom, Police, City Solicitor Daniel Losco

**Approval of Minutes by Date**

A motion was made by Councilperson Cochran to approve the minutes of March 20, April 10 and April 17, 2012. Councilperson Petty seconded the motion. The minutes were approved unanimously.

**Approval of Treasurer's Report**

Treasurer Carlin reported that, as of April 30, 2012: petty cash on hand was \$1,100; total monthly deposits, \$230,227.35; total cash in checking and saving accounts in the M&T Bank, \$667,472.26; total certificates of deposit, money market and Delaware Government Investment Pool, \$1,424,567.36; and total cash on hand, \$2,092,039.62.

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

**Report from the City Administrator**

Administrator Thomas gave an update on the budget meetings coming up. Scheduled meetings are for May 16, May 23 and May 29. There is also a public hearing scheduled for June 5 at 6 p.m. related to the proposed creation of the downtown Gateway District. The general area is in South and Seventh streets and on the Ferry Cutoff. All the property owners are slated to receive a direct mail notification. She also noted there is a PBS movie being filmed in the City. It is on the Underground Railroad.

**Staff reports**

Police Chief McDerby introduced new Officer Paul Allston to Council. He had been a member of the Police Department for six and one-half years before serving four years in Afghanistan and a year in Haiti with the U.N. peacekeeping force.

President Barthel thanked him for his service to the country and welcomed him back to the City of New Castle.

President Barthel said the staff reports were accepted as presented.

**Grant Review**

Councilperson Cochran provided the review. Grant Activity: Banks Building, \$4,000, pending approval; Buttonwood drainage, \$18,030; Coastal Flood/Dike Control, \$100,000; DNREC Broad Dike, \$800,000; ARRA Green Project Storm & Water Pond Retrofits, \$1,710,627; Recycling grant, \$21,600; and Tobacco grant, \$17,683.94.

**Communications**

Councilperson Petty said she had a telephone call in reference to the building on 19 Arbutus Ave. The person was concerned that the person who purchases the building should not leave it standing for a long time. They would like it demolished or made to look presentable in a short period of time.

## **Business from the Floor**

No comments.

## **Business from the Council President**

President Barthel said they were down in Dover today regarding the House looking at the proposed Charter Changes. It received a unanimous vote. The next step is to go before a Senate Committee.

Jim Travers gave Council an update on the Summer Concert Series. He said plans are progressing. There has been very little opposition. He has received generous amounts of space from the New Castle Weekly, Cobblestones and the News Journal. He also taped a segment for an upcoming segment on WPVI in Philadelphia. He said he believes this community will pay for the concerts this year. He has received contributions. He estimates they are 55 percent to 65 percent of the way in terms of raising funds. He said he has contributed several thousand dollars.

## **Unfinished Business**

1. Third Reading and Motion, Discussion and Vote on Ordinance No. 487, which proposes changes to Chapter 122 – Firearms, of the New Castle City Code.

President Barthel read ordinance No. 487.

Councilperson Megginson made a motion to approve the ordinance. Councilperson Petty seconded the motion.

Solicitor Losco said the prior ordinance had a very small penalty and ambiguity related to subsequent offenses.

The motion passed unanimously.

2. First and Second Reading of Ordinance No. 488, which proposes to amend and restate Chapter 177 relating to Peddling and Solicitation, of the New Castle City Code.

President Barthel and Administrator Thomas read ordinance No. 488.

3. First and Second Reading of Ordinance No. 489, which proposes to amend Chapter 230-46 relating to Subdivisions and reimbursement to the City for professional fees for plan reviews, of the New Castle City Code

President Barthel read ordinance No. 489.

4. Motion, Discussion and Vote on Resolution No. 2012-16, approving the sale of City-owned property located at 19 Arbutus Avenue, as a result of a sealed bid process, having received two bids and that the highest bid was received from Mr. Wilbert Stewart in the amount of \$5,600.

Councilperson Megginson made a motion to approve the ordinance. Councilperson Gaworski seconded the motion.

President Barthel said the City has received calls related to this bid. He asked Building Official Bergstrom to provide an update.

Mr. Bergstrom said he had a long discussion with Mr. Stewart, who intends to live there in a modest home. He intends to demolish the existing structure and obtained a quote from a local contractor for the work.

