

**City Council of the Mayor and Council of New Castle**  
**Regular Council Meeting: Town Hall – 201 Delaware Street – New Castle**  
**Tuesday – December 8, 2009 – 7:00 p.m.**

**Present:**

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

**Also present:**

Treasurer Janet Carlin, Administrator Cathryn Thomas; Finance Director Marian Delaney, Police Chief Kevin McDerby, City Solicitor Roger Akin

**Approval of Minutes by Date**

A motion was made by Councilperson Petty to approve the minutes of November 10, 2009, as written. The motion was seconded by Councilperson Gaworski. The motion was approved unanimously.

**Approval of Treasurer's Report**

City Treasurer Carlin reported that, as of November 30, 2009, total petty cash on hand was \$400; total monthly deposits were \$93,494.62; total cash in the Wilmington Trust accounts, \$441,535.23; total certificates of deposit and Delaware Government Investment Pool, \$2,455,999.83; and total cash on hand, \$2,897,535.06.

Councilperson Cochran made a motion to accept the report as presented. Councilperson Gaworski seconded the motion. The motion passed unanimously.

**Report from the City Administrator**

Administrator Thomas said members of Council have her written report. She highlighted information on the Delaware Solid Waste Authority which just finished presenting its proposed budget for their fiscal year beginning July 1. The DSWA proposes to increase fees so that their revenues will increase, which includes a significant increase in landfill tipping fees, which has the potential to negatively impact the City's budget. The City Annual Report Calendar is nearing completion. There is a public meeting taking place of the City Board of Building Appeals. It was slated to meet in December to hear appeals related to fees on vacant buildings.

Council President Barthel said the report was accepted as presented.

**Approval of Staff Reports**

Council President Barthel said the staff reports were accepted as presented.

**Grant Review**

Councilperson Cochran said the grant expenses for November were a drug grant for \$100.37; a Salle Grant, \$276.03; MSAF grant for \$17,500; and a stimulus grant for \$994.

**Business from the Council President**

Council President Barthel noted Mayor Klingmeyer was not present at the meeting, but he does have an item from the Mayor. The Mayor has appointed John Lloyd to the Tree Commission. Council President Barthel read a letter from the Mayor on the appointment.

## **Unfinished Business**

1. Third Reading and Adoption of Ordinance No. 467, approving that certain parcels be approved for rezoning to R-1 (Low Density Residential), as follows:

- the Deemer property at 901 Delaware Street, Tax Parcel No. 21-010.00-016, requested to be rezoned from OS&R (Open Space and Recreation) to R-1 (Low Density Residential);
- the DiMondi property located adjacent to the Deemer property near Delaware Street but without an address, Tax Parcel No. 21-010.00-017, with a portion of such property requested to be rezoned from OS&R (Open Space and Recreation) to R-1 (Low Density Residential).

Council President Barthel said it was planned to be the third reading on the ordinance. He suggested the City Council table this item. He explained it was mentioned as part of the proposal that the City has a right of way, an easement. For this project to go through, the developer will need access through the easement to the property. In investigating the easement, it has been determined that the easement is only 40 feet wide. The City requires a minimum 50-foot-wide easement. In consultation with the City Solicitor, it seems to the attorney that to grant a rezoning without having that larger easement did not make sense and was against the best interests of the City.

Councilperson Cochran made a motion to table the agenda item.

Mr. Jeff Williams, of Kercher Engineering, representing the property owners, said they mentioned the 40-foot wide easement in a meeting held April 28, 2008 when the project first came to the City. This is the project's 20th month before the board, he said. They have provided the deeds to the City Solicitor.

Mr. Williams provided Council with a copy of letter from DelDOT that he said indicates DelDOT does not have any objection to the conceptual plan.

Mr. Williams said they would like to see the ordinance voted on at the current meeting and have the issues of access addressed at the site plan approval stage.

Councilperson Cochran said the project needs a 50-foot right-of-way and it only has 40 feet.

Mr. Williams said the City Code requires 50 feet. He said the City still would own the property if it gave the additional 10 feet for the easement.

Council President Barthel said Mr. Williams is assuming the City will give it to the developer.

The developer could get a variance or the City could negotiate with the developer to provide the additional 10 feet.

Mr. Williams said they are not making an assumption. The project might not go through if the easement does not happen. He said there are 26 houses planned there.

City Planner Marian Hull said the thinking in the comprehensive plan was to have the property as R-1, which would have the most environmental protection and still allow some economic value. There is little guidance in the Zoning Code right now. It does not ask for site plan

information. It is a weakness in the code. There were not any concerns raised about the size of the easement because it had not gotten to that stage yet.

Councilperson Petty said it is her understanding there is no written record to go on. She said it is better for the City to be safe than sorry and the City should get legal advice on this. Council has to look out for the City of New Castle and its residents.

Council President Barthel said Mr. Williams did not mention the 40-foot easement at the last meeting and the first time he heard about it was after the last meeting when the City began looking into it.

Councilperson Gaworski said the City needs to look at the impact in terms of traffic of every project that comes before it.

Council President Barthel said doing the rezoning prior to giving up the extra 10 feet of easement seems to be putting the cart before the horse. He asked the City Solicitor to express his view.

