

New Castle City Board of Adjustment Meeting Minutes
December 4, 2018 – 6:30 p.m.
City of New Castle Town Hall

Members Present: **Jimmy Gambacorta – Mayor**
 Daniel Losco, Esq., City Solicitor
 David J. Athey, City Engineer

Mayor Gambacorta convened the meeting at 6:30 pm.

An application has been filed by Delmarva Power (Applicant), seeking a Special Exception under City Code §230-38.B relating to Public Utility rights-of-way and structures, to permit the installation of a natural gas transmission line within the right-of-way of State Route 273.

Mr. Losco stated for the Record that the notice of the meeting was posted on November 14th and that the property was posted as well.

Mr. Vince Jacono of Delmarva Power & Light (DP&L) was sworn in by Mr. Losco as a witness for the Applicant. John Tracey, Esquire, attorney for the Applicant, noted that the current meeting is required pursuant to §230-38.B for a Special Exception to place a natural gas transmission line infrastructure (Line “P” Interconnect Project) within the existing right-of-way for State route 273 and within a portion of the city limits of New Castle. He noted that the project is being constructed in two phases; Phase 1 is being presented at the current meeting and if the Special Exception is approved, Phase 2 will be presented to the Board at a later date.

Mr. Tracey noted that the transmission line will commence to the west of the intersection of Routes 273 and 13 in property within New Castle County, running along the Rt. 273 right-of-way into the city limits of New Castle and terminates near the New Castle Industrial Track Trail. He added that the purpose of the line is to relieve gas pressure demands in the City of New Castle and surrounding areas of the County and to facilitate better and more efficient distribution of gas into those areas.

Mr. Tracey stated that the objective standard in §230-38.B is that the Applicant must be a regulated utility within the requirements of 26 Del Code 101.2, and Delmarva Power & Light is a regulated utility within those requirements, and that standards in §230-57.D, are mostly ministerial and have been satisfied. He added that the request did not require approval by either the Planning Commission since there no above-ground structures as part of the application or the Historic Area Commission since there is no impact on the Historic Area. Mr. Tracey also noted that as all other requirements have been met, and it was the Applicant’s feeling that the subjective standard that the project will not adversely affect the public interest would be the only matter for the Board to consider. He added that the project will provide better natural gas service to the residents of New Castle and surrounding areas of the County and all improvements will be underground and done within the right-of-way; which demonstrates there will be no adverse interest to the public. Mr. Jacono advised that if the Special Exception is approved the project would commence in December 2018, and they hope to be complete in February or March 2019 for Phase 1, and additional time to complete Phase 2.

Mr. Tracey advised the reason Phase 1 was submitted at the current meeting is that the route for Phase 2 is not yet finalized; and in order to expedite the project, Phase 1 was submitted first. Mr. Athey asked for clarification of the two existing end points, and Mr. Jacono advised they will tie together two existing dead-end natural gas pipelines: a 12” transmission line at the Rt. 273 and Hares Corner location and an 8” transmission line in Swanwyck Estates. He explained that the extra pressure capacity is based on

increased usage in order to maintain the reliability of the natural gas system itself and Phase 2 is the back part of the tie-in. Mr. Athey clarified that if Phase 2 is not approved there would still be two dead-end lines. Mr. Losco asked how the project would impact traffic on Rt. 273, and Mr. Tracey advised that because most of the work is not within the roadbed, there would be limited impact on traffic. Mayor Gambacorta asked for clarified of the starting point of the project and Mr. Jacono advised the project will start just west of McDonalds at the Rt. 273 and Rt. 13 intersection in New Castle County and Mr. Tracey added that it will run east past Rt. 141 to just west of the New Castle Track Trail. Mr. Losco asked for clarification of areas where the pipeline will cross roadways and Mr. Jacono advised that the plan is to trench up to roadway crossings and bore underground wherever there is a crossover on the proposed line. He added that Phase 2 will stop at the Rail Trail and turn north along the Trail to Boulden Boulevard then on to Swanwyck Estates. Mr. Athey asked who owned the Rail Trail, and Mr. Jacono advised both the State of Delaware and New Castle County each own parts of the Trail. Mr. Jacono added that all State and County right-of-way rights along Rt. 273 have been received, and that proper easements are being sought from DelDot.

Mr. Athey asked about community outreach, and Mr. Jacono advised DP&L conducted a mailing the week of November 16, 2018, to 3,500+ customers about the project as well as advertising for the Board of Adjustment meeting and a community meeting being held at Castle Hills Elementary School on December 13, 2018, to provide more information on the project. Mr. Athey noted that the timeframe from the mailing and the Board of Adjustment meeting is quite limited. Mr. Losco asked if any negative feedback had been received, and Mr. Jacono advised two inquiries had been received: one asking if gas service would be interrupted and one from DART inquiring if there would be any scheduling or route changes. He added that there would be no service interruption, and the work would not impact DART bus routes or scheduling.

Mayor Gambacorta clarified the proposed end-date for the project would be end of winter. He also asked about the width of the trench and Mr. Tom Quinlan, Engineer of the project, advised from the audience that the width would be approximately 16" and there would be a 4' deep finished cover.

Mr. Losco asked if there was anyone from the audience who wished to speak to the Application.

There being no comment from the audience, and no further questions from the Board, Mr. Losco made a Motion to close the hearing and move into the business meeting. Mr. Athey seconded the Motion. On vote, the Motion was approved unanimously.

Mr. Losco noted that the application was clearly for the public benefit and stated that if the request for a Special Exception is approved, the Board should prescribe a time limit within which the Special Exception will begin and/or be completed. He stated his opinion that it was for the public benefit; that there would be minimal impact on traffic; there will be boring under roadways; there will be no significant impact on public transportation; there will be no interruption of gas service; and that it will enhance service to customers. Mr. Losco suggested the Board decide on timing for the project, adding that he was not in favor of prescribing an end-date for the project due to the unpredictability of winter weather. He also noted that there is a 30-day appeal period if the application is approved. After discussion, it was agreed the project should start no later than February 1, 2019.

Mr. Losco stated the Board had the authority to grant the Special Exception under Code 230-38.B and 230-57.

Mr. Losco made a Motion that the Board approve the Special Exception for the construction of the gas transmission lines as depicted in DP&L's plans with a start date of no later than February 1, 2019. Mr. Athey seconded the Motion.

During discussion, Mr. Athey noted that the timing of communication to residents and the Board meeting was somewhat unfortunate in that those who might be opposed to the project had such a short amount of time in which to react. He also noted that the Board could deny the Special Exception of Phase 2, which would defeat the purpose of an approval of the special Exception of Phase 1. He stated for the Record that if the application for Phase 1 is approved the Applicant would proceed at their own risk knowing there is no guarantee that a Special Exception will be granted at the Phase 2 hearing.

Mayor Gambacorta stated that there was a Motion and a Second to approve Delmarva Power & Light's application for a Special Exception. **On vote, the Motion was approved unanimously.**

There being no further business, Mayor Gambacorta adjourned the meeting.

Kathy Weirich
Stenographer