Administrator Thomas said she did speak with both of the bidders. Mr. Stewart had been to the site with a consultant who looked at the structure and concluded it needed to be demolished. It is the City's understanding he is looking to take care of the property, and has a speedy timeline. Given a variety of issues related to the property this appears to be the best price for the property.

Solicitor Losco said the City has held the property for close to a year and there have been no other offers.

Councilperson Cochran asked what costs the City has into it so far.

Mr. Losco said the City has probably \$2,500 into it.

Councilperson Petty said the City needs something in writing from Mr. Stewart stating what he is going to do.

Mr. Losco said he could be cited if he does not take care of the property.

President Barthel said the property could be condemned so the City could go in to raze it.

The resolution was approved unanimously.

#### 5. Discussion of the Annexation of property at 828 Frenchtown Road.

Attorney Shawn Tucker appeared representing the applicant regarding the annexation and rezoning, which was conditionally approved by City Council in 2010. Also in attendance was Mr. Cirillo, with 273 Properties, which owns the property, and Rob Hawkins, legal counsel to the church that will occupy the building, Seeds of Greatness. They are seeking final OK from the City before it starts construction, expected to begin in the next couple weeks.

Mr. Tucker said there were some conditional items tied to the approval back in 2010. He outlined them. One was that the client would seek secondary access point. He showed an engineering drawing that shows an access point on Quigley Boulevard. That would provide relief of the current access point on Route 273. That access point on Route 273 is rights in-rights out, left-in, but no left outs. There has been a long-term lease executed for the property on Dec. 1, 2011. His client is required to negotiate agreements with MSC for water and electric. Those negotiations are underway.

Mr. Tucker said in going over the ordinance there was reference to a hearing before the Planning Commission on Oct. 25, 2010, that refers to the applicant/developer agreeing to close the electrical loop as part of the project. He understands that to mean MSC likes to create redundancy and a more stable system by creating a loop. He said it was mixed up in the ordinance in that it was not his client who agreed to close the loop. He said that involves property his client does not control and it could be several hundred thousand dollars. His office provided a transcript of the hearing to Mr. Losco. Mr. Tucker said the statement made was that through the building of the project, MSC would be able to close the loop in their electrical service. His client did not agree to pay on the final looping.

Mr. Tucker said the square footage approved in 2010 was set forth at approximately 53,000 square feet. The plan lists it for 53,670. The project is broken into two phases. They will likely build both phases. The environmental cleanup documents were executed prior to the annexation. A final plan as to how it will be performed is before DNREC. Back in 2010 it was believed there would be clean up in both phases. Phase one now will not require clean up.

Mr. Tucker said phase two could become parking but that is uncertain. Phase two will require cleanup regardless.

Mr. Hawkins said the phase two cleanup would be done within 18 months, but hoping by year's end.

President Barthel said a big benefit was the cleanup because of MSC's wells.

Councilperson Petty asked what would be done with phase two if not a parking lot.

Mr. Tucker said there are no other plans. Anything other than a parking lot would have to come back to the City for approval because of the plans.

Mr. Hawkins said the church received funds from the state to do the investigation of the cleanup. Phase two is the responsibility of the polluter.

Mr. Losco requested a copy of the information from DNREC that phase one does not require cleanup. Mr. Losco also talked with MSC's Chip Patterson regarding the loop issue. Mr. Patterson understands there will need to be negotiations upcoming regarding the property and the electric loop will terminate at the property line. The applicant understands that MSC is the exclusive provider and the applicant will have to work out an agreement with MSC related to service. MSC has the final say.

Councilperson Gaworski asked about the entrance of Route 273 and if the road was going to be utilized.

Mr. Tucker said it will be rights in-rights out, left-in, but no left outs.

Councilperson Gaworski asked what will keep people from making a left-hand turn. Right now the City has a problem at Amazon.

Mr. Tucker said the curbing bends to right to stop people from turning left. It is designed per DeIDOT.

Mr. Hawkins said at regular services the church has people on patrol who control the flow of traffic. They include police officers who are members of the church. It uses in-house volunteers. Their goal is safety.

Councilperson Gaworski said his concern is there are numerous accidents along that area. It is hazardous.

Mr. Tucker said that is why the applicant had to obtain an alternative access point, not an exclusive access point. That came at significant expense to his client.

Councilperson Gaworski said it is too close to the existing intersection.

Mr. Tucker said the peak times for services are Sundays.

