

**City Council of the City of New Castle  
Special Council Meeting at Town Hall  
201 Delaware Street – New Castle  
Tuesday – December 4, 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, Treasurer Janet Carlin, State Representatives Mike Mulrooney and James Johnson, State Senator Nicole Poore, representative from U.S. Senator Chris Coons office Mike McGowan

**Unfinished Business**

Discussion of New Castle City Dikes: Buttonwood Dike, Broad Marsh Dike and Gambacorta Marsh Dike

President Barthel said the Special Meeting is to provide an update from the New Castle Conservation District, including any updates on funding. He thanked state Representative Mike Mulrooney, state Representative James Johnson, State Senator Nicole Poore, and Mike McGowan, representative from U.S. Senator Chris Coons' office, for attending the meeting.

President Barthel provided a recap of the process of the dike upgrades. City Council began looking at the dikes in late 2009/early 2010 when the City began conversations with officials from Delaware Department of Natural Resources and Environmental Control (DNREC). After eight to 12 months of study, the first meeting was held on Feb. 17, 2011. Including that meeting there have been six meetings. During that process in 2011 and 2012, through the State Bond Bill, there was a \$3 million appropriation to the DNREC budget to repair dikes. The City had thought it would receive a good portion of that but the Red Lion Dike turned out to be more severe than the City dikes. Out of the \$3 million, there is roughly \$400,000 left for the City's dikes, which is going to be used for final engineering studies—there were preliminary engineering studies for the City's dikes done out of the \$3 million as well. In 2012-2013, there was \$2.5 million appropriated to the DNREC budget for dams and dikes. Out of that amount, \$1.5 million was to go to New Castle, with the majority going to rebuild the Buttonwood Dike. Any remaining funds would be used for the Broad Marsh Dike and the Gambacorta Marsh Dike. Now after the impact of Sandy, the City is in talks with FEMA.

Kevin Donnelly, District Coordinator of New Castle Conservation District, said he is joined at this meeting by O'Brien & Gere Senior Project Manager Gary Emmanuel. Representatives from DNREC are also in attendance. Mr. Donnelly said tie-ins are required to make the Broad Marsh Dike and the Gambacorta Marsh Dike eligible for the Army Corps of Engineers' Rehabilitation and Inspection Program (RIP).

Mr. Donnelly said he had a conversation that afternoon with DNREC Secretary Collin O'Mara, who is committed to getting the final design plans and specifications for all three City dikes by the end of April 2013 and permit applications into the Army Corps by March 2013. Mr. Donnelly said he knows funding is an issue. Secretary O'Mara has also committed to whatever funding that comes from FEMA for dike repairs will be recycled into the overall dike project to ensure that all five dikes—Red Lion, the three City dikes, and Army Creek Dike—are rehabilitated and repaired. Secretary O'Mara wanted him to let everyone at the meeting know that. The Secretary used all of his creative funding ideas and he also mentioned that as part of DNREC's 2014 budget submission, the

Department has submitted a \$10 million capital request for dikes, and probably dams. FEMA funding is a big question mark at this point. The Department is fully committed to getting the dikes done as soon as possible.

Mr. Emmanuel gave an update on his team's work for the past few weeks. He showed a presentation on screen. He went through each of the dikes. Part of what the plan is for each of the three City dikes is to raise them to a minimum of 8.2 feet (actually it will raise them to 8.5 feet because of settling after construction) to enter into the Army Corps' RIP program, which makes available assistance in the future for repairs. It does not pay to get dikes into the program.

The Buttonwood Dike has well-defined ends—there is no tie-in issue. On the Broad Marsh Dike, the turnaround area is lower and the City saw the evidence of that during Sandy that water ran around the end of the dike and down the extension of Second Street. This dike has an issue where adjacent ground is lower than the current dike and part of the plan is to raise the dike, which extends the problem. The Army Corps when it looks at the plans is going to look at whether the project is complete in terms of protection. It is quite visible this dike does not tie into high-ground on the south end and does not provide protection. They are not going to view the project as complete. The end of the current dike is where it meets the turnaround at the end of Second Street. In that area it is well below the 8.5 feet level.

The question is how to tie it off to ground that is 8.5 feet. Across the playground area it is between 6 feet and 8 feet. There is an elevation 8 contour around some of homes on east side of Second Street. They are not sure if it is 8.5 feet. Going further south there is a 10 foot and a 8 foot contour. The homes south of Chestnut Street are on higher ground—8 foot and higher, and some higher than 10 foot. The most obvious way to complete the dike is to try to reach the higher ground south of Chestnut Street. They will need to raise ground or a bulkhead at height of 8.5 feet—so adding 2 feet to 2.5 feet. The most cost-effective would be earth berm. In the area near the turnaround it would have to be roughly four feet higher. In total, it is about a 715 feet stretch to the higher ground. At the turnaround, they might need to be more creative to allow continued use of it.

