

City Council of the Mayor and Council of New Castle
Regular City Council Meeting at Town Hall
201 Delaware Street – New Castle
Tuesday – February 14, 2012 – 6 p.m. Public Hearing

Present:

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

Absent: Councilperson Ted Megginson

President Barthel said this is City Council's fourth meeting related to the proposed changes to the City Charter. The Charter Committee has been working on it for eight months. Mr. Megginson is ill and will not be at the meeting so Council will not be voting on the Charter matter at this meeting.

City Solicitor Losco provided an overview of the proposed minor changes to the Charter. He was part of the Committee that was charged with looking at the Charter and proposing change. It began its work last June. All the meetings were publicly noticed.

The changes included items, such as annexation, which refer now to State code. In other areas there were changes made to eliminate unconstitutional requirements such as requiring the Mayor to be a landowner. The changes also make the Charter gender neutral and modernize it. It also clarified the process for selection of the City Engineer and City Solicitor. It also provides for a mechanism where a Councilperson who does not attend at least two-thirds of the regular meetings can be removed from office. It increases the penalties for fraudulent voting to \$1,000. The duties of the Mayor were elaborated on but left chiefly unchanged. The Mayor's Court remains in the Charter, though the court has been inactive for years.

Solicitor Losco said the Committee recommended streamlining the ordinance procedure. Proper assessment procedures also were addressed—any appeals go to the County.

President Barthel said there are two significant issues: the first related to giving Council the ability to borrow money and the second is extending the terms of office from two years to four years.

President Barthel said there has been some misinformation being put out. The City does not want to borrow money for the purpose of building a pier. Because of that allegation, he is going to ask Mr. Losco to put some language in the Charter that would alleviate the fear that this proposed Charter change is a backdoor approach to financing a pier.

President Barthel explained how the City got to the point where they thought it was a good idea to allow Council to borrow money without a referendum. The City has been working with DNREC for the past year and one-half regarding the dikes in the City. The cost to repair the dikes ranges from \$3 million to \$10.5 million. There came to the City's attention two matching grants for smaller projects that would have helped stabilize the waterfront, specifically in the Buttonwood area. Because of the Charter's requirements, the City was unable to access the grants because there was not time to arrange a vote. It would have helped stabilize the dike in the most need of repair. Down the road Council has to be able to respond. When Council met with the Charter Committee it told the Committee of this interest.

The Committee proposed allowing Council to borrow up to 5 percent of the taxable assessment. Council thought it was potentially too much money.

President Barthel said if there is a disaster in New Castle the City would not be able to borrow money to address it. It would take as much as six weeks to get a referendum together to borrow money. If the City cannot access funds, Councils lose the ability to protect residents, in the case of dike repairs or major road repairs.

Tier 2 would allow the City to borrow up to \$3 million without a referendum to address those types of situations.

The first tier would be for short-term basis—up to 13 months—up to \$500,000. President Barthel explained that back in 2005 the City had a potential shortfall in funds that meant it would not be able to pay its bills or meet its obligations. At the time Council was convinced by then Councilman John Dimondi to set up a line of credit of \$250,000. The resolution entered an agreement with the Wilmington Trust backed by property tax revenues. The resolution was supported by then Mayor John Klingmeyer, in violation of the Charter. The decision was to violate the Charter and not have a referendum.

Any amount borrowed over 1.2 percent of the assessed taxable value will go to referendum. Anything above that amount, currently \$3 million, would go to referendum. All borrowing would require a supermajority of Council—four out of five members of Council must approve it for it to go forward.

President Barthel said the second major issue among the proposed Charter changes is a four-year term. The Committee came back to Council with an alternative: three-year or four-year terms. The Committee members' reasoning was new members of Council need at least one and one-half years to get up to speed and understand what is going on.

President Barthel cited an example of more than three years ago when he was new on Council, and then-Mayor Klingmeyer accused Council of having violated FOIA. It turns out Council made a mistake and it corrected it. The response from the Attorney General's office was that she was not so much concerned with Council's mistake but that Mayor Klingmeyer was sitting in on executive sessions. He had been doing that since the inception of FOIA—25 years, and nobody knew any better.

President Barthel read from Council minutes from 2005 where then-Mayor Klingmeyer had requested an executive session to discuss the hiring for the City Solicitor's position. President Barthel said he brings this up now because when you have career politicians who know how to beat the system, other new officials may not have the confidence to stand up to seasoned politicians. He added he does not think Mayor Klingmeyer did it intentionally. The City has a system of checks and balances, and it works both ways. The Mayor checks the Council and the Council has to be able to check the Mayor.

President Barthel said the office terms also would be staggered, which means there would be continuity, which would help keep those types of abuses out of the system.

John Houben, a member of the Charter Committee, said with the staggered terms there is always 50 percent of the Council and Mayor that remains.

Sally Denton, of East Second Street, thanked the folks who worked on the Committee that worked on the Charter. She said she read the letters in the weekly paper and found it insulting they would write that these people had a hidden agenda. None of these volunteers had a hidden agenda. Living on Second Street, right down from the Broad Dike, it's a very dangerous situation if it breaks the people there are in big trouble—Second Street will be flooded; the Strand will be flooded. It is in bad need of repair.

Jack Klingmeyer, of West 13th Street, also thanked the members of the committee. He said the Committee meetings were public but not public hearings. The committee did as it was charged, came up with suggestions. All of them are subject to debate. He said changing the Charter is like changing the U.S. Constitution or a State

Constitution. The public has not had widespread discussion. He finds some ideas to be outstanding and there should be additions to make government more accountable to citizens. He said allowing a Charter change by a resolution puts it down to a low level. He said a resolution is a minor act. He recommended using the Home Rule process, which is more detailed and gives broader input.