Chief McDerby said he does not remember that back in 2010 that there would be left-in from Route 273. He recalls it would be going in off Quigley Boulevard into the church. He added only a police officer can direct traffic on Route 273, by law. Private individuals can direct traffic in a parking lot.

Mr. Tucker said they can offer to put up signage that prohibit left turns.

President Barthel asked Chief McDerby to restate his recall of the 2010 discussion about left turns into church being from Quigley Boulevard.

Mr. Losco said the resolution does not call for that. It just calls for no left outs and the alternative access.

Councilperson Gaworski asked if there would be an island on Route 273 to turn.

Mark Ziegler said this is being reviewed by DELDOT right now. There is going to be a left lane turn lane going westbound.

Councilperson Cochran said the left turns out were the biggest concerns from the start.

Councilperson Gaworski said the left turns into the property from Route 273 westbound is just as dangerous unless there is a turn lane.

Mr. Losco said if Council feels the conditions have been met, it is up to applicant to supply the appropriate plans to get a building permit. It cannot get building permits until MSC is satisfied and the plan gets recorded for the annexation.

Mr. Bergstrom asked if it was the wishes of Council for the plan to be recorded.

President Barthel said yes, based on the items just talked about.

It was the consensus of Council to go forward with that.

### **New Business**

1. Discussion of a request for a STOP sign to be placed on Second Street at its intersection with Harmony Street.

Councilperson Megginson said there was a request for it. Several people have asked for it and several people have called him who are against it. The City should hold a public hearing and go from there.

The Public Hearing will take place at 6:30 p.m. June 12, prior to Council's next regular meeting.

2. Discussion of a request from DelDOT for the City to adopt an Ordinance for No Parking in certain areas of the City at certain times when the Washington Street project is under construction.

Administrator Thomas said she received a call from Joe Hofstee at DelDOT. There are going to some limited times during construction that DelDOT will need no parking. She needs more details from DelDOT. It is not to be for an extended period of time.

A Public Hearing will take place at 6:30 p.m. June 12, prior to Council's next regular meeting.

3. Motion, Discussion and Vote on Resolution No. 2012-18, honoring the exemplary service of Cpl. Zachary T. Bascelli, on the occasion of this retirement from the New Castle City Police Department.

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

President Barthel said Cpl. Bascelli is a great officer and an even better person. The City will miss him.

Mayor Reese said Cpl. Bascelli was born to be police officer and liked nothing better than being out on the road.

The resolution passed unanimously.

4. Comments from the floor.

Earl Carpenter asked the size of the congregation of the church going on the annexed property.

Mr. Bergstrom said more than 1,000 and less than 1,250.

Mr. Carpenter said that would be, say, 500 cars. He described the situation on Route 273, after passing Route 13, coming toward New Castle as the most stupid construction he has seen, with the left lane disappearing. DelDOT ignored complaints about that, he said. That area is poorly designed. His recollection was the only thing approved was right-in, right-out. He does not believe any left-in was approved. He asked how long is the turning lane going into the church going to be. It is going to back up. He said allowing left turns into the property is going to be a big problem. He also asked where the cars will park without phase two.

Councilperson Megginson said there is a parking lot in phase one. Those cars are already out there every Sunday.

Councilperson Cochran said there is another entrance from Route 13 and not all the traffic is going to come New Castle.

Odilia Duszak spoke about some safety issues. She said when she walks from Gray Street to Walgreens, where the railroad tracks are, there is no safe way to cross from the east to the west. The only safe place is at Sixth Street. In addition, when she drives down South Street where Seventh Street goes, there is a stop sign at Seventh Street, cars cannot see where you are stopped because of where the stop line is placed.

Councilperson Gaworski said DelDOT is going to fix that area and the City can try to address that with them. He said it is a crazy intersection.

The City will bring it up to DelDOT

Chief McDerby thanked the Council for the resolution on Cpl. Zachary Bascelli.

Valarie Windle Ziminsky, of Harmony Street, said she initiated the request for the stop sign at Second Street. She said there is a lot of speeding. She suggested a Police Officer go to that area prior to the meeting.

President Barthel asked Chief McDerby to see if someone could take a look at that area.

Councilperson Megginson made a motion to adjourn the meeting. Councilperson Petty seconded the motion. The motion passed unanimously.

The meeting adjourned at 8:36 p.m.

Respectfully submitted,

Michael Dickinson, New Castle City Clerk