

**City Council of the Mayor and Council of New Castle**  
**Regular City Council Meeting at Town Hall**  
**201 Delaware Street – New Castle**  
**Tuesday – August 9, 2011 – 7 p.m.**

**Present:**

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

**Not present:** Councilperson John Cochran

**Also present:** Mayor Donald Reese, Treasurer Janet Carlin, City Administrator Cathryn Thomas, City Solicitor Daniel Losco, Building Official Jeff Bergstrom, Lt. Adam Brams, City Planner Marian Hull

**Approval of Minutes by Date**

A motion was made by Councilperson Gaworski to approve the minutes of July 12. Councilperson Petty seconded the motion. The minutes were approved unanimously.

**Approval of Treasurer's Report**

Treasurer Carlin reported that, as of July 31, 2011: monthly deposit, \$109,903.43; total in checking and savings accounts, \$434,110.39; total certificates of deposit, money market and Delaware Government Investment Pool, \$829,969.18; and total cash on hand, \$1,264,079.57.

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

**Report from the City Administrator**

Administrator Thomas provided a couple of additions to her written report. One related to the Broad Dike. The City will soon acquire more than 60 acres from the Immanuel Episcopal Church. There is a federal deadline of Aug. 15. The appraisal is \$1.3 million, the church is forgiving \$100,000 and the rest is coming from State and Federal grants. The easement language to allow for work on the Broad Dike has been finalized. Also, the City is going forward with advertising for sale the property at 19 Arbutus.

**Staff reports**

Lt. Brams provided additional information on the Police Department report. He highlighted a few items including a \$10,000 theft at Bridgewater Jewelers, where Police have two suspects; the Shell Station robbed twice at gunpoint, Police are getting ready to issue warrants; BJ's TV theft where suspect ran over a woman, a warrant has been issued for the suspect; a DUI accident where the driver left the scene and was apprehended later; and a woman who left a child in a car on a hot day was charged.

President Barthel said the staff reports were accepted.

**Grant Review**

Administrator Thomas provided the review for Councilperson Cochran. Grant income: police pension supplement, \$61,039; Separation Day, \$32,640. Grant expenses: Tree Commission paid out to R.J. Rizzardi, \$495, and to Tree Tech Consulting, \$380.

**Communications**

Councilperson Petty went to historic preservation workshop. She would like to have a workshop with Preservation Delaware and Council on the Banks Building. She also would like Council to consider preservation in its decision on the sale of 19 Arbutus.

**Business from the Floor**

Jan Churchill, 266 E. 2nd St., spoke on the agenda item related to the lease of the Bull Hill Boat Yard. According to the lease, the lease is renewable after the first five years if the officers notify the City prior to August 1, 2011. She read a July 18, 2011, letter from the Bull Hill Boat Yard Inc. to the Mayor and Council regarding the renewal of the lease. It accepts the terms of the lease.

She also commented on the agenda item related to the bandstand. She explained that when she was on Council it was decided not to loan the bandstand to people outside of the City. She sees no reason why it can't go to Dobbinsville. It was inspected to make sure it was safe to move throughout the City.

A resident said Norfolk Southern has not shown up yet to clean up along the tracks and also to spray. It has gotten out of control.

**Business from the Mayor**

Mayor Reese said he has been contacted by people interested in helping to make the City better. He would like the City and people to connect to improve the City.

**Business from the Council President**

President Barthel said it makes sense to have a workshop with MSC regarding the request for a charter change. A date will be determined.

President Barthel read a letter from John Lynch, owner of the salon/barbershop on the corner of West 7th and Delaware streets. The letter expressed concerns about the parking around the building. Mr. Lynch states he lost four needed parking spots around the building based on someone's complaints. He states in the letter it does hurt business. He recommends making the road one-way from Delaware Street to Tremont so no parking is lost for businesses or residents.

President Barthel said it is another voice related to the situation.

President Barthel read a plaque recognizing Jeffrey Bergstrom for 20 years of service with the City.

A presentation from DNREC was made on items relative to the Dike Management Advisory Committee.

