

**City Council of the City of New Castle
Special Council Meeting at Town Hall
201 Delaware Street – New Castle
Monday – November 11, 2013 – 6:30 p.m.**

Call to order: 6:30 pm

Roll Call:

Councilperson Vannucci
Councilperson Petty
Councilperson Cochran
Councilperson Megginson
Council President Barthel

Also present:

Daniel Losco, City Solicitor
Donald Reese, Mayor

President Barthel explained that this is a special meeting in the form of a Public Hearing before the Mayor and read the applicable code: 22 Delaware Code Section 701 regarding the removal of a member from the City's Planning Commission.

The proceedings are to seek the removal of Dorsey Fiske from the City of New Castle Planning Commission. She is accused of having communicated with state and federal officials in her capacity as a planning commission member without authority to do so and in the process wrongfully interfered in city business among other things.

The Mayor will conduct the hearing and render a decision. If the Mayor's decision is removal, the council will then vote on the recommendation.

President Barthel turned the hearing proceedings over to Mayor Reese.

Mayor Reese reviewed process for the hearing. President Barthel will present his facts, arguments, witnesses and documents. Ms. Fiske will then be permitted to do the same. The City Solicitor is present and may advise the Mayor as needed. The Mayor will render a decision which will be considered by council.

Testimony of President Barthel

President Barthel was sworn in. President Barthel received an email from Mr. Smi of DEMA stating that Ms. Fiske had called DEMA and FEMA representing herself as a Trustee and Planning Commission member. She stated that any funding from their agencies for purposes of building a pier had to be voted on by the Trustees. The email from Mr. Smi was read into the record and is attached to the minutes (Attachment 1).

President Barthel called the City Solicitor to assist with resolving the confusion caused by Ms. Fiske's phone call. President Barthel read an email that he sent to the Trustees of the New Castle Common into the record which is attached (Attachment 2).

President Barthel stated that Ms. Fiske did not make any inquiry about her concerns to any city council member, city government official, planning commission chairperson, or any trustees prior to contacting the state and federal agencies. He believes she has abused her positions on the planning commission and trustees. The Director of DEMA called a trustee, Tom Clayton, seeking clarification of the authority of the Trustees in this matter. Her interference caused question in the minds of DEMA and FEMA as to the authority of the City in regard to the pier and damaged the relationship between the Agencies and the City.

The Trustees have communicated that they unanimously believe that they have no standing in the rebuilding of the pier. An email from Mr. Alfree was read into the record and is attached (Attachment 3).

President Barthel read into the record an excerpt from the Planning Commission meeting minutes of October 28th regarding a discussion between Ms. Fiske and other members in regard to an ordinance change to remove members of the commission. The minutes are attached (Attachment 4).

President Barthel reiterated the damage done by Ms. Fiske's communications with DEMA and FEMA, the inappropriateness of those communications, and the misrepresentation of her authority to speak for the Planning Commission and the Trustees.

Ms. Fiske was reappointed in April by the Mayor to the Planning Commission and approved by City Council with the belief that she knew and understood her role and the correct processes and procedures. Ms. Fiske has been asked to resign but has refused.

President Barthel called one witness: David Bird, Chairperson of the City of New Castle Planning Commission.

Mr. Bird was sworn in by Mr. Losco. President Barthel asked Mr. Bird if Ms. Fiske had asked for permission to talk to DEMA and FEMA. Mr. Bird replied that she did not. Mr. Bird advised that if she had asked, he would have referred her to the City Administrator, the Mayor, the City Council President, or the City Council member in charge of grants. He would have offered to inquire and report his findings. When the President asked if he had spoken with her since the process began, Mr. Bird replied that they had spoken about the circumstances and he relayed his concern with members implying that they represent and speak for the bodies. He has always found her to be a good volunteer and a hard-working member of the commission but that he cannot condone this type of representation. Mr. Bird testified that he did not ask her to resign but did tell her that he would not like her to have to go through the public hearing. He indicated that she was sorry and did not intend for this outcome.

Testimony of Dorsey Fiske

Ms. Fiske was sworn in. She clarified that she was speaking tonight as a Planning Commissioner and private citizen not representative of any other board or committee. The circumstance of her inquiry is that she wanted clarification of the rules regarding funding and the transfer of funding between projects. This concern was raised as a result of hearing that the FEMA funding to restore the Prisoner's Bridge might be redirected to building of a new pier at the October City Council Meeting. She wanted to be clear about the ability to transfer the funding prior to the next Planning Commission. She was unable to find the rules governing the funding online, so she called FEMA and was referred to DEMA. She spoke with Stefan Smi. Her request was informational and not official, but Mr. Smi misunderstood her representation as a private citizen. She did not at any time represent herself as inquiring in an official capacity. Mr. Smi explained the rules for the transfer of the funds and they spoke about the history of the Battery Park and its relationship to the city.

Ms. Fiske is not aware of any rules concerning the Planning Commission that would prevent her or any member from looking into a matter before the commission. President Barthel did not call Ms. Fiske with any questions in regard to this matter.