Mr. Emmanuel said there are a fairly minimal number of properties affected in that area, and there are potential other concerns as well, given the historic nature.

Administrator Thomas said that where Fort Casimir was located. She said the properties that it would likely go across chiefly would be City and Trust property. She asked how far it would be from the private properties' fences and if there would continue to be use of the dirt road extension from the Strand.

Mr. Emmanuel said they have shown it 50 feet from the fences. He said the dike in the area on the road would be fairly short so they could make a ramp up and down to allow driving. One of the first tasks will be to do some surveying, and make sure it is an appropriate tie-in.

Administrator Thomas said the first time the tie-ins were brought up were the meeting in August. She asked if the Broad Marsh Dike is repaired and brought up to proper elevation, without the tie-ins, is it possible it might not qualify for the RIP. The response was that it must have the tie-ins to qualify for the RIP program.

Councilperson Cochran asked about the feasibility of tying in the Broad Marsh Dike to the Gambacorta Marsh Dike with a berm. That type of connection would require creating a new dike along the water's edge to do it.

Mr. Emmanuel said on Gambacorta Marsh Dike they don't currently see any need to extend to the south for a tie-in. But on the north end, there is a low spot near where the boat ramp is and the ground to the north is low. It is the same basic issue, if you bring everything to 8.5 feet, this area north of the boat ramp would be subject to flooding.

That would prompt the same questions from the Corps of Engineers in terms of whether it is complete and eligible to enter the program. Battery Park is high ground. With a 670-foot extension, they can tie into elevation of 8.5 to the park with a raised dike. Much of the area is close to 8 feet already, so the dike will not be that high. At the boat access, there will need to be a ramp up and ramp down to allow boat access.

Councilperson Gaworski asked about whether the turnaround will be a problem.

Mr. Emmanuel said it should not be a problem. This tie-in is straight forward, with City property. It will be earth construction so not as expensive as concrete or a bulkhead.

President Barthel asked if they still envision the permitting process taking roughly a year.

Mr. Emmanuel said the tie-ins don't significantly affect the permitting—it's another feature. The permits required for the dikes will include Army Corps of Engineers under the Rivers and Harbors Act, which has to do with encroachments to wetlands and open waters of the United States. The dikes by definition are situated in water. The Army Corps will look at the complete project, which will include the tie-ins. There are also cultural resources issues to be considered, including the historic nature of the site. The Corps of Engineers, for example, have to consider the entire project.

Mr. Donnelly said in August when discussing priorities, his recollection was Dave Carter advised that his concern about the historical nature of Broad Marsh could be a complicating factor. There is a representative at the meeting from the State Historic Preservation Office. It is a very historic area of City. It will require some detailed study as part of the federal permitting process. It probably will be more complicated than some other projects. Mr. Emmanuel said as far as the State and Federal governments are concerned the dikes themselves are historic as well.

Craig Lukezic, State Archaeologist, Delaware State Historic Preservation Office, said it will be complicated because they are historic sites. The dikes all date to at least the 1840s, and the Broad Marsh Dike is Dutch. He said little else is left from New Amstel and the Dutch occupation.

He said dikes are a lot like a road, the question is how much is modern and how much is old. New research is that New Castle was center of the defense of Delaware in the War of 1812. Also the town is a National Historic Landmark, so dealing with FEMA, as a federal agency it has to deal with the National Park Service, which oversees landmarks. It will get complicated. It involves two series of impacts: archaeology and alterations of historic landscape. He added he is not there to question the need of the project.

Councilperson Gaworski said there will be study after study, which will take about two or three years.

Mr. Lukezic said he did not know. He suggested if the City is going to get FEMA funding to get them involved as soon as possible.

Councilperson Megginson asked if he means they will have to excavate. Mr. Lukezic said that is correct. The State did fund some excavation in the Fort Casimir area and the dike is projected in the drawings to go right over where they think the fort is. They found a trench that went in front and part of the palisade, among other items. It will need more excavations. There is also a complication because it is a landmark district. He said he believes all the comments at the meeting should be recorded and count as part of the review process and fill one of the requirements of the process.

Mr. Donnelly said the Corps reaches out to a host of agencies.

A brief discussion was held about an ongoing historic review of Red Lion Dike.

Erv Thatcher asked about the area of Battery Park where the flag poles are located. He said there is a low area and asked if it was going to be fixed. That is not part of this project.

