

City of New Castle, Delaware
Regular Council Meeting at Town Hall
201 Delaware Street – New Castle
Tuesday, February 13, 2018

The meeting was chaired by Councilperson Michael Quaranta, due to Council President Ratchford's unavoidable absence, to attend to a family funeral in Mississippi.

Roll Call: 7:00 p.m.

Councilperson Valarie Leary
Councilperson Michael Quaranta
Council President Linda Ratchford (absent)
Councilperson Michael Platt
Councilperson John A. Di Mondì

Also present:

William Barthel, City Administrator
Jamie Rogers, Chief of Police
Jimmy Gambacorta, Mayor
Janet Carlin, City Treasurer
Daniel Losco, City Solicitor
David Athey, City Engineer

Business from the Mayor

- On 2/12, the Board of Adjustment voted unanimously (3-0) to allow a variance from Chapter 230, related to front and side yard setbacks, to Krienen-Griffith Funeral Home, at their new property at 6th Street and Tremont Street.
- The Mayor is working with City Administrator Barthel and the Supervisor of Public Works, on a program to repaint and straighten sign poles in the city.
- The Mayor will be attending a meeting on 2/14 with a city Code Enforcer, regarding signs on poles, etc.
- The Mayor will be attending the upcoming Black History Program at the Buttonwood Civic Association.

There were no Council communications reported.

Approval of Treasurer's Report

City Treasurer Janet Carlin reported for a total of \$4,667,299.64 unaudited \$4,155,999.76 as of 11/30/2017

Ms. Carlin advised that the city is 59% through the year. She referred to the report provided to the Council, specifically to the year-to-date budget versus revenue, at 73%. Last year, it was at

approximately 80%, due to transfer property taxes, and the HAC applications being at 207%, versus 68% today.

After a motion and second, the unaudited Treasurer's report, as presented, was unanimously approved.

Business from the Floor (concerning agenda items only)

City Treasurer Janet Carlin spoke on the agenda item related to changing the positions of City Clerk and City Treasurer to appointed positions, rather than elected. After providing a brief history of her time in the position of City Treasurer, she stated that the two positions (City Treasurer and City Clerk) are very different and should be considered individually. She opined that appointed positions might invite ethical challenges, and she asked that the Council allow the position of City Treasurer to be filled by a vote of the electorate, rather than appointed by Council.

City Clerk Brian Whitaker spoke on the agenda item related to changing the positions of City Clerk and City Treasurer to appointed positions, rather than elected. He stated that he agrees with Ms. Carlin's statement, and opined that both positions should be elected positions, rather than appointed.

Report from the City Administrator & Staff

City Administrator Barthel made the following report:

- As per Council tasking him with obtaining an appraisal on the Dobbinsville Police Station property, which was declared surplus at the previous month's meeting, Mr. Barthel received an appraisal at \$40,000 as is. If no objection, he will move forward to sell the property as is. He will see that any offer to be considered by Council will include language to the effect that the potential buyer's plan for the property would be completed in a timely manner, such as within a six-month period. There was no objection from Council.
- The city has been approached by general counsel for Light Tower Fiber Technology Networks, to enter into a pole attachment agreement. City Solicitor Losco is working with their counsel to iron out an agreement, which will be brought before Council for consideration.

Police Chief Rogers made the following report:

- In January of 2018, there were 48 criminal arrests, 200 traffic tickets, 76 traffic warnings, 14 crime prevention checks, 122 crime reports taken.
- In 2017, the Police Department administered 32 doses of Narcan.
- In January of 2018, four doses of Narcan were administered, and two have been administered so far, in February.

In response to an inquiry from Councilperson Platt, Chief Rogers advised that the increase in numbers from January of 2017 is very concerning. Crime is increasing in the city.

In response to an inquiry from Councilperson Leary, Chief Rogers advised that he had received a handful of responses to his request that citizens advise the Police Department if they have security cameras in place on their property.

In response to an inquiry from Paul Hannon in the audience, Chief Rogers advised that there is not a particular “string” of types of criminal activity going on in the city, for which the people need to particularly be on the lookout.