Bonnie Arvay addressed Council. The state Bond Bill included \$3 million for dikes in New Castle County. There was a meeting last week to ensure the dikes in major need get the money necessary. It was agreed upon that the New Castle Conservation District would manage a contract that would cover the engineering and design for all five dikes, including four in the City of New Castle and one in Red Lion. Once done, Red Lion is a priority and will be worked on first. Then it will be Buttonwood, Broad, Gambacorta, Army Creek in that order. It is estimated that three to four dikes will have the necessary work done on them. Maintenance agreements will have to take place. If agreeable with Council, the City of New Castle would take the lead with the support of State and County agencies. Construction is anticipated to start before winter and completing work by the end of the fiscal year (June 30). She also discussed the requirements and standards for the New Castle dikes being placed in the Army Corps rehabilitation and inspection program. Each dike has to have a public sponsor. The advantage is if the dikes incur any damage that exceeds \$15,000, the Corps will cover 80 percent of the cost.

Councilperson Petty said she took the dike tour and said it was overwhelming.

Administrator Thomas reiterated that part of the dike improvement process will involve the removal of trees from the dikes. She added that they stopped counting the number of animal dens and burrows because there were so many.

Ms. Arvay said trees are a bad thing for dikes and a great risk to the properties. The burrows are dangerous too.

### **Unfinished Business**

1. Third Reading and Adoption of Ordinance No. 484, to enact a No Smoking Ordinance for a portion of Battery Park and for all other neighborhood City parks.

Councilperson Gaworski made a motion to approve the ordinance. Councilperson Petty seconded the motion. It was passed unanimously.

3. Discussion of a residence in the Buttonwood neighborhood which is rented by the St. Vincent DePaul Society.

City Solicitor Losco gave an update on his research related to an ordinance related to sex-offenders. There is currently a lawsuit pending in Wilmington. It is seeking \$1 million in damages. There are a number of constitutional issues related to these types of ordinances. There is a current State law related to such residences. He recommended the City wait until that new lawsuit resolves itself. He expects an immediate decision quickly but a complete resolution could take longer. He said it is dangerous for the City to wade into these waters. There are requirements in State law for notifications. The Council may in the future want to consider enacting stronger restrictions.

Council President Barthel said he tends to agree with waiting.

Councilperson Petty said her concern is that they are near a school and they are not supposed to be. She said she is not interested in enacting a law. She wants to know if they are correct sitting a couple of blocks from a high school or where small children walk to school.

Solicitor Losco said the only State law is that the residence cannot be within 500 feet of school. The City can certainly verify that to see if they are in violation. The next step is does the Council want to seek enforcement of that law right now, if there is a violation, knowing the City might be enjoined to an existing federal lawsuit. There is nothing in State law that has restrictions related to where children are walking to school.

4. Discussion of a proposal to amend Section § 230-11, “Gradual elimination of certain uses”, in the City Code, and to schedule a public hearing to consider said proposal.

City Planner Hull said the Planning Commission previously recommended rather than a gradual elimination after three years there be a gradual elimination after 12 years or just screening after 12 years. Council was concerned it was a long time. The Commission has come back with either phasing out or screening after three years. Also a focus on an administrative process with staff level review. Depending on Council’s wishes on these recommendations, the Planning Commission instructed her to develop some specific performance standards related to screening.

Council is looking to set up a Public Hearing prior to the next regular meeting.

5. Discussion of the request from the County for the City to contribute to an Economic Development study to be created by a professional consultant and also utilizing grant funds, if awarded, to develop strategies for retention and recruitment of businesses to the area, which study area includes the City of New Castle, and in particular the downtown retail area and the outlying industrial park areas.

Administrator Thomas provided a brief recap. It does have the potential to benefit the City. The City of New Castle is 22.3 percent of the study area. The City has roughly 14 percent of the population of the area. The City’s numbers are relatively substantial.

President Barthel suggested contributing \$1,500. The consensus of Council was to go forward with that.

Mrs. Thomas said she already sent in a letter of support as discussed last month.

## **New Business**

1. Motion, Discussion and Vote on a Resolution relative to the City receiving up to \$1,730,000 in State funding to rebuild, repair and rehabilitate dikes within the City, committing that the City shall perpetually maintain those dikes as a condition of the State funding the dike rehabilitation.

