

**City Council of the City of New Castle**  
**Public Hearing at Town Hall**  
**201 Delaware Street – New Castle**  
**Tuesday, January 16, 2018 – 7:00 p.m.**

**Call to order:** 7:00 p.m.

**Roll Call:**

Councilperson Leary - present  
Councilperson Quaranta - present  
Council President Ratchford - present  
Councilperson Platt - present  
Councilperson Di Mondì - present

Also present:

William Barthel, City Administrator  
Janet Carlin, Treasurer  
Daniel Losco, City Solicitor  
Vince Barbone, City Auditor- Whisman Giordano & Associates, LLC  
Sherry Garris, Manager - Whisman Giordano & Associates, LLC

**Public Hearing concerning Ordinance 514;** An Ordinance to amend the City Code Chapter 209, Street and Sidewalks, Article I, clarifying the duty of property owners and occupants to maintain sidewalks adjacent to their premises.

President Ratchford opened the meeting and asked the City Solicitor to make opening remarks regarding the Public Hearing.

City Solicitor Losco reviewed the background of Ordinance 514. Mr. Losco stated that there were a number of things that prompted this Ordinance. In reviewing the Code, there are a number of situations where owners of adjacent properties are required to repair and maintain sidewalks, namely from things like snow and ice and damage from tree roots. We also saw a statement in the Charter that said the City may impose the obligation to repair and maintain sidewalks by Ordinance. Mr. Losco stated that it was felt there was a gap in the maintenance and repair obligation, including general decoration to limit. If there is a significant tripping hazard or other problem on the sidewalks, you don't want the City to be brought into litigation alleging negligent failure. Close the Gap and limit the City's liability from trip and fall accidents.

President Ratchford asked for public comment.

Alice Riehl West 4th Street. Ms. Riehl said she was very concerned about this Ordinance, because it affects everyone in the Historic District. She said 90% of the properties in the historic area have what the Ordinance calls not safe or unusable sidewalks. She noted the Ordinance gives residents 45 days to repair their sidewalks, or the City will repair them, and then bill residents with a 20% administrative fee. Residents then have 60 days to pay that cost, or a lien is

placed against their property and they are charged 12% interest a year until it is paid. Ms. Riehl said this seems punitive given that this Ordinance will require 90% of property owners to redo their sidewalks. She also noted that asking only some people to redo their sidewalks through selective administration of the law might open the City up to lawsuits other than liability. She said she feels the Ordinance needs to be rethought.

President Ratchford asked Mr. Losco if this is similar to other Ordinances in other cities.

Mr. Losco stated that almost universally there is strict liability for sidewalk repair and replacement amongst other jurisdictions. Mr. Losco said he had randomly checked other municipalities in the area, and they had similar language.

Bruce Burk: Harmony Street: Mr. Burk said he agrees that the Ordinance seems very punitive in nature. He asked about houses with no sidewalks would the City require them to put in sidewalks. Mr. Losco stated that the Ordinance does not cover that. He asked if this Ordinance also applies to the residents in areas such as Van Dyke. Mr. Losco stated that the Ordinance would apply to all areas of the City. Mr. Burk asked if it is the norm around the country to have property owners is responsible for sidewalks and curbs. Mr. Losco stated that it is generally the norm for homeowners to be responsible for the maintenance and repair of adjacent sidewalks. Mr. Burk commented that in the historic area, the downspouts drain right onto the sidewalks causing ice problems.

Roderick Gillespie W. Fourth Street: Mr. Gillespie said he has been a longtime resident of New Castle. Mr. Gillespie said his concern with the Ordinance was with curbing and gutters. Granite curbing is extremely expensive and heavy, and would have to be done by a general contractor. He said he feels that the curb and gutter should be taken care of by the City to their safety specifications, and if the Charter assigns responsibility of curbs and gutters to property owners, maybe it is outdated and should be changed. Mr. Gillespie also thought the fines and interest fees were too high.