Old Business

1. Recommendations from Task Force on Ethics presented by Katie McCormick, Esq. (Councilperson Quaranta – posted 02/06/2018.)

Katie McCormick, Esq. presented the following information, related to the Task Force on Ethics:

- She provided a brief history of the formation of the task force, and the appointment of the members.
- The only member of the public to attend the three public meetings on 10/28, 11/9 and 11/29 was Jerry Rousseau, who has since been appointed to the task force, to replace Joe Wisniewski, who moved out of the city.
- The task force studied the Delaware state code that applies to the conduct of elected officials, employees of municipalities and appointed officials.
- The task force also studied the municipalities’ codes of Delaware.
- The state code is of minimum stringency, and recommends that municipalities consider adopting their own codes of ethics and conduct.
- Nearly half of the municipalities in Delaware have adopted their own codes of ethics and conduct.
- The task force has determined that it is advisable that the city of New Castle adopt its own code of ethics and code of conduct.

Ms. McCormick then read the recommendations of the Task Force on Ethics into the record (previously posted on 2/6/2018 by Councilperson Quaranta).

In response to Councilperson Quaranta’s comment that he understood that city employees were to be left out of the process, due to union contracts, Ms. McCormick advised that he may be correct, and perhaps they should listen to the audio of the meeting in which that was discussed. She stated that the intention was to carve out authority of the City Administrator and Police Chief to discipline their own employees. The topic of city employees, in relation to the recommended code of conduct and code of ethics, should be looked into in further detail.

Councilperson Quaranta reiterated that there is currently a body of regulation that governs ethics and conduct, lest the citizens of New Castle thought otherwise.

Councilperson Platt commented that the issue of city employees and any codes of conduct or ethics, would have to be revisited.

Councilperson Quaranta thanked Ms. McCormick for her efforts and those of the task force. After some further discussion and comments, he advised that there is no current plan in place to pursue this topic further.

Councilperson Di Mondì requested clarification from Ms. McCormick, of some of the recommendations. He also expressed concern that he had not received the minutes of any of the meetings of the task force, which he had requested. Ms. McCormick advised that she had also inquired, and understood that the clerk had just been busy, and was hoping to complete them by the end of the week.

Councilperson Di Mondì expressed that members of the City Council are not city employees, and that they are beholden to the people of the city, as opposed to the city itself. He also expressed concern that the rights of the citizens might be subverted by a code of ethics and/or code of conduct.

2. Limited Scope Charter Change-Council Discussion (Council President Ratchford – posted 02/06/2018.)

Councilperson Quaranta advised that he would like agenda items “Limited Scope Charter Change Council Discussion” and “Motion, Discussion and Vote on Resolution 2018-04” be combined into one agenda item. There was no objection.

3. Motion, Discussion and Vote on Resolution 2018-04; A Resolution Approving Changes to the City Charter. (Council President Ratchford – posted 02/06/2018.)

There was a motion and second to introduce **Resolution 2018-04, A Resolution Approving Changes to the City Charter** (Council President Ratchford – posted 02/06/2018).

City Solicitor Losco read **Resolution 2018-04** into the record.

Councilperson Di Mondì requested clarification of who would appoint the City Clerk and the City Treasurer. He expressed his disagreement with the change of those positions to appointed, rather than elected, and stated his concern that this change is the beginning of a move toward a centralist government. He also expressed his disagreement with the resign to run portion of the resolution.

Councilperson Di Mondì also expressed his disagreement with the portion of the resolution related to absences from City Council meetings.

Councilperson Platt clarified that the resign to run portion of the resolution was introduced by himself, not by Council President Ratchford, as stated by Councilperson Di Mondì.

Councilperson Quaranta expressed that in his questioning of the citizens of New Castle, related to the items in Resolution 2018-04, he found that there was general agreement with the items in the resolution. There was concern about extended absences by Council members, as well as concern about delays in appointments. He also pointed out that if experience proves adoption of the resolution to be a mistake, it can be changed.

