

City Council of the City of New Castle
Public Hearing at Town Hall
201 Delaware Street – New Castle
Tuesday, March 13, 2018 – 6:30 p.m.

A Public Hearing concerning Ordinance 512; an Ordinance to amend the City Code Chapter 193, Sanitary Code, Article IV. Water Supply prohibiting private potable and non-potable water wells without approval of the Municipal Services Commission. (Council President Ratchford – posted 03/06/2018.)

Roll Call: 6: 30 p.m.

Councilperson Valarie W. Leary
Councilperson Michael J. Quaranta
Council President Linda Ratchford
Councilperson Michael M. Platt
Councilperson John A. Di Mondì

Also present:

Janet Carlin, City Treasurer
Daniel Losco, City Solicitor
Jamie Rogers, Chief of Police
Jeff Bergstrom, Building Official and Fire Marshal
Kathy Walls, City Finance Coordinator

Council President Linda Ratchford announced that Pam Patone, General Manager of MSC, was present, as well as Water Supervisor, Jay Guyer.

Pam Patone provided an overview of the purpose behind Ordinance 512. The Municipal Services Commission (MSC) is required to provide drinking water that meets all state and federal regulations related to quality and quantity. Ms. Patone advised that private wells that are not properly maintained allow for contamination of the public water source, while pulling from the same Potomac Aquifer from which the public water is sourced, possibly impacting quantity.

Private well operators would be responsible to test their own wells. Some are unable to do so, for financial or other reasons, risking the quality of the drinking water.

Ms. Patone also expressed concern regarding the potential revenue loss to MSC if current customers, particularly larger current customers, were able to have their own private well for their water source. The additions to the infrastructure and associated costs would then be required to be borne by existing customers, if one or more large customers were in this scenario it may result in a rate increase to those remaining customers.

Another consequence would be revenue lost to the city's general fund, due to reduced payments from MSC.

Ms. Patone stated that the ultimate purpose behind the Ordinance is to protect the health and welfare of the citizens of New Castle, by protecting the water source. Other municipalities in similar situations also prohibit private wells and their use, and the constitutionality of this has been upheld in those communities.

City Solicitor Losco stated that he had a meeting with the MSC prior to the first reading of the Ordinance, in which concerns about the potential for backflow could result in contamination of the city water were discussed.

Ms. Patone advised that extensive research on existing wells in the community had taken place. Some wells had been inspected and closed. As of this meeting, the only wells in existence within the city limits are the public wells being operated by MSC.

Councilperson Di Mondì addressed Ms. Patone's revenue concerns. He expressed that he would hope that public funds would not be extended to expand the system without some financial and/or legal commitment from potential future customers. He also brought up the extensive well permit procedures from DNREC for new wells in New Castle County and questioned MSC's desire for more extensive requirements than DNREC's. Councilperson Di Mondì further advised that he has concerns over the MSC having veto power over any new well permits, because he doesn't believe that the MSC is part of any legislative branch, therefore having the power only to advise, not to permit or deny. He expressed his belief that MSC's concerns are financial only.

Regarding the cost of expansion of the system, Ms. Patone advised that the contractor or equivalent is responsible for those costs associated with the expansion. MSC's financial responsibility is related to the use and maintenance of the expanded system. Additional costs to MSC are then related to the increased flow through the treatment facility.

Councilperson Di Mondì then expressed concern that the MSC is a monopoly. Ms. Patone explained that the community owns the utility.

Councilperson Di Mondì asked again why MSC wants regulation further than DNREC's. Ms. Patone responded that MSC has been in the position to advise DNREC, related to contamination incidents.

Councilperson Quaranta asked for an overview of the current process for a person to install a new well.

Ms. Patone explained that they would typically go to DNREC for a permit, who would then refer them to the MSC. If the request were for a potable well, MSC would deny the permit. If it were for a non-potable well, MSC does not currently have the authority to deny the permit. She mentioned that there is no guarantee that the use of untreated water, directly from the aquifer, is safe for use on crops.

Councilperson Quaranta asked whether wells have been discovered to have been installed, without DNREC's knowledge or MSC's knowledge. Ms. Patone advised that DNREC had permitted irrigation well in the past, without MSC's knowledge. When MSC learned of the well, they required that it be closed.

Councilperson Leary requested that Ms. Patone describe an incident that had occurred in Sussex County.

Ms. Patone explained that the town of Frankford had provided water to a large poultry customer, and had expanded their operation, including financial indebtedness in order to accommodate the customer. The poultry operation received a permit from DNREC to use their own well. Frankford was not advised and had no jurisdiction over the well permit process.

As a result, the town did not have the revenue needed to support the loans they had received, and they had stranded assets related to built-out infrastructure that had taken place to accommodate the poultry farm's needs. There were also water quality issues.

Ms. Patone advised that MSC is currently well within their limits for water pulled from the aquifer. They have learned that the aquifer is not a closed water source and is subject to contamination. Test wells have been drilled in various areas of the city, and some of those wells have been found to have lower than needed quality and/or quantity. As far as quantity, pressure requirements make it not feasible that many different organizations be pulling from the aquifer.

Council President Linda Ratchford had asked for comments from the floor. No one commented from the audience and Councilperson Quaranta had started to ask questions.

Councilperson Quaranta asked City Solicitor Losco whether the intent of the Ordinance is to allow MSC to override decisions of DNREC, related to well permits. Mr. Losco responded in the negative and explained that the intent is to prohibit new wells in the City of New Castle with the following exception: one for DNREC-authorized test wells and the other for pulling water out of excavation areas, for construction purposes.

Mr. Losco further explained that concerns addressed by this Ordinance are related to potentially contaminated wells, vandalism, and backflow issues. He reiterated that the Ordinance does not give decision-making power to MSC, but rather, it prohibits the addition of new wells. He stated that, unlike the Sussex County situation, the City of New Castle is developed to the point of being able to provide clean drinking water to all citizens.

Councilperson Di Mondri asked why the Ordinance does not state that it is a prohibition of all new wells, and why MSC is even involved. Mr. Losco responded that the reasoning is due to the exceptions related to test wells and construction excavation needs.

Councilperson Quaranta asked Ms. Patone if the number of wells in the City of New Castle is known, and whether any residents are currently on well and septic. Ms. Patone advised that there are some citizens on septic, but they are on city water. She also advised that MSC is not aware of any operational wells in the city.

After a motion and second, the Public Hearing was adjourned.

Meeting adjourned at 7:02 p.m.

Respectfully Submitted,

Brian G. Whitaker

City Clerk of New Castle, Delaware