Solicitor Akin said he thinks Council is going in the right direction if it is adding a small amount of additional time so all interested parties can come together on the issue of the additional easement. He advises on the side of caution. Doing the rezoning before settling the issue is land use in reverse. The issue should be resolved before rezoning.

Councilperson Megginson second the motion to table the agenda item to a later date. The motion was passed unanimously.

## **New Business**

1. Motion, Discussion and Vote on Resolution No. 2009-31, to enter into an agreement with the URS Corp. to provide services following up on the City's Comprehensive Plan to develop proposals which would change the City Code and Zoning Map.

The amount for the services is in the City's budget.

City Administrator Thomas asked Ms. Hull if the changes needed in the City Code related to zoning—discussed during the previous agenda item—could be done as part of this effort. It would make sense to do it all at once.

Solicitor Akin and Ms. Hull concurred there are good models out there the City could adopt and modify.

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

2. Motion, Discussion and Vote on Resolution No. 2009-31, providing a Lump-Sum Pension Benefit to Three Retirees of the City of New Castle.

Councilperson Gaworski made a motion to approve the resolution. Councilperson Megginson seconded the motion. It was approved unanimously; Councilperson Petty abstained.

3. Discussion concerning Annual Maintenance Contracts with National HVAC for servicing HVAC systems in the three main City facilities.

Councilperson Petty explained the City's contract will run out at the end of January. Council needs to decide if it is going to be renewed or put it out to bid. She thinks the City needs a service contract rather than trying to use Public Works staff to do the work.

Councilperson Megginson said he wants the City to put it out to bid, not just roll over the contract.

Administrator Thomas said the best way from the City's perspective is to put together a succinct request for proposals with specifications on what the City wants done annually.

Councilperson Petty said she would like to see a letter sent to the current vendor telling them the City is going out to bid.

It was agreed that a request for proposals would be sent out.

4. Discussion of the status of the usage of the Banks Building and the City caretaking the building over the winter months.

Councilperson Petty received a call from Erv Thatcher about the heater not working properly in the Banks Building. She asked him to have a company come in to see what is wrong with it. She said she believes the building should be winterized. She can't see the City paying for heat.

Councilperson Gaworski said the "Senators" use the building during the winter. He said he was not certain what they do there. It is a place for them to gather.

The Trustees of New Castle Common have contributed to the heating costs of the building.

Councilperson Cochran said it could be winterized easily; for less than \$300.

Administrator Thomas said the Jaycees also use it, and in the past had made a contribution for the use of it. Her understanding of their use of the structure is a longstanding informal agreement.

Councilperson Gaworski said the City is going to upset a lot of older gentlemen who have hung out there for many years.

Council President Barthel suggested tallying the actual cost it takes to heat and how much the Trustees are contributing to it, and do a cost analysis. He also suggested an evaluation on the safety of the building.

Councilperson Petty said two organizations use the building and the maintenance is terrible. The building is in very bad condition and that should not be.

5. Comments from the floor.

Earl Carpenter asked if it was correct the current HVAC contract was unacceptable because the City would like adjustments to what is covered. He also asked who would compile the list of specification.

Council President Barthel suggested Councilperson Petty and either Councilperson Megginson or Councilperson Cochran create the specifications because of their expertise.

Councilperson Cochran said he would do it.

Police Chief McDerby, on behalf of the retired officers, thanked Council for approving the lump-sum payment. And, on behalf of the present officers, wished Council a Merry Christmas.

Dr. Somasunder Padmalingam, of Chestnut Street, stated his observation over the past several weeks of an appalling condition of the roads, particularly the lack of attention to the leaves. He said there should be a policy as far as picking up leaves. He still sees leaves being dumped on December 8.

Councilperson Megginson explained there are more than 20 miles of streets in the City of New Castle and the City puts the leaf machines out every day it can. Some days the City does not have the manpower. The City does the best it can.

Administrator Thomas added the City's process is as soon it becomes apparent to the Public Services Department that the leaves are falling, it starts cleaning up the leaves with the vacuum vehicle—the City has one vacuum truck, which goes out with a driver and one or two workers. It runs every day until it is done. The City calendar states the first Wednesday in December is the last day to pick up leaves—that is a target date that is adjusted based on when the leaves fall and weather conditions. The City also picks up leaves with yard waste year-round.

Administrator Thomas added staffing has been down due to injured workers the past couple months. The pick up has been slowed this year because of the very wet fall, which hampers the picking up of leaves.

Sen. Dori Connor apologized for not having been to recent meetings. She has been sidelined with the H1N1 flu.

She has been serving on the state Budget Committee. She does not sit on the committee that oversees schools and roads, but knows the City was hit hard. She was not aware of the hit coming, referring to the State cutting the Municipal Street Aid Funding for local government out of the State budget. She pointed out the people who represent the City were not at the meeting where those cuts were made either.

State representatives usually get \$250,000 annually for municipalities in their districts for roads and similar items. That was cut to \$125,000.

The state budget is going to be a big hardship this year.

She reported she just heard the Thriftway grocery store is closing.

The meeting adjourned at 8:14 p.m.

Respectfully submitted,

Michael Dickinson  
New Castle City Clerk