Councilperson Leary expressed her agreement with Councilpersons Quaranta and Platt, as well as the fact that she found the same responses from the citizens that Councilperson Quaranta found.

Councilperson Di Mondì asked Councilperson Quaranta whether he would be in agreement with limiting the compensation for the positions of City Clerk and City Treasurer to not being more than that of Council members. Councilperson Quaranta responded that although he would have no problem with that, it would not be an appropriate item for the charter change resolution.

Councilperson Di Mondì expressed that the oath of office mentioned in the resolution should defer to the United States Constitution.

City Solicitor Losco advised that Councilperson Di Mondì had expressed to him his desire to have the oath of office include deference to the U.S. Constitution. City Solicitor Losco also expressed that he does not support the resign to run portion of the resolution. He also clarified that attendance at a Council meeting by a Councilperson is defined as being counted toward a quorum.

It was moved and seconded to **vote on Resolution 2018-04**. The resolution was passed by a vote of three affirmative. Councilperson Di Mondì abstained.

After additional Council discussion, Council voted for the **Resolution 2018-04**, as follows (3 to 0):

Councilperson Valarie W. Leary voted Yes.
Councilperson Michael J. Quaranta voted Yes.
Council President Linda Ratchford was Absent
Councilperson Michael M. Platt voted Yes.
Councilperson John A. Di Mondì voted Abstain

4. Infrastructure Discussion. (Council President Ratchford – posted 02/06/2018.)

On the topic of the infrastructure discussion, City Administrator Barthel provided a recap, advising that at the November meeting, Mr. Athey and Mr. Bergstrom had presented some road project recommendations. The Council then directed them to secure bids for those projects. The bids were requested, and four companies provided bids. Mr. Barthel referred Council to a handout that had been provided, which included an overview of the process that took place.

Mr. Athey provided an overview of the process, also referring Council to the provided handout. Comparisons between bids were based on the bids for the Baldt Avenue and Third Street projects, as follows:

- Cirillo Brothers, a little over \$325,000.
- Reybold Construction, around \$334,000.
- Diamond Materials, around \$359,000.
- Abel Construction, \$372,000.

Cirillo Brothers being the low bidder, the recommendation is to award them the contract. The handout includes the alternate bids in sum total, and Cirillo Brothers was the lowest sum total bidder, at around \$874,000.

Mr. Athey reiterated that he had included a 20% contingency in all of his estimates, and that there are unknowns that the city might encounter once the projects have started, such as the condition of the pavement below the surface. Each of the bids includes an assumption for how much the cost of such unknowns might be.

Mr. Athey recommended that that same 20% contingency amount be included in Council's budget considerations.

The exception to the need for the 20% contingency would be Third Street, where 10% probably makes more sense, as it's not really a pavement project, and a very good set of working plans is already available.

In response to Councilperson Platt's question as to why the Delaware Street project is not included, Mr. Barthel stated that the size of the project, at \$1.4 million, along with the fact that the project engineering plans and other details that would be needed to obtain a bid, are not yet available.

Mr. Athey pointed out that additionally, the Delaware Street project is planned for 2019, and a reasonably accurate bid cannot be obtained that far in advance of the project.

Councilperson Di Mondì expressed preference that the Delaware Street project be broken up into affordable sections. He also asked about the possibility of using traffic counters, to help determine the priority of the street projects.

Mr. Athey agreed that the project can be put out to bid in sections, although economy of scale will be lost, in that case.

Councilperson Di Mondì offered to purchase a traffic counter, for the purpose of establishing the street project priorities.

Councilperson Quaranta advised that no projects have been chosen. Streets put out for bid were based on recommendations from various people. Available resources have not yet been determined at this point.

Councilperson Di Mondì recommended that the \$400,000 currently set aside for Delaware Street be used to complete the part of the project from 6th Street to 3rd Street.

New Business

Motion, Discussion and Vote on Resolution 2018-05; A Resolution Requesting Funding from the Trustees of the New Castle Common to Support Infrastructure Improvements Throughout the City. (Council President Ratchford – posted 02/06/2018.)