Ms. Fiske discussed an ordinance proposed by City Council that would change the process of removing a commissioner without the input of the Mayor or a public hearing. That ordinance had to be changed to comply with State Law. She further remarked that it would not be good for the City if dissenting voices are silenced. It is valuable for the Planning Commission to have members with a variety of views and perspectives. Citizens may be hesitant to serve on commissions if they can be removed arbitrarily.

She gave council her email to the Trustees' lawyer inquiring about the ownership of the bridge and if it might be necessary for the Trustees to vote to make sure the Mr. Smi's concern with proper procedures are met.

Ms. Fiske is a researcher and wants first-hand information. She was merely making an inquiry to get first-hand information from the source of the rules.

Ms. Fiske called witnesses:

Karen Heyman was sworn-in. Ms. Heyman testified that she has lived in the town for 30 years and has known Ms. Fiske most of those years. She believes that Ms. Fiske didn't mean to step on anyone's toes. She just wants to protect the town's history. Ms. Heyman read a letter she wrote to Mayor Reese. Anyone has the right to present their credentials when speaking. Presenting credentials doesn't mean that they are representing the body unless they specifically make that claim. She cautioned city against taking punitive action against people that don't agree with the agenda of other officials.

Susan Marinelli was sworn-in. Ms. Marinelli testified that she has been a Planning Commission member for 3 years. She lives in Shawtown. Had she been aware of what was occurring, she may have called herself with the same inquiry as a citizen. Ms. Marinelli

appreciates Ms. Fiske's thoroughness of finding the facts. She does not understand Mr. Smi's reaction to being asked questions. Ms. Marinelli asked who would benefit from Ms. Fiske's removal? Not the citizens. Not the commission. The Planning Commission web site shows their responsibilities to be the review of development plans, make recommendations to the City Council, prepare and adopt a comprehensive plan, and make studies and investigations of the resources and needs of the City. What Ms. Fiske did seems to be well within the scope of the Planning Commission. She does not believe the Ms. Fiske's removal would benefit anyone.

The Mayor commented that there is no need for testimonials. The public hearing is for the presentation of facts. Ms. Marinelli responded that this happened very quickly and she did not have time to develop a testimony of facts.

Ms. Fiske responded that the only fact that is germane is that she did not represent herself as speaking for the Planning Commission or the Trustees in her conversation with Mr. Smi. She believes that the reaction to her inquiry is overkill.

Jonathan Justice was sworn-in. Mr. Justice is a member of Planning Commission but is speaking only for himself. It is possible that Ms. Fiske is misrepresenting her conversation with Mr. Smi, but he has known her for nine years and he finds it unlikely. His understanding of the planning commission role is to be an independent voice separate from city governments and other elected officials. He believes that becoming well informed as Ms. Fiske did is precisely her role.

Florence Smith is a member of Planning Commission but spoke as a private citizen. She has been on the commission with Ms. Fiske and found that she researches everything and is very knowledgeable on all issues. She can't understand the reaction to asking a question and it seems something else must be going on.

President Barthel called a witness.

Bill Boyle was sworn in. Mr. Boyle testified that at two planning commission meetings, he heard Ms. Fiske say that the Trustees will never allow actions to be taken. One time was in relation to a road behind properties on 2nd Street and the other was in relation to the Broad Dike. Both were city issues with no Trustee involvement.

Mayor Reese rendered his decision

Based on the facts, Ms. Fiske went beyond her authority. The chairperson determines where the facts come from and the chairperson can request assistance from the members. She caused government agencies to question the City's appropriation of funds and conscientiousness of the Council. Mayor moved that Ms. Fiske be removed from the Planning Commission.

President Barthel asked if the council members have questions.

Councilperson Vannucci: There is a long way to go before any dock is built. He represents the entire city in Dover and Ms. Fiske's has made everyone in the city government look bad to the State government.

Councilperson Megginson: Appreciates the character witnesses for Ms. Fiske. He takes offense to the statements in Ms. Fiske's letter to Mr. Taylor, the Trustees' lawyer, that the city has the habit of doing things without Trustee approval. Mr. Megginson is not aware of any time that the city has done anything that needs the Trustee's approval. Similarly, the Trustees do not ask for the city's permission to do things within their authority. While he dislikes the need for removal, he agrees that it must be done.

President Barthel stated that there are processes that need to be followed. He believes that Ms. Fiske had good intentions but if everyone called government agencies about city business we would have chaos. He believes that Ms. Fiske must be removed to restore the reputation of the city. Mr. Smi believes that she represented herself as making an inquiry as a Planning Commissioner and Trustee.

President Barthel asked for a Motion to Approve the Removal of Ms. Fiske. The motion was made by Councilperson Cochran, seconded by Councilperson Megginson and passed unanimously.

Motion to adjourn at 7:20 pm by Councilperson Megginson, seconded by Councilperson Cochran, and passed unanimously.

Respectfully submitted,

Janet E. Wurtzel
Clerk of the City of New Castle

Attachments:

1. Email from Mr Stefan Smi of DEMA to President Barthel dated October 14, 2013
2. Email from President Barthel to Mr. Alfree, President of the Trustees of the New Castle Common dated October 15, 2013
3. Email from Mr. Alfree, President of the Trustees of the New Castle Common to Mr. Losco November 6, 2013
4. Verbatim Text from the Planning Commission Meeting on October 28, 2013