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

2. Motion, Discussion and Vote on Resolution 2011-28 to approve filling a vacancy in the Human Resources department.

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

3. Discussion and Decision on extension of the Bull Hill Boat Yard (Club) Lease, where a portion of Bull Hill Park is leased from the City to the Club.

Solicitor Losco said no action by Council is required as long as the Club provided its request for renewal in a timely manner.

4. Discussion and Decision on a request from the Dobbinsville neighborhood to borrow the City-owned band shell for a community event on Saturday, August 14.

President Barthel said Council has received information from the City's insurance company, which is not excited about the City loaning out the bandstand because the organization does not have insurance coverage. If the City decides to go ahead, the company recommends 1) someone sets it up that knows what they are doing and 2) the stand can hold the weight that will be on it.

Councilperson Megginson said the only thing the people in Dobbinsville use is the main stage. He said it is quite safe.

Administrator Thomas said George O'Neal told her that they have trained Mr. Simperts to set it up, so City employees do not have to set it up. If Council wants City forces to do it the charge would be the same amount as the Lions Club gets charged, roughly \$150 to \$300. The City has provided the bandstand in the past. It would be the City's insurance that would be on the hook.

Councilperson Gaworski said there was a complaint about the stairs. Mrs. Thomas said that has been worked on by Public Works Department.

Solicitor Losco said he flagged the same issue as Mrs. Thomas did. He said he would heed the warning of the carrier that City personnel should put this stage together. That would put the City in a better position.

Councilperson Megginson made a motion to do it.

President Barthel said to take a look at the costs and see whether to charge the amount or not.

5. Discussion of a request from Signature Homes for special dispensation and relief for a home in the Riverbend Subdivision, where the exterior of said home is to be constructed of natural materials, in accordance with the Declaration of Restrictions.

Lee Ramunno, an attorney representing Signature Homes, a small company that purchased roughly six lots in the Riverbend community, addressed Council. They built four townhouses. The restrictions require natural materials. The builder interpreted that as natural looking and

thought it could use vinyl siding. They applied for a building permit using vinyl siding and it was approved in July 2009. One of the homes was sold a year ago. Now they have a contract to sell another home and it came up the material was not correct and could not get a CO. The four homes are interconnected. The person who already owns one is not going to change it. They realize they made a mistake. But the City's building people not only approved it but granted a CO.

President Barthel said there is a bigger issue and the City looks at this as one big development. There are some big issues outstanding with Riverbend, such as the causeway, owing fees, issues with COs and electrical connections.

Solicitor Losco said that this property has not been fully inspected and still has an issue with MSC.

A discussion was held about the siding, changed regulations regarding insulation and the difficulty of fixing it.

Mr. Ramunno said this is Signature Homes not Riverbend developers. The individual who has bought this home faces deadlines to get a mortgage.

President Barthel said the City needs to get additional information and take time to evaluate the big picture and rely on Mr. Losco.

Mr. Losco said there is a matter regarding electrical connection with another Signature property. He also said that if there is going to be an exemption on these four units, Riverbend has to be part of this agreement. He does not want Riverbend coming back later and saying since it did not apply here they are entitled to the exemption as well.

## **6. Comments from the floor**

George Smiley said he currently represents residents of the 7th District on New Castle County Council. He is before Council to open the door of communication. As a result of the Census and redistricting, there will be developments that are currently within the 12th Council District that will become part of the 7th District after the 2012 elections. Those areas are in City of New Castle.

Chris Hemmel, a resident of New Castle County, handed out a code of conduct for the metal detecting hobby. A week ago or so he called the Police to get permission to do metal detecting in Bull Hill Park. The officer said it was permissible. Last night a gentleman told him it was a violation of a local ordinance. He looked online and could not find such an ordinance. He said he understands Battery Park is off limits and has signs prohibiting it. He is asking permission to use his metal detector in Bull Hill Park.

Administrator Thomas asked if he was aware of the location of the City-owned park at Bull Hill versus the Trustees property nearby. She explained the difference.

Mr. Losco said he has not come across a local ordinance. He will get back in touch with Mr. Hemmel.

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

The meeting adjourned at 8:48 pm.

Respectfully submitted,

Michael Dickinson  
New Castle City Clerk