After a motion and second to proceed with discussion of Resolution 2018-05, A Resolution Requesting Funding from the Trustees of the New Castle Common to Support Infrastructure

Improvements Throughout the City (posted on 2/6/2018 by Council President Ratchford), City Solicitor Losco read the resolution into the record.

Councilperson Quaranta clarified that whether or not there would be a loan would be determined by whether or not the Trustees provide the (proposed) requested funds, which would be used to pay the principal and interest on any such loan.

City Administrator Barthel reported that in 2010-2011, through the American Recovery and Reinvestment Act (ARRA), the city requested and received funds from the Trustees.

City Solicitor Losco confirmed that the city will not be able to proceed with applying for a loan unless the requested commitment from the Trustees has been received.

Resolution 2018-05 was passed unanimously.

Motion, Discussion and Vote on Resolution 2018-06; A Resolution Approving Mayor's Appointment to the Planning Commission of Russell P. Smith, to fulfill the unexpired term of Joseph DiAngelo. (Council President Ratchford – posted 02/06/2018.)

After a motion and second to proceed with discussion of Resolution 2018-06, A Resolution Approving Mayor's Appointment to the Planning Commission of Russell P. Smith, to fulfill the unexpired term of Joseph DiAngelo (posted on 2/6/2018 by Council President Ratchford), Mr. Smith introduced himself and made himself available for questions.

Councilperson Platt expressed thanks to Mr. DiAngelo for his service.

Resolution 2018-06 was passed unanimously.

Comments from the Floor

Dorsey Fiske expressed confusion about participation by Council members in meetings, and asked whether a Councilperson might phone in to listen to the meeting.

City Solicitor Losco advised that that could be done, such as by placing a cell phone on the table, for the Councilperson to listen in. However, in order for that person's vote to count toward a quorum, they would have to be able to hear all comments, as well as communicate to the crowd.

Ms. Fiske clarified that she was not asking about having them vote. Councilmember Quaranta expressed that such a thing might be possible in the future, but a person must be physically present to vote, and to establish a quorum.

Ms. Fiske expressed that the sound in the Town Hall building is terrible, and she wishes the Trustees would do something about it.

Ms. Fiske asked whether anybody representing the city had spoken to any of the Trustees regarding resolution 2018-06. Councilperson Quaranta expressed that any assistance from the Trustees would be welcome, for not only the previously discussed projects, but many other projects, as well.

Ms. Fiske expressed concern that members of the Planning Commission might not be fully aware of their responsibilities, and suggested education be made available for members of all of the Commissions, in this area.

Councilperson Quaranta requested that City Solicitor Losco take steps to assist members of the commissions in understanding their roles and responsibilities.

Ms. Fiske expressed surprise to have found two Police Officers standing guard at the recent HAC meeting.

Victor Bryson asked where the construction/contractors' bids are routed to when they come in to the city, and who reads them.

Councilperson Quaranta responded that the bids were received at the City Administration building, and the City Secretary gave them to the City Administrator, who brought them to the Town Hall building, to be opened in a public setting.

Mr. Bryson asked why the Delaware Street project has not yet been engineered. He also expressed his belief that an end result of a gated private parking lot is already planned for the Third Street project, while being portrayed as a planned public parking lot. He also expressed his belief that the reason for the storm drain project is really for the apartments. Councilperson Leary expressed that that is not the case.

Councilperson Di Mondri suggested that the city look into inter-structure fees for hooking into the Third Street storm drain, per living unit.

Minutes: 01/16/18 Public Hearing Minutes; 01/16/18 Special Meeting Minutes.

After a motion and second, the minutes of the 01/16/2018 regular meeting were unanimously approved, as amended.

After a motion and second, the minutes of the 01/16/2018 special meeting were unanimously approved, as amended.

It was moved and seconded to adjourn the meeting.

Meeting adjourned at 8:50 p.m.

Respectfully Submitted,

Brian G. Whitaker

City Clerk of New Castle, Delaware