Councilperson Quaranta asked if the charter were changed and the City assumed responsibility for curbs and gutters would that change ownership. Mr. Losco said generally the sidewalk is in the City's right-of way. The question is not ownership, but responsibility for maintenance.

Councilperson Di Mondì said he thinks the curbs and gutters should be part of the roadway. The homeowner has the obligation to maintain the sidewalk. He would recommending that the Gutter and curb section be removed from the Ordinance.

Karen Whalen West Third: Ms. Whalen said she feels the sidewalk curbs and gutters portion of the Ordinance needs more discussion and better definition. Ms. Whalen asked if the sidewalk is a public right-of-way, and noted that many of the trip hazards on the sidewalks are from the City such as gas mains and old sign posts. Ms. Whalen this Ordinance would be a hardship for people in town on fixed incomes, and felt it needed more thought and input.

Susan Orchard East Second Street: Ms. Orchard said this Ordinance will not protect the City from lawsuits. Ms. Orchard said her deed shows her property stops at her house, and does not go out to the Street. Ms. Orchard said she agrees with the other comments regarding the gutters and curbs. She felt City Council needs to rethink this Ordinance.

President Ratchford said the City also gets complaints about dangerous sidewalks, and that is why they are having the hearing. President Ratchford

Garrett Schneider West Fifth Street: Mr. Schneider said his main concerns had already been expressed, and he wanted to echo the general sentiment that the Ordinance needed to be rethought and revised, but he wanted to commend the City for addressing the gap in the Ordinance and protect itself from liability.

Mr. Schneider said he felt the 45 days to respond was inadequate, and the appeals process needs to be clarified. He said he would like to see an exception when damage to sidewalk is done by the City or people working on behalf of the City. Mr. Schneider asked if the ADA compliant curb cuts would be included in

Alice Riehl West 4th Street: Ms. Riehl asked how the Ordinance will be enforced. Would the Code officer go street by street giving citations to each property? If not, how will the Ordinance protect the City from liability if the City is not enforcing it?

Mr. Barthel said the intent of the Ordinance is not to be the "sidewalk police" going from house to house, the intention is if there is a serious situation where a large area of a sidewalk has to be replaced it has to be replaced up to current code, and this would allow it to be done in a timely manner.

Mr. Losco stated that if there is strict liability for sidewalk maintenance and repair of the abutting property owner, and that is the law then a defense lawyer can take that to a judge, and show the City has no responsibility. This provides a legal argument under summary judgement.

President Ratchford asked Mr. Losco to compare the sidewalk issues to other Code issues. Mr. Losco said generally the Code Officer will get complaints about an issue and then goes out to investigate. So, if he got a complaint about a serious sidewalk issue he would take appropriated action.

Mr. Barthel cited a property recently that needed emergency repairs for public safety reasons. The City made the repair and put a lien on the property. There are times when the City needs to take ownership of a situation if there is an issue with public safety.

Councilperson Quaranta stated he would like to go on the record and take a closer look at this Ordinance. He also suggested going street by street and assessing the situation going forward. Finally he would like to see clarification regarding the ownership of the curbs and gutters. He would like to table the Ordinance.

Larry Renu East Tenth Street: Mr. Renu said he was new to the City and wanted to know if he made improvements to his sidewalk who he would contact to make sure they were up to the City code. He was told to contact the Building Inspector, Jeff Bergstrom.

Councilperson Platt stated that he wanted to remind everyone this is a citywide problem. There are tree and sidewalk issues throughout the City.

Councilperson Di Mondri suggested that residents receiving the property tax exemption should be able to finance through the City, so they would have time to pay with no interest.

President Ratchford reviewed possible steps forward and asked Mr. Losco for his opinion.

Mr. Losco suggested taking the comments heard tonight and revising the Ordinance.

Motion to adjourn made by Councilperson Leary, and seconded by Councilperson Di Mondri.

Public Hearing adjourned at 7:58 p.m.

Respectfully submitted,

Kimberly Burgmuller  
City Council Secretary