Bonnie Arvey of DNREC asked about the work for the surveys. The groundwork has been laid and a firm has been engaged. It is part of the proposal which not been funded.

Corky Viola of The Strand asked what happens between the northern end of Gambacorta Marsh Dike and the southern end of Broad Marsh Dike. What is the status?

Ms. Arvey said there are a lot of areas in the State that are at risk. This project is focused on the dikes. The tie-in for the south end of the Broad Marsh Dike would go to the high land to the north of The Strand. The Strand is currently higher than where the dikes are currently.

Jim Meeks of The Strand said at the foot of Harmony Street it is low also, and of the most historic places in town, the Read House is totally unprotected by anything being talked about.

Ms. Arvey said The Strand is not in the scope of this project. She agreed the area is at risk, like a lot of areas in the State. The Broad Marsh Dike project is tying into the high point of land. The same is true at the north end of Gambacorta.

Jonathan Justice of East Second Street asked if the City can count on the Corps of Engineers to say if we do the two extensions it qualifies for the program, and no one from the Corps is going say that the water can come around the other side of the Battery 100 feet away and flood there.

Ms. Arvey said no because this gives you a complete project. There will always be additional low points along the coast in Delaware.

Mike McGowan said the Corps program is like an insurance program. It is not to cover costs of the construction. If there is subsequent storm damage they will step in and assist.

Mr. Meek asked about the ability of the dikes to protect in the future as the sea level rises. Is any of the work being done now going to be of any value for the next phase.

Ms. Arvey said the dikes right now are in terrible condition. If the City wanted to do something on top of this, it would still need to go back and make the repairs.

Councilperson Cochran asked what type of maintenance will need to be done to keep them up.

Ms. Arvey said chiefly maintenance consists of mowing to make sure trees do not take root. There have been discussions with the County about this because they have the equipment. It would require coming out two or three times a year. Also the current Broad Marsh Dike has a groundhog population that has to be taken care of. An agreement is not currently in place with the County.

Mr. Donnelly said part of O'Brien & Gere's contract will be to prepare operation and maintenance plans for all of the dikes.

President Barthel asked what the next steps are.

Mr. Donnelly said the Conservation District needs to gets confirmation or affirmation about the tie-ins. They are going to start the survey operations next month. But in order to get to final designs they need clear indication from

the City and the residents as far as what is acceptable. There may be things, such as what Councilperson Gaworski suggested, looking at things down near Gambacorta, to address.

Ms. Arvay said it needs to be determined what the City wants to have, such as continued access to the dirt road by The Strand and the Gambacorta turnaround.

An unidentified individual asked whether the historical value of Fort Casimir can scuttle the whole thing.

Mr. Lukezic said generally that is not the intent of the regulation. It has to be taken into account to modify it. The intention is not to stop it.

A discussion took place about possibly moving the tie-in further eastward away from the site of Fort Casimir.

President Barthel noted the majority of people who left the room are going to have a lot to say about whether the City can build the tie-ins. (He was referencing a number of Trustees who had attended the City Council meeting, however had to leave in order to attend a meeting they had scheduled.) It is good the Trustees were at the City Council meeting and heard what everyone else heard.

The City needs to be communicating and get back to the Conservation District as quickly as possible. The dikes are historic and the City would like to maintain them, but it is a historic town too, and time is of the essence. The City got a warning shot fired above our bow. When Council started the least of its concerns was the Gambacorta Marsh Dike. Now that has become one of the biggest concerns. Council is going to demand they move as quickly as possible.

A question was asked about whether the permit applications are submitted at one time or one at a time.

Mr. Donnelly said the plan is to submit them all at one time. The Corps knows this is a priority. When the dikes are broadened, it is going to have impact on wetlands so the project will need to create wetlands to compensate for that.

With five projects, an acre each, it will involve creating at least five acres of wetlands. What they would like to do—the Corps in the Philadelphia district has never done it before but is considering it—is when it comes time to create the wetlands is go in and do all the work on five acres at one time. That would be faster and less expensive.

The DNREC Secretary is willing to do whatever he can and is talking with the Army Corps Lieutenant Colonel in Philadelphia. There is some flexibility and a special Sandy permit, but it does not exempt all the groundwork for a normal permit. The State permit folks also know how important it is.

Councilperson Megginson asked how long the permits are good for.

Mr. Donnelly said typically five years.

Councilperson Cochran made a motion to adjourn the meeting. Councilperson Megginson seconded the motion. The motion passed unanimously. The meeting was adjourned at 7:14 p.m.

Respectfully submitted,

Michael Dickinson  
New Castle City Clerk