Karen Heyman, of East Second Street, asked about the details of the grant President Barthel referenced earlier.

President Barthel said it was a \$400,000 grant with a \$200,000 match.

Mrs. Heyman asked how much the City has in a rainy day fund.

President Barthel said \$250,000-\$300,000.

Michael Heyman, East Second Street, said he is totally against 3-year or 4-year terms. He said officials have to earn their second term. He said he was disappointed that President Barthel spent 10 minutes on a vendetta against Mr. Klingmeyer.

William Boyle, Second Street, said Mr. Klingmeyer is the first one to say how long he has served on Council and as Mayor. The U.S. Constitution has been amended many times but it has taken up 20 years for some of them because you have to meet requirements of a certain number of states. Do we have that amount of time for the dikes? The same people who have tried to scare everyone about how dangerous the river is are now opposed to trying to repair the dikes.

An unidentified person said she agreed with a lot of what Mr. Klingmeyer said in that there needs to be more awareness of what is going on; either by referendum or some other way.

Mayor Don Reese, of West Seventh St., asked how someone could say the public is not informed. There is the weekly paper, the Cobblestones, the Town Crier in the electric bill, postings ahead of meetings, the website and a mailing sent out. Mr. Klingmeyer neglected to send anyone to the Charter Change committee previously. He has gone to Dover after Charter changes have passed and fought them on the floor of the Legislature after he agreed to them. If one of the Councilpersons or a Mayor is against the changes they do not pass in the Legislature. Mayor Reese said he went to some of the Charter Committee meetings. The members included a former Mayor, a former Council President, a businessman and a person of the people.

Michael Dorph, of 9th Street, said he thinks the proposals are decent except for two problems. First, when Congress votes itself a pay raise it is the next Congress that gets it. If Council wants to change that's fine, but after their term.

President Barthel said that is the case, the term changes would take effect with the next Council.

Mr. Dorph said if the language indicates it is for specifically an emergency dike problem or road problem, he does not have a problem with it. He wants it written right so future Councils cannot use it as a backdoor.

President Barthel said that was a concern expressed by the Charter Committee as well—a concern for future Councils' actions.

Mr. Klingmeyer said the City of New Castle has resources that have come forward in emergencies in the past: Municipal Services Commission and the Trustees. He said funding for emergencies would be available from other resources. He said he ran in the past as an independent Mayor. He said the Mayor is allowed to attend executive sessions. The Attorney General only raised the question about his attendance.

President Barthel said that when first elected he asked then Mayor Klingmeyer about putting together a Committee to look at the Charter. Mr. Klingmeyer responded at the time that all President Barthel wanted to do was to remove the authority of the Mayor. President Barthel said he had responded that was not the case, he just wanted to bring it up to date. He then asked then Mayor Klingmeyer to appoint someone to the Committee. Instead, the then-Mayor left a thick document from 1975 and said: there was his Charter change. President Barthel said he personally asked for then-Mayor Klingmeyer's help in changing the charter, and he personally said no.

Councilperson Cochran asked Mr. Klingmeyer if his opinion on the loans would be different if he owned property downtown.

Mr. Klingmeyer said he does not know, it would depend on the issue.

Mrs. Heyman said she wants the resolution to be posted online so people can see the wording.

Ms. Denton said she has a lot of respect for Mr. Klingmeyer but the Mayor now is Don Reese. If Mr. Klingmeyer has concerns about things he should get involved. Get involved in the committees—people need residents' help.

Mr. Heyman asked about the referendum passed a couple of years ago, and work that was supposed to be done in Buttonwood.

President Barthel said that project was the stormwater project that involved the tide gate in Buttonwood, but was not meant to fix the entire dike. The \$1.7 million project was spread over multiple areas across the City.

Mr. Heyman said a press release was sent to all legislators putting them on notice that they will be going to Dover if they feel the Charter changes are not in the best interests of citizens.

Ms. Denton said what is in the press releases is untrue—to connect a change in the Charter to a pier. It is a scare tactic.

Jean Norvell, of West Fourth Street, said the statement that the Council does not have any money for a referendum but gave \$6,000 to Historic New Castle Alliance is untrue. The \$6,000 went to the Planning Commission. She said that is the concern of many people—there are half-truths, people are getting smeared. The information about the pier is so disturbing to many people. It is just not true.

Josephine Moore, of 31 W. Fourth St., said she served on the Charter Committee. She said not once in any of the meetings was the pier mentioned.

Mrs. Heyman said the reason people connect the Planning Commission and HNCA is that one person is involved and has power in both.

Mr. Dorph said grant money still comes from tax dollars.

Mr. Houben, a member of the Charter Committee, said that after being elected Mayor he spent 35 to 40 hours a week learning the job. It took at least one and one-half years before he learned some of the things that go on in front of you and behind you, and learn who is working against you. That was one reason why in 2001 he did a survey on staggered terms.

Councilperson Cochran said Council is not going to please everybody in the City. If there are one or two people who don't like it, someone is going to smear someone. This is not the way it's supposed to work. You go to the

game and whoever wins, wins. Let's be fair with each other. Try not to do the smearing. The City does not need it.

Councilperson Petty said she appreciates people who come and express their opinions. Some of them are good ideas; some are not good. Council tries to blend them together to make people happy. Her biggest concern is if Council is doing everything it can to get information out to people. She would like to hear the people who say nobody knows what is going on, she would like to hear their suggestions on what more Council should do.

Councilperson Gaworski said this is a community that equals a family. The City needs to get together and do everything calmly without hurting each other.

Councilperson Cochran made a motion to adjourn the public hearing. Councilperson Gaworski seconded the motion. The hearing was adjourned at 7:05 p.m.

Respectfully submitted,

Michael Dickinson
New Castle City Clerk